

COMMISSIONERS APPROVAL

IMAN *JE*

CHILCOTT *cg*

FOSS

KANENWISHER *MK*

STOLTZ

PLETTENBERG (Clerk & Recorder)

Members Present..... Commissioner J.R. Iman, Commissioner Greg Chilcott, Commissioner Suzy Foss, and Commissioner Matt Kanenwisher

Date.....September 8, 2011

► Minutes: Beth Perkins

► The Board met for an update of the 41 Complex Fire with Forest Service Staff Todd McKay, Chuck Oliver, Julie King, Fire Chief Brad Mohr, Northern Rockies Incident Management Command Team Greg Poncin and Dixie Dies at 9:00 a.m.

Greg Poncin gave an update of the fires and what the plan of action will be for containment.

► The Board met for a public hearing for the White Feather Ranch Open Lands Bond program at 9:15 a.m. Present were Planning Administrator Terry Nelson, Planner Aaron Wilson, Representatives Gavin Ricklefs and Kyle Barber, Applicants Paul Kink and Diane Thomas-Rupert, John Ormiston, Tonia Bloom and Ravalli Republic Reporter Whitney Bermes.

Commissioner Iman opened the public hearing and requested the Planning Staff Report be read.

Aaron presented the Staff Report to the Board as follows:

OPEN LANDS BOND PROGRAM

WHITE FEATHER RANCH CONSERVATION EASEMENT

STAFF REPORT FOR BOARD OF COUNTY COMMISSIONERS

CASE PLANNER: Aaron Wilson

REVIEWED/

APPROVED BY:

PUBLIC MEETINGS/

HEARING:	Open Lands Board Meeting (site visit)	August 5, 2011
	Open Lands Board Meeting	August 18, 2011
	BCC Public Hearing	September 8, 2011

APPLICANT: Paul Kink & Diane Thomas-Rupert
PO Box 1856
Hamilton, MT 59840

SPONSORING AGENCY: Bitter Root Land Trust
Contact: Gavin Ricklefs
307 State Street
Hamilton, MT 59840

Introduction

On November 7th, 2006, voters in Ravalli County authorized the Board of County Commissioners to issue and sell bonds up to \$10 million for the purpose of preserving open lands. Building on that mandate, the Open Lands Bond Program (OLBP) was initiated in 2007. The application reviewed in this report, referred to as White Feather Ranch, requests bond funding to aid in the purchase of a voluntary conservation easement to be held by the Bitter Root Land Trust (BRLT).

Conservation Easements, under the OLBP, are an entirely voluntary restriction placed on the land and defined in Resolution No. 2256 as:

“...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 easement or restriction.”

The land being considered for permanent conservation consists of 3 parcels covering a total of 105 acres of crop, pasture and natural resource/habitat land in a region of active agriculture in the Burnt Fork drainage east of Stevensville (see figures 1 and 2). The property is owned by Paul M. Kink and Diane Thomas-Rupert, and is primarily operated by Dan Kerslake. The intent of Mr. Kink and Ms. Thomas-Rupert is to maintain the agricultural and natural values of the property in perpetuity and to prevent further division and development of the land.

