



Region 2
3201 Spurgin Road
Missoula, MT 59804

May 17, 2019

Dear Interested Citizen:

Thank you for your thoughtful reviews and comments on the draft environmental assessment (EA) for a proposal by Montana Fish, Wildlife and Parks (FWP) to accept assignment (delegation) of the “right of public hunting access” component of two conservation easements (CE) to be held by Five Valleys Land Trust (FVLT) on the Graveley Ranch and Warm Springs Creek properties (hereafter, Graveley Ranch CEs) in Powell County north of Garrison. The Graveleys have agreed to grant a CE to FVLT on their current property that would include perpetual public hunting access, and then grant another CE on the adjacent Warm Springs Creek property that would be purchased by the Graveley family with funds from the sale of the Graveley CE.

The Graveley Ranch CE lands have diverse wildlife habitat including native grasslands, mixed-conifer forest, juniper-sagebrush scrublands, streams and associated riparian areas, and aspen stands. The CEs on this property would protect important big-game winter range, a variety of habitats for nongame wildlife species including Montana Species of Concern, and public hunting opportunities on 8,277 acres by precluding subdivision. No FWP funds would be involved in acquiring the proposed CEs; therefore, the proposed action in the draft EA was for FWP to accept assignment of the right of public hunting access in perpetuity, as set forth in the CEs to be held by FVLT.

Enclosed is a decision document in which FWP explains its rationale for recommending that the Fish & Wildlife Commission approve this project as proposed. Upon completion of the public involvement process, FWP accepts the draft EA as final. The decision document also includes all public comments received during the public comment period on the proposed public hunting-access assignment.

FWP will request approval for this proposal at the next Fish & Wildlife Commission meeting, which currently is scheduled for June 19, 2019 in Helena. This meeting is open to the public, as are other regularly scheduled Commission meetings. (Please doublecheck under the “Commission” link on FWP’s webpage at <http://fwp.mt.gov/default.html> for final meeting details, including an agenda that will be posted early in June.)

Please feel free to contact me at 406-542-5500 with any questions you may have. Thank you for your interest and participation.

Sincerely,

/s/ Randy Arnold

Randy Arnold
Regional Supervisor

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Decision Notice for the Draft Environmental Assessment for Securing Public Hunting Access in Perpetuity on the Graveley Ranch Conservation Easements

Prepared by:
Montana Fish, Wildlife & Parks
Region 2 Wildlife
3201 Spurgin Road, Missoula, MT 59804
May 17, 2019

PROPOSAL SUMMARY

Montana Fish, Wildlife and Parks (FWP) proposes to accept assignment (delegation) of the “right of public hunting access” component of two conservation easements (CE) in Powell County to be held by Five Valleys Land Trust (FVLT). The Graveley CE and the Warm Springs Creek CE would be the result of a multistage project whereby the Graveley family would use funds generated from the sale of a CE on their current 5,167-acre ranch to purchase adjacent property (3,110 acres) currently owned by The Conservation Fund (TCF). A CE would then be placed on the adjacent property (Warm Springs Creek) to create a combined conservation footprint of 8,277 acres. Because the properties would be managed as a single ranch for the foreseeable future, the two CEs are referred to as the Graveley Ranch CEs.

The Graveley Ranch CE lands have diverse wildlife habitat including native grasslands, mixed-conifer forest, juniper-sagebrush scrublands, streams and associated riparian areas, and aspen stands. The CEs on this property would preclude future subdivision, thereby protecting important big-game winter range, a variety of habitats for nongame wildlife species including Montana Species of Concern¹, and public hunting opportunities.

FVLT is seeking to assign the management of the public hunting access portion of the CEs to FWP. The Upper Clark Fork River Basin Remediation and Restoration Advisory Council voted to recommend complete funding from the Montana Department of Justice Natural Resource Damage Program (NRDP) to complete this proposed project. No FWP funds would be used to acquire the proposed CEs; therefore, the proposed action is for FWP to accept the assignment of the right of public hunting access, in perpetuity, as further set forth in the CEs to be held by FVLT.

DESCRIPTION OF PROPOSED ACTION

Alternative B: Acquisition of the Public Hunting Access Rights on the Graveley Ranch Conservation Easements

FWP proposes to secure public hunting access in perpetuity on 8,277 acres of grassland, forest and juniper-sagebrush scrublands near Garrison, Montana. The Graveley family currently owns 5,167 acres of the total and will use funds generated from the sale of a CE (to be held by FVLT) on those acres to purchase an additional 3,110 acres (Warm Springs Creek property) currently owned by The Conservation Fund. FWP would accept assignment of responsibility for the right of public hunting access on the Graveley Ranch CEs from FVLT. FWP would be bound to implement, review, and update a *Public*

¹ A native animal (or plant) breeding in Montana and considered to be “at risk” due to declining population trends, threats to its habitats, and/or restricted distribution. Montana’s SOC listing highlights species in decline and encourages conservation efforts to reverse population declines and prevent the need for future listing as Threatened or Endangered Species under the Federal Endangered Species Act. Further information available at <http://fwp.mt.gov/fishAndWildlife/species/speciesOfConcern/> Accessed 14 May 2019.

