

A COOPERATIVE APPROACH TO RIVER MANAGEMENT:
A CASE STUDY OF THE BLACKFOOT EXPERIENCE

By

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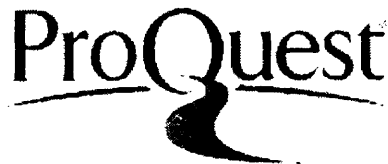


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ABSTRACT

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During the past ten years recreational use has increased significantly along a 30 mile portion of the Big Blackfoot River in western Montana. Unlike the situation on many western rivers where the public owns and manages the riparian land, over 80 percent of the Blackfoot river frontage is privately owned. Traditional methods of public river management were not appropriate in this case, so local ranchers, corporate timberland owners and other private interests in cooperation with local, state and federal officials developed a plan that allows recreational use of private land and also offers long-term protection for the river resource.

The recreation management plan established designated parking areas along the river and permitted foot traffic on the river banks between access points. Permanent preservation of riparian property was accomplished by means of conservation easements. In these legal agreements the landowners donated development rights to their property while they retained the right of traditional agricultural and forestry uses. The plan was implemented on an experimental basis in 1976 under the auspices of the Blackfoot River Recreation Management Advisory Council which was composed of riparian landowners and public agencies. The project was successful during the trial period and the Montana Department of Fish and Game assumed administrative responsibility for the program in 1978.

A locally initiated, cooperative approach to planning and management is applicable to a variety of natural resource problems. However, the successful application of this technique will be enhanced if a number of factors are present. First the resource problem must be sufficiently critical to require attention, yet must not have reached the stage of development where a solution is impossible. Second, all the participants must cooperate and overcome differences to solve the mutual problem. Third, public agencies must treat the private landowners as true partners in the planning process. The public sector should provide professional assistance and logistical support for the effort. Fourth, a local person who is familiar with all the participants should act as project coordinator. The plan must be implemented in a manner that is acceptable to the public. If these requirements are met, many natural resource issues can be solved at the local level.

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The Blackfoot River Plan is their undertaking and their accomplishment. At the risk of excluding someone, a list of the participants follows:

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PREFACE

"In our family, there was no clear line between religion and fly fishing. We lived at the junction of great trout rivers in western Montana, and our father was a Presbyterian minister and a fly fisherman who tied his own flies and taught others. He told us about Christ's disciples being fishermen, and we were left to assume, as my brother and I did, that all first-class fishermen on the Sea of Galilee were fly fishermen, and that John, the favorite, was a dry fly-fisherman . . . Paul and I fished a good many big rivers, but when one of us referred to the 'big river' the other knew it was the Big Blackfoot. It isn't the biggest river we fished, but it was the most powerful, and per pound, so are its fish . . . We regarded it as a family river, as part of us, and I surrender it now only with great reluctance to dude ranches, the unselected inhabitants of Great Falls, and the Moorish invaders from California . . . The canyon above the old Clearwater bridge is where the Blackfoot roars loudest. The backbone of a mountain would not break, so the mountain compresses the already powerful river into sound and spray before letting it pass. It is no place for small fish or small fishermen . . . What a beautiful world it was. At least a river of it was. And it was almost mine and my family's and just a few others' who wouldn't steal beer." (Maclean 1976).

Norman Maclean, fly fisherman, logger, firefighter, professor of English and storyteller, wrote these words about the Big Blackfoot River as he knew it in 1937, when the fish were many and the fishermen few. Today, some 40 years later, many aspects of the "big river" remain the same: the river flows free, rainbow trout lurk behind the big rocks, and the scenic shoreline is unspoiled by development. One important factor has changed: the few fishermen are now many.

More and more people are discovering the satisfactions and challenges of outdoor activities, including those associated with rivers. This expanding demand, in conjunction with developments limiting public use of many streams, has placed increasing pressure on remaining free-flowing waterways. Many rivers, including the Big Blackfoot, flow through private land; thus the public must cross private land (as did Maclean) to gain access to the water. This leads inevitably to conflict with landowners.

INTRODUCTION*

This paper traces the development of a unique project on the Big Blackfoot River in Montana, where recreationists and landowners were, at least until a few years ago, on a collision course. At that time a number of people recognized the impending crisis and took steps to preserve a 30-mile reach of the river for public use. In a spirit of compromise, federal, state and county agencies worked cooperatively with corporate timberland owners, ranchers and other rural property owners to develop a plan that would protect the natural, scenic and recreational integrity of the Blackfoot River corridor. The participants in this program utilized an approach which departed radically from the methods traditionally used to plan and manage a mix of private and public resources.

Government institutions have grown in proportion to the size and complexity of our society. The scope and influence of government has expanded from a servant of the people to a pervasive authority. The power of government has become more centralized and it often appears that bureaucratic growth is the major objective of government rather than

*The author is indebted to Mr. Jerry Stokes, presently Staff Recreational Planner, Flathead National Forest, for the synthesis of many of the concepts presented in this section.

the welfare of the citizenry. Social alienation has frequently resulted.

People react in different ways to government that is hierarchical, authoritarian, rigid and distant. Some individuals strike back at growing bureaucracy, as evidenced by the tax revolt in California. Friedmann (1973) argues that many Americans choose to become nonparticipants because they are so alienated that they cease to care. People react to resource management issues by questioning bureaucratic decisions on federal land (the clearcutting controversy, the protest over proposed development of Mineral King and Ski Yellowstone).

Since the establishment of the National Park system, the policy of government on all levels has been to preserve areas of ecological, recreational or scenic significance. This policy, implemented on public lands, has been successful as the number, variety and location of parks in this country testify. By contrast, government attempts to save landscapes and natural resources that are privately owned has not been as successful. Government traditionally has taken three approaches to ecological, recreational or historical areas which are predominately privately owned. The first approach is one of laissez faire in which individual decisions are determined by the economics of the market place. In the second instance, the government regulates the use or preservation of privately owned resources through

zoning. Third, the government may attempt to acquire a significant public interest in the resource and thereby implement government management.

Although these methods may have been valid in the past, it is becoming increasingly apparent that they are not adequate for the social, economic and political realities of today. Citizens who take an interest in the preservation of scenic resources are often not confident that the market place alone will result in a socially acceptable or economically beneficial long-term solution. As resources become more scarce and cost increase, this alternative will not suffice. The general distrust of government bureaucracy also limits the effectiveness of the zoning approach. Many people feel that they have little influence in zoning matters and are hesitant to accept more government authority. This distrust of government intervention also diminishes the effectiveness of public purchase and management of privately owned resources. In many instances, this method is economically unfeasible or politically unacceptable. The public purchase technique implies "professional solutions," and a corresponding lack of local citizen involvement. A 1978 report by the Government Accounting Office concluded that "the strategy adopted by most Federal agencies to preserve wild, scenic and recreational rivers is to either buy riverway land or buy the right to control the use of the land. This is unnecessarily costly and was not intended by

Congress . . ." Or as Assistant Secretary of the Interior Robert Herbst stated in congressional testimony: "There simply are not enough dollars in the Federal treasury to buy everything that we might want to buy" (Herbst 1978).

The traditional approaches to resource preservation and use on private land in this country are not adequate. In an atmosphere of citizen skepticism regarding the role and cost of government, people no longer accept planning initiated by bureaucratic "experts." Present planning is typified by one of two general approaches: comprehensive or incremental. In comprehensive planning a goal or end result is defined and alternatives to meet the goal are examined. Comprehensive planning not only presupposes extensive knowledge regarding alternatives and their interaction, but also requires value judgements in the basic determination of goals. People no longer unquestionably accept the value judgements of government planners. In many cases, this system simply becomes paralyzed by the collection of data, which is often outdated by the time it is completed (Etzioni 1968). The ineffectiveness of comprehensive planning is demonstrated by the repeated failure to enact land-use legislation on a national level.

In contrast, incremental planning moves in small steps and is characterized by an indefinite sequence of policy on consensus. Although this approach is relatively "safe" and does not require value judgement, it is not an adequate

planning method. Etzioni criticizes this technique because incrementalism assumes rough equality of power, and our society is often characterized by polarization (Etzioni 1968). In addition, this planning approach is unable to react quickly to rapidly changing situations, which are typical of our society.

Fortunately, as the inadequacies of the present system of planning and preservation become apparent, alternative approaches, more suitable to our dynamic society, are being explored. For example, the Wild and Scenic River Act of 1968 envisioned protection and multiple use of private land through methods other than public acquisition. (Although, as indicated by the GAO Report, agencies have not followed the intent of Congress.) The National Parks and Recreation Act of 1978 created the Pinelands National Reserve in New Jersey and established a "planning entity . . . which combines the capabilities and resources of the local, State and Federal governments and the private sector, and provides an alternative to large-scale, direct Federal acquisition and management" (Stokes 1979). Attempts are being made to foster partnerships between government and private citizens for the compatible preservation or use of privately owned resources.

Concurrently, new planning methods are being investigated and promoted--approaches that depart from the often hierarchial, authoritarian, impersonal and ineffectual means

of the past. Etzioni proposes a "mixed scanning system" which combines comprehensive and incremental planning (Etzioni 1968). This technique combines a strategic consideration of the better course of action (goal) with examination of the key alternatives at the margin. The key alternatives must be utilitarian, familiar and politically acceptable.

In contrast to the more common blue-print planning which is produced and implemented by bureaucracies, Friedmann (1973) proposes a bottom-to-top planning process. His transactive method is based on task-oriented working groups which are often self-guided, self-appointed, temporary, small-scale and dependent on verbal face-to-face communication. Friedmann proposes to link the personal knowledge of the working group members with the scientific and technical ability (processed knowledge) of the professional planner. This linkage is a personal, face-to-face process that entails trust and mutual learning of the involved parties. In essence he envisions a process of true participatory democracy based on the principles of open communication, decentralization and cooperation.

As detailed by Stokes, these working groups have been examined and characterized by a number of authors: the "Primary Groups" of Cooley, the "Gemeinschaft" of Toennies, and the "Autocratic-Cooperative" planning paradigm of Pfau (Stokes 1979). Although it is not the purpose of this paper

to examine group dynamics, the meetings of the participants in the Blackfoot River process closely resembled the following description in Pfau:

1. The atmosphere tends to be informal and relaxed.
2. There is a lot of discussion in which all parties participate.
3. The members listen to one another.
4. There is disagreement, which is not suppressed or overcome by premature group action. (Friedmann contends that this state of disagreement is natural and to be encouraged.)
5. The task of the group is well understood by all members.
6. Decisions are reached by consensus of the group.
7. Members are relatively comfortable with the frequent and frank criticism among participants.
8. Group members feel free to express their ideas.
9. The emphasis among group members is not on an accumulation of power, but on getting the job done.

Bolle (1955) describes an early Soil Conservation Service attempt which utilized the principles of group action to effect change in farming practices on local conservation districts. He documents the importance of both identifying natural group leaders and also gaining the support of local and titular community leaders. The Soil Conservation Service used an extension approach in which the "professional advocate" was a group member and the clients themselves identified problems and potential solutions. This effort preceded the work of Friedmann, but appears to collaborate his principles of mutual learning, dialogue and trust between planner and client.

In conclusion there is a need for a clearly defined public policy which emphasizes alternative methods of pre-

serving privately owned scenic landscapes--alternatives based not on public acquisition but rather on public support and assistance for creative partnerships between government and the private sector. This policy would stress true participatory democracy. The professional planner would incorporate Friedmann's principles of mutual dialogue and education with the traditional roles of the extension agent; namely analyst, advisor, advocator and innovator. In an environment of openness and trust between planner and client, solutions can be applied to problems on a case-by-case basis. This approach will also require a new breed of agency manager who will be able to administer a cooperative, open-ended land management process rather than just administering public real estate.

Bolle indicated that many of the successful Soil Conservation Service field workers were unwittingly using the group dynamic techniques advocated above. Likewise, the participants in the Blackfoot River management program did not appreciate the detail of social organization or the scientific basis of their effort. Unknowingly they forged a successful democratic program based on cooperativeness, trust and a desire to solve a local problem by local means.

CHAPTER I

STUDY AREA DESCRIPTION

The Big Blackfoot River in western Montana originates in the snow-melt from the Continental Divide east of Lincoln, Montana, and flows freely 122 miles to its confluence with the Clark Fork River at Bonner, located five miles east of Missoula (Figure 1). Historically the river was a primary travel route for the Indians and fur trappers. In the summer of 1806, Meriwether Lewis traveled up the Blackfoot, "The Great Indian Road," to rejoin forces with William Clark at the mouth of the Yellowstone River at Fort Union (Lewis and Clark Journals). From 1885 until 1928, the river was used to float logs to mills located at the Clark Fork confluence (Crabtree 1975). Presently the Blackfoot River not only supplies water for crops and livestock, but also offers recreational opportunities for thousands of people annually.

The 34-mile reach of river which is the subject of this paper is located in the lower segment of the Blackfoot drainage (Figure 1). Along this section of the Blackfoot River there is a variety of contrasts of topography and setting. In the upper and lower sectors of the study area, the river flows hard through narrow canyons. The view from

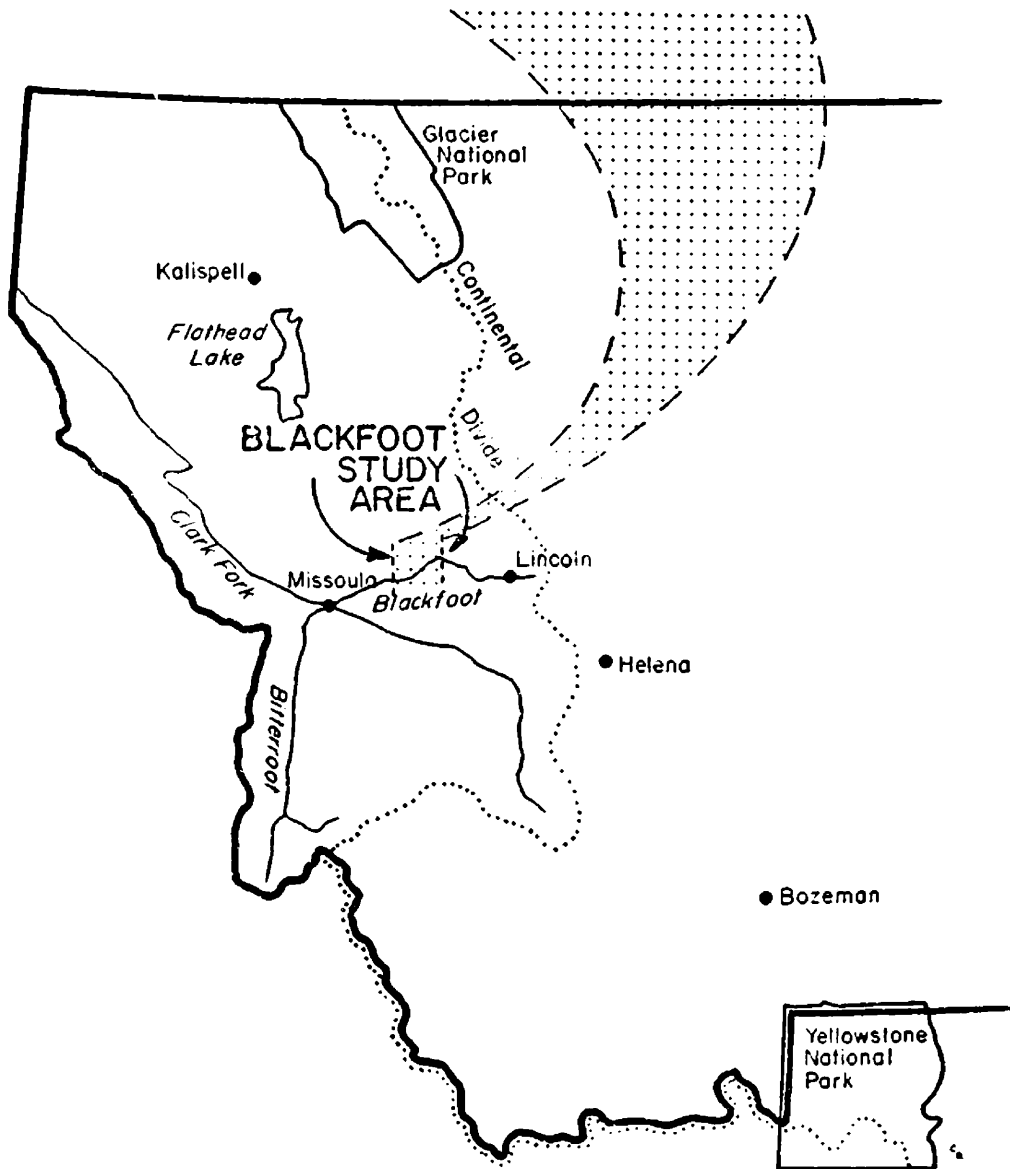
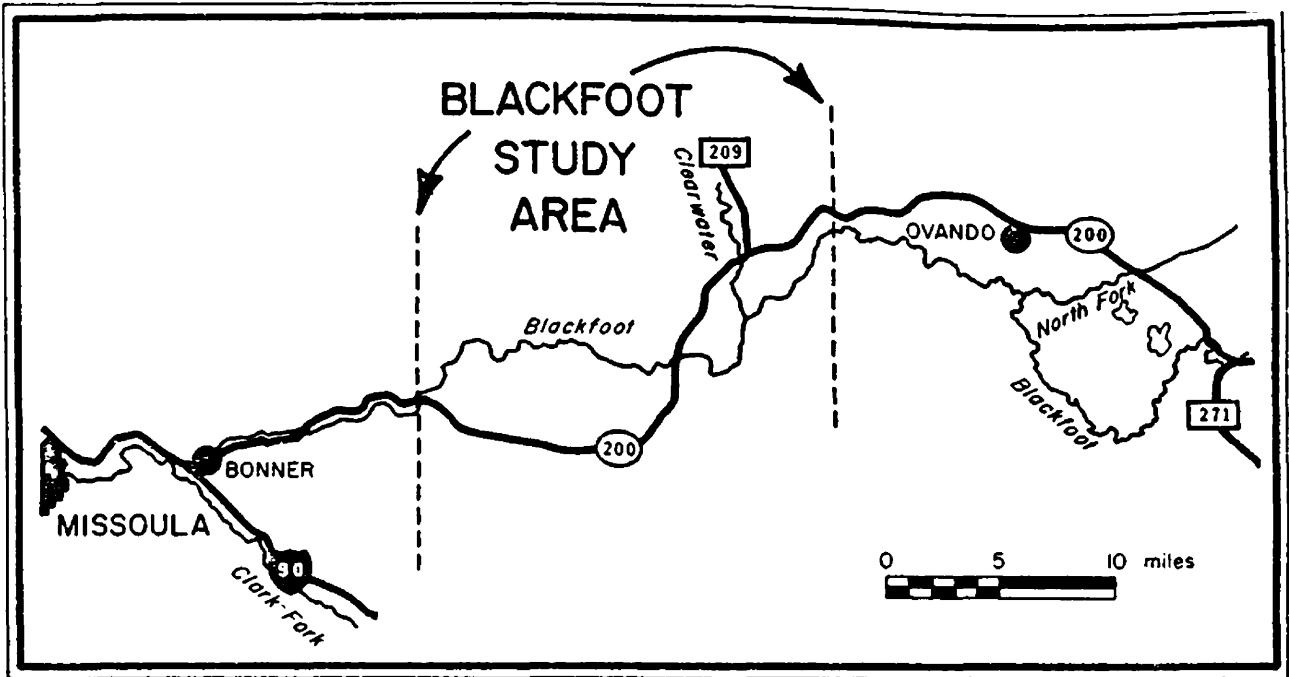