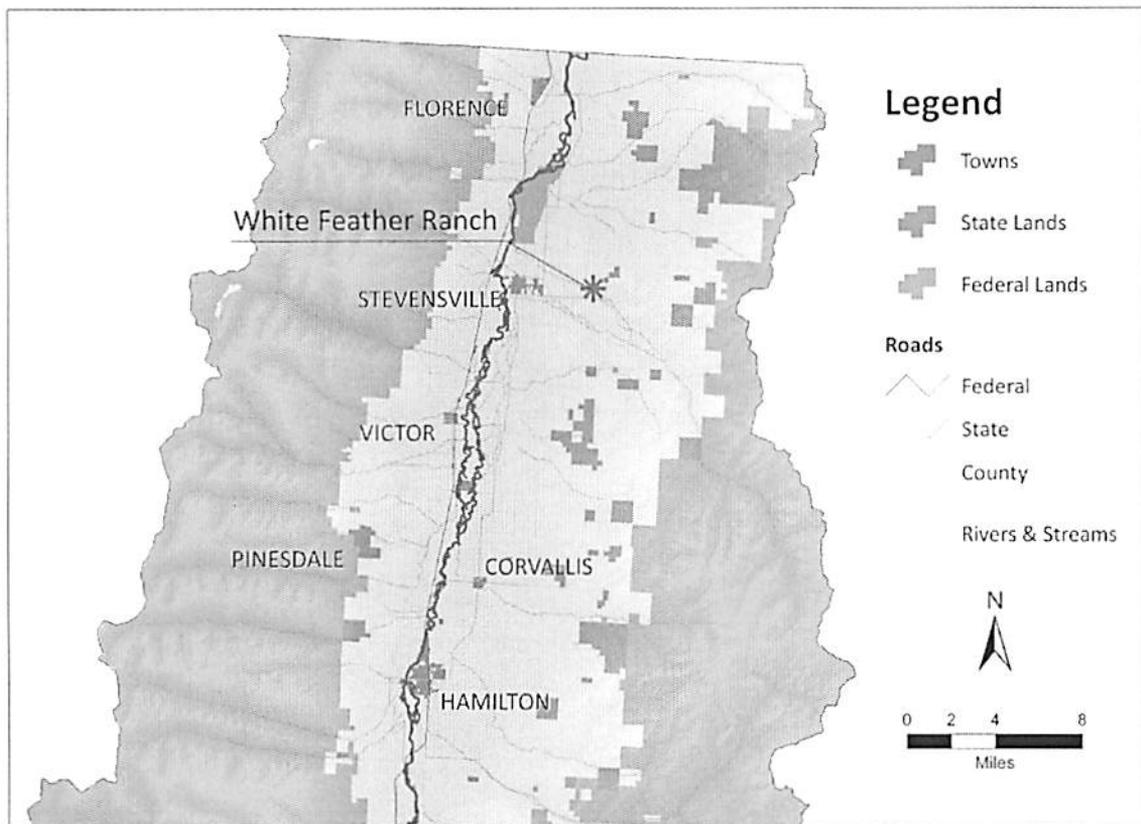


Figure 1 – Regional location of White Feather Ranch (Map source data: Ravalli County GIS).

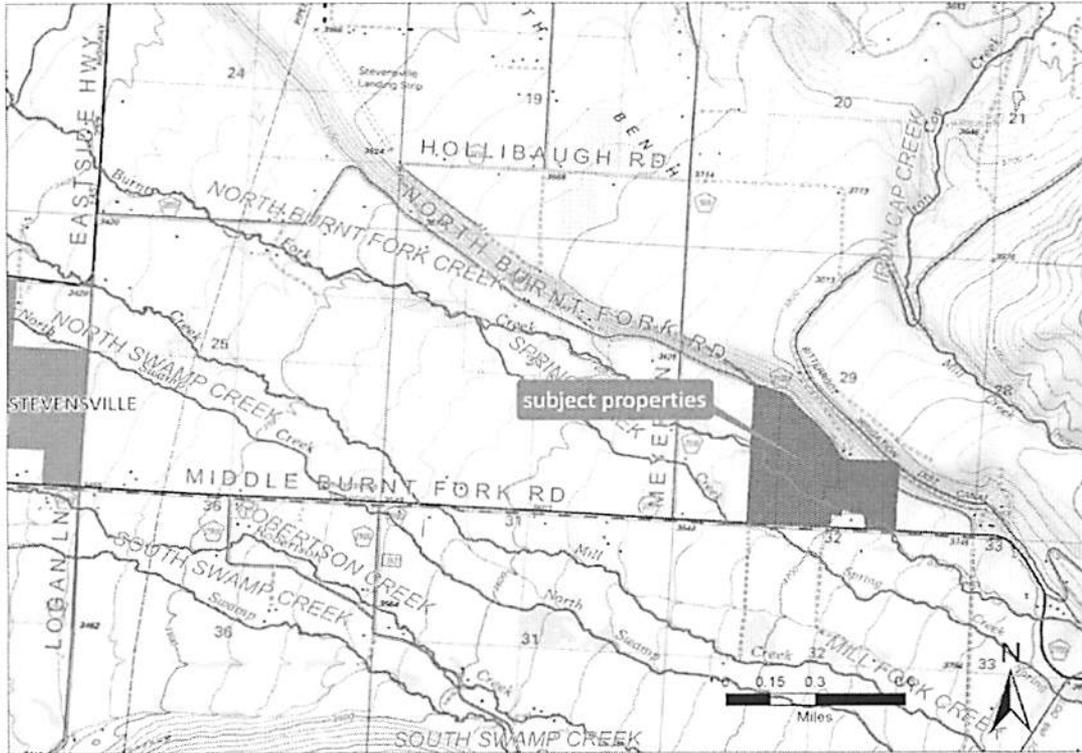


Figure 2 – Proposed conservation easement properties (Map source data: Ravalli County GIS).

