

**NRDP Funding Recommendation
For the Purchase of the Buxbaum-Boulder Creek Conservation Easement**

May 2018

Background and Project Summary

The Natural Resource Damage Program (NRDP) is working with Five Valleys Land Trust (Five Valleys), Montana Fish, Wildlife and Parks (FWP), and private landowners to protect 1,193 acres of grassland, wetlands, and forest habitat near Maxville, Montana with a permanent conservation easement (see attached map). The proposed conservation easement would also secure public hunting opportunities on the property and to U.S. Forest Service lands beyond.

The subject property is owned by the Buxbaum family and located just east of the Anaconda-Pintler Scenic Highway (Montana Highway 1) in the foothills of the Flint Creek Range. The Buxbaum Boulder Creek property is within a Priority Landscape Area identified in the UCFRB Terrestrial Resources Prioritization Plan. The property is located in a Priority 3 Area and less than 2 miles from the Lower Flint Creek (Priority 2) Area. This project would partially implement Section 4.2.4.2 of the *Upper Clark Fork River Basin Aquatic and Terrestrial Resources Restoration Plans* (Restoration Plans).

The property's montane grasslands, forestlands, wetlands, and aspen groves are connected to the broader expanses of wildlife habitat that connect the John Long Mountains to the Flint Creek Range. U.S. Forest Service land borders the property to the south. The property has one home-site and a small area of flood-irrigated pastureland on the western boundary, along Highway 1. The rest of the property is undeveloped, providing rangeland and wildlife habitat. The Restoration Plan recognizes the importance of "maintaining or improving wildlife species diversity, natural ecological functions, and habitat connectivity in grassland, forest, and riparian ecological systems." The property is also within a Tier II Terrestrial Focus Area for Montana Fish, Wildlife and Parks' State Wildlife Action Plan (2015).

A conservation easement on the property would provide an efficient and cost-effective way to permanently protect the property's public values and conservation values, while keeping the land in private ownership and management. The proposed conservation easement would unite the five parcels of the property in perpetuity, allowing no subdivision of the 1,193 acres. No additional residential development would be permitted, restricting the property to the existing home-site and protecting in perpetuity the property's wildlife habitat and open space values. The conservation easement would also secure public hunting opportunities on the property and through the property to U.S. Forest Service lands beyond. If approved, the public hunting opportunity would be held and managed by Montana FWP.

Complete costs for the Buxbaum conservation easement and grant of public access project are estimated to be \$762,000 pending final appraisal, which will occur in

summer 2018. The funding support requested from NRDP is no more than 28% of appraised conservation easement value and not to exceed \$200,000. Total costs of the project include the estimated conservation easement value (pending appraisal), direct transaction costs, and project costs.

The Buxbaum project would be funded primarily with Natural Resource Conservation Service (NRCS) Agricultural Land Easement funds (\$537,000 currently secured). Natural Resource Damage Program funds (requested) of approximately 28% of the conservation easement value and not to exceed \$200,000 would provide nearly all of the remaining funds necessary to complete the project. A landowner donation (secured) will cover all remaining costs of the project; this is expected to be at least \$8,000 to \$10,000 but may be more depending upon appraised value of the conservation easement.

As indicated in the Restoration Plans: 1) Funding for individual projects within aquatic and/or terrestrial priority areas will be based on cost-effectiveness and cost-benefits; and 2) Each project involving property and/or water rights acquisitions and conservation easements will require a subsequent approval of the proposed transaction, once developed in accordance with the Restoration Plans by the Trustee, following consideration of input from the public, Advisory Council, and Trustee Restoration Council.

This document provides the NRDP funding evaluation and recommendations that will be the subject of a 30-day public comment period that will begin on May 2, 2018, and end on June 4, 2018. The two indicated councils will consider the NRDP's recommendation and public comment in making their final recommendation to the Governor, who will make the final funding decision.

NRDP Funding Recommendations Summary

The NRDP recommends funding of this project for approximately 28% of the conservation easement value and not to exceed \$200,000 subject to the following funding conditions:

- NRDP would review the conservation easement to ensure that it meets the goals of the Restoration Plans; and
- That Five Valleys and FWP successfully finalize the access component of the easement.

Land Acquisition Due Diligence Summary

Land transaction due diligence completed by Five Valleys to date includes title review and assessment, minerals remoteness evaluation, contaminant assessment, and baseline inventory. The conservation easement appraisal, commissioned by Five Valleys, is in progress and expected summer 2018. NRDP commissioned a Wildlife Habitat Assessment, completed in September 2017. Five Valleys and the landowner

have secured project funding from NRCS Agricultural Land Easement Program. Montana Fish, Wildlife and Parks (FWP) has worked with the landowner to complete a draft hunting access management plan. The final perpetual public hunting access agreement is pending Montana Fish and Wildlife Commission approval. The NRDP funding agreement, public comment, and consideration of the UCFRB Advisory Council and Trustee Restoration Council, and Governor approval of the funding request are still to be completed.