FIGURE 1

the river includes rock cliffs and steep timbered slopes. Occasionally there are small pine-covered benches which have been formed by the river's meander. In contrast, the middle segment of the study corridor has a wide valley bottom, which is used for agricultural purposes. Here, however, the river is deeply incised with steep banks rising to pine and sage-covered benchland immediately adjacent to the river. As a result, the agricultural land uses are not visible from the river, which, with few exceptions, moves more slowly than it does in the canyon country above and below.

The land ownership pattern along the river is as follows:*

Corporate	26.9 miles
Other private	27.4 miles
Public	12.3 miles
State of Montana	(5.4 miles)
Fish and Game Department	(3.1 miles)
Lubrecht Forest	(3.7 miles)
Bureau of Land Management	(0.1 miles)

Much of the riparian land in Montana is federally owned. However, the large amount of private ownership along the Blackfoot differs significantly from this norm. In the study corridor, federal land constitutes less than two percent of the total river frontage. The "other private" category is primarily ranchland, most of which is owned by the Lindbergh Cattle Company and the E-L Ranch.

* These figures include both sides of the river because ownership often changes from side to side.

Although there is little public land contiguous to this portion, federal ownership (chiefly United States Forest Service) is predominate within the Blackfoot drainage. This National Forest land offers a wide scope of recreational opportunities. For example, the Seeley Lake region, 17 miles north of the study area, has numerous lakes with public boating, fishing, picnicing and overnight camping facilities. For dispersed recreation there are many high mountain lakes and streams which are all accessible by vehicle via logging roads. In addition, three wilderness areas--Mission Mountain, Bob Marshall and Lincoln-Scapegoat--are nearby.

CHAPTER II

PROBLEM DEFINITION

Although over 80 percent of its banks are in private ownership, the lower Blackfoot has historically been accessible for public recreation. Many people, in fact, considered the land to be public ground. The Anaconda Copper Mining Company, a predecessor of Champion Timberlands, allowed unrestricted access across their lands to the river. In addition, the company leased river frontage to the Blackfoot Valley Garden Club, which maintained a locally popular camping area (Johnsrud Park) in the lower end of the corridor. People could also get to the river through ranch property because the owners used the frontage very little for agricultural purposes. The fishermen and few overnight campers, many of whom knew the ranchers personally, had minor impact on the resource. This limited recreation did not interfere with agricultural and forestry activities or cause undue concern among the landowners.

However, in the late 1960s and the early 1970s, the situation changed in the Blackfoot Valley, as it did in other areas of the country (Countess, et al. 1977; Lewis and Marsh 1977; Mak, et al. 1977). Recreational use expanded dramatically along the river. The increased activity

coincided with an accelerated growth rate in Missoula County, where the population rose 30 percent from 1960 to 1970 (U.S. Department of Commerce, 1978). In addition, there was a boom in rural recreational land sales within Missoula County. These small parcels, including choice waterfront property, were often posted to trespassing. As a result, people shifted their recreational activities to corporate lands and the large ranches whose owners either permitted unlimited access or were unable, except in isolated circumstances, to effectively channel or prohibit public use.

The landowners also perceived an attitude change among the river users. People no longer stopped and asked permission to cross private property. Some individuals--those most easily remembered by the landowner--implied that they had an inherent right to use private land for recreational purposes, particularly for access to a public resource such as the river.*

The pattern of use on the river also began to change. Whereas fishing had previously been the preferred activity, camping and floating were becoming more popular. The availability of pick-up camper and trailer units made dispersed riverside camping more pleasant than the "rural ghetto"

* Although the Blackfoot River has never been declared a navigable stream, under current interpretation of the law, it appears to meet all the necessary criteria.

conditions prevalent in many public facilities. As overnight use expanded, the now familiar litany of landowner complaints increased: litter, human waste, blocked gates, shooting and vandalism (Countess, et al. 1977; Lewis, et al. 1977; Mak, et al. 1977). To compound the private landowners' problems, river floaters, ranging from the white-water kayak enthusiast to the rubber rafter, discovered the Blackfoot. Floaters required river access to put their boats in and to take them out. Very often the most convenient and popular locations were on private land. In addition, many kayakers repeatedly ran the same rapids. They preferred to move their craft back upstream on a riverbank free of obstructions.

In short, more and more people were seeking access to the river. Many of the individuals were not personally acquainted with the landowners and an increasing number did not bother to ask permission to cross private land. There also were the militant few who believed that they had the right to do anything they pleased anywhere. The floaters, whose numbers appeared to grow in geometric progression, needed good vehicle access points at convenient locations along the river. The ranchers and other private landowners were faced with the substantial problem of providing responsible, managed public use of private land while at the same time protecting scenic values and rural lifestyles.

CHAPTER III

THE LANDOWNERS' GOALS AND OBJECTIVES

Goals

In 1972, as the problems of increased use became more acute on the Blackfoot, many of the landowners and land managers began discussing informally the issues and potential solutions. Participants in these early discussions included: Land Lindbergh of the Lindbergh Cattle Company; Bill Potter of the E-L Ranch; the author, who is the manager of the Lubrecht Experimental Forest; Chuck Hollenbaugh, professor in the School of Forestry, University of Montana. Coincidentally, Huey Johnson, Western Regional Representative of the Nature Conservancy, a national conservation and land preservation organization, visited the Blackfoot Valley. Johnson was impressed by the beauty and undeveloped nature of the river and suggested various means for long-term protection of the river. Among the methods he proposed was the technique of conservation easements, a concept which will be examined in detail in Chapter 5. In addition, Johnson offered the assistance of the Nature Conservancy in the implementation of a conservation easement program on the Blackfoot. Although Lindbergh and Potter were definitely interested in river preservation, they believed that

the immediate problems of public use, which they found increasingly more difficult to control, should also be addressed. The ranchers did not consider public use undesirable, but felt that the activity should be channeled and managed.

During this same period, foresters from the Anaconda Forest Products Division of the Anaconda Copper Mining Company were discussing public recreation problems with local representatives of the Montana Department of Fish and Game. Anaconda owned most of the land in the lower study area in addition to smaller tracts dispersed throughout the corridor. The Anaconda foresters realized that although it had been company policy to permit--but not invite--public recreation on company land, the time was rapidly approaching when public use would have to be managed so that it would not interfere with other forestry practices. Over the years the company had recognized the scenic values of the river and had managed the riparian lands to protect this resource. They planned to continue this sensitive land management. However, the immediate priority was assistance with the management of public recreational use.

In the early 1970s, the major landowners were seeking answers to the problems of public use on private land. They had preserved the river frontage in the past and would continue to do so in the future. Whereas the corporate timberland owners planned to accomplish this goal through manage-

ment practices, the agricultural landowners were willing to consider legal means such as conservation easements.

Through an informal, uncoordinated process, the various landowners established the similar goals of long-term river preservation and the managed public use of private land. There were common motives for these decisions. Of paramount importance was the landowners' desire to continue their agricultural or forestry livelihood. As a group they did not want to be forced by escalating land values and accompanying taxes into selling property for development purposes. With a sense of enlightened self-interest, they also perceived that if the private sector voluntarily provided recreation access to the river, the potential of imposed public access through governmental action would be blunted.

Objectives

In the attainment of common goals, the landowners also determined that certain objectives would have to be fulfilled. First, the ranchers and corporations wanted to decide the amount, type, location and duration of public use on their property. They believed that their present management was satisfactory and that there was no compelling reason to change. Many landowners were familiar with federally managed recreation areas, and they were not convinced that exclusive public control was adequate in all cases.

Total public management, they feared, may result in policy decisions that would be counter to the best interests of the private sector. These same viewpoints toward public control were prevalent among both landowners in the eastern United States and along the St. Joe River in neighboring Idaho (Countess, et al. 1977; Christopherson 1972). The landowners interviewed by these researchers felt that too often agencies were not sensitive to local considerations, but tended to be preoccupied with the project just for the project's sake. Furthermore they believed that government, because of its complex administrative and organizational structure, was inherently incapable of working closely with local interests. The Blackfoot ranchers were also concerned that public use on any lands within their ownership might affect working portions of the ranch. For these reasons, they wanted to maintain final decision authority on their property.

Second, the landowners felt that if they contributed land for recreational use, they should not also have to bear the direct cost of management--they did not want to be the policemen and garbagemen for the public. Rather, a public agency or agencies should provide this service. In the past the ranchers had spent too much time in the aggravating chores of closing gates, collecting litter and so forth.

Third, assuming public participation, the landowners wanted the most local level of government possible to be involved in the project. The ranchers and small landowners wished to deal with Missoula County. On the other hand, the corporations, principally Champion Timberlands, preferred for two reasons to work with State government. First, because the corporations owned land and waterfrontage on a multi-county or even statewide basis, a successful plan on the Blackfoot could more easily be applied to critical areas elsewhere. Second, the companies had previously cooperated with the State Department of Fish and Game on recreation-related matters, and they were satisfied with the agency's performance.

Fourth, neither the large nor the small landowners wished to increase use levels on the river; some individuals, in fact, desired substantially less recreational activity. However, they realized that it would be difficult, if not impossible, to successfully alter established use patterns. In any case, the landowners were adamant in their opposition to either publicity or facilities that would encourage or solicit use, particularly camping. In their opinion, adequate overnight facilities already existed in the vicinity: the Seeley Lake area, nearby highway rest stops and in formally designated fishing access sites. Recreationists, they believed, could camp in these facilities and use the Blackfoot for day-use activities. The various landowners not only agreed on general goals but also on specific objectives to meet these goals.

CHAPTER IV

ALTERNATIVE SOLUTIONS TO THE PROBLEM

In the early meetings between the ranchers and staff members of the School of Forestry, the landowners considered--and ultimately rejected--many alternative solutions to the problem of increased public use of private land. The options were: to either completely open or close all private land to public use, to formally designate the Blackfoot as a Federal or State scenic river, to lease or sell property to a private organization or public agency.

Totally Unrestricted or Restricted Access

Landowners who allowed relatively unrestricted access found that they could not deal effectively with the growing numbers of people: enough individuals took unfair advantage to make this solution unfeasible. When Lindbergh purchased his ranch in 1965, he attempted this alternative. Even though public use was comparatively light at this time, he soon became disillusioned with this approach (Lindbergh, personal communication, 1973). Because closing gates, extinguishing campfires and ejecting hunters from livestock areas became inordinately time consuming, he was forced to lock the gates and restrict public use.

Some long-time residents of the valley went to the other extreme and posted all their land to entry. However, they discovered that this option also was not feasible. The landowner had to enforce the restrictions which resulted in potentially serious confrontation with the public. At minimum, patrolling was a frustrating, time-consuming and unpleasant task. The ranchers had discovered that if they posted property without enforcement, trespass would increase (Potter, personal communication, 1973). Because they were convinced that the public would eventually gain access through private land to the river--quite possibly by legislative mandate--many residents were hesitant to take any action which would hasten forced access across their property. The option of barring the public was not satisfactory.

Federal or State Designation as a Scenic River

The landowners also discussed less extreme solutions to the problem. One apparent option was to classify the river under the National Wild and Scenic River Act, Public Law 90-542. The Blackfoot was originally listed as a study river for inclusion into the system in 1970 (USDI News Release, 1970). Many people believed that the study segment of the Blackfoot would qualify for scenic or recreation designation in PL 90-542 (Johnson, personal communication, 1972). In 1974, the Blackfoot was among 32 rivers in 24

states that were proposed for study to determine suitability for federal designation (USDI News Release, 1974). However in a 1975 letter to Congressman Carl Albert, Speaker of the House, Secretary of the Interior Morton asked Congress to delete the Blackfoot from the Department's list of rivers recommended for study because "local actions are underway to protect portions of the Blackfoot River." (Morton, personal letter, 1975).

Although federal designation would have provided long-term preservation and management, the landowner, without exception, rejected this option because it did not meet their objectives for management. The landowners did not wish to relinquish decision authority on their property, a reality inherent in federal designation. The landowners believed that they would have little immediate control or influence over an agency of the federal government. Underlying this fear was the residents apprehension of governmental interference--a conviction apparently experienced in other areas of the country where the National Wild and Scenic Rivers Act was implemented (Christopherson 1972; Countess, et al. 1977).

The alternative of federal control was repudiated for two other reasons as well. First, there was only one federal agency, the Bureau of Land Management, within the study portion and they administered less than 0.1 mile of frontage. It would not be appropriate for the lead agency

in a coordinated management effort to have such a minor direct interest in the river. Second, because the quality of the river was sufficient for federal designation, the landowners felt that they could continue acceptable management without governmental intervention (Lindbergh, Potter, personal communication, 1973). The ranchers believed that because of their demonstrated personal interest in the river, they could develop and implement a better management program than the professional resource managers.

Finally, and perhaps most importantly, the local residents were hesitant to adopt any alternative that would significantly increase recreational use. They sensed that formal designation would be an open invitation to recreationists from all over the country, a conviction verified by experience in other areas (Peters 1975). The ranchers simply did not want their property to be used by "river baggers" for the sole purpose of floating a formally designated Scenic River. Intuitively they believed that local users would be more sympathetic--and therefore more cooperative--with local problems.

For many of these same reasons, the ranchers did not favor scenic river designation under a State program. In fact, Montana, unlike 26 other states, does not have a state system of formal river preservation (Eastman 1977). Scenic river bills were introduced in both the 1973 and 1974 sessions of the state legislature (Montana Outdoors 1974).

However they were soundly defeated, chiefly due to adverse reaction from agricultural interests.

Sale or Lease of Private Lands

Another management alternative was the sale or lease of riparian lands to a governmental agency. The ranchers and smaller landowners did not favor this option for many of the same reasons that they rejected formal scenic river classification for the Blackfoot. Their feelings paralleled those of the landowners along the Youghiogheny in Maryland (Spokesman Review November 7, 1976). In addition, the ranchers did not want small parcels of publicly controlled land within their ownership, because management policy on these isolated tracts could adversely affect surrounding private property.

