

# U.S. Department of the Interior Bureau of Land Management

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Environmental Assessment DOI-BLM-MT-L070-2012-0004-EA  
May 1, 2012

## Land Acquisition

*Location: Fergus County, West of Winifred, Montana*



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## **INTRODUCTION/DESCRIPTION**

The Bureau of Land Management (BLM) proposes to acquire in fee ownership privately owned parcels (a portion of which are adjacent to the Upper Missouri National Wild and Scenic River) northwest of Winifred, Montana (see Map A). The realtor representing the owners of these privately owned parcels first approached an adjoining landowner about purchasing the property. The neighboring landowner declined. Then in May 2011, at the owner's direction, the realtor approached the BLM about purchasing the parcels.

It should be noted that the BLM has clearly stated (in the December 2008 Upper Missouri River Breaks National Monument Record of Decision and Approved Resource Management Plan) it will pursue land acquisitions when approached by willing landowners and it is in the public interest to do so. The BLM does not control or decree whether private landowners can use realtors or brokers. It is well within their rights as private landowners to approach BLM using whatever method they feel is appropriate.

After learning of this opportunity, the BLM spoke with The Conservation Fund (TCF) to determine if this potential purchase would meet their criteria for facilitation, a process whereby TCF purchases property to hold in ownership for possible acquisition by the BLM (in this case) if funding becomes available and environmental analysis of a possible acquisition reveals no significant resource issues. TCF determined that this offer was feasible and moved forward with a buy/sell agreement, knowing from the beginning that such acquisition would be at their own risk. They had the full understanding that the BLM may not purchase the parcels from them based upon funding or significant resource issues. TCF, in conjunction with the American Public Land Exchange, Inc. (APLE), then acquired these parcels in January 2012.

The property consists of approximately 652 acres in Fergus County, most of which is grazing land with a few acres of tillable ground. The property is located on the Lewis and Clark National Historic Trail, within the designated Upper Missouri National Wild and Scenic River corridor and surrounded by parcels managed by the BLM as part of the Upper Missouri River Breaks National Monument (UMRBNM). Immediately adjacent to these parcels is another 40 acre parcel that was not included in this acquisition because it is owned by another private landowner and was not included in this offer.

Adjacent public land receives substantial recreation use, especially by outfitters, probably because it is easily accessible from the river and is secluded, shady, and close to the boat launch at Judith Landing. The adjacent State of Montana land has a frequently used undeveloped camp site referred to as Flat Rock. The state parcel also has a fairly well developed riparian area and behind this riparian area, on the potential acquisition parcels, there is a sagebrush flat with a shrinking prairie dog town. The piece slopes upward from the dog town and is very similar to the terrain one may observe behind our BLM campsite "The Wall."

## **PURPOSE AND NEED FOR THE PROPOSED ACTION**

The advantages of acquiring these parcels into public ownership would be to enhance public recreation opportunities within the Missouri River corridor; to maintain or improve important wildlife habitat; to consolidate public ownership; and to reduce the management complications common with scattered landownership patterns.

## **DECISION TO BE MADE**

This environmental assessment (EA) analyzes two alternatives; the Proposed Action (acquisition); and No Action (no acquisition). This EA also discusses the environmental consequences of implementing either alternative. The BLM's monument manager for the URMBSNM will be the Deciding Official. Based on the information provided in this EA, the monument manager will decide whether or not to move forward with the acquisition.

## **AUTHORITY/RELATIONSHIPS TO STATUTES, REGULATIONS AND OTHER PLANS**

The authorization for this action is Title II, Sec. 205, of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1715) and funding would be through the Land and Water Conservation Fund (LWCF) Act of 1965, Public Law 88-578, as amended. This acquisition is consistent with the guidelines for LWCF acquisitions. This action is in conformance with the Upper Missouri River Breaks National Monument Record of Decision and Approved Resource Management Plan (ROD) (December 2008), which allows for acquisition of privately owned parcels when approached by landowners and such acquisitions enhance the value of the monument (UMRBSNM ROD page 57).

The Proposed Action would:

- Enhance recreation and wildlife opportunities under Recreation and Wildlife 2000 initiatives;
- Contribute to the Montana Statewide Comprehensive Outdoor Recreation Plan;
- Contribute to the Lewis and Clark National Historic Trail enhancement efforts now underway with multiple partners;
- Contribute to Executive Order 13443, Facilitation of Hunting Heritage and Wildlife Conservation; and
- Contribute to the Montana Tourism and Recreation Initiative.

## **PROPOSED ACTION AND ALTERNATIVES**

*Proposed Action:* The Proposed Action is to acquire the property using funding through the LWCF. The property would be managed in a manner similar to the surrounding BLM lands for its multiple resource values such as dispersed recreation, important wildlife habitat, and other multiple use opportunities.

