

**NRDP Funding Recommendation
The Confluence Project at Rock Creek
June 2013**

Background and Project Summary

In June 2012, Five Valleys Land Trust (FVLT) submitted a restoration concept abstract (Attachment A) for partial funding of \$400,000 from the Natural Resource Damage Program (NRDP) for acquisition of a 202 acre "Property" located near the confluence of Rock Creek and the Clark Fork River 20 miles east of Missoula. The State included this project as a potential land acquisition project to be considered for further review and a subsequent funding decision in the December 2012 *Final Upper Clark Fork River Basin (UCFRB) Aquatic and Terrestrial Resources Restoration Plans* ("*Final Restoration Plans*"). A map depicting the Property and surrounding area is provided in Attachment B. Through its ownership and management of the Property, FVLT seeks to protect the Property's conservation values, such as natural habitats for plants, fish and wildlife, and recreational opportunities for the general public.

This project is being considered for funding as a proposed restoration action for both the Clark Fork Mainstem aquatic priority area and terrestrial priority landscape area, with an 80%/20% terrestrial/aquatic funding split.¹ As indicated in the *Final Restoration Plans*:²

- Funding of individual projects within aquatic priority areas and terrestrial priority landscapes will be based on cost-effectiveness and cost:benefit, rather than on concept proposal estimates; and
- Each project involving property and/or water rights acquisitions will require a subsequent approval of the proposed transaction, once fully developed in accordance with the plans, by the Trustee following consideration of input from the public, Advisory Council, and Trustee Restoration Council.

This document provides the NRDP's funding evaluation and recommendation that will be the subject of a 30-day public comment period that will begin on Thursday, June 27, 2013 and end on Friday, July 26, 2013. The two indicated councils will consider the NRDP's recommendation and public comment in making their funding recommendation to the Governor, who will make the final funding decision.

FVLT secured funding for this acquisition from a combination of donations, grant funds, and loans and purchased the Property in December 2012 for \$1.6 million to preclude a sale of the Property for residential development. Funding already secured for this Property totals \$725,000, and comes primarily from three entities: 1) Missoula County Open Space Bond (\$400,000); 2) Cotswold Foundation (\$150,000); and 3) Montana Fish and Wildlife Conservation Trust (\$100,000). FVLT secured a loan of \$875,000 from the Resources Legacy Fund in late 2012, which was used, along with the other funding listed above, to purchase the Property. A credit

¹ See pages 3-20, 4-39, and Table 6-1 of the *Final Restoration Plans*.

² See page 6-2 of the *Final Restoration Plans*.

agreement and mortgage for the loan sets out a repayment schedule to mid-2015 and provides other provisions to secure repayment of the Resources Legacy Fund loan. If this project is approved, the \$400,000 that FVLT receives from the NRD Restoration Fund will be used to pay down the loan.

It has been the policy of the State and NRDP, in funding real property acquisitions, that the property be paid for in full and that, upon closing, title to the property be free and clear of all monetary liens (both recorded and unrecorded liens) and that no NRD funding occur unless that is the case. While the NRDP would prefer to escrow the \$400,000 payment until all of the Resources Legacy Fund loan can be paid off, if the Governor approves NRD funding for this project, the NRDP would draft transaction steps, to be set forth in a subsequent funding agreement between the FVLT, NRDP and Resources Legacy Fund, that would adhere to this policy as closely as possible. It is the staff's understanding that Resources Legacy Fund has agreed that it will release the mortgage and otherwise subordinate its claim of an interest in the Property upon closing with receipt of \$400,000 in NRDP funds and an additional \$100,000 from FVLT. At that time the remaining \$375,000 of Resources Legacy Fund's loan will be unsecured, thus reducing the possibility the Property could be foreclosed upon.

The FVLT intends to own the Property at least as long as is necessary to fulfill the objectives stated in a December 2012 Management Agreement (Attachment C) between Missoula County and FVLT, and also meet the terms of the subsequently developed funding and management agreements with the NRDP. The agreement with Missoula County contains a list of management guidelines tied to these natural resource protection and public recreational access purposes. It allows for termination if FVLT transfers property ownership to a public agency or other appropriate conservation entity, and/or encumbers the Property with a conservation easement that insures the perpetual adherence to the guidelines and restrictions contained in the Management Agreement.

NRDP Funding Recommendation Summary

The NRDP recommends the project for the requested funding of \$400,000 subject to the following funding conditions.

- 1) That a funding agreement between the State, FVLT, and Resources Legacy Fund be completed that assures title to the Property be free and clear of all monetary liens (both recorded and unrecorded) and that any rights of Resources Legacy Fund are subordinated to the rights of the State in the Property. This Agreement shall also provide that, should future ownership involve private ownership with a conservation easement, FVLT would reimburse the State its 25% proportionate share for fee-title acquisition based on reconciliation of the difference in purchase price for fee vs. easement acquisition and also provide the State with a third party right of enforcement in the easement agreement.
- 2) That a management agreement between NRDP and FVLT that sets out land protection and access procedures will be completed. Among other things, this agreement will provide for public access to the entire Property as described in this evaluation and depicted on the access map (Attachment D) during the term of its ownership and insure such access is maintained

under subsequent ownership scenarios or otherwise reimburse the State for its proportionate share of the investment.

- 3) That the funding and management agreements are recorded at closing.
- 4) That a final survey of property boundaries be completed.

If the Governor approves the project funding, these conditions in the above-described agreements would be finalized prior to transmittal of funds. The NRDP and FVLT have discussed these conditions at meetings and in subsequent follow up communications. FVLT has indicated general acceptance of these funding conditions; however, FVLT must also obtain approval of its Board for the funding agreement. The planned schedule for completion of the funding agreement is by the end of 2013, although the Parties will make a good faith effort to complete the fund and management agreements before then.

Land Acquisition Due Diligence Summary

With the exception of a survey and further due diligence needed with respect to the Resources Legacy Fund lien, both of which are addressed in the NRDP's funding conditions, FVLT has completed all the needed land transaction due diligence required by the NRDP. These include an appraisal, environmental property assessment, mineral and water right evaluations, the warranty deed, and the title insurance commitment/guarantee. The NRDP has found all these land transaction documents to be acceptable, although the deed and title insurance exceptions may need to be amended at closing to account for the release of the Resources Legacy Fund liens on the Property and assure that no additional encumbrances have been or will be placed upon the title to the Property.

A summary appraisal report of the Property concluded a fair market value of \$1,650,000 for 201.8 acres, or \$8,176/acre. An appraisal update to this report completed in November 2012 concluded there was no change in value since the 2011 appraisal.

FVLT owns the mineral rights on the western portion of the Property, but the mineral rights are severed from the land for the 40 acre eastern parcel. A geological assessment of the mineral development potential of that parcel, completed on December 16, 2012, concluded that the risk of any commercial mineral development on the Property to be negligible.

Through its December 2012 land transaction, FVLT obtained ownership of the three water rights associated with this Property:³

- 1) a surface water right on Rock Creek of 15 cfs for irrigation, stock watering, and fishery purposes (indicated as fish pond) that has a priority date of May 4, 1906;
- 2) a surface water right on the Clark Fork River of 300 gpm for irrigation purposes with a priority date of June 1, 1943; and

³ The DNRC claim number for these water rights are 76E 4890 00, 76E 52136 00, and 76G 4889 00; FVLT is the owner of record for these water rights as of December 19, 2012.

- 3) a groundwater right of 20 gpm for irrigation, stock watering, and domestic use purposes associated with a 60' on-site well that has a priority date of June 10, 1983.

Project Evaluation

Public Access: This acquisition is expected to provide permanent public access to the entire Property, under management guidelines designed to protect the Property's natural resources. NRDP and FVLT have had considerable discussions about public access on the Property and what is envisioned to accommodate public access. Concern by Fish, Wildlife and Parks (FWP) biologists about protecting Rock Creek from extensive fishing pressure and concerns about disturbance to the nearby eagles' nest are also being considered as part of NRDP's and FWP's project evaluation. The following points characterize the public access considerations that have resulted from these discussions with FVLT and FWP and are depicted in Attachment D.

- ✓ Public access is an important part of this project.
- ✓ The NRDP, FVLT, and other project partners agree that such access should occur in a way that would not significantly harm natural resources and accommodates successful restoration and adaptive management of these resources.
- ✓ Damage to the Property's natural resources can be minimized by requesting that the public remain on designated trails and by managing the number of available parking spaces.
- ✓ At a minimum, the public will be able to access the Property from two proposed small public parking areas on the Property that are depicted in Attachment D.⁴ The areas will have a capacity of up to five vehicles each. FVLT has already constructed the parking area on the parcel east of the Rock Creek Road. The timing of the construction for the parking area on the west of the road will depend on site restoration activities and further agreement among the parties.
- ✓ At a minimum, the Property will include two designated trails, one on the east side of the Property that provides public access to the Clark Fork River and USFS lands, and one on the west side of the Property that contours near the restored pond area and provides public access to Rock Creek.
- ✓ Management may allow for temporary closure of trails to protect sensitive natural resources (e.g., nesting bald eagles) or for public safety (e.g., during heavy equipment earthmoving); this issue would be finalized as a part of the NRDP/FVLT funding agreement.