Background

On May 31st, 2011, the Ravalli County Planning Department (RCPD) received notification of interest on the part of Paul M. Kink and Diane Thomas-Rupert (Landowners) to participate in the Open Lands Bond Program (OLBP). The initial pre-submission conference was held on June 15th, 2011, with the Ravalli County Planning Department (RCPD), Bitterroot Land Trust (BRLT) and the Landowners attending. At that meeting, the proposed conservation easement was discussed, and the full review process was outlined for BRLT and the landowners.

Subsequent to the pre-submission conference, the Planning Department received a full application on July 21st, 2011. This application outlined the proposed easement, rationale, and justification for a funding request from OLBP. Submission of a full OLBP application triggered initiation of Phase I review, which included a site visit by the Open Lands Board (conducted on August 5th, 2011) along with review and scoring of the proposed easement by the Open Lands Board Conservation Subcommittee (completed on August 11th, 2011).

Following the site visit and review by the Open Lands Board Conservation Subcommittee (OLB-CS), the full Open Lands Board (OLB) met on August 18th, 2011 to consider the application. The OLB is tasked under section 4-05 of Resolution #2256, establishing the Ravalli County Open Lands Bond Program, with making official recommendations the Board of County Commissioners as to the approval or denial of Bond Program applications. Their recommendation to the Board of County Commissioners is included in this report, along with a summary of the OLB-CS recommendations.

Staff Analysis

General Project Attributes

White Feather Ranch is moderately sized, at 105 acres with about 6 acres reserved for future home sites or development. The rest of the property will be protected in perpetuity through the terms of the conservation easement. A portion of the property is minimally protected via an existing agricultural covenant put in place through the Agricultural Exemption process. Staff does not anticipate any issues arising from that covenant, and considers it to be further strengthened by a conservation easement. Other general features include increased weed management, ongoing riparian area restoration, and a large landowner contribution.

Weed management has improved significantly over the last several years, through best management practices and adaptive weed control techniques. A riparian area restoration plan has been created in consultation with the Natural Resource Conservation Service, and continues to improve both the habitat and water quality of North Burnt Fork Creek.

As a reflection of the value the property holds as both open land and development potential, the preliminary assessment is higher than some other projects considered through the Open Lands Bond Program. However, as a percentage of the total assessed value of the conservation easement, the landowner contribution (donation) is among the highest of all projects at 72 percent. The request from the Bond Program represents only 28 percent of the total value, even with no identified matching funds to help offset the cost (Appendix B – Project Funding Worksheet).

Agricultural Attributes

The use of land on White Feather Ranch is focused for a range of agricultural uses. One of the main goals identified by the Open Lands Bond measure was the continuation of working farms and ranches, therefore evaluation of ongoing practices that are part of this particular funding request are essential to making an informed decision to fund a Bond project.

Activities on White Feather Ranch include raising Wensleydale sheep and angora goats, hay production, pasture grazing, and cattle production. The landowners have started innovative rotational grazing techniques, soils-based fertilization and other best management practices to ensure their operations are sustainable and able to continue in the future once a conservation easement is in place. These practices have also demonstrated potential to improve yield and productivity of the land.

The landowners have demonstrated a very strong irrigation and water right component to the property, helping solidify the agricultural values. Water documentation includes a water right dating back to 1852, one of the earliest in the state. Irrigation infrastructure, including buried piping, wells, pumps and other improvements are in place throughout the property, improving the deliverability of water to support best practices in crop and livestock production.

Natural Features

The primary stated intent of the landowners in placing a conservation easement on their property is to preserve and maintain agricultural operations long into the future. A corollary benefit to preserving agricultural open space is the support that land lends to wildlife habitat protection and enhancement. On this particular piece of property, the dominant wildlife and natural resource value lies in the approximately ½ mile of Burnt Fork Creek that runs across the three parcels proposed for conservation. North Burnt Fork Creek is valuable for a long list of habitat features, including significant riparian areas throughout the ranch, support of a native bull trout fishery, and to protect a portion of the high-quality drinking and recreation water Ravalli County benefits from.

In addition to the inherent prospects this property offers, the landowners, with the help of Dan Kerslake (an individual with training in both agriculture and wildlife biology and thus uniquely qualified to support restoration and protection of natural resources), are actively seeking to restore and preserve the quality of the Creek as it runs through the ranch. It appears that although the request for Open Lands Bond Funds rests heavily on the desire to see preservation of working farms and ranches, it does offer significant natural habitat, wildlife and water quality benefits to the County.

Community Benefits

As the Open Lands Bond Program has matured and reviewed new proposals, a distinct movement toward agricultural land preservation in the Burnt Fork drainage has emerged. Utilizing conservation easements to support continued farming and ranching in the area is still a nascent concept, however White Feather Ranch joins Severson's Flying-E Ranch, Sunset Bench and the Creech Ranch (through the Rocky Mountain Elk Foundation), creating an emergent block of open land. As more property owners place conservation easements on their land, the better the overall value of land preservation. Each property can help support the agricultural and wildlife values of the neighboring property.

Additional Benefits

On top of the agricultural, natural and community benefits identified above, the landowners have developed a relationship with Dan Kerslake that can be a model of continued agriculture in the Bitterroot Valley. Mr. Kerslake, a young rancher from Oregon, has recently begun establishing his own ranching operation in the last several years as he graduated from the University of Montana. A widely stated barrier to young farmers and ranchers is the cost or availability of land adequate for starting a business; in this particular case, Mr. Kink and Ms. Thomas-Rupert have illustrated how landowners who are nearing retirement can see a tradition of agriculture continue by supporting a young individual. The relationship between the landowners and Mr. Kerslake is such that he will be able to continue utilizing their land while he grows his business, and can eventually take over the ranch and see the property in production into the future.

As a model, this particular project is one way agriculture can be passed from one generation to the next. It is not a criterion for selection, however it is staff's position that these kinds of relationships that will help preserve the agricultural tradition that has sustained and drawn residents to the valley. Dan's involvement also helps to strengthen the value and intention of the conservation easement through his commitment to the property.

Staff Recommendation

Based on the application, site visit, and input from the landowners, it is staff's recommendation that the project be approved and fully funded at the current level requested.

Open Lands Board – Conservation Subcommittee Report Summary

Based on the application materials submitted and the property site visit, the OLB-CS made the following findings:

- Although the application indicates the property has effective weed management practices, based on the site visit this committee indicated scoring should be lower due to presence of weeds. The committee also noted that the landowners have created a weed management plan in cooperation with the Natural Resource Conservation Service (NRCS) and that weed management is a continuous process.
- Several scores were adjusted lower than the project application suggested, due to questions about acreage and productivity of the property. The Committee felt that the property had good potential and practice for agricultural use, however some of the estimated potential production rates may be high. Questions were brought up regarding how much of the property was used for each criterion, and whether it was appropriate to count each of these for the full acreage.
- Protection of this property under a conservation easement will continue to build on connecting important wildlife habitat throughout the Burnt Fork basin. In conjunction with other existing easements such as the Creech and Olmsted Ranches, the proposed Severson's Flying E Ranch and Sunset Bench projects and State Trust Land, a significant block of land will be preserved across the drainage area and move towards a complete connection with National Forest lands to the east.
- Further wildlife enhancement will be provided by riparian area management along Burnt Fork Creek, running through approximately ½ mile of the proposed conservation easement. A Riparian Management Plan, drafted as a partnership between the landowners and NRCS, will help protect important native bull and westslope cutthroat trout that rely on the Burnt Fork.
- Approval of the proposal would generally meet the goals of the OLBP by protecting, for perpetuity, productive agricultural land, wildlife habitat and open space in Ravalli County. Burnt Fork Creek and other potential habitat contribute significantly to local habitat connectivity within the drainage basin. Several important native species, such as bull and Westslope cutthroat trout, elk, deer, a number of species of Special Concern (as designated by the State of Montana)

are either directly present on the property or can be supported by the diverse habitat that currently exists there.

- The relationship that has developed between the landowners and Mr. Kerslake is an important aspect and special feature of the project identified by the OLB-CS. While there is no long-term guarantee that this kind of mutual gain will continue after a conservation easement is placed on the property, it is indicative of the potential for supporting agriculture in the region. As a demonstrative aspect, it is unique among projects brought before the Open Lands Board.
- All Project Scoring Worksheets completed by the OLB-CS reflected at least the minimum score of 50 points required for the project to be considered past Phase I. Scores ranged from 64 to 72, with a final average of approximately 69 points. After discussion and score adjustment, the OLB-CS settled on 72 as an appropriate score for the project.
- Project Scoring Worksheets were not received from the full Open Lands Board prior to issuance of the OLB-CS Report, but will be compiled for the final staff report presented to the Board of County Commissioners.
- The OLB-CS recognizes the critical importance of being good stewards of taxpayer money through the mindful and deliberate implementation of the OLBP. According to the project funding worksheet this project will be among the highest cost on a per acre basis, compared to previously approved requests. However, the OLB-CS also noted that the appraisal was higher than average per acre, and that the total request from the OLBP, as a percentage of the appraised value, was consistent with projects overall. The landowner donation represents almost 75% of the total appraised value of the conservation easement and no matching funds were readily identified to help offset the cost to the OLBP.

Recommendation

After consideration of the White Feather Ranch OLBP Application within the adopted criteria and procedure for the OLBP, the OLB Conservation Subcommittee unanimously (4-0) advises that the Open Lands Board forward a recommendation to the Board of County Commissioners to approve the White Feather Ranch proposal at the funding level requested.

Open Lands Board – Recommendation

Based on the application materials submitted, the property site visit, and the OLB-CS report the Open Lands Board made the following findings:

- Project scoring by OLB members, including the OLB-CS, ranged from a low of 64 to a high of 79, reflecting general agreement with the BRLT scoring for the

project (71 points) and meeting the 50 point cut-off established by the OLB for project approval.

- The current funding level proposed was deemed appropriate (see Appendix B, Project Funding Worksheet).
- The OLB concurred with the findings of the Conservation Subcommittee.

After consideration of the White Feather Ranch Conservation Easement Application within the adopted criteria and procedure for the OLBP, the Open Lands Board voted 9 - 0 to recommend the Board of County Commissioners approve the White Feather Ranch proposal at the funding level requested.

BCC Review Stage:

OLBP Phase 4

When considering a proposal, the BCC will have the following items available for consideration: the full application materials, a possible site visit, all summary reports and recommendations submitted for review, and any discussions held within the public hearing process. Applications for funding from the OLBP should be considered within the adopted criteria and procedure for the OLBP (Res 2256).

Once the BCC has finished their review and public hearing process, they will **vote to approve or deny funding.**

OLBP Phase 5

If the proposal is approved by the BCC, the following documentation will be required before the County can release funds. The applicant shall provide the documentation to the Planning Department. The Planning Department will coordinate review of the following materials:

- Conservation Easement Document and Baseline Documentation Report

- **Title commitment for the subject property and resolution of title issues**
- **Final appraisal**
- **Purchase agreement**
- **Environmental Hazard Survey concerning hazardous materials (as described by the federal government) that may or may not be located, used or disposed of on the property**
- **An agreement between the county and the qualifying sponsoring organization regarding joint responsibilities**
- **A narrative describing the Closing Arrangement - where the closing is to occur, closing participants, settlement sheets, Escrow arrangements if required, the cost of closing, etc.**
- **Additional Documentation as required by decision of the Board of County Commissioners (Res. 2256)**

APPENDIX A – White Feather Ranch properties



Gavin Ricklefs then made a presentation from Bitter Root Land Trust for the White Feather Ranch. Diane Thomas-Rupert and Paul Kink also gave a review of the property since purchase as well as the agricultural operations. Dan Kerslake gave comment on the increased agricultural operations including sheep, cattle and a steadily increasing hay production with a 35% decrease in weeds.

Commissioner Iman left the hearing at this time due to another scheduled matter and yielded chair to Commissioner Chilcott. Prior to leaving he stated he was in support of this project. Commissioner Chilcott opened public comment.

Dan Severson stated this is a great project and appreciates this program.

John Ormiston stated conservation easement work is about relationships and leaving a legacy. He is very proud of the work accomplished and the relationship between the landowners and the Land Trust.

Tonia Bloom thanked Diane and Paul for the work they have done with the property. This project has the highest donation from the landowner for the program.

Commissioner Chilcott closed public comment and opened board deliberation.

Commissioner Foss commented highly of the property and supports this project.

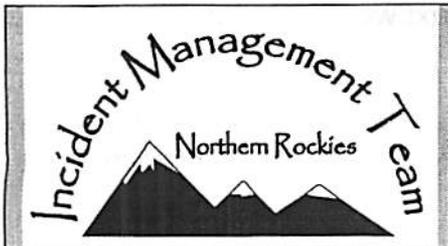
Commissioner Kanenwisher questioned the appraisal of the lots versus a whole property. He argued that many things have changed since 2006 when the voters approved this program. From a government point of view, you cannot choose one industry over another such as agriculture and then there is a question of a viable business model. What is the taxpayer getting with this infusion of cash? Nothing that isn't already there. He does not support this. He asked if the sponsors would consider a public easement. Paul Kink replied he has been in the investment business for 45 years. The rancher puts their heart and soul into their property. Young people are not going into agriculture and then the rancher needs to sell off a portion of their property to fund their retirement. He sees his clients having to liquidate a piece of ground to live. People move here not to see house after house but open space. This conservation easement will prevent this from happening. Commissioner Kanenwisher stated agricultural land is a good purchase. Just because there is an affinity for an operation does not mean there should be a preference from government.

Commissioner Chilcott stated there were questions submitted to the County Attorney's Office regarding the project such as appraisal, revised funding worksheet, title commitment fee, and project assessment versus project facilitation. Aaron addressed those questions. Commissioner Chilcott stated the public gets a certain amount of ecstatic qualities enhancement of the area and this is a citizen-supported project. This program was established through referendum and was set up with certain qualities. He is in support of this project.

Commissioner Iman joined the hearing via speakerphone to cast his vote.

Commissioner Kanenwisher made a motion to approve the White Feather Ranch Conservation Easement for the Open Lands Bond program and fully fund at the current level requested. Commissioner Foss seconded the motion. Commissioner Iman, Commissioner Chilcott and Commissioner Foss voted “aye”. Commissioner Kanenwisher voted “nay”. (3-1)

- ▶ Commissioner Iman attended a Human Resource Council meeting in Missoula at 11:00 a.m.
- ▶ The remainder of the day was spent in Office Management.



FACT SHEET

41 Complex Fire

September 8, 2011 – 9 am Update

Fire Information Incident Command Center: (406) 375-8123 or (406) 375-8125, 7:00 am to 10:00pm

Fire Information Trailer @ Canyon View Church, 195 Skalkaho Highway, 12:00pm to 8:00pm

For more information, visit www.inciweb.org/incident/2544

What: 41 Complex Fire

Started: August 28, 2011 at 9 p.m.

Location: Sapphire Mountains 10 miles east of Hamilton, Montana

Jurisdiction: Darby Ranger District, Bitterroot National Forest

Cooperating Agencies: Forest Service, Ravalli County, Ravalli RFD's

Current size:	41	-	105 acres	Containment:	41	-	95%
	Up Top	-	4,558 acres		Up Top	-	0%
	Coyote				Coyote		
	Meadows	-	1,109 acres		Meadows	-	0%
	Fox Peak	-	155 acres		Fox Peak	-	0%
	TOTAL		- 6,027 acres				

Resources on Fire: 260 people assigned to the fire, including 6 twenty-person crews, 6 engines and one watertender. Two twenty person crews and heavy equipment have been ordered.

Today's Activity: Greg Poncin's Northern Rockies Incident Command team will take over management of the fire complex this morning. Forecasts call for continued hot and dry weather, creating conditions for fire growth, with abnormally long daily burning periods for this time of year. Smoke in the Bitterroot Valley is expected to continue into the foreseeable future due to temperature inversions. Afternoon dry thunderstorms with gusty, erratic winds are also forecast for today.

The most active of the four fires in the complex is the Up Top Fire which was spotting as much as ½ mile ahead of the main fire on Wednesday. The focus on that fire will be to attempt to push it towards the north and east over the next several days and away from private lands. Most of the fire activity that is visible in the valley is from a backing fire moving towards Gird Point Lookout. Preparations will begin today to wrap the lookout. Priority for mopup operations continues to be the 41 Fire due to its' proximity to private property. The Fox Fire has remained relatively inactive over the past few days but has the potential for movement with the forecast weather conditions. Firefighter safety remains a major concern due to steep, rugged terrain and large of areas of snags from previous fires. Fire Behavior Specialist Tony Harwood noted that "There is constant noise on the fire perimeters with snags coming down".

Special Messages: Smoke will continue to settle in the Valley through next week. Contact Ravalli County Public Health @ 375-6577 for additional information.

Closures: The Montana Department of Transportation has closed Skalkaho Pass Highway (State Highway 38) from mile post 14 to mile post 30. Gird Road #714 and Skalkaho Rye Road #75 are closed to provide for public and firefighter safety.

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