

**Draft
Environmental Assessment**

**Proposed North Shore
Wildlife Management Area
Land Acquisition**



August 1, 2013



**Montana Fish,
Wildlife & Parks**

Executive Summary

Proposed North Shore Wildlife Management Area

Draft Environmental Assessment

Montana Fish, Wildlife & Parks (MFWP) proposes to purchase approximately 189 acres of farmland and wetlands located along the north shore of Flathead Lake about 4.5 miles east of the community of Somers. Funding for the project would be provided by the Bonneville Power Administration (BPA) through MFWP's fisheries mitigation program to help offset impacts associated with the construction of Hungry Horse Dam. If acquired, BPA would retain a perpetual conservation easement on the property to ensure long-term protection of the property.

The primary purpose of the proposed land acquisition using BPA funding is to protect ground water, surface water, and wetlands on or near Flathead Lake. This will help improve or maintain the high water quality of Flathead Lake for benefits of aquatic life and fish and wildlife habitat. Other benefits of this project include protecting and managing this land to restore or improve natural riparian/wetland habitats, to continue annual crop production to benefit resident and migratory waterfowl, to improve and maintain habitat for other wildlife, and to provide opportunities for seasonal and compatible public recreation.

MFWP proposes to incorporate this parcel into MFWP's wildlife management area program and designate this land as the North Shore Wildlife Management Area (North Shore WMA). Proposed management is designed to meet the purposes of the acquisition and be consistent with BPA's conservation easement. The proposed Management Plan is included as part of the draft environmental assessment (EA). The Management Plan allows for restoration of riparian/wetlands, upland buffers, and forest stands, as well as the continuation of agricultural practices that also provide food/cover for migratory and resident birds.

The property borders the U. S. Fish & Wildlife Service (FWS) Flathead Lake Waterfowl Production Area to the south along Flathead Lake shoreline. It also borders the 160-acre North Shore State Park/Wildlife Management Area (SP/WMA) that MFWP acquired in 2008 to the west.

The public comment period for this draft EA will extend for 30 days beginning August 1, 2013. Written **comments will be accepted until 5:00 p.m., August 31, 2013**, and can be mailed to: North Shore WMA Acquisition; Montana Fish, Wildlife & Parks; 490 N. Meridian Road; Kalispell, MT 59901 or sent by e-mail to: Nancy Ivy at nivy@mt.gov.

FWP will hold a public meeting beginning at 6 p.m. on Tuesday, August 20, 2013, at the Flathead Lake Inn and Suites (formerly the White Oak Hotel) located at the junction of Highways 93 and 82. The public meeting will begin with an approximately 30-minute open house followed by a formal public hearing.

Copies of this EA will be available for public review at MFWP Region One headquarters in Kalispell; the Flathead County Libraries in Bigfork, Lakeside, and Kalispell; the Montana State Library in Helena; and on the MFWP web site (<http://fwp.mt.gov>) under Public Notices.

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1.0 Purpose of and Need for Action

1.1 Proposed Action

Montana Fish, Wildlife & Parks (MFWP) proposes to purchase approximately 189 acres of farmland and wetlands located along the north shore of Flathead Lake about 4.5 miles east of the community of Somers (Figures 1 & 2). Funding for the project would be provided by the Bonneville Power Administration (BPA) through MFWP's fisheries mitigation program to help offset impacts associated with the construction of Hungry Horse Dam. If acquired, BPA would retain a perpetual conservation easement on the property to ensure long-term protection of the property.

The primary purpose of the proposed land acquisition using BPA funding is to protect ground water, surface water, and wetlands on or near Flathead Lake. This will help improve or maintain the high water quality of Flathead Lake for benefits of aquatic life and fish and wildlife habitat. Other benefits of this project include protecting and managing this land to restore or improve natural riparian/wetland habitats, to continue annual crop production to benefit resident and migratory waterfowl, to improve and maintain habitat for other wildlife, and to provide opportunities for seasonal and compatible public recreation.

The proposed conservation easement to be held by BPA is included in Appendix A. MFWP proposes to manage the land to meet objectives of the fisheries mitigation program consistent with the conservation easement held by BPA. Proposed management is described in the attached draft Management Plan (Appendix B). This Management Plan that has been accepted by BPA allows for restoration of riparian/wetlands, upland buffers, and forest stands, as well as the continuation of agricultural practices that also provide food/cover for migratory and resident birds.

The property borders the linear U. S. Fish & Wildlife Service (FWS) Flathead Lake Waterfowl Production Area to the south along Flathead Lake. It also borders the 160-acre North Shore State Park/Wildlife Management Area (SP/WMA) that MFWP acquired in 2008 to the west.

MFWP proposes to incorporate this parcel into MFWP's wildlife management program and designate this land as the North Shore Wildlife Management Area (North Shore WMA). The landowner has agreed to sell this parcel below the full market value of \$1.73 million for approximately \$1.6 million. MFWP has agreed to accept an existing farm lease on the property through 2015 as part of the acquisition. In exchange for this lease, the lessee will continue to manage weeds, maintain fences, provide food/cover plots for migratory birds, and assist in other minor property maintenance. In the future, and after the restoration plan is complete, MFWP will advertise for bids on remaining farmland leases consistent with the proposed Management Plan.

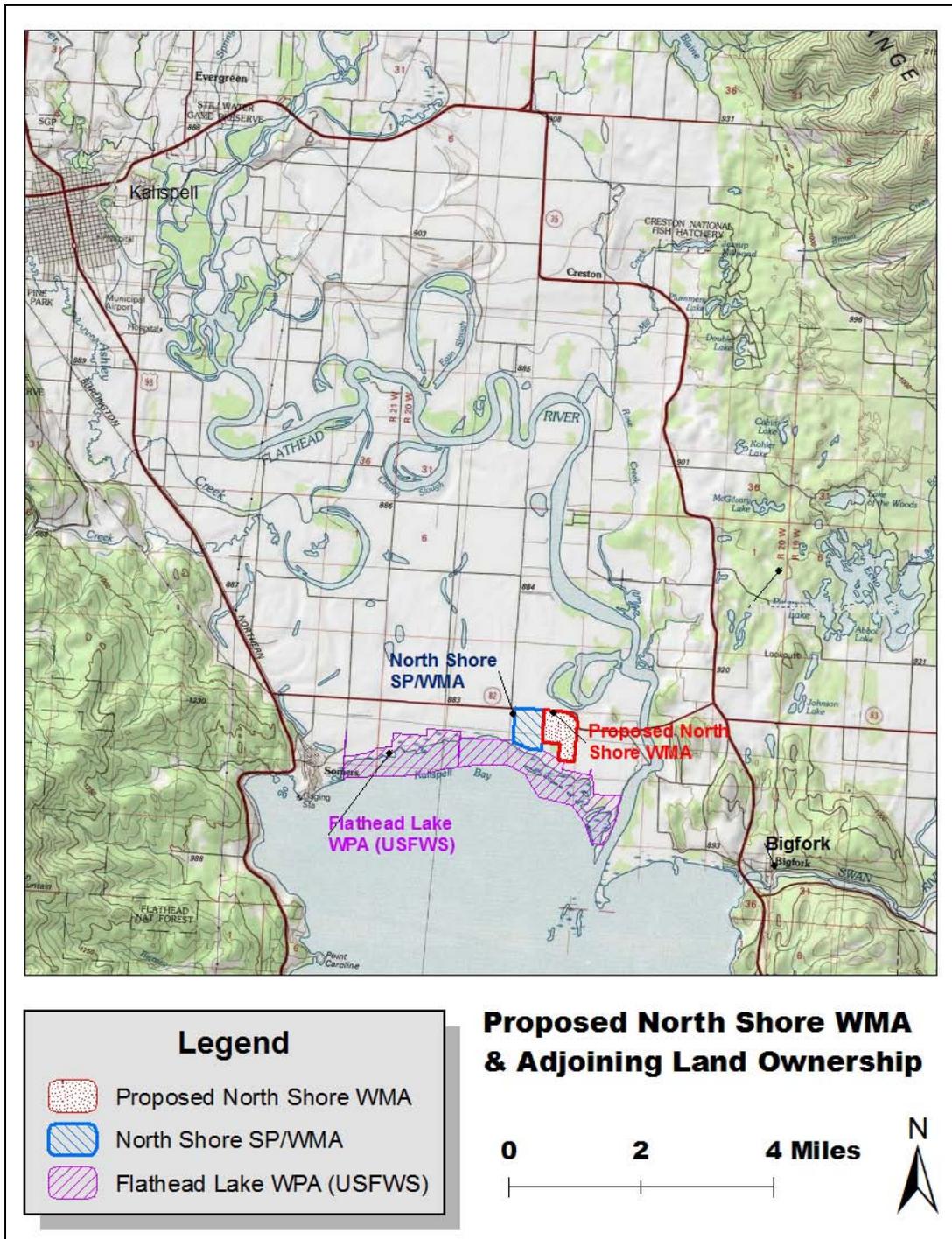


Figure 1. Location of the proposed land acquisition, existing MFWP North Shore State Park (SP)/Wildlife Management Area (WMA) located along north shore of Flathead Lake, Flathead Lake Waterfowl Production Area, Flathead County, Montana.

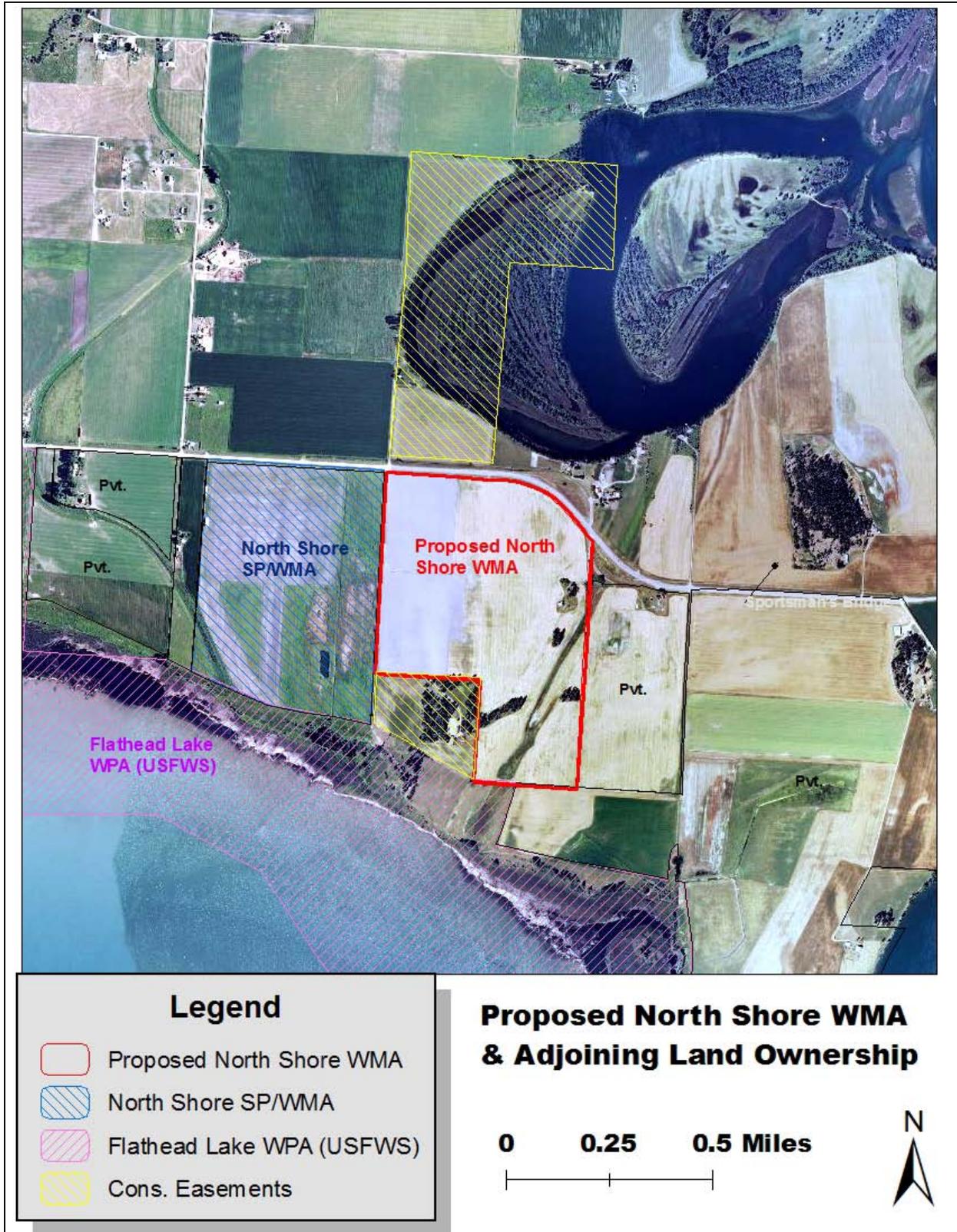


Figure 2. Aerial view of the Proposed North Shore WMA and adjoining land ownership.

1.2 Justification

Most of the proposed land acquisition overlies a high water table that is less than two feet from the surface (NRCS 2012). Additionally, the west portion of property drains poorly in the spring and is subject to periodic sheet-water flooding (Figure 3). High ground water and seasonal flooding also occur on the adjoining MFWP lands as shown by data collected by the Montana Dept. of Transportation (MDT). MFWP believes that there is a high potential to restore functional seasonal or permanent wetlands in poorly drained areas of the proposed North Shore WMA property to increase the value of these lands for the thousands of migratory waterfowl and other birds and wildlife that move through or stay in the north shore area (Figure 4).



Figure 3. Aerial view of flooding in the spring on both sides of the road that lies between the North Shore SP/WMA and the proposed land acquisition in 2012.

Three years of Flathead Valley spring waterfowl surveys by MFWP and partners, discussions with local farmers, as well as MFWP's own experience with farming on the adjacent North Shore SP/WMA indicate that portions of productive croplands in the Flathead Valley, particularly those fields that often flood in the spring, provide an extremely important food resource to thousands of migratory waterfowl such as tundra and trumpeter swans, Canada geese, northern pintails, mallards, and American wigeon (Figure 4). Spring migrants need high quality forage during migration to arrive in nesting areas in good shape for reproduction. The Flathead's valley farms and wetlands comprise an important stopover area for many waterfowl species. During the fall, these same croplands also provide an important food resource for waterfowl species that migrate back through the Flathead Valley. The valley's productive croplands combined with riparian/wetland habitats provide important habitat for other species including upland game birds and white-tailed deer.

Due to the high importance of Flathead Lake and the high diversity of habitats across the north shore, this area supports a high number and diversity of birds (Figure 4). Based on data collected by the American Bird Conservancy and local expert birders, Montana Audubon designated the North Shore as an Important Bird Area in 2009. Over 229 species have been recorded for the general north shore area, of which 172 are regulars.



Figure 4. Migratory waterfowl foraging on flooded fields and residual barley hay in 2012 on the North Shore SP/WMA in 2011.

Important bird species of special concern that regularly occur in this area include nesting and wintering bald eagles and a recovering population of trumpeter swans. Additionally, this project falls within the Flathead River-To-Lake Initiative, a collaborative partnership with landowners, agencies, and nongovernmental organizations working to voluntarily conserve and restore the lands along the Flathead River mainstem from Columbia Falls south to Flathead Lake and along the north shore of Flathead Lake.



Figure 5. Overview of diversity of wetland and bird habitat along the north shore of Flathead Lake from Somers, Montana.

The existing Flathead Lake and nearby Blasdel Waterfowl Production Areas (WPA) and North Shore State Park/WMA provide some of the only accessible waterfowl and upland game bird

hunting in Flathead Valley. The need to maintain habitat integrity of mixed agricultural and riparian/wetlands along the Flathead River and Flathead Lake are a priority for MFWP.

1.3 Objectives of Proposed Action (acquisition and future management)

Overall Objectives: The management objectives of the North Shore WMA are to:

- a. Protect the property's surface and ground water to benefit water quality in Flathead Lake and on-site aquatic ecosystems.
- b. Conserve, maintain, restore, and enhance riparian/wetland habitats to restore ecological functions and provide additional wildlife habitat and benefits.
- c. Maintain/enhance and potentially expand native upland habitat, e.g., ponderosa pine stands with native understory for nesting birds.
- d. Use/manage agricultural lands in a manner that provides a variety of wildlife habitats and improves wetlands or water quality.
- e. Maintain, to MFWP's best ability, all heritage and culturally important resources identified by the State Historic Preservation Office, Confederated Salish and Kootenai Tribes, or other professional entities.
- f. Allow seasonal public hunting, birdwatching, and other consistent uses.
- g. Provide educational/research opportunities consistent with the above objectives that do not negatively impact wildlife resources, habitat values, historical or cultural resources, or other related resource management activities.
- h. Be a "good neighbor" to adjoining properties and neighboring communities and contribute to the local economy.

1.4 Location

The property is located in Flathead County in T27N, R20W in Section 21 south of Montana Highway 82, about 1 mile west of Sportsman's Bridge between the communities of Somers and Bigfork. It is located about 7 miles southeast of Kalispell (Figures 1 & 2).

1.5 Future Management of the Property

Management of the proposed land acquisition must be consistent with the purpose of the fisheries mitigation program and the BPA-held conservation easement and would follow the guidance of the proposed draft Management Plan (Appendix B). The Management Plan is both a requirement of MFWP and BPA funding. BPA has already reviewed and approved this draft Management Plan.