⁴ While two commercial establishments about ½ mile south of the project areas have informally allowed the patrons to park there and then access Rock Creek, whether or not such permissive parking would continue in the future is uncertain.

- ✓ Public hunting on the Property could also be allowed if it was consistent with public safety concerns and the State's wildlife management goals.

Costs:Benefit Relationship: FVLT's abstract (Attachment A) and FWP's resource evaluation (Attachment E) both describe the natural resource and public recreational benefits of this project. FVLT's goal is to assure perpetual conservation for this area, which provides public access to the Clark Fork River, Rock Creek, and 202 acres of riparian and upland lands adjacent to the two rivers. The parcel contains approximately 75 acres of riparian lands, which are designated in the December 2011 *Final UCFRB Terrestrial Prioritization Plan* as Priority 1 lands for habitat protection and enhancement. Numerous wildlife species have been observed on or near the site, including raptors such as bald eagles, song birds, white-tailed deer, and elk (Attachment E). The fisheries section of the FWP's resource evaluation notes that both Rock Creek and the Clark Fork River systems provide important migratory habitat for bull trout and westslope cutthroat trout species, with the confluence being an important feature for migrating and staging of adult native fish.

FVLT will prepare a restoration plan for the parcel, in coordination with other resource entities and organizations, which include Trout Unlimited, FWP, Clark Fork Coalition, University of Montana, Missoula College, and some area land owners. This restoration plan, which must be consistent with the agreed upon management plans, is expected to include land improvements, such as removing fencing and debris, reclaiming the existing pond, grading the site, and improving native vegetation, which will involve extensive initial weed control measures and on-going weed management. These enhancements to on-site riparian, wetland, grassland, and forest areas will improve wildlife habitat and benefit wildlife resources. The restoration planning efforts will also include an assessment of whether the irrigation ditch on the Property causes a fish entrainment problem and, if so, identification of potential solutions to that problem.

As part of its restoration planning process, FVLT will evaluate how best the Property's water rights can be used to the benefit of natural resources as part of its restoration planning effort, including evaluation of the potential benefits of converting the surface water rights to an instream flow purpose. FVLT's ownership of these water rights, to the extent they are not utilized consumptively, allows for more clean, cold water from Rock Creek to reach the Clark Fork River and help dilute metals since water previously diverted can now be left instream. Whether or not it would be worthwhile to pursue the Department of Natural Resources and Conservation (DNRC) change of use process to gain an instream flow right remains to be determined.

The project also offers natural resource educational opportunities and benefits. FVLT plans to use the Property for the purpose of providing conservation education for the public, public schools, and the university system.

Other properties adjacent to the Confluence parcel (depicted in Attachment B) have existing conservation easements on approximately 300 acres. Easements on another 572 acres that are proposed for completion by 2013 will further protect the area's natural resources. In June 2013, FVLT acquired ownership of an 83 acre parcel bordering the Confluence Property immediately to the north. This property, which is expected to add another half mile of access to the Clark

Fork River, is labeled *River Corridor Acquisition* on the map in Attachment B. The availability of this area for public use will be determined through subsequent negotiations between FVLT and the Burlington Northern/Montana Rail Link, which holds a one-half interest in part of the property. Access to the USFS lands at the south-eastern end of the Property offers a substantial benefit since these lands have only been accessible to the public from other access points located over 16 miles away.

Available and planned public recreational use on or from the Property includes hiking, birding, fishing on both the Clark Fork River and Rock Creek, and access for floating. Attachment E further details the significant river recreational access benefits this acquisition offers. The nearest public river access points are 15 miles upstream and five miles downstream. It is expected that public use will be substantial since this area is only 20 miles from Missoula and can be utilized via the public from a major interstate highway.

Given these substantial natural resource and recreational benefits the project offers and that 75% of the acquisition was or is to be purchased with other funds besides UCFRB Restoration Funds, the NRDP considers the project to have a favorable cost:benefit relationship.

Cost-Effectiveness: The *Final Restoration Plans* indicate that the NRDP will use a cost-effectiveness evaluation to judge whether a project accomplishes its goals in the least costly way possible, or if there is a better alternative. In its abstract (Attachment A), FVLT adequately justifies the reasons for and benefits of the conservation trust's fee-title acquisition of the Property. FVLT states that "the primary goal of the acquisition is to protect for future generations the wild character and ecological function of high priority riparian and associated natural habitats at this iconic location in the UCFRB." FVLT's commitment to this goal is reflected in its Management Agreement with Missoula County (Attachment C), which sets forth the management goals and objectives to permanently protect this Property from development and to provide for public access. FVLT has indicated that if the State commits to providing partial payment of \$400,000 for this Property, they will also enter into a management agreement with NRDP. The NRDP believes with this intended management agreement, and with the approach for managed public access described herein, this acquisition will cost-effectively accomplish the project goals.

Public Support: FVLT indicates that the public support for FVLT to purchase the Confluence project from the private landowner who planned to develop the area into 37 residential lots was extensive.⁵ A petition to stop the proposed subdivision was circulated and garnered approximately 3,600 signatures before it was submitted to the Missoula County Commissioners around 2008.

During the public comment period on the September 2012 *Draft Aquatic and Terrestrial Resources Restoration Plans*, the NRDP received three comment letters in support of this project and its inclusion in the *Final Restoration Plans*. Those letters were from representatives of Trout Unlimited, the Clark Fork Coalition, and FVLT. Positive aspects noted in these comments include the project's great value because of its location and benefits to both terrestrial and

⁵ Information provided by Lewis Kogan of FVLT to Greg Mullen of NRDP in a 6/6/2013 e-mail.

important aquatic resources, and its substantial matching funds and numerous contributing partners.

Following the conclusion of a 30-day public comment period on this document, the NRDP will provide the public comment and the NRDP's draft response to public comment document to the Advisory Council and Trustee Restoration Council before these councils determine their funding recommendations on this project.

Conclusion: NRDP recommends that \$400,000 from the UCFRB Restoration Fund be used to partially fund FVLT for the 202 acre Confluence Property, with \$320,000 (80%) from the Terrestrial Priority Account and \$80,000 (20%) from the Aquatic Priority Account. While the specifics and timing of funding and management agreements remain to be determined, the NRDP believes finalization could occur by December 31, 2013.

Attachment A

Confluence Project Abstract

THE CONFLUENCE PROJECT AT ROCK CREEK

Five Valleys Land Trust

Submitted By:

Five Valleys Land Trust
Grant Kier, Executive Director
P.O. Box 8953, Missoula, MT 59807
(406) 549-0755, grant@fvlt.org

Project Purpose and Benefits:

The purpose of this abstract is to propose \$400,000 in NRDP funding for acquisition of the 201-acre LEMB Co, LLC property at the confluence of Rock Creek and the Upper Clark Fork River by Five Valleys Land Trust (Five Valleys). The property includes riparian habitat along both rivers and upland integral to the wildlife value of the riparian corridors and adjacent protected public and private land; it is also the site of a proposed 37-lot subdivision. The primary goal of the proposed acquisition is to protect for future generations the wild character and ecological function of high-priority riparian and associated natural habitats at this iconic location in the Upper Clark Fork River Basin (UCFRB).

Potential project benefits include:

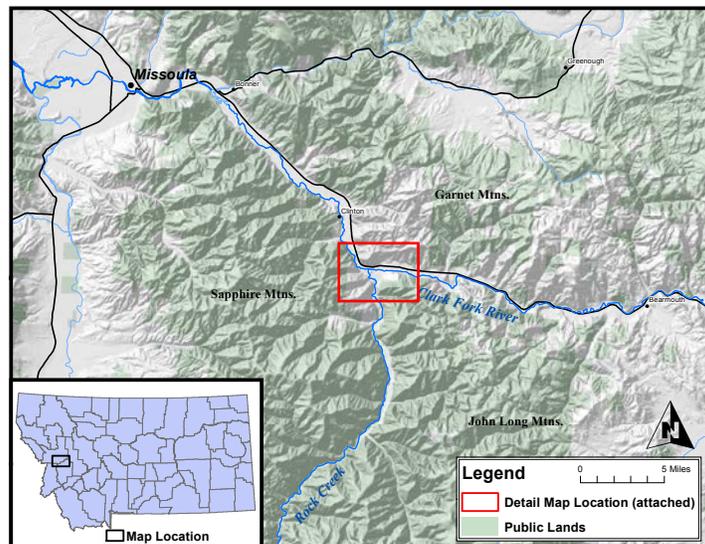
- Habitat improvement and permanent protection for 25 acres of riparian habitat (NRDP Terrestrial Restoration Priority 1) along nearly 1.5 miles of the Upper Clark Fork River below Deer Lodge (a NRDP Priority 2 stream reach).
- Habitat improvement and permanent protection for upland habitats critical for riparian function, including 50 non-riparian acres within the 100-year Clark Fork River floodplain, and over 125 acres of adjacent grassland and conifer forest habitats that buffer and support riparian corridors.