Access Plan for the subject properties annually, or up to every five years, in cooperation with the landowner(s). Following guidance in the CEs and *Public Access Plan*, FWP would be responsible for verifying that the landowner offers the opportunity for at least 400 hunter days (shared between the Graveley CE and the Warm Springs Creek CE) of fair and equitable, free, public hunting access each year into the future, excluding the landowner's family and employees. FWP would provide an enforcement presence consistent with its presence on other CEs, Block Management Areas, Fishing Access Sites, and similar points of public access on or adjacent to private lands.

The Natural Resource Damage Program (NRDP) is working with TCF and FVLT to protect the above-referenced 8,277 acres by first purchasing a perpetual CE (to be held by FVLT) on the current Graveley property representing 5,167 acres of the proposed total. TCF has purchased the adjacent 3,110 acres from NCP Bayou II, Inc. and will hold that property until the Graveleys can purchase the property using funds generated from the sale of a CE to FVLT on Graveleys' 5,167 acres. The Graveleys would then sell another CE on the 3,110-acre property (Warm Springs Creek CE). The final Graveley Ranch CEs project would protect 8,277 acres and provide hunting access opportunities on the full acreage in perpetuity. As part of this process, NRDP and FVLT would work with FWP to secure a public hunting access provision as part of the FVLT CEs. FWP proposes to accept FVLT's assignment of the easement provision pertaining to public hunting access because FWP is the qualified organization best equipped to manage, monitor and enforce the public hunting access terms in perpetuity, consistent with the overall intent of the CEs. FWP has extensive experience in acquiring and managing public access provisions in many perpetual CEs that are held in the public trust by FWP. FVLT would retain sole and full responsibility as the Grantee for monitoring and enforcing compliance with all other terms of the CEs beyond the public hunting access component.

The subject properties are located in the foothills of the Garnet Range in the Clark Fork River basin of western Montana. The Graveley Ranch CE lands contain native montane grasslands, mixed juniper and sagebrush scrublands, a diversity of riparian habitats, and a mosaic of mixed-conifer forests and wooded draws that are connected to larger reaches of wildlife habitat in the Garnet Range. The properties open access to sections of public land owned by the Montana Department of Natural Resources and Conservation (DNRC). The Graveley Ranch CEs have no current homesites, but each CE would allow a small building envelope for a potential future residence and associated out buildings. There is some flood-irrigated pasture located along Warm Springs Creek on the east side of the property. Overall, the properties provide open space and diverse habitat for fish and wildlife.

The Graveley Ranch CEs are located within a Tier II Priority Area in the NRDP's Terrestrial Restoration Plan (2016)² and would support the goals of the NRDP by protecting important wildlife habitat and securing public hunting access in perpetuity. The properties are also located within the Upper Clark Fork-East Deer Lodge Tier II Terrestrial Focus Area for FWP's *State Wildlife Action Plan* (SWAP; 2015)³. Brock and Warm Springs creeks are located within the Brock Creek Tier II Aquatic Focal Area as identified by the SWAP. The NRDP and FWP recognize this landscape as high priority for conservation efforts.

The higher elevations of the Graveley Ranch CEs are mixed-conifer forests that transition to juniper-sagebrush scrubland habitats in lower elevations. The southern portions of the properties are composed of montane grasslands interspersed with wooded draws comprised of a mix of mesic and xeric shrub and tree species. The creek bottoms are mostly dominated by alder, with dense stands of willow in some locations. There is a healthy population of beavers in Brock and Warm Springs creeks that provide habitat diversity for both the aquatic and terrestrial portions of the streams and associated floodplains. Overall, the mosaic of habitat types on the Graveley Ranch CEs provide resources for a wide range of species including game and furbearer species, as well as a variety of nongame species including Species of Concern (SOC) as designated by the SWAP. The grasslands provide winter range to support mule deer, elk, and pronghorn antelope, and scattered aspen stands, wooded draws, and riparian areas support moose and white-tailed deer. Aspen stands on the property support high biodiversity of nongame

² Available at <https://media.dojmt.gov/wp-content/uploads/Final-2015-Update-Combined.pdf> Accessed 16 May 2019.

³ Available at <http://fwp.mt.gov/fishAndWildlife/conservationInAction/swap2015Plan.html> Accessed 14 May 2019.

species, and the mix of aspen, juniper, and sagebrush in portions of the higher elevations represents a uniquely diverse habitat in this landscape. The streams and associated riparian areas naturally support a high diversity of species, and Brock Creek contains native westslope cutthroat trout, another SOC in Montana.

The NRDP and FVLT have worked jointly with FWP to secure and develop a public access plan for public hunting access on the Graveley Ranch CEs. The intent of the CEs is to protect these properties' wildlife habitat and public recreation values while keeping the properties in private ownership and management. The Graveley Ranch properties would remain part of a working ranch and retain agricultural and cultural values in Powell County. Protecting these properties would conserve the diverse fish and wildlife habitats and provide public hunting access to these resources

ALTERNATIVES CONSIDERED TO THE PROPOSED ACTION

Alternative A: No Action

Under the No Action Alternative, FWP would not accept assignment of the rights for public hunting access on the Graveley Ranch from FVLT's CEs. This would be expected to result in a failed CE project (i.e., the CEs would not be purchased and finalized, due to lack of a public hunting access component in the CEs as required by NRDP, an essential funding institution), in which case the opportunity to secure perpetual public hunting access could be lost.

