

ENVIRONMENTAL ASSESSMENT

Project Name: Long Creek Property Boundary Fencing Project
Proposed Implementation Date: Completion Date: Summer / Fall 2008
Proponent: Matador Cattle Company
Location: T10S R8W Sections 28, 32, 33, & T11S R8W Section 4
County: Beaverhead

I. TYPE AND PURPOSE OF ACTION

Proposed Action: This Environmental Assessment reviews possible impacts resulting from the construction of a boundary fence upon the following State of Montana Grazing Leases held by the Matador Cattle Company as lessee:

- Township 10 South, Range 8 West**, MPM, Beaverhead County
Section 28: N2NW4, SE4NW4, NE4 - 280 acres (Lease No. 10,116)
Section 32: All - 640 acres " "
Section 33: E2W2, NW4SW4 - 200 acres " "
- Township 11 South, Range 8 West**, MPM, Beaverhead County
Section 4: Lot 4 - 31.87 acres (Lease No. 1341)

The DNRC received a request from the Matador Cattle Company to place an improvement - a boundary fence - upon the above-described state trust lands. The purpose of this fencing is to: 1) separate Matador Cattle Company's state leases from an adjoining producer's Bureau of Land Management (BLM) permits and private land; 2) prevent livestock owned by neighboring producers from straying onto the above-described State of Montana trust lands and prevent un-authorized grazing; and, 3) prevent Matador's livestock from trespassing onto the BLM permit of the adjoining producer. As a State grazing lessee, the Matador Cattle Company has an obligation to protect the State forage from un-authorized use by other livestock producers and their livestock. Likewise, this proposed action will financially benefit the State's common public schools and the University of Montana (Western) by ensuring that the above-described State trust lands continue to generate revenue from the existing grazing lease for those institutional beneficiaries.

The boundary fence is designed to meet BLM fencing standards and borders BLM land on most of its length. Fence construction was initiated in 2007 with approximately 1 mile of fence completed from the ¼ corner of Sections 25 / 36 Township 10 South, Range 8 West to approximately the ¼ corner of Sections 26 / 35 Township 10 South, Range 8 West and approximately ¼ mile of fence from the ¼ corner of Sections 27 / 28 Township 10 South, Range 8 West to a point approximately 200 feet across Cattle Creek.

Sections 75-1-201 and 77-1-121(1), MCA, require the Department to prepare environmental reviews for the placement of improvements upon State trust lands. Concerns voiced by an adjoining producer about the environmental impacts of both the fence location and its design has prompted DNRC to issue an expanded Environmental Assessment document under the provisions of the Montana Environmental Policy Act, Section 75-1-201, et seq., MCA to examine the fencing request of Matador Cattle Company. Public involvement is being solicited through the Department's request for scoping comments and comments to this draft document. The decision before the DNRC is whether to approve the placement of the fence, meeting BLM design standards, upon the boundaries of the above-described lands.

In this Environmental Assessment, the DNRC intends to primarily examine whether and to what extent the above-described fence would: 1) inhibit the movement of wildlife; 2) affect riparian area vegetation; or 3) affect soil and water quality. The Department will also examine reasonable and economically feasible alternatives to the fencing, as well as a "no-action" alternative.

Brief History of the Affected Leases:

This subsection is in response to comments received regarding subleasing, leasehold interest, and grazing management plans.

The lessee (Matador Cattle Company) applied to construct the fence on these leases in 2002. Trust Land Lease numbers 10116 and 1341 had been co-leased by Matador and Knox Ranch from 1995 until 2001 when the lease was transferred back to the Matador. DNRC Department records show that Matador has been the lessee since at least 1969 when the tracts were under lease No. 6939. From 1970 to 1979 the tracts involved in the project were Sublette to Knox Ranch. Lease 10116 encompasses 3,414.68 acres. A range management plan is in effect on a portion of lease No. 10116 for the current lease period expiring in 2010. The portion of lease No. 10116 involved in the grazing management plan is located approximately 1 mile East of the project area. The tracts affected by this project are not part of this range management plan.

II. PROJECT DEVELOPMENT

1. PUBLIC INVOLVEMENT, AGENCIES, GROUPS OR INDIVIDUALS CONTACTED:

Provide a brief chronology of the scoping and ongoing involvement for this project.