Project Location:

Refer to regional map (at right) and property aerial photo (attached). The Confluence Project area is located southeast of Clinton, at the point where the Sapphire, Garnet, and John Long Mountains come together. The LEMB Co. property is just east of Rock Creek and south of the Clark Fork River, and includes frontage to both.

Project Description:

The LEMB Co property includes extensive cottonwood galleries and mature ponderosa savannah forest within the intact Clark Fork River floodplain, offering habitat for a variety of raptors, passerine



birds, wild turkey and ruffed grouse. Local and landscape-level habitat connectivity afforded by the property serves a variety of species including elk, mule deer, white-tailed deer, black and grizzly bear, moose, bighorn sheep, and many non-game species which utilize the property's riparian corridors and upland buffers to move between large blocks of protected habitat. Rock Creek and the Clark Fork River at the property's west and north borders host wild rainbow and brown trout, as well as important populations of dwindling native fish species such as bull trout and cutthroat trout.

Five Valleys Land Trust is the lead entity for the property acquisition, and will ensure that once purchased the property is permanently protected. Five Valleys is partnering with Trout Unlimited and the Clark Fork Coalition, who would take the lead on post-acquisition habitat enhancement activities. All three partners will collaborate on developing a blueprint for future management of the site. Five Valleys will insure that access to the Clark Fork River is enhanced and managed to protect wildlife resources; the US Forest Service, BLM, and Montana Fish, Wildlife & Parks, may be future partners. Five Valleys has recently secured a purchase agreement on the LEMB Co, LLC property, and is conducting due diligence actions. Five Valleys plans to acquire the property by December, 2012, contingent on sufficient funding.

The proposed acquisition would permanently protect high-priority riparian and associated upland habitats along the Clark Fork River mainstem, enhance wildlife habitat and leverage prior and ongoing conservation efforts on nearby properties for maximum wildlife benefit, and provide opportunities to improve recreational access. Project strategies in support of these objectives are listed below.

Objective 1: Permanently protect important habitat on the 201-acre LEMB Co property at the confluence of Rock Creek and the Clark Fork River.

Strategies:

- a. Establish fair market value, obtain purchase option, and conduct due diligence for the 201-acre LEMB Co, LLC property at the confluence of Rock Creek and the Clark Fork River.
- b. Acquire the LEMB Co, LLC property at or below appraised fair market value, utilizing a five-year low-interest loan.
- c. Secure project funding to repay loan.

Objective 2: Enhance wildlife habitat on and near LEMB Co property.

Strategies:

- a. Restore and re-establish vegetation on recent habitat disturbances, including a gravel berm along Rock Creek Road, and a constructed eight-acre pond.
- b. Convert a portion of LEMB Co water rights to in-stream flow.
- c. Support permanent conservation on adjoining private lands through conservation easements (beginning with a pending 572-acre conservation easement west of and adjacent to the LEMB Co, LLC property).

Objective 3: Enhance recreational access.

Strategies:

- a. Work with project partners to develop access/recreation management plan for LEMB Co property.
- b. Establish appropriate public access for passive recreation, including on-site fishing access to the Clark Fork River and possible access to nearby hiking trails.
- c. Continue to work with adjacent landowners and project partners to manage, protect, and educate the public about the conservation values in the confluence area.

Anticipated project outcomes are consistent with the terrestrial criteria identified and prioritized in the Final UCFRB Interim Restoration Process Plan (the Process Plan) and the 2011 Terrestrial Prioritization Plan. For example:

1. The proposed acquisition will protect at least 25 acres of NRDP Terrestrial Restoration Priority 1 riparian habitat, and nearly 1.5 miles of riparian corridor along the Clark Fork River. The proposed acquisition will also protect 175 acres of native grasslands, cottonwood galleries, conifer forests and floodplain that buffer and enhance the prioritized riparian corridors.
2. The conservation value of the LEMB Co, LLC property is enhanced by its proximity to extensive acreage of US Forest Service and BLM land and over 300 acres of private land permanently protected with conservation easements.
3. The proposed project will result in protection of three habitats targeted by the 2011 Terrestrial Prioritization Plan (riparian, grassland, and conifer forest).
4. The proposed project will allow conversion of water rights of up to 10 cfs to in-stream flow delivered to the Clark Fork River at the mouth of Rock Creek. Conversion of water rights on the LEMB Co property could have valuable in-stream habitat benefits, and fits the NRDP fisheries restoration goal of flow augmentation to the mainstem Clark Fork River below Deer Lodge.
5. The proposed project will result in improved recreation access to the Clark Fork River and US Forest Service lands near the confluence. Project partners will ensure that enhanced access does not negatively impact protected wildlife resources or compromise restoration and enhancement efforts on the LEMB Co property or the Clark Fork River. Acquisition of the property would protect important wildlife habitat at the iconic gateway of western Montana's most famous recreation corridor.
6. The proposed project will facilitate regular monitoring on the LEMB Co property to evaluate effectiveness of habitat restoration and enhancement efforts.
7. The proposed project will provide an important buffer of natural habitat along the Clark Fork River mainstem, reducing encroachment of houses, agricultural fields, and livestock grazing.
8. The proposed project will insure permanent protection for the LEMB Co property while engaging in habitat enhancement activities that should provide wildlife and recreation replacement.
9. The proposed project will serve to maintain habitat connectivity between Rock Creek and the Clark Fork mainstem.
10. The proposed project will facilitate passive regeneration of native riparian vegetation including cottonwood trees, aspen, and willows in the Clark Fork River floodplain, and active restoration where passive regeneration of vegetation is impractical.

Project Schedule:

Table 1. Project Timeline	
<i>Action</i>	<i>Scheduled Completion Date</i>
Establish fair market value for LEMB Co LLC property	Complete
Acquire purchase option	Complete
Conduct due diligence for property acquisition	Complete
Secure project funding	Ongoing
Acquire LEMB Co LLC property	December, 2012
Habitat restoration and enhancement activities	2013-2014
Convert LEMB Co water rights to in-stream use	2013
Establish managed public access	2014
Project monitoring	2013 -->

General Cost Information:

Estimated NRD funds required to achieve project objectives: \$400,000. The total anticipated project costs for property acquisition are just less than \$2,000,000. Cost breakdown is shown in Table 2 below.

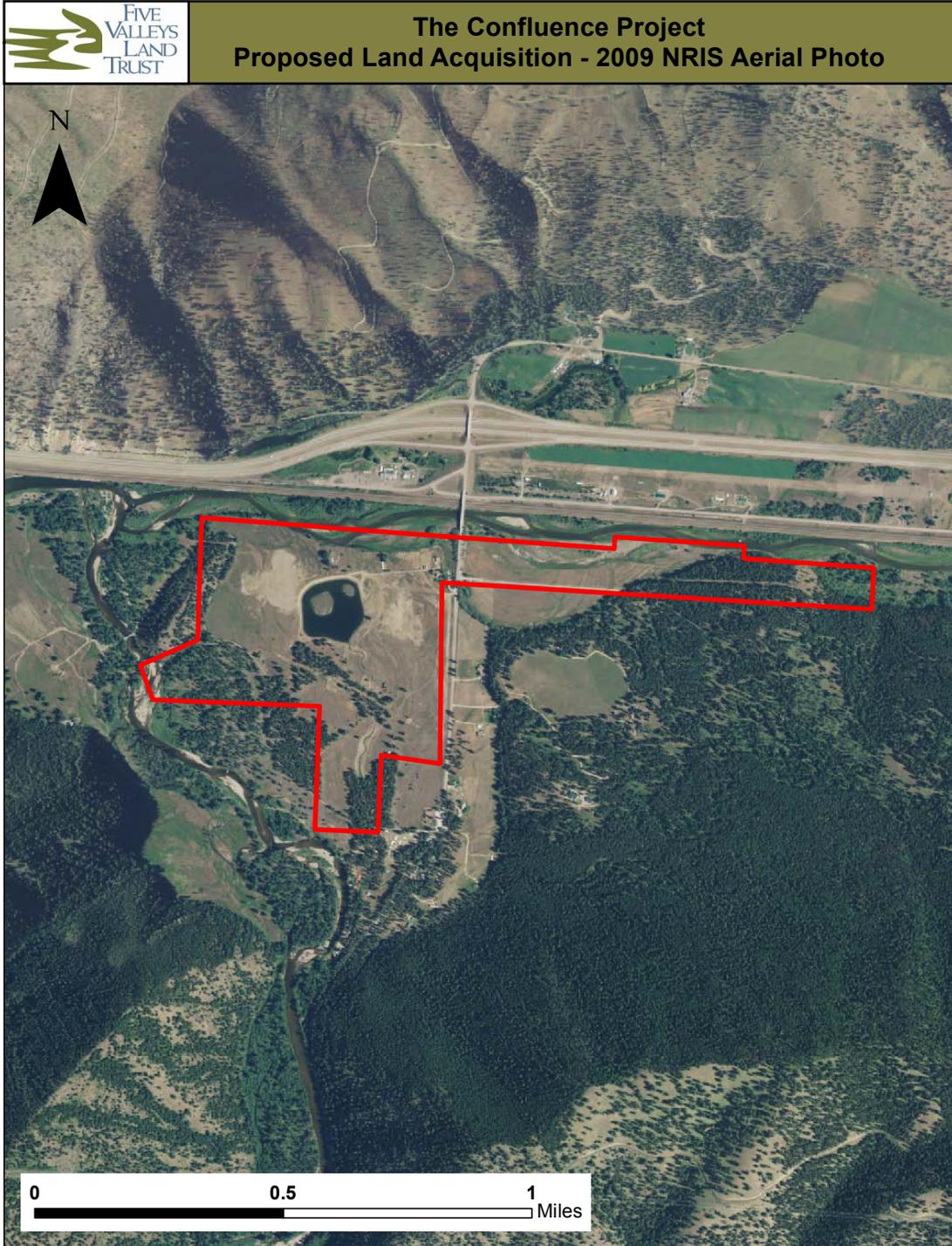
Acquisition Costs assuming 5 year ownership		
<i>Expense</i>	<i>Amount</i>	<i>% Phase I</i>
LEMB Co Property acquisition	\$1,600,000	80%
Bridge Loan (5-year @ 3%)	\$185,000	9%
Project Staff & Overhead (5-years)	\$150,000	8%
Legal fees	\$30,000	2%
Environmental Hazard Assessment	\$3,000	0%
Ecological baseline assessment	\$2,000	0%
Title Insurance	\$9,000	0%
Closing, Escrow, Recording fees	\$1,000	0%
Long-term stewardship endowment	\$15,000	1%
Total Expenses	\$1,995,000	100.0%