Specific management guidance proposed under this alternative would support monument management in the following ways:

- “Lands and interests in lands within the UMRBNM not owned by the United States shall be reserved as part of the monument upon acquisition of title thereto by the United States.” UMRBNM ROD page 54.
- These parcels would be managed as part of the UMRBNM with the Visual Resource Management Classification as Class I.
- Motorized travel on these parcels would be restricted to existing roads and ways.
- The acquisition lands would not be open to mineral entry.
- The parcels are within the boundaries of the PN Sag Allotment and would be available for prescription livestock grazing to meet specific resource objectives as determined through a site-specific planning process.
- Vegetation management on the acquired lands would emphasize maintaining and restoring healthy, diverse, and productive native plant communities. The acquired forest and rangeland ecological types would be added to the surrounding public land for management purposes.
- The acquisition lands would be included in the surrounding public lands weed management plan and managed accordingly.
- Soils would be managed to maintain or improve soil health and productivity to provide an ecosystem supporting plant and animal species.

*No Action Alternative:* Under this alternative, the BLM would not acquire the parcels. It is possible that the parcels may eventually be developed for residential/seasonal occupancy and may be subdivided. However, without legal road access to the parcels, this option is less likely. In all likelihood, the property would not be managed in a manner that would enhance public recreational opportunities, maintain or improve important wildlife habitat or reduce the management complications common with scattered landownership patterns.

*Alternatives Considered but not Analyzed:* No Grazing Alternative: The purpose and need for this EA focuses on the land acquisition. If the Proposed Action is selected, the current animal unit months (AUMs) and public land percentage identified on the current grazing permit would be updated to reflect the parcel acquisition. Any changes to the current grazing permit would be brought forward through a subsequent decision document.

## **AFFECTED ENVIRONMENT**

**General Setting:** The southern end of the property includes a few slivers of a flat bench top which have sagebrush/grasslands and some agricultural fields. At the edge of the flat bench (north edge of bench) there is a steep break down to the lands below. This steep break often consists of steep sandstone cliffs which include some striking formations. The steep break also has pockets of conifer trees. The land below the steep break consists of rolling shrub/grasslands, interspersed with coulees, and a few pockets of wetter areas (see Pictures 1-4 attached).

**Cultural Resources:** A search of the BLM's cultural resource site and survey atlas has identified no historic properties or inventories for the analysis area. Nellie (Brink) Whitcraft acquired patent for the entire parcel in 1925. She acquired that portion (331.65 acres) in T. 22 N., R. 15 E., sections 3 and 10 under the Enlarged Homestead Act, receiving Patent #956223 on March 26, 1925. The portion in sections 2 and 11 (320 acres) was acquired on the same date, as Patent #956224, but under the authority of the Stock Raising Homestead Act. Since the property has remained in the Brink family, it is possible that evidence of the original homestead and 1920s activity remains.

**Paleontological Resources:** The acquisition parcels lie within three geologic units identified as the Claggett Shale, Eagle Sandstone, and Telegraph Creek Formation. The southern bench of the property and majority of the surface consists of the Claggett Shale, a class 3a geologic unit under the Potential Fossil Yield Classification (PFCY) System by having a moderate potential for producing fossils. There are 12 paleontological localities (five vertebrate and seven invertebrate) documented within the Claggett Shale in the Lewistown office administrative area (Hanna 2009).

Sequentially, the Eagle Sandstone lies below the Claggett Shale, outcropping in the prominent cliffs along the north edge of the property. This geologic unit is classified as 3b under the PFCY System because it has yielded some significant fossils, but remains poorly studied or documented. There are 12 documented paleontological localities within the area for this unit (including the Virgelle Member): three vertebrate and nine invertebrate (Hanna 2009).

At the base of the Eagle Sandstone's steep break lies the Telegraph Creek Formation that forms the rolling hill area cut by shallow coulees. Hannah (2009) describes this unit as low potential for vertebrate or scientifically significant nonvertebrate fossils, a class 2 under the PFCY System. One vertebrate and two invertebrate localities have been documented for this formation (Hanna 2009).

**Soils/Vegetative Resources:** The vegetative structure, character, types, and cover composition of the acquisition parcels are consistent with the adjacent BLM and state administered lands. Approximately 66% of the property is composed of the Yawdim-Abor-Rentsac complex soil association which typically occurs on 8-60% slopes. Approximately 24% of the property is composed of the Yawdim-Delpoint-Rock outcrop complex soil association which typically occurs on 25-50% slopes. Approximately 4% of the property is composed of Delpoint-Yawdim complex soil association which typically occurs on 4-8% slopes. Approximately 3% of the property is composed of Tally Fine Sandy Loam on 2-8% slopes. Approximately 2% of the property is composed of Neldore-rock outcrop complex soil association on 15-60% slopes. Approximately 1% of the property is composed of Shambo Loam on 0-2% slopes.

The physical aspect of this site is that of a moderately sparse grassland and shrub land that is dominated by cool season grasses with shrubs distributed throughout. This plant community contains a diversity of tall and medium height, cool season grasses (green needlegrass, western or thickspike wheatgrass, and bluebunch wheatgrass), and short grasses (blue grama, Sandberg bluegrass). There are numerous forbs that occur in smaller percentages. Wyoming big sagebrush is a common component of this community. The diversity in plant species and presence of tall, deep-rooted perennial grasses allows for drought tolerance. Plants on this site have strong,

healthy root systems that allow production to increase significantly with favorable moisture conditions. Abundant plant litter is available for soil building and moisture retention. This plant community provides for soil stability and a functioning hydrologic cycle.

