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HABITAT MONTANA

REPORT TO THE 61TH MONTANA LEGISLATURE

MONTANA FISH, WILDLIFE AND PARKS

JANUARY 2009

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PURPOSE OF THE REPORT

This report summarizes actions from January 1, 2007 to December 31, 2008 relative to HB 526 (87-1-241 et seq. MCA) as passed by the 1987 Montana Legislature, as well as provides a summary of Fish, Wildlife and Parks habitat conservation programs. ARM 12.9.511 directs FWP to apply Habitat Montana guidelines to all the department's habitat acquisition programs, where appropriate.

Between January 1, 2007 and December 31, 2008, FWP secured a total of 22,585 acres through a combination of fee title acquisition and conservation easement. These projects were completed using a variety of funding sources totaling \$35,391,138, including \$17,092,418 of HB526 (Habitat MT.) funds.

The program popularly known as Habitat Montana came into existence because of a need felt by the people of Montana. Montanans cherish their wildlife and outdoor opportunities. In order to keep wildlife abundant for the long-term, the necessities of life for wild animals need to be maintained. In other words, conservation of habitat is an important goal for Montanans to preserve their way of life.

Habitat Montana helps the people of the State maintain and produce wildlife habitat. It does so in a balanced fashion by maintaining the traditional agricultural uses of the land. After 20 years, the program has shown how wildlife and agriculture can coexist and benefit each other. The program has an installed client base that appreciates land conservation actions that will last for generations.

HISTORY

The Montana Dept. of Fish, Wildlife and Parks has been involved with conserving habitat for wildlife benefit since 1940. For many years there was no specific funding source to participate in the fundamental need to acquire, protect and manage important wildlife habitat. When dollars were available land was purchased and became part of the department's wildlife management areas.

The "Habitat Montana Program" is the result of legislation passed in 1987 (HB 526) in which portions of several big game licenses were earmarked for the protection of wildlife habitat, particularly 'important habitat that is seriously threatened' (HB526 Statement of Intent). The rules ensure that acquired interests in habitat lands are reasonably distributed around the state in accordance with the statewide habitat acquisition plan.

In the 1980s, conservationists discussed the possibility of specific funding for the department in order to acquire important habitat on a consistent basis, and to have funding when important habitat became available. The 1987 Montana Legislature saw the introduction of HB 526, which would be funded by fees from hunting licenses. The debate in the legislature was between those who did not want the Department buying land and those who saw habitat as the foundation for the future. The compromise by the legislature was authority given to the Department to acquire interests in land, with the legislature directing the agency to attempt conservation easements or lease before fee title purchase. Fee title purchase was still allowed because the legislature understood the seller of land would determine which method was in his best interests.

HB 526 became reality generating about \$2.8 million per year for acquiring interests in "important habitat that is seriously threatened". Approximately 92% of revenue for this program comes from nonresident hunting licenses.

From the very beginning, the Department tried to implement the intent of the legislation, but its success was limited. The reason was twofold; the Department was unfamiliar with easements and needed to develop its expertise on implementing this conservation tool; and secondly, landowners were skeptical of easements. These two problems no longer exist.

The first year that funding was available, the Department purchased two properties in fee title, the Robb/Ledford Wildlife Management Area (WMA) and an addition to the Blackfoot-Clearwater WMA.

In 1989, the second year of operation, two additional WMA's were purchased. A major

effort to acquire a conservation easement on the Brewer Ranch changed to a fee title purchase at the request of the landowner. The department assured the FWP Commission that easement terms would be placed on the Brewer property and then sold. This happened five years later.

In 1990, FWP purchased its first wildlife easement (160 acres as part of Dome Mountain Wildlife Management Area). In 1992, FWP made an agreement with a landowner to enter into a five-year management agreement which both parties hoped would lead to an easement, which did happen in 1998.

A major threshold was crossed in 1994 with the success of exchanging the Brewer property, with easement terms in place, for an easement on Page/Whitham property north of Fort Peck Reservoir. Interest by the agricultural community accelerated with the involved landowner answering many questions from interested landowners. Since then, the department has had a variety of projects to choose from.

In 1989, HB720 mandated a social/economic impact analysis be completed with each acquisition. Now, with each acquisition, as part of the Montana Environmental Policy Act public review process, three documents are made available; an Environmental Assessment, a Management Plan, and a Social/Economic Assessment.

The 1991 Legislature directed FWP to review its habitat program. The department hired two consultants, Econ, Inc. to look at FWP administrative functioning for the program; and Canyon Consulting, Inc., to evaluate public participation in the program.

In Sept. 1992, Canyon Consulting suggested, implementing a policy that showed the public benefits from the habitat program. The Commission adopted a policy through the ARM rule process, directing FWP to provide the following public benefits:

- Conserve and enhance land, water and wildlife
- Contribute to hunting and fishing opportunities
- Provide incentives for habitat conservation on private land
- Contribute to non-hunting recreation
- Protect open space and scenic areas
- Promote habitat-friendly agriculture
- Maintain the local tax base, through payments in lieu of taxes for real estate, while demonstrating that productive wildlife habitat is compatible with agriculture and other land uses.