1.6 Property Improvements

The current landowner must complete needed barn repair and maintenance actions such as fixing the roof, siding, Quonset hut, cupola, and painting the existing barn within the first year of the MFWP's acquisition as described in the purchase agreement. MFWP then proposes to improve the structure and property over time for security, parking, and access purposes, and to accommodate anticipated uses related to property restoration and management. Improvements would be done in conjunction with review by the BPA and the Montana State Historic Preservation Office. Some of the improvements will include an access gate(s) at the property

boundary, fenced parking area, walk-through gates, WMA signage, electricity and lights, and other security measures. Funding for these initial improvements would be available from MFWP and potentially BPA. Volunteer help may also be needed for some activities. Initial costs for administrative site improvements and exterior fencing may run up to about \$50,000.

To restore wetland and riparian habitat, MFWP will initially develop a riparian/wetland and upland restoration plan through a contractor. Once the plan is finalized, MFWP will look for various sources of funding for implementation of that restoration plan, including wetland mitigation funding, and BPA and other partner funding. MFWP would need to go through BPA/NEPA review prior to implementation of property improvements and habitat restoration. Unless the plans are significantly different from those described in the draft EA and associated Management Plan, MFWP would proceed with restoration plans without additional MEPA process.

1.7 Operations and Maintenance

Noxious weeds and fences would be managed by the farm lessees. Future lessees would provide wildlife forage/habitat as agreed upon in lease agreements. MFWP wildlife management program will cover annual property taxes and general annual property administration and maintenance costs, which are expected to be about \$5,000-\$7,500/year including property taxes that are currently approximately \$2,600/year.

1.8 Authority

The following laws and rules are applicable to the proposed action:

MFWP undertakes this action by authority of MCA 23-1-102, defining MFWP powers and duties regarding the acquisition of lands by fee or donation as state historical sites and recreation areas.

The Habitat Montana program authorized by MCA 87-1-241 (12.9.509 ARM) seeks to acquire properties in order to: 1) conserve land, water, and wildlife, 2) contribute to hunting and fishing opportunities, 3) contribute to nonhunting recreation, 4) protect open space and scenic areas, and 5) maintain the local tax base through continued payments of property taxes.

MFWP has the authority to purchase lands (MCA 87.1.209) that are suitable for game, bird, fish, or fur-bearing animal restoration, propagation, or protection; for public hunting, fishing, or trapping areas; and for state parks and outdoor recreation.

1.9 Relevant Plans and Overlapping Jurisdictions

2005 MFWP Comprehensive Fish & Wildlife Management Strategy: The property falls within a Tier One Focus Area (Flathead River Valley), which is one of the state's geographic areas of "Greatest Conservation Need" according to Montana's 2005 Comprehensive Fish & Wildlife Conservation Strategy (CFWCS). The proposed land acquisition contains at least two of the

habitat types identified by the Comprehensive Strategy for the Flathead Terrestrial Focus Area:
1) Grasslands (or potential grassland types) and 2) Riparian/Wetlands.

The North Shore area supports or has the potential to support several wildlife species that are of greatest or moderate conservation need as identified in this Strategy as described in Component III: Species of Greatest Conservation Need, page 188,
<http://fwp.mt.gov/fishAndWildlife/conservationInAction/fullplan.html>.

2007 Flathead County Growth Plan: The Growth Policy is a comprehensive planning document that provides guidance to all other plans and regulations administered by the county. It applies to all of Flathead County, excepting the incorporated cities of Kalispell, Whitefish, and Columbia Falls, and their respective interlocal agreement areas,
http://www.flathead.mt.gov/planning_zoning/growthpolicy2012.php.

Goals identified in the 2012 Flathead County Growth Policy that are assisted by this project are:

- 1) Land Uses
 - a. G.9: Define, identify, and list desirable characteristics of open space preservation.
 - b. G.11: Protection of scenic resources available to both residents and visitors.
- 2) Natural Resources
 - a. G.35: Protect and preserve water resources within the Flathead watershed for the benefit of current residents and future generations.
 - b. G.36: Protect water quality in lakes, rivers, aquifers, and streams from existing and potential pollution sources.
 - c. G.38: Preserve and protect floodplains to ensure the safety of residents' flood hazards and to prevent the degradation of water quality and wildlife habitat.
 - d. G.39: Preserve and protect wetlands and riparian areas to prevent the degradation of natural resources, including and not limited to water quality and critical wildlife habitat.
 - e. G.40: Protect sensitive areas over shallow aquifers.
 - f. G.41: Promote the preservation of critical fish and wildlife habitat and preserve the area's unique outdoor amenities and quality of life.

2008 MFWP North Shore State Park/Wildlife Management Area: This 2008 Management Plan for the parcel west of the proposed land acquisition provides a description of the purpose, objectives, and management strategies for the North Shore SP/WMA. Although the SP/WMA is a separate property managed primarily by MFWP's Parks Division in cooperation with the Wildlife Division, the management of the proposed new WMA would be compatible with future management of the North Shore SP/WMA as well as with the adjoining federal WPA.

Montana Audubon Important Bird Area Program: Due to documented high bird numbers and diversity, Flathead Lake's entire north shore was designated an Important Bird Area (IBA) by the Montana Audubon Society in 2009. The IBA's Program is a global effort to identify and conserve areas that are vital to birds and other biodiversity. By working with Audubon chapters, landowners, public agencies, community groups, and other nonprofits, Audubon endeavors to interest and activate a broad network of supporters to ensure that all IBAs are properly managed and conserved.

2010 Montana Bald Eagle Management Guidelines - An Addendum to the 1994 Montana Bald Eagle Management Plan: Bald eagles are known to nest near the proposed project areas and could potentially nest on project lands. The Management Guidelines were prepared in cooperation with the Montana Bald Eagle Working Group to provide recommendations for protecting bald eagle habitat and reducing the risk of potential violations of the federal Bald and Golden Eagle Protection Act, <http://MFWP.mt.gov/fwDoc.html?id=44181>.

Bonneville Power Authority (BPA): BPA is committed to mitigating impacts of the federal hydropower system on fish, wildlife, and habitat. As a result, BPA Integrated Fish and Wildlife Program funds projects to make dams safer for fish, restore damaged habitat, and protect threatened lands in the Columbia River Basin. BPA is providing funds for the purchase of this property to protect ground water, wetlands, and the water quality in Flathead Lake. Requirements of using BPA grant funds include MFWP granting a perpetual conservation easement held by BPA and potentially the right for BPA to acquire right-of-way easements for the transmission of electrical power in locations that will not impair the conservation values, <http://www.cbfish.org>.

National Environmental Policy Act (NEPA) and Montana Environmental Policy Act (MEPA): BPA is the lead entity for completing federal public review/NEPA process for the conservation easement acquisition. MFWP is the lead for completing public review under MEPA.

1.10 Decision to be Made

The decision that must be made is whether MFWP *should move forward with the proposed purchase of the 189-acre parcel subject to a conservation easement held by BPA (Appendix A) and manage this property as the North Shore WMA according to the draft Management Plan (Appendix B)*. Following completion of the draft EA and public comment period, the MFWP Region One supervisor will issue a decision notice that makes a recommendation to the MFWP Commission on a course of action. This course of action could be either the Proposed Action or the No-Action Alternative or an action that is within the scope of the analyzed alternatives.

As with other MFWP conservation projects that involve land interests, the MFWP Commission and the State Board of Land Commissioners would make the final decisions. This draft EA and the comments MFWP receives are part of the decision-making process.

2.0 Alternatives

2.1 Alternative A: Proposed Action - Acquisition of the Proposed North Shore WMA Property

MFWP would purchase the proposed property using BPA fisheries mitigation funding subject to a BPA-held conservation easement (Appendix A) and manage the property for the benefit of fish and wildlife values as a wildlife management area according to the draft Management Plan (Appendix B).

2.2 Alternative B: No Action and No Conservation Easement

The No-Action Alternative for this project is described as MFWP not purchasing the 189-acre parcel. The landowner would likely advertise the property once again on the real estate market

for a new buyer. The landowner would not consider selling or conveying a conservation easement on the property prior to a future sale.

2.3 Alternative Considered but Eliminated from Further Analysis

The landowner expressed an interest in only selling the entire property at this time; therefore, the conservation easement alternative was considered but eliminated.

3.0 Affected Environment

3.1 Habitat

This project area includes a small amount of grassland-shrubland and idle ground (1-2 ac), ponderosa pine/snowberry habitat (4 ac), and riparian/wetland (11 ac) habitats. The barn and access area take up another 2 acres. The remainder of the land is currently used as cropland (about 165-170 ac) and has been in agricultural production since the early 1900s (wheat, barley, canola, and some livestock). The property contains over 90% prime agricultural soils and includes an old river channel (wetland) that runs toward Flathead Lake; it also overlays about 90 acres of shallow aquifer. Because of historical use primarily as agricultural land, sensitive or threatened plant species are not likely to exist on the property.

Based on National Wetlands Inventory, field survey, and aerial photography, there are currently approximately 6 acres of emergent wetlands on the property located within the abandoned river channel (Figure 5).

High ground water appears to dominate this area due to low and flat topography, the influence of Flathead Lake and Flathead River, and often significant spring snow melt and runoff that creates sheet water. Based on the last few years of spring bird surveys and flights, MFWP estimates up to 23 acres of agricultural lands are seasonally flooded. The lidar elevation data indicate that the east portion of the property was leveled and ditched to further aid in dewatering the property in the spring.

The property borders the federal Flathead Lake WPA for about 500 ft. The 2,370-acre WPA contains extensive wetlands and stands of aspen, cottonwood, and ponderosa pine and comprises the vegetated shoreline of Flathead Lake for about 6 contiguous miles (Figure 6). The shallows, wetlands, and seasonal mudflats along the Flathead Lake WPA provide important foraging and resting areas for thousands of migratory birds moving through intermountain valleys of the Northern Rockies during spring and fall. The proposed land acquisition also provides resting and foraging habitat for migratory birds, and it provides an important nondeveloped buffer for Flathead Lake.

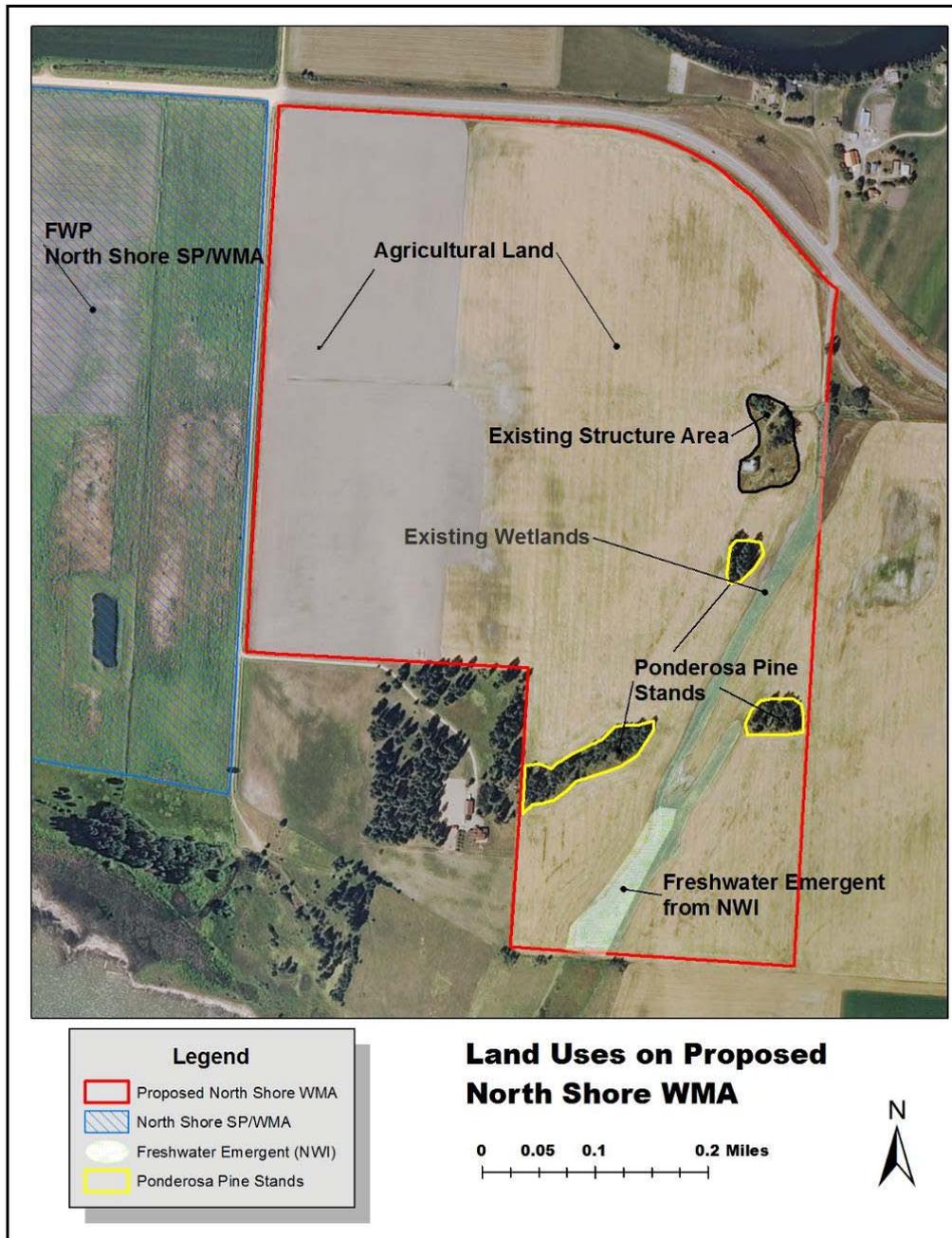


Figure 6. North Shore WMA Property showing habitats, seasonally flooded areas, and developed areas.

The majority of the surrounding private lands are used for hay and crop production. However, high density developments exist along the WPA boundary on the east side of the Flathead River and in and around Somers, with scattered, increasing commercial and residential development along Highway 82.

The North Shore is also an important area of fish and wildlife habitat, open space, excellent views, seasonal recreation, and connectivity across the Flathead Valley. In addition to high numbers of birds, landowners have reported elk, mountain lions, and bears in this area. With the

existing rural nature of this land, plus the protected areas, there is a potential link or path for wildlife moving between the Swan and Salish Mountains.

There are small areas of noxious weeds (i.e., Canadian thistle and spotted knapweed) within the property, primarily around the barn, along the river channel, and among the ponderosa pine.

3.2 Terrestrial Species

Species of Special Concern: There are 13 Species of Concern that likely occur or have the potential to occur on the proposed land acquisition (Table 1).

Table 1. List of Species of Special Concern that are likely to occur on the proposed land acquisition.

Species of Special Concern Likely to Occur on the Property	
Golden Eagle	Lewis’s Woodpecker
Great Blue Heron	Peregrine Falcon
American Bittern	Great Gray Owl
Brown Creeper	Veery
Trumpeter Swan	Bobolink
Black Tern	Hoary Bat
Pileated Woodpecker	

Birds: Due to documented high bird numbers and diversity, Flathead Lake’s entire north shore was designated as an Important Bird Area (IBA) by the Montana Audubon Society in 2009. Spring waterfowl counts on this and nearby properties and along Flathead Lake shoreline include peak single-day counts of over 10,000-15,000 northern pintail, American wigeon, mallard, Canada goose, and tundra and trumpeter swan. Other abundant migrants that use the flooded agricultural fields include green-winged teal, northern shovelers, cinnamon teal, and several species of shorebirds, such as greater yellowlegs and various sandpipers. Overall, a minimum of 229 bird species are known to occur within the IBA, and 172 of these are regular, common, or abundant seasonally.

The lake, shoreline, wetlands, open space, croplands, and grasslands, along with presence of migratory waterfowl, upland game birds, and small mammal populations, create excellent habitat for a high diversity and number of wintering/migrating raptors such as snowy owl, short-eared owl, ruff-legged hawk, northern harrier, red-tailed hawk, merlin, peregrine and prairie falcon, kestrel, sharp-shinned hawk, and golden and bald eagles. Nesting raptors include northern harrier, red-tailed hawk, osprey, and bald eagle.

The area is important to ring-necked pheasants, wild turkey, and gray partridge, actively hunted throughout the valley where the public can get access (which is severely limited). The mature ponderosa pine stands may support pileated woodpecker and brown creeper. The riparian/wetlands support a number of nesting passerines, including yellow warbler, McGillvary’s warbler, yellow-headed and red-winged blackbirds, marsh wrens, and common yellow-throat.

Bald eagles are considered a Special Status Species. There are four known and currently active bald eagle nesting territories along the north shore of Flathead Lake; two are located between the Flathead River and Somers, including one nest site that is located adjacent to this parcel, and two nests east of Flathead River. The federal WPA is currently closed from March 1 to July 15 each year to provide secure resting and nesting habitat for waterfowl, and this also helps provide security to nesting bald eagles. Bald eagles use the project area year-round, feeding on fish, waterfowl, rodents, and occasional animals that have been hit by vehicles along Highway 82.

Mammals: Listed by the FWS as threatened and a Tier 1 mammal species, grizzly bears are known to frequent the Flathead Valley river sloughs and wetlands in the spring and fall, utilizing wetlands, choke cherries, and hawthorn berries. MFWP has radio telemetry locations of several bears taking late summer and fall excursions into the valley along the Flathead River not far from the proposed acquisition.