MONTANA ENVIRONMENTAL POLICY ACT PROCESS

FWP is required to assess impacts to the human and physical environment under the Montana Environmental Policy Act (MEPA). The Graveley Ranch Public Access Conservation Easements proposal and its effects were documented by FWP in a Draft EA.

PUBLIC REVIEW PROCESS

A draft EA for the proposed project was made available for public review and comment for a 30-day period from April 8, 2019 through May 7, 2019. The EA was also posted on FWP's web site (<http://fwp.mt.gov>, under "Recent Public Notices") during that same period, and comments could be made directly on the EA's webpage or submitted to Region 2 FWP via mail or email. Legal notices were published twice each in the *Anaconda Leader* (April 10 & 17); *Independent Record* (Helena; April 8 & 15), *Missoulian* (April 8 & 15), *Montana Standard* (Butte; April 8 & 15), and *Silver State Post* (Deer Lodge; April 10 & 17) newspapers. A statewide News Release was prepared and distributed April 30 to a standard list of media outlets interested in FWP Region 2 issues. FWP distributed 55 printed copies of the EA, and 60 email-notifications of the EA's availability, to adjacent landowners and interested individuals, groups, and agencies.

A public hearing to explain the project, answer questions, and take public comment was held in Drummond on April 23, 2019 at 6:30 p.m. at the Drummond Community Center (54 East Broad Street).

PUBLIC COMMENT RECEIVED

Public Comment

FWP received 10 written comments via email from members of the public during the public review period (Appendix A, commenters A1 through A10). These 10 comments represented 7 people (1 each from East Helena, Emigrant, Garrison, Helena, McAllister, and Missoula, Montana; and 1 unknown), and 3

sportsperson's groups (Anaconda Sportsman's Club [ASC]; Montana Chapter Backcountry Hunters & Anglers, Missoula; and Montana Wildlife Federation [MWF], Helena).

Public Hearing

Eleven members of the public attended the public hearing (3 from Drummond; 2 each from Anaconda, Deer Lodge, and Gold Creek); and 1 each from Clinton and Helena). FWP received 6 comments via public testimony at this hearing, and these comments represented 5 entities (Appendix B, Commenters B1 through B5): 2 people, 2 sportsperson's groups (ASC, MWF), and 1 private company (Teck American, Inc.).

Summary of All Comments

A total of 13 commenters⁴ provided input on the specific proposed action--which is for FWP to accept assignment (delegation of management) of the "right of public hunting access" for the Graveley Ranch CEs. Of these 13 commenters:

- 10 supported the proposal; supporters included 7 people and all 3 sportsperson's groups.
- 1 person (A10) opposed the proposal (but supports FVLT acquiring CEs on the lands).
- 2 commenters did not clearly indicate support or opposition to the proposal:
 - 1 person (A9) had questions about hunter-days and how access would be controlled; and
 - 1 private company (B4) had questions about how public hunting access might affect roads, waterways, other private lands, trespass, and an existing access agreement, and how such impacts would be mitigated (and was generally supportive of the CEs for wildlife habitat and conservation values)

Comments in Support of the Proposed Acquisition Included:

- This looks like a win/win for sportsmen and doesn't tap into FWP funding. It also does this with very few minor impacts, some of them positive.
- As an avid hunter in this area by garrison, it would be extremely nice to have more access and limit development on these prime wildlife locations.
- And of course, we wish to convey to the Graveley family the appreciation to participate in the conservation easements and hunting access related to this proposal.
- The plan to have MT FWP manage hunter access for FVLT really distinguishes the project as very wise, plus is a possible incentive for other land trusts to follow that private entity/government agency hunter access partnership model where opportunities exist.
- These CE's will permanently protect the Public's Access that was had in the past with some added acreage. We know the importance of Public Access and open space values is to our Montana way of Life today as well as our future Generations.
- FWP has demonstrated a successful track record of providing the best possible access opportunities for the public. Based on the provided EA, MWF believes that FWP will be a quality steward of the public access to these easements.

⁴Two groups (ASC and MWF) submitted comments via email (A7 and A8, respectively) and also testified at the public hearing (B1 and B3, respectively), but each group is counted once in the comment summary.

Response to Public Comment

The following comments encompass specific issues, questions and suggestions received during the public comment period that warranted a direct response from FWP. Comments beginning with an A are in Appendix A; those beginning with a B are in Appendix B.

Comment A2: My family and I have been hunting this year for over a decade and have seen a major decrease in locating elk since the shoulder season opened up. They have been concentrating on private land that won't give you access and now that our BMA spot can be hunted 8 months out of the year, we have had to stop hunting it because no elk are to be found.

Comment A3: I would like to see the shoulder season in this area eliminated though.

FWP Response: The subject of shoulder seasons is outside the scope of this proposal (which is for FWP to accept assignment of public hunting access on the Graveley Ranch CEs). We encourage the commenters to contact the appropriate area wildlife biologist with these shoulder season concerns. Also, FWP's biennial season-setting process will be underway later this fall and winter, so in early December you could contact the regional office for the districts you hunt, in order to find out the season-setting, public meeting dates and locations.

