US Army Corps of Engineers
Omaha District

Environmental Assessment

Implementation of the Charles M. Russell National Wildlife Refuge Enhancement Act of 2000

U.S. Army Corps of Engineers, Omaha District

In Cooperation With

U.S. Fish and Wildlife Service, Mountain-Prairie Region

September 2004

EXECUTIVE SUMMARY

The Fort Peck Dam and Fort Peck Lake (i.e., the Fort Peck Project) is the oldest and furthest upstream project of the six Missouri River mainstem projects operated by the Corps. Located in northeastern Montana, the dam is approximately 1,770 miles upstream from the Missouri River confluence with the Mississippi River and approximately 11 miles upstream from the confluence with the Milk River.

The Fort Peck Lake is the nation's fourth largest manmade reservoir and backs up from the dam approximately 135 river miles to the west and south. Surrounding the water surface, the Fort Peck Project also encompasses over 400,000 acres in McCone, Valley, Garfield, Phillips, Petroleum, and Fergus Counties. Nearly the entire Fort Peck Project is within the Charles M. Russell National Wildlife Refuge (CMR), which is managed by the U.S. Fish and Wildlife Service (Service).

Four recreation areas on the Fort Peck Lake (Fort Peck, the Pines, Hell Creek, and Rock Creek) have cottage areas (cabin sites) within them. These cabin sites are within areas designated by the Corps for intensive use recreation and there are 367 individual cabin site lots leased by the Corps. The lessees have constructed cabins or cottages on these lots that are on federal lands managed by the Corps and within the exterior boundaries of the Charles M. Russell National Wildlife Refuge.

Title VIII of the Water Resources Development Act of 2000 authorized Secretary of the Army, working with Secretary of the Interior, to identify cabin sites suitable for conveyance (i.e., sale) to current lessees and to perform the necessary environmental and real estate activities to dispose of these cabin sites at fair market value. The funds received from the conveyance of the cabin sites will be deposited in the Montana Fish and Wildlife Conservation Trust for use in acquiring other lands with greater wildlife and other public value for the Charles M. Russell National Wildlife Refuge.

The overriding principle governing the acquisition of lands for the Charles M. Russell National Wildlife Refuge is that the Service will only pursue property acquisition from willing sellers. Among the willing sellers, the Service would purchase native prairie, riparian habitat, and intact native sagebrush steppe.

Based on the expected revenue generated by the cabin site sales and the overall costs of the program the Service anticipates being able to add an additional 10,000 to 40,000 acres to the refuge. Given the existing refuge is in excess of 1.1 million acres, the proposed action could increase the overall refuge size between 1 and 3.6 percent.

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1. BACKGROUND

1.1 Fort Peck Dam and Fort Peck Lake Project

The Corps of Engineers (the Corps) is the steward of the lands and waters at Corps water resources projects throughout the nation. The Corps natural resource management mission is to manage, conserve, and improve these natural resources and the environment while providing quality public outdoor-recreation experiences to serve the needs for present and future generations. At water resource projects, the sum total of waters and land managed by the Corps is referred to as "the Project".

The Fort Peck Dam and Fort Peck Lake (i.e., the Fort Peck Project) is the oldest and furthest upstream project of the six Missouri River mainstem projects operated by the Corps. Located in northeastern Montana, the dam is approximately 1,770 miles upstream from the Missouri River confluence with the Mississippi River and approximately 11 miles upstream from the confluence with the Milk River (see Figure 1). The dam embankment is four miles long and 250 feet high at the highest point and is the world's oldest and largest hydraulically filled earthen dam. The dam is listed on the National Historic Register and is under consideration for National Historic Landmark Status (USACE, 2002).

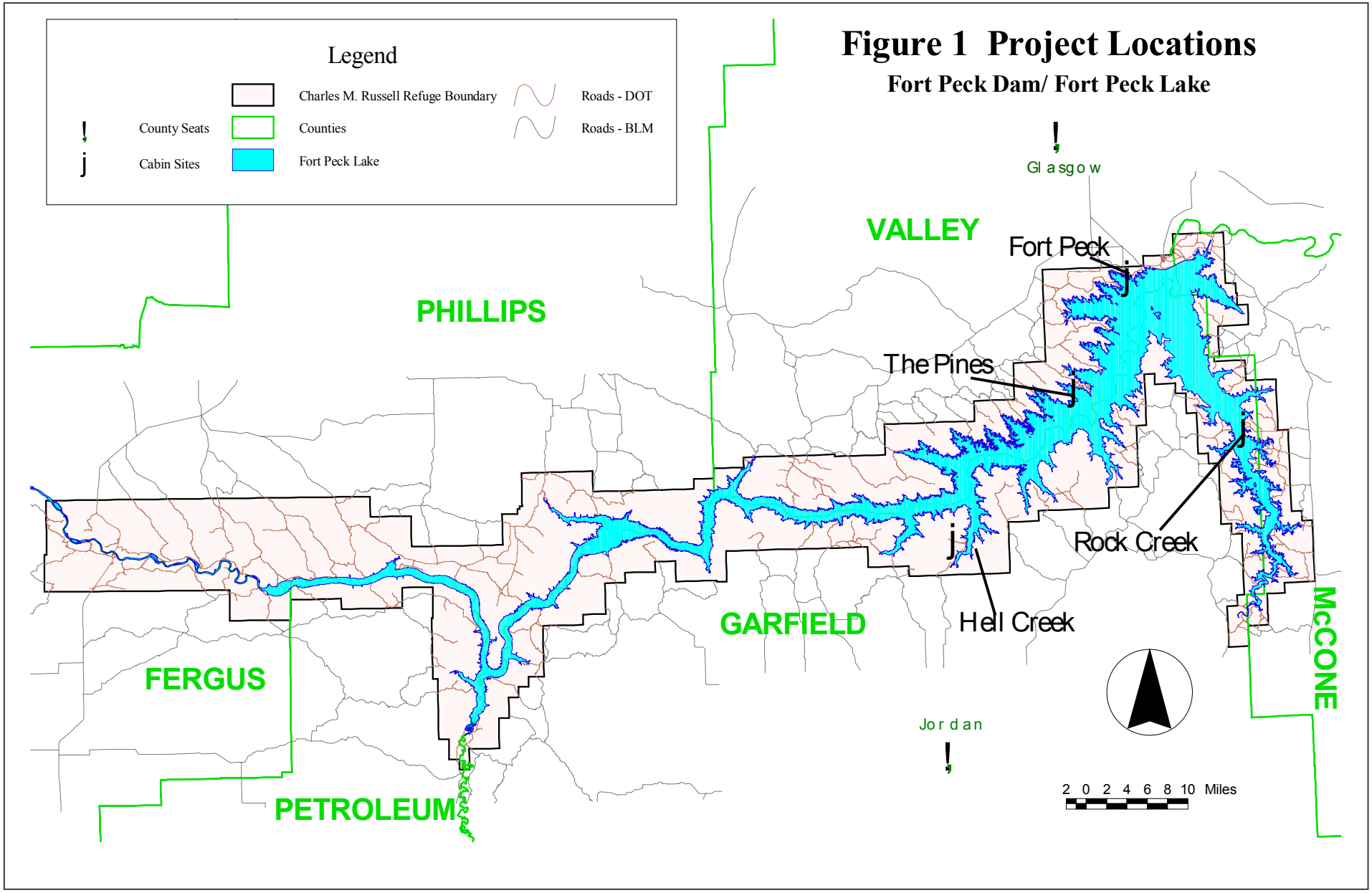
The Fort Peck Lake is the nation's fourth largest manmade reservoir and backs up from the dam approximately 135 river miles to the west and south. At maximum pool, the lake surface area is approximately 249,000 acres. Surrounding the water surface, the Fort Peck Project also encompasses over 400,000 acres in McCone, Valley, Garfield, Phillips, Petroleum, and Fergus Counties. Nearly the entire Fort Peck Project is within the Charles M. Russell National Wildlife Refuge (CMR), which is managed by the U.S. Fish and Wildlife Service (Service).

The Fort Peck Project was authorized for flood control, navigation, hydropower, wildlife, recreation, municipal and industrial water supply, and irrigation. To meet the recreation demand, seven recreation areas were developed at the Fort Peck Project for intensive recreational use. These areas usually include concessions, resort and quasi-public use development. Recreation lands consist of parks where the natural character of the environment has been altered by the construction of camping loops, picnic sites and shelters, play areas and structures, marinas, concession buildings, parking lots, roads, and landscaping. Relatively small, undeveloped parcels exist within some areas of the intensively developed and used recreation areas. The areas designated for intensive recreation use at the Fort Peck Project include: Fort Peck, the Pines, Hell Creek, and Rock Creek Recreation Areas.

1.2 Cabin Sites

Within the intensive use recreation areas (Fort Peck, the Pines, Hell Creek, and Rock Creek), four cottage areas have been designated (Figure 1). Collectively, the cottage areas include 367 individual lots leased by the Corps to private individuals in accordance with 16 U.S.C. 460d. The lessees have constructed cabins or cottages on these lots that are on federal lands managed by the Corps and within the exterior boundaries of the CMR National Wildlife Refuge.

All leased cabin sites have power available and have permanent structures (improvements) on them. All 367 sites were inventoried in the fall of 2002 to evaluate each lot's improvements, septic systems, and water supply system.


Legend
Charles M. Russell Refuge Boundary
Roads - DOT
County Seats
Counties
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Cabin Sites
Fort Peck Lake
Figure 1 Project Locations
Fort Peck Dam/ Fort Peck Lake
Glasgow
VALLEY
Fort Peck
PHILLIPS
The Pines
Rock Creek
GARFIELD
Hell Creek
McCONE
FERGUS
Jordan
PETROLEUM
2 0 2 4 6 8 10 Miles

1.2.1 Fort Peck

The Fort Peck Recreation Area (Figure 2) is located on the north shore of the reservoir immediately adjacent to the left abutment of the dam. Located entirely within Valley County, this recreation area is two miles west of the town of Fort Peck and about 17 miles southeast of Glasgow. The recreation area is accessed by one-half mile of paved road leading from State Highway 24. Movement throughout the recreation area is provided by gravel and unimproved roads. Scattered along a two-mile long area from east to west, this recreation area consists of a day use area, a marina, and a campground. Day use facilities include enclosed shelters, open picnic shelters, a playground, a comfort station, a fish-cleaning station, and vault toilets. The campground provides electrical hookups, sanitary facilities, and potable water. There are two boat ramps and a 15-acre area next to the boat ramps leased to a direct concessionaire. The marina provides approximately 150 boat slips and provides services and supplies to area boaters.

The topography of this 350-acre area is level to gently rolling, with mostly moderate slopes from the shoreline up to a plateau 20 to 30 feet above the normal maximum operating pool. The vegetation in the area consists primarily of grasses, with some native shrubs and trees confined to drainage channels and ornamental vegetation planted by the lessees.

The Fort Peck Cottage Area is located on the western side of the recreation area and consists of 120 leases referred to as Fort Peck #1 and #3 with the majority of the leases located on five named streets. All 120 leases are located on good gravel roads and both cabin areas are accessed by turning south off of Highway 24 near the west end of Fort Peck Dam. The proximity to Fort Peck and Glasgow results in numerous year-round residents in this cabin area; almost all of the other cabins on Fort Peck Lake are occupied seasonally. This site has the most usage of any of the recreation areas but visitation is not discretely tracked for the Fort Peck Recreation Area.

1.2.2 Rock Creek

The Rock Creek Recreation Area (Figure 3) is an important regional recreation area serving the entire area east of the Big Dry Creek Arm. It offers the only commercial marina services and supplies south of the dam on the Big Dry Creek Arm. From October 1, 2002 through September 30, 2003, there were more than 20,500 visits to the Rock Creek Recreation Area. More than 5,200 of those visits were overnight and more than 15,200 (74-percent) of the visits were day-use. The State of Montana leases approximately 5 acres of the recreation area for a fishing access site. Across the bay, on a small peninsula, and surrounding the State Fishing Access site, a private concessionaire leases 99 acres from the Corps for operation of the Rock Creek Marina.

The Rock Creek Cabin Lease Area is within the Rock Creek Recreation Area in Garfield and McCone counties on the Big Dry Arm of Fort Peck Lake. The location is approximately 18 river miles south from the dam and 32 highway miles from the town of Fort Peck. Typical access to the area is via the Fort Peck Dam road and following Highway 24 to the North Rock Creek Road turn-off. The Rock Creek Recreation Area covers approximately 2,800 acres and is comprised of rolling, grass-covered plains and low buttes.

Most of the 122 Rock Creek leases are located approximately five miles west of the Highway 24 turn-off off North Rock Creek Road and are in six closely associated areas near the reservoir. Twelve leases are accessed via South Rock Creek Road two miles south of the North Rock Creek