Prior to the preparation of this Environmental Assessment, the Department initiated a process to determine the scope of this environmental review. The Department invited the participation of affected government agencies, the applicant - Matador Cattle Company, and interested persons or groups, including Roger and Carrie Ann Peters, owners of Alaska Basin Grazing Association and the Dragging "Y" Cattle Company (Dragging Y) to identify the scope of this environmental document. The following persons and entities were contacted during this scoping process:

Robert Brannon, Montana Fish, Wildlife, & Parks Wildlife Biologist
Patrick Rennie, DNRC Archaeologist
Clayton Marlow
Hertha Lund
Skyline Sportsmen's Association
Roger & Carrie Ann Peters - Dragging "Y" Cattle Company
Matador Cattle Company – Ray Marxer, Manager
Jack Atcheson
United States Dept. of the Interior, Bureau of Land Management, Dillon Field Office – Attn Bart Howells
Lacense, Inc – Race King, Manager
Dick Oswald – Montana Fish, Wildlife, & Parks Fisheries Biologist

Scoping letters were sent out starting January 29, 2008.

Comments were received from:

DFWP Wildlife Biologist Robert Brannon and Fisheries Biologist Dick Oswald,
USDI Dillon BLM Field Manager Tim Bozorth,
Skyline Sportsmen's Association Director Tony Schoonen,
Dragging Y Cattle Company Attorney Hertha L. Lund and Range Consultant Clayton Marlow,
and phone comments from Jack Atcheson.

Comments received regarding the project led to meetings between DNRC staff, Matador representatives, and Dragging Y to negotiate a settlement. A more detailed discussion of these meetings is found in the "Alternatives Discussion" Section #3 of this document.

Written scoping comments received from all parties are available from the DNRC Dillon Unit Office at 406-683-6305.

2. OTHER GOVERNMENTAL AGENCIES WITH JURISDICTION, LIST OF PERMITS NEEDED:

Authorization to approve the placement of improvements on state School Trust Lands is the responsibility of the DNRC. No other permits are needed. Ownership of much of the land adjacent to the Trust Land included in the proposed project is owned by the United States Government and under the management authority of the BLM. (See, Map of the Area, attached to this EA as Exhibit "A). Other adjacent lands are privately owned either by

the Dragging "Y" Cattle Company or the Matador Ranch. Consequently, adjacent landowners may have a shared responsibility under a mutual agreement for maintenance of a boundary fence. During the evaluation of the proposed action, DNRC discussed the potential for an exchange of grazing use on BLM and other DNRC grazing leases between Matador Cattle Company and Dragging "Y" Cattle Company. Any such exchange of use would require approval by the U.S. Bureau of Land Management, Matador Cattle Company and the Dragging "Y" Ranch.

3. ALTERNATIVES CONSIDERED:

- Alternative A) No action - the Department would not approve the placement of the fence along the ownership boundaries as requested by the DNRC lessee, Matador Cattle Company.
- Alternative B) Approve construction of the fence along the ownership boundaries.
- Alternative C) Approve a voluntary exchange of use of private lands, State lands, and/or BLM lands between Matador Cattle Company and Dragging "Y" Cattle Company so as to minimize the amount of boundary fencing between the two parties and allow the approximate 1.75 miles on either side of Long Creek to remain un-fenced.

Discussion of Alternatives:

Alternative A - The provisions of the State of Montana Grazing Leases held by Matador Cattle Company requires the Matador Cattle Company to exclude livestock owned by other producers from the premises of the state leases. Due to the lack of a boundary fence, livestock owned by another producer have trespassed onto these state leases in the past. Without a boundary fence or exchange of use, the potential for trespass by livestock owned by other producers will likely continue. Similarly, without a boundary fence or exchange of use, livestock owned by the Matador Cattle Company may stray onto adjacent Federal lands which are under lease by another operator or other private lands. (See attached vicinity map)

Alternative B - The proposed fence was originally requested to be a four strand barbed wire fence designed to BLM specifications along the entire length of the project area. Upon receiving comments from the Skyline Sportsmen's Association, in consideration of adjacent land management needs and after discussions with the Matador Ranch Company, the DNRC would place the following requirements on the fence construction:

- 1) The segments of fence proposed along Long Creek would be modified to have smooth woven wire top and bottom strands. The remainder of the fence would consist of standard four strand barbed wire construction.
- 2) All segments would otherwise conform to BLM standard construction with a maximum top wire height of 42" and a minimum bottom wire height of 16".
- 3) Gates will be required on both of the north/south running fence lines at locations identified by the DNRC, Dillon Unit Land Use Specialist to facilitate movement of livestock from the BLM grazing allotments located east and west of the state land in Long Creek. The BLM Grazing Permittee can be authorized to use the state land for limited time periods to trail livestock between the segregated BLM pastures provided sufficient notification to DNRC and the timing of such use does not conflict with use by the DNRC Lessee.

See attached "Alternative B" reference map.