Buxbaum Property Overview and Project Schedule

The current property owner is the Buxbaum family who has been working for over a year with Five Valleys to place a conservation easement on the property. Five Valleys has already secured the necessary federal funds of \$537,000 for the easement which is estimated at \$716,000. The actual easement value will not be known until Five Valleys finalizes the appraisal. Five Valleys needs to secure the NRDP matching funds in order to move the project into final conservation easement review and approval stages with NRCS. NRCS has a lengthy (120-day) process to complete final review and approval for conservation easements they fund. Five Valleys and the landowner would like to secure the NRDP funds in the summer of 2018 (with funding conditions) in order to begin the NRCS approval phase. Also, during the fall of 2018, FWP would be finalizing the access component of the project with the landowner, during the first public hunting season on this property. FWP and the landowner are ready to start the first public hunting season on this property in the 2018 season in order to work out any potential issues before the access component is made permanent by the conservation easement. FWP will finalize the hunting access component in late fall, then seek public comment and final FWP Commission approval in late 2018. This timeline would position Five Valleys to complete the project and close the transaction early in 2019, pending FWP's public review process and Commission approval of the access component.

The property includes a variety of vegetation types, the majority of which are native plant communities. NRDP contracted Westech Inc. to prepare a Resource Evaluation Report that describes the natural resource and public recreational benefits of this project. The properties primary feature is high quality winter range for elk and mule deer. The property contains a diversity of wildlife habitat and supports substantial, documented use by a variety of wildlife species. The property is proximal to other public lands or lands under conservation easement. Public value from the property would likely be high for hunting use. Key ecological features include native mountain grasslands dominated by bluebunch wheatgrass and Idaho fescue, quaking aspen stands, springs and seeps, and riparian and wetland communities.

Easement Terms

The conservation easement, which is scheduled to be finalized summer 2018, would be held by Five Valleys and protect in perpetuity the property's agricultural values, wildlife habitat values, and scenic open space. The conservation easement would also grant permanent, seasonal hunting opportunities for the public both on and

through the property. At least 50 hunter-days of public hunting opportunity on and through the property annually would be secured in perpetuity. Pending Fish and Wildlife Commission and FWP final approval, this grant of permanent public access would be held and managed by FWP. FWP, through their Hunter Access Program, ensures that the public is provided with equal opportunity hunting, free of charge on the Special Access Area established on the property. FWP monitors and enforces all Special Access Contracts annually and throughout the hunting season.

Conservation easement terms would unite the five parcels of the property in perpetuity, prohibiting any subdivision of the 1,193 acres. No additional residential development will be permitted, restricting the property to the one existing home-site near Highway 1. The easement would also restrict agricultural use to grazing uses and timber management, in order to protect the property's native montane grasslands, wetlands, and forestland habitats. Conversion to cropland is prohibited. The conservation easement requires both a grasslands and timber management plan.

Project Evaluation

Public Access: The project would secure significant permanent public hunting access on and through the property in a popular hunting district where game damage problems have become a significant issue on private lands. Access to nearby USFS lands would also be gained by this project.

Cost-Benefit and Cost-Effectiveness Relationship: The approximately 1,193 acres of high quality grassland protected would provide habitat for a variety of game and non-game species. It is the NRDP's aim that long-term protection of this property will accomplish the goal of providing for quality wildlife habitat and recreation benefits. The Resource Evaluation states almost all of the property is winter range for elk, mule deer, and moose, which is often a limiting factor for big game populations. The Resource Evaluation justifies the reasons for and benefits of protecting the resources on this property in perpetuity. The easement would not allow division or additional development of the property. The easement is crafted to protect the property's habitat and preserve the habitat connectivity across this landscape. Conservation easements such as this one provide real and permanent protection of resources, monitored and upheld by the land trust, while remaining in private ownership and management. Given the substantial natural resource and recreational benefits and the substantial contributing funding for this project separate of NRDP funds, the NRDP considers the project to have favorable cost-benefit outcomes, as the costs are commensurate with the benefits it provides. The conservation easement accomplishes the goals of the Restoration Plans in the least costly way possible, because the State is getting the full value of the conservation easement while only paying for a portion of the conservation easement's costs. The Restoration Plans identify matching funds as an important consideration in cost-effectiveness. Therefore, the proposed project is cost-effective.

Public Support: Following the conclusion of a 30-day public comment period on this proposal, the NRDP will provide the public comment and the NRDP's draft response to

public comment to the Advisory Council and Trustee Restoration Council before these councils make their funding recommendations. At the April 19, 2018, Wildlife Commissions meeting Nick Gevock, Conservation Director for the Wildlife Federation, spoke in favor of the project.