The proposed property includes important year-round habitat for white-tailed deer and occasional habitat for black bears, mountain lions, and elk that may periodically pass through the area. Numerous species of small mammals that use this area would include coyote, red fox, raccoons, skunks, Columbian ground squirrels, western pocket gophers, yellow-bellied marmot, voles, and mice. No inventories of bats have been undertaken to date, but several different species are likely to feed above the property at night and some may roost in the trees and barn. Semi-aquatic furbearers found along the North Shore include muskrats, river otter, beaver, and mink.

The North Shore area is also an important area of connectivity across the Flathead Valley, linking much larger blocks of habitat in the Swan and Salish Mountains. Over the years, landowners along the north shore of Flathead Lake have reported elk, mountain lions, and bears moving through this area.

Amphibians: Western toad, a Species of Special Concern, may occur or have the potential to occur on the property's wetlands. Long-toed salamanders may also be present. Northern leopard frogs have been extirpated from the Flathead Valley but occurred here in the past. This property may be a place for potential northern leopard frog reintroduction in the future.

Invertebrates: There are also many species of dragon/damselfly listed as potential species of special concern that may also occur on the proposed project lands

3.3 Fisheries Species and Water Resources

The south property boundary is located about 800 feet from the high water mark of Flathead Lake; the property is separated from the Flathead Lake WPA by a dike and marsh along the south property line. Important fish species in Flathead Lake include bull trout, a species listed as threatened under Endangered Species Act. The North Shore is an important summer feeding area for bull trout that are drawn to this area when the yellow perch spawn. Flathead Lake also supports year-round habitat for westslope cutthroat trout and pygmy whitefish, both species of special concern. Other native fish that use Flathead Lake include mountain whitefish, northern pike minnow, and largescale sucker. Flathead Lake also supports numerous nonnative sport fish including lake trout, Lake Superior whitefish, yellow perch, and northern pike.

There are no recorded water rights for this property, although there was a historic shallow domestic well located on the property in the past. The old river channel is about ½-mile long, but does not flow directly into the lake. Based on the two types of soils (Chamokane and various types of silty clay loams) found within the property, depth to the water table ranges from 24 to 60 inches (NRCS Soil Survey 2012). The entire property is within a 500-year floodplain (FEMA 2007).

3.4 Recreation Opportunities

Current public recreation (limited hunting) on the property is through landowner permission. The proposed project is adjacent to the federal Flathead Lake WPA, which provides recreation seasonally for hiking and approximately 1,000 hunter days each fall, with much of the use occurring at the start of the waterfowl and upland game bird seasons. The WPA is also used for summer, fall, and winter birdwatching, winter shoreline walking, and winter X-country skiing. The WPA is closed to public use from March 1 to July 15 annually. MFWP's adjacent North Shore SP/WMA is also open to public uses from July 15 to the end of February and closed March 1 to July 14.

3.5 Public Access

The property is currently accessible by Montana Highway 82 and a short county road (Fennon Way South). Public access would be managed similar to the adjoining North Shore State Park/WMA and the federal WPA, and the property would be open to the public for hunting and other wildlife-related activities from July 15 to March 1 each year. More details about public uses are described in the attached draft Management Plan.

3.6 Buildings and Other Improvements

There are no residences on this property as the original home site has already been removed. Only one residence borders this property to the southwest. There are public lands on two boundaries (MFWP and FWS). Boundary fencing exists on a portion of the southern and western edges of the property.

The farm includes a large, highly visible barn that has been determined eligible for historic listing according to Montana's State Historic Preservation Office (Figure 6). The current landowner has agreed to complete needed repairs and maintenance on the building as part of the purchase agreement. The maintenance will help ensure the structure remains intact for many more years. Two old windmills are also present on the property and will not be removed or impacted by this proposal. The needed repairs and maintenance activities will not cause any adverse effect on historic or cultural resources; this determination has been reviewed and supported by the State Historic Preservation Office.

MFWP plans to use the barn for administrative uses and storage of farm and land management-related items. MFWP may provide temporary housing on the site for specific management-related activities or for security. After the property is acquired, MFWP has no plans to change the footprints or exterior characteristics of any of the structures. MFWP proposes to undertake minor improvement activities around the barn area, such as graveling the access area, providing lights and power to the building, improving access to the Quonset hut, and adding security

measures. We may also consider minimal interior work such as filling the interior trenches of the barn with gravel, adding internal doors, removing hog pen fencing, and adding internal storage units or shelves as needed. MFWP would work closely with the State Historic Preservation Office, BPA, and other cultural/historic professionals before undertaking any improvements or repairs and maintenance to avoid any significant impacts to cultural or historic values. MFWP will not be obligated to restore the barn or other structures. At some point, the barn and other structures may be allowed to deteriorate naturally.

MFWP will continue to work with the State Historic Preservation Office and BPA to protect the historical resources of this property as well as with the local museum and others on management of this structure and associated historical resources.



Figure 7. Existing barn and windmill on the proposed land acquisition.

4.0 Predicted Environmental Consequences

4.1 Physical Environment

4.1.1 Land Resources

Proposed Action: Under the proposed action and Management Plan there would be no long-term impacts to land resources. There may be short-term, minor impacts associated with any future wetland restoration efforts associated with filling existing ditches and restoring wetlands. Almost 90% of the property is classified as silty clay loam, which has a farmland designation of prime

farmland if irrigated. Continued farming practices through leases or other agreements may also cause short-term temporary impacts (dust) under windy conditions during plowing and seeding. Farmers will use accustomed farming practices to reduce risks of wind erosion, and fertilize and rotate crops to replace soil nutrients. MFWP may establish permanent ground vegetation along the edges of existing cropland fields (where there is no permanent cover now) to increase snow retention, minimize impacts to soils, and provide vegetative buffers along wetlands. MFWP will not need to construct any new permanent roads for access to the property. MFWP will need to design both public and administrative parking areas. MFWP may need to develop vegetated or two-track roads for temporary or permanent access to restored areas and for farming. MFWP will not allow general public motorized use on the property except to and from the designated parking areas. Motorized activities will be limited to farming and land management. In the future, MFWP plans to install wildlife-friendly fences around parking and barn areas and possibly along property lines to mark property boundaries. MFWP may also use deer-exclusion fencing from newly planted vegetation. These activities will not affect the land resources.

No Action: Under the No-Action Alternative, it is likely this property would be sold to a buyer that could develop some or all of the acreage for one or more residences. Such development would likely require soil-disturbing activities for construction of access roads and driveways, buildings, septic systems, and utility connections.

4.1.2 Air Quality

Proposed Action: Under the Proposed Action, there would be no direct changes to the ambient air quality in the short term since land use would remain the same with seasonal crop management. However, in the long term the air quality may improve slightly if portions of the existing croplands are returned to wetlands and natural vegetation. Walk-in use by visitors is not expected to impact air quality.

No Action: Under the No-Action Alternative, potentially the property's new owner could allow for land uses that could have negative effects to air quality, including construction of additional roads and structures that could increase particulate in the air.

4.1.3 Water Resources

Proposed Action: Under the Proposed Action, once wetland restoration efforts were completed, seasonally flooding or permanent wetlands on portions of the property would be allowed. Existing ditches would be filled and water directed to low area to create/enhance habitat values for waterfowl and other species. The design will ensure flooding of adjoining landowners properties would not occur.

No water rights are registered in the Montana Department of Natural Resource and Conservation Water Rights database attached to this property. If any water rights are found to exist in the future, they would be transferred to MFWP and retained to benefit the conservation values of the property.

No Action: Under the No-Action Alternative, it is unknown if or how the water resources would be affected by new ownership. There may be no change, or there may be new developments. If maintained as agricultural land, seasonal flooding may continue and its effects managed by

ditches or other means. If the land is developed for residential use, local groundwater resources may be impacted by construction of roads, building sites, wells, septic systems, and topographic/hydrologic changes to encourage water flow away from structures. Should the property be developed, the development may increase the potential for contamination of the ground water and Flathead Lake.

4.1.4 Vegetation

Proposed Action: About 87% (165 acres) of the proposed acquisition is currently being farmed. In the short term, MFWP will honor the existing contract between the current landowner and farmer on the current agricultural lands. In exchange for this lease, the current lessee will leave food and cover plots for wildlife and manage weeds and fences. MFWP does not anticipate any grazing as a management tool for the property at this time.

As the farm leases are renewed through our public bidding process, MFWP would begin to gradually restore native vegetation along the wetlands and on croplands. MFWP will first complete more detailed wetland and upland restoration plans and then gradually implement those plans consistent with the Management Plan (Appendix B). MFWP anticipates that commercial farming leases that provide additional food and cover for wildlife will continue on about 100-120 acres of the property consistent with the Management Plan. The lessee will manage noxious weeds on the farmland and either or both the lessee and MFWP will manage the weeds on the restored lands. As a result of these measures, the quantity and quality of native vegetation on the property is expected to improve over time.

No Action: The level of risk is unknown because the future impacts to the resources would be dependent on the desires of the property's new owner. Vegetation resources may be altered if a residence or multiple residences are constructed, or vegetation may stay at existing levels if crop production is continued and seasonal flooding is allowed at its current level. The intensity of noxious weed control by another owner is also unknown, but would be subject to the same state laws as it would be under the proposed action.

4.1.5 Fish and Wildlife Resources

Proposed Action: If MFWP were to acquire this property, it would be for the benefit of its permanent and transient terrestrial species and for aquatic or other species that use wetlands and Flathead Lake. Short term, impacts are expected to be minimal since the land would continue as cropland until the habitat restoration plans (see 4.1.1 for additional information) are designed and implemented (3-10 years in the future). Once a habitat restoration plan is implemented, it is expected that improvements in habitat values would increase the carrying capacity for waterfowl, game birds, and other wildlife species.

Hunting (primarily waterfowl and upland game bird) would be one of the allowable uses on the property, so some disturbance by legal hunting of wildlife is expected, but it will be administered under annual hunting regulations that also guide public recreational opportunities and public safety on adjoining public lands. Trapping may also be allowed, but only by one permitted individual. There would also be seasonal and other limitations set by MFWP based on wildlife needs and public uses as described in the Management Plan.

The new WMA would be open for only day-use and walk-in activities from July 15 to March 1 each year. The public uses may be directed to areas so that this use will not damage crops, newly seeded areas, or restored areas. The WMA would be closed to the public between March 1 - July 15 during bird migration and nesting seasons, which would be consistent with the seasonal closure of the adjacent federal waterfowl production area and adjoining North Shore SP/WMA. This seasonal closure would also benefit other wildlife species by minimizing public disturbances during their birthing season.

The proposed acquisition and future plans for enhancing of wetland habitats are consistent with the priorities for the Montana Comprehensive Fish & Wildlife Conservation Strategy (2005), North American Waterfowl Management Plan (2012), the Columbia Basin Fish and Wildlife Program (ongoing), the Intermountain West Regional Shorebird Plan (2013), and the US Shorebird Plan (2000). It supports the North American Waterfowl Management Plan Implementation Framework's population and habitat objectives for priority waterfowl species by protecting important nesting and migration habitats.

In addition to contributing to the goals of the aforementioned plans, MFWP's acquisition of the property would contribute to the protection and conservation of the North Shore Important Bird Area and other priority bird habitats within the Flathead Basin. The Glaciated Valleys of Northwest Montana partnership as part of the Intermountain West Joint Venture (Intermountain West) have designated the North Shore of Flathead Lake one of the 22 priority bird habitat conservation areas in the western portion of Montana in their *Coordinated Implementation Plan for Bird Conservation in Western Montana* (2004). The Intermountain West objectives for Montana are for no net loss of wetlands and protection, restoration, and/or enhancement of 292,658 acres by 2015. This project would contribute toward these goals and is consistent with the additional objective to "*emphasize projects that include associated priority upland habitat types (grassland, shrub steppe, riparian).*"

Given the level of population growth occurring in the county, the proposed acquisition would preserve a portion of a habitat connectivity area that currently allows wildlife to move between the Swan and Salish Mountains. The populations of the nearby communities of Somers and Bigfork have increased 99% and 200%, respectively, between the 2000 and 2010 US Censuses (CEIC 2013). Additionally, the overall population of Flathead County has seen an increase of 22% for the same period, all of which can lead to fragmented habitat patches.

The Flathead Valley once supported strong populations of leopard frogs as well as western toads. Due to many reasons, including habitat alterations, chemicals, introduced species, and disease, leopard frogs have all but disappeared from western Montana. Both of these species are Tier 1 and were common throughout the Flathead Valley in association with the Flathead River and wetland complexes. The Confederated Salish and Kootenai Tribes (CSKT) have successfully reintroduced leopard frogs within the reservation boundaries. MFWP would like to develop a leopard frog conservation and restoration plan at some point in the future, while MFWP staff continues to monitor existing populations. Reintroduction efforts on the Flathead Indian Reservation indicate more rapid metamorphosis and good survival in warmer streams and sites in the absence of spotted frogs. Permanent protection of ponds and wetlands along the North Shore could help provide future reintroduction and conservation efforts for leopard frogs and/or

western toads. The FWS has been petitioned to perform a preliminary review of the status of leopard frogs in the western states.

No Action: Without the protection of the BPA conservation easement and the purchase of property by MFWP, the property may be kept in agricultural production, which would likely maintain its wildlife habitat values. However, given the increasing population trends for nearby communities of Somers and Bigfork, there is the likelihood that this property would be converted to a single residence or to commercial property or subdivided into multiple residences in the future. If that were to occur, wildlife habitat could be negatively impacted by the construction of homes, roads, necessary infrastructure (utilities, septic, etc.), and changes in available preferred vegetation. With such disturbances, wildlife may avoid the property entirely, looking for more suitable habitat elsewhere, or use of the property by wildlife may decrease. Water quality impacts associated with such residential development could adversely impact important fisheries resources along the north shore of Flathead Lake.

4.2 Human Environment

4.2.1 Noise and Utilities

Proposed Action: The proposed acquisition would likely result in more people visiting the new WMA over time, particularly during certain times of the year (hunting and winter seasons), thus potentially increasing the noise level within a localized area.

The federal WPA is open to hunting, thus seasonal increase of noise is accepted in the local area. The noise effects within and near the proposed new WMA are expected to be similar to those of the WPA with seasonal use of shotguns. Effects of general public noise to adjoining private landowners is expected to be minimal, yet if concerns arise, MFWP would evaluate the potential for changing hunting opportunities on the property in order to mitigate landowner concerns.

BPA's conservation easement will allow for placement of a future high voltage transmission line across or on this property if there are no other ways to avoid such placement. MFWP will be able to work with BPA to site such transmission line in a way that minimizes impacts to resources and public uses of the property.

No Action: If another buyer purchased the property, this could result in some type of development, which might cause an increase in noise and electrical effects, both short-term and long-term, both on the property and in the immediate area depending on the type or extent of development.

4.2.2 Land Use

Proposed Action: The majority of the property has been used for crop production for many years. This land use will continue on most of the property for the next two growing seasons. As restoration occurs on the property, the acreage actively farmed for crops will gradually decrease; however, farming will continue to be an integral and important land use in the future management of the North Shore WMA. Agricultural practices will be applied in a way to provide important annual food resources and nesting cover for migratory birds and other wildlife.

During the next few years, MFWP proposes to contract with a consultant to develop a detailed habitat management and restoration plan for the property consistent with the conservation easement and Management Plan to guide future habitat restoration efforts. Future restoration efforts may include restoring 20-30 acres of agricultural land to seasonally or permanently flooded wetlands and grasslands for the benefit of nesting and feeding areas for wildlife. The wetland restoration will also include adding about 10 acres of riparian woody vegetation along existing wetlands to also enhance the habitat values and restoring upland ponderosa pine stands (Appendix B, Management Plan).

The primary access point into the property is via a gravel county road (Fennon Way South) off of Highway 82 that will direct vehicles to a parking area. This access route would continue to be the access point for public and administrative uses of the property. No new access points for motor vehicles are expected to be established at the WMA. Motor vehicles would be prohibited from driving into the interior of the new WMA, with the exception of MFWP administrative uses and lessee/farming or legitimate subcontractor uses.

Under MFWP management, the barn and administrative site may be used for storage of equipment, machinery, fences, plants and planting materials, seed, or other items needed for land, property, or fish and wildlife management. The entire property may also be used during the open season for nonprofit educational purposes through a no-cost permit from MFWP or for educational purposes by MFWP staff. Educational uses during the closed season will be primarily limited to the administrative area or administered by MFWP staff. Agricultural and restoration or other land management uses by MFWP or its contractors will be allowed during the closed season only as needed.

The BPA conservation easement generally prohibits commercial activities or commercial uses of this property unless BPA approves such activities through the Management Plan or other formal legal agreements. Farming and other agricultural uses that benefit wildlife would be allowed by MFWP and its lessees as described in the Management Plan because this has been approved by BPA. If other commercial activities were proposed or identified that would promote or benefit the conservation and resource values, it would need to be first approved by BPA and implemented consistent with MFWP's Commercial Use Rules, ARM 12.14.101, and Management Plan or other agreement.

No Action: If a buyer other than MFWP were to acquire the property, the land use may stay the same or it could change to development with one or more additional private residences. These activities could pose threats to wildlife, vegetative resources, and ground water quality, but at what level those threats would occur is unknown and would be based on the intensity of development.

