



DECISION NOTICE

Missouri Headwaters Land Acquisition Proposal

January 22, 2024

ACTION

Montana Fish, Wildlife & Parks (FWP) shall prepare a Decision Notice (DN) for the proposed action. The DN must identify the agency decision, the reasons for the decision, and any special conditions surrounding the decision or its implementation. With this action, FWP hereby adopts the Final Environmental Assessment (Final EA), as modified from the Draft EA, and approves Alternative B, the proposed action.

A Final EA has been prepared to document substantive changes to the project identified during the public comment period for the Draft EA (see *Final EA: Modifications Made to the Draft EA*, below). As described below, changes from the Draft EA to Final EA do not impact FWP's reasoning or justification for the decision and do not significantly change the public's opportunity to understand and comment on the proposed project. Therefore, FWP determined the Draft EA, as modified by the Final EA, adequately addressed the issues raised by the proposed action.

A copy of the Final EA is available [HERE](#)

AUTHORITY: MONTANA ENVIRONMENTAL POLICY ACT

According to the applicable requirements of the Montana Environmental Policy Act or MEPA and its implementing rules and regulations, before a proposed action may be approved, environmental review must be conducted to identify, consider, and disclose any potential impacts of the proposed action on the affected human environment. The level of environmental review will vary with the complexity and seriousness of environmental issues associated with a proposed action. The level of public interest will also vary. The agency is responsible for adjusting public review to match these factors. *Title 75, Chapter 1, Parts 1 through 3, Montana Code Annotated (MCA)*.

Based on these factors, FWP determined a checklist EA (Draft EA) constitutes the appropriate level of review for the proposed action. Therefore, to assess and disclose potential impacts of the proposed action, FWP prepared a Draft EA for public review and comment. See *Public Participation Process* below.

Further, FWP must consider any substantive comments received in response to an EA and proceed in accordance with one of the following steps: determine the EA did not adequately reflect the issues raised by the proposed action and issue an Environmental Impact Statement or EIS; determine the EA did not adequately reflect the issues raised by the proposed action and issue a supplemental EA; or determine the Draft EA adequately addressed the issues raised by the proposed action and make a final decision, with appropriate modifications resulting from the analysis provided in the Draft EA and the analysis of any substantive public comments received. See *Public Comment and FWP Response* and *Final EA: Modifications Made to the Draft EA*, below.

PUBLIC PARTICIPATION PROCESS

The Draft EA was made available for public review and comment from November 17, 2023, to November 30, 2023. The Draft EA was posted on FWP's Public Notice webpage <https://fwp.mt.gov/news/public-notices>,

was made available for public review on the Environmental Quality Council or EQC website <https://leg.mt.gov/mepa/search/>, by individual request, and through notice to identified interested parties and neighboring landowners. FWP received 75 comments during the public comment period.

DESCRIPTION OF PROPOSED ACTION

The purpose of this project is to facilitate acquisition of a neighboring privately owned 26.36-acre property (property) in fee title by FWP for permanent inclusion into Missouri Headwaters State Park (MHSP). The Montana State Parks Foundation (Foundation) would purchase the property using funds provided by a grant from the Montana Fish and Wildlife Conservation Trust (MFWCT) and facilitated by Montana's Outdoor Legacy Foundation (MOLF), and then donate the property to FWP.

PURPOSE AND NEED

The purpose of the proposed project is to facilitate FWP acquisition of this neighboring property in fee title for permanent inclusion into MHSP. Benefits of the proposed project include the following:

- Permanent protection of a core piece of the Missouri Headwaters area and a partial inholding within MHSP.
- Permanent protection of the cultural resources viewshed, and interpretive opportunities of the property. The integrity of the National Historic Landmark could be adversely affected by ownership other than a public land management agency.
- Protection and additions to recreational opportunities at MHSP.
- Permanent protection and facilitated restoration of aquatic, riparian, and upland habitat, and associated wildlife species.

ALTERNATIVES ANALYZED

Alternative A: No Action

In addition to the proposed action, and as required by MEPA, FWP analyzes the "No-Action" alternative in the EA. Under the No-Action alternative, the proposed action would not occur. Therefore, no additional impacts to the human environment would occur. The No Action alternative forms the baseline from which the potential impacts of the proposed action may be measured.