Figure 2. Fort Peck

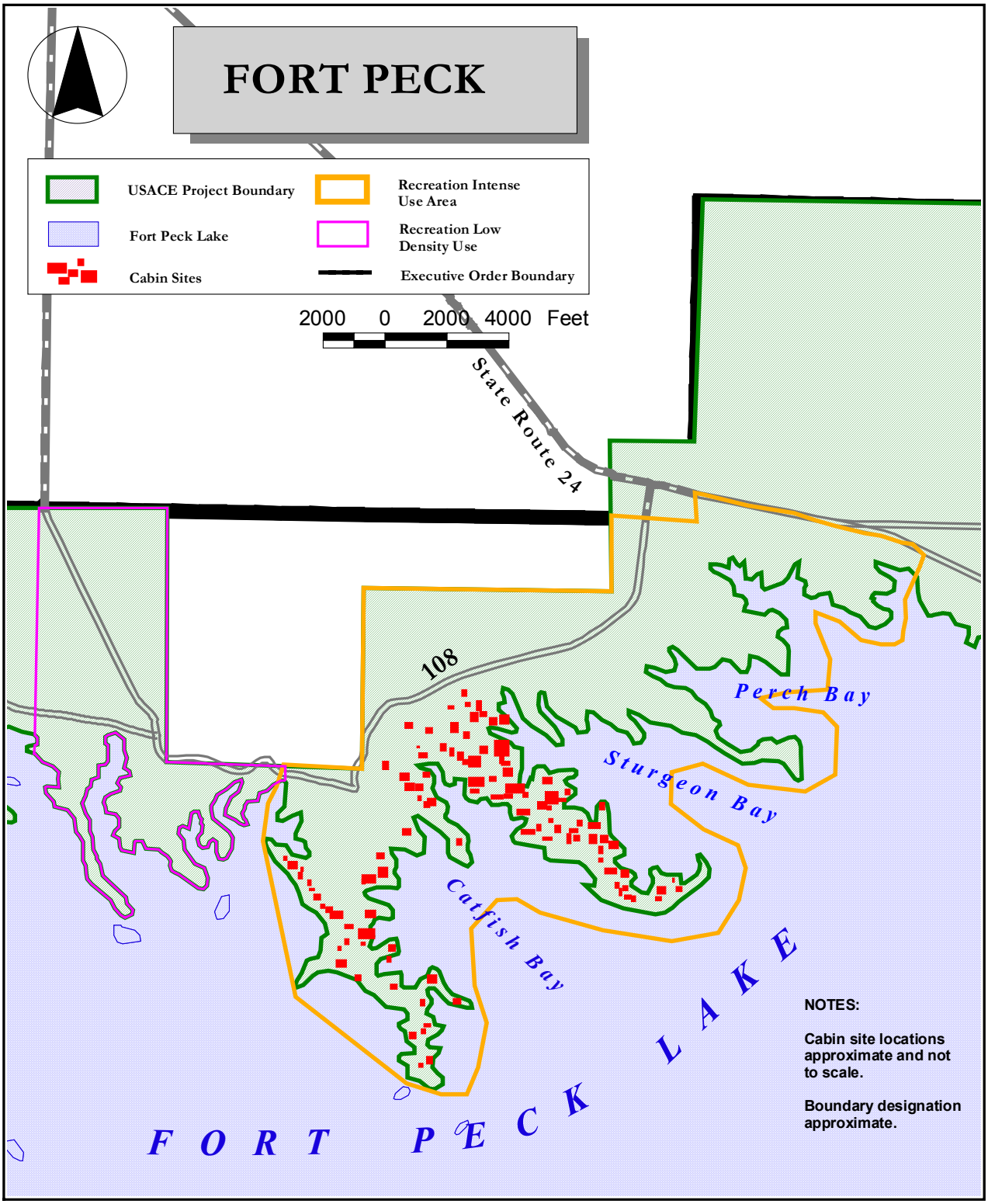
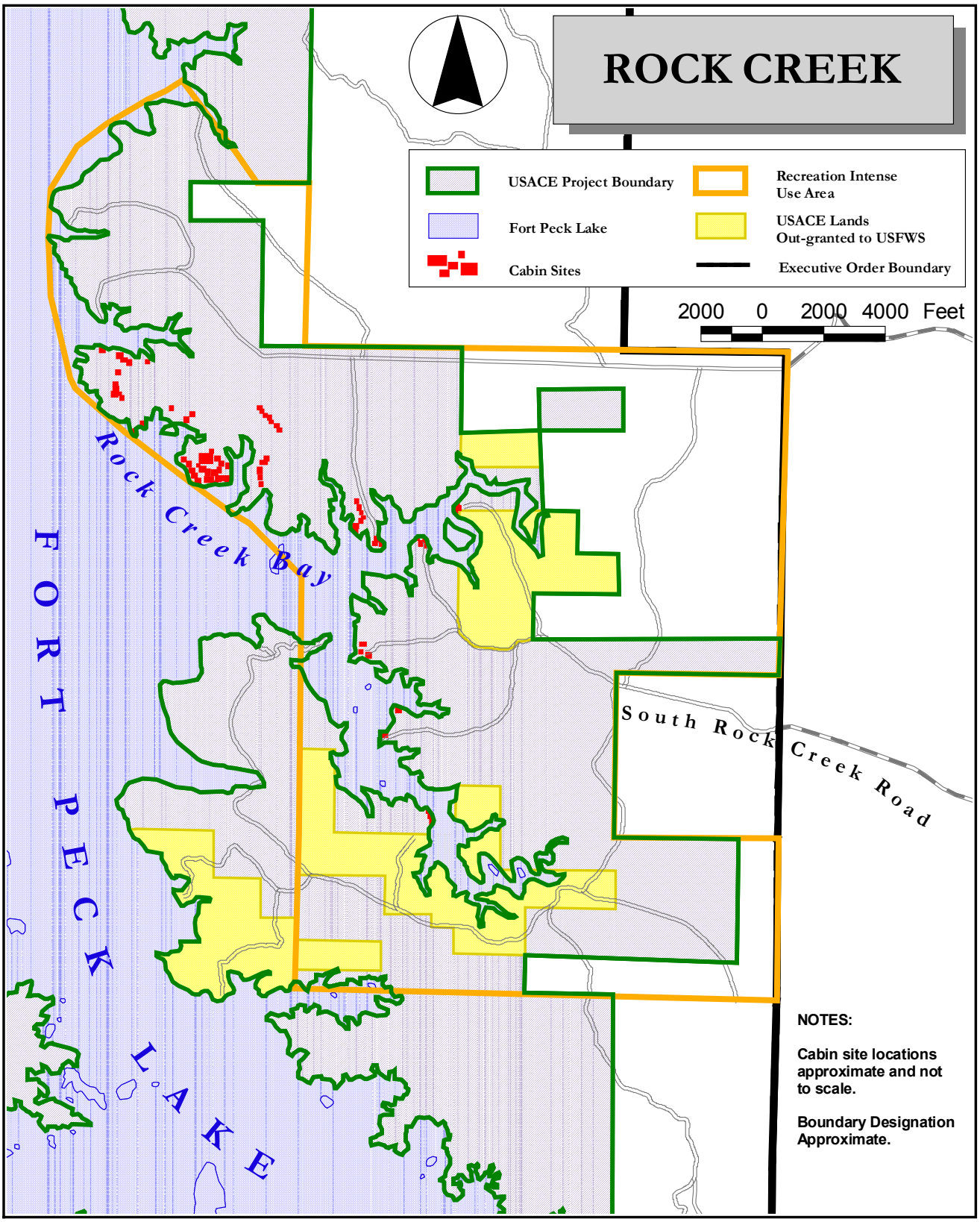


Figure 3. Rock Creek



Road turnoff. The separate area consists of flat to gently rolling hills leading down to the reservoir. Vegetation is primarily grassland and sagebrush with scattered ponderosa pine, juniper, and cottonwood in drainage channels. The Rock Creek area has sandy soils compared to the other cabin locations that have predominantly clay soils. Local access roads are in poor condition at several different locations.

1.2.3 Hell Creek

The Hell Creek State Recreation Area is located on the west bank of Hell Creek on the south shore of the Fort Peck Reservoir in north central Garfield County (Figure 4). The area is accessed off of Highway 200 in the town of Jordan and by driving north on a gravel road for approximately 30 miles.

The Corps initially developed the 337-acre intensive use recreation area as a water access site with camping and day use facilities. In 1966, the recreation area was outgranted to the State under a park and recreation lease. Within the state-leased property, a third party concessionaire (holding lease with the State of Montana) operates a four-acre parcel as the Hell Creek Marina.

The Hell Creek State Recreation Area is one of the most important areas on the eastern portion of Fort Peck Lake for recreational activities. From October 1, 2002 through September 30, 2003, there were more than 20,000 visits to the Hell Creek State Recreation Area. Nearly 5,000 of those visits were overnight and more than 15,800 (76-percent) of the visits were day-use. The area serves as a key water access to Fort Peck Lake from the south side of the reservoir west of the Big Dry Creek Arm. Visitors originate from Jordan, Circle, Glendive, Miles City, Forsyth, and other communities in east-central Montana. North of the marina are 50 leased cabin sites within the 56-acre cabin area. An internal road located to the west of the campground accesses the cabin sites. The area is gently rolling to level near the shoreline and steep and hilly to the west and the south. Most of the vegetation is native grasses with sagebrush and forbs. Trees are scarce in this area with ponderosa pine and Rocky Mountain juniper abundant in the nearby hills.

1.2.4 The Pines

The Pines Recreation Area is located approximately 15 miles upstream from the Fort Peck Dam on the north shore of the reservoir in Valley County. Highway 24, the Willow Creek Road, and the Pines Road provide access to the area from Fort Peck. The area is approximately 26 road miles from the Highway 24 turn-off.

The Recreation Area and cabin lease areas are situated on Fifth Ridge (see Figure 5), a peninsula that extends south, well into the reservoir. Within the Recreation Area are three boat ramps, day use picnic areas, an enclosed shelter with electric grill, a playground, seasonal potable water, vault toilets, and an overnight campground accessible for public recreational use. Also nearby is the Pines Youth Camp (54 acres). From October 1, 2002 through September 30, 2003, there were more than 13,600 visits to the Pines Recreation Area. More than 3,700 of those visits were overnight and more than 9,900 (73-percent) of the visits were day-use. Visitors originate from Fort Peck, Glasgow, Nashua, Wolf Point, and other nearby communities in northeastern Montana.

Figure 4. Hell Creek

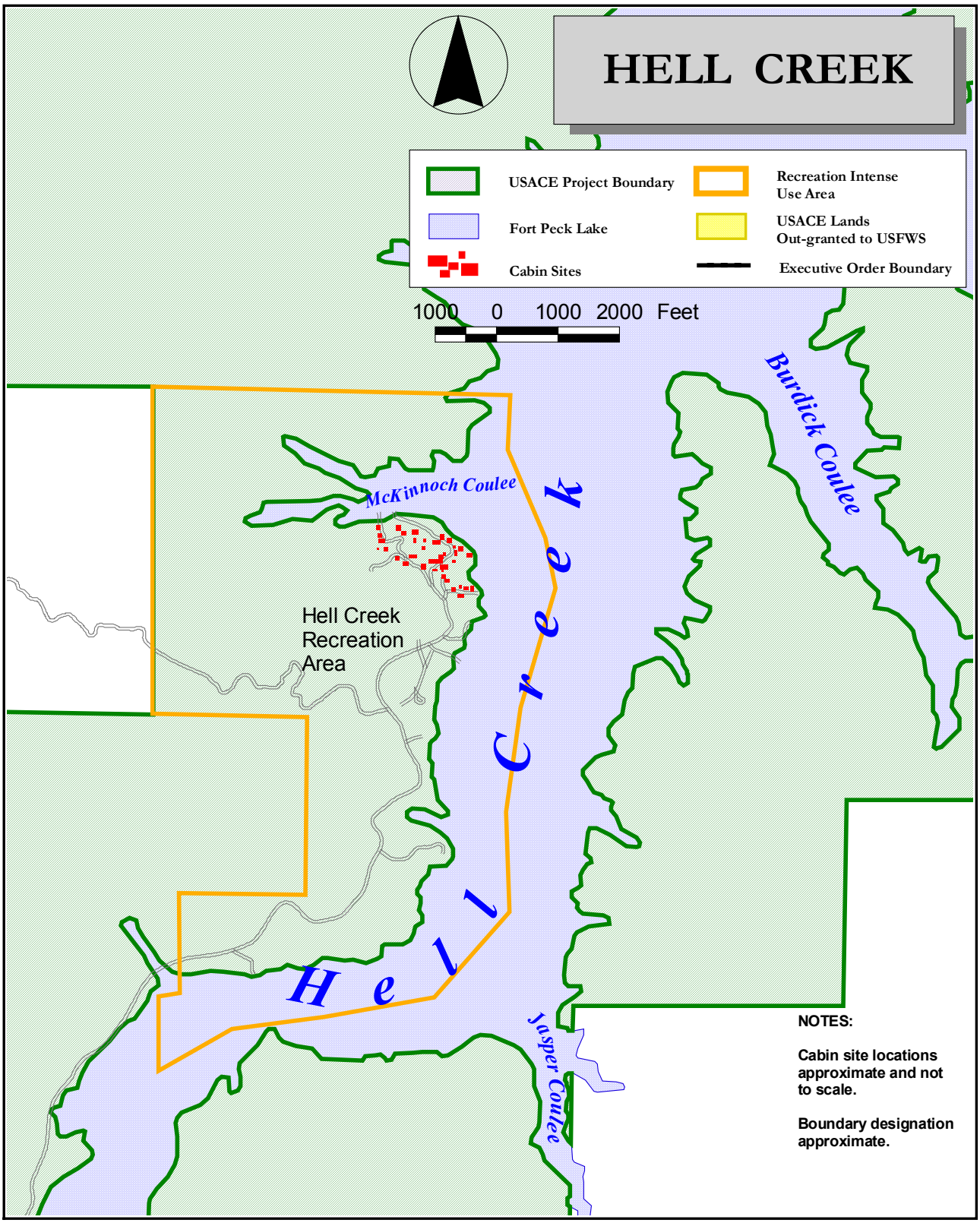
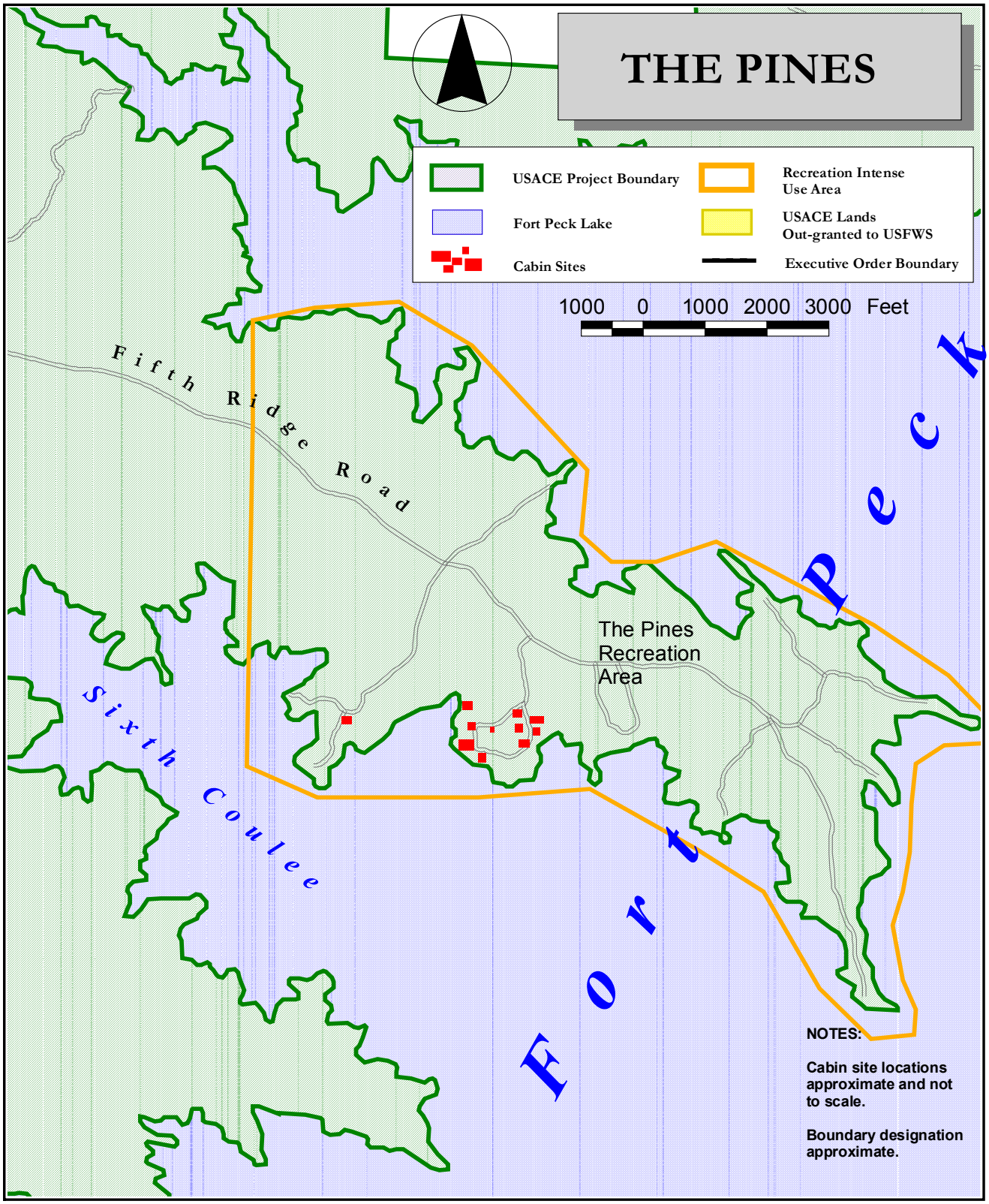


Figure 5. The Pines



All 75 leases at the Pines are within an approximately 100-acre site, in two areas: Pine Cone Drive and Holiday Point. These areas are approximately one half mile apart. In dry weather, road access to the Pines is good but wet weather can produce severe access conditions. The Pines Area is hilly terrain with an abundance of trees consisting of ponderosa pine and juniper. Cabin lots are generally tree covered and in close proximity to the reservoir.