4.2.3 Risk and Health Hazards

Proposed Action: Under MFWP management, herbicides/fungicides/pesticides could be used to reduce, control, or eradicate noxious weeds or other pests on the property, as per the Region One Weed Management Plan and with the approval of the County Weed District. Use of chemicals would be limited to minimum amounts and least toxic substance needed to address the issue or infestation. Trained, licensed professionals would conduct chemical treatments and storage/use

of chemicals in accordance with proper operating procedures and label instructions to minimize potential unintended consequences to wildlife, vegetation, neighbors, and visitors to the property.

A hazardous materials survey was completed for the property to fulfill a requirement of using BPA funds for the purchase. Hazardous materials mean any petroleum products, waste oil, corrosive or ignitable materials, or toxic substances. Results of the survey indicate there are no hazardous material concerns with this property.

Inherent risks are associated with hunting and recreational activities. MFWP would monitor the area for any increase in hazards and provide educational materials and law enforcement patrols to promote safe and responsible use of this property, just as the department does on its adjoining property and how other enforcement personnel manage the neighboring federal lands. Management of new or increasing hazards could be managed by MFWP through changes of allowable uses within the property, such as creating no-hunting buffers around neighboring residences or providing additional patrols by MFWP wardens and working in cooperation with local law enforcement.

No Action: If MFWP does not purchase the property, it is unknown if any new risk or health hazards might occur.

4.2.4 Aesthetics and Recreation

Proposed Action: MFWP acquisition of this property would help protect the open space and aesthetic values along the north end of Flathead Lake that are consistent with the County Growth Policy's goal of G9 and G11. Additionally, the acquisition would be consistent with the county's designation of Highway 82 as a scenic corridor.

Recreational opportunities on the property would increase over current levels during the time when the WMA would be open (July 15 to end of February) under MFWP management. Recreational uses would be managed so as not to impact wildlife, waterfowl use, and other important habitat values and would be compatible with wildlife, water quality, and habitat values of this parcel, the neighboring North Shore SP/WMA, and the federal WPA. Allowable uses would include activities such as wildlife viewing, hiking, education, hunting, and trapping that are consistent with the purposes of the acquisition and conservation easement.

General public access rules for MFWP's new North Shore property would mirror that of the Flathead Lake WPA and adjoining North Shore SP/WMA in that public use would be restricted during the bird migration/nesting season (March 1-July 14), but open for public hunting, birdwatching, hiking, and other dispersed uses during the balance of the year.

MFWP's future restoration of riparian/wetlands and uplands would increase habitat diversity on the site. This may add to enjoyment of users; it may also change the views. However, much of the property will remain in various types of agricultural production so that views from the highway will remain similar to what they are today.

MFWP would install informational and regulation signage to help minimize trespass, vandalism, and resource damages, and hopefully reduce risks or rates of potential violations. If persistent

violations occur or resources are damaged, MFWP would evaluate the need to adjust rules, increase security or enforcement, or restrict allowable uses on the property to decrease resource impacts. If user conflicts arise, MFWP would also evaluate the needs of the users and make adjustments in the rules or the allowable uses consistent with the purpose of the acquisition and conservation easement.

No Action: Changes in ownership may result in changes to the natural areas, area aesthetics, and recreation opportunities depending on desires of a new landowner. If the area remained in agricultural land uses, the scenic and aesthetic values would be maintained.

4.2.5 Public Services, Taxes, and Community Impacts

Proposed Action: With the proposed acquisition, MFWP would become responsible for payment of property taxes to Flathead County. Taxes paid in 2012 were \$2,052.

The existing workload of the regional MFWP wildlife management and enforcement programs would likely increase with this acquisition. The increased workload would be partially absorbed by existing staff with specialized work to be contracted out. Some of the ongoing land management duties will be the responsibility of the lessee.

Increased public recreational activities on the property could also result in occasional need for emergency services such as search and rescue, emergency medical services, local law enforcement, and fire control and suppression. The property would remain within the jurisdiction of the Big Fork Emergency Response District and the Somers Fire District; however, the Montana Department of Natural Resources typically provides fire suppression coverage for MFWP-owned properties.

MFWP anticipates use of the new WMA portion of approximately 250 hunter days per year and 500 wildlife-viewing days. These additional days of use may translate into increased expenditures by hunters and wildlife viewers in the area for fuel, equipment, food, etc., in Somers or other nearby communities.

The proposed acquisition would support 8 of the 49 goals set forth in the Flathead County Growth Plan that focus on preserving aesthetic values (i.e., open spaces and wildlife habitat) of the county for the benefit of residents and visitors, protecting water resources, protecting important fish and wildlife habitat, protecting wetlands and riparian areas, and preservation of the character of rural areas.

No Action: There would be no change in public services, taxes, and community if another buyer purchased the property and continued to farm it. However, if another buyer purchased the property and converted it from agricultural use to residential use, Flathead County could receive increased tax revenues, but with any new development, the county would also experience increased demand for public services to the location for new residences. However, the exact public service and utility needs of another buyer is unknown. There may be potential for a short-term economic benefit through some type of development and additional home housing construction or real estate sales if the property is sold to a developer for subdivision, but they may be offset by increased cost of public services.

4.2.6 Cultural and Historic Resources

Proposed Action: The current landowner provided the State Historic Preservation Office (SHPO) with detailed information about the original homestead, barn, and other structures. The SHPO believes that the barn and the property may both be eligible for listing as a historic site.

MFWP plans to maintain this existing barn on the property for use as an agricultural structure and has worked out a plan with the landowner for the needed repairs and maintenance. The repairs include actions such as fixing the roof, siding, and cupola; securing the windows and doors; and painting the exterior. These actions will help ensure the barn is in good condition for the next 10-20 years. MFWP and the landowner have worked closely with the architect at the State Historic Preservation Office to develop repair and maintenance plans that will have no negative effects on the historic or cultural values of the property. The State Historic Preservation Office supports this determination. The repair and maintenance plans and the State Historic Preservation review have been submitted to BPA for their review. The proposed project proposal has also been sent to the Confederated Salish and Kootenai Tribes Historic Preservation Office and Salish and Kootenai Cultural Committees. If any of these entities provide additional information about the cultural or historic resources as part of this proposed action, MFWP will take that information into consideration in the final EA and Management Plan.

MFWP will continue to work closely with BPA cultural/historic staff and the SHPO for all plans regarding the property to minimize impacts to any cultural/historical resources.

No Action: It is unknown if or how unrecorded historic sites would be affected by the activities of another owner other than MFWP because current state antiquities laws do not require private enterprises to conduct cultural resource surveys prior to development.

4.3 Cumulative Effects

The acquisition of the property by MFWP would contribute to the preservation and restoration of riparian and wetland areas for the benefit of waterfowl along the North Shore of Flathead Lake, in conjunction with ongoing habitat restoration and preservation efforts at the adjacent WMA/SP and WPA. Ongoing riparian and wetlands restoration efforts would have a positive impact on other species that need those habitats for forage, shelter, and roosting. The proposed project will also help maintain historic and cultural values by maintaining the property as open space, providing the resources for repair and maintenance of the barn, and protecting the property from future development.

5.0 Need for an Environmental Impact Statement

Based on the significance criteria evaluated in this EA, is an EIS required? No. The proposed acquisition would affect 189 acres in perpetuity. Important riparian and wetlands would be protected and restored for the benefit of waterfowl and other wildlife species; the property would

be available and open seasonally to the public, and a historical structure will be improved and maintained into the future.

This environmental assessment revealed no significant (negative or positive) impacts from the proposed action and identified a very limited number of minor impacts from the proposed action. The significance criteria described in Montana Administrative Rule 12.2.431 were used in this determination. Based upon the above assessment, an EIS is not required and an environmental assessment is the appropriate level of review.

A limited number of minor impacts from the proposed action were identified in this assessment such as the restoration of riparian and wetlands in the future, ongoing agricultural uses, and new seasonal recreation opportunities, all of which are consistent with the terms of the existing BPA conservation easement.

6.0 Public Participation

6.1 Public Involvement

Public notification of the EA release and opportunities to comment will be by:

- A statewide press release.
- Two legal notices in each of the local papers: the *Bigfork Eagle*, and Kalispell's *Daily Inter Lake and Flathead Beacon*.
- Direct mailing to adjacent landowners and interested parties.
- Public notice on the Fish, Wildlife & Parks web page: <http://fwp.mt.gov>.
- An e-mail to elected officials, governmental agencies, and tribes.
- **An open house/public hearing beginning at 6 p.m. on Tuesday, August 20, 2013, at the Flathead Lake Inn and Suites** (formerly the White Oak Hotel) located at the junction of Highways 93 and 82 near Somers.

Copies of this EA will be available for public review at MFWP Region One headquarters in Kalispell; the libraries in Bigfork, Kalispell, and Lakeside; the Montana State Library in Helena; and on the MFWP web site (<http://fwp.mt.gov> under Public Notices).

This level of public notice and participation is appropriate for a project of this scope, having few and limited physical and human impacts.

6.2 Comment Period

The public comment period will extend for 30 days beginning August 1, 2013. Written comments will be accepted until 5:00 p.m., August 31, 2013, and can be mailed to the address below:

North Shore WMA Acquisition
Montana Fish, Wildlife & Parks
Region One Headquarters
490 N. Meridian Road
Kalispell, MT 59901

or e-mail comments to: Nancy Ivy at nivy@mt.gov

6.3 Approximate Timeline of Events

Public comment period	August 1- 31, 2013
Decision notice published	Mid-late September
Project submitted to Commission (if Alternative A is recommended)	October 10, 2013
Project submitted to Montana Land Board	October 21, 2013

6.4 Offices & Programs Contributing to the Document

Bonneville Power Administration
Montana State Historic Preservation Office, Helena, MT

7.0 EA Preparers

Gael Bissell, MFWP Wildlife Biologist, Kalispell, MT
Rebecca Cooper, MFWP MEPA Coordinator, Helena, MT
Candace Durran, MFWP Lands Agent, Helena, MT
Kris Tempel, MFWP Fisheries Technician, Kalispell, MT
John Vore, MFWP Wildlife Biologist, Kalispell, MT
Alan Wood, MFWP Wildlife Mitigation Coordinator, Kalispell, MT

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Appendix A

AFTER RECORDING, RETURN TO:

Bonneville Power Administration
Real Property Services, TERR
Re: [Insert BPA Tract No.]
P.O. Box 3621
Portland, OR 97208-3621

(Draft) DEED OF CONSERVATION EASEMENT

THIS DEED OF CONSERVATION EASEMENT is executed this ____ day of _____, 20____, by MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS (“MFWP” or “Grantor”), whose address is 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0710, in favor of the United States, acting by and through the Department of Energy, Bonneville Power Administration, based in Portland, Oregon (“the Grantee” or “BPA”), headquartered in Portland, Oregon, at P.O. Box 3621, Portland, OR 97208-3621. MFWP and BPA together may be referred to as the “Parties

WHEREAS, BPA is a power-marketing agency having legal obligations under the Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. §§ 839-839h (“**Northwest Power Act**”) to protect, mitigate, and enhance fish and wildlife, including related spawning grounds and habitat, affected by the development and operation of Federal hydroelectric projects of the Columbia River and its tributaries, in a manner consistent with the purposes of the Northwest Power Act, the Fish and Wildlife Program adopted by the Pacific Northwest Electric Power and Conservation Planning Council under subsection 4(h) of the Northwest Power Act (16 U.S.C. § 839b(h)), and other environmental laws, including the Endangered Species Act, 16 U.S.C. §§ 1531-1544 (“**ESA**”); BPA has the authority pursuant to the Northwest Power Act, 16 U.S.C. §§ 839b(h) and 839f(a), the Federal Columbia River Transmission System Act, 16 U.S.C. § 838i(b), or the Bonneville Project Act, 16 U.S.C. §§ 832a(c) through (f), to acquire real estate or to assist in the acquisition and transfer of real property interests; and

WHEREAS, BPA, in accordance with several agreements entered into with Montana (the “Memorandum of Agreement Between the State of Montana, the Bonneville Power Administration, the U.S. Army Corps of Engineers, and the U.S. Bureau of Reclamation” also known as the “Montana Fish Accord” in May of 2008, and the “Memorandum of Agreement Between the State of Montana and the Bonneville Power Administration for Resident Fish Mitigation in November of 2010, also known as the “2010 Resident Fish MOA;” copies of these agreements are on file with the BPA Manager, Real Property Services, P.O. Box 3621, Portland, OR 97208-3621) provided funding to MFWP to acquire fee title ownership of certain real property, the North Shore Wildlife Management Area (“Protected Property”) in FLATHEAD

COUNTY, Montana, having important features that help BPA meet its statutory obligations to the public under the Northwest Power Act and other environmental laws;

THEREFORE the Parties agree as follows:

- A. Conveyance and Consideration.** The Grantor, for and in consideration of the funding in the amount of (*Insert the dollar amount provided by BPA for the purchase of the property*) in U.S. dollars which BPA provided to acquire fee title ownership of the Protected Property, hereby voluntarily grants and conveys to the United States and assigns a perpetual easement for conservation purposes (“**Conservation Easement**”) over, under, upon and across the Protected Property, legally described in Exhibit A (legal description)[*Note: the legal description must include a description of any water rights accompanying the property in the transaction*], attached and incorporated by reference, and shown in Exhibit B (map/aerial photo) attached and incorporated by reference, created and implemented under applicable state and federal law, and creating an interest in property intended to be a conservation easement under MCA 76-6-106 and 76-106-201. The Parties intend this Conservation Easement to be a perpetual and irrevocable easement in gross, and further intend that its terms and conditions, set forth below, create equitable servitudes and covenants running with the land, binding the Grantor and the Grantor’s successors and assigns for the benefit of the United States.
- B. Purpose.** The purpose (“**Purpose**”) of this Conservation Easement is to protect and conserve, and as appropriate, to allow for the restoration or enhancement of the **Conservation Values** (Section C, below) of the Protected Property. As such, the Purpose of this Conservation Easement includes the prevention of any use of the Protected Property that will materially harm or materially interfere with any of the Conservation Values of the Protected Property, except where such use is approved by BPA in advance with any appropriate limits or prescriptions, either as set out in an approved **Management Plan** (Section G, below), or by BPA’s written approval (e.g., a BPA Land Use Agreement). The Grantor intends that this Conservation Easement will confine the use of the Protected Property to activities that comply with the Conservation Easement, including the approved Management Plan. BPA shall have the right, but not the obligation, to enforce any and all terms of this Conservation Easement. Any use of or activities on the Protected Property by the Grantor shall be consistent with the Purpose of this Conservation Easement. In the event that there is a conflict between the Grantor’s uses or activities and the Purpose of Conservation Easement, the Purpose of the Conservation Easement shall be construed broadly and shall prevail over any conflicting uses or activities of the Grantor.
- C. Conservation Values.** The Protected Property, in its present state, comprises approximately 189 acres including approximately six acres of wetland associated with an old river channel and approximately four acres of mature ponderosa pine forest. The Parties agree that the Conservation Values of the Protected Property meet the broad definition of open space values provided by MCA 76-6-106. The Parties also agree that the Protected Property includes other important species, habitat, and other important ecosystem attributes. The Conservation Values of the Protected Property that currently exist specifically include the following, recognizing that such Conservation Values may periodically fluctuate or trend toward long-term change, due to natural events such as wildfire, floods, interdecadal climate

events, and long-term climate change, as well as human-initiated enhancement or restoration actions:

1. The Protected Property helps protect and maintain ground water associated with Flathead Lake and Flathead River. The adjacent Flathead Lake provides important rearing area for forage fish species and is consequently an important seasonal feeding area for bull trout.
2. The Protected Property offers opportunities to restore and enhance wetlands that will increase habitat diversity and improve the quality of shallow ground water and the adjacent Flathead Lake.

D. Water Rights. Water is a critical feature of the Protected Property. To the extent the Grantor has or acquires water rights appurtenant to the Protected Property, the Grantor shall change the use of appurtenant water rights to instream flow purposes in a timely manner in accordance with applicable law. Should that change not be appropriate or feasible, the Grantor shall use the amount of water to which it is legally entitled in the place and manner to which it is legally entitled, for a beneficial purpose without waste, for the Purpose of this Conservation Easement. The Grantor shall not abandon any of the water rights appurtenant to the Protected Property by virtue of non-use. The Grantor shall not transfer, change the point of diversion, change the purpose of use, or otherwise significantly change any Protected Property water right without receiving prior written approval from BPA.

E. Baseline Documentation. The Grantor and BPA agree that the characteristics and conditions of the Protected Property at the time of this grant are documented in a **Baseline Documentation Report**, signed and acknowledged by the Parties; the acknowledgment is Exhibit C, attached and incorporated by reference.

F. Reserved Uses. The Grantor reserves, for itself and its successors and assigns, the right to use the Protected Property in any and all ways which are consistent with the Purpose of this Conservation Easement and which are not otherwise prohibited by this Conservation Easement, including but not limited to: the right to record title, the right to convey, transfer, and otherwise alienate title to these reserved rights; the right of quiet enjoyment of the rights reserved in Protected Property; and the right to prevent trespass and control access.

G. Management Plan. The Grantor shall develop a Management Plan for the Protected Property in accordance with the 2010 Resident Fish MOA, to describe the uses and activities that the Grantor expects to undertake or allow to be undertaken on the Protected Property, including any restoration, enhancement, operation and maintenance, or any other activities or uses. The Grantor shall include in the Management Plan any limitations or prescriptions for these uses and activities necessary to ensure the Purpose of this Conservation Easement. The Grantor shall also identify in the Management Plan the allowable use and access by the public of the Protected Property if public access is appropriate. The Grantor shall develop the Management Plan in consultation with BPA, and relevant interested local, state, tribal, and federal resource agencies, and the Grantor shall provide an opportunity for public input on the Management Plan. BPA shall review that Plan and any proposed amendments for conformance with the 2010 Resident Fish MOA, this Conservation Easement, and applicable laws. BPA must approve the Plan or any amendments, prior to its implementation in

accordance with the 2010 Resident Fish MOA. Prior to review of the Management Plan by BPA, the Grantor shall not undertake any ground-disturbing activities on the Protected Property without prior notice to and written approval by BPA. The Grantor shall make the final approved Management Plan, and any approved amendments, available to the public.

