

Memo

To: Commission Members
From: Darlene Staffeldt, State Librarian
Date: 12/05/2005
Re: Administration of the Montana Natural Heritage Program(NHP)

I realize you are being placed in an uncomfortable situation regarding the future of the Heritage Program(NHP). On the one hand, The Nature Conservancy (TNC) has made it clear that they would like to discontinue administration of the program in the very near future; on the other hand, the Library Commission has not yet indicated its readiness to support a change in the administration of the program, and has asked for more time and more information before making a decision. Please consider the following background information in determining how to proceed.

Although we have for years casually discussed the possibility of ending our contractual relationship with The Nature Conservancy (TNC) and either finding another administering agency or assimilating the program within Montana State Library (MSL), MSL did not initiate the discussion that has led to the current situation. Initially, the process was driven by a desire of Fish, Wildlife, and Parks (FWP) to consider assimilation of the program, coincident with needs associated with their State Wildlife Grants program. Later, the process became driven by the desire of TNC to discontinue administration of the program. At no time during the recent discussions has MSL been the driving force behind finding an alternative to the current contractual relationship with TNC, and our lack of full engagement in the analysis is evident.

For MSL, the timing of this assessment was poor, due to other work-load factors, and we recognized up front that MSL management would not be able to dedicate the time necessary to truly engage in the assessment. From the beginning, most of the work involved in bringing together the people and the information necessary to assess alternatives has fallen to Sue Crispin, the NHP program director. I am now aware that there is some concern that the result of the assessment may therefore be biased in favor of the outcome favored by NHP

management and staff, and that the interests of MSL may not have been as well represented. I hope the information presented below helps to clarify the situation and lead to a decision.

I believe that the identification of potential alternatives and the assessment of these alternatives was fair and lead to the most promising outcome, with the exception that assimilation of the program within MSL was not given serious consideration due to conclusions reached by MSL management very early in the process that:

- A smooth transition of the program would not be possible without legislative action; and,
- The extended program of field data collection and research did not fit well within the MSL mission, and MSL was not well-equipped to manage those functions.

These considerations, in light of the “guiding principles” adopted very early on to guide the analysis (specifically those principles regarding the importance of keeping the program intact and of attempting to retain existing staff) lead to MSL management’s early conclusion that assimilation within MSL was not the most appropriate pathway to pursue at this time. The alternatives analysis prepared by Sue Crispin therefore correctly concludes that MSL has not embraced this option. After discussing these considerations with the Library Commission, however, I realize that there are some on the commission who would disagree, or would at least like to give additional consideration to the benefits of assimilating NHP within MSL. I am not at all in opposition to giving assimilation within MSL additional consideration; however, it is my opinion that we cannot give this option the attention it needs in the immediate future.

As I see it, our situation today is as follows:

- TNC has expressed their strong desire to discontinue administration of the program as soon as possible in order to forestall assessment of the “personnel services tax” that the TNC Montana Field Office Director described at the last commission meeting. This has become the most pressing reason to seek another option at this time.
- The University of Montana has clearly stated its desire to administer the program and has indicated that they are able to enter into a contract with MSL to do so immediately.
- Under the University contract scenario, MSL would retain contract control over the program, just as it has had with TNC. Through the contract, MSL has review/approval authority of the statement of work. For the past two contract periods, the SOW has described not only the core work performed through MSL funding, but also the work performed through “extended core funding” from other agencies and the field data collection and research performed under contracts.

- Largely as a result of this assessment process, an “NHP Partners” committee has been formed to provide program guidance and continuity of approach – helping to ensure that the program will remain on course regardless of the administration option chosen.
- Allowing the University of Montana to begin administration of the program now does not preclude assimilation within MSL, or other administration options, at a later date.
- Any proposal to assimilate the program within MSL would require legislative action, and we have not begun any serious discussions regarding approaching the legislature with that proposal. At the very minimum, we would have to ask the legislature to create the FTE. Beyond that, in keeping with the guiding principles mentioned earlier, we could ask for the ability to move staff without competitive recruitment, and we could attempt to address retirement program issues.
- Our list of possible legislative needs is already long, and taking the NHP to legislature would require serious time commitment. I believe we are failing to spend the time necessary to give each of the items already on that list the attention it deserves.

I therefore propose that we enter into contract negotiations immediately with the University of Montana. Our proposed contract should contain escape clauses and evaluation requirements to protect our interests and leave open the possibility of future change. The contract should recognize the input of the NHP Partners committee in determining program direction. The contract could, if necessary, recognize formally that MSL will be evaluating the potential for eventual assimilation. As one of the participants in the recent “NHP Partners” meeting stated, moving NHP employees from TNC into the University system could be a good step to take in the eventual assimilation of the program into a state agency.

I do not propose, however, that such a contract be considered the first step in a two step process of eventual assimilation into MSL. I would like to believe that we would enter into a contract with the University because we believe it will do a great job of meeting our needs and of supporting the core and extended Heritage Program. I would argue for allowing for a several year evaluation period, barring serious issues that might arise earlier, in order to give adequate time for the program to settle into the new environment and for the University to become effective in administering the program. Depending on our assessment of the effectiveness of the relationship, we could, if necessary or desirable, consider legislative action as soon as the 2009 session.

In addition to this memo I have included some additional items in answer to some of your specific questions from the last meeting. I have not had the time to research all of your questions. I have included a copy of statutes, financial

structure, staffing sheet, list of stakeholders we have received input from, a copy of the guiding principles used throughout the process for assessing the alternatives, and a copy of the current contract with the Nature Conservancy.

Thank you for your serious consideration of this potential action.