However, Champion Timberlands, which had a much larger land base, was not opposed to the lease of critical tracts for public recreation. For 10 years they had leased Johnsrud Park to the Blackfoot Valley Garden Club, which managed the area for overnight camping and large group use. In the Blackfoot Plan, the Montana Department of Fish and Game assumed administrative responsibility for the area under the terms of a five-year renewable lease with Champion Timberlands. In addition, Champion donated 75 acres, valued at \$450,000, on Salmon and Placid Lakes, which are near the study area, to the Fish and Game for public recreational

facilities (Greenwood, personal communication 1979). The option of leasing or donating land to a public agency was viewed differently by the various landowners. The corporations which had a larger land base benefited from the public relations and tax aspects of leases and donations; whereas the smaller landowners considered these options unsatisfactory.

The alternative of selling or leasing river frontage to a private club or fishing organization was also considered. There was precedent within the State for the exclusive recreational use of private land. Some ranchers in eastern Montana lease the hunting rights on their property to private clubs or individuals (Aderhold 1974). Certain ranches along waterways in Montana have been sold to organizations which have maintained the property for private recreational opportunities. However, the exclusive-use concept has encountered adverse public reaction, and, in some cases, armed confrontation, between ranch personnel and the public (Potter, personal communication 1973). The landowners on the Blackfoot not only wished to maintain the tradition of public use, but they also believed that the economics of leasing would not be worth the potential problems or adverse public reaction.

As these alternatives did not meet the landowners' objectives, it soon became apparent that traditional approaches to management of public use on private land were

unsuitable in this situation. A somewhat new and experimental tack would have to be taken.

CHAPTER V

THE LANDOWNERS' SOLUTION

To successfully realize the goals of preservation and land management, the landowners decided to become personally involved in the planning process. Also if sufficient river frontage were included in the plan, the management effort would be worthwhile and the individual riparian owners would have flank protection. The participation of neighboring landowners would ensure the development of a unified program. However, the principals recognized the danger of incorporating an area so large that there would be little hope of unified action.

History

As stated in Chapter 3, different groups of riparian landowners were independently and informally discussing river-related problems in 1972. The first formal meeting, an exploratory effort, included ranchers and staff members of the School of Forestry, University of Montana. The ranchers presented the problems, outlined their goals and discussed the conditions that would have to be fulfilled in a planning effort. The School of Forestry agreed to investigate alternative methods of management. This two

year effort on the riparian property of the E-L Ranch, the Lindbergh Cattle Company and the School of Forestry (Lubrecht Forest) identified existing use patterns, areas of overuse and potential public access sites. The ranchers specified the appropriate uses for the access points on their respective ownerships. This early work by the author under the direction of Professor Hollenbaught became the basis for the plan which is attached as Appendix A. Because no one individual or organization had sufficient time or resources, the planning effort progressed slowly. During this time however, Champion Timberlands and the State Division of Forestry agreed to include in the study their property that was intermingled with the ranchland in the upper segment of the corridor. Both Champion and the Division of Forestry were interested in the plan and recognized the importance of a united approach, but these organizations were too involved in normal operational activities to devote special effort to the project.

The major impetus for a unified local planning effort began in June, 1975, when the Heritage Conservation and Recreation Service--at that time the Bureau of Outdoor Recreation--offered assistance. Mr. Jerry Stokes of the Technical Assistance Division, Mid-Continent Region, in Denver, Colorado, was assigned to work with the interested parties. A professional planner was now available to lend assistance and logistical support to the project.

Throughout 1975 and early 1976, Stokes broadened the planning function to include other agencies of state and local government in addition to the Champion Timberland ownership in the lower corridor. As a result, the final study area encompassed over 30 miles of river frontage and included 25 different individuals, corporations and government entities. The interested parties formed a planning task force which was chaired up by the author.

With the invaluable aid of Stokes, a year of intensive planning began at the local level. Riparian landowners and representatives of state and county government met in small groups and in large gatherings; in formal session and in the hayfield. All the meetings, despite the composition of representatives, were characterized by cooperation; not always agreement, but a willingness to listen to the viewpoint of the other. Everyone, from the smallest landowner to the largest corporation or level of government, was an equal partner in the development of the plan. As a result, the final plan reflected the concerns and desires of all the participants. No single individual or group of interests were excluded or forced to accept a finalized plan. There were differences of opinion among the participants, but individuals were able to compromise in this atmosphere of true partnership.

After numerous drafts, the task force produced a working document, written by Stokes, that provided a framework

for both the long-range protection of the river and the coordinated management of recreational use on both the public and private lands within the corridor. Appendix A is the popular version of this working plan, which is comprised of two major parts: the Recreation Management Plan and the River Preservation Plan. The Recreation Management Plan encompasses the entire 30 mile study area, whereas the Preservation Plan includes only the upper 10 miles of the corridor and involves four landowners and the State of Montana.

The following sections of this chapter examine these plans individually. It is not the author's intent to reiterate specific details of the plans, as these are fully outlined in Appendix A. However, it is appropriate to present the philosophical basis, motivations and rationale for the final document.

Recreation Management Plan

The primary purpose of the Recreation Management Plan was to provide reasonable and responsible public use of private land. The guiding philosophy of the plan was practical, on-the-ground implementation which was satisfactory to both the landowner and the recreationist. Unlike many planning projects, particularly those involving public land, the participants did not spend excessive time studying recreational demands, biological or social carrying capacities

and optimal mixes of recreational opportunities for various user groups. The plan was based chiefly on the perceived needs of the landowner coupled with user suggestions for modification where practical or possible.

There are many techniques applicable to river management. These include both regulatory devices (reservations, limitations on party size or length of stay) and manipulative methods (Lime 1977). Because unlimited vehicle access to the river was the main problem, the landowners chose to use the manipulative technique of limiting the number of vehicle access points along the river. Although people had historically parked at random on the roads which paralleled the river, certain areas were popular for specific activities. These more heavily used areas were then consolidated into 17 formal vehicle access points. Parking was permitted only in these spots. For example, at one favorite bridge crossing, the previously used four parking areas were consolidated into one designated access point. In another instance, where the public had parked indiscriminately along a two-mile section of road in front of the E-L Ranch, access points were placed at either end of the road segment. With one exception, there was no attempt made to limit the number of vehicles per parking area. However, in some cases, the sites were designed to prohibit unlimited numbers of vehicles.

Along both river banks between the formal parking areas, the landowners designated a foot-travel corridor where people could walk, without fear of trespass, to fish, picnic or carry boats. The width of the corridor was established as 50 feet from the high water mark of the river. This distance was intended as a guide only and not as a defined boundary on the ground. In some instances, where the bank incline was shallow, people could walk along the water's edge in a safe and convenient manner. In other cases, where rock cliffs border the river, the path may be 500 feet from the high water mark. In any event, the foot corridor is immediately adjacent to the river and does not traverse irrigation facilities, cropland or pasture.

The landowners also used the additional control mechanism of individually determining the recreational activities that would occur on their respective ownerships. They collectively decided to encourage day-use activities for the residents of Missoula County and the surrounding area. For a number of reasons the landowners did not want overnight campgrounds on their property. Past experience had demonstrated that it was natural for people who camped on private land to explore the area surrounding the immediate campsite, thus increasing the potential of interference with the landowners' operational activities. Problems of litter and human waste also increased in direct proportion to the campers' length of stay. Sites on either large

corporate ownership or on public lands were provided for overnight use. Recreational opportunities then were diverse on public land and were limited to short-term activities on private land.

For management purposes, the planning group proposed simple rules and regulations designed to encourage public compliance and minimize enforcement efforts. Recreationists were asked to park in designated areas, to build campfires only in overnight campsites, to pack out litter and garbage and not to shoot within the river corridor. In the past, when the landowners had voluntarily provided litter barrels at the popular sites, trash--much of it not associated with activity at that location--accumulated in the vicinity of the container. The landowners discovered that when they removed the litter barrels, trash and garbage did not accumulate on the site. The public accepted the pack out policy very well with the result that maintenance costs were significantly reduced. Shooting was prohibited along the river, because of the concentrated human activity and to reduce potential damage to livestock and agricultural developments.

The facilities at the access points were simple. There were budget constraints, but primarily the participants felt that the initial phases of an experimental program justified only minimal capital expenditure. The landowners installed the facilities, utilizing donated materials. The structures were designed primarily to define parking

areas and to prohibit vehicle travel on the riverbanks. In all cases the parking and camping areas were situated away from the water, as the riverbanks were the most ecologically fragile area (McGahan 1976). The information signs and developments were intended to implement the management rules, and were not designed to either attract people to the area or to encourage extended use.

The Missoula Board of County Commissioners agreed to accept final responsibility for the administration of the recreation management plan. However, because Missoula County did not have a Park or Recreation Department, the Commissioners formed the Blackfoot River Recreation Management Advisory Council in 1975 to aid in management. The council was composed of riparian landowners, public land managers and representatives of the general public--essentially the same people who had developed the plan. The council operated similarly to the planning task force in that everyone had an equal voice in the determination of management policy. It was possible to initiate the program on an experimental basis under the auspices of the advisory council with the result that no single public agency was responsible for representing all the landowners, both public and private.

Many entities within the advisory council funded and supported the administration of the program. Missoula County and the Montana Department of Fish and Game each contributed

approximately \$5,000 per year to defray direct costs. In a research capacity, the School of Forestry hired personnel, managed the funds and provided housing and support facilities at the Lubrecht Forest. Champion Timberlands furnished building materials for facility construction, and many landowners contributed labor and machinery for the development of the access points.

In summary, the administration of the plan was a logical extension of the plan development. It was a cooperative effort in which each landowner or public agency contributed a share, determined by the nature and interest of the particular participant. In a neutral party role, the School of Forestry provided day-to-day supervision of the project as a practical experiment in resource management.

The Preservation Plan

The long-term protection of the river resource was the goal of the second portion of the plan. Originally the major emphasis of the planning effort was river preservation. With increased public use, however, recreation management became a major concern. The landowners did not feel that they could adequately address both recreation management and long-term protection in a single agreement. Recreation management implied a fluid approach which would meet the changing desires and needs of both the landowner and the public. In contrast, the landowners wanted to

perpetually maintain the present scenic qualities of the river corridor. Therefore, although the efforts were closely coordinated, the goals of recreation management and preservation were addressed separately.

After Johnson introduced the concept of conservation easements to the ranchers in 1972, they favored this method to protect the river resource. The remainder of this chapter will describe briefly conservation easements and their utilization in the Blackfoot program. (Appendix B describes the subject in detail.) The National Park Service used conservation easements (then called scenic easements) in the Smokey Mountains as a land-use control device in the 1950s; but their use had not gained wide acceptance because of initial difficulties in application (Whyte 1968). However the Nature Conservancy had revived this technique and used it successfully in appropriate situations throughout the United States. Conservation easements are no longer a novelty, but in the past six years have become a popular method of land preservation.

A conservation easement is a legally binding document in which the landowner, either through gift or sale, grants certain ownership rights of his property to another.* The development rights to the property are most often deeded

*Montana's Open-Space and Voluntary Conservation Easement Act specifies that holders of conservation easements must be either public bodies or qualified private organizations.

through this process. Conservation easements are normally granted in perpetuity and run with the land: that is, the property may change ownership, but the conservation easement remains in force, a valuable asset for a long-term protection program. Under the conservation easement concept the "landowner retains all the incidents of ownership not transferred by the easement. He may use, sell, lease or otherwise convey the land, subject of course to the express terms and conditions of the easement." (Appendix B). As applied to the Blackfoot, the landowner would donate those property rights on land immediately adjacent to the river that could impair the natural, scenic or esthetic quality of the resource; for example, the right to subdivide, to clearcut timber, to dredge or to establish feedlots. However the landowner would retain all other agricultural and forestry rights; such as, the option to selectively harvest timber, to graze livestock, to cultivate crops and to irrigate.

The conservation easement method of river preservation appeared very suitable and appropriate for the Blackfoot. The inherent flexibility of the system enables each document to be drafted specifically to meet the individual needs and desires of the landowners, yet the group goal of river preservation would be realized. The conservation easement technique also offers several advantages to the property owner. A landowner who donates development rights may treat

the value of the donation as a charitable contribution for tax purposes, certainly an incentive for corporate landowners. More importantly, because the rancher no longer owns the right to subdivide, the land on which a conservation easement applies cannot be taxed on the basis of developmental value. Montana has an ad valorem tax system and the property owners along the river were concerned because rural land sales for second home and recreational purposes were increasing rapidly. In some instances, landowners were forced to sell agricultural land which was taxed on development potential because farming was not economical (Obermeyer, Personal Communication 1979). Of course landowners are subject to taxes on the agricultural or forestry rights which they retain.

Although there is abundant legal precedent for the general concept of easements, specific case law for scenic or conservation easements is very limited. The Nature Conservancy recommended that state legislation be enacted to provide statutory authority for the validity and enforceability of conservation easements and to define specifically property tax ramifications for the grantee. Existing law had to be adapted to local needs. Interested individuals first attempted to enact a conservation easement law in the 1974 session of the Montana Legislature. Although House Bill 795 passed the House of Representatives, business and corporate interests effectively killed the proposal in the

Montana Senate. Aided by attorneys from the Bureau of Outdoor Recreation and the Nature Conservancy, the bill was rewritten and introduced into the 1975 session of the legislature. With the intense lobbying assistance of local attorneys, Joe McDowell and Robert Knight, the law was passed as the "Montana Open-Space Land and Voluntary Conservation Easement Act." Because this legislation was so crucial to the Blackfoot program, the booklet "Conservation Easements in Montana," which contains the law and explanatory comments, is included as Appendix B.

With the passage of this enabling legislation, the preservation phase of the Blackfoot Plan began in earnest under the leadership of Ken Margolis from the Northwest Office of the Nature Conservancy in Portland, Oregon. The ranchers chose to negotiate conservation easements with a private organization rather than a public agency for two reasons. First, they felt that a privately administered project would not be exposed to the bureaucratic and funding delays often inherent in a public agency. Second, the ranchers believed that the Nature Conservancy, an organization chartered to preserve land, would be more responsive to needs of the private sector. In comparison, a public body which administers many programs is subject to a range of political pressure, some of which could be counter to private interests.

Rather than attempt a conservation easement program on the entire 30-mile recreation corridor, the Nature Conservancy, for numerous reasons, selected the upper third of the study area for a pilot venture. First, the people in this portion of the corridor were deeply committed to the project, so there was a reasonable chance of success. If the pilot program were successful, these same landowners had substantial holding downriver which could potentially enter the project at a later date. Second, in a report prepared for the Nature Conservancy, Dr. Jerry McGahan concluded that this segment of the corridor was not only the most scenic, but also the most ecologically diverse (McGahan 1976). Third, the Conservancy had already been granted an easement on river front property immediately upstream from the pilot area. The basic rationale underlying the pilot area approach was that it would be preferable to successfully initiate the project on a small area, rather than to include extensive frontage and potentially accomplish nothing. A successful small-scale effort would better demonstrate the conservation easement technique to other landowners, who in turn, could be persuaded to join the program.

The landowners within the pilot area did not wish to enter an easement program independently of their neighbors. They feared that if only some landowners participated, the property of the holdouts would become more valuable

and desirable for subdivision, essentially at the expense of the program participants. The landowners felt that it was an "all or none" situation. To alleviate this concern, Robert Knight, local counsel for the Conservancy, applied an escrow concept to the taking of conservation easements. The landowners individually agreed to the specific terms of the conservation easement for their property, signed the document, and placed it in escrow. At any time, the landowners within the pilot area could inspect the easements signed by the other participants and thereby ensure suitable flank protection for their property. Escrow would be closed only after easements were received from all parties within the pilot area. This cooperative approach not only ensured that all the participants were satisfied with the overall program, but also allowed the Nature Conservancy to more easily coordinate easement boundaries between ownerships. In summary, the conservation easements were consistent in general application, yet specific to individual requirements.

The major purpose of the conservation easement program was to prohibit activities that were incompatible with the existing scenic and esthetic qualities of the river. As such, the primary concern was development or subdivision of the river frontage. The specific terms of the individual easements were based on the principle that historical uses of the riparian land would be acceptable in the future. There had been no subdivision, river diversion, feedlot

operation, clearcutting or dredging in the past, so none would be permitted in the future. However, if there had been cattle grazing, selective timber harvesting, fencing and irrigating, similar uses would then be permitted in the future.

To not unduly restrict the landowners' agricultural and forestry activities, yet to ensure optimal protection of the river and its immediate environs, Bruce Bugbee, a local land use consultant, developed a two-tier system for applying the conservation easements. Permitted uses are more restricted in the first tier, which extended approximately 500 to 600 feet from the center-line of the river. However, all traditional agricultural and forestry uses are allowed in the second tier, which includes land up to one-half mile from the river. The major restriction in the second zone is that residential development is limited to one site per 160 acres (Bugbee, Personal communication 1979). The second tier provides a buffer zone for the narrow inner corridor by preventing a landowner from subdividing adjacent land and subverting the intent of the program.