Alternative C – Scoping comments received from Hertha Lund - Dragging Y Cattle Company's attorney, Robert Brannon - Montana FWP Wildlife Biologist, and Tim Bozorth – Manager for the Dillon BLM Field Office, suggested that DNRC consider a negotiated exchange of grazing use as an alternative to the construction of a boundary fence.

In response, DNRC held a series of meetings to investigate the possibility of an exchange of leases or grazing use between the Dragging Y Ranch and the Matador Cattle Company. The first meeting was held on May 21st at 10:30 AM in the Dillon Job Service Conference Room with Dragging Y's owner Roger Peters, his attorney Hertha Lund, Garry Williams – DNRC Central Land Office Area Manager, Tom Butler – DNRC Attorney, and Chuck Maddox – DNRC Dillon Unit Land Use Specialist, in attendance. The second meeting was held in

Helena on May 28th at the USF&G building with Matador Cattle Company's Manager – Ray Marxer and Matadors attorney Mark Etchart, Garry Williams, Tom Butler, Chuck Maddox, and Tim Egan – DNRC Dillon Unit Manager, in attendance. A third meeting with Roger Peters and Hertha Lund (attending by speaker phone), Garry Williams, Tom Butler, and Tim Egan was conducted on June 3rd. A negotiated settlement seeking alternatives to the construction of the fence was not achieved as a result of these meetings.

Tim Egan and Chuck Maddox met with BLM representatives Tim Bozorth, Pat Fosse, and Bart Howells prior to the meetings with Dragging Y and Matador to discuss the feasibility and potential of exchanging use and / or allotment boundary alterations.

The series of meetings resulted from comments received from the Montana Department of Fish, Wildlife, and Parks, Hertha Lund, and the BLM, the Department examined the possibility of a voluntary exchange of various combinations of State leases, BLM leases, and private lands between the Matador Cattle Company and the Dragging "Y" Cattle Company, so as to minimize the amount of boundary fencing between the two parties and to allow the approximate 1.75 miles on either side of Long Creek and the ½ mile along Divide Creek to remain un-fenced. An alternative to the Long Creek fence portion was initiated by Matador to construct a boundary fence along the East – West portion of the proposed line along the Trust Land / BLM boundary of Sections 26, 27, and 28 where the new fence construction would tie in with an existing fence located in the SENW of Section 26. The existing fence runs North along a ridgeline into the SE¼ of Section 21 and runs the length of Section 22 at approximately the middle of the Section. Under this proposal, the fence along Long Creek would not be constructed. However, this alternative would require agreement between Matador Cattle Company and Dragging Y Cattle Company to enter into an exchange of portions of their respective State of Montana grazing leases and to provide rights of access to one another to reach their respective leased State lands and private lands. The discussion entailed a partial assignment of lease No. 10116 & 1341 held by Matador Cattle Company to Dragging "Y" Cattle Company including the NWNW, W½SE, E½SW, Section 26; NESE of Section 32; NWSE, E½W½ of Section 33, T10S R8W, and Lot 4 (NWNW) of Section 4, T11N R8W encompassing approximately 450 acres. The existing barbed wire fence that would be tied into cuts through Dragging Y Trust Land leases located in Sections 21 and 22. The exchange would involve approximately the SESE of Section 21 and approximately the S½ of Section 22, T10S R8W encompassing approximately 360 – 400 acres. This alternative also included an exchange of access across each of the parties Trust Land leases and/or private ground to access other Trust Land leases and land locked private land. Under this alternative Dragging Y would obtain the Trust Land lease along Long Creek through partial assignments of State Lease No.'s 10116 and 1341 currently held by Matador and Matador would be allowed to trail livestock through Long Creek for a few days each year.

Although Alternative C would have the least overall impact upon the area, further development and consideration of this alternative is precluded because it requires both Matador Cattle Company and Dragging "Y" Cattle Company to reach a common solution, and no such agreement could be reached.

See attached "Alternative C" reference map.

III. IMPACTS ON THE PHYSICAL ENVIRONMENT

- *RESOURCES potentially impacted are listed on the form, followed by common issues that would be considered.*
- *Explain POTENTIAL IMPACTS AND MITIGATIONS following each resource heading.*
- *Enter "NONE" if no impacts are identified or the resource is not present.*

4. GEOLOGY AND SOIL QUALITY, STABILITY AND MOISTURE:

Consider the presence of fragile, compactable or unstable soils. Identify unusual geologic features. Specify any special reclamation considerations. Identify any cumulative impacts to soils.

The soil survey for this area of Beaverhead County is currently being conducted by USDA Natural Resource and Conservation staff. The data will not be available on soils in this area until the spring of 2009. The previous field evaluation done by Chuck Ruzicka in 1999 placed the range sites as "Thin hilly" and "Thin Breaks", and the bottoms along the creeks as "Subirrigated".

