



Region 2  
3201 Spurgin Road  
Missoula, MT 59804

December 1, 2022

Dear Interested Citizen:

Thank you for your thoughtful reviews and comments on a proposal by Montana Fish, Wildlife and Parks (FWP) to purchase a conservation easement (CE) on the Hackett Ranch, to be known as the Sweathouse Creek Conservation Easement. The Hackett Ranch is currently privately owned by the Hackett Family and is located approximately 3.5 miles west of Victor in Ravalli County. The Hackett Ranch provides critical winter range for elk and deer and hosts a variety of habitat types that support many other game and nongame species as well. The landscape has been identified by the State Wildlife Action Plan (SWAP) as a priority landscape for conservation actions. The proposed CE would prevent subdivision and development, assure sound habitat management practices, and secure public access in perpetuity. The project would primarily be funded by the Habitat Montana Program matched with federal Pittman Robertson Wildlife Restoration funds. Additional funding has been secured through the Ravalli County Open Lands Bond, Montana Fish and Wildlife Conservation Trust, and the Ravalli County Fish and Wildlife Association, as well as donated value from the Hackett Family.

Enclosed is a Decision Notice in which FWP reviews public comments and explains its rationale for recommending that the Fish & Wildlife Commission (Commission) approve the Sweathouse Creek CE as proposed. Upon completion of the public involvement process, FWP accepts the draft environmental assessment (EA) as final. The decision document includes all comments received on the proposed CE during the 30-day public comment period.

FWP will request approval for this proposal from the Commission, which has approval authority for FWP CEs. At this time, the Commission meeting for review of the Sweathouse Creek CE proposal has not been set; please see our website <http://fwp.mt.gov/default.html> ("Commission") for information on upcoming Commission meetings and agendas. Commission meetings are open to the public and remote viewing and commenting options are available. Again, please check FWP's Commission webpage for details and further updates.

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

Sincerely,

Randy Arnold  
Regional Supervisor

RA:sr

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**DECISION NOTICE for the DRAFT ENVIRONMENTAL ASSESSEMENT:  
Proposed Sweathouse Creek Conservation Easement**

*Montana Fish, Wildlife & Parks; Region 2  
3201 Spurgin Road, Missoula MT 59804  
Phone 406-542-5500  
December 1, 2022*

**DESCRIPTION OF PROPOSED ACTION**

This Decision Notice follows an environmental assessment (EA) that evaluates Montana Fish, Wildlife and Parks' (FWP) proposal to purchase a conservation easement (CE) on the Hackett Ranch, to be known as the Sweathouse Creek Conservation Easement. The Hackett Ranch is currently privately owned and is located approximately 3.5 miles west of Victor in Ravalli County. The Sweathouse Creek CE would protect a diversity of habitats for game and nongame species including elk winter range, forested foothills, wetlands and riparian areas, and working agricultural lands. A CE on this property would preclude potential subdivision or development of the land and the negative impacts to fish and wildlife that could result. The Sweathouse Creek CE is in an area identified in the *Montana State Wildlife Action Plan*<sup>1</sup> as a priority landscape for conservation actions. The connectivity of the property to the Bitterroot National Forest increases the value of the land for wildlife, especially those that migrate seasonally between high and low elevations. Furthermore, the proposed CE project would secure public access to the land in perpetuity for hunting, fishing, trapping, hiking, and wildlife watching.

The Sweathouse Creek CE would be purchased and subsequently monitored and maintained by the FWP Lands Program with regional support from local FWP staff based in the Region 2 Missoula office. Regular contact and coordination with the landowners would be maintained by the Bitterroot Area Biologist and the Region 2 Nongame Biologist. Monitoring would occur on an annual basis via FWP's statewide CE Coordinator and local biologists. FWP's Region 2 Access Coordinator would also interact annually with the landowners to set up and maintain public access to the property as laid out in the CE management plan and deed. FWP would build and maintain good relationships with the current landowners as well as any future landowners so that CE monitoring and compliance is a collaborative process that recognizes and respects private property rights while protecting the investment of the people of Montana in conserving the agricultural and habitat values of the land.

**OBJECTIVES OF THE PROPOSED ACTION**

- Permanently protect and maintain open space and agricultural operations in the Bitterroot Valley.

<sup>1</sup> FWP 2015; available at < <https://fwp.mt.gov/binaries/content/assets/fwpgisresources/docs/swap/70169.pdf> >. Accessed 4 November 2022.

- Conserve and enhance important aquatic and terrestrial wildlife habitat and movement corridors in a valley experiencing rapid development.
- Secure public fishing, wildlife-watching, and hiking opportunities in the foothills of the Bitterroot Mountains, as well as a wide variety of hunting opportunities.
- Ensure perpetual public access to the Sweathouse Falls recreational trail and surrounding U.S. Forest Service lands in the Bitterroot National Forest.