1.3 Charles M. Russell National Wildlife Refuge

The Fort Peck Game Range was created on 11 December 1936 with President Roosevelt's Executive Order 7509. Through a series of name changes, the Fort Peck Game Range was officially changed to the Charles M. Russell National Wildlife Refuge (CMR) by the National Wildlife Refuge System Administration Act Amendment of 27 February 1976 (USACE, 1992).

The CMR includes nearly the entire Corps Fort Peck Project and covers approximately 1.1 million acres. CMR includes lands acquired by the Service, lands acquired by the Corps and used by the Service through interagency cooperative agreements, lands withdrawn for both the Fort Peck Project and CMR, and lands withdrawn specifically and exclusively for CMR purposes (USACE, 1992).

The establishing purpose of CMR is for the conservation and development of natural wildlife resources and for the protection and improvement of public grazing lands and natural forage resources. Other lands were added to the CMR Refuge under the authority and establishing purpose of the: Fish and Wildlife Coordination Act; Refuge Recreation Act , as amended; Bankhead-Jones Farm Tenant Act; An Act Authorizing the Transfer of Certain Real Property for Wildlife; National Wildlife Refuge System Administration Act; and the Migratory Bird Conservation Act.

The Corps and Service have historically fulfilled their respective land management directives according to their separate procedures and missions in cooperation to achieve the National interest. The Service is responsible for wildlife and grazing management within CMR and the Corps is responsible for the management of Project lands for the benefit of recreation, flood control, navigation, hydropower, irrigation, and domestic water supply (USACE, 1992).

The refuge extends 134 miles up the Missouri River from the Fort Peck Dam to the Sand Creek Wildlife Station to the west. There are more than 1,500 miles of shoreline, most of it extremely remote from highway access. The Refuge includes native prairies, forested coulees, river bottoms, and badlands. Refuge wildlife includes mule and white-tailed deer, black bears, mountain lion, elk, bighorn sheep, antelope, coyote, bobcat, beaver, sharp-tailed grouse and numerous other species. The refuge is managed through the refuge headquarters in Lewistown and three field stations located at Fort Peck, Sand Creek and Jordan.

1.4 Authorization

Title VIII of the Water Resources Development Act of 2000 (WRDA, 2000) authorized Secretary of the Army, working with Secretary of the Interior, to identify cabin sites suitable for conveyance to current lessees and to perform the necessary environmental and real estate activities to dispose of these cabin sites at fair market value. The funds received from the conveyance (sale) of the cabin sites will be deposited in the Montana Fish and Wildlife Conservation Trust for use in acquiring other lands with greater wildlife and other public value for the Charles M. Russell National Wildlife Refuge.

1.5 National Environmental Policy Act Overview and Document Purpose

The National Environmental Policy Act (NEPA) of 1969 established a national environmental policy and created the President's Council on Environmental Quality (CEQ) to develop regulations (40 CFR 1500-1508) by which all Federal agencies would comply with the goals of NEPA. The Act and implementing regulations require all federal agencies to incorporate environmental considerations in planning and decision-making.

Unlike other single-topic environmental laws (e.g., Clean Air Act, Clean Water Act), NEPA encourages protection of all aspects of the environment. The CEQ has pointed out that "[NEPA] targets no specific pollution sources or human health risks for treatment, prescribes formulation of no abatement techniques or remedial actions, and establishes neither milestones nor timetables for achieving its goals" (CEQ, 1990). Instead, NEPA requires that agencies take a hard look at the potential effects of their decisions through a systematic, interdisciplinary approach to their decision-making based on the natural sciences, social sciences, and design arts.

The Corps has promulgated their own Procedures for Implementing NEPA (ER 200-2-2) to provide guidance for the procedural provisions of NEPA. The U.S. Department of the Interior has also promulgated a Departmental Manual (DM) for the Protection and Enhancement of the Environment (516DM National Environmental Policy Act of 1969) and the Service has issued Fish and Wildlife Manual, Part 550, Chapter 1 and 2 to further address their NEPA-implementation issues. Each of these internal guidelines (ER 200-2-2, 516DM, Part 550) supplements, and is used in conjunction with, the CEQ regulations.

Within the regulations, a process is set forth where the Corps and the Service must assess the environmental effects of proposed Federal actions and consider reasonable alternatives to their proposed actions. For those actions with the greatest potential to create significant environmental effects, the consideration of the proposed action and alternatives is presented in an Environmental Impact Statement (EIS). Where the potential effects of the proposed action are believed to not be significant, the agencies prepare an Environmental Assessment.

The primary purposes of an Environmental Assessment are to:

- Present a preliminary assessment of the possible environmental impacts,
- Assess the need for project design changes or additions in response to this assessment but prior to finalizing the conclusions regarding the presence of significant impacts, and
- Document the federal agency's conclusion that the proposed action will not have a significant impact, or document the potentially significant environmental impacts to be addressed in the preparation of an EIS.

The CEQ's NEPA Regulations do not contain a detailed discussion regarding the format and content of an EA. An EA must briefly discuss the following:

- Need for the proposed action;
- The proposed action and alternatives;

- The probable environmental effects of the proposed action and alternatives; and
- The agencies and persons consulted in the preparation of the environmental assessment.

The CEQ Regulations permit federal agencies to combine any environmental document in compliance with NEPA with any other agency document to reduce duplication and paperwork (40 CFR 1506.4).

The Corps has incorporated environmental values into its decision-making process. The information developed in the EA has led to alterations in project design, implementation of mitigation measures, and an enhanced opportunity for public involvement in the decision-making process. It also has allowed the Corps to address compliance with other environmental laws as part of a single review process rather than through separate reviews to reduce paperwork and ensure comprehensive compliance.

1.6 Lead Agency and Cooperating Agency Designations

For every federal action subject to NEPA, one federal agency must serve as the lead agency. A "lead agency" is the federal agency with primary responsibility for complying with NEPA on a given proposal. If more than one federal agency is involved in a proposed action (as is the case with the CMR National Wildlife Refuge Enhancement Act), then the lead agency is determined by considering:

- Magnitude of the federal agency's involvement,
- Approval authority over the proposed action,
- Expertise with regard to environmental effects,
- Duration of the federal agency's involvement, and
- Sequence of the federal agency's involvement (40 CFR 1501.5(c)).

The Corps is designated as the lead agency for implementing the CMR National Wildlife Refuge Enhancement Act.

When a federal agency, other than the lead agency, has discretionary authority over a proposed action (such as the Service), they may be identified as a Cooperating Agency (40 CFR 1508.5; Forty Questions No. 14(a, b, c). A federal agency has discretionary authority if it has the ability to add conditional measures as part of the proposed action's approval. The Service is designated as Cooperating Agency for fulfilling their obligations under NEPA for implementing the CMR National Wildlife Refuge Enhancement Act (USFWS, 2003a).

The Corps and the Service participated in the NEPA process as early as possible and provided representation and input during the public scoping meetings. The Service also provided technical information to the Corps to be included in the EA. By cooperating in this fashion, one EA has been prepared to meet the needs of both agencies.

Because the Corps and the Service must make their own decisions as directed by the CMR National Wildlife Refuge Enhancement Act, the agencies will issue separate findings of no significant impact.

2. PURPOSE AND NEED

The Water Resources Development Act of 2000 (WRDA 2000) Title VIII—Wildlife Refuge Enhancement, (short title: Charles M. Russell National Wildlife Refuge Enhancement Act of 2000), directs the Secretary of the Army, working with the Secretary of the Interior, to convey (i.e., sell) cabin sites at Fort Peck Lake, Montana, and to use the proceeds to acquire (i.e., purchase) land with greater wildlife and other public value for the Charles M. Russell National Wildlife Refuge. This land purchase would be to:

- Better achieve the wildlife conservation purposes for which the refuge was established;
- Protect additional fish and wildlife habitat in and adjacent to the Refuge;
- Enhance public opportunities for hunting, fishing, and other wildlife dependant activities;
- Improve management of the refuge;
- Reduce Federal expenditures associated with the administration of the cabin site leases.

2.1 Purpose and Need for the Cabin Site Transfer by the Corps

Presently, the Corps spends in excess of $250,000 annually in operations and maintenance (O&M) funds to manage these cabin sites while taking in approximately $72,000 annually in lease payments (USACE, 2003). Sale of the lots will decrease the O&M burden while making funds available to the Service for purchase of lands for the CMR.

High administrative costs are associated with the management of the cottage site program. Cabin ownership changes on an ongoing basis and leases are transferred or assigned at approximately six percent per year (USACE, 1992).

The overall program is time intensive to manage and involves (1) the processing of assignments and renewals; (2) the review and approval of building plans and the monitoring of construction; (3) the resolution of boundary disputes between lessees; (4) compliance inspections to ensure attractive, well-maintained, and safe areas; (5) the calculations of lease rent; and (6) the administration of lakeshore management in connection with cottage development. With limited federal resources, it becomes increasingly more important that scarce federal dollars be concentrated on providing recreational opportunities that benefit the general public rather than a few individuals (USACE, 1992).

2.2 Purpose and Need for the Habitat Acquisition by the Service

The special mission of the National Wildlife Refuge System (of which CMR is a part) is to provide, manage, and safeguard a national network of lands and waters sufficient in size, diversity, and location to make available now and in the future public benefits associated with wildlife over which the federal government has responsibility (USFWS, 1985). The mission of CMR is to preserve, restore, and manage in a generally natural setting a portion of the nationally significant Missouri River Breaks and associated ecosystems for optimum wildlife resources and provide compatible human benefits associated with its wildlife and wildlands (USFWS, 1985).

To achieve those goals, management practices at all National Wildlife Refuges, include the acquisition of "inholdings" (property that is privately owned within the CMR) on a willing seller basis. Purchase of habitat with the funds generated by the cabin site sales will provide a dedicated funding source to further the Service mission at CMR.

3. DESCRIPTION OF THE PROPOSED ACTIONS

3.1 Cabin Site Sale by the Corps

There are a total of 367 individual cabin lots located in the four cottage areas (Fort Peck, the Pines, Hell Creek, Rock Creek) around the eastern portion of Fort Peck Lake, Montana. These cabin lots and cottage areas are entirely within the Corps Fort Peck Project and are managed by the Corps for recreation. Title VIII of WRDA 2000 authorizes the conveyance (sale) of the cabin sites to current lessees for fair market value and requires that funds received from the conveyance of the cabin sites be deposited in the Montana Fish and Wildlife Conservation Trust. These monies will be available exclusively for the Service in acquiring other lands with greater wildlife and other public value for the Charles M. Russell National Wildlife Refuge.

Target dates in the legislation include: 1.) July 1, 2003 cabin site lessee shall notify Secretary of Army in writing of an interest in acquiring the cabin site of the lessee. 2.) July 1, 2003, Secretary of the Army shall submit to Congress a report describing progress on implementing Title VIII, and 3.) Complete conveyance of cabin sites by December 31, 2010.

There are 367 lots leased on which lessees have constructed cabins or cottages. In addition, unimproved lots have been established and set aside as "replacement" lots for cabin lots that would not be sold, are deemed unsuitable for sale, or lots that trailer owners at the Rock Creek Marina may relocate to. If each trailer owner relocated to a cabin site within the Rock Creek Cabin Area, the potential number of cabins to be conveyed increases to 392. Prior to the Corps offering a property for sale:

- The lessee must provide documentation of compliance with the Montana and county sanitation (Clean Water Act) requirements,
- The Corps must evaluate each cabin site and determine, with the Service's concurrence, whether private ownership of the particular tract of land may be either uninhabitable in the future or creates an in-holding that would impair the Services ability to manage the refuge,
- The Corps, will evaluate each cabin site and determine whether the requirements of the Montana "Sanitation in Subdivisions Act" (Title 76, Chapter 4, Part 1, MCA) apply,
- The Corps will hire a contract public lands surveyor to conduct a cadastral survey of each lot that will be filed with the relevant county as part of a subdivision plat,
- The Corps will place a flowage and sloughage easement on all cabin sites to ensure current and future project flood control operations are not impacted, and
- The Corps will retain an independent appraiser who will estimate the "fair market value" for each property, excluding improvements and accounting for the appropriate encumbrances, primarily sloughage and flowage easements, and the ultimate erosion line.

Once each of these has been completed, the property will be offered to the lessee for purchase. Proceeds from the sales will be deposited in the Montana Fish and Wildlife Conservation Trust and made available to the Service for enhancing the CMR National Wildlife Refuge.

3.2 Actions by the Service

3.2.1 Determination of Transferability

Sections 804(a)(2)(A)(i) and 804(i) of the Act require the Service to evaluate each cabin site conveyance and determine if private ownership the particular tract of land will create an unacceptable impact on the management of the CMR. The Service completed the evaluation of the sites and determined that the 355 currently leased sites located at Hell Creek, the Pines, Fort Peck, and the North Fork of Rock Creek will not create unacceptable inholdings and are acceptable for conveyance (USFWS, 2003).

However, none of the twelve (12) cabin sites at the South Fork of Rock Creek have been approved for sale because the Service determined them to be an "unacceptable in-holding" (USFWS, 2003). The Act requires the Corps and the Service to offer the leaseholders of existing cabin sites a comparable site if their present site is not conveyed [Section 804(a)(3)]. Identification and selection of an alternate site will be resolved with cabin owners, the Corps, and the Service on a case-by-case basis.

Removing the 12 cabin sites would improve native wildlife habitat quality by reducing roads and vehicular traffic, thereby also reducing human occupancy and disturbance to wildlife, and rehabilitating disturbed sites. The proliferation of roads (and off-road travel), and accompanying risks for spread of invasive species, would also be greatly reduced.