Thin hilly and thin breaks are range site complexes encompassing two or more range sites that are intermingled to the extent that they are difficult to map separately but significant enough to be named. Thin hilly sites are areas of thin sandy, thin silty, and/or thin clayey range sites. Thin breaks range sites are composed of mixed soils of mainly shallow and very shallow depths with bedrock outcroppings on steep to very steep slopes. Subirrigated sites have an effective subsurface ground water table generally within 2 to 3 feet of the surface with water rarely covering the surface during the growing season.

Post holes are anticipated to be dug into the soil for the construction of a fence under Alternatives B & C but such activity will result in minimal direct impacts to the geology and soils of the affected area. Under Alternative B Matador Cattle Company will retain the authority under its State grazing lease to trail and graze livestock along Long Creek. However, fencing will facilitate use by livestock as a secondary impact. Intensive livestock use, depending upon the season of use, may either result in soil compaction or erosion, and loss of topsoil. These effects may be concentrated within the riparian corridor of Long Creek due to the constrictive effect of the fencing and the topography of the area enclosed, which forms a narrow creek bed with steep slopes of either side. The lessee, Matador Cattle Company intends to use the Long Creek tracts for a few days each year in either the Spring or Fall as a livestock driveway, minimizing impacts by both rotating season of use and by the short duration of use.

Under Alternative C, the North – South fence along either side of Long Creek would not be constructed because the Long Creek area would be partially assigned to Dragging "Y" Cattle Company. Dragging Y would continue to graze the Trust Land tracts in conjunction with the adjacent BLM permit with little or no change to existing riparian and upland soil conditions.

5. WATER QUALITY, QUANTITY AND DISTRIBUTION:

Identify important surface or groundwater resources. Consider the potential for violation of ambient water quality standards, drinking water maximum contaminant levels, or degradation of water quality. Identify cumulative effects to water resources.

Two drainages intersect on the tract, Long Creek and Divide Creek. No listing could be found for either Long Creek or Divide Creek on the DEQ website for 303(d) listed streams. During the 2000 field evaluation Chuck Ruzicka, Dillon Land Use Specialist at the time, found the riparian condition to be in good condition with high numbers of active beaver dams on Long Creek which create favorable conditions for sediment deposition and creek banks lined with willow and sedge species.

These drainages provide water for use by livestock, wildlife, and fisheries. No domestic use of these waters are known to exist. Under Alternative B Matador Cattle Company would retain the authority under its State grazing lease to trail livestock along Long Creek. Under Alternative C the Long Creek tracts would be assigned over to Dragging Y with Matador retaining a license to trail livestock through the tracts once each year, either in the Spring or Fall depending on rotation schedules of their grazing system. Installation of the proposed fencing in Alternative B & C will have little or no direct effect upon water quality, quantity, and distribution. However, concentrated livestock use facilitated by the installation of the fencing, as a secondary or cumulative effect, may potentially reduce or degrade both water quantity and quality depending upon the numbers of livestock placed upon the grazing leases, the season of use, and the length of use of the leases during each grazing season. Use of the Long Creek Sections as a livestock driveway would limit days of use and length of use by livestock and also rotate the season of use from the Spring or Fall of each year.

6. AIR QUALITY:

What pollutants or particulate would be produced? Identify air quality regulations or zones (e.g. Class I air shed) the project would influence. Identify cumulative effects to air quality.

The proposed action would not negatively impact air quality of the area.

7. VEGETATION COVER, QUANTITY AND QUALITY:

What changes would the action cause to vegetative communities? Consider rare plants or cover types that would be affected. Identify cumulative effects to vegetation.

The lands covered by the project area are primarily composed of mixed upland grass and shrubs with narrow strips of riparian vegetation along creek banks in the drainage bottoms. Primary upland vegetation consists of mountain big sagebrush, bluebunch wheatgrass, Idaho fescue, Sandburg bluegrass, danthonia, sedge, prairie Junegrass, Kentucky bluegrass, lupine, phloxes, and flax. Draw bottoms and riparian areas of Long Creek and Divide Creek consist primarily of willow, sedge, rush, tufted hairgrass, basin wildrye, muhley, timothy, Kentucky bluegrass, and some mountain big sagebrush. Comments were received regarding the negative impacts associated with the narrow width applied for along the Long Creek sections where the width between fences would be ¼ mile. These comments were associated with possible improper timing of use and stocking rates leading to degradation of stream banks, riparian vegetation, and adjacent upland vegetation.