Comment A2: The only suggestion I would make, is to limit access to foot or horse only (walk in), so that animals are less stressed and feel safer, offering more opportunity for hunters.

FWP Response: Per the *Public Hunting Access Plan* (Appendix A in the draft EA), access to the Graveley Ranch CEs would be walk-in only from the Brock Creek Road and Warm Springs Creek Road; access by horseback would not be allowed without landowner permission.

Comment A5.2: We do, of course, encourage agreements that assure that a fair process of selecting or allowing hunters will provide equal hunting opportunity for any hunter to participate.

Comment A9.2: Or will all access be controlled by a ranch manager whom determines who gets access and when? I live in adjacent District 3 and am wondering how restrictive or non restrictive the "access to public hunting" will be on ranch expansion project.

FWP Response: The properties will offer "400 hunter days shared between the Graveley CE and the Warm Springs Creek CE of fair and equitable, free, public hunting access each year into the future, excluding the landowner's family and employees" (EA, Section 8, para 2). The Graveley Ranch CEs would be managed under FWP's Block Management Program, and access will be free and open to any member of the public with a valid Montana hunting license and respect for the private land they are accessing. There is no selection system or restriction on hunters. Per the *Public Hunting Access Plan* (Appendix A of the draft EA), hunters would be required to register daily (using a sign-in coupon) at one of the sign-in boxes each day before beginning to hunt.

Comment A6.3: One question before I am 100% in... I am hopeful that FWP, an agency that recently established a very successful forest habitat enhancement program on its forested WMAs, in large part to benefit sportsmen, is also supportive of high-quality forest habitat management that benefits wildlife on private lands protected by conservation easements. Appreciate whatever info you can provide regarding my question.

FWP Response: The subject of forest habitat management on private lands is outside the scope of this proposal (which is for FWP to accept delegation of public hunting access on the Graveley Ranch CEs). Five Valleys Land Trust would hold the CEs, and the terms of the easements with

regards to timber management are subject to FVLT and private landowner agreement. We encourage the commenter to contact FVLT (phone 406-549-0755) for further information.

Comment A6.4: Could you please direct me to the FWP folks, or others, that are considering/exploring re-introduction/recovery of sharp-tailed grouse in western Montana. I recently read about that possibility and want to make sure I understand their habitat needs.

FWP Response: The subject is outside the scope of this FWP proposal, but we recommend contacting the lead FWP biologist for the sharp-tailed grouse reintroduction project: Chris Hammond (phone 406-751-4582) at FWP Region 1 in Kalispell,.

Comment A9.2: Can you explain what is considered a hunter day? Does that mean 200 hunters max per year can hunt on the lands? Or for 200 days the lands are open like any other public lands for hunting or fishing during open seasons?

FWP Response: A hunter day means one hunter who hunts on a (BMA cooperator's) property during a calendar day. For instance, if a hunter accesses the property for 1 hour and leaves, that is counted as one hunter day. Or, if 3 hunters enter the property and hunt all day, that is 3 hunter days.

Comment A9.1: I read the summary. I see FWP must come up with the plan that describes how 200 hunter days on each piece of property will actually occur. How are those days counted? How does FWP determine what seasons to allow the 200 days to occur?

FWP Response: Hunting would be allowed on the properties during FWP Commission-approved fall hunting seasons, and the inclusion of shoulder seasons is the landowner's decision. Hunter days would be counted during those seasons. Each hunter using the property will be required to register (via a sign-in coupon) daily at one of the sign-in boxes before beginning to hunt, and those sign-in coupons are used to track hunter numbers and days. FWP game wardens and Block Management staff patrol these areas during hunting seasons to collect sign-in coupons and monitor hunter compliance of Block Management Area rules

Comment A10.1 through A10.3: I am a homeowner with property bounded on three of four sides by the annex property in question. I am in favor of the Conservation Easement in Garrison. That would be wonderful. I am NOT in favor of the Block Management. I picture obese drunk hunters tearing down my fences and gate to use my property as a staging area for hunting off the back of their trucks. I don't want people shooting over or into my property. There is no way, without a permanent Fish, Wildlife and Parks agent sitting on my land, to prevent the abuses that would naturally follow. I believe that is patently obvious.

Comment B4.c.ii.3 (and page B-3, item 2), paraphrased: Open areas owned by Teck will be used illegally [trespassing] for parking (they already are). Impact needs to be stated an evaluated and project needs to provide mitigation to prevent this.

Comment B4.c.iii (and page B-3, item 3), paraphrased: The action presents increased potential for trespassing on our property. Teck wants to know how the land trust/FWP is going to prevent users of the Graveley property from crossing onto our land. This is an impact that is not discussed in the EA.

Comment B5.c: If you get off the road in certain areas, you are trespassing. We are going to be really strict about that kind of thing in those areas.

FWP Response: NRDP is providing most of the funding for the purchase of these CEs. Without NRDP's support it is unlikely the CE proposal would be possible. The NRDP requires hunting access as part of any CE that agency supports.