One of Econ's main recommendations, to develop a comprehensive statewide plan, was acted upon and completed in 1994, the 'Statewide Habitat Plan, an implementation of FWP Commission Habitat Montana Policy'.

In 1993, the Wildlife Division Administrator asked for a habitat mapping effort from the Wildlife Managers to discern which habitats were the most at risk. The habitats defined in the Statewide Plan are 1) Montane Forest 2) Intermountain Grassland 3) Riparian 4) Shrub-Grassland 5) Prairie Forest 6) Prairie Grassland. In a display of unanimity, every region identified Intermountain Grassland; Riparian, and Shrub-Grassland as the habitats most in need of attention. The Goal Statement in the Statewide Habitat Plan says: “Beginning in October 1993, for the next two years, the intermountain grassland, shrub-grassland, and riparian ecosystems will be the focus of wildlife habitat acquisitions, with the objective of conserving approximately 10% of each of these ecosystems”. In October of 1995 this goal was still considered valid and was to continue until 2006. In the 2005 Legislature the sunset provision was removed, making the program permanent. The habitat goals have remained the same, with a particularly strong emphasis on riparian habitats.

In 1998, FWP Commission asked for an internal audit of the conservation easements. This was divided into two sections, a review of the legal aspects of the easements; and a review of the rigor of the baseline inventory reports. Fifteen easements were chosen by the legal audit contractor, Knight, Masar and Harris, Attorneys at Law. The contractor working on baselines did likewise. The audit, delivered in 1999, showed no major problems with the easements and associated baselines. In 2000, the other 15 easements were reviewed, again, no major problems. The major author of the report, Robert Knight, came before the Commission to answer questions. He said the language and form of the easements were up to date, and saw no specific problems. There is constant discussion between the wildlife division, legal unit and lands unit on the formulation of new easements to adapt to changing concerns and continuing experience.

Montana sportsmen have long considered the Habitat Montana Program essential to their interests, and without their support this program would not exist today. Conservation organizations have often partnered with the department to protect tracts of important habitat for our mutual benefit.

Partners are Rocky Mountain Elk Foundation; The Nature Conservancy; Pheasants Forever; The National Wild Turkey Federation; The Conservation Fund; The Confederated Salish-Kootenai Tribe; United States Forest Service; United States Bureau of Land Management; The Blackfoot Challenge; Montana Wildlife Federation; Butte Skyline Sportsmen’s Club and Anaconda Sportsmen. As well as Montana Audubon; Five Valleys Land Trust, Rock Creek Land Trust and a variety of other land trusts.

As of December 2008, FWP holds 40 (Habitat Montana) wildlife easements covering over 223,800 acres costing approximately \$23 million. Twenty-nine purchases added

49,700 acres to fee title ownership costing \$26 million, as well as 11,000 plus acres of leases (\$27,000 annually).

Early efforts focused on expanding existing wildlife management areas such as the Blackfoot-Clearwater (deer and elk winter range), Judith (elk winter range) and Ninepipe (wetlands/waterfowl and pheasant habitat) or acquiring new WMA's such as Robb/Ledford (elk winter range), Dome Mtn.(elk winter range) and Mt. Silcox (Bighorn Sheep winter range).

Gradually, the focus was on important habitat types such as big sagebrush-grassland (Brewer; South Ranch; Fluss; Cowell; Peters); riparian (Hirsch, Bice) and intermountain grassland (Maher; Bolin; Sieben Ranch; and Hirschy Ranch) as examples.

Landowners have sold FWP easements for a variety of reasons: to allow their heirs to be able to afford to buy the ranch; for family estate planning; to ensure a place for the public to recreate, especially for hunting; to enlarge the agricultural operations; and to pay off debt.

The major easement terms center around both PROTECTION AND MANAGEMENT of the Land.

PROTECTION: This means terms such as No Subdivision and building limitations on the land. Normal farming practices continue, but no new fields are developed. No commercial activities other than those appropriate to the agricultural practices. Mining practices must not negatively impact conservation values of the land.

MANAGEMENT: This means management maintains vegetation, both upland and riparian. This includes actions such as developing and implementing livestock grazing systems, and access for the recreating public. All agricultural practices continue, but in a way that maintains or enhances the conservation values purchased through the easement.

TAXES: In tax year 2008, FWP will paid approximately \$316,354 in tax payments on its WILDLIFE lands. (For wildlife lands, FWP will pay to the county in which the land resides "a sum equal to the amount of taxes which would be payable on county assessment of the property were it taxable to a private citizen". (87-1-603)

OPERATION/MAINTENANCE: Twenty percent of the dollars generated by '526' legislation is used for operation and maintenance of ALL department wildlife lands. The amount available per year is approximately \$500,000, the majority of which is used for fence maintenance, road maintenance, and weed control on department fee ownership lands. The major cost on easements is to initially implement the livestock grazing

system, which can involve fence construction and replacement, and water improvements including pipelines. Each year the Wildlife Program completes an average of 15 projects at a cost of approximately \$400,000. In addition, approximately \$30,000 is spent each year to monitor compliance with each wildlife conservation easement held by the department.