Sharp-tailed grouse are a primary management species on CMR. There are several breeding sites (leks) on similar habitats to the north of the Rock Creek Recreation Area, away from human development. There are no sharp-tailed grouse leks near the designated Recreation Area and none in the South Fork area in question, despite apparent habitat suitability. The habitat quality of grasslands in this area have been diminished for species like sharp-tailed grouse and other grassland nesting birds because of human structures, occupancy, and habitat degradation from road proliferation and off-road travel. Accessing the relatively remote cabin sites predictably leads to the spread of noxious weeds and invasive species that can further degrade wildlife and wildlife habitats.

Mule deer surveys over the last 4 years have documented a general population increase on CMR. One of the survey blocks is located in the area of the 12 cabins in question. Locations of mule deer during these surveys are away from the cabin sites. If these developed sites were no longer present, and vehicle traffic/disturbance were concomitantly reduced, there is no question that habitat quality and quantity would increase for mule deer as well as many other wildlife species.

From a National Wildlife Refuge policy and management perspective:

- "Refuges are places where wildlife comes first";
- "Refuges are anchors for biodiversity and ecosystem-level conservation and the System is a leader in wilderness preservation"; and
- "Lands and waters of the System are biologically healthy and secure from outside threats" (USFWS, 1999).

Biologically and ecologically, removal of the structures in the South Fork Rock Creek area followed by reduced road density, vehicular activity, and rehabilitation of disturbed sites to native vegetation will benefit a host of native wildlife species.

In accordance with their current lease agreements with the Corps, the cabin owners at the South Fork of Rock Creek will be responsible to restore the premises of their cabin. Specifically, Section 15 of the lease agreement dictates that the lessee shall:

- Vacate the premises;
- Remove the cottage, accessory buildings and other personal property; and
- Restore the premises to a condition considered satisfactory to the District Engineer.

3.2.2 Habitat Acquisition

The Charles M. Russell National Wildlife Refuge Enhancement Act provides dedicated monetary resources for the Service to utilize implementing their ongoing plan for management of the refuge (USFWS, 1985; USFWS, 1986). Habitat is recognized as the key to the management of wildlife abundance. The management plan used by the Service to manage CMR (USFWS, 1985) emphasizes habitat quality and quantity rather than wildlife population or densities. Establishment of high quality wildlife habitat will provide desired population of wildlife species within constraints imposed by weather, disease, and other variables that are largely uncontrollable (USFWS, 1985).

The overriding principle governing the acquisition of lands for the Charles M. Russell National Wildlife Refuge is that the Service will only pursue property acquisition from willing sellers. Among the willing sellers, the Service would purchase native prairie, riparian habitat, and intact native sagebrush steppe with the following qualifiers:

- Native prairie and sagebrush steppe would need to be unbroken and a minimum size of 500 acres, and
- Riparian stream habitat would show on a topographic map (USGS 7.5 minute quads) as intermittent or perennial stream and includes a riparian buffer habitat with 100 feet on each side of the stream.

The acquisition of the foregoing habitat types would be prioritized as follows:

- Properties that are in-holdings (those areas of private property within the CMR National Wildlife Refuge),
- Properties that straddle inside and outside the current refuge boundary, and
- Properties that would help “block up” the refuge (decrease the refuge edge-to-area ratio), and
- Properties that have the following criteria:
    1) Lands adjacent to the refuge boundary,
    2) Lands of important habitat where legal access to existing refuge lands is limited, and
    3) Lands that support public recreation.

Based on the expected revenue generated by the cabin site sales, and the overall costs of the program, the Service anticipates being able to add an additional 10,000 to 40,000 acres to the refuge. Given the existing refuge is in excess of 1.1 million acres, the proposed action could increase the overall refuge size between 1 and 3.6 percent.

A map of the maximum extent of the CMR expansion associated with implementing the proposed action will be on file at the CMR Refuge Office in Lewistown, Montana and USFWS Regional Office in Denver, Colorado.

4. ALTERNATIVES CONSIDERED

4.1 Alternatives Considered but Rejected

The legislation initiating this project is non-discretionary; the Corps must expeditiously proceed with the appropriate actions to convey the properties to the cabin owners and the Service must use the funds generated for the enhancement of the Charles M. Russell National Wildlife Refuge.

4.2 Alternatives Outside the Scope for the Corps or Service

All actions not specifically identified in the legislation will be excluded from detailed consideration.

4.3 No Action

Under the No Action alternative, the cabin lots would remain public lands and would not be made available for sale. The Corps would continue to manage the cabin site lease program. Under the lease agreements, the lessee is granted a limited right to occupy the land subject to terms limiting use of the property.

5. AFFECTED ENVIRONMENT

5.1 Land Features

5.1.1 General Setting

The Fort Peck Project lies in the northern Great Plains province with the glaciated portions of the area exhibiting level to rolling uplands dissected by coulees and gullies. Unglaciated areas are characterized by low hills, rugged breaks, and badlands (USACE, 1992). The Missouri River marks the southernmost advance of the Pleistocene glaciers leaving the north side of the Fort Peck Lake relatively smooth but the unglaciated south side is rugged terrain reflecting the advanced erosion of ancient grasslands and sedimentary deposits (USACE, 1992).

5.1.2 Geology, Soils, and Erosion

The Bearpaw Shale Formation (Upper Cretaceous age) underlies more of the Fort Peck Project area than any other formation. Bearpaw Shale is composed almost entirely of dark gray clay shale and includes beds of bentonite. The predominant particle of this formation is clay. As a result, this unit swells when exposed on steep slopes and erodes rapidly at many locations. In general, Bearpaw Shale does not yield water (USACE, 1992).

Many of the access roads to and from the cabin sites are built on Bearpaw Shale. Any measurable precipitation, together with motorized use of the roads quickly turns them into an impassible quagmire (USFWS, 1985). Ruts created by vehicles during wet weather often do not heal from one year to the next. These ruts then provide channels for water runoff during subsequent rainfall, often leading to complete deterioration of the road and ultimately necessitating complete re-grading of the road systems (USFWS, 1985).

The Hell Creek Formation (Upper Cretaceous age) is generally found above elevation 2500 feet in the central and eastern parts of the Fort Peck Project area. This formation is composed of unconsolidated fine sediments such as claystone, shale, siltstone, and sandstone. Some of the clay and silt-rich zones of the formation tend to shrink and swell during excavation or when exposed to water. The Hell Creek Formation is extremely important for its richness in fossilized fauna and flora (USACE, 1992).

Glacial till (Quaternary-Pliestocene age) is found at scattered locations, particularly between Rock Creek, Phillips County, and Valentine Creek. Glacial till is a dense, clayey material with characteristics similar to Bearpaw Shale. Outwash and related deposits are found west of the UL Bend on low benches and in the Missouri River Valley. The latter deposits are porous and stable (USACE, 1992).

Shoreline erosion within cabin areas is an issue at each of the cabin sites other than Hell Creek. The rate and extent of erosion at a given location is governed by the nature of the shoreline materials; the energy of incoming waves determined by the wind velocity, direction, and fetch; and the capability of the eroded material to produce energy-dissipating beaches (USACE, 1992). Where the shoreline materials are composed mostly of clays, the eroded material (typically silty fines) does not form beaches and wave-caused erosion continues unabated.

The Charles M. Russell National Wildlife Refuge Enhancement Act requires the Secretary of Army to assign necessary deed restrictions (e.g., sloughing, erosion, and flooding) to ensure current and future project operations are not impacted. The valuation of the property will assess

the market's reaction to the deed restrictions and to each site's vulnerability to erosion in estimating a fair market value for the property. Corps policy is that a flowage and sloughage easement will be placed on all cabin sites; however, the extent to which each individual site is vulnerable to erosion may be the market's greater value-influencing concern.

5.1.3 Mineral Resources

The U.S. Geological Service and the U.S. Bureau of Mines prepared a mineral report covering the Fort Peck Project lands in 1979. The report indicates that parts of the Fort Peck Project have moderate potential for oil and gas and a low to moderate potential for lightweight aggregate, bentonite, and coal (USACE, 1992). The project has virtually no potential for mineral commodities such as uranium or gold. Existing lease agreements for the cabin sites precludes any commercial use of the location other than for single-family dwelling; that deed restriction will be maintained precluding any cabin owners from attempting to extract mineral resources.

5.2 Water Resources

5.2.1 Surface Hydrology

The Missouri River begins at the junction of the Jefferson, Madison, and Gallatin Rivers in the Rocky Mountains of south-central Montana. From that confluence to the Fort Peck Dam, the reservoir has a total drainage of approximately 57,725 square miles (USACE, 1992). The only other major streams that flow into the Fort Peck Lake are the Musselshell River and Big Dry Creek. Approximately 30 miles of the Big Dry Creek are inundated by the reservoir to form the south-reaching Big Dry Creek Arm of the lake.

5.2.2 Water Quality

The Corps has established three water quality sampling stations on Fort Peck Lake. Samples are taken from the reservoir near the dam and from downstream releases six times a year. The Hell Creek station is sampled only five times during the year because of sampling difficulty during the winter. The U.S. Geological Survey (USGS) also collects and analyzes water samples from the Fort Peck inflows four times a year (USACE, 1992).

Water quality monitoring has detected parameters that have exceeded Montana water quality standards and/or EPA criteria during the past 5 years. These include: silver, beryllium, sulfate, arsenic, copper, iron, manganese, nickel, mercury, cadmium, chlordane, phosphorus, lead, dissolved oxygen, and pH. Most of these exceedences, with the exception of pesticides and agriculturally associated nutrients, are believed to arise from natural sources within the basin. These exceedences are only periodically detected and are not indicators of chronic or severe water quality problems. During the past several years, algal blooms have appeared with increasing frequency, and some of these blooms have been toxic, resulting in problems to water users.

The State of Montana has placed Fort Peck Lake on the 303(d) List of Impaired Waterbodies due to the presence of lead, mercury, other metals, and noxious aquatic plants (USACE, 2002). The Montana Department of Public Health and Human Services has published recommendations to limit the consumption of certain species and size of fish caught in Fort Peck Lake due to mercury in the tissue of walleye, northern pike, lake trout, and Chinook salmon (Montana Department Of Public Health And Human Services, 2002).

5.2.3 Existing Water Use and Sanitary Waste Disposal

Fort Peck Lake is used as a water supply by the towns of Fort Peck and Glasgow and for numerous individual cabins in the area (USACE, 2002). A 2001 survey of water intakes on the Fort Peck Lake indicates there were one municipal, five irrigation, one hundred and one domestic, and two public water intakes (USACE, 2002).

Fort Peck #1 and #3

The Fort Peck Cabin Lease Areas #1 and #3 are supplied with metered potable drinking water by the Fort Peck Rural-County Water System. According to water system employees (Stillwell, 2002), only Lot #86 is not connected to the system. The owner reportedly has elected to not be connected. Installation of the system began approximately four years ago and has recently been completed. The system is privately owned and distributes potable water received from the City of Fort Peck water system (Stillwell, 2002).

Previously, lessees were dependent on lake water pumping systems and/or hauled water to cisterns at the cabin site. Most of the cistern water storage systems are in still in place but lessees are now dependent on the new system. Numerous lake water pump houses are visible along the lakeshore. Some of these are still utilized for irrigation at lease sites. The Corps has a fee permit system in place for individuals pumping lake water for personal use.

Through observation and discussions with lessees, nearly all of the leases have a septic system in place although many are older systems that may not satisfy current Valley County or State of Montana Water Quality Standards. Many lessees have worked with Valley County and the Fort Peck Project office to provide for the installation of permitted systems.

The Valley County sanitarian and individual cabin files in the Project office confirmed that the newly installed systems have permits and drawings on file. Of the 120 cabin leases in Fort Peck, 37 of them (31 percent) have proof of the adequacy of their systems or are in the process of obtaining documentation. Due to the frequent turnover of lessees, many current lessees know little about the status of septic systems in place on their properties.

Rock Creek

The Rock Creek area was the only location that water wells were available as a resource for lessees and at least 95 out of 122 (78 percent) Rock Creek leases rely on ground water (Stillwell, 2002). When proximity to the lakeshore permits, lake water is also pumped for irrigation use. The remaining cabins were assumed to use lake water as the primary source of water, haul in water due to the presence of storage tanks, or it was uncertain what type of water system was in use (Stillwell, 2002).

Based on visual inspection, most leases have a septic system in place to manage wastewater, but it was frequently difficult to determine the status or design of the septic system in use (Stillwell, 2002). A small number of lessees were observed to have no system in place or had only gray water discharges. Approximately 44 of the 122 lessees (36 percent) have had their cabin inspection by a county contracted sanitarian and obtained county approval for the installation of septic systems.

The Montana Department of Environmental Quality has pre-approved several replacement lots with approved septic system locations if cabin owners decide to relocate within Rock Creek.

The Corps has, in some cases, enlarged lot boundaries to allow for sufficient area to install a new septic system (Stilwell, 2002).

Hell Creek

Forty-one of the 50 leases (82 percent) are serviced by one of four non-potable water systems that withdrawal Fort Peck Lake water. Each of the systems has a Corps permit to pump a limited quantity of lake water each season. Of the remaining leases not connected to the four systems, most pump lake water directly or haul in water to their leases or to storage tanks located on hillsides above their leases (Stillwell, 2002). The topography lends to gravity feed water from storage tanks located on nearby hillsides.

Throughout the Hell Creek area, lessees will most likely not be able to install new approved septic systems that meet Montana standards. As noted above, the entire Hell Creek cabin location is on a very steep grade and lot area and slope limitations categorically eliminate the possibility of a septic system. Most cabin owners are likely to meet the sanitary requirements by installing a sewage holding tank that would be pumped out and hauled for disposal elsewhere. Currently, nine of the 50 leased cabin sites (18 percent) at Hell Creek have sanitarian-approved sanitation systems.

The Pines

The primary water supply system in place at the Pines Cabin Area is called the Pines Water System and is managed and operated by Mr. Charles Maynard, lessee of lot #78. This system is composed of two separate intake structures and distribution systems that individually serve the Pine Cone Drive and Holiday Point areas at the Pines. The two systems are not connected and the system provides only non-potable lake water to individual leases. Currently, 57 of 75 (76 percent) lessees are connected to the system (Stillwell, 2002). There are no meters on the system and subscribers can use as much water as they desire, but the system operates from May 1 to October 15 (Stillwell, 2002).

The water delivery systems were installed in the 1990s and water is pumped from the lake into an on-shore collection system and is then delivered by pump and gravity feed to individual leases. Most of the distribution system consists of 1.5-inch diameter black flexible pipe routed to individual users from the two-inch main line. Individual lessees have installed a variety of filtration systems on their individual water lines (Stillwell, 2002).

Several lessees that do not subscribe to the system maintain lake water pumping equipment, under permit, that operates on an intermittent basis. The remaining lessees not subscribing to the system or pumping their own water transport their individual water supplies by portable tank. Several lessees live year round at the Pines. They subscribe to the system when it is in operation and haul water after the system is shut down (Stillwell, 2002).

A variety of domestic wastewater management systems are in use at the Pines area. Sixteen of the 75 lessees (21 percent) have obtained Valley County permits for the installation of approved septic systems. Others are believed to have older septic systems in place. Approximately, twelve leases were observed to probably have only gray water systems in place (Stillwell, 2002).

5.2.4 Groundwater

The most productive regional groundwater source is the alluvium along the Missouri River Valley, but water can be found in the Fox Hills-Hell Creek aquifer in Garfield and McCone counties (USACE, 1992). Groundwater is relatively deep in the Breaks Area; domestic wells range in depth form 300-1,200 feet. Artesian wells can be developed over much of the CMR by drilling into the Judith River Formation (USFWS, 1985).

5.3 Air Quality

The EPA Office of Air Quality Planning and Standards has set National Ambient Air Quality Standards for six principal pollutants, called "criteria" pollutants. They include carbon monoxide, nitrogen dioxide, ozone, lead, particulates, and sulfur dioxide. For this region of Montana, including all counties within which actions would take place, all parameters are in attainment of the air quality standards (USEPA, 2002). A conformity assessment would require quantifying the direct and indirect emissions of criteria pollutants caused by a federal action to determine whether the proposed action conforms to Clean Air Act requirements and any State Implementation Plan. No detailed conformity analysis is required for the proposed cabin transfers because all of the counties are in attainment of the EPA's air quality standards.

5.4 Climate and Weather

The climate of the region is typical of the North American high plains with moderately cold winters (average January minimums near zero degrees F) having occasional cold periods exceeding –20 degrees F. Summers are generally pleasant (averaging in the 80s during afternoon hours) with occasional hot periods exceeding 100 degrees F. Low humidity, high temperatures, and moderate to strong winds cause rapid loss of soil moisture. Mean annual precipitation is 12-13 inches with about 70 percent occurring from April-September. Due to the dominantly heavy-textured soils, runoff is rapid, often exceeding 50 percent of the total precipitation. The average frost-free period is about 120 days. The area is also subject to intense lightning storms from July into September, often resulting in wild fires (USFWS, 1985).

5.5 Noise

Noise affects on the public in a community/recreation setting such as the cottage areas on the Fort Peck Lake are dominated by recreational noise (e.g., music, boating) and traffic. When outside work is being done on construction/remodeling of a cottage, noise associated with the operation of saws or construction vehicles (e.g., cement truck) would be expected. Noise ranging from about 10 dBA (A-weighted sound level measured in decibels) for the rustling of leaves to as much as 115 dBA (the upper limit for unprotected hearing exposure established by the Occupational Safety and Health Administration) is common in areas where there are sources of construction activities and vehicular traffic.

The Project area includes residential and recreational areas with varying degrees of associated noise, but the ambient noise levels are very low and characteristic of a natural setting where the intrusion of man-made noise is infrequent and typically of short duration. Section 13 of the current lease agreements (Prohibited Uses) stipulates that the cabin owner will "use the premises in a quiet manner."

5.6 Biological Resources

5.6.1 Wetlands

Aquatic resources at the Fort Peck Project include wetlands, lake shorelines, deltas and bay areas, riparian areas, seepage wetlands downstream of the dam, and small upland ponds. The wetlands area affected primarily by reservoir water levels, precipitation, erosion, and sedimentation. The wetland value for most of the shoreline is minimal (USACE, 1992). There are no Clean Water Act, Section 404 jurisdictional wetlands at any of the cabin sites being considered as part of this action.

5.6.2 Vegetation

Fort Peck is located at the western edge of the Great Plains, a low elevation biome dominated by grasslands and grain cultivation. The historic plant cover is short and mixed short-grass prairie, including such species as needle and thread, the grama grasses, little bluestem, and dropseed. Grazing and other farming activities have altered most of this grassland.

During the late 1970s, the Service conducted habitat evaluations on the CMR and characterized five major vegetative types (USFWS, 1985). Although almost thirty years have passed since the survey and the percentages of habitat represented may have changed somewhat, the following remains a meaningful characterization of the habitat and relative distribution of biota within the CMR.

The largest community is the sagebrush-greasewood-grassland, which represents over 60 percent of the CMR. This habitat is dominated by shrubs such as big sagebrush, greasewood, saltbrush, silver sage, rubber rabbitbrush as well as grasses such as western wheatgrass, needle and thread, green needlegrass, bluegrama, Junegrass, plains muhly and bluebunch wheatgrass (USFWS, 1985). Ponderosa pine-juniper type occurs on approximately 35 percent and includes ponderosa pine, douglas fir, limber pine, and Rocky Mountain juniper.

Other major types area grassland-deciduous shrub (1.8 percent), riparian-deciduous river bottoms (0.7 percent), and cultivated land (0.6 percent). Grassland deciduous shrub includes shrub communities that are of high importance to wildlife, especially sharp-tailed grouse (USFWS, 1985). Woody species within the riparian-deciduous river bottoms include four species of cottonwood, four species of willow, green ash, box elder, quaking aspen, and several shrubs also found in the grassland-deciduous shrub biome. Cultivated lands occur primarily in the river bottoms in the west half of the refuge and on the upland in the east half of the refuge. Cultivated lands are a mixture of small grains (barley and wheat), alfalfa, and wild hay (USFWS, 1985).

5.6.3 Wildlife

At least 45 mammalian species inhabit the CMR, ranging from Rocky Mountain elk to shrews (USFWS, 1985). The primary ungulates in the region include mule deer, white-tailed deer, bighorn sheep, and pronghorn antelope. Large predatory cats including mountain lion and bobcat have been spotted on the refuge (USFWS, 1997).

Common smaller mammals at the Fort Peck Project are the beaver, mink, coyote, fox, weasel, muskrat, badger, and skunk. Prairie dogs, ground squirrels, porcupine, jackrabbits, and cottontail

rabbits can also be found on project lands (USACE, 1992). There are no prairie dog towns in any of the cabin areas.

Reptiles and amphibians in the area are somewhat limited in species diversity. The only venomous snake in the area is the prairie rattler. Other snakes that occur in the area are the western garter snake, the bull snake, and the western hognose snake. The snapping turtle and a species of painted turtle also occur in the region but are not common. Amphibians are uncommon around Fort Peck, but the tiger salamander, Great Plains toad, leopard frog, and bullfrog do occur (USACE, 1992).

The diverse habitat of the Fort Peck Project attracts a large variety of birds. Over 245 species have been recorded, 15 percent of which are year-round residents (USACE, 1992). Bird species include golden and bald eagle, osprey, northern goshawk, sharp-shinned hawk, Cooper's hawk, red-tailed hawk, Swainson's hawk, rough-legged hawk, ferruginous hawk, northern harrier, prairie falcon, peregrine falcon, merlin, American kestrel, great horned owl, burrowing owl, short-eared owl, snowy owl, sharp-tailed grouse, sage grouse, turkey, gray partridge, ring-necked pheasant, upland sandpiper, marbled godwit, long-billed curlew (USFWS, 1997).

Very little waterfowl production occurs on the Fort Peck Reservoir (USFWS, 1985). However, geese concentrate in the safety of several of the bays during their summer molting period and small flocks of ducks over-winter below the dam most years. The largest numbers and varieties of waterfowl occur during fall migration when the birds utilize standing grain crops and marsh developments along the flood plain for feeding and staging for migration (USFWS, 1985).

5.6.4 Fisheries

The topography of the region prior to the reservoir's construction dictates the shoreline and bottom contours of the reservoir. The reservoir productivity is modified by fluctuating water levels, which change the shoreline, depth, in-stream cover, and other numerous factors throughout the year. Steep-sided reservoirs, such as the Fort Peck Lake, are typically considered oligotrophic where littoral plants are scarce and plankton growth and organic matter are low in proportion to the total volume of water. The steep slopes associated with the majority of the shoreline and the exposed slopes provide little suitable habitat for spawning, protection of juvenile fishes, attachment of aquatic vegetation, or substrate for benthic macro invertebrates.

Despite the limitations, the Fort Peck Lake fishery includes northern pike, walleye, lake trout, shovelnose sturgeon, sauger, smallmouth bass, Chinook salmon, burbot, paddlefish, channel catfish, and pallid sturgeon (USACE, 1992; USFWS, 1985). Commercial fish harvests were stopped in the 1990s.

Supplemental stocking is needed to perpetuate the walleye fishery because of a lack of rocky substrates necessary for spawning. The lake also has a significant coldwater fishery for lake trout and Chinook salmon. Annual recruitment of lake trout is sufficient to no longer need stocking, but the Chinook salmon do not reproduce naturally and are stocked annually.

5.6.5 Species or Habitats of Special Interest

Many areas adjacent to the Fort Peck Project have been designated or proposed as scenic areas, research natural areas, wildlife refuge, or wilderness areas. Charles M. Russell and UL Bend National Wildlife Refuges surround and overlay the Corps property. Eleven Research Natural Areas, one wilderness area, and two National Natural Landmarks are located within the Fort

Peck Project. These areas have been proposed or designated in order to preserve and protect their natural resource values, scenic values, historic values, fish and wildlife habitat, and/or other special qualities. Many of these areas possess unique natural features and processes that are managed for research and educational purposes with minimal human intervention (USACE, 1992).

5.6.6 Threatened and Endangered Species

The following federally listed species could potentially occur within the Fort Peck Project Area or immediately downstream of the Fort Peck Lake Dam (USACE, 2002). None of these species are known to occur at any of the cabin areas. However, Rock Creek Cabin Site falls within the designated critical habitat area for the Piping Plover.

Table 5.1
Federally Listed Species Recorded at the Fort Peck Lake Project

Common Name	Scientific Name	Classification	Year Listed
bald eagle	*Haliaeetus leucocephalus*	Threatened	1995
interior least tern	*Sterna antillarum*	Endangered	1985
piping plover	*Charadrius melodus*	Threatened	1985
black footed ferret	*Mustela nigripes*	Endangered	1970
pallid sturgeon	*Scaphirhynchus albus*	Endangered	1990

5.7 Socioeconomics

5.7.1 Population

Unlike most other Corps reservoirs, Fort Peck lacks the strategic placement of communities in close proximity to the reservoir (USACE, 1992). Aside from the towns near the dam such as Fort Peck, Glasgow, and Nashua, there is no community with a population exceeding 100 people within 20 miles of any part of the lake. The project's remoteness significantly reduces the opportunity for quick and easy access to the resources of the Fort Peck Project. This same factor limits the recreation users from venturing to many parts of the lake because of the stark remoteness and lack of essential services (USACE, 1992). The 2000 Census results and comparison to the last twenty years population changes in Garfield, McCone, and Valley Counties indicate the area is sparsely populated and declining in population at the county level.

Table 5.2
Population

Geographic Area	1980 Population	1990 Population	2000 Population	% Change 1980-2000
State of Montana	786,690	799,065	902,195	15%
Garfield County	1,656	1,589	1,279	- 23%
McCone County	2,702	2,276	1,977	- 27%
Valley County	10,250	8,239	7,675	- 25%

Source: U.S. Bureau of the Census, American FactFinder at http://factfinder.census.gov

5.7.2 Land Use

A significant national interest is represented by the several Federal agencies and missions assigned to the area by Congress and the responsible federal agencies work cooperatively to carry out the overall Federal land use mission (USACE, 1992). Each of the cabin areas is located within Fort Peck Recreation Areas that have been designated for intensive recreational use.

One issue concerning the proposed cabin lot sale is a possibility that once the sale is final, the private owners may alter or use the property in ways different from past usages. Land use/property usage at the cabin sites is currently restricted according to a standard lease agreement signed by all lessees. According to that lease agreement,

- The leased premises may be used by the Lessee, Lessee's family and guests, for recreational cottage site purposes and purposes incidental thereto, and for no other different object or purpose.
- No improvement may be erected, expanded or altered upon the leased premises unless and until the type, use, design and proposed location of the improvement, or alteration thereof, have been approved in writing by the District Engineer.
- Landscaping shall hereinafter be considered an improvement for the purpose of this condition.
- All accessory buildings, except for outdoor toilet facilities, shall be used for storage purposes only and will not be in a manner as to permit additional living space.
- Construction outside of the leased premises is prohibited. Any future improvements constructed in accordance with plans approved by the District Engineer shall remain the property of the Lessee, or subsequent assignees.
- There shall not be carried on or permitted upon the premises any activity which would constitute a nuisance.
- The Lessee will not conduct any commercial or business activities on the premises.

Prior to conveyance of the properties, deed restrictions will be established in order to limit future uses of the cabin site to noncommercial, single-family use; and the type and intensity of use prior to sale (WRDA, 2000).

5.7.3 Employment and Income

The median household incomes and the poverty statistics for the study area counties are presented in Table 5.3. As indicated in this table, the subject counties have a lower median household income than Montana as a whole.

Table 5.3
2000 Median Household Income

Geographic Area	Median Household Income	Families Below Poverty Level (%)
State of Montana	$33,024	25,004 (10.5 %)
Garfield County	$25,917	62 (16.7 %)
McCone County	$29,718	84 (14.1 %)
Valley County	$30,979	204 (9.5 %)

Source: U.S. Bureau of the Census, American FactFinder at http://factfinder.census.gov

5.7.4 Infrastructure

Three major interstate highways serve Montana. Interstate 94 (I-94) is located approximately 175 miles south of--and parallel to--Fort Peck Lake. At Great Falls, Montana, I-15 is located approximately 180 road miles west of the most westerly extent of the project and 300 road miles from Fort Peck Dam. I-90 is the closest to the Fort Peck Project at Billings, which is approximately 140 road miles south of the James Kipp Recreation Area (located at the extreme upstream end of the Project) (USACE, 1992).

U.S. Highways 2 and 191 provide access to the north and west ends of the project. State Highway 200 provides access to the south of Fort Peck Lake, and State Highway 24 provides access around the dam site and Big Dry Creek Arm. Within the cabin areas, roads that are currently maintained by the respective counties will continue to receive maintenance.

5.7.5 Environmental Justice

Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Population and Low-Income Populations* (Executive Order, 1994), directs Federal agencies to identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority population and low-income populations. When conducting NEPA evaluations, the Corps incorporates environmental justice considerations into both the technical analyses and the public involvement in accordance with EPA and Council on Environmental Quality guidance (CEQ, 1997). The CEQ guidance

defines "minority" as individual(s) who are members of the following population groups: American Indian or Alaskan native, Asian or Pacific Islander, Black, not of Hispanic origin, and Hispanic (CEQ, 1997). The Council defines these groups as minority populations when either the minority population of the affected area exceeds 50 percent of the total population, or the percentage of minority population in the affected area is meaningfully greater than the minority population percentage in the general population or other appropriate unit of geographical analysis. According to the Census 2000 Fact Sheets for Fort Peck, Glasgow, and Jordan (U.S. Bureau of the Census, 2004), the minority population in each of those municipalities is 3.8 percent, 6.1 percent, and 2.8 percent respectively.

Low-income populations are identified using statistical poverty thresholds from the Bureau of the Census Current Population Reports, Series P-60 on Income and Poverty (U. S. Bureau of the Census, 2000). In identifying low-income populations, a community may be considered either as a group of individuals living in geographic proximity to one another, or a set of individuals (such as migrant workers or Native Americans), where either type of group experiences common conditions of environmental exposure or effect. The threshold for the 2000 census was an income of $17,761 for a family of four (U.S. Bureau of the Census, 2000). This threshold is a weighted average based on family size and ages of the family members. Based on the 2000 Census, Fort Peck has no families below the poverty level (U.S. Bureau of the Census, 2004). Glasgow and Jordan have approximately 4.9 percent and 10.4 percent of families below the poverty level (U.S. Bureau of the Census, 2004). There would be no disproportionate effect to low-income populations.

5.8 Cultural and Paleontological Resources

The Fort Peck Project area is rich in cultural and paleontological resources. Recorded sites include bison kill sites and corrals, tipi ring, stone effigies, campsites, Lewis and Clark campsites, trails, early homesteaders' cabins, hunting cabins, stage routes, railroads, shanty towns from the dam construction era, and other construction camp era buildings (USFWS, 1985;USACE 1992; USACE, 2001; USACE, 2002). These sites are associated with the Gros Ventre, the Assiniboine bands of Canoe Paddler and Red Bottom, the Sioux divisions of Sisseton/Wahpetons, the Yantonais, and the Heton Hunkpapa, the Blackfoot, early Euro American explorers, homesteaders, and New Deal employees during the Fort Peck Dam construction.

Northeast Montana is recognized as one of the world's leading areas for paleontological resources. Many vertebrates (e.g., triceratops, T. rex) have been found in the Hell Creek formation north of Jordan and south of the Hell Creek Cabin Area. The Hell Creek Fossil Area was designated a National Natural Landmark in 1966 (USACE, 1992).

Although most of the Corps' land surrounding Fort Peck Lake has not been surveyed for cultural sites, known sites consist of lithic scatters, campsites, tipi rings, and historic structures. The town of Fort Peck has many buildings that are listed on the National Register of Historic Places (NRHP). As mentioned earlier (Fort Peck and Vicinity), Fort Peck Dam and powerhouse are listed on the NRHP. The Fort Peck Dam is under consideration for National Historic Landmark status.

The Corps has surveyed all 392 potential cabin sites for cultural resources (USACE, 2004). The paragraphs below provide the cabin area-specific results.

Fort Peck

The Fort Peck cabin area was intensively surveyed in the 1980s (Gnabasik, 1984a; 1984b; 1984c; 1986a; 1986b; Julian, 1992, Robson, 1980). The Corps archeologist performed most of the surveys. Three sites potentially eligible for listing on the National Register of Historic Places (NRHP) were recorded within the Fort Peck cabin area; these sites were fully evaluated for eligibility in 2003 by the Omaha District archeologist. One of the three sites originally identified would be affected by the proposed land conveyance. The site is eligible for the NRHP and is situated on an occupied cabin lot. The present cabin owner wishes to relocate the cabin to an alternate lot rather than pursue ownership of the lot containing the NRHP-eligible site (USACE, 2004). The site layout is such that moving the cabin is possible without affecting the site. Prior to moving the cabin, the site will be flagged and the cabin owner will be instructed on how to move the cabin. Once the cabin is removed, any vegetation that was disturbed will be replaced and the flags will be removed to prevent drawing attention to the site. Corps personnel will supervise the cabin removal and the cabin site will be removed from the land conveyance and remain in federal ownership (USACE, 2004).

Rock Creek

The Rock Creek cabin area was also investigated for cultural resources in the 1980s (Gnabasik, 1984d; 1985) and no sites were identified. In the early 1990s, additional surveys were conducted for road alignment projects (Julian, 1993; 1994) and no sites were recorded. In the late 1990s, surveys were conducted for all of Rock Creek, including the areas between the cabin lots (GMC Services, 1997) and four sites were identified. Three were recommended potentially eligible for the NRHP. Further investigation of these sites in 2003 indicated that the sites are not located on lots that would be transferred out of federal ownership (USACE, 2004). The sites were between 200-300 feet from any lots that could be conveyed. As such, the sites will remain under federal control and will be periodically monitored by Corps personnel to ensure they are not violated (USACE, 2004).

Hell Creek

No cultural resources were identified at Hell Creek cabin area (USACE, 2004).

The Pines

A single house foundation was recorded at the Pines (GMC Services, 1997), but was determined not eligible for listing in the NRHP after further investigation (USACE, 2004).

5.9 Hazardous, Toxic, and Radiological Waste (HTRW)

The Fort Peck Lake intensive use recreation areas and cabin areas were open range grazing land prior to construction of the Fort Peck Dam. After construction of the Fort Peck Project, these areas were managed for recreational purposes; none of the areas have a history of commercial or industrial activity (USACE, 2003a).

Under the current lease requirements, “the disposal of any toxic or hazardous materials within the demised area is specifically prohibited….The lessee shall not discharge waste or effluent from the premises in such a manner that the discharge will contaminate streams or other bodies of water or otherwise become a public nuisance”.

The Omaha District conducted an environmental baseline study of the Fort Peck Lake Project's Rock Creek cabin sites (USACE, 2003a) and concluded, "no environmental contaminants were observed either by effected vegetation or brownfield conditions. All above ground fuel storage tanks were observed to be incompliance with berms and liners. Electric transformers were all pole mounted and with the newer non-PCB coolant oil." Ongoing surveys will be completed for each of the other cabin areas prior to sale, but based on site history no contaminant issues are anticipated.

5.10 Aesthetics

Away from the obvious man-made features near the dam and powerhouse, Fort Peck Lake Project lands generally present a wild, undeveloped perspective to the viewer. With sweeping vistas, rugged breaks, open plains, and minimal sign of man, the lands possess a wild land visual quality (USACE, 1992). The lands on the glaciated north side of the reservoir consist mainly of grassy rolling plains dissected by coulees and gullies and isolated buttes; lands on the unglaciated south side include similar rolling plains but are also many hills, gullies, and rough breaks. These natural vistas are valuable, rare, and provide a desirable aesthetic resource. Manmade features that affect the natural aesthetics include the scattered presence of cattle and fences and visible development located within and near the recreation and cottage areas. In and near these areas vehicle have created a network of tracks (USACE, 1992).

6. ENVIRONMENTAL EFFECTS

This section describes the potential direct, indirect, and cumulative effects from activities necessary to implement the proposed action on the physical land features, water resources, air quality, climate and weather, noise, biological resources, socioeconomics, cultural and paleontological resources, HTRW, aesthetic resources, socioeconomic conditions and environmental justice, and noise. Each subheading will address the effects from the cabin site sale by the Corps and the property acquisition for the CMR by the Service.

The Corps actions under this proposal are primarily administrative and ministerial in nature. As such, the direct environmental effects of the cabin site sales are insignificant. The Corps Procedures for Implementing NEPA (ER 200-2-2) identify the "sale of existing cottage site areas" as a class of actions that "individually and cumulatively do not have significant effects on the quality of the human environment and are categorically excluded from NEPA documentation." This Environmental Assessment has been prepared because the cabin sites are within the boundary of a National Wildlife Refuge; the indirect and cumulative effects of releasing the leased properties to private ownership are the focus of the environmental evaluation.

The purchase of property for the CMR by the Service is consistent with the management plans outlined in the Final EIS for Management of the Charles M. Russell National Wildlife Refuge (USFWS, 1985) and associated Record of Decision (USFWS, 1986). As such, the evaluation and decision from the 1985 EIS and 1986 ROD are adopted (40 CFR 1506.3) into this EA. The effect of the property acquisition by the Service has already been considered in a valid EIS and is not being considered further in this EA.

6.1 Effects to Land Features

There would be no change to the general setting, geology, soils, or erosion factors by the sale of the cabin sites. Property sale does not include rights to mineral resources at the Fort Peck Project lands and commercial activities (i.e., mining) are prohibited. Some cabin lessees have obtained permits and developed shoreline erosion protection in the past. If a lessee is able to purchase the property, they may be more inclined to pursue protection of the shoreline. Each individual cabin owner would be responsible to obtain the appropriate permits for the work, but there may be more cabin owners willing to invest in erosion protection if they own the cabin site.

6.2 Effects to Water Resources

One of the criteria required prior to the Corps clearing a property for sale is a Montana-approved sanitary waste system at the cabin. Section 5.2.3 summarizes the condition of sanitary treatment at the cabin sites and indicates that no more than 36 percent of the cabins at any cabin area have approved systems. It is incumbent upon the lessees to coordinate with their county sanitarian and obtain approval for their sanitary waste handling system prior to the property being offered for sale by the Corps. The stipulation prior to sale guarantees that each of the cabins must be reviewed and approved by the county sanitarian on behalf of the State of Montana.

Sale of the cabin lots is predicted to have no direct effect on water quality at the Fort Peck Lake. The systematic and comprehensive compliance verification of all cabin lots prior to sale would lead to an improvement in water quality and a potentially beneficial effect by reducing unlawful

discharges and replacing derelict sanitary waste treatment systems. To the extent that localized water quality is improved in proximity to the cabin areas, those cabin areas that utilize lake water would have a better water source.

6.3 Effects to Air Quality

There would be no change to the air quality predicted.

6.4 Effects to Climate and Weather

No changes to the climate or weather would be predicted as a result of cabin lot sales.

6.5 Effects of Noise

The cabin areas are within intensive recreation areas still subject to the requirements of the Fort Peck Lake Project and there would be no changes to property usage. No changes in the noise levels would be predicted from the cabin lot sales.

6.6 Effects to Biological Resources

The sale of cabin lots would be predicted to have no direct effect on the biological resources at the Fort Peck Lake. The cabin areas are within Corps property managed for intensive recreational use and will continue to be managed by the Corps for intensive use recreation (USACE, 1992). The proposed action will comply with Section 7 of the Endangered Species Act. Coordination with the Service will be completed before the proposed action is initiated.

6.7 Effects to Socioeconomics

No changes to the socioeconomic characteristics of the nearby communities or counties would be predicted as a result of cabin lot sales. The remoteness of the Fort Peck Lake Project and the inaccessibility of the cabin sites themselves limit usage of the cabin areas. Because only existing cabin lessees can purchase cabin lots, no changes in population, land use, employment and income, or infrastructure are predicted.

Private ownership may lead to increases in day use and traffic especially where access is easier (i.e., Fort Peck and Rock Creek). The more remote areas (the Pines, Hell Creek) would likely see a smaller increases in visitation. With the exception of Fort Peck, and a few cabins at other sites, the cabins are not used as year-round residences because of the remoteness and difficulty of access to services. Some increase in year-round occupancy will likely occur, primarily at Fort Peck, but year-round residency at the other cabin sites would not predicted to change substantially.

Improvements to the roads accessing the cabin areas or individual lots would not occur as part of this proposal. Section 804(f) of the Act specifically limits road improvements and vehicular access by dictating "Nothing in this title authorizes any addition to or improvement of vehicular access to a cabin site." Additionally, the "Secretary [of the Army] and Secretary of the Interior shall not construct any road for the sole purpose of providing access to land conveyed under this section; and shall be under no obligation to service or maintain any existing road used primarily for access to that land (or to a cabin site)."

6.8 Effects to Cultural and Paleontological Resources

Based on site-specific investigations at the cabin sites and consultation with the Montana State Historic Preservation Officer (SHPO), the sale of cabin sites would not have an adverse affect on known archeological sites in Valley, McCone and Garfield Counties, Montana (USACE, 2004; Montana State Historical Society, 2003). The Montana SHPO has concurred with the determination of no effect and all coordination pursuant to Section 106 of the National Historic Preservation Act has been completed.

6.9 Effects from HTRW

Implementation of the proposed cabin lot sales would not be expected to result in the creation of or dispersion of HTRW materials. According to section 804 (c)(5)(D) of the Act, "future cabin site use is limited to (i) noncommercial, single-family use; and (ii) the type and intensity of use of the cabin site as of the date of enactment of this Act." A survey of the Rock Creek cabins (USACE, 2003a) indicated no concerns, and none are expected at the other cabin areas.

In the event of the identification of HTRW materials, appropriate notification and coordination with Montana DEQ would be completed. Investigations would be conducted to characterize the nature and extent of the contamination and establish appropriate resolution.

6.10 Effects to Aesthetics

There would be no potential for visual effects as there would be no short or long-term visual changes introduced by the sale of the cabin sites. In addition, the Act restricts the future cabin site use to "the type and intensity of use of the cabin site as of the date of enactment of this Act."

6.11 Cumulative Effects

Considering the concentration of cottages in specific areas, the possibility exists that individual septic systems may have cumulative impacts on water quality in localized areas of Fort Peck Lake (USACE, 1992). Requiring cottage owners to obtain county sanitarian approval of their individual septic system prior to being able to purchase the cabin site would likely produce a cumulative improvement in the water quality. Having all cabins being required to meet Montana Clean Water Act standards will ensure that all systems are up to current minimum standards.

7. EFFECTS OF THE NO ACTION ALTERNATIVE

The No Action Alternative assumes no action is taken by the Corps to implement the CMR National Wildlife Enhancement Act. Under the no action alternative, the cabin sites would remain federal property and would not be sold to lessees. As such, no action reflects the predicted conditions based on the continuation of existing economic, social, and environmental conditions and trends within the affected area. In the absence of implementation of the CMR National Wildlife Enhancement Act, environmental trends would continue as they are today.

Current conditions including the general setting, erosion, air quality, climate and weather, noise, biological resources, socioeconomics, HTRW, would continue under no action. If the cabin sites are not sold, there would be no comprehensive review of the sanitary disposal for each of the cabin sites examined and would therefore forego an assumed improvement in water quality by ensuring that all cabins have approved systems. The Corps does review sanitation only if new construction is being proposed or existing systems fail. The potentially eligible historic site being protected by the cabin move (described in Section 5.8 at Fort Peck) will occur even under the No Action alternative as this activity will be carried out independent from the proposed cabin lot sales.

Failing to implement the CMR National Wildlife Enhancement Act would also not generate any of the resources the Service would use to purchase habitat for the CMR.

8. PUBLIC INVOLVEMENT AND COORDINATION

8.1 Public Scoping Meetings

The text of the CMR NWR Enhancement Act of 2000 specifically directed the Secretary of the Interior to "hold public hearings, and provide all interested parties with notice and an opportunity to comment, on the activities carried out under this section." During September and October 2003, public meetings were held in Helena, Billings, Glendive, and Fort Peck Montana to explain the proposed approach to implement the CMR NWR Enhancement Act and invite public comment. A formal news release was issued September 16, 2003 announcing the dates, times, and locations for the public meetings.

Public meetings were held and comments were received. Attendees at public meetings were encouraged to provide oral or written comments specifically to help identify alternatives, raise any overlooked issues and impacts, identify new sources of data/information that could be used in the assessment, and offer comment as to the appropriate breadth and depth of evaluation for the affected environment and subsequent impact assessment. Those attending public meetings were also encouraged to provide their name and address to be included in the mailing list.

One important public comment encouraged the Corps to evaluate the environmental effects of transferring all of the cabin sites in one document so as to better address the cumulative effects. As a result, the EA now reflects the sale of property at all four cabin sites as opposed to four separate EAs that would have addressed the cabin sites individually.

The majority of comments focused on clarification of the administrative process, procedural steps, and overall schedule being implemented to enable the properties to be purchased. To clarify that process, Appendix B was developed and attached to provide an overview of cabin disposal.

The local cabin owners are in favor of this opportunity to purchase the property currently leased to them and have been a major advocate with Congress to get authority and funding (USACE, 2003).

8.2 Agency Coordination

A formal letter of consultation, inviting agency comments on the proposed action, was sent to each of the federal and Montana agencies listed in Section 9. As of the time of preparation of this Environmental Assessment, no formal responses had been received. As a cooperating agency, the USFWS provided consultation throughout the EA development process to address endangered species issues.

The Montana Department of Environmental Quality notified the Corps of Engineers (MTDEQ, 2004) of the applicability of Montana's "Sanitation in Subdivisions Act" on the Corps' obligations under the CMR National Wildlife Enhancement Act of 2000. The Corps concurred regarding the applicability of the Sanitation Act (USACE, 2004a). The Sanitation Act does not apply to lots created prior to the 1961 effective date of the Act and whose boundaries have not changed. The Corps will review all properties and, when appropriate, comply with the relevant provisions of the Sanitation Act.

8.3 Tribal Consultation

The Corps initiated formal consultation with local tribes with a meeting at Fort Peck, to discuss the proposed transfer of cabin sites. At that meeting the Corps agreed to provide a copy of the summary of information that would be used in making the determination of effects to cultural resources. That informational correspondence was provided in letter form from the Chief of the Environmental, Economics and Cultural Resources Planning Branch in February 2004 (USACE, 2004) to points of contact with the Assiniboine & Sioux Tribes of Fort Peck, the Blackfoot Tribe, the Gros Ventre & Assiniboine Tribes, and the Fort Belknap Tribes.

9. LIST OF AGENCIES AND PERSONS CONSULTED

Federal Agencies

Mark Wilson, Field Supervisor U.S. Fish & Wildlife Service, Ecological Services

Native American Tribes

John Morales, Chairman, Assiniboine & Sioux Tribes of Fort Peck

Curley Youpee, Director, Cultural Resources Department, Assiniboine & Sioux Tribes of Fort Peck

Carl Fourstar, Water Resources Department, Assiniboine & Sioux Tribes of Fort Peck

Jay St. Goddard, Chairman Blackfeet Tribe

Ben Speak Thunder, President Gros Ventre & Assiniboine Tribes

Randy Perez, Fort Belknap Tribes

State Agencies

Jan Sensibaugh, Director, Department of Environmental Quality (DEQ)

Jim Satterfield, Regional Supervisor, Montana Fish and Parks, REGION 6

Gail Gray, Director, Montana Department of Public Health and Human Services

Dr. Stan Wilmoth, Deputy State Historic Preservation Officer, Montana Historical Society

Raymond Lazuk, Montana DEQ, Supervisor, Subdivision Review Program

County Agencies

Cam Shipp, Valley County Sanitarian

Brian Schoof, Garfield County Sanitarian

Kelly Logon, McCone County Sanitarian

Persons Consulted

Mike Cassidy, Fort Peck Lake Association

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APPENDIX A
CMR NWR ENHANCEMENT ACT

TITLE VIII--WILDLIFE REFUGE ENHANCEMENT

SEC. 801. SHORT TITLE

This title may be cited as the `Charles M. Russell National Wildlife Refuge Enhancement Act of 2000'.

SEC. 802. PURPOSE

The purpose of this title is to direct the Secretary, working with the Secretary of the Interior, to convey cabin sites at Fort Peck Lake, Montana, and to acquire land with greater wildlife and other public value for the Charles M. Russell National Wildlife Refuge, to--

(1) better achieve the wildlife conservation purposes for which the Refuge was established;

(2) protect additional fish and wildlife habitat in and adjacent to the Refuge;

(3) enhance public opportunities for hunting, fishing, and other wildlife-dependent activities;

(4) improve management of the Refuge; and

(5) reduce Federal expenditures associated with the administration of cabin site leases.

SEC. 803. DEFINITIONS

In this title, the following definitions apply:

(1) ASSOCIATION- The term `Association' means the Fort Peck Lake Association.

(2) CABIN SITE-

(A) IN GENERAL- The term `cabin site' means a parcel of property within the Fort Peck, Hell Creek, Pines, or Rock Creek Cabin Areas that is--

(i) managed by the Corps of Engineers;

(ii) located in or near the eastern portion of Fort Peck Lake, Montana; and

(iii) leased for single family use or occupancy.

(B) INCLUSIONS- The term `cabin site' includes all right, title, and interest of the United States in and to the property, including--

(i) any permanent easement that is necessary to provide vehicular and utility access to the cabin site;

(ii) the right to reconstruct, operate, and maintain an easement described in clause (i); and

(iii) any adjacent parcel of land that the Secretary determines should be conveyed under section 804(c)(1).

(3) CABIN SITE AREA-

(A) IN GENERAL- The term `cabin site area' means a portion of the Fort Peck, Hell Creek, Pines, or Rock Creek Cabin Areas referred to in paragraph (2) that is occupied by 1 or more cabin sites.

(B) INCLUSION- The term `cabin site area' includes such immediately adjacent land, if any, as is needed for the cabin site area to exist as a generally contiguous parcel of land and for each cabin site in the cabin site area to meet the requirements of section 804(e)(1), as determined by the Secretary, with the concurrence of the Secretary of the Interior.

(4) LAND- The term `land' means land or an interest in land.

(5) LESSEE- The term `lessee' means a person that is leasing a cabin site.

(6) REFUGE- The term `Refuge' means the Charles M. Russell National Wildlife Refuge in the State of Montana.

SEC. 804. CONVEYANCE OF CABIN SITES

(a) IN GENERAL-

(1) PROHIBITION- As soon as practicable after the date of enactment of this Act, the Secretary and the Secretary of the Interior shall prohibit the issuance of new cabin site leases within the Refuge, except as is necessary to consolidate with, or substitute for, an existing cabin site lease under paragraph (2).

(2) DETERMINATION; NOTICE- Not later than 1 year after the date of enactment of this Act, and before proceeding with any exchange under this title, the Secretary shall--

(A)(i) with the concurrence of the Secretary of the Interior, determine individual cabin sites that are not suitable for conveyance to a lessee because the cabin sites are isolated so that conveyance of 1 or more of the cabin sites would create an inholding that would impair management of the Refuge; and

(ii) with the concurrence of the Secretary of the Interior and the lessee, determine individual cabin sites that are not suitable for conveyance to a lessee for any other reason that adversely impacts the future habitability of the cabin sites; and

(B) provide written notice to each lessee that specifies any requirements concerning the form of a notice of interest in acquiring a cabin site that the

lessee may submit under subsection (b)(1) and an estimate of the portion of administrative costs that would be required to be reimbursed to the Secretary under section 808(b), to--

(i) determine whether the lessee is interested in acquiring the cabin site area of the lessee; and

(ii) inform each lessee of the rights of the lessee under this title.

(3) OFFER OF COMPARABLE CABIN SITE- If the Secretary determines that a cabin site is not suitable for conveyance to a lessee under paragraph (2)(A), the Secretary, in consultation with the Secretary of the Interior, shall offer to the lessee the opportunity to acquire a comparable cabin site within the same cabin site area.

(b) RESPONSE-

(1) NOTICE OF INTEREST-

(A) IN GENERAL- Not later than July 1, 2003, a lessee shall notify the Secretary in writing of an interest in acquiring the cabin site of the lessee.

(B) FORM- The notice under this paragraph shall be submitted in such form as is required by the Secretary under subsection (a)(2)(B).

(2) UNPURCHASED CABIN SITES- If the Secretary receives no notice of interest or offer to purchase a cabin site from the lessee under paragraph (1) or the lessee declines an opportunity to purchase a comparable cabin site under subsection (a)(3), the cabin site shall be subject to sections 805 and 806.

(c) PROCESS- After providing notice to a lessee under subsection (a)(2)(B), the Secretary, with the concurrence of the Secretary of the Interior, shall--

(1) determine whether any small parcel of land adjacent to any cabin site (not including shoreline or land needed to provide public access to the shoreline of Fort Peck Lake) should be conveyed as part of the cabin site to--

(A) protect water quality;

(B) eliminate an inholding; or

(C) facilitate administration of the land remaining in Federal ownership;

(2) if the Secretary and the Secretary of the Interior determine that a conveyance should be completed under paragraph (1), provide notice of the intent of the Secretary to complete the conveyance to the lessee of each affected cabin site;

(3) survey each cabin site to determine the acreage and legal description of the cabin site area, including land identified under paragraph (1);

(4) take such actions as are necessary to ensure compliance with all applicable environmental laws;

(5) prepare permanent easements or deed restrictions to be enforceable by the Secretary of the Interior or an acceptable third party, to be placed on a cabin site before conveyance out of Federal ownership in order to--

(A) comply with the Act of May 18, 1938 (16 U.S.C. 833 et seq.);

(B) comply with any other laws (including regulations);

(C) ensure the maintenance of existing and adequate public access to and along Fort Peck Lake;

(D) limit future uses of the cabin site to--

(i) noncommercial, single-family use; and

(ii) the type and intensity of use of the cabin site as of the date of enactment of this Act; and

(E) maintain the values of the Refuge; and

(6) conduct an appraisal of each cabin site (including any expansion of the cabin site under paragraph (1)) that--

(A) is carried out in accordance with the Uniform Appraisal Standards for Federal Land Acquisition;

(B) excludes the value of any private improvement to the cabin site; and

(C) takes into consideration--

(i) any easement or deed restriction determined to be necessary under paragraph (5) and subsection (h); and

(ii) the definition of `cabin site' under section 803(2).

(d) CONSULTATION AND PUBLIC INVOLVEMENT- The Secretary shall--

(1) carry out subsections (b) and (c) in consultation with--

(A) affected lessees;

(B) affected counties in the State of Montana; and

(C) the Association; and

(2) hold public hearings, and provide all interested parties with notice and an opportunity to comment, on the activities carried out under this section.

(e) CONVEYANCE- Subject to subsections (h) and (i) and section 808(b), the Secretary or, if necessary, the Secretary of the Interior shall convey a cabin site by individual patent or deed to the lessee under this title--

(1) if the cabin site complies with Federal, State, and county septic and water quality laws (including regulations);

(2) if the lessee complies with other requirements of this section; and

(3) after receipt of the payment from the lessee for the cabin site of an amount equal to the sum of--

(A) the appraised fair market value of the cabin site as determined in accordance with subsection (c)(6); and

(B) the administrative costs required to be reimbursed under section 808.

(f) VEHICULAR ACCESS-

(1) IN GENERAL- Nothing in this title authorizes any addition to or improvement of vehicular access to a cabin site.

(2) CONSTRUCTION- The Secretary and the Secretary of the Interior--

(A) shall not construct any road for the sole purpose of providing access to land conveyed under this section; and

(B) shall be under no obligation to service or maintain any existing road used primarily for access to that land (or to a cabin site).

(3) OFFER TO CONVEY- The Secretary, with the concurrence of the Secretary of the Interior, may offer to convey to the State of Montana, any political subdivision of the State of Montana, or the Association, any road determined by the Secretary to primarily service the land conveyed under this section.

(g) UTILITIES AND INFRASTRUCTURE-

(1) IN GENERAL- The purchaser of a cabin site shall be responsible for acquiring or securing the use of all utilities and infrastructure necessary to support the cabin site.

(2) NO FEDERAL ASSISTANCE- The Secretary and the Secretary of the Interior shall not provide any utilities or infrastructure to the cabin site.

(h) EASEMENTS AND DEED RESTRICTIONS-

(1) IN GENERAL- Before conveying any cabin site under subsection (e), the Secretary, with the concurrence of the Secretary of the Interior, shall ensure that the deed of conveyance--

(A) includes such easements and deed restrictions as are determined, under subsection (c), to be necessary; and

(B) makes the easements and deed restrictions binding on all subsequent purchasers of the cabin site.

(2) RESERVATION OF RIGHTS- The Secretary may reserve the perpetual right, power, privilege, and easement to permanently overflow, flood, submerge, saturate, percolate, or erode a cabin site (or any portion of a cabin site) that the Secretary determines is necessary in the operation of the Fort Peck Dam.

(i) NO CONVEYANCE OF UNSUITABLE CABIN SITES- A cabin site that is determined to be unsuitable for conveyance under subsection (a)(2)(A) shall not be conveyed by the Secretary or the Secretary of the Interior under this section.

(j) IDENTIFICATION OF LAND FOR EXCHANGE-

(1) IN GENERAL- As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall identify land that may be acquired that meets the purposes of this title specified in paragraphs (1) through (4) of section 802 and for which 1 or more willing sellers exist.

(2) APPRAISAL- On a request by a willing seller, the Secretary of the Interior shall appraise the land identified under paragraph (1).

(3) ACQUISITION- If the Secretary of the Interior determines that the acquisition of the land would meet the purposes of this title specified in paragraphs (1) through (4) of section 802, the Secretary of the Interior shall cooperate with the willing seller to facilitate the acquisition of the land in accordance with section 807.

(4) PUBLIC PARTICIPATION- The Secretary of the Interior shall hold public hearings, and provide all interested parties with notice and an opportunity to comment, on the activities carried out under this section.

SEC. 805. RIGHTS OF NONPARTICIPATING LESSEES

(a) CONTINUATION OF LEASE-

(1) IN GENERAL- A lessee that does not provide the Secretary with an offer to acquire the cabin site of the lessee under section 804 (including a lessee who declines an offer of a comparable cabin site under section 804(a)(3)) may elect to continue to lease the cabin site for the remainder of the current term of the lease, which, except as provided in paragraph (2), shall not be renewed or otherwise extended.

(2) EXPIRATION BEFORE 2010- If the current term of a lessee described in paragraph (1) expires or is scheduled to expire before 2010, the Secretary shall offer to extend or renew the lease through 2010.

(b) IMPROVEMENTS- Any improvements and personal property of the lessee that are not removed from the cabin site before the termination of the lease shall be considered property of the United States in accordance with the provisions of the lease.

(c) OPTION TO PURCHASE- Subject to subsections (d) and (e) and section 808(b), if at any time before termination of the lease, a lessee described in subsection (a)(1)--

(1) notifies the Secretary of the intent of the lessee to purchase the cabin site of the lessee; and

(2) pays for an updated appraisal of the cabin site in accordance with section 804(c)(6);

the Secretary or, if necessary, the Secretary of the Interior shall convey the cabin site to the lessee, by individual patent or deed, on receipt of payment from the lessee for the cabin site of an amount equal to the sum of the appraised fair market value of the cabin site, as determined by the updated appraisal, and the administrative costs required to be reimbursed under section 808.

(d) EASEMENTS AND DEED RESTRICTIONS- Before conveying any cabin site under subsection (c), the Secretary, with the concurrence of the Secretary of the Interior, shall ensure that the deed of conveyance--

(1) includes such easements and deed restrictions as are determined, under section 804(c), to be necessary; and

(2) makes the easements and deed restrictions binding on all subsequent purchasers of the cabin site.

(e) NO CONVEYANCE OF UNSUITABLE CABIN SITES- A cabin site that is determined to be unsuitable for conveyance under subsection 804(a)(2)(A) shall not be conveyed by the Secretary or the Secretary of the Interior under this section.

(f) REPORT- Not later than July 1, 2003, the Secretary shall submit to Congress a report that--

(1) describes progress made in implementing this title; and

(2) identifies cabin owners that have filed a notice of interest under section 804(b) and have declined an opportunity to acquire a comparable cabin site under section 804(a)(3).

SEC. 806. CONVEYANCE TO THIRD PARTIES

(a) CONVEYANCES TO THIRD PARTIES- As soon as practicable after the expiration or surrender of a lease, the Secretary, with the concurrence of the Secretary of the Interior, may offer for sale, by public auction, written invitation, or other competitive sales procedure, and at the fair market value of the cabin site determined under section 804(c)(6), any cabin site that--

(1) is not conveyed to a lessee under this title; and

(2) has not been determined to be unsuitable for conveyance under section 804(a)(2)(A).

(b) EASEMENTS AND DEED RESTRICTIONS- Before conveying any cabin site under subsection (a), the Secretary, with the concurrence of the Secretary of the Interior, shall ensure that the deed of conveyance--

(1) includes such easements and deed restrictions as are determined, under section 804(c), to be necessary; and

(2) makes the easements and deed restrictions binding on all subsequent purchasers of the cabin site.

(c) MANAGEMENT OF REMAINING LAND WITHIN CABIN SITE AREAS-

(1) MANAGEMENT BY THE SECRETARY- All land within the outer boundaries of a cabin site area that is not conveyed under this Act shall be managed by the Secretary, in consultation with the Secretary of the Interior, in substantially the same manner as that land is managed on the date of enactment of this Act and consistent with the purposes for which the Refuge was established.

(2) CONSTRUCTION AND DEVELOPMENT- The Secretary shall not initiate or authorize any development or construction on land under paragraph (1) except with the concurrence of the Secretary of the Interior.

SEC. 807. USE OF PROCEEDS

(a) PROCEEDS- All payments for the conveyance of cabin sites under this title, except costs reimbursed to the Secretary under section 808(b)--

(1) shall be deposited in a special fund within the Montana Fish and Wildlife Conservation Trust established under section 1007 of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (112 Stat. 2681-715) (as amended by title IV of H.R. 3425 of the 106th Congress, as enacted by section 1000(a)(5) of Public Law 106-113 (113 Stat. 1536, 1501A-307); and

(2) notwithstanding title X of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (112 Stat. 2681-710), shall be available for use by the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service in the Director's sole discretion and without further Act of appropriation, solely for the acquisition from willing sellers of property that--

(A) is within or adjacent to the Refuge;

(B) would be suitable to carry out the purposes of this title specified in paragraphs (1) through (4) of section 802; and

(C) on acquisition by the Secretary of the Interior, would be accessible to the general public for use in conducting activities consistent with approved uses of the Refuge.

(b) LIMITATIONS-

(1) IN GENERAL- To the extent practicable, acquisitions under this title shall be of land within the Refuge.

(2) NO EFFECT ON ACQUISITION- Nothing in this subsection limits the ability of the Secretary of the Interior to acquire land adjacent to the Refuge from a willing seller in cases in which the Secretary of the Interior also acquires land within the Refuge from the same willing seller.

SEC. 808. ADMINISTRATIVE COSTS

(a) IN GENERAL- Except as provided in subsection (b), the Secretary shall pay all administrative costs incurred in carrying out this title.

(b) REIMBURSEMENT- As a condition of the conveyance of any cabin site area under this title, the Secretary or the Secretary of the Interior--

(1) may require the party to whom the property is conveyed to reimburse the Secretary or the Secretary of the Interior for a reasonable portion, as determined by the Secretary or the Secretary of the Interior, of the direct administrative costs (including survey costs) incurred in carrying out conveyance activities under this title, taking into consideration any cost savings achieved as a result of the party's agreeing to purchase its cabin site as part of a single transaction for the conveyance of multiple cabin sites; and

(2) shall require the party to whom the property is conveyed to reimburse the Association for a proportionate share of the costs (including interest) incurred by the Association in carrying out transactions under this title.

SEC. 809. REVOCATION OF WITHDRAWALS

(a) IN GENERAL- Upon execution of any patent or deed, by the Secretary or the Secretary of the Interior, conveying land as specifically authorized by this title, any public land withdrawal affecting the land described in the conveyance document as being conveyed shall be revoked with respect to that land.

(b) EXCLUSIONS- Nothing in this section affects--

(1) the status of any public land withdrawal on land retained by the Secretary or the Secretary of the Interior;

(2) the boundary of the Refuge as established by Executive Order No. 7509 (December 11, 1936); or

(3) enforcement of any right retained by the United States.

(c) REINSTATEMENT- If, at any time after the date of enactment of this Act, the Secretary or the Secretary of the Interior reacquires land conveyed under this title, any public land withdrawal revoked under this section shall be reinstated with respect to the reacquired land.

SEC. 810. AUTHORIZATION OF APPROPRIATIONS

There are authorized to be appropriated such sums as are necessary to carry out this title.

APPENDIX B
CORPS CABIN LOT TRANSFER PROCESS

Cabin Lots Marked and Mapped

Of the 392 cabin lots available at the four cottage areas, there are 367 lots leased to private individuals in accordance with 16 U.S.C. 460d. The lessees have constructed cabins or cottages on these lots. The unimproved lots are identified as "replacement" lots for cabins lost due to potential erosion, lots deemed unsuitable for conveyance because they create an in-holding that would impair management of the refuge, and for trailer owners (at Rock Creek Marina) wishing to relocate (within the Rock Creek Cabin Area). The Corps Fort Peck Lake Office marked lot boundaries with brown, Carsonite markers and mapped them on aerial photos.

Cultural Resource Inventories and Surveys

Cultural resource inventories have been completed. Two lots were found to contain cultural resource artifacts and are both located in the Fort Peck Cottage area. One lot (111) contains the remnants of multiple tipi rings while 1 lot (334) has lithic scatter. The Montana State Historical Preservation Officer was not in agreement with attaching a preservation covenant to the deed for these 2 lots. The owner of the cabin on the lot 111 with the tipi rings has been offered a comparable lot and has initiated relocation to the alternate lot. The one lot with lithic scatter will be tested by Corps staff for eligibility for the National Register of Historic Sites. If the site seems significant and is recommended eligible for the Register, the lot owners will be offered a comparable cabin site.

Interagency Coordination Meetings

Meetings will be conducted between the Corps, Service, BLM, Counties and FPLA as the process proceeds. The purpose of the meetings will be to keep all stakeholders informed as well as to gain input into the process. Not all meetings will be between all the stakeholders but will be scheduled as issues and steps in the process warrant.

Environmental Baseline Surveys (EBS)

Under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) whenever an agency of the United States transfers real property it must do an environmental baseline survey to determine whether a hazardous substance was stored for one year or more, was known to have been released, or was disposed of on the real property. Prior to the surveys in a cottage area cabin owners will receive a letter from the Corps stating the approximate dates and the need for such a survey. The Rock Creek EBS was completed in FY 2003 and no CERCLA relevant sites were found. The Fort Peck, Pines and Hell Creek cottage areas are scheduled for FY 2004.

NEPA Compliance and Public Scoping Meetings

As part of the EA scoping process, four public meetings were held in Billings, Helena, Glendive and Glasgow, Montana. Based on comments in the public meetings concerning the possible cumulative impacts of the four cottage areas being sold, the Corps made the determination to

expand the EA to include the sale of cabin lots at all four cottage areas. The Service is a cooperating agency on the EA. They provided significant input concerning the land acquisition portions of the EA.

Determination of Cabins Sites for Conveyance

The Corps, as part of the NEPA process, will coordinate with Service to ensure the cabin lots available for sale will not create an in-holding that impairs the management of the refuge and will obtain Service concurrence before a cabin lot is sold.

Clean Water Act Compliance

Each lot will be evaluated for compliance with the Clean Water Act. The evaluation of sewage and septic systems as they relate to compliance with county and State regulations is the primary concern. The cabin owners will be responsible for the documentation of compliance. Completion dates depend on the cabin owners acquiring approval from their respective county for each individual system. Due to the Corps lease inspection program, it has been determined many of the cabins are already in compliance.

Sanitation in Subdivisions Act Compliance

The Montana Department of Environmental Quality notified the Corps of Engineers (MTDEQ, 2004) of the applicability of Montana's "Sanitation in Subdivisions Act" on the Corps' obligations under the CMR National Wildlife Enhancement Act of 2000. The Corps concurred regarding the applicability of the Sanitation Act (USACE, 2004a). The Sanitation Act does not apply to lots created prior to the 1961 effective date of the Act and whose boundaries have not changed. The Corps will review all properties and, when appropriate, comply with the relevant provisions of the Sanitation Act.

Survey Cabin Sites With Legal Descriptions And Plat Approvals

The Corps, after coordination with the Service and the BLM will hire a contract public lands surveyor to conduct a cadastral survey of each lot that will be filed with the relevant county as part of a subdivision plat. The objective will be to identify each lot with a legal description adequate to accurately convey (sell) the lot. The Fort Peck Lake Office has already set carsonite pins, identifying the lot boundaries; therefore, the surveyor will be creating a legal description for each of these pins.

Determine Easements And Deed Restrictions

Title VIII of WRDA 2000 requires the Secretary of Army to put necessary deed restrictions, such as sloughing, erosion, and flooding, to ensure current and future project operations are not impacted. Corps policy is that a flowage and sloughage easement be placed on all cabin sites. Other restrictions and covenants will be included after coordination with the Service and the BLM. As per WRDA 2000, the Cabin Owners Association will also be consulted on any deed restrictions.

Letters To Cabins Owners Concerning Availability Of Cabins

Upon determination by the Corps and concurrence from the Service that a cabin site is eligible for sale, the Corps will send the cabin owner a letter reviewing the law and asking them if they are interested in buying their cabin lot at this time. If affirmative, the Corps will schedule an appraisal and begin the sale closing process with the cabin owner. If the cabin owner is not ready to buy their cabin lot, no appraisal will be conducted and the cabin owner will be allowed to continue their lease until December 31, 2010 as provided by the legislation. The cabin owner will be reminded of their right to buy the lot up until the December 31, 2010 deadline.

Conduct Appraisal

The Scope of Work will be coordinated with the Service before the Corps goes out for bids from eligible contractors. These appraisals will reflect the necessary encumbrances on all sites, primarily sloughage and flowage easements, to protect the Corp's ability to manage the Fort Peck reservoir. Each cottage area will have the ultimate erosion line identified on a map. This map will be provided to the contractor and will assist his assessment of the market's reaction to the erosion line and to each site's utility and value.

Notify BLM To Issue Patent/COE Issue Quitclaim Deed

The Corps' authority to dispose of cottage sites (P.L. 84-999, 16 U.S.C. 460e-j) does not authorize the sale of former public domain lands without approval or concurrence from the Department of Interior, Bureau of Land Management (BLM)--the federal administrator of public domain lands. The Secretary of the Interior was prevented from disposing of refuge lands by the National Wildlife Refuge System Administration Act of 15 October 1966, as amended. The provisions in WRDA 2000 (P.L. 106-541) provide the authority to dispose of the cabin sites but do not obviate the BLM's concurrence. An initial review of plats indicates as many as 90% of the cabin lots may fall within the public domain lands. BLM will issue patents in conveyance of those lots lying within the public domain in coordination with the District's real estate office.

If the sale is not of public lands but fee acquired lands, the Corps will issue a quitclaim deed effective at the sale closing. Lots lying partially within the public domain will require both a patent and a quitclaim deed for their respective portions.

Cabin lots not sold by December 31, 2010 as per P.L.106-541 may be disposed. Lots with no development on them (i.e. Comparable lots) will revert to management as per the Army Corps of Engineers Master Plan. Cabin owner improvements/developments on leased lots may 1) have the development sold at public auction for removal and the land restored by the Corps; or 2) be removed by the Corps and the land restored by the Corps; or 3) be sold as a lot and the improvement at public auction. Whatever option chosen would be on a case-by-case basis and would consider such things as value of the development, whether there were adjoining lots, etc. Before any action was taken to dispose of a lot, it would be fully coordinated with the Service.

Deposit Funds With The MT Fish & Wildlife Conservation Trust

The Corps closing officer would deposit these funds after the sale of a lot or lots upon sale closure.

APPENDIX C
U.S. FISH AND WILDLIFE SERVICE HABITAT ACQUISITION PROCESS

Identification of Property

Acquisition of habitat for a National Wildlife Refuge (Refuge) begins when either a landowner contacts the Refuge or Wetland Management District (WMD) Office and offers to sell a property, or the Refuge or WMD Office contacts a landowner and offers to purchase land.

Biological Evaluation (BE)

The Refuge or WMD Office prepare a biological evaluation and sends the evaluation to the Service's Acquisition Office.

Biological Evaluation Review

The BE is logged into the Land Acquisition Network Database System and is assigned to a Service Realty Specialist. The Realty Specialist requests an appraisal from the Department of the Interior's Appraisal Services Directorate.

Appraisal

The Appraisal Services Directorate conducts an appropriate appraisal and another Realty Specialist signs the negotiation/offer letter and Statement of Just Compensation.

Landowner Review

The Service's Acquisition Office sends landowner negotiation/offer letter and statement of Just Compensation. The landowner reviews the offer and determines whether to accept or reject the offer. If the landowner rejects the offer, no further action is taken on the case. If the landowner accepts the offer, they sign a landowner purchase option.

Fish and Wildlife Service Administrative Process

Acquisition Office performs administrative work to prepare a case file to be processed by Regional Realty Division. Regional Realty Division performs work to prepare case file to be sent to the Service's Solicitor's Office. Solicitor reviews case and provides title opinion. The Chief of the Division of Realty accepts the case on behalf of the United States, a check is ordered, and the case is sent back to the Service's Acquisition Office.

The Service will comply with all Executive Orders and Legislative Acts as they apply to the acquisition of habitat under this proposed action.

Landowner Signatures

The landowner then signs the deed for property sale and receives a check.

Fish and Wildlife Service Final Paperwork

The Service's Acquisition Office, Regional Realty Division and Solicitor's Office perform administrative and legal work to close the case. Original property deed is sent to the Refuge or WMD Office and a copy is sent to the Service's Acquisition Office.