** Only costs/funding for acquisition of the LEMB Co property are shown here. Costs/funding for habitat and access enhancement projects cannot be fully developed until acquisition is complete. NRD funds requested here are for acquisition only.*

Five Valleys and project partners are requesting \$400,000 in NRD funds to complete the acquisition phase of the Confluence Project. NRD funding will be leveraged with \$1,600,000 of matching/cooperator contributions toward the acquisition costs. Five Valleys Land Trust will contribute \$900,000, anticipated from private partners and bridged through a low-interest loan from the Resources Legacy Fund or similar entity. Five Valleys will also leverage \$300,000 from the Rock Creek Trust, and intends to request an additional \$300,000 from the Missoula County Open Space Fund. In total, Five Valleys will leverage 80% of the total necessary funds to match the 20% requested from the NRDP.

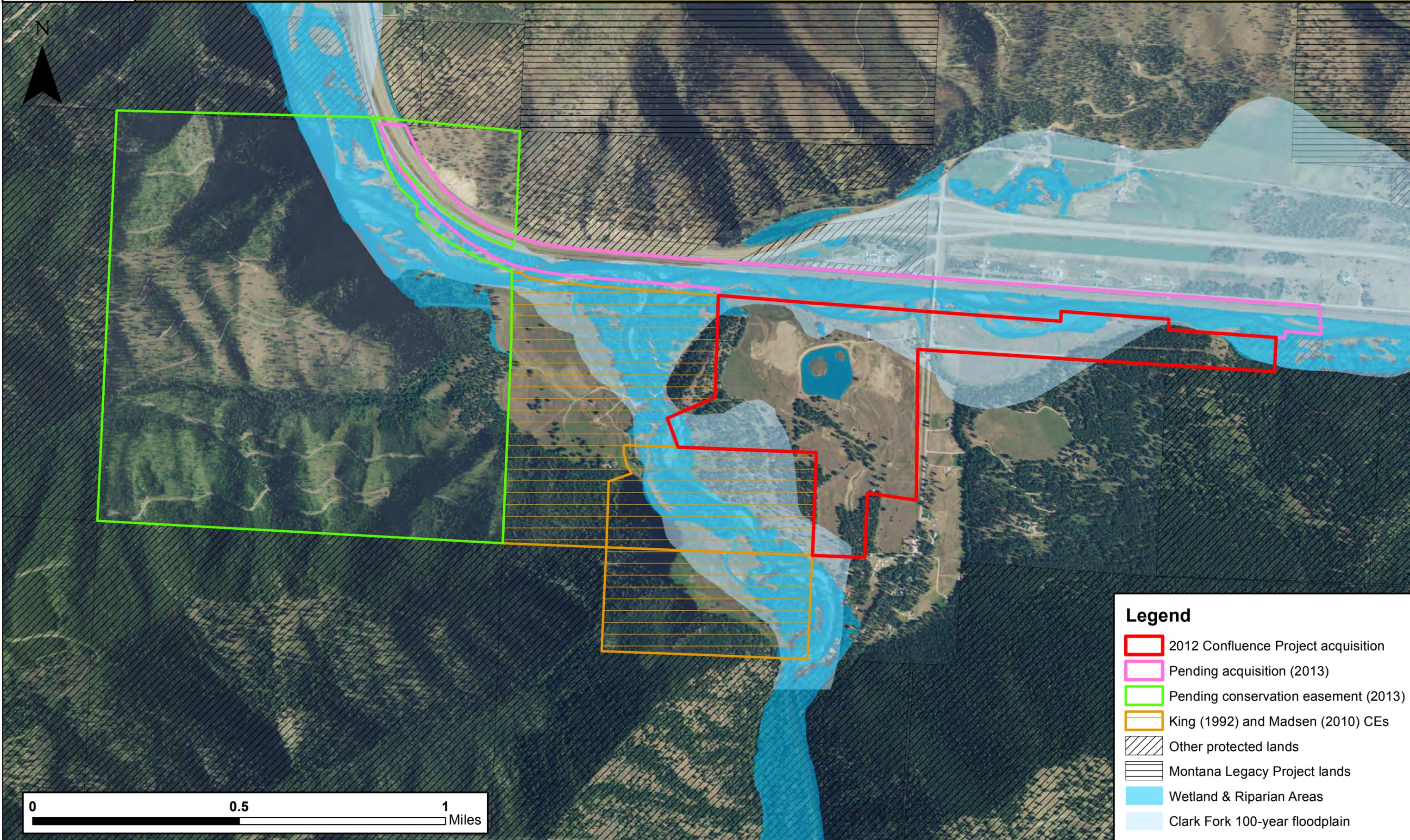
Table 3. Project Funding (Phase 1)		
<i>Funding Source</i>	<i>Amount</i>	<i>% Total</i>
Natural Resource Damage Program	\$400,000	15.8%
MT Fish & Wildlife Conservation Trust	\$100,000	5.3%
Missoula County Open Lands	\$300,000	15.8%
Five Valleys Land Trust Rock Creek Trust	\$300,000	15.8%
Five Valleys Land Trust (General fundraising/5-year loan)	\$895,000	47.4%
Total Project Funds	\$1,995,000	100.0%

Property Aerial Photo Map



Attachment B

Map of Conservation Land Acquisitions and Conservation Easements



Legend

-  2012 Confluence Project acquisition
-  Pending acquisition (2013)
-  Pending conservation easement (2013)
-  King (1992) and Madsen (2010) CEs
-  Other protected lands
-  Montana Legacy Project lands
-  Wetland & Riparian Areas
-  Clark Fork 100-year floodplain

Attachment C

Missoula County Management Agreement

MANAGEMENT AGREEMENT
for
The Confluence Project at Rock Creek

THIS MANAGEMENT AGREEMENT is made by and between Five Valleys Land Trust, Inc., a Montana non-profit corporation (hereinafter referred to as "Five Valleys") whose address is 120 Hickory Street, Suite B, Missoula, Montana 59802, and Missoula County, whose address is 200 West Broadway Street, Missoula, Montana 59802.

WITNESSETH

WHEREAS, Five Valleys will acquire in fee simple, certain real property situated in Missoula County, Montana, hereinafter referred to as the "Property," as described in the legal description attached as Exhibit A and depicted on the Property Map attached as Exhibit B; and

WHEREAS, Five Valleys will acquire the Property with the intention of protecting the Property's unique conservation values (hereinafter the "Conservation Values"), namely:

- a. Scenic views of the Property, the Clark Fork River, and the Rock Creek Valley for members of the public; and
- b. Significant relatively natural habitats for native plants, fish and wildlife, which are important to the ecological integrity and functions of the Rock Creek and Upper Clark Fork River Valleys; and
- d. Educational and research opportunities for the general public; and
- e. Recreational opportunities for the general public, including enhanced access to public lands and waterways; and

WHEREAS, Five Valleys acknowledges that the Property will be acquired in part with Open Space Bond grant funds provided by Missoula County pursuant to the 2007 Missoula City/County Open Space Interlocal Agreement (hereinafter the "Open Space Agreement"); and

WHEREAS, Five Valleys and Missoula County mutually acknowledge the need for assurance that management of the Property will be consistent with the protection of the Conservation Values, and consistent with the purposes of the Open Space Agreement, in perpetuity;

NOW, THEREFORE, for the purpose of providing guidance on management of the Property in such a manner as is consistent with protection of the Conservation

Values, and consistent with the purposes of the Open Space Agreement, Five Valleys and Missoula County mutually agree and declare, on behalf of themselves, and their heirs, executors, administrators, successors and assigns, that the Property will be held and hereafter shall be conveyed, subject to the following terms and conditions.