CHAPTER VI

THE IMPLEMENTATION OF THE MANAGEMENT PLAN

River Preservation Plan

In 1976, the Nature Conservancy accepted a conservation easement from Paul Brunner, who owns a ranch immediately upstream from the study area. The easement document was the basis for initial negotiations between the Nature Conservancy and the landowners in the pilot area. From 1976 until 1978, the document language was refined for each landowner and mutually satisfactory boundaries for the inner and outer tier were determined. The prolonged drafting period was necessary because the grantor and grantee considered the easement terms very carefully. They attempted to use language that would clearly define the intent and purpose of the agreement without unduly restricting acceptable activities for future landowners. It was absolutely essential that both parties fully understand the conservation easement and that no vague clauses be included that might be subject to varying future interpretation. Historic use patterns were the guiding principle for the determination of acceptable activities.

By mid-1978, the Nature Conservancy had taken conservation easements on two parcels within the pilot area, and

the remaining private landowners were prepared to finalize their agreements. However at this time, problems surfaced concerning the State of Montana School Trust Lands which are administered by the Division of Forestry, Department of Natural Resources and Conservation. Management policy for these lands are determined by State law and by the State Board of Land Commissioners, which is comprised of the five highest elected officials of State government: the Governor, the Attorney General, the Secretary of State, the State Treasurer and the Superintendent of Public Instruction. On one parcel of School Trust Land within the Conservation Reserve there are ten river front cabin sites which are leased to private individuals for the rate of \$35 per year per site. Because this is the only section of river frontage in the entire corridor with this degree of residential development, the long-term, voluntary phase-out of these cabin sites was discussed during the planning process. However the adjacent landowners did not wish to force involuntary evacuation of the sites. When the Nature Conservancy presented their conservation easement proposal which included a reference to an eventual voluntary cancellation of the leases to the State Land Board, the cabin site owners vociferously protested any action which might affect their five-year renewable leases. Based on these objections, the Land Board rejected the Nature Conservancy's proposal and directed the Department of Natural Resources

and Conservation to resubmit a plan that was acceptable to all parties.

After a series of individual and group meetings, the participants prepared a proposal that was acceptable to everyone, including the cabin site licensees. In this plan the cabin sites were completely excluded from the conservation easement which would be granted to the Montana Department of Fish and Game, who, in turn, would pay the Land Board for any rights received in the easement. This would satisfy State law which required that School Trust Lands be managed for maximum revenue. For unexplained--and apparently political--reasons, the Land Board, much to the disappointment of the private landowners, rejected this proposal in October of 1978. The landowners felt that they were contributing a positive and permanent benefit to the people of Montana by preserving the river frontage in its present condition, and they were understandably upset because the Land Board would not afford the same legal protection to the intermingled State-owned lands. Their frustration was only strengthened by the fact that the private sector was willing to donate conservation easements while the Land Commissioners rejected a proposal in which the State would be compensated for their development rights.

At present the State Department of Lands and the Department of Natural Resources and Conservation are exploring two alternative methods of restricting development

on State lands along the river. Under the first option, the Land Board would grant a 25-year lease on the undeveloped river frontage to the Department of Fish and Game, who would pay an annual fee for the lease. As a second alternative, the Board of Land Commissioners would formally direct the Department of Natural Resources and Conservation to develop and implement a management plan that would be consistent with the conservation easements on neighboring private land. The landowners prefer the first alternative because it is a legally binding agreement that would preclude development for a definite period in which the Board could potentially reconsider a permanent conservation easement. In contrast, a resolution is not binding and may be rescinded by the Board at any time.

River Recreation Plan

After numerous public meetings, the Blackfoot River Recreation Management Advisory Council implemented the recreation management portion of the plan in June 1976. The administration and funding for the program were described in the previous chapter.

During the first year the river manager had a two-fold responsibility: research and administration. The advisory council directed the manager to document, through questionnaires and personal contact, the type, location and duration of recreational use within the study area. He was instructed to gauge public reaction to the initial

plan and to gather suggestions for future modification. Throughout the summer months, the river manager and his assistant personally contacted about 1500 people and tabulated the results of 450 written questionnaires (Walker 1977). In the management of public use, the river manager strived for voluntary compliance with the plan through a program of informational signs, printed brochures and personal contact with the recreationists. The Missoula County Sheriff agreed to provide traditional law enforcement if required. The council decided that initial implementation of the plan should proceed slowly, to avoid abrupt changes in established use patterns. The river manager and landowners also cooperatively developed the designated access areas in a rustic and temporary manner.

In 1977, the administrative structure was similar to that of the previous year. Once again the management emphasis was on public information and voluntary compliance with the plan. However, based on the previous year's experience, and the results of the formal study, public meetings and personal contacts, some access points and facilities were modified or expanded. For example, two floater-only campgrounds were established on public land, and a fence line was relocated to permit easier movement of river craft along the banks.

The Montana Department of Fish and Game assumed responsibility for the program in 1978. The Recreation

Management Advisory Council felt that the experimental phase of the program had successfully concluded and that an established management agency should administer the project on a permanent basis. The Fish and Game Department also determined that the initial success of the program warranted more permanent involvement. They agreed to furnish a full-time river manager who would be trained in both recreation management and law enforcement. Although voluntary compliance with the plan would continue to be the major thrust of the management program, the participants believed that it would be more efficient for the river manager to have the necessary legal authority to directly enforce the rules and regulations. They envisioned that this authority would be used only in rare instances as a "last resort" measure. In addition to increased river patrol, the manager concentrated his efforts on facility development in the campground areas where toilet facilities and running water were required.

During 1979, the Fish and Game Department will continue to administer the program based on the terms of a five-year recreation lease with the landowners. The department agreed to act only with the advice of the advisory council, to provide a permanent river manager and to enforce the rules and regulations specified in the recreation plan. Each landowner also has specific authority to approve all facility development on his property and to withdraw from

the program if the terms of the lease are not fulfilled. These conditions permit the landowner to take an active role in management decisions and to retain final authority concerning the role of the public agency in the project.

Based on three years of implementation, the Blackfoot plan has proven beneficial to both the landowners and the public. The landowners have retained crucial decision authority on their land without being forced to supervise the public on a daily basis. The nature and amount of public use permitted by this cooperative approach has been compatible with their forestry and agricultural activities. The recreationists have also benefited. Over 25 miles of privately owned river frontage has remained open to public use. In addition, many individuals appreciated the fact that when they parked in the designated areas and stayed within the river corridor, they did not have to be concerned about trespass or confrontation with an irate landowner (Walker 1978). During the 1976 summer season, Walker estimated that over 20,000 visitor days of use occurred on the study area without serious conflict between the public and the landowners (Walker 1977).

Despite the overwhelming success of the project, problems were encountered. There were the problems associated with conservation easements on state-owned land as discussed previously. The most vexing problem experienced with the initial implementation of the management plan was

that associated with enforcement. Although the need for official law enforcement assistance was minimal, a few occasions did arise when personal persuasion and explanation of the program did not elicit user cooperation; and the process required to contact the sheriff's office was time-consuming and inefficient. When the Fish and Game Department assumed administrative control of the program, this problem was ameliorated. Because a major objective of the plan was to maintain present use levels, the participants had to inform the public without attracting more people to the river. The advisory council attempted to resolve this dilemma in two ways. First, informational signs were not erected along Highway 200, which parallels the corridor in many areas, but rather signing was limited to the corridor itself. The intent was to inform people who already used the river, without soliciting use by people unfamiliar with the area. Second, with the exception of sharing this approach with interested people from other areas of the state and country, the council attempted to restrict media publicity concerning the project to the local area.

Although they cannot be scientifically documented, historical use patterns in the study area have appeared to change as a result of this plan. Two recreational activities have been the most affected. Overnight camping has decreased noticeably, because (in the author's opinion) the concentration of this previously scattered activity

to the three formally designated campgrounds has caused many people to choose other areas for dispersed camping. Evidently the type of camping is more important to some individuals than the location. Conversely, there has been an increase in day-use activity, primarily floating and fishing. Also the recreationists presently using the study area appear to be less vehicle-dependent than they were prior to the implementation of the plan. The number of repeat visitors indicates that a growing segment of the public is willing to accept restrictions for the privilege of using private land. These changing use patterns, which were objectives of the management plan, are themselves a measure of the project's effectiveness.

Despite the success of the recreation plan, there are remaining issues to be cooperatively resolved by the participants. First, the advisory council, by limiting vehicle access to the river, has restricted recreational opportunities for the elderly or handicapped who may be unable to walk the longer distances. The landowners are sympathetic to this problem and have discussed the feasibility of providing special designated parking for these people. Although there is the potential difficulty of enforcing special parking areas, the council feels that it is preferable to the exclusion of handicapped or elderly persons. Second, based on current rates of use, there will be problems associated with overuse of present access sites.

Decisions will have to be made regarding the feasibility of site hardening versus site rest-rotation or the limitation of vehicle numbers per parking area. Although the advisory council will address these issues as a group, individual landowners will make final decisions regarding access points on their respective property. Third, the public agencies must continually evaluate their level of commitment to the project. To function successfully, locally developed, cooperative programs on private land demand more intensive management by public agencies than is usually required for comparable programs on public land.

CHAPTER VII

APPLICABILITY OF THIS APPROACH TO OTHER RIVERS

It is apparent from the interest expressed in the Blackfoot plan by groups from within Montana and from other parts of the country, that there are many situations where the traditional approaches to river management are not applicable. In 1976, Lindbergh and the author presented the Blackfoot approach to landowners on the Smith River in central Montana. There is a high percentage of private riparian ownership along the Smith, and the ranchers were experiencing problems of public use similar to those on the Blackfoot. In 1977, the Montana Department of Fish and Game, the United States Forest Service and the private landowners initiated a cooperative program to provide for coordinated management of recreational use along this popular stream (Holiday, personal communication 1979). A group of landowners and public agency personnel from the Cahaba River Study Team in Alabama toured the Blackfoot project in 1977. The Cahaba had just been rejected for National Scenic River status and the study team was searching for alternative methods of management (Wise, personal letter 1977). In addition there have been inquiries from landowners or river managers along the Schuylkill in Pennsyl-

vania (Bennett, personal letter 1976), the Winooski River in Vermont (Saxe, personal letter 1978) and the Madison River in Montana (Nell, personal letter 1978). Invariably the question is asked: "Will this type of program work in our area?"

Although the specific problems and their resolution may have been unique to the Blackfoot River at this time, the general approach should be applicable elsewhere; not only to river management situations but also to other natural resource issues which involve public use of private land. A case in point are the walk-in hunting districts which have been established in Montana. One such district, established in 1974, is situated immediately east of the upper portion of the study area and involves many of the same landowners and public agencies who participated in the Blackfoot program. The purpose of the walk-in hunting agreements are to prohibit motorized vehicles in designated hunting areas annually from September 1 through November 30. the landowners had experienced increased problems with the public using vehicles for unauthorized hunting on private land and, as a result, they had posted their property. However, the ranchers felt that hunting would be acceptable on private land if vehicles were effectively restricted. In a joint effort the landowners, land managers and the Montana Department of Fish and Game determined the hunting area boundaries and the applicable rules and regulations.

Through a self-renewing agreement the Department of Fish and Game patrols the area and enforces the regulations. The walk-in hunting districts have not only become very popular, but also are largely self-policing--the hunters willingly observe the regulations and are not hesitant to report the occasional violator to game wardens. The walk-in areas and the Blackfoot corridor are similar in that, through locally initiated cooperative efforts, these agreements provide recreational opportunities on private land at little direct expense to either the landowner or the public.

This local-cooperative management approach may be utilized in numerous situations. However, the nature of the resource, the developmental stage of the problem, the attitudes of the participants and the availability of a local coordinator should be considered before applying this technique.

The Nature of the Resource

To successfully utilize a cooperative approach, the resource being threatened must be sufficiently significant so that the parties involved will consider the problem worth solving. This is important for many reasons. Among potential participants are invariably individuals, corporations or agencies who have disagreed in the past on general resource policy or specific management issues. For example,

in Montana, there are traditional and almost obligatory differences between ranchers and the Department of Fish and Game concerning big game management. Many ranchers believe that the department serves only the hunters and as such pursues policies which are contrary to agricultural interests. The landowners feel that the department determines the type and duration of hunting season based on the convenience of the hunters, with little or no consideration for the needs of the rancher or farmer who often provides both food and habitat for the animals. To counter these impressions, the department has embarked on many programs over the years to foster better relations with both landowners and sportsmen. However, many landowners still view themselves as adversaries of the department and hunters. As in the case of the Blackfoot, when the resource has strong common value the interested parties are more inclined to transcend past disagreements and work for a mutually satisfactory solution.

The size of the resource is also important. For example, a long segment of river with numerous riparian landowners may be simply too large to manage initially with this democratic technique. It may be necessary to consider only the most critical or scenic segment as a pilot area which can be expanded in the future as deemed appropriate. The resource must have enough size and importance for the agencies to justify expenditure of public funds on the pro-

posed program. However the number of participants must be reasonable. A modest effort that is successful may grow; but a grandiose scheme that fails may ultimately preclude the chance of local cooperative management.

The Developmental Stage of the Problem

The stage of problem development is crucial to a local planning effort. In the case of the Blackfoot, there was sufficient public use and a significant threat of incompatible riparian development to alert the residents, land managers and public agencies to the seriousness of the situation. As a result, various parties were convinced that they had to find an acceptable solution to the problem.

On the other hand, the problems must not have reached the stage where the involved parties become so overwhelmed and frustrated that they consider the situation hopeless. There must be time to solve the problem. Locally initiated planning, which is implemented by a diverse group of small landowners, large corporations and public bodies takes a long time--much longer than plans developed by "professionals" with minimal participation of local residents. Although cooperative local planning unquestionably has the best chance of successful implementation, adequate time is necessary for this approach. In the Blackfoot plan, four years passed from the initial discussion of the problem to a trial implementation of a locally devised solution.

In this period the participants formed opinions, discussed the issues with neighbors and finally agreed on a common course of action. This process may be more time consuming in the rural West, where people are traditionally independent and therefore more reluctant to discuss problems or seek assistance from their neighbors. In summary, people must simply have the time to overcome past disagreements, to truly listen to one another and finally to develop mutual trust.

Attitude of the Participants

The attitude of the participants is the factor most crucial to the success of this cooperative approach to river management. When a significant resource is threatened and if there is sufficient time to solve the problem, the affected parties must be willing to work independently and collectively to seek solutions. Obviously if landowners view their property as strictly an economic commodity to be auctioned to the highest bidder, a voluntary approach would not be feasible--two miles of critical frontage developed into 50-foot lots would have rendered the Blackfoot plan useless.

The landowners within the study area had many motives for protecting the river and for allowing reasonable and responsible public use of private land. Their motives were primarily altruistic. Many were either long-time residents or were land managers that had spent a significant portion

of their careers in the area, and they had developed a love for the river. They remembered a time when the river was completely open to public use and the banks were unspoiled by development; and they desired to pass at least a portion of this legacy on to future generations.

In addition to a positive land ethic, there were secondary conditions that convinced the landowners to consider a cooperative approach to management. Principally, there was the threat of public action through state or national legislation which would have removed management options from private individuals and threatened their forestry or agricultural way of life. Most landowners along the Blackfoot had concluded that public access across private land to the river was inevitable. Certainly then a locally conceived plan was preferable to one developed by public officials in Missoula, Helena, Denver or Washington, D.C.

The corporate landowners also recognized the public relations value of voluntarily preserving river frontage and allowing access. They, in fact, had been providing these benefits for many years without official recognition or appreciation. Through the Blackfoot plan they received public recognition for their corporate management objectives.

Both the ranchers and the corporations also benefited from participation in the conservation easement program. The ranchers who donated development rights would not be

subject to the higher taxes which accompanied inflated land values. The ranchers were limiting future taxation to an agricultural base, which historically was lower than either recreation or residential property. The larger corporations, and possibly some ranchers, could claim the charitable tax deduction which was available to those who donated development rights. The tax benefits enabled the corporations to receive compensation for their continued sensitive land management along the river corridor. An altruistic land ethic, a threat of public action tax incentives or public relation benefits would undoubtedly motivate landowners in other areas to consider this management technique.

The participants in the Blackfoot program have also voluntarily restricted their own activities. They have not insisted on a double standard of rules and regulations: one for the public and another for the landowners. Because the landowners have not allowed themselves, their employees or their friends unlimited vehicle access to the river, the public is more willing to accept the restrictions and the credibility of the program is enhanced.