HB 526 lands total 285,395 acres of which 79% are easements; 4% lease; and 17% are fee title.

Summary of Land Acquisitions
January 1, 2007 - December 31, 2008

SITE NAME	YEAR	COUNTY	FEE TITLE (HB526 funds)	FEE TITLE (Other Funds)	FEE ACRES	CONSERVATION EASEMENT (HB 526 funds)	CONSERVATION EASEMENT (Other Funds)	CONSERVATION EASEMENT ACRES
Hart Ranch C.E.	2007	VALLEY				\$180,000	\$20,000 Wild Turkey Federation	402
North Swan Valley Fee	2007 & 2008	FLATHEAD			1,760			
			Forest Legacy \$7,739,000					
			Bonneville Power \$1,542,000					
			Trust for Public Lands: \$3,039,400					
Blackfoot-Clearwater WMA Fee Addition	2007	POWELL	\$270,000		180			
Ninepipe WMA Fee Davis Addition	2007	LAKE	\$115,150		23			
Bird Creek C.E.	2007	CASCADE				\$550,000	Landowner Donation: \$102,000 Farm/Ranch Protection \$400,000 Welland Reserve \$150,000 PPL Montana: \$50,000 FWP Migratory Bird: \$50,000 for welland restoration.	2,292
Bull River WMA addition	2007	LINCOLN / SANDERS	\$1,657,500		255			
Dahme Addition to Kootenai WMA	2007	LINCOLN		Bighorn Sheep Auction \$145,000	17			
Brazil Cr. C.E.	2008	VALLEY				\$199,822	Upland Game Bird: \$180,000 General Lic. \$72,178	612
Yellowstone WMA	2008	YELLOWSTONE	\$4,936,989	General License: \$84,711 Conservation Fund: \$267,700 Access.MT.: \$266,000	3,776			
Bighorn Viewmg WMA	2008	SANDERS		FWP Sheep Auction: \$422,270	200			
				North Amer. Wild Sheep \$15,000	49			
				Safari Club International: \$5,000				
				Flathead Wildlife: \$1,000				
				Plains Science Class: \$410				
				Mr. Les Carpenter: \$150				
Stucky Ridge WMA	2008	DEER LODGE	\$371,146	FWP Bighorn Sheep: \$382,889				
				Amer. Land Conservancy \$22,001				
				Found. Amer. Wild Sheep \$10,000				
				Safari Club International: \$5,000				
				Anaconda Sports Expo: \$1,000				
Dalton Mtn. C.E.	2008	POWELL					Forest Legacy \$1,379,000 Landowner donation: \$2,617,000	4,891
Lincoln Ranch WMA	2008	TOOLE / PONDERA	\$5,600,000	Access Montana: \$2,000,000				
Brown Valley C.E. Addition	2008	RAVALLI				\$45,400	Landowner donation: \$154,600	205
Elk Island WMA Addition	2008	RICHLAND	\$166,411	Access Montana: \$166,411				
TOTALS:			\$13,117,196	\$16,123,942		\$875,222	\$5,174,778	Habitat MT.: 3,511 Other: 4,891

SECTION I

HB 526 COMPLETED PROJECTS

BERNIE HART CONSERVATION EASEMENT

INTENT: Conserve the river riparian of the Milk River for wildlife diversity and productivity; provide for hunting opportunities while continuing use of land for agricultural production, i.e. alfalfa production and livestock grazing.

CRITICAL HABITAT: RIVER RIPARIAN

402 acre easement – Jan. 2007 - \$200,000. The National Wild Turkey Federation was a partner with FWP providing \$20,000 toward the cost.



BLACKFOOT-CLEARWATER WILDLIFE MANAGEMENT AREA OVANDO MOUNTAIN - UNIT ADDITION

INTENT: Acquire property as part of a larger land conservation effort, in partnership with the Blackfoot Challenge.

CRITICAL HABITAT: DECIDUOUS VEGETATION AND WETLANDS WITHIN THE MONTANE FOREST

JACOBSEN-VALITON ADDITION: 180 Acres – March 2007 \$270,000. of Habitat Montana funds



The Red L-shape is the Jacobsen-Valiton Addition



JACOBSEN - VALITON

NINEPIPES WILDLIFE MANAGEMENT AREA DAVIS ADDITION

INTENT: Conserve wetland habitats, add the habitats to the Ninepipes WMA, and manage for wildlife diversity; productivity and recreational opportunity.

CRITICAL HABITAT: WETLANDS

Davis addition (phase II) 23 acres – April 2007 - \$115,150 of Habitat Montana funds.