H. Public Access. The Grantor shall provide reasonable public access to the Protected Property (for example, for undeveloped recreational uses, such as hiking, birdwatching, hunting, and fishing) unless the Grantor and BPA determine such access may materially impair one or more of the Conservation Values of the Protected Property. The Grantor will address public access in the Management Plan.

The Parties acknowledge the right of the Confederated Salish and Kootenai tribal members to conduct traditional usufructuary and spiritual uses including hunting, fishing, and gathering in accordance with applicable law.

I. Annual Report. The Grantor shall annually submit a report to BPA that describes, at a minimum any: changes in real property interests (including water rights) in the Protected Property; uses or activities undertaken, in progress, or planned; violations or threatened violations of the Conservation Easement; and enforcement action taken. The Grantor shall provide the initial annual report in the fifteenth month after the closing date of the acquisition of the Protected Property, and then annually on that initial report date anniversary thereafter, unless otherwise agreed by BPA.

K. RIGHTS CONVEYED TO GRANTEE

1. General Rights. The Grantor has conveyed this Conservation Easement to the United States. BPA is the acquiring federal agency having jurisdiction and control over this Conservation Easement. Subject to valid existing rights of record and those rights specifically reserved to the Grantor, all development rights associated with the Protected Property are vested in Grantee. In addition to any other rights granted to the Grantee pursuant to this Conservation Easement, Grantee has the right to:

- a) Access and inspect the Protected Property at all reasonable times upon reasonable notice (which may be by phone or electronic mail) to assure compliance with this Conservation Easement;
- b) To access the Protected Property upon reasonable notice (which may be by phone or electronic mail) to survey the fish and wildlife habitat and evaluate the status of the Conservation Values;
- c) Prevent any activity on the Protected Property inconsistent with this Conservation Easement, and to require the restoration of areas or features of the Protected Property that are damaged by any inconsistent activity; and
- d) Should the Grantor fail to do so, to retain and maintain the right to use any and all of the water rights associated with the Protected Property, and to protect those rights from threat of abandonment or forfeiture under relevant law; Grantee may, after providing 90 days advance written notice to the Grantor enter upon the Protected Property and take actions reasonably necessary to maintain the validity of the water rights.

2. Transmission Facilities. The Grantor conveys the following rights to the United States: to construct, locate, operate, maintain, repair, reconstruct, upgrade, keep clear, access and patrol future transmission facilities including ancillary transmission communications facilities within the Conservation Easement at no additional cost for securing the transmission easement for these purposes. Should such a perpetual transmission easement be needed, the Parties shall negotiate the final terms and conditions of the transmission easement in a form substantially similar to Exhibit D, Form Transmission Easement. Such transmission easement shall not be presumptively precluded by the terms of this Conservation Easement. The Parties shall seek to negotiate terms and conditions of the transmission easement that reflect the Purpose of this Conservation Easement, and may include mitigation measures in accordance with the 2010 Resident Fish MOA or as otherwise identified as part of an environmental analysis for the transmission easement under the National Environmental Policy Act, ESA, or any other applicable laws. Transmission easements shall be for the sole purpose of transmission of electrical power and ancillary communications.

L. PROHIBITED USES

The Grantor shall manage the Protected Property to protect its fish and wildlife habitat on behalf of BPA, preventing any and all uses of the Protected Property that are inconsistent with the Purpose of this Conservation Easement. The Grantor may also manage the Protected Property to restore or enhance fish and wildlife habitat, provided the restoration or enhancement activities are approved by BPA, either in an approved Management Plan or by prior written approval. Prohibited uses of the Protected Property include those specifically listed below. The Parties intend that any activity that may materially harm or materially interfere with one or more of the Conservation Values is prohibited, and therefore the list identified below is not exhaustive.

1. *Residential, Commercial or Industrial Uses.* Any residential, commercial, or industrial uses of the Protected Property is prohibited, including timber harvesting, grazing of livestock, and agricultural production except as specifically allowed under Section M below.
2. *Construction of Buildings, Facilities, Fences or Other Structures.* Construction of new buildings, facilities, fences or other structures is prohibited except as specifically allowed under Section M below. Repair, maintenance, or replacement of existing buildings, facilities, fences or other structures identified in the Baseline Documentation Report are permitted at the same location and within the existing footprint of such structures..
3. *Utilities.* Except as provided for in Section K.2, the installation or relocation of new public or private utilities, including electric, telephone, or other communications services is prohibited. Existing utilities on, over, or under the Protected Property may be maintained, repaired, removed or replaced at their current location as that location is documented in the Baseline Documentation Report.
4. *Signs.* Except for no trespassing signs, for sale signs, signs identifying the owner of the

Protected Property, and signs that may be erected by the Grantee identifying the Purpose of the Protected Property ;the rules associated with authorized public use in Section H above, and those allowed in Section M below, all other signs, advertisements, and billboards of any nature are prohibited. The permitted signs may not exceed 15 square feet in size.

5. *Waste.* Dumping, collecting, recycling, accumulating, or storing of trash, refuse, waste, sewage, bio-solids, or other debris is prohibited.
6. *Mining.* Subject to valid existing rights, if any, held by third parties at the granting of this Conservation Easement, the exploration, development, mining or extraction of soil, sand, loam, gravel, mineral, oil, gas, or other substance from the surface or subsurface of the Protected Property is prohibited. Grantor shall notify the Grantee of any planned exploration, development, mining or extraction of any substances by third parties with valid existing rights as soon as possible, and at least 60 days before commencement of the action.
7. *Topography.* Altering the existing topography of the Protected Property by digging, plowing, disking, or otherwise disturbing the surface or subsurface is prohibited except as specifically allowed under Section M below.
8. *Watercourses/Wetlands.* Draining, dredging, channeling, filling, leveling, pumping, diking, impounding or any other alteration of any watercourses, ponds, seeps, bogs, springs, wetlands, or any seasonally wet area is prohibited, as is altering or tampering with existing water control structures or devices except for the sole purpose of creating new wetlands or enhancing existing wetlands as specifically allowed under Section M below.
9. *Vegetation.* The cutting, trimming, shaping, killing, or removal of any vegetation from the Protected Property, except for noxious weeds and as specifically allowed under Section M below, is prohibited.
10. *Exotic Species.* The introduction, cultivation, or use of exotic plant or animal species on the Protected Property is prohibited except as specifically allowed under Section M below. Exotic plants include non-native invasive plant species.
11. *Roads and Impervious Surfaces.* Existing roads identified in the Baseline Documentation Report maintained and repaired in their current condition and within their existing footprint as identified in the Report. Maintenance and repair of existing roads shall not be construed to permit the paving of any existing road not already paved or otherwise covered in an impervious material as of the date of this Conservation Easement.
12. *Vehicle Use.* The use of motorized vehicles is prohibited, except as necessary to carry out activities approved by the Grantee, or as specifically allowed under Section M below, or for limited, de-minimus, non-commercial recreational uses such as hunting or birdwatching if those activities are approved uses in the Management Plan.
13. *Subdivision.* The legal or “de facto” division, subdivision or partitioning of the Protected Property is prohibited.

14. *Grant of Rights.* The granting of any property interest or rights in the Protected Property, including easements, permits, licenses, and leases, without the prior written consent of the Grantee is prohibited.

M. Permitted Uses. Uses or activities otherwise prohibited under Section L above may be allowed but only if: (1) the use or activity does not materially harm or materially interfere with the Purpose of this Conservation Easement; and (2) the use or activity and any necessary limits or prescriptions are approved by BPA in advance, either in an approved Management Plan, or by written approval or written consent of BPA. The following uses are specifically allowed.

1. *Vegetation Management.* The right to create, enhance, and maintain natural wetlands and riparian vegetation. This includes wetland manipulation for the purpose of promoting naturally self-sustaining native plant communities and associated fish and wildlife habitat values to the extent possible. The right to plant, maintain, and manage native species in order to restore native plant communities that have been removed as a result of past management actions. The right to cultivate and crop the Property in order to promote habitat diversity, provide foraging areas for migratory and resident wildlife species, to reduce crop depredation on adjoining lands, to control noxious weeds, and assist with restoration of native plant communities. The right to use herbicides and biological agents to manage and control noxious weeds not to exceed the recommended labeled rates and quantities.
2. *Public Access.* The right to regulate access to properties consistent with its respective laws, regulations, and agreements. MFWP will plan public access in a manner designed to avoid material adverse impacts to resident fish and wildlife habitat, material alteration of other natural resource values for which the property was acquired, and decreases in any of the habitat values.
3. *Structures and Improvements.* The right to erect and maintain perimeter fences to prevent livestock from entering the property, to manage public parking and access and to protect restoration efforts as described in the Management Plan. The right to erect signs at the entrance or within the administrative site identifying property boundaries, post rules of public use, and to inform the public as to the purposes for which this property was acquired. The right to complete the access road within the administrative site to the barn area and to create administrative use parking area. Within the administrative site, the right to construct a host trailer pad with associated water, septic, and utilities. The right to place temporary structures within the administrative site such as a tent or trailer for the purposes of storage, education, or property management.
4. *Utilities:* The right to provide electricity, water, sewer (septic), and communication systems to the existing structure, general administrative site, and host trailer pad or temporary structures to provide lights, security and use of the administrative site for approved purposes.
5. *Construction of county-approved bike-ped trail across property.* Allow for the construction and paving of a ___ foot wide bicycle-pedestrian trail, consistent with the County Master

Transportation Plan and one that is approved by the appropriate state, county, and other authorities, to be constructed along Highway 82 across the Property in a manner that minimizes the impacts to the conservation values and as specifically allowed under Section M below.

6. *Vehicle Use.* The right to use motorized vehicles as necessary to carry out activities outlined in items M.1-3 above.
7. *Two-track or temporary access trails.* The rights to establish vegetated access trails along the property edges and to other areas of the property as needed to manage the property, restore and maintain wetlands, revegetate the property, manage weeds and encourage pedestrian use so as not to damage the resource values. The right to build a temporary construction road as needed for wetland construction or restoration. The road would need to be removed and revegetated following construction.

N. Enforcement

1. **Notice of Violation, Corrective Action.** If Grantee determines that the Grantor or its representatives, contractors, successors, or assigns violates or threatens to violate this Conservation Easement, and if such determination or dispute is not resolved by negotiation as set forth in Section O, Grantee will give written notice to the Grantor and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Protected Property resulting from any use or activity inconsistent with the Purpose, sufficient to restore the portion of the Protected Property so injured to its prior condition in accordance with a plan approved by Grantee.
2. **Grantor's Failure to Respond.** The Grantee may bring an action as provided in Section N.3 if the Grantor fails to cure the violation within thirty (30) calendar days after receipt of a notice of violation, or under circumstances where the violation cannot reasonably be cured within such thirty (30) day period, fails to begin curing the violation within the thirty (30) day period and fails to continue diligently to cure such violation until finally cured.
3. **Grantee's Action.** Grantee may pursue an action in a court having jurisdiction to enforce the terms of this Conservation Easement: (1) to enjoin the violation, ex parte as necessary, by temporary or permanent injunction; (2) to require the restoration of the Protected Property to the condition that existed prior to any such injury; and (3) to recover any damages to which it may be entitled for violation of the terms of this Conservation Easement. The remedies described in this paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing.
4. **Grantor's Action.** In the event that the Grantor seeks a determination as to the legal meaning or effect of this Conservation Easement, or as to any alleged violation hereof by Grantee, and if such determination or dispute is not resolved by negotiation set forth in Section O below, then the Grantor shall be entitled to bring judicial action in a court of competent jurisdiction.

- 5. Emergency Enforcement.** Notwithstanding the provisions of Sections N.1 and N.2, if Grantee determines on the basis of substantial evidence that circumstances require immediate action to prevent or mitigate significant damage to one or more of the Conservation Values, Grantee may undertake reasonable actions to remove, eliminate or mitigate damages to the Protected Property. Grantee shall provide prior notice to the Grantor of such actions to the extent reasonably practicable and may seek Grantor participation in such actions, but may proceed with such actions without permission from the Grantor or without waiting for the Grantor to take any action.
- O. Dispute Resolution.** The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Conservation Easement by negotiation between executives or officials who have authority to settle the controversy.
- P. Acts of God/Force Majeure.** Nothing contained in this Conservation Easement entitles the Grantee to bring any action against the Grantor for any injury to or change in the Protected Property resulting from causes beyond the Grantor's control, including, without limitation, naturally caused fire, flood, storm, and earth movement, or from any prudent action taken by the Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Protected Property resulting from such causes. Such excuse from performance will be allowed only if such catastrophic event or other event beyond the Grantor's control has caused a substantial degradation of the Conservation Values. The Parties shall make all reasonable efforts to resume performance promptly once the force majeure is eliminated.
- Q. Waiver.** The failure of any Party to require strict performance of any term of this Conservation Easement or a Party's waiver of performance shall not be a waiver of any future performance or of a Party's right to require strict performance in the future.
- R. Conveyance and Assignment.** The Grantor may not convey the Protected Property nor assign or transfer its rights or delegate its responsibilities under this Conservation Easement without receiving prior written approval from BPA, which shall not be unreasonably withheld.
- S. Termination or Amendment**
- 1. Termination Standard.** This Conservation Easement may be voluntarily terminated by agreement of the Parties only if:
- (a) a subsequent, unexpected change in the conditions of the Protected Property or the surrounding area makes impossible the continued use of the Protected Property for the Purpose of this Conservation Easement (except that changed environmental conditions related to climate change, or other natural events, for example, wildfire, river channel migration, erosion or avulsion, shall not be grounds for termination); or
 - (b) BPA agrees to exchange this Protected Property for another property proposed by the Grantor; factors that BPA will consider in determining whether to agree to an exchange include whether the new property is at the time of the proposed exchange determined by BPA to supply equal or better Conservation Values to meet BPA's

mitigation needs as compared with the Protected Property; whether the property will be permanently protected pursuant to a covenant or other real property interest issued to BPA on terms substantially similar to this Conservation Easement; and the costs to BPA of undertaking the acquisition of the new property, if any.

2. **Termination Process.** If the Parties agree to voluntarily terminate this Conservation Easement and have met the above termination standard, the Parties shall terminate this Conservation Easement by executing and recording an instrument appropriate for the purpose. In the event of termination through an exchange for another property, the Parties must agree on the new property and its conservation easement before this Conservation Easement will be terminated.
3. **Proceeds after any Termination.** If this Conservation Easement is terminated either voluntarily by the Parties, or by involuntary extinguishment by a court of competent jurisdiction and the termination results in proceeds, BPA is entitled to either (1) a share of such proceeds in proportion to the amount BPA contributed to the fee title acquisition, which is [*Insert here the percentage BPA contributed to the purchase price*] or (2) at BPA's election, to review and approve use of the proceeds by the Grantor to acquire new fish and wildlife habitat for BPA mitigation.
4. **Amendment.** This Conservation Easement may only be amended by agreement of the Parties, and any such amendment shall be properly documented, executed, and recorded. Amendments based on changed conditions may be made only when the Purpose of the Conservation Easement is impractical to achieve, and when the effect of the amendment is to benefit, or least cause no material harm to or material interference with the Conservation Values (for example, amending the Conservation Easement to place further restrictions on the use of or activities on the Protected Property). The Parties may not use amendments to impliedly terminate the Conservation Easement or remove any portion of the Protected Property from its terms, except to the extent consistent with the Purpose of the Conservaton Easement.

T. Control. The Grantor has ownership and control of the Protected Property and is responsible for all incidents of ownership. Such incidents of ownership include, but are not limited to, maintenance and repair of existing structures, hazardous waste response, cultural or historic resource mitigation or preservation, endangered species protection, noxious weed and invasive species response, tort liability, compliance with applicable laws, and payment of applicable taxes and assessments.

U. Hazardous Substances. To the best of the Grantor's knowledge, there are no hazardous substances present in, on, or under the Protected Property, including without limitation, in the soil, air, or groundwater, and there is no pending or threatened investigation or remedial action by any governmental agency regarding the release of hazardous substances or the violation of any environmental law on the Protected Property, and that there are no underground storage tanks located on the Protected Property. If, at any time, there occurs, or has occurred a release in, on, or about the Protected Property of any hazardous substances, the Grantor agrees to take all steps necessary to assure its containment and remediation

without cost to Grantee, including any cleanup that may be required, unless the release was caused by Grantee, in which case Grantee will be responsible for remediation in accordance with applicable law. Nothing in this Easement shall be construed as giving rise, in the absence of a judicial decree, to any right or ability in Grantee to exercise physical or managerial control over the day-to-day operations of the Protected Property, or any of the Grantor's activities on the Protected Property, or otherwise become an operator with respect to the Protected Property within the meaning of the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended ("CERCLA"). The Grantor specifically agrees to release and hold harmless Grantee from and against all liabilities for violations or alleged violations of, or other failure to comply with, any federal state or local environmental law or regulation relating to hazardous substances, including, without limitation, CERCLA, by the Grantor in any way affecting, involving, or relating to the Protected Property, except to the extent such violations or alleged violations are caused by the acts or omissions of Grantee.