The lessee (Matador Cattle Company) applied to construct the fence in 2002. Matador intends to use the narrow corridor formed by the fence (¼ mile width) as an access point to trail cattle up to other Montana Trust, private, and BLM lands located North and Northeast of the project area. The “stock driveway” would be used in either the Spring or Fall of each year. The season of use of the Long Creek area as a stock driveway would coincide with the direction of pasture rotation in a given year. If the first pasture to be used was closest to the Long Creek area, it would be used in the Spring, if the same pasture were to be used in the Fall, it would be used in the Fall to trail cattle back to private land located along Sage Creek South of Long Creek.

The construction and placement of a fence will not have any appreciable impact upon vegetative communities. However, subsequent intensive grazing in a confined area facilitated by the placement of the fence may result in impacts to vegetation. Impacts to vegetative cover, quantity, and quality typically vary with the intensity and duration of use by livestock, as well as the season of use. These impacts may be reduced by salting, herding, limitations upon the numbers of livestock and the duration of use during the grazing season. Currently the tracts are being grazed every year, but the cattle using the tracts are not the lessee’s and do not have the lessee’s or DNRC’s permission to use the Trust Land tracts. According to Dillon BLM Range Staff, the tracts are currently being grazed during the Fall season of use in conjunction with the adjacent BLM permit. Matador wishes to use the Trust Land grazing leases in a manner which should improve the condition of the Long Creek corridor with the addition of the fence.

In addressing each alternative considered regarding vegetative impacts:

Alternative A – No action – the fence would not be constructed and no change in vegetation would be expected from current vegetative communities on site. The tract would continue to be grazed by the adjacent BLM permit holder.

Alternative B – Fence the leases as requested – the vegetative community can be negatively impacted by improper management of timing and duration of grazing by livestock. The vegetative community can also be positively impacted by fence construction by low intensity and low frequency of use by livestock in a restricted environment. The tract is currently open and unrestricted to grazing by the adjacent BLM permittee and livestock have been using the tracts along Long Creek (DNRC site visit with Baty, Frank, & Maddox 11/19/07).

Alternative C – Partial fencing of the leases with an exchange of Trust Land leased ground and access exchange between Matador and Dragging Y – the vegetative community and use by livestock along Long Creek would remain in the same condition as Alternative A with little change expected. The distance between fence lines running East to West in the upland areas where the proposed fence would tie in with the existing fence would increase from ½ mile to approximately 1 mile in width and assist in improved livestock distribution and improve livestock management ability. As previously stated, this alternative can not be implemented without the exchange agreements being agreed upon by the private parties.

8. TERRESTRIAL, AVIAN AND AQUATIC LIFE AND HABITATS:

Consider substantial habitat values and use of the area by wildlife, birds or fish. Identify cumulative effects to fish and wildlife.

Wildlife Review
Matador Cattle Co. Fence Project for State Land Lease #10116

Ross Baty
Wildlife Biologist

DNRC Forest Management Bureau
Missoula, Montana

November 26, 2007

Review Date: November 19, 2007

Attendees: Ross Baty, Gary Frank, Chuck Maddox

Project Area: portions of sections 28, 32, & 33, T10S, R8W, and NW 1/4 of NW 1/4 section 4, T11S, R8W. Approximately 320 acres total proposed fence enclosure area. The fence enclosure area would be approximately ¼ mi. wide x 2.5 miles long with an additional 80 acre westerly extension that would encompass the lower portion of Divide Creek including its confluence with Long Creek. At the time of the field review the area was free of snow. No new constructed fencing, materials, or evidence of activity such as post hole digging was observed on the lower 80-90% of the proposed enclosure.

Habitat Conditions: Lands within the project area and surrounding ownerships are dominated by hilly sagebrush/grassland with vegetative inclusions of willow riparian communities along creek bottoms (Long Creek, Divide Creek and Pistol Creek). Multiple age classes of willows were present along creek bottoms indicating some regeneration, however, most plants showed signs of appreciable hedging and utilization. Slope steepness ranges from gentle (~0-5%) in stream bottoms and ridge tops to 30-60% on adjacent uplands and side slopes. Rocky outcrops are present in some portions of the project area. Small patches of coniferous forest (approx. 10-40 acres) comprised of multi-aged Douglas-fir trees occur on some northerly aspects in the project area and surrounding lands, however, due to their small size they offer little security for species such as mule deer and elk. Within the proposed enclosure area, evidence of recent use by cattle was observed. Feces, tracks and evidence of trampling, and moderate to heavy forage utilization were prevalent. Appreciable livestock use was evident in both stream bottoms and steep upland slopes (~50-60% slope factor), indicating little reluctance for livestock to use these areas. Some existing older fence was observed in the southerly portion of the proposed enclosure area, but it did not appear to be restricting observed livestock usage in any appreciable way due to gaps.