It is important that the landowners abide by the same rules and regulations as the general public; a fact illustrated by contrasting experiences with two walk-in hunting areas. Although they are permitted to use vehicles for management and administrative purposes during the hunting season, the landowners in the Blackfoot Special Management

Area have not done so. By adjusting work schedules, they have made a special effort to avoid even giving the appearance of using vehicles within the area during closure (Lindbergh, Potter, personal communication 1979). As a result, the landowners have gained credibility with the sportsmen, and the successful program is largely self-policed by the hunters. By contrast, a similar walk-in hunting area in the Clark Fork River drainage was unsuccessful. Contributing to the failure was the attitude among some landowners that the vehicle restriction should only apply to the public and not to individuals hunting their own property. This attitude made enforcement of the restrictions more difficult and generated numerous complaints from the hunters (Davis, personal communication 1978). Because some landowners were unwilling to compromise in a cooperative program, this walk-in area was discontinued after one season.

The attitude of the public agency personnel and public officials are also critical to the success of a local planning effort. In the Blackfoot instance, we were fortunate that key public officials--with the exception of some members of the State Land Board--were willing to consider new management techniques which treated the landowners as true partners in the planning process. In addition, a public agency (the Bureau of Outdoor Recreation) provided the necessary technical assistance to the local group.

In most cases, governmental agencies and officials are hesitant to participate in an open-ended planning effort where authority and responsibility are not well-defined. The Missoula Board of County Commissioners, however, encouraged the Blackfoot program and appointed the advisory council to serve as an ad-hoc agency. This action demonstrates the value of dealing with the local level of government. In contrast to state or federal officials, the local leaders often know many of their constituents personally and are more apt to let residents solve a local problem. Another advantage is that local officials, in the determination of public benefit, do not have to consider a constituency so large as to discourage citizen-initiated projects.

Park division personnel within the Montana Department of Fish and Game were also inclined to consider innovative and cooperative methods of providing public recreation. The department regarded the Blackfoot approach as a prototype for application elsewhere in the state where the traditional methods of acquisition or lease would not adequately furnish recreational opportunities. Participation in this program also demonstrated the department's commitment to the improvement of sportsmen-landowner relations.

In addition to vocal support, the commissioners and the department provided funding to implement the plan. The citizens were not told "We sympathize with you, but we don't have any money to help solve your problem." These

officials were willing to invest limited public funds in a locally directed program without the establishment of strict guidelines dictating exactly when, where and how the money was to be used. This is not to advocate that we should solve problems with blank checks, but to suggest that public bodies, after examining the philosophy of a project, should contribute the necessary seed money and trust the local residents to use it for the maximum good. Obviously, proponents of locally initiated programs should first gain support from sympathetic public officials and then use appropriate political techniques to persuade other public officials of the project's value.

Most importantly, and this factor cannot be over-emphasized, public agency personnel must treat the private landowners as true partners in the planning process. This approach is diametrically opposed to the usual procedure in which a public agency will develop a plan with minimum citizen participation and then attempt to gather public support for the project. Partnership requires that occasionally resource personnel will have to suppress not only their personal and professional ego, but also the professional ego of the agency they represent. This technique may even require the trial implementation of a solution that professionals feel is not feasible; but as true partners, agencies may be required to participate in temporary failure as well as success. Professionals should not abdicate

their responsibility, nor surrender unconditionally to every demand of individual landowners. However, they cannot function effectively in a cooperative situation if the prevailing attitude is one of "the professionals know best."

Claude Terry, land-use planning consultant from Atlanta, Georgia, defines (1977) the correct attitude of professional agency personnel:

"Courage and self-confidence on the part of the planner and public officials are required if early involvement of citizen groups is to work. The concept of developing citizen input over an extended period basically goes against professional character, which dictates that the professional himself must produce something. Professionals feel that if they do not initially provide for a finished product, or at least know what they wish to accomplish, they are open to ridicule for not knowing their job. A professional must be courageous in the sense that a ship's captain must be courageous to set sail on an exploratory trip without any clear idea of where he is sailing."

In general, the members of federal agencies, county government and the State Departments of Natural Resources and Fish and Game cooperated with the landowners to develop new techniques of solving the problems associated with public use of private land. The result of their approach is the successful Blackfoot recreation management program. In contrast, the State Board of Land Commissioners is unwilling to adopt non-traditional resource management methods, such as conservation easements. As a result, the citizens of Montana could lose the benefits which the preservations of miles of private riverfront could provide. The Nature Conservancy estimates that it would cost over 15 million

dollars to purchase the river corridor lands already included in the conservation easement program (Margolis 1979). Those board members opposed to the conservation easement program steadfastly refuse to transfer any control over the lands they administer to another state agency. This unexplained decision by an elected body also demonstrates the value of dealing whenever possible with the most local level of government. At this writing, the culmination of the conservation reserve program is awaiting a legally effective promise from the State Land Board that no future development will occur on state-owned lands within the corridor.

Finally it is the proper role of a public agency to provide technical assistance for a local planning effort. In the Blackfoot program, the Technical Assistance Division of the Denver Regional Office, Bureau of Outdoor Recreation assigned a professional planner to assist the residents. Jerry Stokes, the bureau planner, had the invaluable ability to tolerate the back-tracking and stutter-step planning which is often characteristic of local citizen effort. A dedicated, competent professional planner is required to guide the development of an effective resource plan. It is the author's opinion that the Blackfoot plan would never have materialized without the assistance of Stokes and the Bureau of Outdoor Recreation. The first drafts of the plan provided valuable momentum to the project; and those begin-

nings, however hesitant, gave the participants a sense of accomplishment and the incentive to successfully conclude the program. The individual providing assistance must be sensitive to the desires of the local participants, must be able to stay in the background and must offer suggestions without even the appearance of a "hard-sell approach."

The recreationist must also be considered in this planning method. The attitude of the other participants may be important in the development of a local cooperative plan, but the program will not succeed if it does not elicit a voluntary, positive response from the user groups. Recreationists must also be willing to compromise and accept restrictions, particularly for the privilege of using private land. Unlike the situation with public facilities, where the users may feel less responsible for their actions, on private land there is always the implication that if recreationist do not cooperate, the land will be closed. The public was informed that they were using private land along the Blackfoot, and many individuals stated both privately and in public meetings that limited activity was preferable to no activity.

The landowners and public officials made a special effort to involve the public in the development and implementation of the Blackfoot plan. After the landowners agreed to general goals, they invited the public to participate in the specifics of the plan. The public was repre-

sented by a permanent member on the advisory council. The Missoula County Commissioners held public information meetings in which volunteers were solicited to participate in working sessions with the landowners. Public information was also emphasized during the first two years of implementation. In over 1500 personal contacts with river users, the manager discussed the plan, judged reaction and accepted suggestions for change (Walker 1977). Whenever possible the plan was altered to meet specific requests of the recreationists.

The landowners wanted public involvement to be an inherent part of the program so that the final rules and regulations would not only be accepted, but also largely self-enforced. This goal has been achieved in the walk-in hunting areas and a similar attitude is emerging among the recreationists using the river corridor. Many people enjoy the privilege of using private land, and they do not want the actions of a few to foreclose the opportunities for everyone. Some committed individuals have also participated in clean-up campaigns and site-development projects.

Although it was not necessary in the Blackfoot program, the public may also be required to help fund a locally initiated project through a recreation license or user fee. Additional administrative cost would be incurred. If public funds are not available, a general user fee may be preferable to the alternative of closure or lease to a private organization.

The Presence of a Local Coordinator

The local project coordinator is the last important component of a local planning approach. The author served in this capacity for the Blackfoot project. Although he is a public official, the more important characteristic is that he lives in the area; a resident landowner, corporate representative or other agency official could have filled this role equally as well. Despite his specific affiliation, the local coordinator must be familiar with the participants and with their land management objectives in order to effectively obtain their cooperation.

It is also advantageous if the local coordinator is a neutral party or affiliated with a neutral agency. For example, the public agencies did not view the Lubrecht Forest or the School of Forestry as a threat to their traditional areas of responsibility along the Blackfoot. It may have been more difficult for the Fish and Game Department, which has legislative responsibility for public recreation, to fund an experimental recreational program which would have been managed by another agency, such as the Department of Natural Resources and Conservation. At minimum, there would have been more bureaucratic territorial barriers to overcome. The School of Forestry, unlike other public organizations, did not have jurisdiction over the activities of private landowners and did not administer programs with

which they were involved. As a result, disagreements or mistrust caused by other duties did not hinder cooperation.

The local coordinator's major function is as a communication conduit. Based on his experience in managing a river in multiple ownership, Mike Priesnitz, Supervisor of the River Section, Minnesota Department of Natural Resources, stated that "communication is not a luxury, but a necessity," in this type of effort (Priesnitz 1977). The coordinator can discuss the plan with individual participants and communicate their concerns directly to the person providing technical assistance, thus saving the time and expense of formal meetings. If necessary, the local representative can also serve as a check on the agency planner to ensure that the participants' goals are adequately addressed in the working drafts of the plan.

In the Blackfoot project, the relative progress attained in the recreation plan compared to the conservation easement program underscored the importance of a local coordinator. The local leader was intensely involved in the development and implementation of the recreation management plan. When normal minor crises arose, he was present to help negotiate an acceptable solution to the particular problem. In contrast, the conservation easement program was coordinated from Portland, Oregon. There was inadequate communication between the Nature Conservancy, the landowners and the Division of Forestry concerning the cabin site leases,

and this lack of contact was instrumental in the land board's rejection of the conservation easement concept for state land. Closer communication with a local person who was familiar with the details of the easement program may have alleviated this problem and ensured that the goals of all the participants were met individually and collectively.

CHAPTER VIII

CONCLUSION

In conclusion, although this cooperative, ad hoc approach is not a panacea for river management problems, there are instances where circumstances make it a viable alternative to more formal methods. Speaking to a River Management Symposium, Assistant Secretary of the Interior Herbst noted the importance of this project when he stated ". . . the Blackfoot River in Montana is a good example of a cooperative management agreement which has been worked out between local, state, federal and private interests. We must make agreements like this one the rule and not the exception . . ." (Herbst 1977).

The Blackfoot program, as a successful example of the new policy and direction advocated by Herbst, followed, however unknowingly, the principles outlined by Etzioni, Friedmann, Stokes and Bolle. The participants banded together in an informal, task-oriented working group in which everyone was equal. Although natural leaders emerged, community and other titular governmental leaders were included in the program. In the consideration of management options, the public agencies were willing to step beyond the traditional modes of fee acquisition and direct public manage-

ment. The professional planner who was willing to learn and be innovative rather than just an advocate of traditional solutions, was an integral member of the group. He represented the federal government, not as an outside dominating threat, but as an agent of cooperative change, providing the necessary technical knowledge and logistical support without the strings of "do it my way."

The failure to enact a complete conservation easement program on the targeted portion of the river reinforces the validity of the principles espoused above. Contrary to the fundamental rules discussed by Etzioni, the Nature Conservancy proposed a solution that was politically and socially unacceptable. Friedmann advocated direct and personal dialogue between all parties. However, the cabin-site licensees were not directly included in the working group and they equated the program with yet another government-sanctioned attempt to interfere with the status quo. The program did not establish immediate liason with all the titular leaders as encouraged in the Soil Conservation Service experience--members of the State Land Board were presented with a plan in which they had not participated or given tentative prior approval. In hindsight, with more sensitive and refined direction, the conservation easement program would have been as initially successful as the recreation management plan.

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THE BLACKFOOT RIVER

a
conservation
and
recreation
management
Plan ■ ■ ■



MONTANA



THE NATURE CONSERVANCY



BUREAU OF OUTDOOR RECREATION

October 1976

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THE BLACKFOOT RIVER

A CONSERVATION AND RECREATION MANAGEMENT PLAN. . .

Foreword

Recreation resources, especially those on our remaining free-flowing rivers, are at a premium in our Nation. Expanding populations have moved beyond established recreation areas onto private lands, sometimes at the invitation of the landowners, sometimes not. Here is how one community approached the problem of managing a river corridor to accommodate the recreating public and at the same time to protect the resource and the rights of the landowners.

The Conservation and Recreation Management Plan rests on two separate legal instruments: conservation of the corridor through use of conservation easements negotiated with individual landowners and management of the river's public use through a recreation lease program.

History

In the late 1960's, several individual landowners along a 30-mile stretch of the Blackfoot River in Missoula and Powell Counties, Montana, began efforts to develop a management plan of their respective lands adjacent to the river. By early 1970, The Nature Conservancy initiated further interest among additional landowners and individuals at the University of Montana who were then trying to establish a recreation management and conservation program along the Blackfoot River. The diversity of ownership along the river frontage—26.9 miles, corporate; 27.4 miles, private; and 12.3 miles, public—created special organization problems, and only limited progress was made on the plan the next few years.

In 1973 the Bureau of Outdoor Recreation, perceiving a coordinating role through its technical assistance program, consulted some of the local involved parties on how the Bureau might serve the project. At that time, several landowners were working on a landowner easement donation program, and as Montana did not provide the proper tax relief incentives to landowners for easement donations, the Bureau elected to assist in the development of acceptable conservation easement legislation for submission to the State legislature. For the remainder of 1973 and 1974, the BOR with The Nature Conservancy and others concerned developed the State legislation for the 1975 session. The Bill passed the Montana legislature in early 1975, and the Blackfoot River was selected as a pilot project for a joint Bureau/Conservancy planning and implementation effort under the new legislation. Early work by Hank Goetz and Chuck Hollenbaugh at the University of Montana provided the basis for this master plan.

Creation of the Plan

The objective of the Conservation and Recreation Management Plan was defined: To protect the natural, scenic, and recreation integrity of the Blackfoot corridor through effective management of public recreation and restrictions on ecologically incompatible uses and development. To accomplish this, it was recommended that recreation leases or recreation easements be used for formal agreements between private landowners and public agencies to assure responsible management of public use and that conservation easements be used to protect the river corridor in future development.



• • • *To prevent incompatible development of the river corridor.*

As a first step, the Bureau and The Conservancy identified frontage ownerships, delineated a conservation corridor, and identified alternatives for access points to activity areas and public use management. A draft of this early plan was presented at a meeting of landowners, county commissioners and others who evaluated the plan and voiced concerns not previously addressed: existing and escalating recreation use problems, liability, and operation and maintenance costs. At the meeting, a Blackfoot River Task Force was established, and the Bureau and The Conservancy were joined by representatives from the University of Montana, Champion International, two private landowners, and Missoula County to further develop the Conservation and Recreation Management Plan. A goal was set for implementation of an initial public use management program by the summer of 1976.

Participation in the planning process was expanded to include minor landowners and land management agencies—the Montana Department of Fish and Game and the Montana Division

of Forestry. This larger group considered the second draft. By November 1975, the remaining corporate landowners had become involved with the project, and the second draft was revised and disseminated.

The Task Force, thus formed, continued the protracted planning process through the winter and spring until a document acceptable to all parties was developed. Chaired by Mr. Hank Goetz of the University of Montana School of Forestry, the Task Force consisted of the following members, who illustrate a wide range of representation and interest:

Private Landowners

Land Lindbergh—Lindbergh Cattle Company
Bill Potter and John Stone—E Bar L Ranch
Rodney Vannoy—Rancher
Paul Brunner—Rancher
Tom Collins—Landowner

Corporate Representatives

Ernie Corrick and Joe Sieminski—Champion International Corporation
Laurie Harvey—Burlington Northern Railroad
Karl Jensen—Milwaukee Road

University of Montana

Arnold Bolle and Hank Goetz—School of Forestry
Tom Collins—University of Montana Foundation (and landowner)
Jerry Walker—Graduate Student

Missoula

Chuck Hollenbaugh—Missoula Planning Board
Garry Kryszak—Missoula Parks Superintendent

State of Montana

Chuck Wright—Montana Division of Forestry
Jim Ford and Tom Greenwood—Montana Department of Fish and Game

U.S. Department of the Interior

Darrell Sall—Bureau of Land Management
Jerry Stokes—Bureau of Outdoor Recreation

Others

Mrs. Eliner Cahoon—Potomac Valley Garden Club
Bob Knight—local attorney
Joe McDowell—local citizen
Kevin Gales—Trout Unlimited
Ken Margolis—The Nature Conservancy

The Bureau's staff representative who coordinated all phases of the development of this plan was Jerry Stokes, of the Mid-Continent Regional Office in Denver.

Credit of Accomplishments

The planning process, itself, resulted in accomplishments even before finalization and printing of this plan:

- The County Commissioners agreed to support the plan and accept responsibility for public use on private lands. They also committed funds for the initial implementation phase.