TERMS AND CONDITIONS

Five Valleys may not encumber, dispose of in any manner, or use the Property in a way that is inconsistent with the Open Space Agreement. Five Valleys will, without exception, abide by the specific guidelines set forth in its Management Plan (attached as Exhibit C) for the Property, which has been approved by Five Valleys' Board of Directors. Furthermore, Five Valleys will secure the approval of Missoula County prior to transferring ownership of any portion of the Property to any entity other than a public agency.

BREACH OF TERMS AND CONDITIONS:

If Five Valleys fails to comply with any of the terms and conditions herein, Missoula County may require from Five Valleys repayment in part or in full of the bond funds to Missoula County or its assigns. If Missoula County suspects that Five Valleys has used, encumbered, or disposed of the property in a way that is inconsistent with the Open Space Agreement, Missoula County and Five Valleys shall first mediate the dispute as provided below. Missoula County and Five Valleys shall mediate whether the Five Valley's use of the property will ultimately result in substantial impairment to the purposes for which the property was acquired as contemplated in the Open Space Agreement that would require repayment in full of the bond funds to Missoula County or its assigns. In the event mediation is necessary as provided above, the mediator shall be agreed upon between Five Valleys and Missoula County. Missoula County and Five Valleys will use best faith effort to resolve the dispute through mediation.

MODIFICATION AND TERMINATION:

Amendments or modifications to this Management Agreement, or the Management Plan (attached as Exhibit C), require advanced approval from Missoula County, its successors, or designated representatives. Once approved, such modifications shall become effective upon signing by both parties.

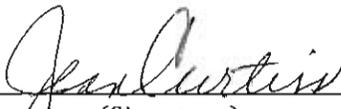
Five Valleys and Missoula County may terminate this Management Agreement if, by mutual consent of both parties, the Management Agreement is no longer necessary. Anticipated circumstances which would likely result in termination of this Management Agreement include transfer of the Property, as a whole or in separate parcels, to a public agency or other appropriate conservation entity, and/or the

encumbrance of the Property with a Conservation Easement that insures the perpetual adherence to the restrictions herein.

No change to this agreement shall be binding upon Five Valleys or Missoula County unless and until reduced to writing and signed by both parties.

IN WITNESS THEREOF, the parties hereto have caused this Grant Agreement to be executed as of the date of last signature below.

Missoula County

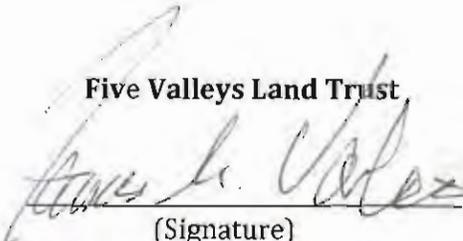


(Signature)

Jean Curtiss, County Commissioner
(Printed Name and Title)

12-5-2012
(Date)

Five Valleys Land Trust



(Signature)

Jim Valeo, President
(Printed Name and Title)

12-3-2012
(Date)

Exhibit A: Legal Description

Legal Description

Parcel 1:

A tract of land in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 12, Township 11 North, Range 17 West, Principal Meridian, Montana, in Missoula County, Montana; which said tract of land is more particularly described as follows, to-wit:

Beginning at the southeast corner of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 12; thence N.90°00'W, 447 feet; thence N.19°00'W, 396 feet; thence N. 60°00'E, 666 feet to the mid-section line; thence S.00°09'E, 708 feet along said mid-section line to the point of beginning.

RECORDING REFERENCE: Book 667 of Micro at page 481

Parcels 2-6:

All that part of the following described real property lying south of the south right-of-way line of the Chicago, Milwaukee, St. Paul and Pacific Railway Company, to wit:

Lot 2, SE $\frac{1}{4}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 7, Township 11 North, Range 16 West, P.M.M.

AND NW $\frac{1}{4}$ SE $\frac{1}{4}$ Lots 7, 8, 9 and 10, excepting a tract 230 feet by 240 feet in the extreme southeast corner of said Lot 10, as described in Deed recorded in Book 150 of Deeds at Page 164, records of Missoula County, Montana, ALSO EXCEPTING Tract A of Certificate of Survey No. 2927 and Certificate of Survey No. 614, all in Section 12, Township 11 North, Range 17 West, P.M.M.

RECORDING REFERENCE: Book 667 of Micro at page 481

EXCEPTING THEREFROM that portion decreed to the County of Missoula by Final Judgment recorded in Book 18 of Micro Records at Page 474.

ALSO EXCEPTING any portion of the right-of-way of the Northern Pacific Railroad (now Burlington Northern) being South of the South right-of-way line of the former Chicago, Milwaukee, St. Paul and Pacific Railway Company.

Exhibit B: Property Map

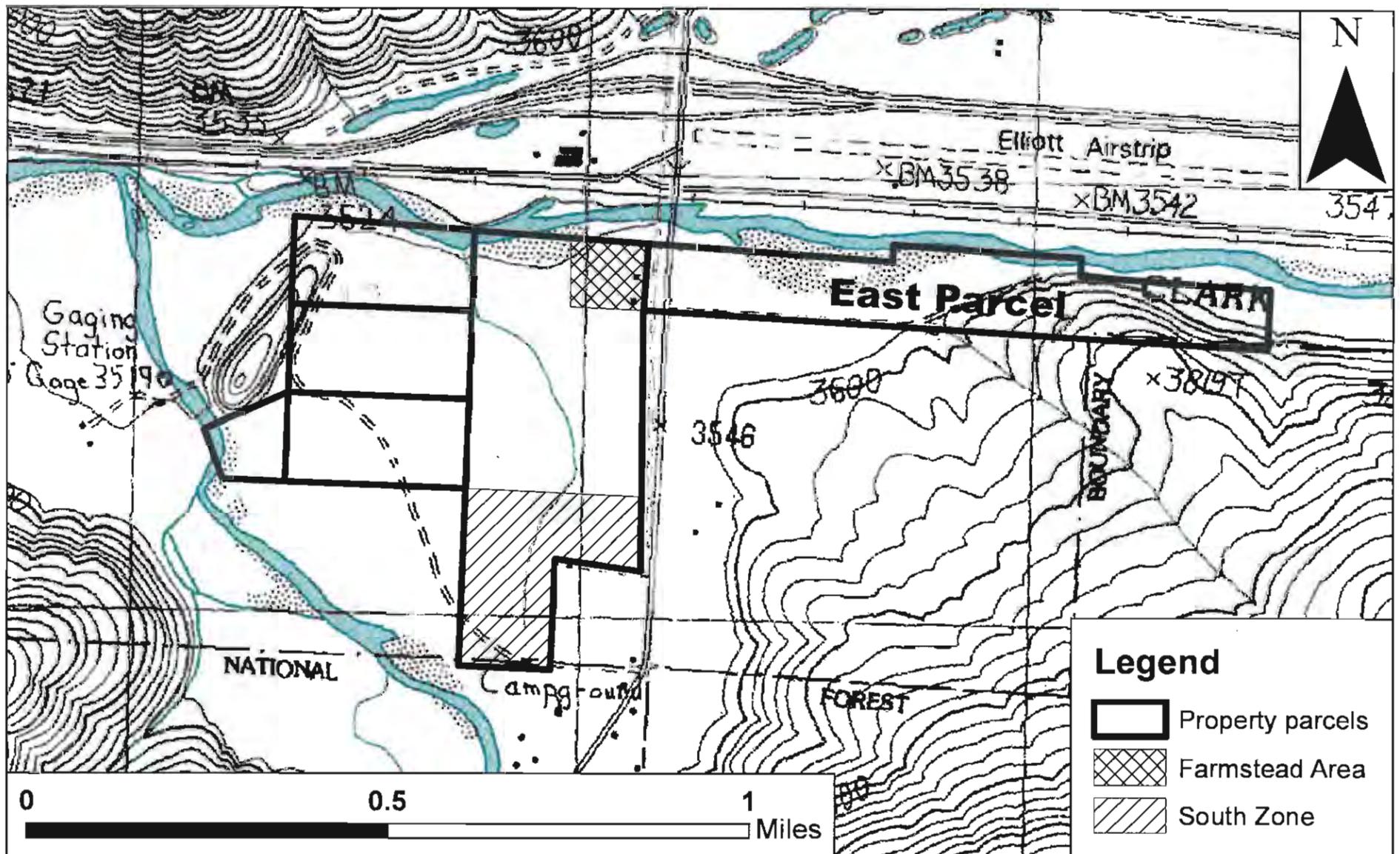


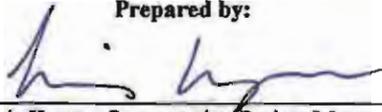
Exhibit C: Management Plan

Management Plan
for the
Rock Creek Confluence Property

FIVE VALLEYS LAND TRUST

Approved by full Board of Directors, November 29, 2012

Prepared by:



Lewis Kogan, Conservation Project Manager

Reviewed and Approved by:



Maggie Pittman, Conservation Director

Fee Ownership and Management Intent

Five Valleys Land Trust is acquiring the Rock Creek Confluence Property with the intention of protecting the property's conservation values described below. While it is not typically Five Valleys Land Trust practice to acquire conservation lands to be held long-term, the circumstances of this project make this an exceptional case. It is therefore Five Valleys' intention to acquire this property without identifying a subsequent private or public owner. Instead, Five Valleys intends to own the property at least as long as is necessary to insure permanent protection of the conservation values identified in this plan. Further, Five Valleys' board will conduct an ongoing assessment of the risks and opportunities to further our mission through the perpetual ownership of this property and may elect to permanently own the property in fee. At a time no later than five years from the date of acquisition Five Valleys board will formally reevaluate their interest and willingness to hold this property long-term.

Five Valleys also acknowledges that the full potential of this property to serve our mission and organizational goals will only be realized by engaging our partners and the local community in the execution of this management plan. Current partners include the Rock Creek Protective Association, Clark Fork Coalition, Westslope Chapter Montana Trout Unlimited, and the University of Montana's School of Forestry and Conservation. These partners may create additional plans for management of the property, as suited to restoration, revegetation and other unique areas of expertise, provided such plans are fully compatible with this management plan. Five Valleys has, and will continue to, seek the guidance of Montana Fish, Wildlife & Parks, the Bureau of Land Management, and the Forest Service in appropriate management of habitat and public recreation. Other partners will undoubtedly add value to this project as we continue to move this management plan forward in the coming five years.

In keeping with our approach to conservation easements, Five Valleys recognizes that property management is necessarily adaptive. Nonetheless it is also appropriate to set use and management guidelines to insure consistency with protection of the conservation values. Five Valleys' Board of Directors has resolved to set and abide by the guidelines, set forth in this document, in Five Valleys' management of the Rock Creek Confluence Property.

Conservation Values

- a. Scenic views of the property, the Clark Fork River, and the Rock Creek Valley for members of the public; and
- b. Significant relatively natural habitats for native plants, fish and wildlife, which are important to the ecological integrity and functions of the Rock Creek and Upper Clark Fork River Valleys; and
- d. Educational and research opportunities for the general public; and
- e. Recreational opportunities for the general public, including enhanced access to public lands and waterways.

Management Guidelines

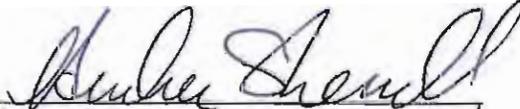
1. Use of the property will be consistent with protection of the Conservation Values defined above.

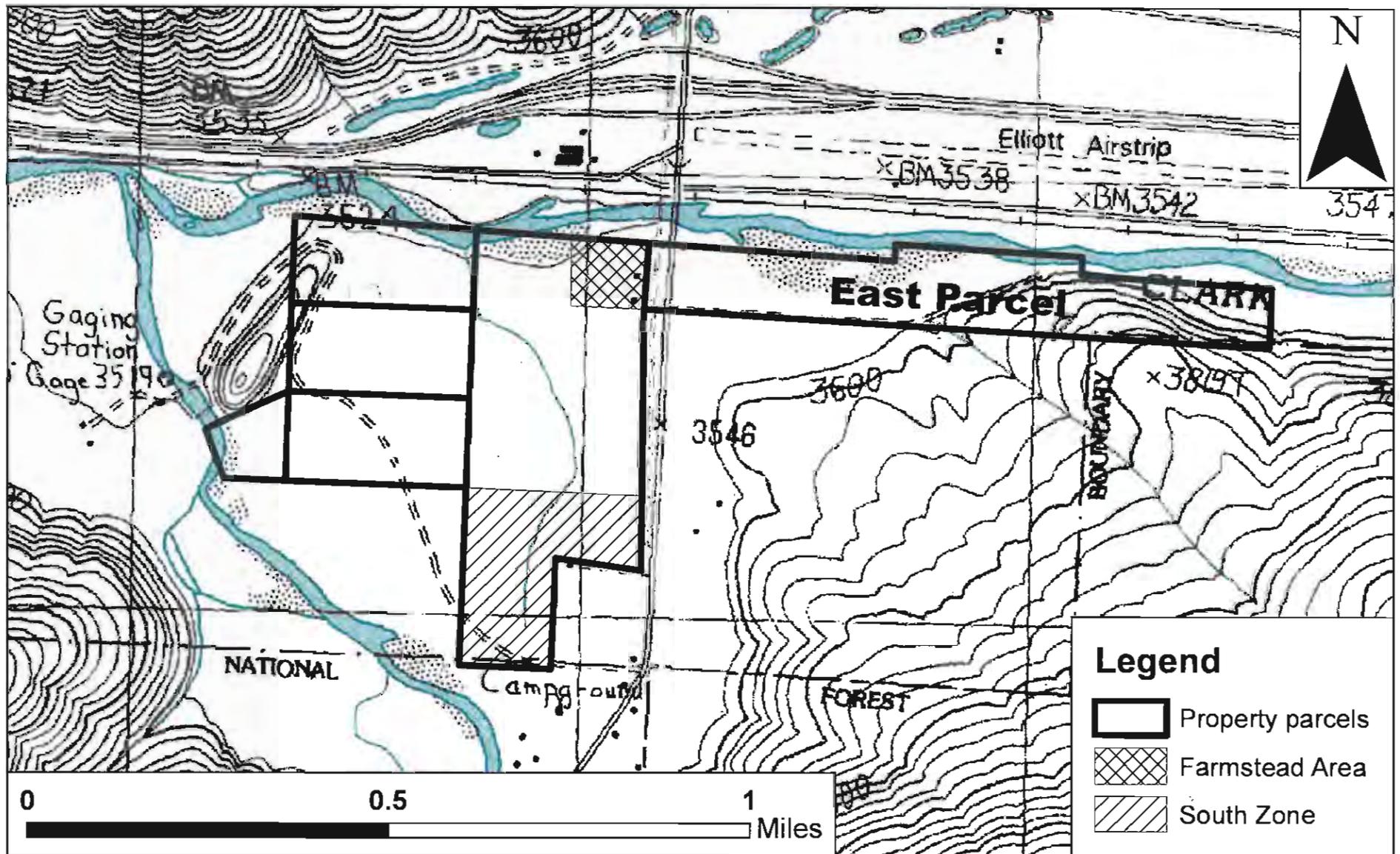
2. Five Valleys will manage the "East Parcel" (see attached property map) for public access. Five Valleys reserves the right to limit access to reasonably protect relatively natural habitat. Only structures necessary to facilitate public access, such as pit toilets, picnic tables, etc. are allowed on the East Parcel.
3. One residence and several rustic cabins currently exist on the property within the "Farmstead Area" (see attached property map). Use, repair, maintenance, and remodel of the existing structures within the Farmstead Area will be allowed.
4. Within the "Southern Zone" (see attached property map), construction, repair, maintenance, remodel, and use of structures is allowed specifically for the purpose of providing an education center for the public.
5. Excepting the allowances above, no other structures will be allowed.
6. While not an exhaustive list of permitted management activities, Five Valleys specifically retains the right to conduct surface alterations and water rights changes on the Property for the purpose of restoring natural habitat.
7. Development of significant infrastructure for active sports and organized sporting events, such as playgrounds, ball fields, swimming pools, or arenas, will not be allowed.
8. Five Valleys may transfer the property in no more than four (4) separate parcels. Approval by Five Valleys' Board of Directors is required for any transfer.
9. If Five Valleys transfers ownership of the "East Parcel" (see attached property map), transfer will be to an entity that will manage this parcel for public use.
10. If Five Valleys transfers ownership of any portion of the Property to any entity other than a public agency, Five Valleys will encumber the transferred portion of the Property with a Conservation Easement that insures the perpetual adherence to the restrictions herein.
11. Five Valleys will annually monitor the property's conservation values compared to the baseline conditions documented by Five Valleys in December, 2012.

FIVE VALLEYS LAND TRUST BOARD OF DIRECTORS

Signed:


 (Signature) James G. Valeo
 (Name) President
 (Title) 11-29-12
 (Date)


 (Signature) Amber Sherrill
 (Name) Vice President
 (Title) 11-29-12
 (Date)



Attachment D

Map of Public Access Provided by the Confluence Project



Walk-In River Access provided by project. Nearest downstream fishing access 3 miles downstream at Schwartz Creek FAS.