V. Notice. Any notice permitted or required by this Conservation Easement, unless otherwise specified, must be in writing, delivered personally to the persons listed below, or will be deemed given on the date deposited in the United States mail, certified and postage prepaid, return receipt requested and addressed as follows, or at such other address as any Party may from time to time specify to the other Party in writing. Notices may be delivered by facsimile or other electronic means, provided that they are also delivered personally or by certified mail. The addresses listed below can be modified at any time through written notification to the other Party.

Notices to BPA should be sent to:

Director, Fish & Wildlife Program
Bonneville Power Administration
P.O. Box 3621
Portland, OR 97208-3621

Notices to the Grantor should be sent to:

Director, Fish, Wildlife and Parks
State of Montana
1420 East Sixth Avenue
P.O. Box 200701
Helena, MT 59620-0710

For notices specific to BPA's Real Property Services:

Manager, Real Property Services
RE: [INSERT BPA TRACT NO]
Bonneville Power Administration
P.O. Box 3621
Portland, OR 97208-3621

W. Effective Date. This Conservation Easement vests when signed by the Grantor, and accepted by the Grantee.

X. GRANT, COVENANTS AND WARRANTIES, SIGNATURE AND ACKNOWLEDGMENTS

To have and to hold the Conservation Easement herein granted unto the United States and its assigns.

The Grantor warrants and covenants to and with the United States that the Grantor is lawfully seized and possessed of the Protected Property in fee simple, with a good and lawful right to grant the same, including a good and lawful right to grant this Conservation Easement; that the Protected Property is free and clear of all encumbrances and restrictions except the encumbrances and restrictions specifically set forth in Exhibit E, attached and incorporated by reference; that the United States and its assigns shall have the use of and enjoy all the benefits derived from and arising out of this Conservation Easement; that the Grantor shall at the request of the United States execute or obtain any reasonable further assurances of the title to the Property; and that the Grantor will forever warrant the title to the Property and defend the United States against all persons who claim a lawful interest in the Property, except for persons who claim interests under the exceptions described in Exhibit E.

IN WITNESS WHEREOF, the undersigned Grantor has executed this instrument this ____ day of _____, 2011.

Grantor

ACKNOWLEDGMENT

STATE OF _____)
) ss.
County of _____)

On this _____ day of _____, 20_____, before me personally appeared _____, known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument as the _____ acknowledged to me that ___he executed the same freely and voluntarily in such capacity; and on oath stated that ___ he was authorized to execute said instrument in such official or representative capacity.

Notary Public in and for the

State of _____

(SEAL) Residing at _____

My commission expires_____.

ACCEPTANCE BY THE UNITED STATES

EXHIBIT A—LEGAL DESCRIPTION

EXHIBIT B—MAP/AERIAL PHOTO

EXHIBIT C: ACKNOWLEDGMENT OF BASELINE DOCUMENTATION REPORT

EXHIBIT D: FORM TRANSMISSION EASEMENT

EXHIBIT E: TITLE WARRANTY EXCEPTIONS

Appendix B

North Shore Wildlife Management Area Proposed Management Plan

A. Introduction

The North Shore Wildlife Management Area Plan (Plan) describes Montana Fish, Wildlife & Parks (MFWP) proposed management for a 189-acre property located in Flathead County about 4 miles east of Somers, Montana, and about one mile west of Sportsman’s Bridge along U.S. Highway 82 (Figure 1). If MFWP decides to buy this property, this plan would guide future activities on this land. The property borders the U.S. Fish and Wildlife Service (FWS) Flathead lake Waterfowl Production Area (WPA) and a private landowner to the south, the Bigfork-Somers cutoff road (U.S. Highway 82) and private lands to the north, and the North Shore State Park (SP)/Wildlife Management Area (WMA) to the west (Figure 2). The property is located in Section 21 T27N R20W, Flathead County.

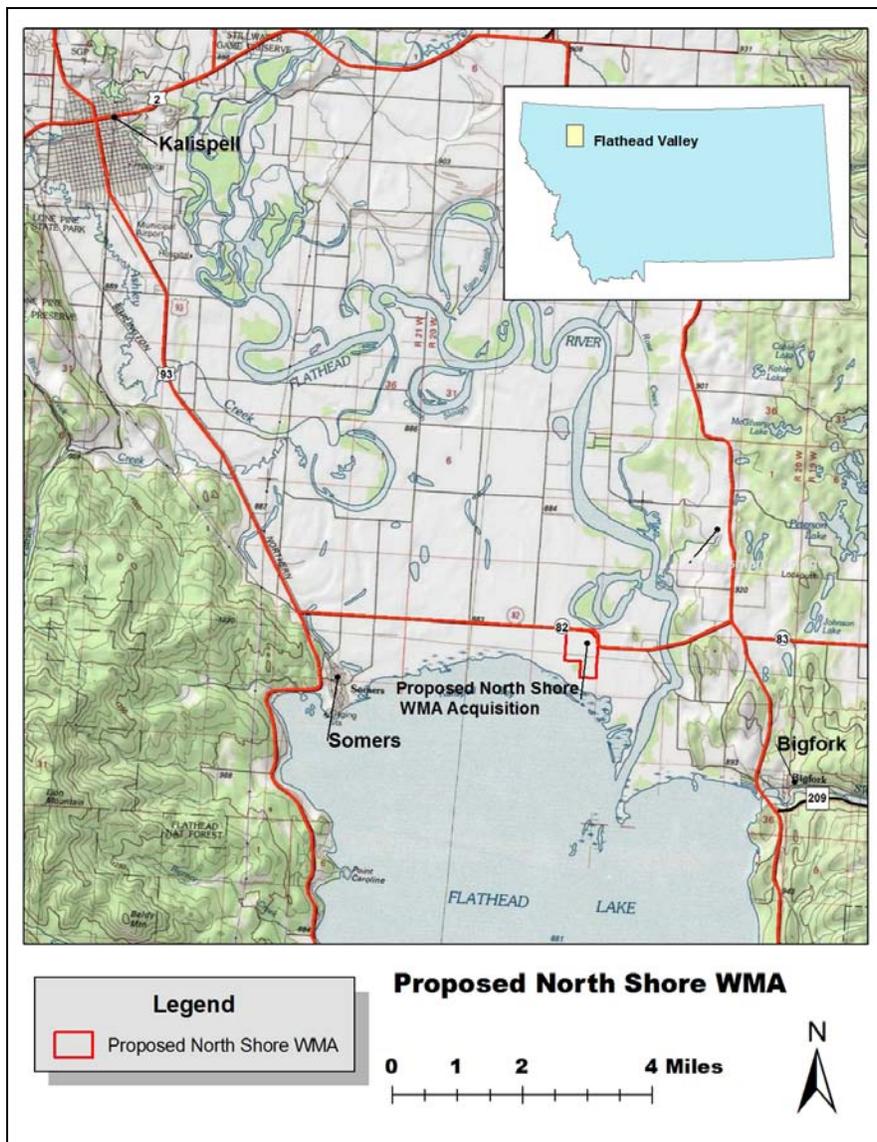


Figure 1. General location of the proposed North Shore WMA property.

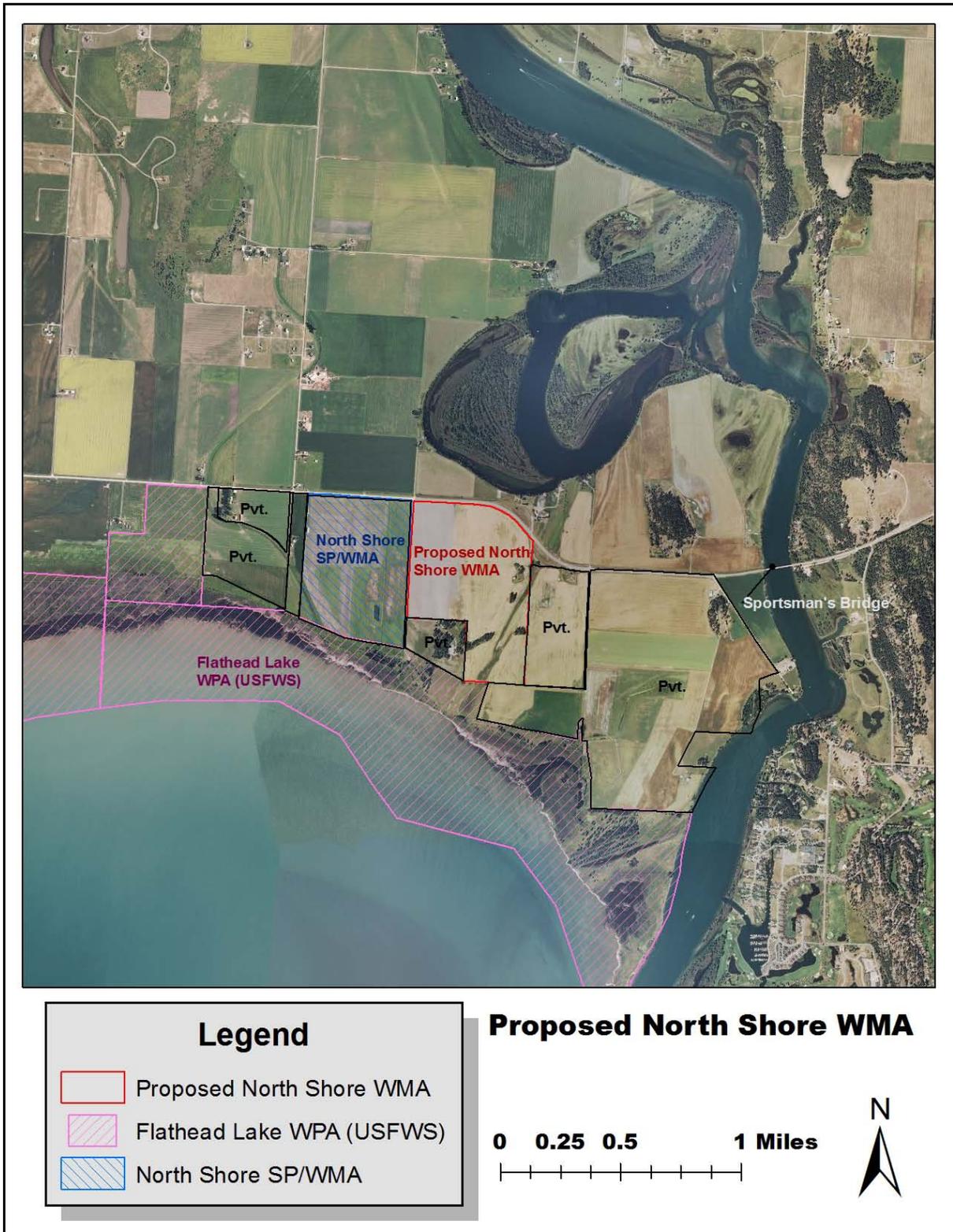


Figure 2. Aerial photo of the proposed North Shore WMA land acquisition and adjacent land ownership.

Funding for the Project/Encumbrances

This property was purchased using BPA fish mitigation funds to protect the area's water resources, riparian/wetlands, and habitat for resident and migratory fish and wildlife. The purpose of BPA funding is to mitigate for the impacts associated with the construction of Hungry Horse Dam on fisheries habitat. MFWP has given BPA a conservation easement that restricts uses on the property that are inconsistent with the purposes of the funding. This plan is written to guide future management actions so as to be consistent with the funding sources, conservation easement, and other rules and regulations that govern MFWP's land management programs.

Montana Environmental Policy Act/National Environmental Policy Act

Under Montana law, MFWP must prepare a draft Environmental Assessment (EA) that describes the proposed land acquisition along with a proposed Management Plan and the environmental effects of the proposed action, viable alternatives, and no-action alternatives. MFWP plans to release its draft EA for public review and comment in early August 2013 and hold a public hearing during the 30-day comment period. Following the draft EA, the Region would issue a decision notice and, assuming the decision was to move the project forward, the project and all public information would be sent to the MFWP Commission and State Land Board for final approvals.

Management Plan Updates

This Management Plan may be periodically updated and amended over time to ensure that property management continues to fulfill the identified purpose(s) as the operating environment, ecological processes, or funding changes over time. BPA must approve this Management Plan and all future changes. Future updates that propose significant changes will include a process to involve the public as well as nearby and adjoining landowners through Montana's Environmental Policy Act or similar mechanism. Management of this area will be responsive to the conservation values and restrictions outlined in the underlying conservation easement, as well as pertinent scientific and cultural information, public needs, and other considerations such as impacts to neighboring properties.

Relationship of this project to the adjoining North Shore State Park (SP)/Wildlife Management Area (WMA)

MFWP acquired the adjoining 160-acre North Shore SP/WMA, located just west of this property, in 2008 using Access Montana funds approved by the Montana legislature for the purpose of increasing public recreational access across the state. The existing 160-acre North Shore SP/WMA is managed by Region One Parks and Wildlife staff to provide food and cover for migratory birds, protect and restore wetlands, and potentially provide public camping in the future. Management of both parcels will be designed to be compatible with one another as well as with the other adjoining private and public lands.

Authority

MFWP is authorized through Montana Code Annotated (87-1-209, MCA) to acquire lands for purchase for the purpose of wildlife and/or fisheries protection, fishing, hunting, outdoor recreation, and/or to consolidate lands for these purposes, with the approval of the MFWP Commission and the Board of Land Commissioners. MFWP has powers and duties regarding the acquisition of lands by fee or donation as state historical sites and recreation areas (MCA 23-1-102). MFWP is authorized to acquire lands by purchase, gift, or other agreement, or acquire easements upon lands or waters for certain purposes, including public fishing and outdoor recreation (MCA 87-1-209).

B. Property History and Conditions

History:

The property was originally homesteaded by the McClarty family who traveled back and forth from Ontario, Canada, to the Flathead in the late 1800s. Their son, Percy, was living on this property in the 1920s. It is believed the barn was built in the early 1900s and was initially used for hay storage and later grain. In the 1950s, the landowners added a large Quonset hut for raising hogs, a business which did not last long due to a livestock-related disease. From the late 1800s through present day, the farm has been primarily in crop/hay production with some evidence of seasonal grazing on parts of the land. The native ponderosa pine stands that likely extended along the higher ridges on the property were used as a source of wood for both building and firewood. The 1937 aerial photos indicate that nearly all the native habitats were already converted to agricultural land uses, although the extent of the ponderosa pine stands appeared larger than they are today.

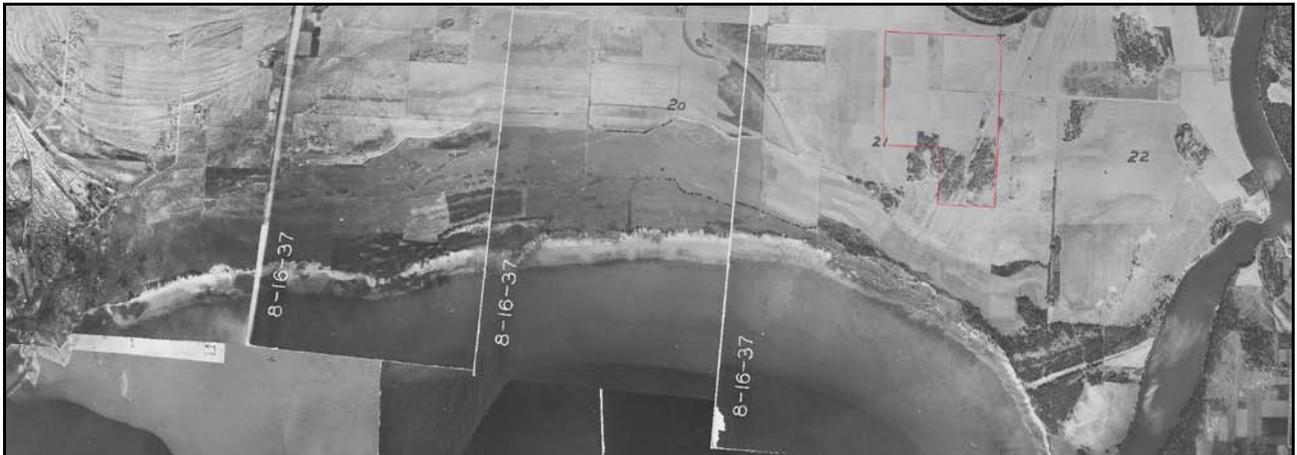


Figure 3. 1937 Aerial photo mosaic of north shore of Flathead Lake with approximate location of proposed acquisition outlined.

C. Property Description/Location

Land Uses, Cover Types, Elevations

The North Shore WMA parcel consists of about 189 total acres. About 165 acres of this land is currently in annual crop production. About 10 acres of the property consist of riparian/wetland habitat associated with the old river channel and 4 acres consist of three small stands of native ponderosa pine (Figure 3). The removal of all riparian shrub and tree cover likely occurred along the slough as a result of pasture/agriculture clearing. Old fences still exist in places around the ponderosa pine stands. These stands were likely used for firewood. All of the property lies roughly between 2,890 and 2,902 feet in elevation and is relatively level, with the slough occupying the lowest elevations and the ponderosa pine stands the highest elevations (Figure 4). There is a small 2-3 foot dike that was created along the southern property line likely to minimize flooding by Flathead Lake after Kerr Dam was constructed and to provide access across the wetland.