**Rangeland Resources:** From an agricultural perspective, the soil type, topography and vegetation of the above soil complexes are best suited to ungulate grazing. Currently, there are 89 livestock grazing AUMs associated with the acquisition parcel, with no known fences separating the proposed property from the surrounding BLM and state land. The acquisition parcel is associated with the PN Sag grazing allotment which is currently permitted for 563 AUMs from 06/01 – 10/15. Twenty-six percent of this grazing allotment is public land.

**Noxious Weeds:** The proposed acquisition was surveyed for the presence of noxious weeds during the 2011 field season. Though there are infestations of various species on the adjacent state land along the river, there were no infestations observed on the private land that is now under consideration.

**Wildlife:** Wildlife within the project area includes species typically associated with the Missouri River breaks, associated coulees, Missouri River riparian habitat and adjacent sagebrush/grassland habitat. The area provides year round habitat for mule deer, as well as mountain lions, coyote, bobcat, porcupine, skunk and other mammals common to the breaks habitat.

Tree nesting raptors such as red-tailed hawks, and great horned owls are known to inhabit the area. The cliff faces provide perching and nesting habitat for many raptors and other birds. The more significant and abundant of the cliff nesters are the golden eagle (Designated Sensitive Species), prairie falcon and American kestrel. Due to the proximity to farmlands and riparian woodlands on state and private lands, it is likely that game birds, including pheasant, sharp-tailed grouse, mourning dove, and potentially turkey utilize the area.

Refer to Chapter 3, beginning on Page 179 in the Upper Missouri River Breaks National Monument Proposed Resource Management Plan and Final Environmental Impact Statement, Volume 1, dated January 2008, for a complete description of species present or potentially present within the project area.

**Migratory Birds:** Many species of migratory birds utilize the diverse habitat within the project area, but these species are considered common for the Missouri River Breaks habitat and the project area is not considered crucial to any species. This would include shorebirds, waterfowl, raptors, and resident and migratory songbirds. The sagebrush/grassland and ponderosa pine/Douglas-fir habitats are minor components of larger adjacent habitat for Neotropical Migratory Birds. The species present are those common to these habitat types within north central Montana.

**BLM Montana Designated Sensitive Species:** Northern goshawk, bald and golden eagle, long-legged and long-eared myotis and Townsends big-eared bats all use habitat similar to that found in the project area, however, there are no documented roosting or nesting sites on the property. There is a black-tailed prairie dog town on the proposed acquisition area and on

adjacent state lands. Loggerhead shrike and red-headed woodpecker likely occur on the property but have not been documented. The greater short-horned lizard, Northern leopard frog and plains spadefoot toad occur in similar habitats.

**Fisheries:** There are no fisheries on the property, however a portion of one parcel is adjacent to the Missouri River which is a major river system with endangered pallid sturgeon and numerous sensitive species, including paddlefish, sauger, sturgeon chub, pearl dace and spiny softshell turtle (river restricted reptile).

**Threatened, Endangered, Candidate and Species Proposed for Listing:** There are no Threatened Endangered, Candidate, or species proposed for listing within the proposed acquisition area. Pallid Sturgeon (Endangered) occur in the Missouri River adjacent to the property.

**Water Resources/Riparian:** Approximately ¼ mile of the Missouri River is immediately adjacent to the parcels. From a riparian/wetland perspective, the BLM lands within this river reach were evaluated to be in proper functioning condition. This condition would be expected to continue regardless of the ownership of the property; however, future protection of these areas may be greater under BLM ownership as these lands would become part of the Monument. No private, state-based water rights are associated with the parcels proposed for acquisition. There are two water rights on the Missouri River where the parcel touches the river. They are the Montana Fish, Wildlife and Parks water reservation (41S 30017521) and the USA (Department of Interior Bureau of Land Management) water compact for the Upper Missouri Wild and Scenic River (41Q 30044019).

For these reasons, water resources/riparian is a relevant but non-affected resource; therefore, it will not be continued forward for analysis.

**Forestry Resources:** A forested site is defined in part as having at least 10% tree canopy cover. Commercial forests are defined in part as producing or capable of producing at least 20 cubic feet of wood fiber per acre per year. The proposed acquisition has neither, and will not be continued forward for analysis.

**Visual Resources:** Currently, the property is surrounded by Visual Resource Management (VRM) Class I lands. The objective of this class is to retain the existing character of the landscape. The level of change to the characteristic landscape should be low. Management activities may be seen, but should not attract the attention of the casual observer. Any changes must repeat the basic elements of form, line, color and texture found in the predominant natural features of the characteristic landscape.