New public parking area and fishing access provided by project, with easy access immediately off Rock Creek Road. Numbers denote available parking spaces.

Walk-In River Access provided by project. Nearest upstream fishing access 5 miles upstream at Beavertail Hill FAS.

Pond Restoration Area. Major earthmoving activities and vegetative restoration planned.

New riverside trail and USFS access provided by project. Previously, nearest access to this public land required 16+ mile drive on logging roads from Beavertail Hill.

Future walk-in access to Rock Creek provided by project. Access route across property to be determined.

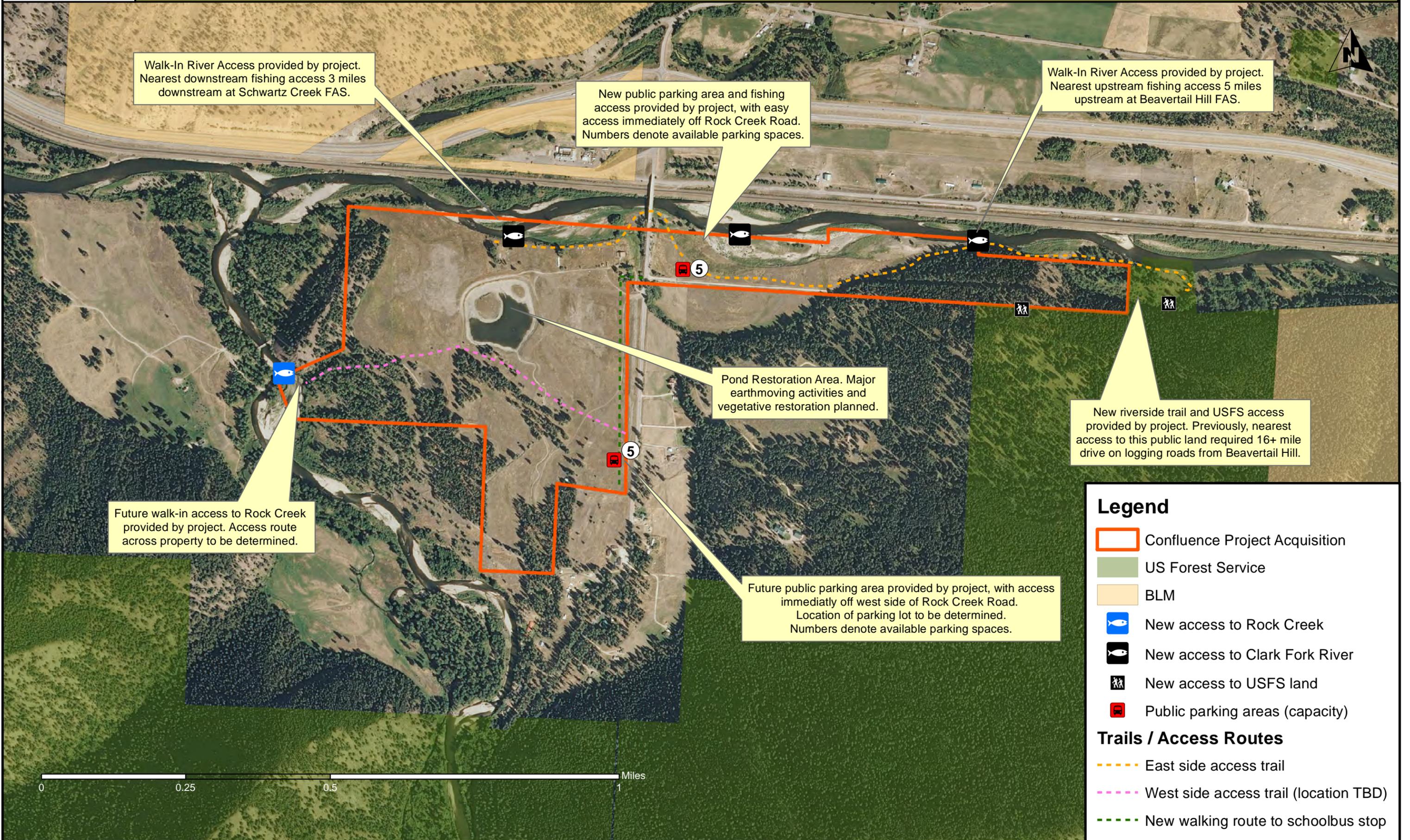
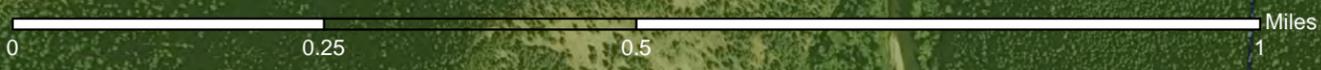
Future public parking area provided by project, with access immediately off west side of Rock Creek Road. Location of parking lot to be determined. Numbers denote available parking spaces.

Legend

- Confluence Project Acquisition
- US Forest Service
- BLM
- New access to Rock Creek
- New access to Clark Fork River
- New access to USFS land
- Public parking areas (capacity)

Trails / Access Routes

- East side access trail
- West side access trail (location TBD)
- New walking route to schoolbus stop



Attachment E

FWP Aquatic and Terrestrial Resource Evaluation of the Confluence Project

Attachment E
Aquatic and Terrestrial Resource Evaluation
The Confluence Project at Rock Creek

Date: June 11, 2013

Prepared by: Ray Vinkey and Kristi DuBois, FWP wildlife biologists and Brad Liermann, FWP fisheries biologist

Property name: Rock Creek Confluence property

Project Sponsor: Five Valleys Land Trust (FVLT)

Location: Rock Creek, Montana

Portions of:

Township 11 north, 16 west, section 7

Township 11 north, 17 west, section 12

Acreage: 201 acres, **Elevation:** 3520'

Landownership: Nonprofit organization

Project description and cost: The Confluence land acquisition project sponsored by the FVLT was included for further review and a subsequent funding decision in the December 2012 *Final Upper Clark Fork River Basin Aquatic and Terrestrial Resources Restorations Plans (Final Restoration Plans)*. Pursuant to those plans, FVLT seeks \$400,000 from NRDP to reimburse them for the purchase of 201 acres near the confluence of Rock Creek and the Clark Fork River. FVLT purchased the property in Dec. 2012 for \$1.6 million through a combination of donations, grant funds, and loans. The land is to be managed for conservation and enhancement of terrestrial, and aquatic habitats, and for public recreational use and access.

Wildlife Habitat onsite: *(Are there targeted habitats for conservation? Any unique habitats?)*

This property is dominated by nonnative grasses on a level area that probably was used for hay production in the past. The eastern portion of the pasture lies within a historic—now filled in—oxbow of the Clark Fork. The property has 25 acres of riparian and wetland habitats along the Clark Fork River—and along a portion of Rock Creek and another 50 acres within the 100 year flood plain of the Clark Fork River. All riparian and wetland habitats in the UCFRB are designated as Priority 1 lands for habitat protection and enhancement in the *Dec. 2011 Final UCFRB Terrestrial Prioritization Plan*. Mature cottonwoods are found in the northwest corner within the floodplain of Rock Creek. The flat river bottom areas have scattered mature ponderosa pine trees and there are patches of aspen adjoining the pasture on the east side of the property.

Dry douglas fir dominated forest is found at the toe of a ridge on the east side of the property where it adjoins Forest Service lands. We estimated this conifer forest to be in the range of 100 years old. Some large “legacy” trees and snags were visible in this area. The riparian and conifer forest habitats offer replacement habitat and enhancement opportunities for targeted species. Grasslands in the area have been heavily degraded by past hay production and weed infestations. Native grasslands are present, but limited.

Much of the eastern part of the property is pastureland that was being prepared for development. The nonnative grasslands are infested with weeds, typical of most river bottom habitats in the Clark Fork/Missoula area. The riparian habitat along Rock Creek is in good condition, and adjoins riparian habitats on adjacent properties some of which are held under conservation easements. The riparian habitat along the Clark Fork River is in poor condition, due to years of excessive livestock grazing. Conifer forest and the scattered ponderosa pine appear to be in good condition with no significant insect infestation apparent. The artificial pond in the area had low water, and only a few small patches of willows around it.

Wildlife onsite: (*What species are present, any Species of Concern or Endangered Species Act species? Are there targeted species for restoration: waterfowl, aquatic mammals, amphibians, grassland birds, insectivorous birds, birds of prey, bats?*)

During an April 23, 2013 site visit, FWP biologists observed multiple raptors: bald eagle, red-tailed hawk, osprey, and American kestrel in and near the property. Other birds observed were the western blue bird, black-capped chickadee, violet green and tree swallows, downy woodpecker, American robin, red winged black bird, mallard, Canada geese, and Barrow’s golden eye. White-tailed deer were observed and are abundant with 20 to 92 reported feeding on green up this spring. There are recent reports of up to 35 elk on the property. Wild turkeys have been observed on previous site visits.