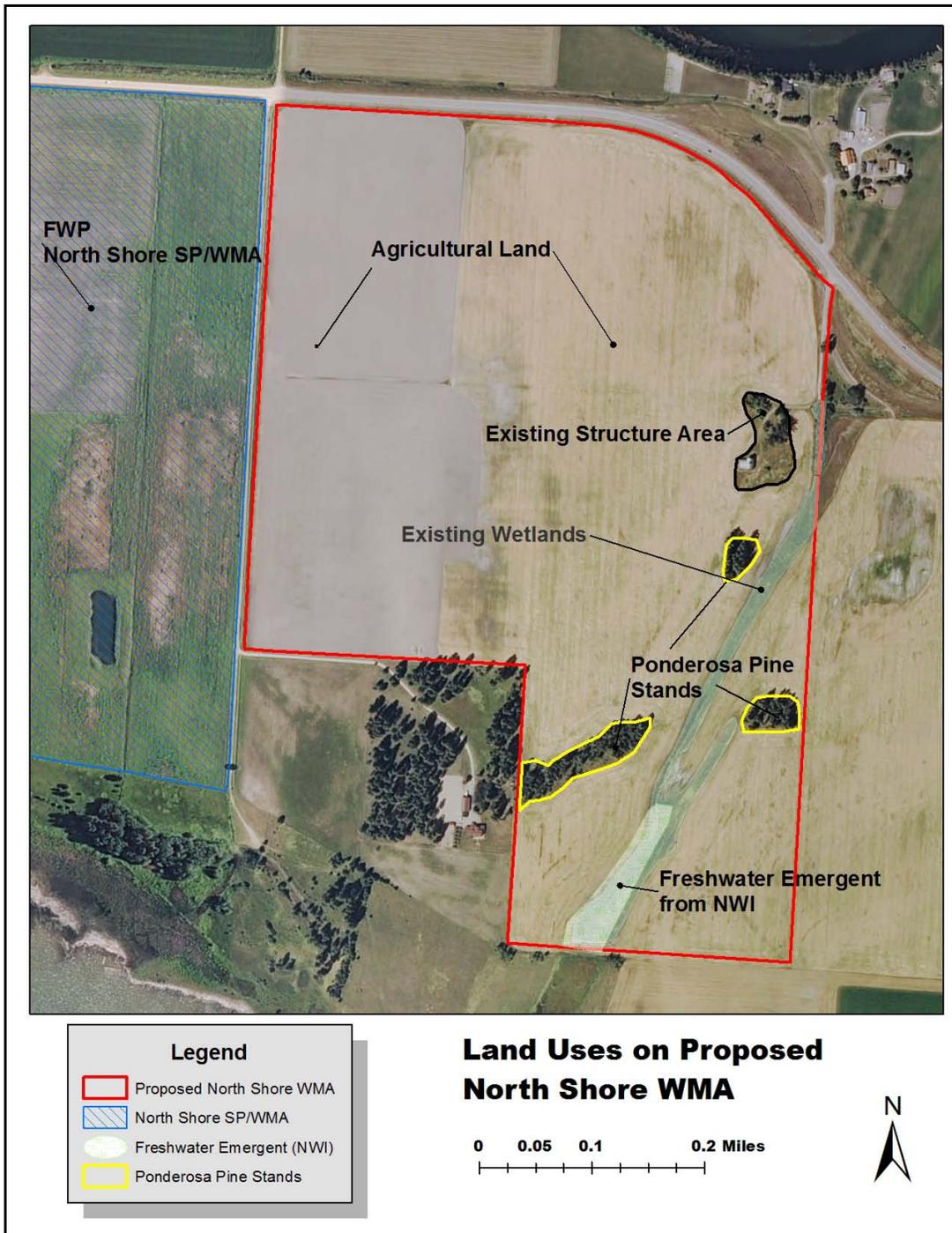


Figure 4. Existing land uses on the proposed North Shore WMA.

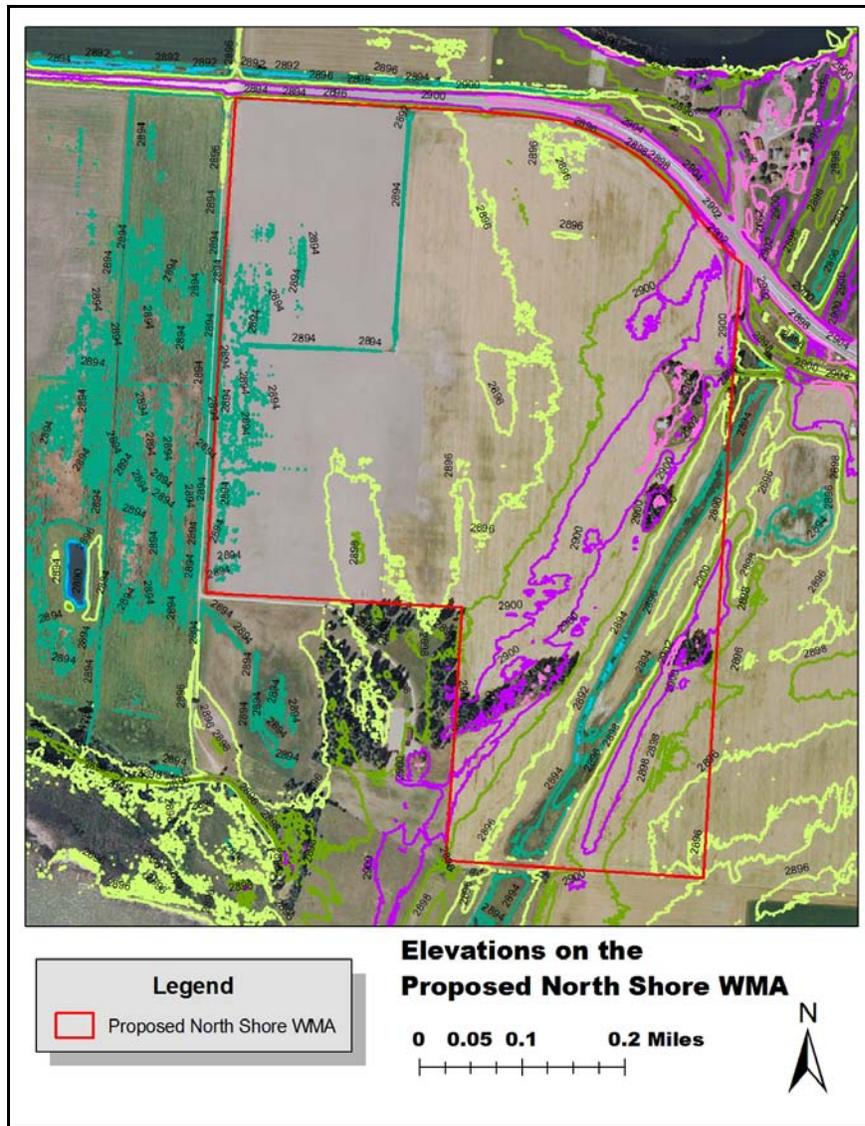


Figure 5. Elevation map for proposed North Shore WMA land acquisition using Flathead County elevation data.

Existing Vegetation

About 165 acres of land have been continually tilled for crops such as wheat, barley, and canola (Figure 3). The dominant natural vegetation along the old river channel includes cattail and reed canary grass. There are few shrubs or other native woody vegetation or native herbaceous plants along the slough. There is a small cottonwood and aspen stand (<1 ac) at the north end of the slough near the property entrance.

The 4 acres of ponderosa pine support trees about 80-100 years old. Some ponderosa pine regeneration is occurring within the stand. The pine stands occupy some of the highest ground of the property and include native understory of snowberry, Douglas hawthorn, woods rose, and several invasive grasses (e.g., timothy, quack grass). No native bunchgrasses were observed on recent field trips. Noxious weeds such as Canada thistle and hounds tongue can be found in the ponderosa pine

stands, along the edge of the slough, and around the barn and driveway/parking areas. Few noxious weeds have been observed in or along the fields or in the wetland habitats.

Soils

The property is dominated by the Swims silty clay loam, a prime agricultural soil if irrigated. The property includes only a few acres each of Somers silty clay loam and Chamokane soils as shown in Figure 5. The soil mapping data are from the Upper Flathead Valley Soil Survey accessed through the NRCS online soils data base and mapping system (<http://websoilsurvey.nrcs.gov/app.websoilsurvey.aspx>).

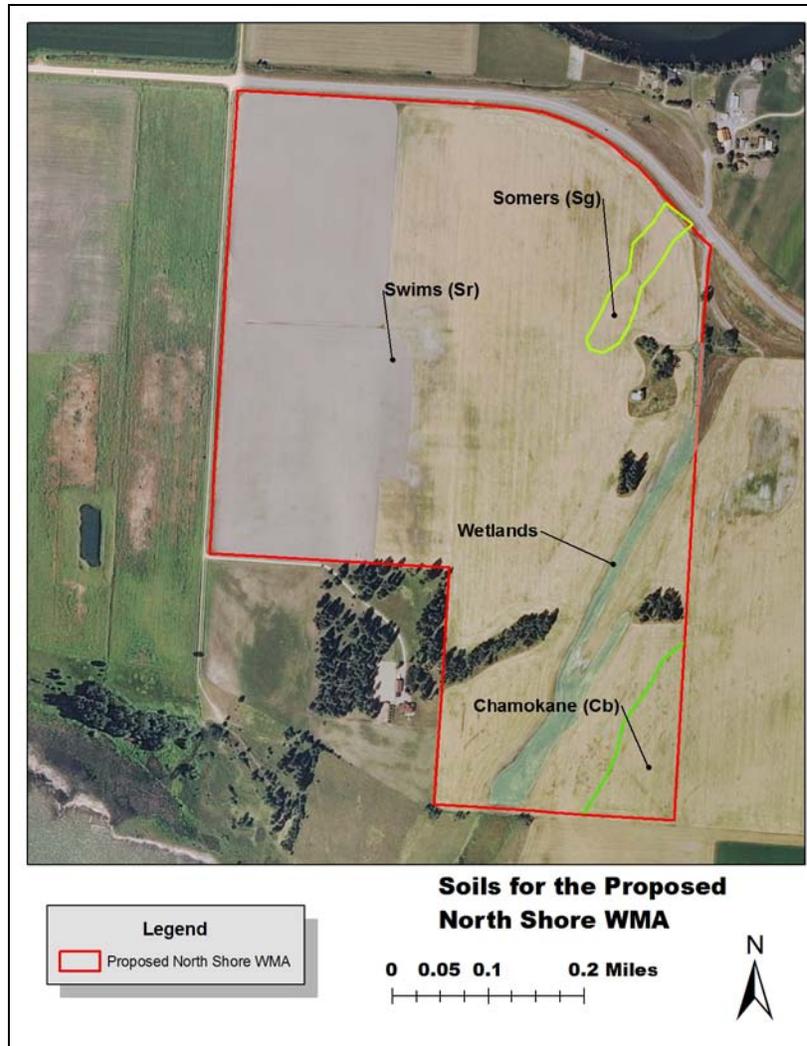


Figure 5. Approximate boundaries of soil types for the property.

Water Resources and Wetlands

This property overlies about 90 acres of shallow (<8 ft) ground water and includes about 6 acres of existing wetland habitat of which only about 1-2 acres consist of open water in the old river channel (Figure 5). Most of the existing wetlands support cattails and reed canary grass (insert photo of wetlands and flooded areas). Water levels immediately to the west on the North Shore SP/WMA were never more than 4.5 feet below ground level throughout the year.

In the spring, lower portions of the farm fields (as well as the slough) are often flooded, particularly when local snow depths are high and persistent and/or there is a significant spring rain and runoff. Shallow groundwater (< 8 feet) underlies about 90 acres of the parcel; soil descriptions and well data from the adjacent MFWP property indicate the ground water may also be within 2-4 ft. from the surface during most of the growing season. This high ground water along with changes in topography may also contribute to seasonal spring flooding. At some point in the past, a landowner dug several shallow ditches leading to deep holes on field edges to help remove sheet water from the western portion of the parcel (Figure 3). MFWP mapped the area where flooding occurred in spring of 2011 and 2012 to estimate the approximate size of flood prone area of the property (Figure 6). Estimated size of this flood prone area is about 20-25 acres of the property.



Figure 6. Wetlands, shallow ground water, and flood prone areas of the property.

Wildlife

The north shore of Flathead Lake provides many important and unique natural resource values from important migratory bird habitat to excellent hunting and other recreational values. The wetlands help store and maintain high water quality in Flathead Lake, one of the clearest lakes in the world. They also provide a buffer between the agricultural lands and the lake. The property's wetlands and often the agricultural lands, depending on crop species and degree of flooding, provide seasonally important foraging and resting areas for thousands of migratory birds moving through intermountain valleys of the Northern Rockies. Based on prior spring surveys, the most abundant species include Canada goose, mallard, northern pintail, American wigeon, and green-winged teal. Other species observed on the property include greater yellowlegs, tundra swans, and sandhill cranes. A bald eagle nest is located adjacent to this property. Other species that use this land include nesting and wintering raptors such as northern harrier, red-tailed hawk, great-horned owl, rough-legged hawk, occasional snowy and short-eared owls. Peregrine and prairie falcons have also been observed in the area. The croplands and nearby cattails also provide foraging habitat for upland game birds such as ring-necked pheasants and Hungarian partridge. The ponderosa pine stands would provide habitat for brown creeper, pileated and other woodpeckers, black-capped chickadee, white- and red-breasted nuthatches and several other species of neotropical migrants.

The North Shore is also an important area of connectivity across the Flathead Valley. Over the years, landowners have reported elk, mountain lions, and bears in this area. Grizzly bears have been observed nearby along the Flathead River and sloughs. Given the level of development occurring in the Flathead, this may eventually be one of the few areas of connectivity that would allow wildlife to potentially move between the Swan and Salish Mountains.

Montana Audubon North Shore Important Bird Area

Montana Audubon Society has designated the entire North Shore of Flathead Lake area (between Somers and Bigfork) as an Important Bird Area (IBA). This designed Flathead Lake IBA includes the North Shore WMA. Key reasons include high bird diversity with a minimum of 229 different species known to occur within the IBA; of these, 172 are regular visitors, common, or seasonally abundant. Key species include nesting northern harriers, short-eared owls, willow flycatchers, calliope and rufous hummingbirds, and lazuli buntings. The North Shore regularly supports over ten thousand migratory waterfowl including high priority species such as northern pintails as well as American wigeon, mallard, tundra swan, and Canada goose. Offshore habitats are important during winter and spring for redhead, greater and lesser scaup, canvasback, and common loons. More recently, the North Shore IBA provides resting and wintering area for a recovered population of trumpeter swans that have expanded from releases in the Mission Valley to the upper Flathead basin. The area also supports at least 4 bald eagle territories and is an important nesting/resting area for American avocets, Wilson's phalarope, black-bellied plover, long-billed dowitcher, and greater yellowlegs.

The North Shore holds value not only as habitat for birds, but as an important site for ecotourism/birding. Unusual or rare species seen here in the past 25 years include parasitic jaeger and Sabine's, Thayer's, glaucous, glaucous-winged, Iceland and mew gulls (now annual, the only place in Montana where this is the case); American golden-plover, whimbrel, Pacific loon (annual); and alder flycatcher, gyrfalcon, and snowy owl.

For this property, its southeastern corner lies only about 350 feet from the current high water mark of Flathead Lake. There is an old river slough that runs north to south through the eastern portion of the property. The riparian/wetland habitat associated with this slough provides habitat for upland game birds, a variety of spring/fall migrating waterfowl, nesting Canada goose and mallard, a variety of song birds, white-tailed deer, northern harrier, red-tailed hawks, wintering rough-legged hawks, great-horned owls, and occasionally wintering snowy owls, to mention a few. Most of the 189-acre

property is currently in crop production and provides foraging habitat for raptors, upland game birds such as ring-necked pheasants and Hungarian partridge, and seasonally large numbers of migratory waterfowl such as tundra swan, Canada goose, American wigeon, mallard, and northern pintail.

Recreation

The North Shore has little development, provides excellent views of the Flathead Lake and lakeshore, and provides excellent birdwatching and fall bird hunting opportunities. There is a significant demand for public access to agricultural and waterfront lands within the valley both by wildlife watchers and by hunters. There are few public places where the public can hunt waterfowl or upland game birds other than the Flathead Lake, Blasdel, and Smith Lake WPAs. This addition will help provide needed hunting opportunities, particularly as habitat values are improved. Flathead Lake WPA is used heavily by hikers, skiers, and birdwatchers from December-March 1 when the lake is low, the beaches are exposed, and the WPA is open for public use. Access to the beach portion of the WPA is already provided by the FWS. It is not likely this property would be used that much in the winter. Trespass issues on the WPA and beach areas after March 1 are increasing and that could spill over to the WMA.

Birdwatchers have suggested this property or other nearby area might be a good place to put a bird observation structure or blind. Much of the north shore from Flathead River to Somers could be seen by an elevated structure placed near the WPA. Such a structure could be used by researchers to observe or count birds along the North Shore and by educators leading field trips. Seasonal public use should be compatible with both land management and habitat goals and objectives.

The barn and property represent the homesteading era of development into the Flathead Valley around the turn of the 20th century. Tourists and locals may be interested in learning about the history of this homestead. This property could be included along local historical trails.