Based on discussions between the landowners, NRDP, FWP, and FVLT, it was determined that FWP would be the best entity to oversee public hunting access on the private Graveley Ranch CEs. The FWP Block Management Program has a solid track record of managing hunter access while addressing impacts to properties enrolled in the program as well as adjacent properties. FWP also has the best resources for providing an enforcement presence on Block Management properties.

For properties where FWP manages access, maps are available online and at FWP regional offices. FWP Block Management staff also use bright green and orange metal signs in strategic locations on BMAs to direct hunter use to appropriate areas and mark transitions between BMA lands and other private properties. Ultimately, hunters are responsible for knowing where they are and for staying off private property where they do not have permission to hunt. If you would like to talk more about your concerns, please contact the Region 2 FWP office and ask to speak to the regional hunting access coordinator.

Also, for information on posting your private property and fences as closed to trespassing, please see page 15 of the *Montana Access Guide to Federal and State Lands*⁵ for private-land posting requirements. Or consult state trespassing law § 45-6-201, Montana Code Annotated 2017⁶ (MCA).

Comment A10.4: I hope this vote makes a difference. Thank you.

FWP Response: Public comments submitted for an FWP proposal (and/or its associated draft EA) are generally tallied as being in support, opposition, or unknown (support/opposition not specified). However, the resulting “vote” is not binding on FWP or the Fish and Wildlife Commission; i.e., it does not determine the project’s outcome. Rather, all the comments received are reviewed and used by FWP and the Commission to help evaluate the proposal, identify potential deficiencies or issues that may need to be further addressed, and guide management directions and decisions for proposed actions.

Comment B4.c.i & ii (and page B-3, item 2), paraphrased: In the EA, Figure 2 and Appendix A (Access Plan, no map presented): FWP needs to specifically show private property so the public can see the impacts, and show where parking areas are going to be located to fully evaluate impacts. Are the parking areas along the road next to the creek which will impact water quality? Large open areas on Teck property along the road will inevitably be illegally used for parking (they already are). This impact needs to be stated, evaluated and the project needs to provide mitigation to prevent this.

FWP Response: Designated parking areas for hunting are identified by private landowners within the Block Management Area. (Parking would also be allowed adjacent to the CE lands along the Brock Creek and Warm Springs Creek roads, as long as such parking does not in any way obstruct road traffic.) The designated parking areas are depicted annually on the Block Management Area map available online and are also posted on-site with green metal signs. Designated parking area locations for this project are currently at the following locations: T10 N, R10 W, S33 off the east side of Brock Creek Road, and T10 N, R10 W, S15 north of Anderson Mine Road. Designated parking locations have not yet been identified for the Warm Spring Creek Road portion of this project.

Comment B4.c.iv (and page B-3, item 4), paraphrased: EA does not consider impacts to the Brock Creek Road, which is a private road and is not county-maintained. Just stating “no impact” because hunting is already allowed is not an adequate analysis. CEs will likely increase knowledge of the property which could result in increased use by hunters and others. EA needs to predict the extra use that may result in

⁵ Copy available at FWP Region 2 office and/or on this FWP webpage <http://fwp.mt.gov/hunting/hunterAccess/toolkit.html> Accessed 14 May 2019.

⁶ Available on this legislative webpage https://leg.mt.gov/bills/mca/title_0450/chapter_0060/part_0020/section_0010/0450-0060-0020-0010.html Accessed 14 May 2019.

damage and how to mitigate this damage. Other property owners that use the road should not have to foot the bill to repair the road. Dust issues from extra traffic were not considered and need to be evaluated.

Comment B5.a: I am basically for the FWP's taking over management as part of the program. We have a bunch of issues on access and things like that. Before the access on Brock Creek and Warm Springs Creek [CEs] comes to light, the access there must be better understood by everybody.

Comment B5.b & c: That [Brock Creek Road] is a private road even though it has public use going up Brock Creek. We don't want liability. The road is maintained for private use only; it's not maintained as a public road and it will no be maintained as a public road. If we are hauling out of there, I will run the grader, but I am not going to maintain it for hunting and hunting access. . . . Same for Warm Springs Creek Road, people will need to use it at their own peril.

Comment B5.d: I am concerned about the liability for hunters going up and down these roads. Especially if we are hauling the big trucks up and down these roads. The trucks take up ¾ of the road and that is what those roads are for; for us to haul. Those roads are not for hunters.

FWP Response: FWP acknowledges that portions of the Brock Creek Road and the Warm Springs Creek Road are private, but both these roads have public access easements sufficient to access the Graveley and Warm Springs properties for public hunting purposes. FVLT and FWP are working together to ensure landownership along the roads, as well as other private access easements on these roads, are well-understood, well-documented, and recognized prior to completing the project. Hunter access along these roads will be managed with regard to other ownership and access easements. Please contact FVLT (phone 406-549-0755) for more information.

These public access easements allow all members of the public to use the roads year-round, so road damage issues could be caused by all types of users at any time of the year. FWP does not expect the landowners, nor are the landowners bound, to maintain the roads beyond what is needed for their access and operations. FWP expects there would be some increase in traffic following the public process by which FWP is accepting the delegation of public hunting access, but we expect use will level off after that initial popularity and will fall in line with general hunter-use patterns across the larger landscape. Hunting traffic on the access roads will likely fluctuate with use of the properties by game animals and impacts to the road will fluctuate with weather conditions, so predicting the amount of traffic and the impacts would involve much speculation on the part of FWP. If excessive road damage due to increased hunting activity were to create an undue burden on private landowners in the area, FWP can revisit the *Public Hunting Access Plan* (Appendix A in the Draft EA) for this property and potentially adjust it as needed to balance providing public hunting access with avoiding damage to private property.