Under the No Action Alternative, FWP would not acquire the property for inclusion into MHSP. The property may be sold to other interests that could result in significant adverse impacts to MHSP, its National Historic Landmark designation, visitor experience, and habitat, riparian, cultural, and recreational resources as well as result in potential conflict between MHSP users and the new owners. For example, the current owners of the property have been very tolerant of MHSP visitors accidentally (or intentionally) trespassing on their property, which has happened frequently because the property bisects the eastern portion of the park. New owners may not take the same view, which could cause conflict. The sale to new private owners could result in the loss of important habitat, riparian, and cultural resources depending on future use of the property.

In addition to the potential adverse impacts to MHSP under the No Action alternative, the benefits of the proposed action would not be realized.

Alternative B: Proposed Action

Under the Proposed Action, FWP would acquire the property for inclusion into MHSP.

The proposed action would permanently secure and protect important cultural resources, wildlife habitat and connectivity, and provide additional recreational and interpretive opportunities for MHSP visitors. The

partial inholding within MHSP would become part of the park and provide many benefits to the public, area wildlife, and the watershed.

PUBLIC COMMENT AND FWP RESPONSE

FWP received 75 public comments generally documenting strong public support for the proposed action. Commenters noting opposition to the proposed action did not provide a specific reason(s) for their opposition. Those who commented in favor of the proposed action gave varied reasons for their support, including:

- their love of MHSP and their belief that the proposed acquisition would help protect MHSP's cultural, recreational, and wildlife resources,
- the addition would help spread out visitor use of MHSP and offer more opportunities for solitude,
- the opportunity to protect open space and prime wildlife and fisheries habitat in a fast-growing area,
- the cultural significance of MHSP to tribal members,
- the acquisition of the inholding would improve public safety by allowing easier travel between the northern and southern sections of MHSP without having to use Trident Road to avoid trespassing on private land,
- the opportunity to protect riparian and prairie ecosystems, which are at greatest risk of development in the region and country,
- the fear of changes and negative impacts that a new private owner might bring to MHSP,
- the lowland area is generally accessible year-round and by people of many different abilities, and
- the opportunity to help protect and restore an important fishery and watershed.

Many commenters spoke movingly about the importance of MHSP to their families, and how the park is the "crown jewel of public land in the Gallatin Valley" and the chance to help add to and protect the park's resources should not be lost.

Final EA: Modifications Made to the Draft EA

Project changes identified by the Final EA were made in response to the following comments and new information learned during the public comment period:

- By request, the name of the affected landowner has been removed from the Final EA and replaced with "landowner."
- A comment provided by MOLF clarified the funding process to be used for the proposed action. More specifically, the funding process described in the Draft EA stated, "The Montana State Parks Foundation (Foundation) would purchase the property using funds provided by a grant from Montana's Outdoor Legacy Foundation (MOLF) and the Fish and Wildlife Conservation Trust (MFWCT) and then donate the property to FWP." MOLF clarified the actual process and the Draft EA has been updated to state, "The Montana State Parks Foundation (Foundation) would purchase the property using funds provided by a grant from the Montana Fish and Wildlife Conservation Trust (MFWCT) and facilitated by Montana's Outdoor Legacy Foundation (MOLF) and then donate the property to FWP."
- During preliminary title work for the Foundation's purchase of the property, it was discovered that the acreage figures used in the appraisal were incorrect, and the property consisted of 26.36 acres rather than 30 acres, as reported by the Draft EA. A new appraisal was ordered in December 2023, and a valuation of \$1,050,000 was given. The sellers opted to move ahead with the sale of the property for the original appraisal price of \$930,000 and donate the \$120,000 difference to the Foundation. As the value of the property is now over \$1,000,000, this acquisition must go before the Land Board for approval. These corrections are included in the Final EA. These changes to the Draft EA do not impact FWP's decision, or any conclusions or reasoning for the decision.

- Approval by the State Parks and Recreation Board and Montana Land Board have been added to Table 1: Federal, State, and/or Local Regulatory Responsibilities

DECISION

Based on the environmental review provided in the Final EA, as modified from the Draft EA, and in accordance with all applicable laws, rules, regulations, and policies, FWP determined the proposed action (Alternative 2), as modified, will not have significant adverse impacts on the human environment associated with the proposed action and constitutes a reasonable and appropriate strategy to achieve identified objectives. Therefore, preparation of an EIS is unnecessary.

With this DN, FWP hereby adopts the Final EA, with modification of the Draft EA, and approves Alternative B, the proposed action.

Sincerely,

Adam Pankratz
Acting Region 3 Supervisor
Montana Fish, Wildlife & Parks