Flathead County's Master Trails Plan

(http://flathead.mt.gov/parks_rec/documents/FlatheadCountyTrailsPlan.pdf) includes the goal of developing a bike/pedestrian trail from Bigfork to Somers along Highway 82. The Montana Department of Transportation is currently developing a plan to replace the Flathead River Sportsmans Bridge, located a mile east of this property, that will include a bike/pedestrian lane. If or when the rest of this trail is constructed, it will most likely be proposed along the north edge of this property to facilitate access to public lands and for aesthetic, educational, and wildlife-viewing values. Nonmotorized use of a public trail along the property boundary and highway would be consistent with the purpose of the property acquisition.

Infrastructure

The property includes a short access driveway from Highway 82 to the original homestead. The homestead house has been removed; however, there is still a large barn, windmill, small home orchard, and old foundation. A second windmill is located at the south end of the property. There is no irrigation system or usable well on the property. The State Historic Preservation Office (SHPO) has determined that the barn is eligible for historic listing. The landowner and MFWP have worked out an agreement to have the landowner complete the needed repairs and maintenance as soon as possible after the property has been acquired by MFWP. Thus far, the SHPO and BPA have reviewed these plans and determined that these repairs and maintenance will not have any effect on the historic value of the structure. Repair and maintenance will include replacing/fixing the existing metal roof, cleaning out the barn, and removing pigeon wastes; repairing the cupola; repairing the doors and windows, and excluding access by animals; and caulking and painting the barn exterior. This will help ensure the structure will be in good condition for many years.

MFWP will initially include the costs for reasonable improvements and long-term maintenance/repairs in its overall WMA budget so that MFWP staff can use this structure for property management. All barn improvements will be evaluated by the SHPO and BPA to avoid or mitigate impacts to historical or cultural resources. In the long term, due to the age of this structure and costs associated with its upkeep, MFWP may not be able to maintain it indefinitely through time, particularly if future funding is lacking.

A gravel access road owned by the FWS runs along the west boundary of the property. This road provides public access to the federal WPA between July 15 and March 1 each year. It also provides access to the private parcel located at the southwest corner of the project. In the past, the landowner's farmer has used access on this road through the private landowner's property to reach the farm fields on the west half of this property. No official agreement exists between the FWS and neighboring private landowners. MFWP may need to develop a farm road around the property edge to be able to reach the west part of property by wheeled vehicle from the barn/access area. No road exists as all the land is under cultivation.

D. Proposed Management Plan

Vision Statement and Values

MFWP's Vision for the North Shore WMA is to:

Protect, restore, and enhance surface and ground water resources and riparian/wetlands to benefit fish and wildlife; enhance upland wildlife habitat, particularly for migratory and resident birds, through use of traditional agricultural practices, and management and expansion of native ponderosa pine stands, while allowing seasonal public recreational and educational opportunities.

MFWP recognizes that this property:

- Is important to maintaining clean water and high water quality in Flathead Lake, as it overlies about 90 acres of high groundwater connected to Flathead Lake and other wetlands.
- Riparian/wetland habitat on this property can be restored and/or enhanced significantly.
- Nearly 100% of this property is composed of prime agricultural soils that are highly productive and important for crop production in the Flathead Valley.
- Agricultural crops such as wheat and barley provide an important food resource for migratory waterfowl that move through the Flathead in the spring and fall, as well as for upland game birds and other wildlife species.
- The remaining 4 acres of ponderosa pine stands are highly important for a number of wildlife species.
- This is an important area for birdwatching, hunting, scenic views, outdoor education, and cultural/historic values and provides needed recreational opportunities for the local public as well as visitors.

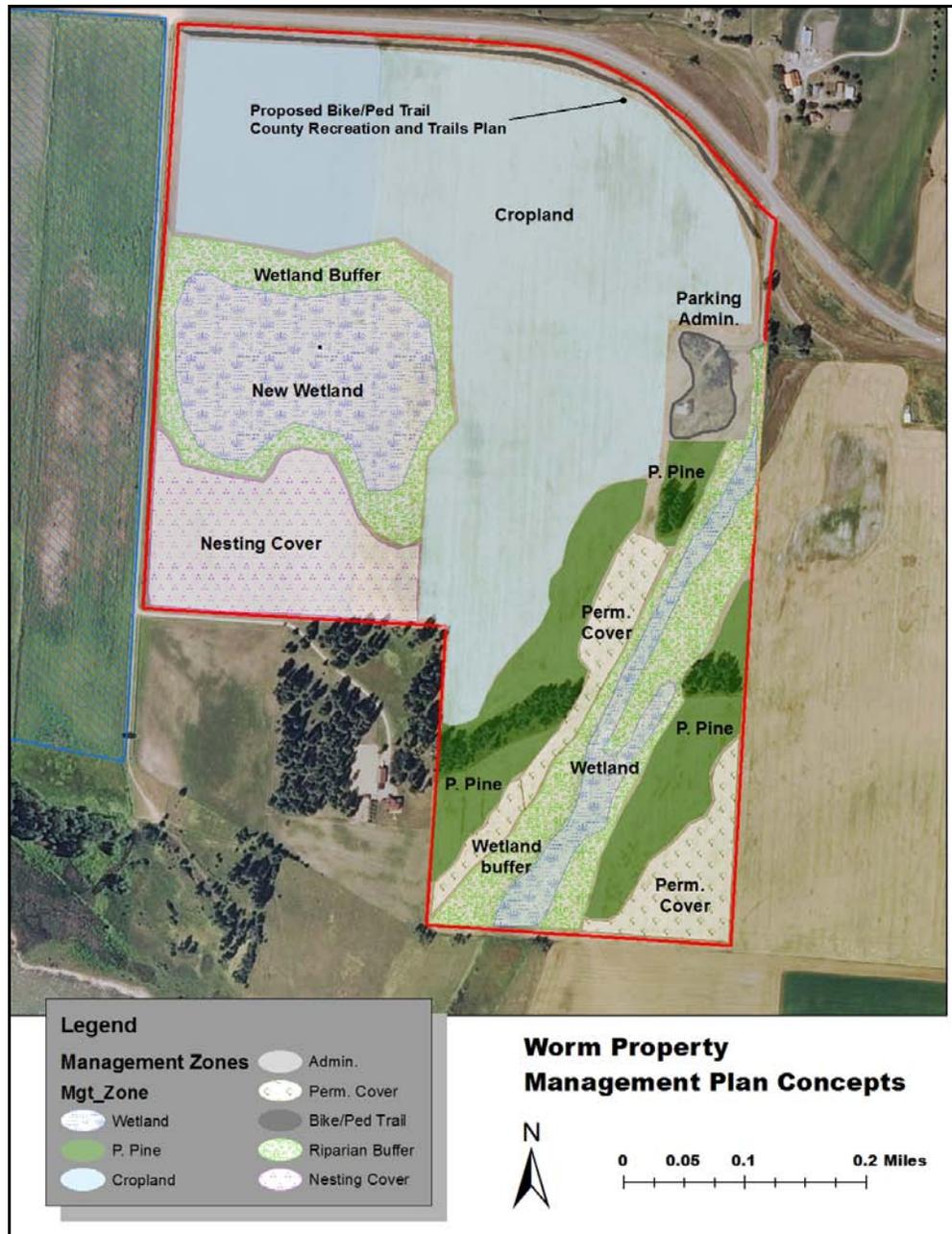


Figure 7. Overview of Proposed Management and Restoration Plan for North Shore WMA.

Overall Objectives: The management objectives of the North Shore WMA are to:

1. Protect the property's surface and ground water to benefit water quality in Flathead Lake and on-site aquatic ecosystem.
2. Conserve, maintain, restore, and enhance riparian/wetland habitats to restore ecological functions and provide additional wildlife habitat and benefits.
3. Maintain/enhance and potentially expand native upland habitat, e.g., ponderosa pine stands with native understory for nesting birds.

4. Use/manage agricultural lands in a manner that provides a variety of wildlife habitats and improves wetlands or water quality.
5. Maintain, to MFWP's best ability, all heritage and culturally important resources identified by the State Historic Preservation Office, Confederated Salish and Kootenai Tribes, or other professional entities.
6. Allow seasonal public hunting, birdwatching and other consistent uses.
7. Provide educational opportunities consistent with the above objectives that do not negatively impact wildlife resources, habitat values, or other related resource management activities.
8. Be a "good neighbor" to adjoining properties and neighboring communities, and contribute to the local economy.

Strategies by Objective

Objective 1: Protect the property's surface and ground water to benefit water quality in Flathead Lake and on-site aquatic ecosystem.

Management Strategies:

- a) Obtain best available information regarding surface and ground water as part of the planning process so that these resources can be protected.
- b) Obtain relevant information from local farmers and landowners to understand soils and history of water and drainage issues of this parcel and surrounding lands.
- c) Protect or improve surface and ground water quality from agricultural or other runoff through wetland restoration, enhancement, and vegetative buffers.
- d) Minimize use of herbicides or other chemicals near water or over shallow groundwater.

Objective 2: Conserve, maintain, restore, and enhance riparian/wetland habitat to restore ecological functions and provide additional wildlife habitat and benefits.

Management Strategies:

- a) Obtain information on wetlands and soils to help identify wetlands and seasonally flooded areas.
- b) Identify factors affecting wetlands, such as fill, drainage, roads, other human alterations, invasive species, etc.
- c) Identify opportunities and work to improve/restore up to about 20-25 additional acres of natural permanent or seasonal wetlands along with associated native vegetation where ground water is high or surface water does not drain.
- d) Coordinate riparian/wetland habitat activities with adjoining landowners and other interested parties to both avoid potential adverse impacts to neighboring properties or to expand restoration benefits on properties with similar management goals.
- e) Establish natural/native vegetative buffers along existing wetlands through planting native shrubs and trees and other plant species.
- f) Manage noxious weeds to prevent spread and reduce impacts to native species and declines in plant community productivity.
- g) Work with partners with expertise and/or financial resources that may be willing to help with habitat restoration and management.

Objective 3: Maintain/enhance and possibly gradually expand native upland habitat, e.g., intact ponderosa pine stands with native understory.

Management Strategies:

- a) Assess current health, history, and conditions of ponderosa pine stands.
- b) Manage weeds and other invasive species without impacting integrity of existing or future native communities.
- c) Coordinate weed management with adjoining landowners and others active in local weed management efforts.
- d) Consider planting other sites on the property where native upland communities could be expanded or restored.
- e) Manage trees and other native vegetation to ensure fire/disease risks are minimal.
- f) Add native shrubs and herbaceous understory species that are rare or absent but were historically present on the property.

Objective 4: Use/manage agricultural lands in a manner that provides a variety of wildlife habitats and improves wetlands or water quality.

Management Strategies:

- a) MFWP would assume a preexisting farm lease on the property that allows the current lessee to farm the property through 2015. In return for this lease, the lessee will provide about 10-15 acres of wildlife food plots each year, plant grass cover along the slough or otherwise prepare that area for riparian restoration, control noxious weeds, and repair/maintain fences on the property.
- b) MFWP would gradually decrease the amount of land managed as cropland as habitat restoration projects are implemented as described in this Management Plan.
- c) Implement rotation farm plan for the remaining agricultural lands that provides wildlife habitat such as grain, winter cover, and nesting cover in a way that also returns nitrogen and other plant materials to the soil.
- d) Avoid farming within 300 feet of wetlands; use the least amount of chemicals required for weed or pest control and the least amount of fertilizer.
- e) Manage lands to attract wildlife use and discourage game damage or other unwanted wildlife impacts to adjoining lands.
- f) Control noxious weeds and invasive species in a manner that minimizes impacts to native vegetation and water quality.
- g) Coordinate weed and other land management activities with adjoining landowners and others active in local weed management efforts.

Objective 5: Maintain, to MFWP's best ability, all heritage and culturally important resources identified by State Historic Preservation Office, Confederated Salish and Kootenai Tribes, or other professional entities.

Management Strategies:

- a) Maintain the barn and other cultural or historic resources on the property to the extent practicable (based on available funding) consistent with the State Historic Preservation Office and BPA recommendations.
- b) Work with partners with expertise or financial resources that may be willing to help with conservation and restoration of historic and cultural resources.

Objective 6: Allow seasonal public hunting, wildlife watching, and other consistent uses, with provisions and restrictions appropriate for safety.

Management Strategies:

- a) Provide designated parking area for public access using the existing legal access road off Highway 82.
- b) Develop appropriate signage, regulatory postings, and educational messages related to public safety.
- c) Restrict access to the property to nonmotorized access between July 15 and March 1 each year for purposes consistent with the objectives of the WMA and associated conservation easement (e.g., hunting, wildlife viewing, birdwatching, and education).
- d) Use signs and fences to limit public use where land is undergoing restoration or being actively farmed until crops have been harvested to reduce damage to fragile resources or croplands.
- e) Make the homestead/barn site safe with respect to gates, access, wires, fences, and other hazards. The barn may be closed to public access to protect cultural resources and for public safety reasons.
- f) Coordinate public access rules with the adjoining FWS Flathead Lake Waterfowl Production Area and North Shore SP/WMA to reduce confusion, conflicting rules, and overall public use complexity.
- g) Restrict vehicles/OHV use to access road and designated parking area only during the time when the property is open to public use.
- h) Discharge of firearms and weapons will be restricted to lawful hunting only. Recreational shooting and target practice is prohibited (ARM 12.8.202). No person may permit an animal to run at-large except when involved in designated hunting seasons. Persons in possession of animals must keep them under control in a manner that does not cause or permit a nuisance, annoyance, or danger to others.
- i) Manage hunting in accordance with annual regulations.
- j) Implement steel-shot-only rule.
- k) Indicate on maps safety buffers around adjoining private landowner residences.
- l) Allow use of portable bird blinds for hunting or noncommercial photography. No permanent blinds or pits would be allowed.
- m) Commercial activities are prohibited unless authorized by BPA and MFWP through MFWP-applicable commercial use rules (MFWP Commercial Use Rule - ARM 12.14.101-12.14.170) and any special regulations developed for this property.
- n) Manage all public uses consistent with appropriate MFWP recreational use regulations (ARM 12.8.101-12.8.213).
- o) Other uses such as group use, commercial use, scientific research, and projects involving handling wildlife will require special permits.
- p) Provide adequate law enforcement patrol and response presence on the site through the use of game wardens, and fish and wildlife division personnel, as well as law enforcement for FWS.
- q) No fires would be allowed.
- r) During the fire season, MFWP attends weekly fire conferences with county, state, and federal entities to discuss the current fire danger and assess appropriate actions relative to potential fire restrictions. These restrictions may include closure of the site to public use.

Objective 7: Provide wildlife/habitat-related educational and research opportunities consistent with the above objectives that do not negatively impact wildlife resources and habitat values.

Management Strategies:

- a) Consider development of a bird observation blind/area on the property for educational or scientific purposes as long as its use and construction do not negatively impact wildlife or other habitat values.

- b) Require teachers/educators/researchers to obtain a special use permit from MFWP Regional Office to ensure uses are compatible, safe, and consistent with the purposes of the conservation easement and WMA.
- c) Consider providing an educational board or materials at the site that describe this area's natural, historic, or culturally important values.

Objective 8: Be a “good neighbor” to adjoining properties and neighboring communities and contribute to the local economy.

Management Strategies:

- a) Work with adjoining landowners, local farmers, and others on issues of mutual importance such as public use, trespass, access, weeds, ground and surface water and restoration benefits/concerns, wildlife damage, etc.
- b) Develop and implement noxious weed program.
- c) Provide cost-share contracts following state purchasing procedures to allow farmers to plant and harvest approved crops in exchange for leaving specified grain, cover, or other wildlife benefits and managing weeds, fences or other infrastructure needs.

Administration, Operations, and Maintenance

First Two Years (2013-2015)

MFWP will transition from current land management activities to this Plan in the two years following acquisition of the parcel. As part of the negotiated property sale, MFWP will allow current farming contract to continue on the land for up to two growing seasons following the acquisition. In return, the farmer will leave grain for migratory birds and take care of noxious weeds and fences.

Management Strategies:

- a) MFWP will provide signage, gates, and designate a parking area by fall 2014. Walk-in use will be allowed annually from July 15 to March 1, except on areas undergoing native plant restoration, or on actively farmed lands until the crop is harvested.
- b) MFWP will, through state purchasing processes, contract for a riparian/wetland restoration plan for the property.
- c) MFWP will follow appropriate purchasing regulations and develop a proposal for multi-year cost-share farming agreement to be put in place once the restoration plan is completed and existing farming contract expires.
- d) MFWP will contract for noxious weed management for the nonagricultural lands if or when not covered in the agricultural lease contract.
- e) MFWP will restore native riparian vegetation along the existing slough area (add 10 new acres of riparian/wetland vegetation that is currently farmed or dominated by nonnative grasses).
- f) MFWP will begin to restore native ponderosa pine stands with gradual restoration of natural/native understory on about 20 acres of uplands as shown in Figure 7.
- g) On other low-lying portions of the property, MFWP will begin to restore wetland hydrology by removing drainage ditches, possibly redirecting water from the adjoining road areas, and re-contouring some of the land to establish new wetlands and protect other properties following all applicable regulations and permitting requirements. The goal would be to restore a minimum of 20-25 acres of seasonal or permanent wetlands with an equal amount of land that would be in permanent or semi-permanent cover.
- h) MFWP will plant or seed the restored wetland areas with native riparian/wetland vegetation and establish new vegetation in a surrounding buffer following ground disturbing

activities. Upland areas adjacent to the restored wetlands will be managed as permanent or semi-permanent vegetative buffer between crop/agricultural lands and wetlands to provide nesting/winter bird cover.