On a side note, per state law (MCA), a county may, but is not required to, maintain a county road; therefore, lack of county maintenance does not eliminate a road's status as a county road.

Comment B4.d (and page B-3, item 5), paraphrased: Teck has an access agreement with the Graveleys on the Brock property, to investigate and monitor old mine workings for health and safety reasons. We expect this action to not impact our ability to use mechanized equipment including drilling equipment.

FWP Response: The subject of a prior private-access agreement with the Graveley Ranch is outside the scope of this FWP proposal. We encourage the commenter to contact FVLT (phone 406-549-0755) regarding this concern.

Comment B4 (page B-3, end notation), paraphrased: What other uses of the Graveley Ranch CE lands would FWP allow?

FWP Response: Hunting access on the Graveley Ranch CEs is the only public activity that would be required under the FVLT CEs, and this access would be administered (managed) by FWP. All other uses of these private lands (excepting those addressed in the FVLT-Graveley Ranch CEs) would be by private landowner permission.

FINDING OF NO SIGNIFICANT IMPACT

FWP has reviewed the draft EA and applicable laws, regulations, and policies and has determined that this action will not have significant effect on the physical or human environment. Therefore, I conclude that the EA is the appropriate level of analysis and the preparation of an Environmental Impact Statement is not necessary.

DECISION

This proposal received strong support from the public--in this MEPA process, as well as in the earlier public process conducted by NRDP regarding spending NRDP monies on purchasing conservation easements on the Graveley Ranch. Only one individual specifically expressing opposition to FWP's proposed action of accepting the delegation of the public hunting access assignment from FVLT. FWP is the qualified organization best equipped to manage, monitor and enforce the public access terms in perpetuity, consistent with the overall intent of the FVLT CEs. FWP has experience in acquiring and managing public access provisions in several perpetual CEs. Through the proposed CEs, hunting access would be available to the public in perpetuity on the Graveley Ranch.

No concerns were raised that would bring the environmental analysis into question, and in consideration of these facts and by inclusion of this Decision Notice, I adopt the Draft EA as final.

Based on the analysis in the draft EA and the public comment received, I have selected the "Proposed Action" (Alternative B). I will recommend to the Fish & Wildlife Commission that it approve FWP's proposed acceptance of the assignment of the public hunting access component of the Graveley Ranch from Five Valleys Land Trust under its proposed conservation easements.

/s/ Randy Arnold
Randy Arnold
Region 2 Supervisor
Montana Fish, Wildlife & Parks

5/17/2019
Date

APPENDIX A. Comments on the proposed public hunting access component of the Graveley Ranch CEs, received by FWP during the public comment period April 8 through May 7, 2019. (Comments received via: E = email.)

Note: For reference in the FWP Responses to comments in the Decision Notice, an A in front of a commenter indicates the comments may be found in (this) Appendix A.

Com- men- ter#	Via	Para- graph	Comment
A1	E		I support Alternative B: FWP acceptance of an assignment of public hunting access rights in perpetuity from FVLT on the Graveley Ranch conservation easements. This looks like a win/win for sportsmen and doesn't tap into FWP funding. It also does this with very few minor impact, some of them positive.
A2	E		As an avid hunter in this area by garrison, it would be extremely nice to have more access and limit development on these prime wildlife locations. My family and I have been hunting this year for over a decade and have seen a major decrease in locating elk since the shoulder season opened up. They have been concentrating on private land that won't give you access and now that our BMA spot can be hunted 8 months out of the year, we have had to stop hunting it because no elk are to be found. So, having more access to this private would be great and I highly approve! The only suggestion I would make, is to limit access to foot or horse only (walk in), so that animals are less stressed and feel safer, offering more opportunity for hunters. I approve of this easement! Thanks FWP!
A3	E		I think getting this land is an excellent idea and definitely approve. I would like to see the shoulder season in this area eliminated though.
A4	E		This would help tremendously and would benefit all hunters.
A5	E	1	Montana Chapter Backcountry Hunters and Anglers, welcomes the opportunity to comment on this proposal. For a variety of reasons, our nearly 3000 Montana Chapter members often find shrinking opportunities to hunt on private lands. In response, much of our Chapter efforts are spent on assuring optimum wildlife habitat and hunting opportunities to hunt public lands.
		2	It is with great enthusiasm that we endorse the proposal to provide hunting opportunities for the public on over 8000 acres of private lands covered under the two conservation easements. We note that a minimum of 400 hunter days will be assured annually. We do, of course, encourage agreements that assure that a fair process of selecting or allowing hunters will provide equal hunting opportunity for any hunter to participate.
		3	And of course, we wish to convey to the Graveley family the appreciation to participate in the conservation easements and hunting access related to this proposal.
A6	E	1	Yesterday I stopped by your office to get a copy of the Draft EA regarding Public Hunting Access on the Graveley Ranch Conservation Easements.
		2	First off, what an innovative way to protect not just one big chunk but two great big adjoining chunks of western Montana open space/wildlife habitat/livestock grazing, plus private lands hunting opportunities for the public. I also support the project as that approach most probably also provides a way for the Graveley family to expand their ranching business and hopefully keep it family-owned. However, the plan to have MT FWP manage hunter access for FVLT really distinguishes the project as very wise, plus is a possible incentive for other land trusts to follow that private entity/government agency hunter access partnership model where opportunities exist.
		3	One question before I am 100% in - just want to confirm that the FVLT easement terms will preserve the landowner's option to sustainably manage the 1,500 acres of forest land, to include mechanical treatments & forest product removals where feasible. Plus, hopefully there is a provision to allow removal of conifers that may encroach into grasslands. I am hopeful that FWP, an agency that recently established a very successful forest habitat enhancement program on its forested WMAs, in large part to benefit sportsmen, is also supportive of high-quality forest habitat management that benefits wildlife on private lands protected by conservation easements. Appreciate whatever info you can provide regarding my question.

		4	Actually one more question, could you please direct me to the FWP folks, or others, that are considering/exploring re-introduction/recovery of sharp-tailed grouse in western Montana. I recently read about that possibility and want to make sure I understand their habitat needs. Thanks much.
A7	E		The Anaconda Sportsmen's Club is in favor of the FWP accepting the Assignment of the "right of public hunting access" for the Graveley Ranch Conservation Easements. These CE's will permanently protect the Public's Access that was had in the past with some added acreage. We know the importance of Public Access and open space values is to our Montana way of Life today as well as our future Generations.
<i>[Commenter A7 also = commenter B1 in Appendix B]</i>			
A8	E	1	The Montana Wildlife Federation (MWF) is Montana's oldest wildlife conservation organization. We were formed in 1936 when a diverse group of Montana saw a need to speak up for wildlife. For over eight decades we have worked to ensure abundant wildlife, healthy habitat on public and private lands, and public access to enjoy our public fish and wildlife resources
		2	MWF strongly supports Fish, Wildlife, and Parks (FWP) proposal to accept assignment (delegation) of the "right of public hunting access" components of two conservation easements (CEs) to be held by Five Valleys Land Trust (FVLT) on the 5,167-acre Graveley Ranch property and the 3,110-acre Warm Springs Creek property in Powell County north of Garrison. These easements would provide Montanans with improved public access and would improve wildlife habitat and security. FWP has demonstrated a successful track record of providing the best possible access opportunities for the public. Based on the provided EA, MWF believes that FWP will be a quality steward of the public access to these easements.
		3	MWF commends the commitment of all those who have labored to make this project a reality. We understand the tremendous work and patience that goes into putting together a land deal. That's why we fully support the completion of this project that will have lasting benefits for future generations.
<i>[Commenter A8 also = commenter B3 in Appendix B]</i>			
A9	E	1	I read the summary. I see FWP must come up with the plan that describes how 200 hunter days on each piece of property will actually occur. How are those days counted? How does FWP determine what seasons to allow the 200 days to occur?
		2	Can you explain what is considered a hunter day? Does that mean 200 hunters max per year can hunt on the lands? Or for 200 days the lands are open like any other public lands for hunting or fishing during open seasons? Or will all access be controlled by a ranch manager whom determines who gets access and when? I live in adjacent District 3 and am wondering how restrictive or non restrictive the "access to public hunting" will be on ranch expansion project.
A10	E	1	I am a homeowner with property bounded on three of four sides by the annex property in question. I am in favor of the Conservation Easement in Garrison. That would be wonderful.
		2	I am NOT in favor of the Block Management.
		3	I picture obese drunk hunters tearing down my fences and gate to use my property as a staging area for hunting off the back of their trucks. I don't want people shooting over or into my property. There is no way, without a permanent Fish, Wildlife and Parks agent sitting on my land, to prevent the abuses that would naturally follow. I believe that is patently obvious.
		4	I hope this vote makes a difference. Thank you.

APPENDIX B. Public hearing for proposal for FWP to accept delegation of the hunting access component of five valley land trust's proposed Graveley ranch CEs. Hearing held April 23, 2019 (Tuesday) at 6:30 p.m. at Drummond Community Center (54 East Broad Street).

ATTENDING THE PUBLIC HEARING

- Members of the public: 11
- FWP personnel: Torrey Ritter, Kendra McKlosky, Mike Thompson
- Five Valleys Land Trust: Sarah Richey

PUBLIC HEARING COMMENTS

Note: *For reference in the FWP Responses to comments in the Decision Notice, a B in front of a commenter indicates the comments may be found in (this) Appendix B.*

B1. Anaconda Sportsman's Club [**Commenter B1 also = Commenter A7 in Appendix A**]

- a. Gary Ouldhouse: We are in favor of this. The Club is in support of FWP taking assignment to manage this access. We support the access to game and maintenance of hunting values.
- b. David Stone: Always in favor of access to different areas. We need that more and more these days. Just concerned there is no addition to the hunter access days, but Kendra explained that to me. I still feel that because of the extra acreage this opens up we should have a few more [hunter-days].

B2. Joe Dippold

Just like to add what he [Dave Stone] just said. I am always in favor of public access as well. This property has been managed through the Block Management Program for years. There may be some more people that show up, but it will continue to be managed as it has for however-many years, which is a lot. As far as I am concerned, in terms of access nothing is really changing with that. It's been that way; they have always allowed people to go on hunting. That is my comment.

B3. Marcus Strange for Montana Wildlife Federation [**Commenter B3 also = Commenter A8 in Appendix A**]

I want to keep it short; we fully support the project. One of the things we hear about when we travel around the state talking to sportsmen is there is not enough access, and this is a good way to make sure we protect the access. There is already access to it, but this is a good way to make sure it stays there forever. We support it.

B4. Mark Vetter for Gold Creek Montana, Representing Teck America (mining company, landowner up Brock Creek Road) [**Also see page Appendix B, page B-3 for written notes Vetter handed to FWP at meeting**]

- a. Submitting comments from Teck America. Mostly related to the EA.
- b. Generally, Teck is supportive of the project for its goal of protecting wildlife habitat and conservation and hunting values, as long as the impacts to others from public use are appropriately studied and mitigated.

- c. Specifically, relative to Figure 2 in EA and Access Plan in Appendix A [of EA]:
 - i. Should explicitly show private properties so the public can see the impacts to private properties surrounding the CE.
 - ii. Show where parking areas will be located to fully evaluate impacts.
 - 1. Are parking areas along the road?
 - 2. Are they along the creek? If so, could impact water quality?
 - 3. Open areas owned by Teck will be used illegally for parking (they already are). Impact needs to be stated and evaluated and project needs to provide mitigation to prevent this.
 - iii. Increased potential for trespass onto Teck property, and we are curious how FVLT and FWP will prevent users of the CEs from crossing onto our land. Impact is not discussed in the EA.
 - iv. EA does not consider impacts to the Brock Creek Road, which is a private road and is not county-maintained. Just stating “no impact” because hunting is already allowed is not an adequate analysis. CEs will likely increase knowledge of the property which could result in increased use by hunters and others. EA needs to predict the extra use that may result in damage and how to mitigate this damage.
 - 1. Other property owners that use the road should not have to foot the bill to repair the road.
 - 2. Dust issues from extra traffic were not considered and need to be evaluated.
- d. Teck has access agreement with Graveley’s to access and monitor old mine workings for public health and safety reasons. They expect this action will not affect their ability to use mechanical equipment on this property according to that agreement.

B5. Paul O’Leary

- a. I am one of the landowners with Marty up there. I am basically for the FWP’s taking over management as part of the program. We have a bunch of issues on access and things like that. Before the access on Brock Creek and Warm Springs Creek come to light, the access there must be better understood by everybody.
- b. That [Brock Creek Road] is a private road even though it has public use going up Brock Creek. We don’t want liability. The road is maintained for private use only; it’s not maintained as a public road and it will no be maintained as a public road. If we are hauling out of there, I will run the grader, but I am not going to maintain it for hunting and hunting access.
- c. Same for Warm Springs Creek Road, people will need to use it at their own peril. If you get off the road in certain areas, you are trespassing. We are going to be really strict about that kind of thing in those areas.
- d. So, yes I am for the FWP management, they have done a great job for us up there so far and I’d like to continue that, especially on ours. But I am concerned about the liability for hunters going up and down these roads. Especially if we are hauling the big trucks up and down these roads. The trucks take up ¾ of the road and that is what those roads are for; for us to haul. Those roads are not for hunters.

Mark Vetter - Contracted land manager for Teck American Incorporated for their Brock ^{mine} property

Comments from TAI for EA Comment Meeting on Graveley Easement 4/23/19

1. Generally, Teck is supportive of this project for its goal of preserving wildlife habitat and conservation values as long as the impacts are appropriately studied and mitigated.
2. Figure 2 and Appendix A (no map presented) need to specifically show private property so the public can see the impacts, and show where parking areas are going to be located to fully evaluate impacts. Are the parking areas along the road next to the creek which will impact water quality? Large open areas on Teck property along the road will inevitably be illegally used for parking (they already are). This impact needs to be stated, evaluated and the project needs to provide mitigation to prevent this.
Access Plan *to allow from public use*
3. The action presents increased potential for trespassing on our property. I want to know how the land trust is going to prevent users of the Graveley property from crossing across on our land. This is an impact that is not discussed in the EA. *Trade*
4. The EA does not consider impacts to Brock Creek Road which is a private road. It is not county maintained. Just stating "no impacts because hunting is already allowed" is inadequate analysis. The conservation easement will increase knowledge of the property which will increase use on the road by hunters and others. The EA needs to predict the extra use, resulting damage, and how to mitigate this damage. The other property owners that use this road should not have to foot the bill to repair the road. Similarly, dust emissions from this extra traffic needs to be evaluated.
5. Teck has an access agreement with the Graveleys on the Brock property, to investigate and monitor old mine working beneath the property for health and life safety reasons. We expect this action to not impact our ability to do this using mechanized equipment including drilling equipment.

What other uses will FWP allow? *None* Not without landowner permission for all other uses.