Davis Property Wetland

BIRD CREEK CONSERVATION EASEMENT

INTENT: Acquire an easement to conserve Missouri River riparian and adjacent upland habitat; improve wildlife diversity and productivity; develop hunting opportunities, and continue livestock grazing.

CRITICAL HABITAT: RIVER RIPARIAN, WETLANDS

2,292 acres for \$550,000 of Habitat Montana dollars plus the following - This easement is being established, managed and funded in conjunction with two USDA / Natural Resources Conservation Service (NRCS) easements. Those are: The Farm and Ranch Lands Protection Program (FRPP) and the Wetland Reserve Program (WRP). The WRP will acquire a wetland easement on approximately 230 acres of the slough area for approximately \$150,000 and the FRPP will contribute \$398,000 towards the acquisition of the FWP easement to protect the farm and ranch land, prohibit subdivision, and protect the historic values of the property. PPL Montana, LLC will also donate \$50,000 towards the acquisition of the FWP easement. The landowner has donated \$102,000 of value. In addition, the Montana Migratory Bird Stamp Program has allocated \$50,000 for potential future wetland and riparian renovation/restoration projects on the ranch.



Bird Creek Easement is in foreground, south of the Missouri River

BULL RIVER WILDLIFE MANAGEMENT AREA

INTENT: Conserve wetland habitats; movement corridor for species of concern.

CRITICAL HABITAT: WETLANDS AND RIPARIAN

255 acres in fee – December 2007 - \$1,657,500 of Habitat Montana funds. Revette Mine purchased an additional 400 adjoining acres, protecting the area from subdivision.



BRAZIL CREEK (OLSEN) CONSERVATION EASEMENT

INTENT: Conserve the riparian habitat along the Milk River for wildlife diversity and productivity; provide for hunting opportunities; while continuing use of land for agricultural production, i.e., alfalfa production and livestock grazing.

CRITICAL HABITAT: RIVER RIPARIAN

612 acre easement – JUNE 2008 - \$452,000. Habitat Montana paid \$199,822, Upland Game Bird paid \$180,000 and general license dollars paid \$72,178



YELLOWSTONE WILDLIFE MANAGEMENT AREA

INTENT: Conserve the riparian habitat along the Yellowstone River for wildlife diversity and productivity; provide for hunting and other recreational opportunities; develop cropland for wildlife forage; and maintain upland in good pine and grass cover.

CRITICAL HABITAT: RIVER RIPARIAN

3,776 acres in fee – June 2008 - \$4,936,989 of Habitat Montana funds; \$94,711 of general license dollars; and \$267,700 donation from The Conservation Fund. Access Montana paid \$266,000 for an additional 200 acres designated for a state park.

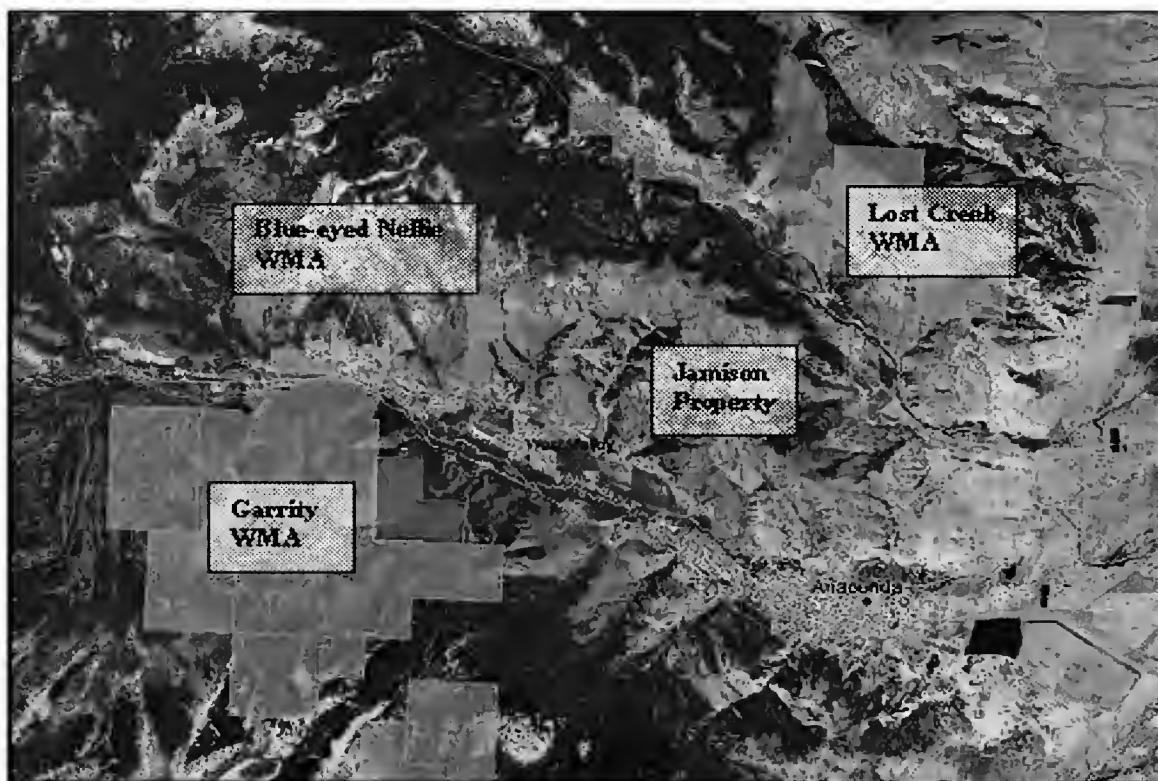


STUCKY RIDGE WILDLIFE MANAGEMENT AREA

INTENT: To conserve native big game winter range, especially for bighorn sheep and to aid in development of corridors for free movement of large ungulates.

CRITICAL HABITAT: INTERMOUNTAIN GRASSLAND

220 acres in fee. June 2008. \$792,036. The bighorn sheep auction funds paid for 50% of the purchase (\$382,889); Habitat Montana paid for 48% (\$371,146); partners paid for the balance, American Land Conservancy \$22,001; Foundation for American Wild Sheep \$10,000; Safari Club International \$5,000; and Anaconda Wildlife Sports Expo. \$1,000. A second phase of this project is being sought by the Natural Resources Damage Program.



MARIAS (CHARLIE LINCOLN) WILDLIFE MANAGEMENT AREA

INTENT: Conserve the riparian of the Marias River for wildlife diversity and productivity as well as associated upland and provide for hunting opportunities.

CRITICAL HABITAT: RIVER RIPARIAN

7,540 acres fee acquisition – October 2008 - \$7,600,000.

Habitat Montana paid \$5.6 million; Access Montana paid \$2 million.



BROWN VALLEY CONSERVATION EASEMENT ADDITION

INTENT: Conserve the stream riparian habitat within the Brown Valley easement for wildlife diversity and productivity; provide for hunting opportunities.

CRITICAL HABITAT: CREEK RIPARIAN

205 acre easement – Oct. 2008 - \$45,400 of Habitat Montana funds. The landowner donated \$154,600 in additional value.

No Image Available

ELK ISLAND WILDLIFE MANAGEMENT AREA ADDITION

INTENT: Conserve the riparian habitat along the Yellowstone River for wildlife diversity and productivity, provide for hunting and fishing opportunities, and provide a fishing access site (Access Mt. funds).

CRITICAL HABITAT: RIVER RIPARIAN

163 acres in fee – Nov. 2008 - \$332,822. Habitat Montana paid for half (\$166,411) and Access Montana paid for half.





LAND PROJECTS – OTHER FUNDING SOURCES

NORTH SWAN VALLEY WILDLIFE MANAGEMENT AREA

Intent: To acquire wetlands and riparian habitats within the Montane Forest to protect the landscape from residential subdivision.

CRITICAL HABITAT: MONTANE, WETLAND, AND RIPARIAN HABITATS IN A LANDSCAPE PROVIDING HOME FOR SPECIES OF CONCERN SUCH AS GRIZZLY BEAR AND BULL TROUT.

480 acres in fee. January 2007. \$2,314,440 of Forest Legacy funds with required nonfederal matching dollars of \$771,480 from Trust for Public Lands.

320 acres in fee. July 2007. \$1,542,960 of Forest Legacy funds with required nonfederal matching dollars of \$514,320 from Trust for Public Lands.

320 acres in fee. December 2007. \$1,542,600 of Bonneville Power Administration funds matched with \$514,200 from Trust for Public Lands.

320 acres in fee. December 2007. \$1,901,600 in Forest Legacy funds with required nonfederal matching dollars of \$658,400 from Trust for Public Lands.

320 acres in fee. December 2008. \$1,979,000. of Forest Legacy funds with required nonfederal matching dollars of \$581,000 from Trust for Public Lands.



DAHME ADDITION TO KOOTENAI WILDLIFE MANAGEMENT AREA

INTENT: Add 17 acres of important sheep habitat to the existing wildlife management area.

CRITICAL HABITAT: BIGHORN SHEEP HABITAT

17 acres fee title – 2007- \$145,000 of Bighorn Sheep Auction funds.



BIGHORN VIEWING SITE WILDLIFE MANAGEMENT AREA

INTENT: conserve Bighorn Sheep habitat from fragmentation.

CRITICAL HABITAT: INTERMOUNTAIN GRASSLAND

49 acres in fee – June 2008 - \$444,030. FWP Sheep Auction funds paid \$422,470; Foundation for North American Wild Sheep paid \$15,000; Safari Club International paid \$5,000; Flathead Wildlife Inc. paid \$1,000; Plains School Science Class penny drive paid \$410; Mr. Les Carpenter donated \$150.



DALTON MOUNTAIN (Melany Mannix) CONSERVATION EASEMENT

INTENT: Maintain a working forest for wildlife diversity and productivity; provide for hunting opportunities; while continuing use of land for forest management and livestock grazing.

CRITICAL HABITAT: STREAM RIPARIAN AND MONTANE FOREST

4,891 acres easement – Sept. 2008 - \$1,379,000 of Forest Legacy Program dollars. Landowner donated an additional value of \$2,617,000.



SECTION II

HB 526 PROJECTS IN PROGRESS

PROJECTS IN PROGRESS

CORNWELL. 24,000 acre easement. HABITAT: Riparian and large block of mixed grass prairie. Cost: \$5,050,000. Habitat Montana; Upland Game Bird; Canyon Ferry Trust; NAWCA and SWG funding. Easement and Management Plan completed. Waiting for Land Board Approval.

Cree Crossing. 400 acres in fee. HABITAT: Milk River Riparian. Cost: \$719,000. Price agreed upon. Habitat Mt. and SWG funding.

Neal Ranch. 3,300 acres in fee. HABITAT: Intermountain grassland, particularly rough fescue grassland. Cost: \$6.025million. Land will be added to the Sun River Wildlife Management Area, enhancing winter range for one of the largest elk herds in Montana. Habitat Montana funding will match Pittman-Robertson federal funds with a 1:3 ratio.

Sauer. 1,355 acre easement. HABITAT: mostly Milk River Riparian, some upland sagebrush grassland. Estimated cost: approximately \$850,000. Habitat Montana and Upland Game Bird funding. This is part of the Milk River Initiative.

Moline. 4,900 acre easement. HABITAT: Sagebrush-grassland and river breaks. Cost: approximately \$1,000,000. Easement and management plan completed. Waiting on family negotiations.

Shipp. 154 acre easement. HABITAT: Milk River Riparian. Cost: approximately \$92,400 using Upland Game Bird Habitat Enhancement funds.

Glass. 80 acre fee. HABITAT: Judith River breaks, addition to the Beckman WMA. Cost: \$60,000. Half Habitat Montana and half Deer Auction funds.

Coffee Creek. 800 acre easement. HABITAT: Native grassland, shrubs and creek riparian as well as pheasant habitat improvements. Approximately \$280,000. Habitat Montana funds \$100,000 and Upland Game Bird Habitat Enhancement Program funds \$180,000.

Riverdale Ranch. 850 acre easement. HABITAT: Missouri River Riparian. Estimated cost of \$425,000. Partially funded by Habitat Montana and partially by the federal Farm and Ranchland Protection Program. A \$25,000 grant has been received from PPL.

Dugas Farm. 800 acre easement. HABITAT: Missouri River Riparian. Estimated cost of \$400,000. Cost divided between Habitat Montana and federal Farm and Ranchland Protection Program. A \$25,000 grant has been received from PPL.

Marshall Block. 13,000 acres. Some combination of fee/easement. HABITAT: Montane Forest. This is part of the Montana Legacy Project. Habitat Montana Funds will be used to match federal funding.

PROJECTS IN PROGRESS (continued)

SWIMMING WOMAN RANCH: 3,027 acre fee acquisition. HABITAT: Wetlands; stream riparian; mule deer winter range(shrublands) plus some forest cover. **Cost: approximately \$4,000,000. funded with Habitat Montana. Land is adjacent to the Big Snowy Mountains . There is a high level of vegetation and animal species diversity. Access to national forest.**





APPENDIX I

STATEMENT OF INTENT

HOUSE BILL 526

House Fish and Game Committee

(The following is the text of the Statement of Intent as adopted by the 50th Legislature).

House Bill 526 requires a statement of intent because Section 1 requires the fish and game commission to adopt rules establishing its policy regarding wildlife habitat acquisitions provided for by this act.

It is the intent of this act to provide a means for the department of fish, wildlife and parks to acquire an interest in land for the purpose of protecting and enhancing wildlife habitat. Such interest in land must be gained by the purchase of leases, conservation easements, or fee title. While it is preferable to acquire such interest through lease or conservation easement, the legislature acknowledges that the willing seller will determine the manner by which such interest is obtained and thus provides for all three alternatives.

It is intended that the rules will address policy considerations for making acquisitions generally, as well as establishing procedures for determining in each case of a proposed acquisition whether the interest will be acquired.

It is intended that the commission identify habitat needs by administrative region and compile these needs in a consolidated statewide habitat acquisition plan. The rules must ensure that acquired interests in habitat lands are reasonably distributed around the state in accordance with the statewide habitat acquisition plan **AND THAT EMPHASIS IS PLACED UPON THOSE AREAS WHERE IMPORTANT HABITAT IS SERIOUSLY THREATENED.**

It is intended that the department exercise good land management practices on all land, acquired, and multiple uses of such land when not detrimental to its value as wildlife habitat are specifically authorized. The department shall identify management objectives for each proposed acquisition, analyze potential impacts to adjacent private land resulting from those objectives and develop plans to address such impacts.