- The Montana Department of Fish and Game agreed to support the initial implementation phase with funds, limited material, and administrative assistance.
- County Commissioners formed the Blackfoot River Recreation Management Advisory Council—a coalition of private and corporate landowners, local, state, and federal land managers and planners, and recreation users who will implement the plan and manage recreation use on behalf of the commissioners. A public hearing was held in which public acceptance and support of the plan was expressed.
- Landowners and land managers agreed to participate in the recreation management program for a one-year trial period.
- A recreation manager and an assistant were hired to administer the recreation management and study program for the first year.
- Montana Division of Forestry is developing management plans compatible with the Blackfoot Plan for the three key parcels which they manage.
- The planning group implemented the initial management phase. The group's objective of an effective, on-the-ground, functional management program for over 30 miles of mostly privately-owned river frontage by the summer of 1976 was accomplished. The plan has been in effect since June 1976.

The plan is the product of a results-oriented planning process that has emphasized local involvement and direction. The result of this effort is an evolutionary, yet functional, skeletal framework within which recreation management and river protection objectives can be achieved. Providing a preliminary management approach, the plan is specific enough to give direction to an overall management program, yet general enough to allow for considerable modification. The structure of the plan ensures that the local landowners, land managers, and public agencies, in cooperation with the local public, will determine the future character of the Blackfoot River.

CONSERVATION AND RECREATION MANAGEMENT PLAN

Area Description

The study area extends along the Blackfoot River from Johnsrud Park near the McNamara Bridge upstream to the Montana Fish and Game Department's River Junction fishing access site, a distance of over 30 river miles. Other Department areas included are at Clearwater Junction and Harpers Lake. The Powell County portion only involves recreation use on relevant areas administered by the Department and conservation easements on lands belonging to Champion International Corporation and the Brunner ranch.

The river corridor recommended for protection by easements was established by a Bureau of Outdoor Recreation field team, The Nature Conservancy, and interested local parties. Essentially, a scenic corridor was delineated in the field and then adapted to legal descriptions. Boundaries are based on topography, vegetative cover, ownership pattern, and manmade improvements. Maps delineating the proposed conservation corridor and public use areas are enclosed in the back pocket of this report.

Ownership and Approximate Frontage Miles

Champion International Corporation.....	25.4
Burlington Northern Railroad.....	1.1
Montana State Trust Lands.....	5.4
U.S. Bureau of Land Management.....	.1
The Nature Conservancy.....	.3
University of Montana Lubrecht Forest.....	3.7
Lindbergh Cattle Company and Land Lindbergh (including Clearwater frontage).....	13.9
E Bar L Ranch (including Clearwater frontage).....	13.6
Vannoy.....	.6
Milwaukee Road.....	.4
Brunner.....	.4*
Montana Fish and Game Department.....	3.1
Collins.....	1.1

**Only frontage included in proposed Conservation Reserve.*



• • • *To maintain the scenic integrity of the river.*

The Blackfoot River offers a variety of contrasts in topography, setting, and moods as it flows through narrow canyons, forests, and plains. From the river, one has views of high, sheer rock walls; more gentle and distant slopes; flat, swampy estuary areas; forested terraces along meanders; and high, steep slopes covered with towering Ponderosa pines, Douglas firs, and larch. Marmot colonies, ducks, osprey, bald eagles, and beaver are commonly seen. In season, the wildflowers provide a spectacular array of color. In the middle segment of the study area, the river deeply incises a valley floor forming high benches on each side. Even though the river is flanked in places by broad, flat expanses of ranch land, the high banks limit visual intrusions to short distances on each side. The upper and lower segments, in contrast, flow through steep, narrow canyons. Although the dominant topography here consists of formidable steep slopes, the river meanders have produced picturesque meadow-like flat benches. Several series of rapids provide a challenge to even the most experienced boatmen.

Recreation Management

The Recreation Management Program will be instituted for a trial period by a confederation of agencies, organizations, and individuals working toward the common goal of managed and responsible public use of the Blackfoot River Recreation Management Area. The confederation will be coordinated by the Blackfoot River Recreation Management Advisory Council, formed by invitation of the Missoula County Commissioners to act in behalf of the Commission on matters relating to the Recreation Management Area. The Council will be composed of three riparian landowners (although three landowners would be regular members, others could participate as they desired); one legal advisor; and one representative each from the following: University of Montana School of Forestry, Missoula Planning Staff, Montana Department of Fish and Game, Montana Department of Natural Resources Division of Forestry, Missoula Parks Department, U.S. Bureau of Land Management, and the general public.

A recreation manager under the supervision of the Advisory Council will be responsible for conducting an in-depth study of recreation users' and landowners' problems, preferences, and attitudes. The University of Montana's School of Forestry will assist the Council in supervising the research; preferably, the manager should be affiliated with the University's graduate program. He will require an assistant. Funding for the study and management functions will be provided jointly by Missoula County and the Department of Fish and Game.

In the conduct of the study, the manager will be responsible for orientation of the recreating public on the intent of the program and on the uses of various recreation sites. His approach during this trial period will be one of signing, site design, and personal explanation to achieve cooperation. The manager may, however, summon appropriate authorities if the public does not cooperate or if he encounters a gross disregard for private property. Through his observations and contact with landowners and the public, the recreation manager can serve as a focal point in identifying use problems at an early stage.

The Nature Conservancy, with the cooperation of Dr. John Craighead of the University of Montana, will conduct an ecological inventory of the Blackfoot River corridor to gather baseline information regarding water quality, fisheries, aquatic life, riparian vegetation, and wildlife habitat. Special attention will be paid to unique features, such as raptor nests, rare plant communities, and areas of special fragility. The inventory will be a major consideration in recreation planning for the corridor and will also establish the baseline information for conservation easements to be taken by The Nature Conservancy.



■ ■ ■ *To protect the river's ecosystem.*

Problem Areas.—Recreation management problem areas on private and public lands are identified in the following accounts by numbers keyed to maps enclosed in the pocket of this report. Problems generally faced by all landowners are gates left open, trampling or cutting of fences, littering, and various other forms of vandalism.

Private Lands.—The greatest public use/private landowner conflict occurs in the two-mile stretch of the river below the Clearwater/Blackfoot confluence (#14) where the Sunset Hill county road parallels the river. Problems arise along this frontage owned by Lindberg Cattle Company and E Bar L Ranch from uncontrolled parking, litter, extended unauthorized camping, and vandalism of private property. Overuse is resulting in resource damage in the confluence area.

At the Highway 200 crossing (#12) at Roundup Bar, recreationists who bank fish and put into the river, cause repeated destruction of fences even though walk-over fence crossings are provided by the landowner. There is site deterioration from overuse and litter. Inadequate parking control and parking facilities result in congestion and traffic and pedestrian hazards. Adjacent landowners are disturbed by the heavy public use. Although this is one of the most popular floater access and fishing sites in the area, access to the river is difficult, and the rapids are hazardous to floaters using this area as a put-in point.

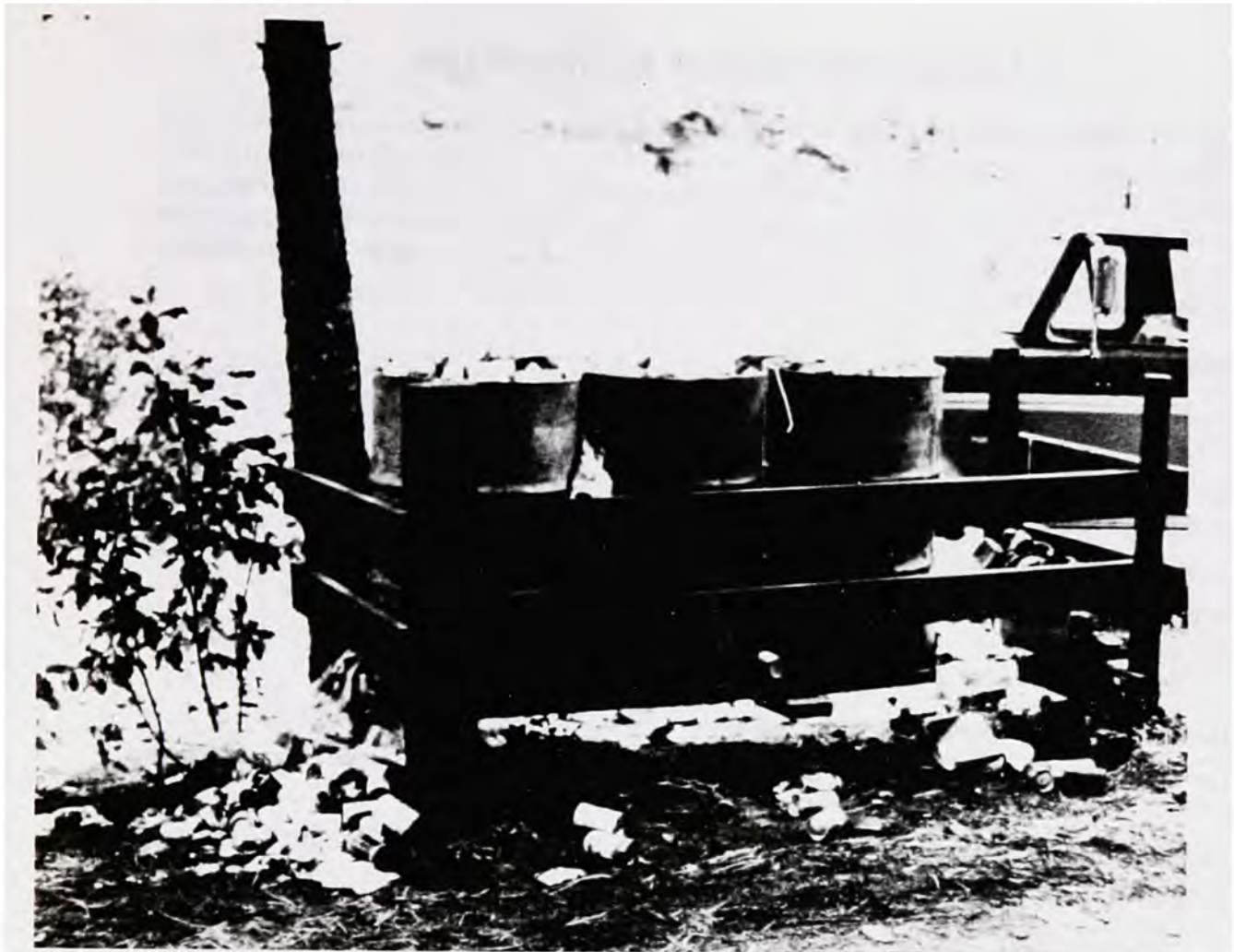
At the informal camping area (#10) at the western end of Ninemile Prairie, there is site deterioration and occasional littering.

Belmont Creek (#9) is an outstanding scenic site presently used for overnight camping. There is evidence of site deterioration from overuse and littering.

Site deterioration and littering mar site (#8). Unauthorized gatherings and an abandoned and destroyed automobile are additional evidence that control of public use is necessary here.

Whitaker Bridge (#5) is used as a floater access point. It has inadequate parking and access to the river is difficult.

Johnsrud Park (#1) has been managed by the Potomac Valley Garden Club on a voluntary basis for the past 13 years through a lease agreement between the Club and Champion International Corporation, owner of the property. Unruly crowds, destruction of facilities, and maintenance costs now necessitate either management by a public body or public assistance to the Club in dealing with these problems.



• • • *To better manage public use.*

Public Lands.—There are no facilities and only limited access at the Montana Fish and Game Department area (not shown on map) near Box Canyon. Another Department access site (#11), which receives minimal public use, is excessively rocky and open, and access to the river is very difficult.

The State Trust Land at Sperry Grade (#15), administered by the Montana Division of Forestry, has no signed public access along the one mile of frontage, although some lots are open to public use. The cabin lease program in effect in this section has resulted in intrusions upon the river corridor.

The 3.7 miles of frontage owned by the University of Montana's Lubrecht Experimental Forest is also underutilized; however, efforts are being made to provide more facilities for outdoor recreation.

Other Recreation Use Areas.—Sites #2 and #3, owned by Champion International Corporation, are presently used for overnight camping, hiking, and fishing. The areas are clean, and it is obvious that users are conscientious in the care of the sites. Champion International has no objection to public use of the areas.

Implementation of the Plan

Phase I—Recreation Use—The first phase of the Conservation and Recreation Management Plan is the formalization of public use of private lands on the Blackfoot River to be effected through an agreement, such as a recreation lease, between the landowners and a public body. The conditions of the agreement will allow certain recreational uses along the river, e.g., fishing and hiking, while providing assurances that both private and public interests will be protected. (See appendix A for discussion of recreation leases.)

Priorities

1. Missoula County's formal acceptance of the Master Plan and formation of the Advisory Council.
2. Consummation of Recreation Use Agreements among landowners, land managers, and Missoula County.
3. Advisory Council's initiation of the river study and user orientation program. (See appendix D for budget estimates.)
 - (a) Provision of a recreation manager to conduct the recreation study and supervise public use.
 - (b) Installation of signs and accomplishment of Phase I site development.
 - (c) Conduct public meetings to explain the recreation management program and promotion of public education through news media.
4. Initiation of compatible management plans on State Trust Lands and conservation easements on private lands.

Development Plan

Site

- 1 Johnsrud Park—new identification sign on Highway 200 and signing to indicate site identification and overnight camping. Montana Department of Fish and Game will assist the Potomac Valley Garden Club with garbage pickup and minor site rehabilitation.
- 2 & 3 Signing to indicate day use.
- 4 Thibideau Rapids—site identification sign indicating day use area.
- 5 & 6 Whitaker Bridge Area—signing to indicate site identification, hazardous rapids, day use activities area, and back-country use area.
- 7 & 8 No development.

- 9 Belmont Creek—signing to indicate site identification and day use. Installation of barriers to control vehicular access.
- 10 West Ninemile Prairie—signing to identify the site and to indicate overnight use. Development will include one vault toilet, access road improvement, and barriers to move camping back from the river.
- 11 Ninemile Prairie Fishing Access Site (existing Department of Fish and Game facility)—signing to indicate the turnoff point on Ninemile Prairie Road and overnight use. Long range plans provide for phase-out of this site and development of #10.
- Milwaukee Road's Sunset Area (not numbered)—signing to indicate day use parking. Development will include parking spaces for four vehicles. Vehicular access down to the river will be restricted and the area signed accordingly.
- 12 Roundup Bar Area—directional signing on Highway 200 to indicate overall recreation corridor information. Site signing to reorient parking to west side of Highway 200 on the north side of the river and to indicate day use activities and rapids hazard. Present parking area will be eliminated and new parking spaces developed as indicated above. One vault toilet will be provided.
- 13a South Sunset Road Access Site—signing to indicate site identification, parking for day use only, no camping, no campfires. Site will be developed for three parking spaces. Authorized activities include hiking, picnicking, and bank fishing.
- 13b North Sunset Hill Road Access Site—signing to indicate site identification, parking, day use only—no camping, no campfires. Site improvement will include fence relocation and development of six parking spaces. Authorized activities include hiking, picnicking, bank fishing, and floater access.
- 14 Walk-in fishing area (Blackfoot River/Sunset Hill Road parallel)—signing to prohibit parking between North and South Sunset Hill Road access sites and to indicate day use only.
- 15 Sperry Grade—signing to indicate river access and day use.
- 16 County Line Access Point—highway directional sign and signing to indicate site identification and day use. Improvements will include access road improvement and barriers to control vehicular traffic.

Note: Day use includes hiking, picnicking, fishing, and floater access.

General Recommendations

1. Missoula County enter into a lease agreement with private landowners to manage the public recreation use of private lands from Johnsrud Park to the Missoula/Powell County line. It is further recommended that public agencies enter into the agreement to manage their lands in accordance with this plan.
2. A Blackfoot River Recreation Management Advisory Council be established to provide overall continuity and guidance to the recreation management program.
3. All plans for recreation development within the Blackfoot River Recreation Management Area be consistent with the Missoula County Park Recreation and Open Space Plan and

the Blackfoot River Conservation and Recreation Management Master Plan. Developments should be approved by the Blackfoot River Recreation Management Advisory Council.

4. Overnight use be concentrated on areas managed by the Montana Department of Fish and Game, Johnsrud Park (#1) and West Ninemile Prairie (#10).
5. Recreation facilities be concentrated on the road side of the river through the recreation management area. The side of the river lacking significant manmade improvements should be managed for dispersed recreation use only.
6. Area recreation orientation signs be erected on Highway 200 along the approaches to the recreation corridor. This signing would be helpful in directing the camping public to designated overnight use sites.
7. Recreation and ecological studies be conducted to provide the Advisory Council with additional information on which to base management decisions. The initial steps in implementing the Blackfoot River Master Plan should proceed while the studies are in progress; the results can then be used to refine or modify the plan as appropriate. The studies will be done as a graduate project through the University of Montana.