Species of Concern likely present on the property (either foraging or breeding) include golden eagle, great blue heron, Lewis’s woodpecker, hoary bat, fringed myotis, evening grosbeak, Cassin’s finch, pileated woodpecker, Veery, Clark’s nutcracker, and western toad. The property has not been surveyed for small mammals, reptiles and amphibians, bats, or songbirds.

Targeted species for restoration observed or likely to use the property include fish-eating species, waterfowl, raptors, amphibians, woodpeckers, insectivorous birds, bats, and burrowing mammals.

A bald eagle pair nests on the adjacent property along Rock Creek, only 50 meters from the property boundary. The property provides perch trees and roost trees, as well as foraging habitat for these bald eagles. It also could provide post-fledging habitat for the eaglets. Other raptors observed on the property include red-tailed hawk and American kestrel. No owl surveys have been done, but the area could potentially be used by great horned owl, saw-whet owl, northern pygmy-owl, and other species.

A small great blue heron rookery (about 10 nests) is located approximately 500 meters north of the property, on the north side of I-90. Great blue herons have been observed foraging in the

pond on the property. Foraging habitat for herons can be found in several backwater areas on the property, along Rock Creek and the Clark Fork River. A nesting pair of ospreys is located on a power pole in the portion of the property east of Rock Creek Road. Waterfowl use the property, especially the backwater areas along Rock Creek and the Clark Fork River, and the artificial pond.

Burrowing/ground dwelling mammals include northern pocket gopher, meadow vole, and deer mouse. Although not observed during our assessment, the property likely supports Columbian ground squirrels, which also provide foraging opportunities for great blue herons and raptors. Northern river otter have been observed less than 2 km downstream of the property, and may move through the area.

The property has not been surveyed for amphibians, but long-toed salamander, Columbia spotted frog, and western toad may be present in the area. Numerous insect-eating species are present, including a variety of songbirds and woodpeckers. Buildings present on the site may support roosting bats, but surveys would be needed to document use. Habitats on the property likely provide roosting and foraging for tree bats (hoary bat, silver-haired bat), and foraging habitat for a variety of other bat species.

Fisheries habitat and resources onsite:

As the name suggests, the property is located adjacent to both the Upper Clark Fork River and Rock Creek. A majority of the riparian habitat and stream corridor protected by the property is on the Clark Fork River, with only a small portion of Rock Creek being protected. Both Rock Creek and the Clark Fork River in this reach maintain bull trout and westslope cutthroat trout populations, although Rock Creek sustains more robust native fish populations than the upper Clark Fork River. Both river systems provide important migratory habitat for these species with the confluence being an important feature for migrating and staging adult native fish. In addition to native fish, both rivers also maintain quality recreational fisheries (brown and rainbow trout) although Rock Creek again supports much higher densities of recreational fish species than the Clark Fork River. Both rivers provide quality angling that is highly valuable to anglers that fish Western Montana.

Protection of this property will provide significant resource value to the fisheries resources in both the Clark Fork River and Rock Creek. This project will provide protection of approximately 1.5 river miles of riparian habitat on the Clark Fork River. The foot print for riparian protection is smaller on Rock Creek (approximately 500 feet), but the property does maintain a significant water right from Rock Creek. Protection of this water right could reduce fish entrainment and provide additional in-stream flow to Rock Creek and the Clark Fork River. This reduction in fish entrainment and improvement of in-stream flows assumes that this portion of the project is completed (currently in the planning and assessment phase).

According to the *2011 Final Aquatic Prioritization Plan*, the Clark Fork River in this reach is a Priority 2 stream only for in-stream flow projects. Thus, the portion of the project that protects riparian habitat is not classified as Priority 2 restoration project. The only portion of the project that would be considered Priority 2 would be in-stream flow protection from the Rock Creek

diversion, should this portion of the project be implemented. Protection of riparian habitat on Rock Creek would be classified as a Priority 3 project based on the *December 2011 Aquatic Prioritization Plan*.

Geographic relationship to other lands: (*Public, protected, developed, connectivity*)

To the west the property adjoins two other properties with conservation easements on approximately 300 acres and another 572 acre easement proposed for 2013. The Forest Service is the primary land holder in Rock Creek and adjoins the FVLT property to the east. Across Highway 90 to the north the Nature Conservancy holds thousands of acres of former timber lands. The Confluence parcel is situated between these protected lands and as such contributes to conservation of the entire landscape.

Confluence areas of streams and rivers are very important for fish and wildlife because they provide connectivity, riparian habitat, and a juxtaposition of habitats. In the Upper Clark Fork River Basin, confluence areas tend to have nesting eagles and great blue herons. Confluence areas are frequently heavily impacted by human development. The Rock Creek confluence area is intact, and less developed compared to many of the other major confluences in the watershed.

Development Status: (*What is the development potential?*) The property was proposed for subdivision into 37 lots, but that proposal was denied. The previous owner was working on an alternative subdivision plan, but then sold the property to FVLT, removing the immediate risk of subdivision. The property is platted as 6 parcels. While FVLT has committed to conservation of the property in the near term, its location on Rock Creek and within close proximity to Missoula give it high development potential.

Enhancement opportunities:

There is significant potential onsite for habitat improvement and protection for 25 acres of riparian habitat as well 50 acres in 100 year Clark Fork floodplain and in the pastures. The riparian habitat along the Clark Fork River offers excellent riparian habitat enhancement opportunities. The area had been heavily grazed by cattle. The cattle have been removed, and FVLT is working to improve fencing to eliminate trespass cattle from an adjacent property. Removal of cattle grazing alone should improve the riparian habitat quantity and quality. Three hundred willow clips were planted this spring with more planned for subsequent years. FVLT, in consultation with the Clark Fork Coalition and Trout Unlimited, is assessing additional opportunities for riparian and wetland restoration as well as modifications to the irrigation ditch to avoid fish entrainment.

The artificial pond/gravel pit has potential for conversion into a moist-soil shallow water wetland and FVLT is working with the University of Montana to assess feasibility and design of a wetland. Herbicides have been sprayed on roadside weeds and other problem spots with additional treatments planned for this fall and subsequent years. To date FVLT has also removed hazardous fencing. Overall FVLT has initiated significant enhancement activities and has long term plans to make the site a model of restoration.

Public access and recreation: (What will be provided? Are there risks?)

FVLT plans to manage the property to provide for public access. They are offering unlimited access to the east side of the property, which will provide access to a previously inaccessible area of Forest Service land. This will provide access to the Clark Fork River. FVLT has already developed a parking area and associated signage providing access to 1.5 miles of river frontage.

Access to the west portion of the property will be more limited and is subject to approval of partners, including NRDP and FWP. Some initial limit to access will be necessary while they work on restoring vegetation in the grassland areas, and removing a gravel berm along Rock Creek Road. Public access can be provided over most of the property in the future with little impact on wildlife. Access to the western portion of the property by Rock Creek may need to be limited seasonally, to avoid disturbance to the nesting pair of bald eagles that nest a few hundred feet south of the western part of the property. This issue requires further evaluation.

This project provides significant improvement of stream access to both the Clark Fork River and Rock Creek. This project will provide exceptional access to the Clark Fork River including access for wading anglers to approximately 1.5 miles of the Clark Fork River and an access point to park and carry light weight boats to the river for float access to the Swartz Creek and Turah Fishing Access Sites. The portion of the property adjacent to Rock Creek will provide access to a reach that is generally very difficult to access, but provides excellent angling opportunities. Overall, this project provides a significant improvement in access to this reach of both the Clark Fork River and Rock Creek and thus has significant value.

Recreation compatible with the area includes hiking, birding, fishing, some hunting, and access for floating. The property supports game species notably white-tailed deer, as well as elk, black bear, wild turkey, and waterfowl. Hunting opportunities could be provided, especially for archery and shotgun hunters. The project provides public access to USFS lands adjacent to the eastern portion of the property that have previously only been accessible from public access points from about 15 miles away.

Who are the partners? FVLT is working in partnership with the Clark Fork Coalition, Trout Unlimited, the University of Montana, and the Missoula College. These partners are will provide water right research, restoration design and access management, and excavation. FVLT is also interested in working with agency cooperators: NRDP, FWP, USFS, and BLM.

Who will manage the land? FVLT will manage the land in collaboration with its partners.

Other unique factors to consider: Rock Creek is a nationally recognized blue ribbon stream; this project has a high public profile, and is in close proximity to Missoula.

Summary: The Confluence project is distinctive because of the enhancement activities completed and planned as well as the large number of partners involved. There is great interest in the project in the Missoula and Rock Creek communities. It can be a positive example of collaborative conservation in the watershed. Although grassland areas are heavily impacted by

past hay production and disturbance by the past owner, restoration of native grasslands in the area is possible. Important riparian habitats may be enhanced to improve their value for terrestrial and aquatic resources. The project has unique potential for habitat enhancement and recreational access to the Clark Fork River, Rock Creek, and USFS lands.