A public hearing must be held in the area of each proposed acquisition after the required analysis has been completed by the department, for the purpose of obtaining comment from the interested public. The analysis and related public concerns are to be presented to the fish and game commission prior to its final action on any acquisition of interest and also to the board of land commissioners if that body is required to make a decision on the proposal under 87-1-209

The policy and an analysis for each proposal acted upon in a biennium must be presented to the members of both the house and senate fish and game committees when they next meet in regular session.

WILDLIFE 12.9.508

Sub-Chapter 5

Wildlife Habitat Acquisition

12.9.501 PURPOSE (IS HEREBY REPEALED) (History: Sec. 87-1-241 MCA; IMP, Sec. 87-1-241, 87-1-242 MCA; NEW, 1988 MAR p. 880, Eff. 5/13/88; REP, 1994 MAR p. 3095, Eff. 12/9/94.)

12.9.502 STATEWIDE HABITAT ACQUISITION PLAN (IS HEREBY REPEALED) (History: Sec. 87-1-241 MCA; IMP, Sec. 87-1-241, 87-1-242 MCA; NEW, 1988 MAR p. 880, Eff. 5/13/88; REP, 1994 MAR p. 3095, Eff. 12/9/94.)

12.9.503 DETERMINATION OF INTEREST IN LAND (IS HEREBY REPEALED) (History: Sec. 87-1-241 MCA; IMP, Sec. 87-1-241, 87-1-242 MCA; NEW, 1988 MAR p. 880, Eff. 5/13/88; REP, 1994 MAR p. 3095, Eff. 12/9/94.)

12.9.504 MANAGEMENT OBJECTIVES AND PRELIMINARY MANAGEMENT PLANS (IS HEREBY REPEALED) (History: Sec. 87-1-241 MCA; IMP, Sec. 87-1-241, 87-1-242 MCA; NEW, 1988 MAR p. 880, Eff. 5/13/88; REP, 1994 MAR p. 3095, Eff. 12/9/94.)

12.9.505 PUBLIC HEARING (IS HEREBY REPEALED) (History: Sec. 87-1-241 MCA; IMP, Sec. 87-1-241, 87-1-242 MCA; NEW, 1988 MAR p. 880, Eff. 5/13/88; REP, 1994 MAR p. 3095, Eff. 12/9/94.)

12.9.506 PRESENTATION OF PRELIMINARY MANAGEMENT PLAN AND PUBLIC INPUT (IS HEREBY REPEALED) (History: Sec. 87-1-241 MCA; IMP, Sec. 87-1-241, 87-1-242 MCA; NEW, 1988 MAR p. 880, Eff. 5/13/88; REP, 1994 MAR p. 3095, Eff. 12/9/94.)

12.9.507 APPROVAL OF ACQUISITION AND FINAL MANAGEMENT PLAN (IS HEREBY REPEALED) (History: Sec. 87-1-241 MCA; IMP, Sec. 87-1-241, 87-1-242 MCA; NEW, 1988 MAR p. 880, Eff. 5/13/88; REP, 1994 MAR p. 3095, Eff. 12/9/94.)

12.9.508 MISSION (1) These rules establish the policy of the fish, wildlife and parks commission for the acquisition of wildlife habitat by the department of fish, wildlife and parks. This policy is popularly known as Habitat Montana. Habitat Montana is a key tool in achieving the department's mission as stated in the vision document adopted by the commission in November, 1992:

(a) The Montana department of fish, wildlife and parks, and fish, wildlife and parks commission provide for the stewardship of the fish, wildlife, parks and recreational resources of Montana, while contributing to the quality of life for present and future generations.

ADMINISTRATIVE RULES OF MONTANA 12/31/94 12-637



Send Comments to:

ARM is current as of the quarter date listed above. Not every page will reflect the current quarter date. Pages are dated for the quarter in which they were printed. To determine if any action is pending on a rule, consult the accumulative table and the table of contents found in the latest issue of the Montana

12.9.509 FISH, WILDLIFE, AND PARKS

(2) Through Habitat Montana, the commission and department will establish a statewide wildlife habitat system which will conserve our wildlife resources and pass them intact to future generations. (History: Sec. 87-1-241 MCA; IMP, Sec. 87-1-241, 87-1-242 MCA; NEW, 1994 MAR p. 3095, Eff. 12/9/94.)

12.9.509 GOALS (1) The goals for Habitat Montana are:

(a) conservation of Montana's wildlife populations and natural communities via management strategies that keep them intact and viable for present and future generations; maintain wildlife population levels that sustain or enhance current recreational opportunities; and maintain diverse geographic distribution of native wildlife populations and their habitats;

(b) conservation of Montana's land and water resources in adequate quantity and quality to sustain ecological systems;

(c) implementation of habitat management systems that are compatible with and minimize conflicts between wildlife values and traditional agricultural, economic and cultural values. Habitat Montana will enhance Montana's quality of life and be compatible with the conservation of soil, water and existing biological communities. (History: Sec. 87-1-241 MCA; IMP, Sec. 87-1-241, 87-1-242 MCA; NEW, 1994 MAR p. 3095, Eff. 12/9/94.)