Effects of the Proposed Fencing Project on Wildlife: Fencing standards proposed under this project follow those for cattle that are utilized by the Bureau of Land Management (BLM 1989) with top wire at 42 in., second wire at 30 in, third wire at 22 in. and fourth wire at 16 in. above ground. These dimensions are considered suitable to not appreciably impede wildlife crossing or movements and have been recommended by others (WG & F 2004). It is important to have the top wire as low as possible to prevent leg dragging and the second wire about 12 inches below the top wire to minimize risk of leg catch. Having the bottom wire at least 16 inches above ground facilitates crawling under by smaller species and juveniles (Vallentine 1989, Schemnitz 1980:389). Juveniles of all species are those most likely to have difficulty crossing any fence. Some fence types are likely easier to cross by some species than others, and antelope tend to be one of the more sensitive species due to their reluctance to jump even relatively low fences. However, they will commonly crawl under low wires or cross at small gaps (Vallentine 1989:450). Moose are large and capable of crossing relatively tall fences, while elk and mule deer tend to be intermediate. Fences with the dimensions stated above provide a good balance of construction characteristics suitable for containing cattle, minimizing need for fencing repair, and allowing crossing by wild ungulate species under a variety of site conditions. Very steep terrain, cliffs, deep snow etc. can all serve to make fence crossing more difficult for wildlife. However, the diversity of slope steepness, and aspect changes where fencing would occur on the proposed project area provide many opportunities around the fence perimeter where crossings could be accomplished with relative ease. Given that the proposed fencing would follow the recommended standards described above there is low likelihood of appreciably impeding movements of wildlife species of concern. Also, given the observed existing level of livestock use, it is unlikely that livestock would stay strictly confined to the stream bottoms within the enclosure, particularly if managed as a fully enclosed riparian pasture, should that option be explored and implemented.

Cumulative Effects of Fencing: Livestock grazing has been a dominant land use in this area for many decades. As such, when considering a land area the scale of a Township surrounding the project area, there is a

considerable amount of fencing of many different types across all ownerships that wildlife must avoid and/or negotiate to live and persist in this landscape. DNRC is unaware of any local conditions involving fencing or fence construction that are of concern for maintaining populations of antelope, mule deer, elk or moose. Given that the proposed fencing would follow the recommended standards described above there is low likelihood of a fence constructed in the proposed manner to cumulatively impede to any measurable degree movements of wildlife species of concern.

Other Recommendations:

- Adhere closely to proposed fencing standards and wire heights.
- Minimize use of wire stays.
- Consider cross fencing the northern portion of this enclosure segment and manage this as a riparian pasture, which would allow for more careful management of (Animal-Unit Month) AUMs through increased ability to regulate numbers of livestock and duration of usage.
- Consider removing existing fencing inside the proposed enclosure to allow more free use of rangelands by both cattle and wildlife.

Observed Wildlife Use During Review: Approximately 12 elk, moose and badger.

References:

- BLM. 1989. BLM Wire-spacing standards. USDI Bureau of Land Management. H-1741-1 – fencing. Illus. 2. Ch. 4 BLM Manual Rel. 1-1572. 12/6/89.
- Schemnitz. S.D. 1980. Wildlife techniques manual. Fourth Ed. The Wildlife Society. Washington, D.C. 686 pp.
- Vallentine. J. F. 1989. Range development and improvements. Third Ed. Academic Press, Inc. San Diego, CA. 524 pp.
- WG &F. 2004. Fencing guides for wildlife. Habitat extension bulletin. No. 53. Habitat Extension Services. Wyoming Game and Fish Department. 12 pp. November 2004.

9. UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES:

Consider any federally listed threatened or endangered species or habitat identified in the project area. Determine effects to wetlands. Consider Sensitive Species or Species of special concern. Identify cumulative effects to these species and their habitat.

The Montana Natural Heritage Program was contacted regarding species of concern within and around the project area. No endangered species were listed within the project area. There were four Species of Concern identified in the report and are listed below.

- 1) Grey wolf (Canus lupus) – Wolves are distributed throughout Southwest Montana. Wolves had been de-listed from the Endangered Species Act by the USFWS but a recent court ruling has placed the delisting on hold. The project would not have any measurable effect on wolf prey or wolves, thus direct, indirect, or cumulative effects are not anticipated.
- 2) Greater Sage-grouse (Centrocercus urophasianus) – Greater sage-grouse use has been recorded in the project area. Sagebrush is prevalent on the tracts proposed for fencing and could be used by sage-grouse, however, DNRC is not aware of any important breeding leks in the vicinity. If sage-grouse are using the tracts, they could be directly disturbed and displaced by activities associated with fence construction, however, the disturbance would be short term and would not be expected to have a measurable impact on sage-grouse. Measurable direct, indirect, or cumulative effects would not be anticipated as a result of the proposed project.
- 3) Ferruginous Hawk (Buteo regalis) – Ferruginous hawks have been sighted near the proposed project area. It is a BLM sensitive species and has been sighted within 1 mile of the project area. The project would not cause direct, indirect, or cumulative effects on this species.