## **PROPOSED ACTION AND ALTERNATIVES**

### **Alternative A - Proposed Action: FWP would purchase a conservation easement on approximately 540 acres of the Hackett Ranch, to be known as the Sweathouse Creek Conservation Easement**

FWP proposes purchasing a CE on the Hackett Ranch. The Sweathouse Creek CE would maintain working agricultural lands in the Bitterroot Valley, where agricultural landscapes are disappearing relatively quickly as property values rise and more large properties are subdivided and developed for home sites. The CE would protect winter range and calving habitat for elk in deer-elk Hunting District 214 (West Bitterroot) and would secure a guaranteed right of public access to the land in perpetuity for a variety of outdoor recreation opportunities, including hunting, fishing, trapping, and wildlife watching. The property contains aspen stands, grasslands, mixed-conifer forests, and riparian areas along Gash Creek and Sweathouse Creek as well as along ephemeral and intermittent streams. These habitats host a diversity of game and nongame species including many Montana Species of Concern.

Funding for the Sweathouse Creek CE would come from a variety of sources, primarily through FWP's Habitat Montana Program matched with federal Pittman Robertson Wildlife Restoration funds. Additional important funding partners are the Ravalli County Open Lands Bond, the Montana Fish and Wildlife Conservation Trust, the Ravalli County Fish and Wildlife Association, and donated value from the Hackett Family. Project costs for a hazardous materials search, water rights research, geological remoteness determination, land appraisal, and other necessary due-diligence and administration activities have been supplied by FWP.

The draft EA (published in October 2022) provided opportunity for public comment to fulfill public comment requirements for both the Montana Environmental Policy Act and the FWP Fish and Wildlife Commission.

### **Alternative B - No Action: FWP would not purchase a conservation easement on the Hackett Ranch**

Under the No-Action Alternative, FWP would not purchase a CE on the Hackett Ranch. The property would remain under private ownership with the Hackett Family but would be vulnerable to being sold in the near future. The current landowners have expressed that selling the land is their only option if the CE project fails. Because of the prime location of the property and the rapidly expanding population of the Bitterroot Valley, we expect that much of the land would be subdivided and developed as home sites. This would diminish fish and wildlife habitat values and likely result in little to no public access for hunting or other forms of outdoor recreation.

## **Alternatives Considered but eliminated from further analysis: None**

After much internal discussion and discussion between regional FWP staff and the landowners, a conservation easement was the only viable option for protecting this property and the conservation values it contains. The landowners were not interested in selling the land to a state or federal land management agency as they wanted it to remain in private ownership and agricultural production. The landowners were also not interested in FWP's new habitat lease program as their family and financial situation is not conducive to delayed action on the property and because they are passionate about permanent protections for the land.

## **PUBLIC REVIEW PROCESS**

FWP is required by the Montana Environmental Policy Act to assess potential impacts of its proposed actions to the human and physical environments, evaluate those impacts through an interdisciplinary approach (including public input), and make a decision based on this information. This Decision Notice is in response to public input received regarding the EA.

FWP released a cover letter (summarizing project details such as public meeting date and comment deadline) and a draft environmental assessment (EA; "Sweathouse Creek Conservation Easement") for public review of this proposal on October 5, 2022 and accepted public comment for 30 days through November 4, 2022. The EA was posted on FWP's web site (<http://fwp.mt.gov>, under "News and Public Notices") and was available those same dates for public comment.

Legal notices of the proposed CE and its Draft EA availability were published in the following newspapers (dates): *Independent Record* (Helena; October 5, 27), *Missoulian* (October 5, 27), *Ravalli Republic* (Hamilton; October 5, 28), and *Bitterroot Star* (Stevensville; October 5).

FWP mailed 15 copies of the cover letter and draft EA, and emailed approximately 25 notifications of the EA's availability, to adjacent landowners and interested individuals, groups, and (non-FWP) agencies. The EA was available for public review and comment on FWP's web site (<http://fwp.mt.gov>, "News and Public Notices") from October 5, 2022 through November 4, 2022.

A public hearing to discuss the proposal, answer questions, and take public comment was held in Stevensville on October 24, 2022 (Monday) at 5:30 pm at the North Valley Public Library (208 Main Street).

## **PUBLIC COMMENT**

### **Summary of Public Comment**

Emailed Comments: FWP received emailed comments from 9 commenters (Appendix A; comments via E), representing:

- 11 people (7 from Victor [including 2 adjacent landowners], 2 from Missoula, and 1 each from Emigrant and Stevensville, Montana).