12.9.510 BENEFITS (1) The commission intends Habitat Montana to deliver the following services and benefits:

(a) conserve and enhance land, water and wildlife;

(b) contribute to hunting and fishing opportunities;

(c) provide incentives for habitat conservation on private land;

(d) contribute to non-hunting recreation;

(e) protect open space and scenic areas;

(f) promote habitat-friendly agriculture; and

(g) maintain the local tax base, through payments in lieu of taxes for real estate, while demonstrating that productive wildlife habitat is compatible with agriculture and other land uses. (History: Sec. 87-1-241 MCA; IMP, Sec. 87-1-241, 87-1-242 MCA; NEW, 1994 MAR p. 3095, Eff. 12/9/94.)

12.9.511 APPLICATION (1) While this Habitat Montana policy specifically relates to funds acquired under 87-1-241 and 87-1-242, MCA, the Montana fish, wildlife and parks commission directs that these guidelines also apply, where appropriate, to all of the department's wildlife habitat acquisition programs. These include:

(a) moose and bighorn sheep habitat acquired with license auction funds;

(b) properties acquired in mitigation for habitat lost as a result of construction projects conducted by the Bonneville power administration and other agencies;

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(c) waterfowl habitat. (History: Sec. ~~87-1-241~~ MCA; IMP, Sec. ~~87-1-241~~, ~~87-1-242~~ MCA; NEW, 1994 MAR p. 3095, Eff. 12/9/94.)

12.9.512 IMPLEMENTATION (1) The commission directs the department to complete a comprehensive statewide habitat plan and to execute that plan within the following parameters:

(a) The department will identify specific staff responsible for implementation of Habitat Montana and establish procedures for accomplishing program goals.

(b) The department will develop draft criteria for identifying important habitats that are seriously threatened. The commission will adopt these criteria through a process that includes public review and comment.

(c) Utilizing the natural heritage database and information from other government agencies and cooperators, the department will identify habitat protection priorities within each eco-region. This analysis will recognize the contribution of habitat protected by other agencies and organizations. Regional habitat priorities will then be compiled into a consolidated statewide plan.

(d) The department will develop uniform guidelines for the preparation of site-specific management plans. These criteria will be applicable to management of lands in which the department acquires an interest and to cooperative habitat projects located on lands in other ownership.

(e) Prior to acquiring any interest in land for the primary purpose of securing wildlife habitat, the department will comply with the requirements of ~~87-1-241~~, MCA, by conducting an environmental assessment analyzing:

(i) the wildlife populations and use currently associated with the property;

(ii) the potential value of the land for protection, preservation, and propagation of wildlife;

(iii) management goals proposed for the land and wildlife populations and, where feasible, any additional uses of the land such as livestock grazing or timber harvest;

(iv) any potential impacts to adjacent private land resulting from proposed management goals and plans to address such impacts;

(v) any significant potential social and economic impacts to affected local governments and the state, including but not limited to impacts on:

(A) tax revenue available for the operation of taxing jurisdictions within the county;

(B) services required to be provided by local governments;

(C) employment opportunities within the counties;

(D) local schools; and

(E) private businesses supplying goods and services to the community.

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12.9.512 FISH, WILDLIFE, AND PARKS

- (vi) a land maintenance program to control weeds and maintain roads and fences; and
- (vii) any other matter considered necessary or appropriate by the commission.

(f) The department will develop monitoring and evaluation systems to track program success as well as the public's changing desires.

(g) It is preferable to acquire interests in habitat through conservation easement or lease. However, the legislature has acknowledged that the willing seller will determine the manner by which such interest is obtained and thus has provided for acquisition by fee title as well. The most effective use of capital and operational funds must be determined on a case by case basis. The commission encourages the department to utilize other methods such as land exchanges, conservation buyers and easement exchanges to meet the habitat Montana program objectives.

(h) The department will use certified appraisals or other appropriate analysis performed by department staff to determine the value of land or interest in land to be acquired.

- (i) Funds for wildlife habitat acquisition shall be invested in habitat in a timely manner, as accrued.

(j) In some cases the mission of habitat Montana may be most efficiently accomplished through actions of non-profit organizations, landowners, other government agencies, or through partnerships with such entities. To gain the greatest value from partnership opportunities, the department will establish procedures for working cooperatively and non-competitively with them.

(k) The department will establish procedures to account for habitat Montana income and expenditures through the state accounting, budget, human resource system (SABHRS). In addition to project expenditures for which accounting reports are currently available, the department will account for administrative costs associated with implementation of this policy.

(l) The commission directs the department to emphasize continuing communication with the legislature, state land board and the public to maintain awareness of, and support for, habitat Montana.

(m) The commission expects to adopt a comprehensive statewide habitat plan, incorporating each of the above elements, prior to October, 1994. The review process for this draft plan will include a public comment period of at least 60 days in length. (History: 87-1-241, MCA; IMP, 87-1-241, 87-1-242, MCA; NEW, 1994 MAR p. 3095, Eff. 12/9/94.)

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