• • • *To provide adequate public access.*

8. Where agreeable with the landowner, a pedestrian use corridor be designated to connect the recreation nodes. Except where excluded in the recreation agreement, a strip on each side of the river within 50 feet of the high-water mark and extending the entire length from the Missoula/Powell County line to Johnsrud Park will constitute the designated recreation use corridor. The corridor will provide hiking and fishing as well as floater access to the river banks. The pedestrian use corridor will be adequately signed and managed by exception, i.e., trespass outside the corridor will be reported to the agency responsible for recreation management in that area. Signing will prohibit bank access where desired by the landowner. Signs will be posted to inform the public that they are on private land with the sufferance of the landowner.
9. Development of facilities on leased areas be kept to the minimum necessary for recreation user control, health, and safety.
10. The following regulations be promulgated by the managing agency:
 - (a) Access to the river corridor only through designated access points.
 - (b) No parking outside designated areas.
 - (c) No overnight camping in parking areas or on the river corridor except where specified.
 - (d) All garbage must be packed out except where trash receptacles are provided.



■ ■ ■ *To conserve a valuable recreational resource.*

- (e) Activities outside the designated recreation corridor not permitted without the landowner's consent.
 - (f) No motorized vehicles beyond access points.
 - (g) No motorized river craft.
 - (h) Tampering with irrigation systems, fences, gates, and appurtenances prohibited.
 - (i) No campfires on private land except in designated campsites.
 - (j) No shooting in the river corridor area except during hunting season.
 - (k) No shooting from rafts or canoes.
11. The primary thrust of user control be through adequate signing of recreation use areas and supervision by the corridor recreation managers.
 12. Should the Milwaukee Railroad line that follows the river ever be abandoned, every effort be made to acquire the right-of-way for a trail along the Blackfoot east to the proposed West Ninemile Camping Area (#10). This railroad right-of-way is of prime recreation potential and could possibly link Missoula to some of the most scenic stretches of the Blackfoot River.
 13. Public recreation use of the corridor be channeled to the greatest extent possible to publicly owned lands, e.g., Lubrecht Forest, Montana Fish and Game Department frontage, and those tracts of the Montana State School Trust. These lands could relieve much of the public recreation use of private lands.

Specific Recommendations

1. **Johnsrud Park (#1).**—Though managed by the Potomac Valley Garden Club, inclusion of this area into the overall management program would ensure continuity and consistency in recreation management. This recommendation will not be implemented without the approval and support of the Club presently managing the site. The Blackfoot River Recreation Management Advisory Council should assist the Club with its management problems.
2. **Sites #2 and #3.**—These areas should provide for day use. They should be considered for development for overnight use as future pressure dictates.
3. **Site #4 at Thibideau Rapids.**—This State Trust Land provides the most accessible and best view of one of the river's several series of rapids. It is a scenic area and a significant day use site and should be managed for day use only.
4. **Whitaker Bridge Site (#5).**—The left bank north of Whitaker Bridge is presently used as a floater access point. Parking facilities and better access to the river should be provided.
5. **The south side of the Blackfoot River from Whitaker Bridge** east through Lubrecht Forest should be managed as a back-country dispersed recreation area. Sites #7, #8, and an unnumbered floater campsite would provide primitive camping areas. Vehicular access should be restricted to prevent future vandalism, automobile destruction and abandonment, unauthorized gatherings, littering, and site deterioration. The topography is such that a substantial metal gate would close public vehicular use of the logging road into the area, while still allowing Champion International and Division of Forestry personnel easy

access for logging, timber management, and fire control. Location of the gate near Whitaker Bridge would enable patrol personnel to easily determine unauthorized entry into the area.

6. **Belmont Creek (#9).**—This very scenic area is overused as an informal campsite. Litter and site deterioration are prevalent. Development would greatly reduce the quality of this area; therefore, no facilities should be provided and the area restricted to day use. Vehicular access should be restricted to reduce further site deterioration.
7. **West Ninemile Prairie Site (#10).**—This site receives heavy use without presenting any significant management problems. The area should be designated as an overnight camping area with minimal facilities. The Department of Fish and Game should consider using this site as its primary public fishing access area and phasing out the undesirable Ninemile Prairie access site (#11) two miles up-river.
8. **Unnumbered site** on the Milwaukee Road parcel at Sunset Hill Road between sites #11 and #12 should be utilized as a designated parking area to provide an access point for day use. Vehicular access to the river should be restricted.
9. **Highway 200 Access Point at Roundup Bar (Site #12).**—A lease should cover an area sufficient for parking and floater/fishing access. The topography, nearby residential and commercial developments, and existing use patterns will require considerable site planning to make this a safe, functional, and unobtrusive access point. The site should include one vault toilet and designated parking spaces.
10. **Sites #13A and #13B at each end of the Two-mile Sunset Hill Road/Blackfoot River Parallel Stretch.**—These sites would provide parking and minimal sanitary facilities for walk-in bank fishing. Area #14 should be managed as a public day use area. Since most public use problems arise in this area, it should be closely managed and designated uses strictly enforced. Easy vehicular access here has resulted in uncontrolled parking which restricts traffic flow and agricultural access, extended unauthorized camping, and vandalism of private property. County road maintenance procedures have unnecessarily widened this portion of the road, even though the road is on private property and no easement of record exists for public right-of-way. Parking, traffic and the dust it generates, and the lack of vegetative screening between the river and the road greatly reduce user enjoyment and the aesthetic integrity of the area. The only property accesses served by this portion of the road are those belonging to Lindbergh Cattle Company and E Bar L Ranch. Access into other holdings in the area is provided through entry points at Greenough and Clearwater Junction.

It is recommended that the problems and associated public vehicular use of this portion of the Sunset Hill Road be evaluated in the recreation study. The resulting data can then be used to determine the best solutions for alleviating the problems in the interest of the resource and the public.

It is further recommended that the desirability of designating this reach of the river as a "fly-fishing only" area be assessed in the study to provide data on user preferences and the fisheries resources.

Initial management efforts in the Sunset Hill Road area should emphasize parking control and "day use only" activities.

11. **Sperry Grade Access Point (#15).**—An agreement between the County and the Montana Division of Forestry should provide a signed public bank fishing and floater access corridor on the west bank to allow freedom of movement along the river. Also, long-range

planning should consider camping development as the need for such facilities increases. Conversion of the area into a public recreation area would require revision of the cabin lease program now in effect. This would necessitate that either a public body or a private recreation entrepreneur provide the Division of Forestry with sufficient revenue to justify conversion to public recreation use.

12. **A Department of Fish and Game parcel** (not shown on map) downriver from the Blackfoot River's confluence with its North Fork should be used as a public access site, thereby relieving some of the public use pressure on private lands.

Phase II—Establishment of a Conservation Corridor—The second phase, to be instituted simultaneously with Phase I, is the establishment of a conservation corridor to protect the Blackfoot River from future encroachments.

The corridor will be created by a series of conservation easements (see appendix B) negotiated with each individual frontage landowner and will form a continuous band along both sides of the river. The primary consideration in delineating the corridor is the development set-back from the river necessary to protect the aesthetic and visual integrity, water quality, and the fisheries resource. Since much public use is made of the roads paralleling the river, views of the valley from these vantage points are considered. Accordingly, segments of the Blackfoot valley with its picturesque farm and ranch land and timbered slopes are included in the conservation proposal. Even though some of these areas cannot be seen from the river itself, they are significant to the panorama of the Blackfoot valley from the various vantage points.



• • • *To preserve the agricultural way of life associated with the Blackfoot River.*

The initial phase in establishment of this corridor will be the creation of a Conservation Reserve along the river from the Clearwater confluence up-river to include the Chamberlain Creek estuary. This area is important to the river's ecosystem which provides habitat and

niches for bald eagles, blue herons, ospreys, beavers, and elk. The reserve would include lands within the proposed conservation corridor belonging to E Bar L Ranch, Land Lindbergh, Paul Brunner, Champion International Corporation, and the State School Trust Lands. The reserve would be established on the private parcels through conservation easements and on State Trust Lands through compatible management by the Division of Forestry, managing agency for these lands. In essence, the easements on private lands within the conservation reserve would limit future development while allowing existing forestry and agricultural use to continue. The Division of Forestry would limit further development on the two State Trust parcels and restrict timber harvesting to light selection, salvage, and sanitation cuts.

The downriver State Trust Land parcel at Thibideau Rapids should be similarly managed in a manner consistent with the scenic qualities of the river.

The Montana Natural Areas Act of 1973 in Section 81-2703 includes in the definition of "Natural Area" the requirement that designated natural areas have one or more of the following characteristics:

- (a) An outstanding mixture of variety of vegetation, wildlife, water resource, landscape, and scenic values.
- (b) An important or rare ecological feature or other rare or significant natural feature worthy of preservation for scientific, educational, or ecological purposes.

The Act also includes consideration of areas possessing these characteristics to a degree promising their restoration to a natural state. Administrative responsibility for implementing the Natural Areas Act is assigned to the Department of State Lands. It is suggested that the School Trust parcels, recommended in the master plan for inclusion in the conservation corridor, be considered for Natural Area designation. These parcels are important to the scenic and ecological integrity of the Blackfoot River and should be managed accordingly.

Recommendations

1. A conservation corridor be established through conservation easements along the Blackfoot River from the Chamberlain Creek estuary downriver to Johnsrud Park.
2. The initial phase in the creation of this conservation corridor be the establishment of a Conservation Reserve from the Chamberlain Creek estuary downriver to the Clearwater/Blackfoot confluence.
3. The Montana Division of Forestry through the Department of Natural Resources, Department of State Lands, and the Board of Land Commissioners establish, either by administrative procedure or Natural Area classification, future protection and use of the relevant School Trust Lands that are compatible with the Blackfoot River Conservation and Recreation Management Master Plan.

PLAN SUMMARY

The Conservation and Recreation Management Plan rests on two separate legal instruments: conservation of the corridor through use of conservation easements negotiated with individual landowners and management of the river's public use through a recreation lease program. The access points and pedestrian use corridor will constitute a recreation corridor separate from but within the conservation corridor. The recreation corridor boundaries may or may not, depending on the landowner's prerogative, correspond to the

conservation corridor boundaries. Leases will be negotiated between each landowner and a public body, such as Missoula County or the Montana Department of Fish and Game.

ACTION AND SUPPORT ROLES

Implementation will require action and support by the property owners, Missoula County, Montana Department of Fish and Game, Montana Division of Forestry, The Nature Conservancy, the Bureau of Outdoor Recreation, and the general public—with emphasis on local management, local use, and voluntary landowner participation.

Property Owners.—Protection of the Blackfoot River and its resources rests with the landowners and their desire for responsible management of public recreational use and/or conservation of the river. Specifically, landowners might donate leases for specified day use recreation sites and easements to protect the river from incompatible development. They may also assist in site development of day use areas.

Missoula County.—Management of public recreation use along a portion of the Blackfoot River through recreation agreements negotiated with the property owners. Further support from the County has been identified as (a) radio equipment for the recreation manager; (b) funding assistance for recreation study and management; (c) assistance through the Comprehensive Employment and Training Act to provide various individuals for day-to-day maintenance; and (d) law enforcement response.

Montana Department of Fish and Game.—Assistance in management of public use of private lands and Department public access sites. Development of facilities might be funded by the Department through its administration of the Bureau of Outdoor Recreation's matching Land and Water Conservation Fund. Other support: (a) funding assistance for the recreation study; (b) garbage pickup, toilet maintenance, limited operations and maintenance support, and sign construction; (c) fish and game law enforcement; (d) staff coordination and administrative support of recreation manager and County CETA personnel; and mileage allowance for recreation manager.

Division of Forestry.—Within legislative constraints, compatible management of State Trust Lands; cooperation with Department of Fish and Game in limited operation and maintenance support; improvement of public access and site maintenance at Sperry Grade; and sign construction.

University of Montana School of Forestry and Lubrecht Experimental Forest.—Supervision of the recreation manager's study of recreational and conservation concerns; a vehicle for the recreation manager; and administrative support for (a) a base of operations at Lubrecht for the recreation manager, (b) coordination of the master plan implementation, and (c) cost accounting of funds.

Trout Unlimited.—Volunteer assistance in site development by the local chapter, and limited funding support by the national organization.

The General Public.—Understanding and support of the plan is necessary for successful implementation. Public hearings should be held to provide a forum for dialogue.

The Nature Conservancy.—Coordination and funding assistance in the ecological inventory; and implementation of the conservation easement phase of the proposal through negotiation and acceptance of the easements.

Bureau of Outdoor Recreation.—Planning and coordination assistance in the implementation of the master plan recreation and conservation concepts.

APPENDIX A

Recreation Leases

Recreation leases will be voluntarily acquired from the landowners by a public body willing to assume recreation management responsibilities along the Blackfoot River. This arrangement would formalize the public agency's responsibility and right to manage public use in a manner it deems necessary within the terms of the lease for a period of time agreeable to both the landowner and the public body.

The flexibility of this legal instrument is of paramount importance. It may be tailored to the individual landowner's needs for his maximum benefit in obtaining assistance from a public body to control public use problems. As envisioned in this proposal, the recreation leases would apply to specific sites where public use would be allowed, channeled, and managed. These sites would necessarily have to be functional and desirable areas for public use.

In addition, recreation would extend along a narrow designated pedestrian use corridor. The location and width of the pedestrian use or recreation corridor will be determined on an individual landowner basis to minimize conflict between public river use and the landowner's use of his land.

The designated recreation nodes will concentrate public use in specified areas thereby facilitating public use management. Once the river users have entered the recreation corridor through these nodes, they will fan out within the designated pedestrian use corridor along the river to bank-fish or hike. This pedestrian use corridor and the recreation nodes will also meet the needs of floaters, and where specified, campers.

The recreation lease can serve as a temporary experimental approach to solving the problems associated with public use of privately owned land. The lease may be modified at renewal to fit changing conditions or to correct deficiencies in previous leases.

DRAFT AGREEMENT

MADE AND CONCLUDED this _____ day of _____, 1976, by and between the private landowners signatory hereto (hereinafter referred to as "LANDOWNERS") and the public land managing agencies (hereinafter referred to as "LANDMANAGERS"), and the Missoula County Commissioners (hereinafter referred to as the "COUNTY");

WITNESSETH THAT:

WHEREAS, the parties hereto agree that it will be of benefit to the parties hereto and to the public to provide for adequate and responsible conservation and recreational management of the Blackfoot River; and

WHEREAS, the COUNTY has undertaken to formalize the management of public recreational use of the privately owned lands on the Blackfoot River, as set forth in their Conservation and Recreation Management Plan; and

WHEREAS, the LANDOWNER is the owner of a certain tract or tracts of land located within the recreation corridor as described in the Management Plan, and desires responsible management of the public use of his property; and

WHEREAS, the LANDMANAGER is the manager of a certain tract or tracts of land within the recreation corridor as described in the Management Plan and desires the management and public use of this property compatible with the Conservation and Recreation Management Plan.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

1. LANDOWNER hereby licenses and authorizes the COUNTY for the period of time from the date of this agreement to March 15, 1977, to manage the public use, for certain recreational uses, of his property located on the Blackfoot River, as more particularly shown and described on the map or plan attached hereto, and made a part hereof, and marked "Exhibit "A"."

2. The LANDMANAGER agrees that they shall manage and maintain the land, and provide rules and regulations for its uses in a manner that is compatible with the Recreation Management Plan attached hereto, made a part hereof, and marked "Exhibit "A"."

3. The COUNTY shall pay LANDOWNER the sum of One Dollar (\$1.00) each year for this privilege of managing and maintaining said lands for public recreation uses.

4. This agreement will remain in effect for the period of time from date of signing by COUNTY hereof until March 15, 1977. COUNTY may give notice to LANDOWNER of their desire to renew this agreement, said notice to be delivered to LANDOWNER by January 15, 1977, thereafter the parties shall have until March 15, 1977, to reach a new agreement.

5. LANDOWNER and LANDMANAGERS reserve exclusive possession and control of the lands and/or timber on the tract or tracts described herein, subject only to the rights and authority herein specifically granted to the COUNTY, which shall not interfere with LANDOWNER'S or LANDMANAGER'S timber management, timber harvest, or agricultural use. LANDOWNER and LANDMANAGERS further reserve the right and are empowered to remove or cause to be removed, any person or persons from said lands who by their conduct or otherwise, fail to comply with the rules and regulations applicable thereto by virtue of the implementation of the Recreation Management Plan.

6. The COUNTY shall manage and maintain the land, and provide rules and regulations for its uses, as described in the recreation Management Plan attached hereto, made a part hereof, and marked Exhibit "A"

7. The recreation use corridor shall be as described in the Recreation Management Plan, except that the Chicago, Milwaukee, St. Paul and Pacific Railroad's existing right-of-way is specifically excluded

from the terms of this lease where said right-of-way falls within the described recreation use corridor

8. The COUNTY shall hold LANDOWNER harmless from any and all manner of actions, claims, demands, or suits for damage for or by reason of any injury or injuries to any person or persons or property brought against LANDOWNER his agents, servants, or employees in respect of LANDOWNER'S ownership of said land, arising by reason of any form of use, by the public, of the land subject to the terms of this agreement.

9. If the COUNTY ceases to manage and maintain said lands as provided herein, or fails, refuses or neglects to perform, or observe any term, covenant, provision, or condition as provided herein, or uses said lands in a manner inconsistent with the provisions hereof, the LANDOWNER shall have the option to notify COUNTY by written notice delivered in person or by postage paid registered mail addressed to the County Commissioner of Missoula County, effective when received, of said violation, and if COUNTY fails to cure said violation within (fifteen) 15 days from receipt of LANDOWNER'S notice, then this lease agreement shall be automatically cancelled and of no future force and effect.

IN TESTIMONY WHEREOF, the parties hereto have executed this agreement the day and year first above mentioned.

ATTEST

ATTEST:

LANDMANAGERS

Montana Division of Forestry

Montana Department of Fish and Game

Bureau of Land Management

Lubrecht Experimental Forest

Potomac Valley Garden Club

MISSOULA COUNTY

BY _____

LANDOWNERS

Lindbergh Cattle Company

E Bar L Ranch

Champion International Corporation

Milwaukee Land Company

Burlington Northern

Rodney Vannoy

Thomas J. Collins

The Nature Conservancy

Morris Estate

APPENDIX B

Conservation Easements

An easement is a right in land which is less than full ownership. A conservation easement conveys the right to prevent development or other actions detrimental to the land's natural character. However, a conservation easement does not prevent the owner from using his land for purposes consistent with the easement, nor does it permit the general public, or the easement holder, to use the land in any manner. Thus, in granting a conservation easement the landowner gives up his development rights, but he retains all other rights including his right to sell his remaining interest in the property. And, of course, he must pay property taxes.

In Montana, land subject to a conservation easement is taxed on the basis of the restricted purposes for which the property may be used. For example, property encumbered by an easement prohibiting all uses except agriculture or forestry can only be taxed at its value for agriculture or forestry.

The landowner may specify in the easement those interests he wishes to retain as well as the rights he relinquishes. The easement may also be granted for a 15-year term or in perpetuity.

The landowner who donates a conservation easement in perpetuity to a public body or certain qualifying private organizations is permitted to deduct for income tax purposes the value of the easement. This value is determined by subtracting the fair market value of the property subject to the easement from the fair market value of the property without the easement.

As specified in the Open Space Land and Voluntary Conservation Easement Act (see appendix D), the easements may be held by either a qualifying private organization or a public body. Examples of qualifying organizations to whom the landowner might wish to grant an easement are The Nature Conservancy or the Montana Foundation of the University of Montana. Examples of public bodies the landowner might consider are Missoula County or the Montana Department of Fish and Game.

If the landowner so desires, he may have the terms of public recreation use written into the conservation easement. Or, he may have the terms of a recreation lease agreement incorporated into the conservation easement at a later date. Also, there is the potential for an additional tax advantage to the landowner if he donates an easement for public use.

APPENDIX C

First Year Implementation Budget

I. Recreation Phase

A. Management/Study Functions

Responsible Agency	Amount
Missoula County	\$4,150
Montana Department of Fish and Game.....	4,150
TOTAL.....	\$8,300

B. Development, Operation and Maintenance Costs

Responsible Agency	Amount
Missoula County	\$ 850
Montana Department of Fish and Game.....	2,850
TOTAL.....	\$3,700
TOTAL.....	\$12,000

C. Line Item Cost Breakout

1. Study/Management

Item	Cost
Salary for chief researcher/manager	\$3,375
Salary for assistant researcher/manager.	1,451
Employee benefits	674
Supplies and materials	1,000
Travel expenses	1,800
TOTAL	\$8,300

2. Development/Operation and Maintenance

Item	Cost
Pit Toilets (3)	\$1,000
Equipment and operator time and materials	2,500
Toilet maintenance.....	200
TOTAL	\$3,700
TOTAL	\$12,000

D. Additional support will be provided through donations of material, labor, equipment time, etc. by various landowners, agencies and organizations.

II. Ecological Study/Conservation Easement Phase

The Nature Conservancy will provide the funding and coordination necessary to implement this phase of the proposal.

APPENDIX D

House Bill No. 341—Montana Session Laws 1975

UNITED STATES OF AMERICA,)
State of Montana) ss.

I, FRANK MURRAY, Secretary of State of the State of Montana, do hereby certify that the following is a true and correct copy of HOUSE Bill No. 341, Chapter No. 489, Montana Session Laws of 1975, enacted by the Forty-fourth Legislature of the State of Montana, approved by Thomas L. Judge, Governor of said State, on the twenty-first day of April, 1975, and effective July 1, 1975.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the great Seal of said State.

Done at the City of Helena, the Capital of said State, this nineteenth day of May, 1975.



Frank Murray
Secretary of State

CHAPTER NO. 489
MONTANA SESSION LAWS 1975

HOUSE BILL NO. 341 AN ACT AMENDING THE OPEN SPACE LAND ACT AND PROVIDING FOR CONSERVATION EASEMENTS; AMENDING SECTIONS 62-601, 62-602, 62-603, 62-604, 62-605, 62-608, 67-601, AND 67-602, R.C.M. 1947.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 62-601, R.C.M. 1947, is amended to read as follows:

"62-601. Short title. This act may be cited as the "Open-Space Land *and Voluntary Conservation Easement Act.*"

Section 2. Section 62-602, R.C.M. 1947, is amended to read as follows:

"62-602. Purposes of act. The legislature find that the rapid growth and spread of urban development are creating critical problems of service and finance for the state and local governments; that the present and future rapid population growth in urban areas is creating severe problems of urban and suburban living; **that this population spread and its attendant development is disrupting and altering the remaining natural areas, biotic communities, geological and geographical formations and, thereby, providing the potential for the destruction of scientific, educational, aesthetic, and ecological values; that the present and future rapid population spread throughout the state of Montana into its open spaces, are creating serious problems of lack of open space and overcrowding of the land; that to lessen congestion and to preserve natural, ecological, geographical and geological elements, the provision and preservation of open-space lands are necessary to secure park, recreational, historic and scenic areas and to conserve the land, its biotic communities, its natural resources, and its geological and geographic elements in their natural state;** that the acquisition or designation of interests and rights in real property by **certain qualifying private organizations and by** public bodies to provide or preserve open-space land is essential to the solution of these problems, the accomplishment of these purposes, and the health and welfare of the citizens of the state; and that the exercise of authority to acquire or designate interests and

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rights in real property to provide or preserve open-space land and the expenditure of public funds for these purposes would be for a public purpose; **and that the statutory provision enabling certain qualifying private organizations to acquire interests and rights in real property to provide or preserve open-space land is in the public interest.**

In accordance with these findings, the legislature states that the purposes of this act are to authorize and enable public bodies **and certain qualifying private organizations voluntarily** to provide for **the preservation of native plants or animals, or biotic communities, or geological or geographical formations of scientific, aesthetic or educational interest, and to provide for the preservation of other significant open-space land anywhere in the state either in perpetuity or for a term of years, and, furthermore to encourage private participation in such a program by establishing the policy to be utilized in determining the property tax to be levied upon the real property which is subject to the provisions of this act."**

Section 3. Section 62-603, R.C.M. 1947, is amended to read as follows:

62-603. Definitions. The following terms whenever used or referred to in this act shall have the following meanings unless a different meaning is clearly indicated by the context:

(a) "Public body" means the state, counties, cities, towns and other municipalities.

(b) "Urban area" means any area which is urban in character, including surrounding areas which form an economic and socially related region, taking into consideration such factors as present and future population trends and patterns of urban growth, location of transportation facilities and systems, and distribution of industrial, commercial, residential, governmental, institutional, and other activities.

(c) "Open-space land" means any land which is provided or preserved for (1) park or recreational purposes, (2) conservation of land or other natural resources, (3) historic or scenic purposes, or (4) assisting in the shaping of the character, direction, and timing of community development.

(d) "Comprehensive planning" means planning for development and shall include: (1) preparation, as a guide for long-range development, of general physical plans with respect to the pattern and intensity of land use and the provision of public facilities, including transportation facilities, together with long-range fiscal plans for such development; (2) programming and financing plans for capital improvements; (3) co-ordination of all related plans and planned activities at both the intragovernmental and intergovernmental levels; and (4) preparation of regulatory and administrative measures in support of the foregoing.

(e) "**Conservation easement**" means **an easement or restriction running with the land and assignable, whereby an owner of land voluntarily relinquishes to the holder of such easement or restriction, any or all rights to construct improvements upon the land or to substantially alter the natural character of the land or to permit the construction of improvements upon the land or the substantial alteration of the natural character of the land, except as this right is expressly reserved in the instruments evidencing the easement or restriction. Conservation easements may be granted either in perpetuity or for a term of years. If granted for a term of years, that term may not be less than fifteen (15) years. An easement granted for a term of years may be renewed for a term of fifteen (15) or more years upon the execution of a new granting instrument by the parties. A conservation easement may be applied to urban or nonurban land.**

(f) "**Qualified private organization**" means **a private organization: (1) competent to own interests in real property, and; (2) which qualifies and holds a general tax exemption under the Federal Internal Revenue Code, section 501 (c) and; (3) whose organizational purposes are designed to further the purposes of this act."**

Section 4. Section 62-604, R.C.M. 1947, is amended to read as follows:

"62-604. Acquisition and designation of real property by public body. To carry out the purposes of this act, any public body may (1) acquire by purchase, gift, devise, bequest or grant title to or any interests or rights in real property, **including land and water**, that will provide a means for the preservation or provision of **significant** open-space land, **or the preservation of native plants or animals, or biotic communities, or geological or geographical formations of scientific, aesthetic, or educational interest, or both**, (2) designate any real property, **including land and water**, in which it has an interest to be retained and used for the preservation and provision of **significant** open-space land; **or the preservation of native plants or animals, or biotic communities, or geological or geographic formations of scientific, aesthetic, or educational interests, or both.**

Where a public body acquires under this act an interest in land less than fee, this acquisition shall be by conservation easement. Public bodies holding conservation easements shall enforce the provisions of these easements."

Section 5 Section 62-605, R.C.M. 1947, is amended to read as follows:

"62-605. Conversion or diversion of open-space land, where prohibited—substitution of other realty—conveyance or lease of open-space land authorized. **(1)** No open-space land, the title to, or interest or right in which has been acquired under this act shall be converted or diverted from open-space land use unless the conversion or diversion is: **(a) necessary to the public interest; (b) not in conflict with the program of comprehensive planning for the area; and (c) permitted by the conditions imposed at the time of the creation of the conservation easement.** Other real property of at least equal fair market value and of as nearly as feasible equivalent usefulness and location for use as open-space land shall be substituted within a reasonable period not exceeding one (1) year for any real property converted or diverted from one-space land use. **Property substituted is subject to the provisions of this act.**

(2) A **grantee** may convey or lease any real property it has acquired or which has been designated for the purposes of this act. The conveyance or lease shall be subject to contractual arrangements that will preserve the property as open-space land **and which are consistent with the express terms and conditions of the grant**, unless the property is to be converted or diverted from open-space land use in accordance with the provisions of subsection **(1)** of this section."

Section 6. Section 62-608, R.C.M. 1947, is amended to read as follows:

"62-608. Taxation of property **subject to conservation easement. Assessments made for taxation on property subject to a conservation easement either in perpetuity or for a term of years where a public body or a qualifying private organization holds the conservation easement, shall be determined on the basis of the restricted purposes for which the property may be used. The minimum assessed value for land subject to an easement conveyed under this chapter may not be less than the actual assessed value of such land in calendar year 1973. Any land subject to such easement may not be classified into a class affording a lesser assessed valuation solely by reason of the creation of the easement. The value of the interest held by a public body or qualifying private organization shall be exempt from property taxation.**

Expiration of an easement granted for a term of years shall not result in a reassessment of the land for property tax purposes if the easement is renewed and the granting instrument reflecting the renewed easement is executed and properly filed not later than fifteen (15) days after the date of expiration."

Section 7. There is a new R.C.M. section numbered 62-610 that reads as follows:

62-610. Easements--type allowed. Easement or restrictions under this act may prohibit or limit any or all of the following:

(1) Structures. Construction or placing of buildings, camping trailers, house trailers, mobile homes, roads, signs, billboards or other advertising, utilities or other structures on or above the ground.

(2) Landfill. Dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste or unsightly or offensive materials.

(3) Vegetation. Removal or destruction of trees, shrubs or other vegetation.

(4) Loam, gravel, etc. Excavation, dredging or removal of loam, peat, gravel, soil, rock or other material substance.

(5) Surface use. Surface use except for such purposes permitting the land or water area to remain predominantly in its existing condition.

(6) Acts detrimental to conservation. Activities detrimental to drainage, flood control, water conservation, erosion control or soil conservation or fish and wildlife habitat and preservation.

(7) Subdivision of land. Subdivision of land as defined in section 11-3861.

(8) Other acts. Other acts or uses detrimental to such retention of land or water areas in their existing conditions.

(9) The term "land" in subsections (2) and (3) above, includes land under water, and water, and water surface.

Section 8. There is a new R.C.M. section numbered 62-611 that reads as follows:

62-611. Acquisition of conservation easements by qualified private organizations. Any qualified private organization may acquire by a conservation easement, by purchase or gift, devise, bequest, or

grant, title to any interest or interests in rights in real property, including land and water, that will provide a means for the preservation or provision of permanent significant open-space land and/or the preservation of native plants or animals, or biotic communities, or geological or geographic formations of scientific, aesthetic, or educational interest.

Section 9. There is a new R.C.M. section numbered 62-612 that reads as follows:

62-612. Conservation easements run with the land—enforceability. The provisions of sections 58-305, 58-306, and 58-307, notwithstanding, for the purposes of this act, all conservation easements, whether held by public bodies or qualifying private organizations, shall be considered to run with the land, whether or not such fact is stipulated in the instrument of conveyance or ownership and no conservation easement shall be unenforceable on account of lack of privity of estate or contract or lack of benefit to particular land or on account of such conservation easement not being an appurtenant easement, or because such easement is an easement in gross.

Section 10. There is a new R.C.M. section numbered 62-613 that reads as follows:

62-613. Assignability. For the purposes of this act, all conservation easements shall be assignable unless the instrument of conveyance or ownership expressly stipulates otherwise, and no conservation easement shall be unenforceable on account of the benefit being assignable or being assigned to any other government body or private organization unless such assignment has violated the express terms of the instrument of conveyance or ownership; provided that the assignees must be qualified under the terms of this act to hold a conservation easement.

Section 11. There is a new R.C.M. section numbered 62-614 that reads as follows:

62-614. Review by local planning authority. In order to minimize conflict with local comprehensive planning, all conservation easements shall be subject to review by the appropriate local planning authority for the county within which the land lies prior to recording. It shall be the responsibility of the entity acquiring the conservation easement to present the proposed conveyance of the conservation easement to the appropriate local planning authority. The local planning authority shall have ninety (90) days from receipt of the proposed conveyance within which to review and to comment upon the relationship of the proposed conveyance to comprehensive planning for the area. Such comments will not be binding on the proposed grantor or grantee, but shall be merely advisory in nature. The proposed conveyance may be recorded after comments have been received from the local planning authority, or the local planning authority has indicated in writing it will have no comments, or ninety (90) days have elapsed, whichever first occurs.

Section 12. There is a new R.C.M. section numbered 62-615 that reads as follows:

62-615. Recording and description of land. All conservation easements shall be duly recorded in the county where the land lies so as to effect their titles in the manner of other conveyances of interest in land and shall describe the land subject to said conservation easement by adequate legal description or by reference to a recorded plat showing its boundaries. The county clerk and recorder shall upon recording cause a copy of the conservation easement to be placed in a separate file within the office of the county clerk and recorder and shall cause a copy of the conservation easement to be mailed to the state department of revenue.

Section 13. There is a new R.C.M. section numbered 62-616 that reads as follows:

62-616. Enforcement. Conservation easements may be enforced by injunction or proceedings in equity. Representatives of the grantee of the conservation easement shall be entitled to enter the land in a reasonable manner and at reasonable times to assure compliance.

Section 14. There is a new R.C.M. section numbered 62-618 that reads as follows:

62-618. Construction. This section shall not be construed to imply that any easement, covenant, condition or restriction which does not have the benefit of this act shall on account of any provisions hereof be unenforceable. Nothing in this act shall diminish the powers granted by any general or special law to acquire by purchase, gift, eminent domain or otherwise and to use land for public purposes.

Section 15. Section 67-609, R.C.M. 1947, is renumbered 62-617