4) Westslope Cutthroat Trout (*Oncorhynchus clarkia lewisi*) – Westslope cutthroat trout are listed by both the USFS and BLM as a sensitive species and a Species of Concern within the State of Montana. Dick Oswald, Montana Department of Fish, Wildlife, & Parks Fisheries Biologist, reported that the Long Creek segment upstream of the proposed project contained a strain of nearly pure westslope cutthroat trout. Divide Creek which enters into Long Creek inside the project area has highly hybridized cutthroat trout and non-native brook trout. While current of the near – pure cutthroat populations are outside of the project area, the site has potential to be re-colonized by the cutthroat if competing brook trout were removed. Dick Oswald's recommendations to avoid degradation of the site for cutthroat by the installation of the fence include low intensity – short duration use with rest or deferral strategies to minimize use during the wet season and the vegetative growing season. The project area along Long Creek would be used as a livestock driveway with use occurring for less than a week per year and the season of this use would vary from Spring to Fall every other year.

10. HISTORICAL AND ARCHAEOLOGICAL SITES:

Identify and determine effects to historical, archaeological or paleontological resources.

Patrick Rennie, DNRC Archaeologist;

The DNRC archaeologist conducted a search of the DNRC's TLMS database, and also requested the SHPO to conduct a search of the CRIS and CRABS databases, with reference to the proposed project's area of potential effect. The result of the records search indicates that no previously documented cultural or paleontologic resources are present (Murdo 2008). Considering the kind of development proposed, and the lack of identified cultural or paleontologic resources in the area of potential effect, the proposed action should have *No Effect* to state owned *Antiquities* as defined under the Montana State Antiquities Act.

Reference cited: Murdo, D.

2008 Email Letter from Damon Murdo, Cultural Records Manager Montana State Historic Preservation Office, to Patrick Rennie. Letter dated July 15, 2008. SHPO Project #2008071407.

11. AESTHETICS:

Determine if the project is located on a prominent topographic feature, or may be visible from populated or scenic areas. What level of noise, light or visual change would be produced? Identify cumulative effects to aesthetics.

Because fencing is a common attribute of the pre-existing surrounding landscape, no significant impacts are expected to result from the alternatives under consideration for this proposed action.

12. DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AIR OR ENERGY:

Determine the amount of limited resources the project would require. Identify other activities nearby that the project would affect. Identify cumulative effects to environmental resources.

During the scoping process, no other proposed actions or activities which the proposed project would affect were reported to DNRC to be under concurrent consideration by any agency within the area under review. Therefore, no significant cumulative impacts are expected for any alternative under consideration for this proposed action.

13. OTHER ENVIRONMENTAL DOCUMENTS PERTINENT TO THE AREA:

List other studies, plans or projects on this tract. Determine cumulative impacts likely to occur as a result of current private, state or federal actions in the analysis area, and from future proposed state actions in the analysis area that are under MEPA review (scoped) or permitting review by any state agency.

During the scoping process, no other proposed actions or activities which the proposed project would affect were reported to DNRC to be under concurrent consideration by any agency within the area under review. Therefore no significant cumulative impacts are expected for any alternative under consideration for this proposed action.

IV. IMPACTS ON THE HUMAN POPULATION

- *RESOURCES* potentially impacted are listed on the form, followed by common issues that would be considered.
- Explain *POTENTIAL IMPACTS AND MITIGATIONS* following each resource heading.
- Enter "NONE" if no impacts are identified or the resource is not present.

14. HUMAN HEALTH AND SAFETY:

Identify any health and safety risks posed by the project.

The presence of barbed wire fences may result in safety risks to motorcycle and horseback riders in times of low light or dense vegetative cover. Given the location of the proposed fencing, its construction, and the existing vegetation, the fence should be reasonably visible to people. Between the two fencing alternatives (B & C) Alternative C would present less of a hazard to recreationists seeking to cross the fence than the construction proposed by Alternative B due to less total miles of new fence built. No alternative under consideration for the proposed action is expected to result in significant impacts to human health or safety.

15. INDUSTRIAL, COMMERCIAL AND AGRICULTURE ACTIVITIES AND PRODUCTION:

Identify how the project would add to or alter these activities.