Public Hearing: FWP had a productive conversation with 5 people at the public meeting, and 2 attendees provided testimony, one of which was also emailed in (Appendix B; also see

Appendix A, comments via PM). All 5 attendees were from the Victor area or nearby towns. One attendee did not want to use the sign-in sheet or provide their location.

Summary: Combining and summarizing<sup>2</sup>, FWP received input from 12 commenters (Appendix A, comments via E and PM).

### **Comments in Support of the Proposed Acquisition Included:**

#### Public Access

- I have been a beneficiary of the Hackett's generous public access policy for near to 50 years. This Easement will solidify that access for the future.
- I have accessed the area many times for hiking and recreation. Since it borders the Bitterroot National Forest this Conservation Easement would provide valuable access from the valley to the Forest.
- If this CE doesn't get approved, this land will likely get developed and the public will lose that access, and the wildlife will lose valuable habitat.
- This conservation easement will allow the public to recreate on lands and provide access to the National Forest. This will allow us to enjoy our valley and mountains. Specifically, the Sweathouse Creek Trail and drainage.

#### Fish and Wildlife Habitat and Ecosystem Health

- Preserving this area from development will protect the future health of the Bitterroot Watershed, a goal that should be of utmost importance for those of us living in and around the Bitterroot Valley. This project would protect vital water sources and delicate ecosystems as well as preserve the area for public use. I hope that the Montana Fish and Wildlife Commission will approve this proposal.
- This conservation easement will promote a healthy habitat for elk winter and summer range, mule deer, whitetail deer, and other large game animals. It will also protect and promote biodiversity of smaller animals such as lynx, mountain lion, wolverines, and fox. It is home to wild turkeys and will continue to support many species of birds and small animals.

#### Working Lands

- I strongly support the idea of preserving open and working (Farm and Ranch) lands.
- Local ranching and agriculture - This conservation easement will keep the lands in the state that we as citizens of Montana and as a six generation Bitterrooter so truly love our Valley to be represented as.
- We recognize this land has unique values for our community, including valuable agricultural land, open space, access, and well managed property.

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<sup>2</sup> There was duplication because one commenter both emailed comments and spoke at the public hearing.

- For over 25 years, we have also owned our property and in that time we have come to appreciate the Hackett Ranch for what it offers. It has been ranch lands that serve an important purpose for generations in the Valley. Please move forward and support the continued way of life for our area.

### Open Space

- It [the Hackett Ranch] is a beautiful scenic open space which can be clearly seen from Highway 93 being only 3 miles from Victor.
- I strongly support preserving open land versus seeing it subdivided into 5 - 20 acre parcels or dense subdivisions which would greatly, negatively impact the wildlife habitat of the land.

### Future

- With the easement in place at least we can guarantee that the future generations of children in the valley will be able to view the mountains and play on the westside above Victor. This includes myself and my children and our ability to continue to hike and recreate in the area.
- This conservation easement protects our local community infrastructure. Our community is not capable of managing large subdivisions. We have a local volunteer EMS and Fire Department with a limited number of volunteers. If this property were sold and subdivided the additional houses and population would have drastic consequences on our local infrastructure.

### Funding

- I support Alternative B, the Proposed Action for FWP to purchase a CE on 549 acres of the Hackett Ranch for approximately \$3,380,000. I know the price seems high, but the benefit to the public is worth it.

### **Comments in Opposition of the Proposed Acquisition Included:**

No public comments received during the public comment period were in opposition to the proposed action. However, several commenters brought up issues or concerns with the project that fell outside the scope of impacts that could be reasonably attributed to the proposal to purchase a conservation easement on the Hackett Ranch. Those comments and FWP's responses are included in the next section.

### **Response to Public Comment**

Below is a summary of public comments, questions, and suggestions, that warrant a response from FWP (i.e., general comments in support of the proposal are not included), along with those responses. Numbers in [brackets] below correspond to the numbering of the individual commenters and paragraphs in Appendix A.

### Weapons use

*Comment: In reference to the proposed Conservation Easement effecting Sweat House Creek and the Hackett Ranch; We along with neighbors, Jeff Kushner and Janet Woodbury, with adjacent property to the proposed easement, are requesting a safety buffer zone of 200 feet at the eastern portion of the Hackett parcel, which borders a portion our property. We are requesting that the safety buffer zone, located in the conservation easement and adjacent to our parcel, exempt the public from hunting, trapping, camping and building campfires. [5.1]*

*Comment: We have an existing home on our property and are in the process of building a new home east of the proposed conservation easement. If the public is permitted to hunt, shoot, trap, camp, or build fires on the eastern boundary of the Hackett's land, bordering our property, this could easily jeopardize the safety of our family, home and pets. We are deeply concerned about the consequences of a public use Conservation Easement near our home, which is why we are requesting a small safety buffer. [5.2]*

Response: Public hunting access to the Hackett Ranch is administered through FWP's Block Management Program. Rules and regulations pertinent to property are provided at the FWP Region 2 office in Missoula, on-site at the Hackett Ranch Block Management Area sign-in box, and are available online at:

[https://fwp.mt.gov/binaries/content/assets/fwp/gisresources/hunting/hunteraccess/blockman/region2/maps/7\\_hackett\\_ranch\\_2022.pdf](https://fwp.mt.gov/binaries/content/assets/fwp/gisresources/hunting/hunteraccess/blockman/region2/maps/7_hackett_ranch_2022.pdf)

These rules and regulations clearly state that "camping and fires are prohibited" on the property.

Regarding the potential impacts of hunting and trapping on the Hackett Ranch property, we would first like to highlight that the public have had access to this property for hunting and trapping for at least the past 25 years. The purchase of a conservation easement does not change the way that access is administered or regulated. One of FWP's goals with the proposed project is to maintain the level and types of public use that have occurred on the property for the past three decades and have thus far worked well with no major incidents regarding public safety around trapping and discharge of firearms reported. The only difference is that those access opportunities will now be allowed on the property in perpetuity, no matter who owns the land in the future.

Second, we want to emphasize that the purchase of a conservation easement on the property does not turn over management control to the State of Montana. The Hackett Ranch will remain in private ownership and management, and FWP's involvement will be in the realms of habitat and access management to maintain the Conservation Values outlined in the conservation easement deed and management plan. FWP does not seek to provide input or have control over the decisions of private landowners unless they directly affect the Conservation Values of the land. When it comes to allowing public hunting and trapping on the property, and regulating that use, those decisions are still up to the private landowner. We can make changes to Block Management Area rules and regulations in partnership with the landowners, but ultimately decisions around Weapon Restriction Zones (WRZ), Safety Zones, and closure areas are up to the landowner. Therefore, this comment/request falls outside the scope of this EA and should be left to conversations between the owners of the property and their neighbors.



Finally, were the property not protected by a conservation easement, it is likely the property would be sold and could be subdivided and developed. Under this scenario, FWP would likely have no input on land management, access, and use of the lands, including provisions around campfires, camping, and limiting trapping and hunting activity in certain areas and under certain conditions.

FWP has made direct contact with all neighboring landowners who have expressed concern about the proposed easement and what it may mean for the types and level of public access. We have encouraged those landowners to reach out directly to the Hackett Family to resolve issues and have acted as an intermediary for some of those discussions. These efforts led to the inclusion of a new WRZ in the northeast corner of the property, which was requested by a neighboring landowner who built their home close to the boundary with the Hackett Ranch (see Figure 5 in the EA). This WRZ will also encompass part of the boundary requested by the commenter above.

### Roads, Access, Neighbor Relations

*Comment: Also in existence, is an easement through our property to the Hackett Ranch, granted May 20<sup>th</sup> 1987. A copy of this easement has been submitted to the Fish and Wild Life Commission. This easement was granted to the Hackett Family by a previous owner. The intent of the easement was to allow the Hackett Family ( current owner ) only, ingress and egress. While this easement is still valid, we would like it noted that the public does not have access to ingress and egress our property via the said easement, as the public is not the owner and this easement's intent was for the owners only. [5.3]*

Response: FWP has reviewed documentation around this easement and determined that it does not have any relevance to the proposed conservation easement. Therefore, this comment falls outside the scope of this EA and the proposed action. We have tried to provide some clarity on this topic for the commenters, but in the end encouraged the commenters to work on the issue directly with the Hackett Family.

*Comment: I would also like add at this time a type a formal rebuttal to Mr Kushners and his wife Janets claims on trapping. He and his wife Janet stated that they were opposed to trapping as their grandchildren play on the adjoining lands to their house. I think it needs to be noted officially in the records that they and their grandchildren are trespassing on private lands, if they are playing below their house which was constructed right on the property boundary between their private lands and the Hackett Ranch. The Hackett Ranch currently does not have fences in that area with no intention of building them. But it needs to be formally noted in the records that the lands are private and as such Kushners should not be "playing" on them. Until such time that a Conservation Easement is actually approved on the property, then they can recreate without being in trespass.*

Response: After receiving this comment, FWP checked in with the current landowner and determined that the Kushner/Woodburn Family did request and were granted access to the Hackett Ranch property.

### Land Management

*Comment: This letter is to recommend Fish, Wildlife and Parks approve a proposal for creation of a conservation easement on the Hackett Ranch in Victor. We recognize this land has unique values for our community, including valuable agricultural land, open space, access, and well*

*managed property. We believe the State should continue to manage this property for all these values.*

Response: As a point of clarification, neither FWP nor any other state agency has had management responsibilities on this property in the past, other than voluntary programs the landowners have participated in such as the Block Management Program and developing a forest management plan with staff from the Department of Natural Resources and Conservation. If this conservation easement project is approved, it would be the first time the property is encumbered in such a way that the State of Montana has direct involvement with land management on the property. That being said, we would like to emphasize that FWP's conservation easements are designed to be a partnership between the landowners and FWP, where management decisions are developed through conversation and negotiation between the landowners and local FWP staff. FWP strives to allow as much flexibility as possible for landowners and to largely to stay out of their way and would only assert management authority if the actions of landowners were found to be significantly negatively affecting the wildlife habitat, public access, and/or open space values outlined in the conservation easement deed and management plan.

### **CHANGES TO THE DRAFT EA**

After reviewing updated information since the Draft EA was published and public comments received during the 30-day public comment period, FWP does not see a need to change the Draft EA. Unresolved issues and concerns brought up during the public comment period are outside the scope of this EA and are of the type best addressed through conversations between the concerned neighbors and the landowners of the Hackett Ranch property.

### **DECISION**

Based upon the Draft EA and the applicable laws, regulations, and policies, I have determined that the proposed action will not have negative effects on the human and physical environments associated with this project. Therefore, I conclude that the EA is the appropriate level of analysis, and the preparation of an Environmental Impact Statement is unnecessary.

This decision benefited from public review of the proposal and informed comment. Most of the comments received were in support of FWP purchasing a conservation easement on the Hackett Ranch property. There were no comments in opposition of the proposed action. No concerns were raised that would bring the environmental assessment into question, and in consideration of these facts and with inclusion of this Decision Notice (and any clarifications, corrections and/or information noted therein), I adopt the Draft EA as final.

The habitats provided within the proposed conservation easement, while critically important for fish and wildlife now, will only increase in value for those species in the future. The Hackett Ranch is already a treasured landscape for the people of Ravalli County and for the people of Montana generally who have hunted and recreated on and around the land for the past 25 years. As the population of the Bitterroot Valley continues to rapidly expand, and as more large properties are subdivided and developed, the investment the people of Montana have made in this property will become increasingly valuable and valued.

FWP would like to extend our sincere thanks to the Hackett Family for their passion and interest in working to make this project a reality, and especially for their patience in offering a conservation outcome for this property despite the many years it took for the project to reach

this stage. The Hackett Family is making a major sacrifice to conserve Montana's agricultural heritage and to contribute to the outdoor recreation opportunities that make Montana unique. We would like to especially thank the Hackett Family's primary liaison for this process, Scott Hackett, whose patience, fortitude, and sacrifice of time, money, and energy over the past three years is truly admirable.

I recommend to the Fish and Wildlife Commission that it approve the proposed purchase of a conservation easement on the Hackett Ranch, to be known as the Sweathouse Creek Conservation Easement.



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Randy Arnold  
Region 2 Supervisor  
Montana Fish, Wildlife & Parks

12-01-2022  
Date

## APPENDIX A

All comments on the proposed Sweathouse Creek Conservation Easement Draft EA, received by FWP during the comment period (October 5 through November 4, 2022). Comments received via E = email, PM = public meeting/hearing. If someone submitted comments more than once, the ID# for this person's successive comments are numbered as #a, #b, etc.

Com- men- ter #	Via	Para- graph	Comment
1	E		I have been a beneficiary of the Hackett's generous public access policy for near to 50 years. This Easement will solidify that access for the future. I strongly support this acquisition.
2	E		I am writing to support Alternative B, FWP's purchase of a CE on 549 acres of the Hackett Ranch for approximately \$3,380,000. Though I have hiked the trail just to hike, my primary use of this area is to fish it once a year.
3	E	1	The Open Lands Board is currently processing and presenting to you the Sweathouse Creek Project which is more locally known as the Hackett Ranch for Conservation Easement. While I do not currently reside in Victor, I am still a property owner in the area and am a fifth generation native of Montana. I want to encourage your support for this valuable project.
		2	The Hackett Ranch is a working cattle ranch that not only provides and maintains the agricultural integrity of the valley. It also provides many outdoor recreation opportunities with access for hunting, fishing, and wildlife watching. I have accessed the area many times for hiking and recreation. Since it borders the Bitterroot National Forest this Conservation Easement would provide valuable access from the valley to the Forest. It is a beautiful scenic open space which can be clearly seen from Highway 93 being only 3 miles from Victor.
		3	I think it is also important to point out that Scott Hackett is the last of the Hackett generation. Neither he nor his brother have any children and without this the land will likely be subdivided, homes built, and the access will be lost. With the easement in place at least we can guarantee that the future generations of children in the valley will be able to view the mountains and play on the westside above Victor. This includes myself and my children and our ability to continue to hike and recreate in the area.
		4	Conservation Easements are extremely valuable in today's world and the influx of growth. It is only with multiple organizations and your support that this project can be accomplished.
		5	Please approve this valuable conservation easement to protect the values of the residents and visitors of Bitterroot Valley. Please provide your support to the Sweathouse Creek Project / Hackett Ranch.
4	E	1	Dear Fish Wildlife & Parks Commission, I support Alternative B, the Proposed Action for FWP to purchase a CE on 549 acres of the Hackett Ranch for approximately \$3,380,000. I know the price seems high, but the benefit to the public is worth it.
		2	I also look at the history of the Hackett Ranch, providing access for the public, and this is a way to reward them for that. If this CE doesn't get approved, this land will likely get developed and the public will lose that access, and the wildlife will lose valuable habitat. Please support the Sweathouse Creek Conservation Easement.
5	E	1	To Whom It May Concern: In reference to the proposed Conservation Easement effecting Sweat House Creek and the Hackett Ranch; We along with neighbors, Jeff Kushner and Janet Woodbury, with adjacent property to the proposed easement, are requesting a safety buffer zone of 200 feet at the eastern portion of the Hackett parcel, which borders a portion our property. We are requesting that the safety buffer zone, located in the conservation easement and adjacent to our parcel, exempt the public from hunting, trapping, camping and building campfires. Our bordering parcel Assessment Code 000088630 Legal Description S27, T08 N, R21 W, Acres 20 W2SWNW INDEX9.
		2	We have an existing home on our property and are in the process of building a new home east of the proposed conservation easement. If the public is permitted to hunt, shoot, trap, camp, or build fires on the eastern boundary of the Hackett's land, bordering our property, this could easily jeopardize the safety of our family, home and pets. We are deeply concerned about the consequences of a public use Conservation Easement near our home, which is why we are requesting a small safety buffer.

		3	Also in existence, is an easement through our property to the Hackett Ranch, granted May 20th 1987. A copy of this easement has been submitted to the Fish and Wild Life Commission. This easement was granted to the Hackett Family by a previous owner. The intent of the easement was to allow the Hackett Family ( current owner ) only, ingress and egress. While this easement is still valid, we would like it noted that the public does not have access to ingress and egress our property via the said easement, as the public is not the owner and this easement's intent was for the owners only.
6	E		I write in support of the proposed Sweathouse Creek Conservation Easement. From the information in the draft EA, this is a fantastic project for the environment, the wildlife, the landowners, and the community. Preserving this area from development will protect the future health of the Bitterroot Watershed, a goal that should be of utmost importance for those of us living in and around the Bitterroot Valley. This project would protect vital water sources and delicate ecosystems as well as preserve the area for public use. I hope that the Montana Fish and Wildlife Commission will approve this proposal.
7	E	1	I strongly support Montana Fish, Wildlife and Parks acquisition of the proposed Sweathouse Creek Conservation Easement. On a weekly basis, I utilize the parking area for the Sweathouse Falls trail and hike the trail with my three dogs. I greatly appreciate this opportunity and definitely support this access getting more locked in with the easement.
		2	I also strongly support the idea of preserving open and working (Farm and Ranch) lands.
		3	As noted in the EA and in other sources Ravalli County is a very popular place to move to as noted in the fact that in 2019 the average home sale in Ravalli County was \$304,000.00 and has increased to \$682,000.00 as of June 2022 (Per article in the Missoulian ). I strongly support preserving open land versus seeing it subdivided into 5 - 20 acre parcels or dense subdivisions which would greatly, negatively impact the wildlife habitat of the land.
		4	I strongly support the efforts of the proposed CE in protecting and preserving wildlife habitat. The opportunity to see black bears, elk (which I have seen while driving the road to the trailhead) and other wildlife is a precious opportunity and would like to see the next generation of people have those opportunities too.
		5	In summary, I strongly support the CE proposal. Thank you for the opportunity to comment
8	E/PM	1	I would like to support the conservation easement known as the Hackett Ranch west of Victor, Montana. I have several reasons for supporting this easement.
		2	Wildlife and Birds - This conservation easement will promote a healthy habitat for Elk Winter and Summer range, mule deer, Whitetail deer, and other large game animals. It will also protect and promote biodiversity of smaller animals such as lynx, mountain lion, Wolverines, and fox. It is home to wild turkeys and will continue to support many species of birds and small animals.
		3	Watershed – This conservation easement will protect the west side above Victor Montana and its current conditions it will protect and promote a healthy watershed. The conservation easement will protect it from being sold and subdivided which then would increase the usage of wells and the area would no longer be irrigated as cropland.
		4	Local Ranching and agriculture - This conservation easement will keep the lands in the state that we as citizens of Montana and as a six generation Bitterrooter so truly love our Valley to be represented as.
		5	Local Infrastructure – This conservation easement protects our local community infrastructure. Our community is not capable of managing large subdivisions. We have a local volunteer EMS and Fire Department with a limited number of volunteers. If this property were sold and subdivided the additional houses and population would have a drastic consequences on our local infrastructure. We are currently stressed to the the limit of our capabilities and unable to handle the additional call volume subdivisions would create. Our current school is at it maximum in student population. Additional subdivisions would require additional school space and classrooms. Our county is currently having trouble maintaining the road system with our current traffic load, additional subdivisions and cars on our roads would create a hazardous driving situation on roads that we are barely able to maintain at the present traffic volume.
		6	Recreation – This conservation easement will allow the public to recreate on lands and provide access to the National Forest. This will allow us to enjoy our valley and mountains. Specifically the Sweathouse Creek Trail and drainage. The trailhead for the Sweathouse Creek Trail is currently on private lands. This conservation easement would formally recognize that trailhead and the trail that crosses the Hackett Ranch.
		7	I would also like add at this time a type a formal rebuttal to Mr Kushners and his wife Janets claims on trapping. He and his wife Janet stated that they were opposed to trapping as their grandchildren play on the adjoining lands to their house. I think it needs to be noted officially in the records that they and their grandchildren are trespassing on private lands, if they are playing below their house which was constructed right on the property boundary between their private lands and the Hackett Ranch. The Hackett Ranch currently does not have fences in that area with no intention of building them. But it needs to be formally noted in the records that the lands are private and as such

			Kushners should not be "playing" on them. Until such time that a Conservation Easement is actually approved on the property, then they can recreate without being in trespass.
9	E	1	This letter is to recommend Fish, Wildlife and Parks approve a proposal for creation of a conservation easement on the Hackett Ranch in Victor. We recognize this land has unique values for our community, including valuable agricultural land, open space, access, and well managed property. We believe the State should continue to manage this property for all these values.
		2	For over 25 years, we have also owned our property and in that time we have come to appreciate the Hackett Ranch as what it offers. It has been ranch lands that serve an important purpose for generations in the Valley. Please move forward and support the continued way of life for our area. Thank you for your consideration of this request.
10	PM	1	I live pretty close to this easement, and I think it is a great idea and I'll just second all of her comments [Roylene Gaul's PM comments] because I agree with what she said. Thanks Roylene, you put some thought into it. It's just a wonderful thing. And thank you [FWP] for all the work you put into it.

## APPENDIX B

### Public Hearing for

### Proposed Sweathouse Creek Conservation Easement

October 24, 2022 at 5:30 pm; North Valley Public Library (208 Main Street), Stevensville, MT

#### Agency Attendees:

1. Torrey Ritter - Nongame Wildlife Biologist and Lands Specialist; Montana Fish, Wildlife & Parks (FWP) Region 2 (R2)
2. Rebecca Mowry – Bitterroot Area Wildlife Biologist, FWP R2
3. Liz Bradley – Wildlife Program Manager, FWP R2

#### Partner Attendees:

1. Kyle Barber – Conservation Director, Bitter Root Land Trust

#### Project Introduction by Agency Personnel, and Questions and Answers:

- Torrey Ritter gave a PowerPoint presentation introducing and describing the proposed Sweathouse Creek Conservation Easement, then opened the floor for questions.
- Two members of the audience owned properties along the irrigation ditches that start on the Hackett Ranch. They asked if they could expect any changes to their water rights and ability to do ditch and headgate maintenance.
  - FWP responded that there would be no changes to water rights and irrigation infrastructure maintenance per Section C.5 in the CE deed. The only other section related to water rights in the CE deed states: "Landowner will not transfer, encumber, sell, lease, or otherwise separate water rights from the Land. If Landowner receives notice or becomes aware of a situation under which water rights may be lost from the Land, Landowner shall notify the Department, and the parties may work cooperatively to address the situation. This provision shall not apply to the allocation of water rights to instream flow for the protection and enhancement of aquatic resources as may be agreed to by Landowner and Montana Department of Fish, Wildlife, and Parks."
- One member of the audience asked a series of questions about liability for accidents on the property, including potential accidents on the newly publicly accessible ranch road and accidents around the retired gravel pit near the Sweathouse Falls trailhead.
  - FWP responded that both FWP and the landowner have consulted their lawyers on every aspect of the CE deed, and were there any issues with exceeding risk for the landowners in terms of liability for accidents those would have come up during the CE process. FWP expressed that they could get back to the audience member with more specifics, but the audience member indicated they did not need any follow-up on this inquiry.
- One member of the audience asked specifically about how the funds would be paid/transferred to the landowner.
  - FWP staff in the room did not have the expertise for a good answer at the time, and so offered to follow up with the audience member afterwards. Another audience member who is related to the landowners and is familiar with the payment process spoke up and gave the original audience member the answer they needed. The original audience member indicated no need for follow-up from FWP.
- One member of the audience asked if there would be any new road or trail development on the land to accommodate public use.
  - FWP responded that there would be no new road or trail development and pointed to the access routes and parking areas outlined on the Block Management map. FWP highlighted the portions of the CE deed that regulate new road and trail construction on the property, expressing that such projects could be undertaken if they are in partnership with FWP and do not degrade the CE's Conservation Values or hunting opportunity. FWP explained that wildlife habitat and hunting access and opportunity take precedent over fishing, hiking, trapping, and wildlife watching, and that there are provisions in the CE deed that allow for the landowner and FWP to restrict public use if it is

having negative impacts on wildlife use of the property, interrupting or undermining hunting opportunity, or creating a significant human safety issue.

- Two members of the audience, one of which was a member of the extended Hackett Family, addressed the other audience members and outlined the potential ramifications of the CE project failing. They stated that the family's next step if the CE does not happen will be to start selling off portions of the property to private parties, suggesting they would likely be subdivided and developed. They went on to recount historical wildlife use of the property, the public access the family has provided for free for decades, and potential impacts to local schools, emergency services, and infrastructure needs if more land is subdivided and developed in the Victor area. They warned that there are no heirs to the Hackett Family estate, and therefore no one to carry on the legacy of working lands, thoughtful land management, and public access on the property.
- One member of the audience asked for clarification on the public comment process and how public comments are used.
  - FWP explained the EA-to-Commission process and how we use public comment to address issues or concerns with the project or the EA itself. FWP explained that the public comments are not a vote, and that ultimate decision-making authority lies with the Fish and Wildlife Commission.
- One member of the audience asked about the Ravalli County Open Lands Bond (OLB) process and how the project was scored.
  - FWP and BRLT explained the OLB process and scoring criteria to the audience member and explained the difference between the OLB process and the EA process.

#### **Public Hearing Comments (in the order of appearance):**

##### **1. Roylene Gaul, Victor. [These comments also appear as #8 in Appendix A]**

- *I'm in support of the CE for these reasons (and Torrey, so you don't have to write them down I emailed them to a few minutes ago):*

*\*At this point, the audience member read the comments they emailed in prior to the meeting. Therefore, the rest of this public comment only encapsulates deviations from, or additions to, the emailed comments.\**

*My third reason for supporting it [the CE], is that local ranching and agriculture will remain as a key priority for the CE.*

*And my fourth reason, which I haven't really talked about to this group but I will so you all are aware, is the local infrastructure. I'm supporting this CE because it protects our local community infrastructure in Victor, MT. Our community is not capable of managing any more large subdivisions. We have a local volunteer EMS and Fire Department at this time with a limited number of volunteers. We are stretched to the absolute max. Having more homes in the local community is becoming overwhelming to many of us. If it [the land] was sold and subdivided the additional houses and population would have drastic consequences on our local infrastructure. I'm a previous schoolboard member of 10 years on the Victor School Board. Our school is not capable of handling additional students at this time. Additional homes and families does, of course, increase your children population. Our school space is limited and our classroom space is limited at this time. The other local infrastructure problem is our county is currently having trouble maintaining its current road system. Having more homes up there, more subdivisions and more houses puts even more use on our current roads. I think it would create hazardous driving conditions to have any more traffic on Sweathouse [Road] than we have at the current time. We are barely able to maintain Sweathouse Creek [Road], Red Crow [Road], Pleasant View [Drive], and 5<sup>th</sup> Avenue at this time and having the additional subdivisions and homes would create a huge impact upon our county road system. Finally, I am support of it [the CE] because of the recreation it does provide to local citizens. Thank you.*

##### **2. Michael Helling, Victor. [These comments also appear as #10 in Appendix A]**

- *I live pretty close to this easement, and I think it is a great idea and I'll just second all of her comments [Roylene Gaul's PM comments] because I agree with what she said. Thanks Roylene, you put some thought into it. It's just a wonderful thing. And thank you [FWP] for all the work you put into it.*