**Recreation Resources:** The proposed acquisition is located at river mile 79.8 thru 80.1 in a Wild classified section of the Upper Missouri National Wild and Scenic River. A Wild Classification is defined as: "Those rivers or sections of rivers that are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted. These represent vestiges of Primitive America." This acquisition is within a 47 mile stretch referred to as the "White Cliffs" section of the Upper Missouri between Coal

Banks Landing and Judith Landing. From 2004 – 2010, a total of 36,004 registered visitors engaged in boating activities on the Upper Missouri with 67% of that number using the White Cliffs area, including the state owned lands up and downstream of the proposed acquisition.

Downstream of the proposed acquisition on state owned lands there is a very popular undeveloped campground locally known as “Flat Rock” or in some cases “The Wagon Bed.” This site receives extensive recreational use throughout the boating season and well into the fall hunting season. It is located on the river bank offering visitors unimpeded access and a large flat area suitable for group camping within a classic prairie river riparian area. Commercial river outfitters and larger user groups account for the majority of use at this site which borders the proposed acquisition. Just downstream and across the river and in view from the proposed acquisition is a BLM Level 3 campsite called The Wall. This site receives frequent use throughout the boating season, primarily by smaller visitor groups ranging from 1-6 people. Boaters camping in this area are typically seeking a quiet, primitive experience. There currently are two metal fire rings at this location.

**Climate:** On-going scientific research has identified the potential impacts of anthropogenic “greenhouse gas” (GHG) emissions and their effects on global climatic conditions. These anthropogenic GHGs include carbon dioxide; methane; nitrous oxide; and several trace gases, as identified by the Intergovernmental Panel on Climate Change (IPCC). The general consensus is that as GHG emissions continue to rise, average global temperatures and sea levels will rise, precipitation patterns will change, and climatic trends will change and influence earth's natural resources in a variety of ways.

Montana’s GHG emissions were recently updated and a forecast was made of expected emissions through 2020 (Montana DEQ 2007). The inventory indicates that Montana’s electricity generation, heating needs, commerce, agriculture practices, and transportation needs accounted for 0.6% of the GHG emissions in the United States in 2005 or about 37 million metric tons of gross consumption-based carbon dioxide equivalent. The state’s forests, cropland, and rangeland provide a vast terrestrial carbon sink that helps balance the state’s emissions, however, a 14% increase in GHG emissions from 1990 to 2005 moved Montana from a net carbon sink to a net carbon emitter.

**Minerals Resources:** All minerals were reserved to the United States at the time of patent for parcels located in Section 2 and 11. In Sections 3 and 10, all sellers have agreed to sell any mineral estate they own to the BLM.

## **ENVIRONMENTAL IMPACTS OF THE ALTERNATIVES**

### **Cultural Resources:**

*Proposed Action:* With this action, the BLM would become responsible for managing historic properties that may be on the property. This alternative, though an undertaking, has no effect on historic properties. Future proposed undertakings (range improvements) would require cultural resource review as directed by Section 106 of the National Historic Preservation Act of 1966, as amended. This level of analysis is not required of privately-funded actions on private land. This

action would also help preserve the Lewis and Clark National Historic Trail's landscape by eliminating the development potential.

*No Action:* The private landowner would remain responsible for any historic properties that may be on the property. Since the parcel would remain in private ownership any historic properties that may be present would not be protected under the National Historic Preservation Act of 1966, as amended.

**Paleontological Resources:**

*Proposed Action:* Under the Proposed Action, the BLM would manage any paleontological resources (that may be discovered) as outlined in the UMRBNM RMP and under the Omnibus Public Lands Act, Paleontological Resources preservation subtitle. Impacts to the resource would be positive because any fossil potential would be classified under the PFCY System, and any discovered fossil locality would be managed and preserved through scientific principles and expertise for research and public education.

*No Action:* There are no known paleontological localities documented within the property, so effects to the resource under this alternative are unknown. Under private ownership, the public would have no involvement in the management or protection of paleontological resources.

**Soils/Vegetative Resources:**

*Proposed Action:* The impacts to vegetation would primarily be positive. The acquisition parcels' acreage would not be at risk of permanent vegetation loss through residential development. The acres would be incorporated into the management plans of the surrounding public lands, thereby increasing the habitat management base. It would also simplify the management of the public lands because of uniformity of management objectives, and reduced fragmentation caused by checkerboard ownership boundaries. This action would increase the public land base to be managed, which may increase costs slightly. Maintaining large blocks of habitat allows the BLM to better manage for healthy habitats by treating weeds and conducting grassland/shrubland inventories and restoration activities at a scale more cost effective and more beneficial to natural habitats in the area at large.

*No Action:* The current management trends would likely continue. Future management of the existing vegetation and habitat types would be at the landowners' discretion. In the unlikely event of residential development (because of a lack of road access) there is a probability of vegetation loss and increased spread of noxious weed. Inconsistent vegetation and fuels management on these private inholdings, would impact the management of the surrounding public lands.

**Rangeland Resources:**

*Proposed Action:* With this action, the acreage would be incorporated into the management plans of the surrounding public lands, thereby, increasing the habitat management base. It would also simplify the management of the public lands because of uniformity of management objectives and reduced fragmentation caused by checker-board ownership boundaries. Although the number of livestock currently utilizing the area would remain unchanged, the number of livestock AUMs the BLM would administer as permitted use could potentially increase by 89

AUMs. In addition, the public land percentage currently identified on the grazing permit could also change.

Any changes to the current grazing permit would be brought forward through a subsequent decision document and in accordance with the 2002 Final Environmental Assessment for the Upper Missouri Watershed (MT060-02-04) and the UMRBNM ROD.

*No Action:* The number of AUMs and livestock grazing would remain as they currently are. Future management of the existing livestock and range resources would be at the landowner's discretion. Potential inconsistencies in the management of livestock management and range resources could impact the management of the surrounding public lands.

**Noxious Weeds:**

*Proposed Action:* Invasive and noxious plants would be managed under the Upper Missouri River Breaks National Monument: Guidelines for Integrated Weed Management Plan (BLM 2001) and its subsequent updates. Of the invasive species that occur in the area, Japanese and downy brome are the most likely to impact these parcels. Invasive plant management under this alternative would be prevention oriented and take the form of monitoring and mitigation measures placed on activities that would be proposed and conducted on the acquired parcels (range improvements).

*No Action:* Noxious weed issues that may occur on the property would be managed by private interests under the Fergus County Weed District according to state law. Although unlikely because of limited access, subdivision and residential development would cause surface disturbance and increase the potential for invasive plant introduction.

**Wildlife/Habitat & Migratory Birds:**

*Proposed Action:* No species or habitat would be affected by this alternative, as current activity would continue, except with less risk of detrimental actions in the future. While reseeding to native vegetation on the small portion of acquired farmland could be seen as beneficial under BLM ownership, the small scale of this action compared to the available habitat in the area, makes this action negligible to all species present.

*No Action:* There would be a small risk of future surface development on the acquisition property, which could have negative impacts on resident and migratory wildlife. Due to the terrain and no road access through BLM and state lands, this action is unlikely, except for the southern terrace with the farm lands. This habitat is already impacted and additional construction is not likely to have major impact on any habitat or species in the area. Under private ownership, the prairie dog town could be eliminated, impacting all species which depend on or utilize this species or the habitat it creates.

**BLM Montana Designated Sensitive Species:**

*Proposed Action:* No species or habitat would be affected by this alternative, as current activity would continue, except with less risk of detrimental actions in the future. While reseeding to native vegetation on the small portion of acquired farmland could be seen as beneficial under

BLM ownership, the small scale of this action compared to the available habitat in the area, makes this action negligible to all species present.

*No action:* Under private ownership, the prairie dog town could be eliminated by private landowner, impacting all species which depend on or utilize this species or the habitat it creates.

**Threatened, Endangered, Candidate and Species Proposed for Listing:** No T&E, Candidate, or Species Proposed for Listing, critical habitat, or important prey species for any of these species would be affected by either alternative.

### **Visual Resources:**

*Proposed Action:* The proposed action would ensure the integrity of the existing visual resource management (VRM) classification of the Monument by preventing incompatible development to occur in the acquisition area. With this alternative, the land would be managed as a VRM Class I. The BLM would ensure that visual quality characteristics reflect a predominantly primitive or natural landscape.

*No Action:* Under the no action alternative, the visual condition of the property would be at the landowner's discretion. A change in the visual condition would adversely affect the surrounding characteristic of the landscape of the BLM land.

### **Recreation Resources:**

*Proposed Action:* The proposed action would increase the amount of accessible public land within the Monument, thus allowing visitors interested in a variety of recreational experiences to engage in their chosen activity unhindered by scattered landownership patterns. Public recreation opportunities (such as camping, fishing, hiking, hunting and wildlife viewing) would be enhanced within the Missouri River corridor. The proposed action would also reduce management complications (such as unintentional trespass) common with scattered landownership patterns. This observation is especially true with the section of this parcel that is adjacent to the Upper Missouri National Wild & Scenic River and is bordered on the up and downstream ends by state owned lands.

*No Action:* The private inholdings would remain privately owned and the management complications common with scattered landownership patterns would continue. They would be subject to potential future land development that could impair the open space and solitude of the UMRBNM.

### **Climate:**

*Proposed Action:* Potential impacts to natural resources due to climate change are likely to be varied. For example, if global climate change results in a warmer and drier climate, increased particulate matter impacts could occur due to increased windblown dust from drier and less stable soils. Cool season plant species' ranges could potentially move north and due to the potential loss of habitat, or from competition from other species whose ranges shift northward, the population of some animal species could change. While many existing climate prediction models are global or regional in nature, the lack of scientific tools designed to predict climate change on local scales limits the ability to project potential future impacts of climate change on

the specific area for this project. It is not possible to predict with any certainty site-specific effects on climate change relative to the proposed action.

*No Action:* There would be no impacts to this resource.

**Minerals Resources:**

*Proposed Action:* Under this alternative, if the parcels come into Federal ownership, the parcels would be precluding from all forms of mineral entry, location, selection, sale or leasing under the UMRBNM RMP.

*No Action:* If the parcels remain in private ownership, the mineral rights in Sections 3 and 10 could be leased and/or potentially developed.

**Cumulative Impacts:**

There would be no cumulative impacts from the proposed action beyond those addressed in the Proposed RMP/Final EIS for the Monument (January 2008).

**LIST OF PREPARERS**

- Debbie Tucek, Realty Specialist
- Chad Krause, Hydrologist
- Kelly McGill, Outdoor Recreation Planner
- Kenneth Keever, Natural Resource Specialist – Invasive Species
- Zane Fulbright, Archaeologist
- Mark Schaefer, Supervisory Outdoor Recreation Planner
- Tom Darrington, Rangeland Management Specialist
- Jody Peters, Wildlife Biologist (Wildlife, Fisheries, T&E)
- Chris Rye, Geologist

**CONSULTATION AND COORDINATION**

In December 2011, the Central Montana Resource Advisory Council (RAC) was advised of the possible acquisition opportunity. One of the members of the RAC is also a member of the Missouri River Stewards. He expressed some questions and concerns about the acquisition in an email to the BLM in December 2011.

BLM staff met with the Fergus County Commissioners to formally brief them about this acquisition opportunity and to advise them that the EA was going to go out for public comment on February 8, 2011. The draft Environmental Analysis (EA) was distributed for public comment on that date. The EA was also published on the Monument web page on February 8, 2011 and its availability was announced via a news release to local media outlets. The mailing list for that news release is attached as Appendix A.

The BLM received approximately 80 letters and emails regarding this proposed action. All of the letters and emails have been retained as part of the public record.

In addition to comments directly mailed or emailed to the BLM, numerous comments were made through social media forums, blogs and letters to the editor. Since these comments were not made directly to the BLM they will not be analyzed further.

The BLM received some comments regarding BLM's authority to manage public lands and whether public lands legally exist. These comments are beyond the scope of this environmental analysis and will not be addressed further in this document. The BLM was asked if it explored the possibility of property exchange with the landowners. However, these parcels were offered for sale only and were never offered as an exchange opportunity. Therefore exchange options were not considered. The private land parcels have no covenants, conservation easements or restrictions.

No water rights are attached to these parcels, as clarified in the Affected Environment section under Hydrology/Riparian (see **highlighted** information on page 6). The mineral rights were reserved to the United States at the time of patent in Sections 2 and 11 and therefore have never left Federal ownership, (see **highlighted** Minerals information on pages 7 and 11).

## **PUBLIC COMMENTS**

Many of those commenting supported the Proposed Action for a variety of reasons, which did not require a response from the BLM.

The comments received which expressed the draft EA was inadequate are summarized below along with the BLM responses. These comments can be grouped into four main comment areas:

- 1) Payment in Lieu of Taxes (PILT) Funding;
- 2) LWCF 'Emergency' Funding;
- 3) Appraisal Value; and
- 4) Wildlife/Threatened & Endangered (T&E) Habitat.

### 1) PILT Payments

*Some of the paraphrased public comments included:*

Every acre lost to the federal government erodes our tax base and has specific adverse impact on our local schools.....

PILT dollars do not come to our schools and the fund is seldom resourced to the level it should be.....

As land is bought up by the Gov't that land is taken off the tax rolls.....

Property taxes provide money for the local counties...eliminate that source of income and other private landowners have to make up the difference with higher taxes.....

Although the taxes involved here are minimal it is the principle and precedence that is being set that concerns me.....

The EA does not address loss of tax revenues.....

*BLM response to these public comments:*

In 2011, Fergus County received \$1,055,743 in PILT payments, equating to approximately \$2.12 per acre of federally managed public land in the county. The private property taxes collected on this parcel were \$311.08 in 2011, of which \$44.06 was dedicated to the local school district (Fergus County Treasurer's Office, April 2012).

PILT payments are currently fully funded (BLM Montana State Office February, 2012) which is a Congressional responsibility. Had the acquisition parcels been in public ownership in 2011, the PILT funding for this parcel would have been approximately \$1,400.00; a net gain to Fergus County of approximately \$1,100.00. The distribution of PILT funds is a local Fergus County government decision and the BLM does not determine where or how PILT receipts are distributed.

## 2) LWCF Emergency Funding

*Some of the paraphrased public comments included:*

The fact that the Washington BLM Office has agreed to provide emergency funding from the LWCF confirms that only the "Yes Acquisition Alternative" remains on the table.....

Why this purchase has to be funded on an emergency basis is a mystery.....

Soliciting public comment at this point in the process seems of little value and the basis for this emergency acquisition is not clear.....

At a time when our federal government needs to spend less...we cannot afford any land purchases and we don't need them.....

*BLM response to these public comments:*

The LWCF was established by public law (PL 88-578) in 1964 for the primary purpose of supplementing open space and recreation values. It is not available for general appropriations (paying/reducing the national debt). The LWCF process is usually a two year nomination funding process. Since the BLM had not been approached with this opportunity two years ago, the funding source was the unallocated amount which is kept in place for unplanned opportunities. The word emergency is simply a name for funding which had not been previously allocated to a project. Approximately 95% of the annual funding for the LWCF comes from the Outer Continental Shelf Federal oil and gas royalty receipts. The remaining funding is comprised of motorboat fuel tax and General Services Administration surplus property sales.

## 3) Appraisal Value

*Some of the paraphrased public comments included:*

Inflating properties values shifts the land from agricultural based economics to unchartered territory that, over time, undermines the stewardship that has kept the area special.....

This is too much to pay for property that has no access....

It is truly unconscionable that our government would compete with local ranches in an attempt to purchase land at values 2 – 3 times the value of comparable properties in the area.....

The federal government is pricing the local residents out of purchasing land.....  
There is no discussion as to how the appraised value of the tract was achieved...or explanation given as to why this particular tract was valued so high.....

*BLM response to the public comments:*

This appraisal (and all appraisals for land actions involving the Federal government) was conducted and completed in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions. The highest and best values use for this land was determined to be recreational investment land. Values from comparable sales in the area were used in the value determination. The appraisal was conducted by a non-government entity, Wicks & Associates, LLC out of Billings, Montana. It was approved by the Office of Valuation Services on December 7, 2011.

#### 4) Wildlife, Threatened & Endangered Habitat

*Some of the paraphrased public comments included:*

What is the documented justification for BLM's opinion that there are not Threatened Endangered Candidate or species proposed for listing within the proposed acquisition area.....  
Have there been multi-year, multi-season field research efforts to determine if any black-footed ferrets occupy the prairie dog habitat.....

*BLM response to the public comments:*

Wildlife or T&E habitat has not been inventoried specifically on the potential acquisition parcels, as they are privately owned. However, wildlife and T&E habitat inventories have been conducted on the surrounding public land and there is no reason to believe that the habitat on these specific parcels would be any different.

### **SUMMARY**

The environmental analysis process is designed to identify and address any impacts as a result of the proposed action. The BLM strongly values any input the public may offer and continues to encourage the public's comment on all future actions. The public comment period is offered prior to any final decision and is in place to offer the public a chance to identify any issues or impacts that may have been missed in the analysis process.

## **REFERENCES**

- Upper Missouri River Breaks National Monument Proposed Resource Management Plan and Final Environmental Impact Statement (January 2008)
- Upper Missouri River Breaks National Monument Record of Decision and Approved Resource Management Plan (December 2008)
- Hanna, Rebecca R. 2009. Class I Overview of the BLM Lewistown Resource Management Plan Area: Including portions of Blaine, Cascade, Chouteau, Fergus, Judith Basin, Lewis & Clark, Meagher, Petroleum, Phillips, Pondera, and Teton Counties, Montana. Terra Paleo Research, Choteau, Montana.



**Picture 1.** The first picture is standing at the top of the bench, looking downriver. The bottom half or so of the picture is of the property, and the top half, which includes the segment of river is other public or private lands. This picture exemplifies the types of far range views that are provided by the property. It also shows the steep break and the conifer trees, with the rolling shrub/grasslands and coulees down below.



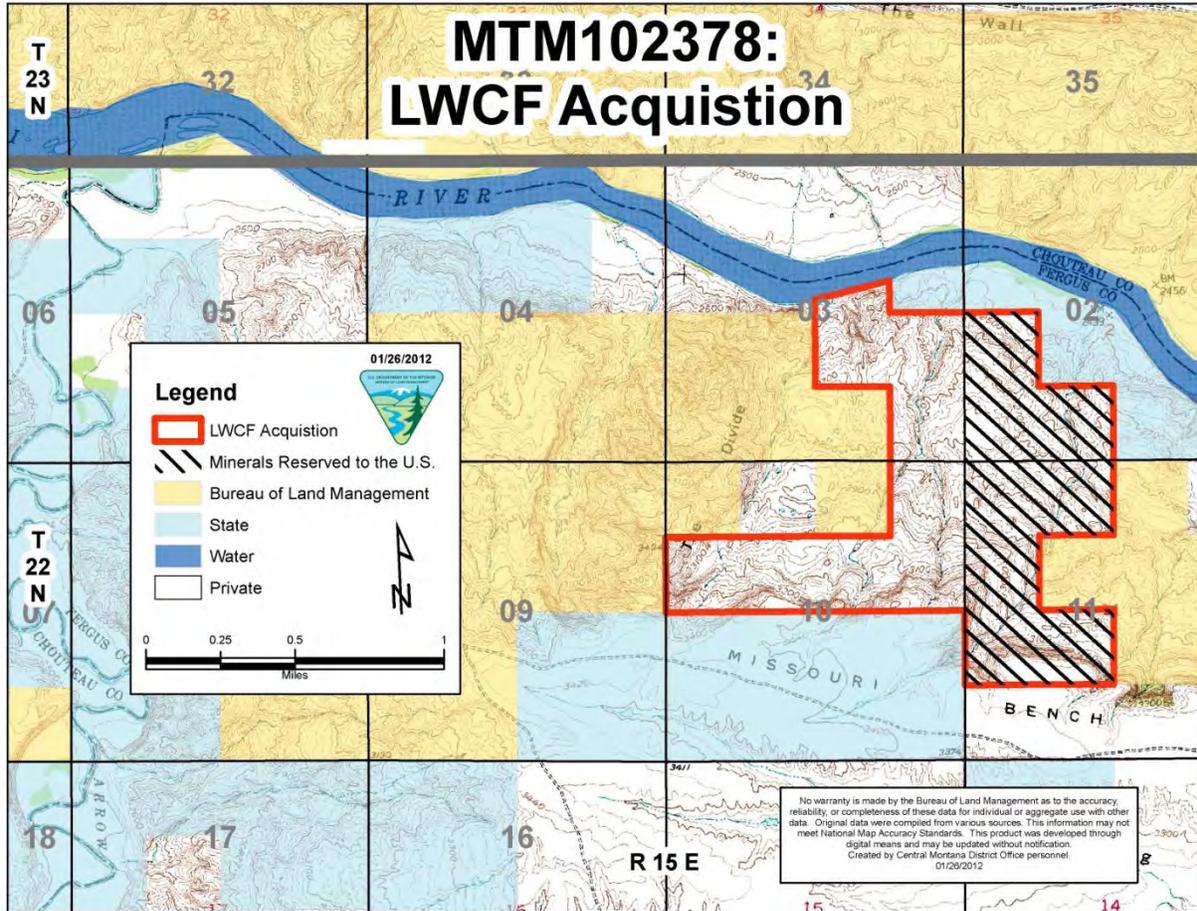
**Picture 2** - The second picture is of some steep sandstone cliffs on the property. The flat bench is atop the cliffs, and you can see the conifers on the steep break, and the rolling shrub/grasslands down below. The hills on the far right of the picture are off the property.



**Picture 3** - The third picture is taken while standing on the steep break, and looking towards the rolling shrub/grasslands down below. The river frontage that is on the property is on the far left of the photo. Due to terrain features, we could not see the actual river frontage.



Picture 4 - The fourth picture is taken while standing on the steep break, looking towards the rolling shrub/grasslands below. The trees along the river are on a strip of State land along the river. Otherwise, almost everything you see on the near side of the river is the property.



*MAP A – Overall Map of Acquisition Parcels*

Associated Press, 1300 Cedar, Helena, MT 59601  
Big Sandy Mountaineer, Box 529, 122 Johannes, Big Sandy, MT 59520  
Billings Gazette, 401 N Broadway, Box 36300, Billings, MT 59101  
Blaine County Journal, Box 279, 217 Indiana, Chinook, MT 59457  
Choteau Acantha, Box 320, 216 1<sup>st</sup> Av. North West, Choteau, MT 59422  
Fort Benton River Press, Box 69, 1114 Front Street, Fort Benton, MT 59442  
Glasgow Courier, 341 3<sup>rd</sup> Avenue South, Glasgow, MT 59230  
Great Falls Tribune, 205 River Drive S, Great Falls, MT 59405  
Havre Daily News, 119 2<sup>nd</sup> Street, Havre, MT 59501  
Lewistown News Argus, Box 900, 521 W Main, Lewistown, MT 59457  
Phillips County News, Box 850, 18 S 1<sup>st</sup> St. E. Malta, MT 59538  
Judith Basin Press, Box 507, 117 Central Av, Stanford, MT 59479

#### **Newspapers**

[apmontana@ap.org](mailto:apmontana@ap.org); [citynews@billingsgazette.com](mailto:citynews@billingsgazette.com); [bcjnews@mtintouch.net](mailto:bcjnews@mtintouch.net);  
[cascadecourier@mcn.net](mailto:cascadecourier@mcn.net); [courier@glasgowcourier.com](mailto:courier@glasgowcourier.com); [tribcity@greatfalltribune.com](mailto:tribcity@greatfalltribune.com);  
[news@havredailynews.com](mailto:news@havredailynews.com); [press@ttc-cmc.net](mailto:press@ttc-cmc.net); [newsstaff@lewistownnews.com](mailto:newsstaff@lewistownnews.com);  
[phillips\\_county\\_news@yahoo.com](mailto:phillips_county_news@yahoo.com); [harlotms@mtintouch.net](mailto:harlotms@mtintouch.net); [riverpress@mtintouch.net](mailto:riverpress@mtintouch.net);  
[retigpub@itstriangle.com](mailto:retigpub@itstriangle.com); [acantha@3rivers.net](mailto:acantha@3rivers.net)

#### **Radio**

[jyamanaka@ypradio.org](mailto:jyamanaka@ypradio.org); [nmb@nmbi.com](mailto:nmb@nmbi.com); [news@kxlo-klcm.com](mailto:news@kxlo-klcm.com);  
[kmmrfm@mtintouch.net](mailto:kmmrfm@mtintouch.net); [kltz@kltz.com](mailto:kltz@kltz.com); [hope.stockwell@umontana.edu](mailto:hope.stockwell@umontana.edu);

#### **Television**

[q2news@ktvq.com](mailto:q2news@ktvq.com); [news@kulr.com](mailto:news@kulr.com); [krtv@krtv.com](mailto:krtv@krtv.com); [kfbb@kfbb.com](mailto:kfbb@kfbb.com)

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