Since 2001 the lessee, Matador Cattle Company, has paid the Trust Land grazing rental fee's for the portions of lease numbers 10116 and 1341 without being able to use the leases due to the lack of fences to restrict their cattle from straying onto adjacent BLM lands. Federal Lands are not bound by state open range laws and are required to be fenced out by adjacent landowners to keep trespass cattle off their lands. The lessee has made significant investment without returns in attempting to abide by their Trust Land lease agreement and in attempting to properly manage their leases.

Alternative B would allow Matador Cattle Company to utilize the above-described State of Montana grazing leases without interference by adjoining livestock producers. Livestock owned by adjoining producers will be restricted to their property. No alternative under consideration is expected to have a significant impact upon industrial, commercial, or agricultural activities or production within the analysis area.

16. QUANTITY AND DISTRIBUTION OF EMPLOYMENT:

Estimate the number of jobs the project would create, move or eliminate. Identify cumulative effects to the employment market.

A fencing contractor would construct the fence. The project would create minimal short term seasonal jobs with the contractor. No alternative under consideration would have a significant impact upon employment within the analysis area.

17. LOCAL AND STATE TAX BASE AND TAX REVENUES:

Estimate tax revenue the project would create or eliminate. Identify cumulative effects to taxes and revenue.

The project would not have an impact on taxes and revenue.

18. DEMAND FOR GOVERNMENT SERVICES:

Estimate increases in traffic and changes to traffic patterns. What changes would be needed to fire protection, police, schools, etc.? Identify cumulative effects of this and other projects on government services.

No alternative for this proposed action would result in changes in demand for government services.

19. LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS:

List State, County, City, USFS, BLM, Tribal, and other zoning or management plans, and identify how they would affect this project.

The proposed project would not interfere with government zoning laws. Alternative B would interfere with the BLM grazing permit and result in some changes in pastures and a possible change in rotation schedules. Alternative B would be consistent with the provisions of both existing BLM grazing permits with regard to fencing out trespass livestock from adjacent land ownerships, and State of Montana grazing leases to exclude adjacent unauthorized livestock use on the Trust Land leases. Alternative C was initiated to address the issue of interference regarding the BLM permit with meetings between DNRC and the BLM permittee being held in an attempt to limit impacts by the above described exchange of Trust Land leased ground. An agreement could not be reached.

20. ACCESS TO AND QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES:

Identify any wilderness or recreational areas nearby or access routes through this tract. Determine the effects of the project on recreational potential within the tract. Identify cumulative effects to recreational and wilderness activities.

Under alternatives B and C, the placement of a boundary fence would make it marginally more difficult for people to access the State of Montana grazing lands for recreation. Alternative C would facilitate the crossing of the Trust Land / BLM boundary by recreationists in the Long Creek area. However, no alternative under consideration would result in significant impacts to the public's right of recreational access to these lands.

21. DENSITY AND DISTRIBUTION OF POPULATION AND HOUSING:

Estimate population changes and additional housing the project would require. Identify cumulative effects to population and housing.

No alternative considered for the proposed action would impact the density and distribution of population or housing.

22. SOCIAL STRUCTURES AND MORES:

Identify potential disruption of native or traditional lifestyles or communities.

No alternative considered for the proposed action would impact native or traditional lifestyles or communities.

23. CULTURAL UNIQUENESS AND DIVERSITY:

How would the action affect any unique quality of the area?

No alternative considered for the proposed action would impact cultural uniqueness and diversity.

24. OTHER APPROPRIATE SOCIAL AND ECONOMIC CIRCUMSTANCES:

Estimate the return to the trust. Include appropriate economic analysis. Identify potential future uses for the analysis area other than existing management. Identify cumulative economic and social effects likely to occur as a result of the proposed action.

The affected State grazing lands for this project are held in trust by the State of Montana for specified institutional school beneficiaries, which are the common public schools and the State Normal School (now known as the University of Montana, Western, in Dillon, Montana). The lessee has paid the grazing fee's on the affected lease ground since 2001 without the benefit of grazing the leases. The Matador Cattle Company currently pays a total annual grazing rental of \$1,256.14 for State Grazing Lease No. 1341, and \$5,605.26 for State of Montana Grazing Lease No. 10,116. A portion of both leases are within the project area.

EA Prepared	Name: Charles Maddox	Date: July 24, 2008
--------------------	-----------------------------	----------------------------

By: **Title:** Land Use Specialist

V. FINDING

25. ALTERNATIVE SELECTED:

26. SIGNIFICANCE OF POTENTIAL IMPACTS:

27. NEED FOR FURTHER ENVIRONMENTAL ANALYSIS:

EIS

More Detailed EA

No Further Analysis

EA Checklist Approved By:	Name: Garry Williams
	Title: Central Land Office Area Manager
Signature: /s/ Garry Williams	Date: