MONTANA FISH WILDLIFE & PARKS

MEPA/NEPA CHECKLIST

PART I. PROPOSED ACTION DESCRIPTION

1. Type of Proposed State Action: Enhancing fish habitat in Hollecker Lake for the purpose of establishing a viable kid's fishing pond.

2. Agency Authority for the Proposed Action: Montana Fish, Wildlife and Parks is responsible for providing, managing, and improving recreational fishing opportunities in cooperation with other local state and federal agencies and sportsmen groups. The FWP contact for this project is Matt Jaeger (687-3057).

3. Name of Project Hollecker Lake Kid's Fishing Pond

4. Name, Address and Phone Number of Project Sponsor (if other than the agency)

5. If Applicable:
   Estimated Construction/Commencement Date 20 December 2005

   Estimated Completion Date 1 April 2006

   Current Status of Project Design (% complete) 100%

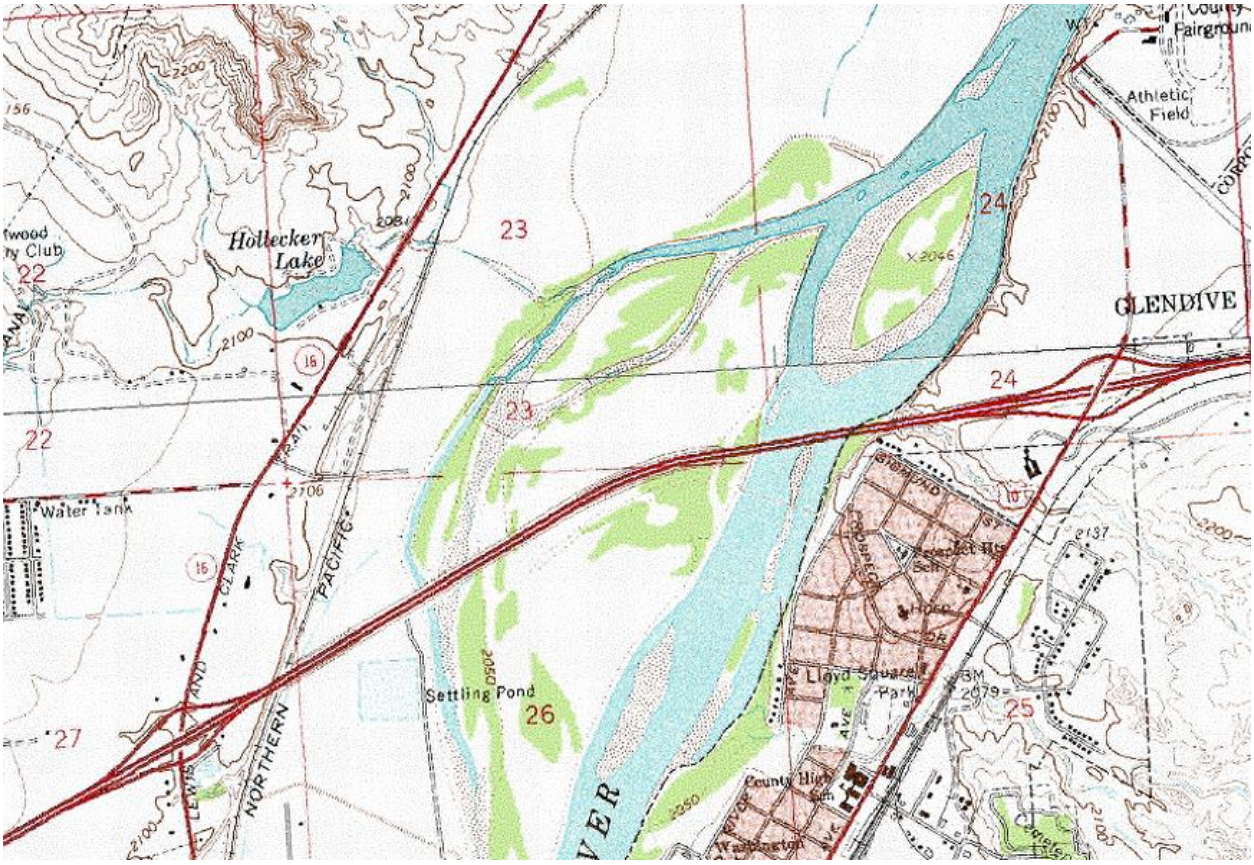
6. Location Affected by Proposed Action (county, range and township)

Dawson County. R 55 E, T 16 N. Section 23.

7. Project Size: Estimate the number of acres that would be directly affected that are currently:

	Acres		Acres
(a) Developed:		(d) Floodplain	0
residential	0		
industrial	0	(e) Productive:	
		irrigated cropland	0
(b) Open Space/Woodlands/Recreation	0	dry cropland	0
		forestry	0
(c) Wetlands/Riparian Areas	0	rangeland	0
		other	

8. Map/site plan: attach an original 8 1/2" x 11" or larger section of the most recent USGS 7.5' series topographic map showing the location and boundaries of the area that would be affected by the proposed action. A different map scale may be substituted if more appropriate or if required by agency rule. If available, a site plan should also be attached.



9. Listing of any other Local, State or Federal agency that has overlapping or additional jurisdiction.

(a) Permits:

Agency Name	Permit	Date Filed/#
Army Corps of Engineers	404	2 December 2005

(b) Funding:

Agency Name	Funding Amount

(c) Other Overlapping or Additional Jurisdictional Responsibilities:

Agency Name	Type of Responsibility
Dawson County	Ownership of pond

10. Narrative summary of the proposed action or project including the benefits and purpose of the proposed action:

Hollecker Lake Kid's Fishing Pond

Hollecker Lake does not support a socially desirable fishery, despite a variety of attempted management alternatives over the past 40 years. From 1964 to 2005 cool and warm-water species (rainbow trout, brook trout, Yellowstone cutthroat trout, bluegill, crappie, largemouth bass, smallmouth bass, yellow perch, northern pike, channel catfish) were stocked at various densities, sizes, and seasons. However, viable fisheries failed to establish; stocked species were infrequently sampled in the years following stocking and sampling efforts indicated an assemblage dominated by Yellowstone River fishes. Yellowstone River fishes access Hollecker Lake through the Buffalo Rapids Canal, which is the lone inlet. Although an inlet screen was installed to prevent invasion from the canal, design and maintenance logistics reduced its effectiveness; large mesh size and removal when debris accumulation was common allowed invasion. Hollecker Lake was chemically treated in 1994 to eliminate nonstocked species but was again dominated by Yellowstone River fishes the following year. Because of the difficulty of establishing stocked fish, Hollecker Lake is currently managed as a put-and-take trout pond; 1000 to 2000 catchable rainbow trout are stocked each spring and autumn. However, local angling and sporting groups have indicated that this management strategy is undesirable and establishment of a warmwater kid's fishing pond is preferred. Therefore, the goal of this project is to modify the Hollecker Lake stocking strategy, angling regulations, inlet screen, and spawning and rearing habitats to establish a viable warmwater kid's fishery.

A largemouth bass-yellow perch fishery will be established in Hollecker Lake. During December 2005 the lake will be drained and allowed to freeze to remove all fish. Largemouth bass fingerlings will be stocked in spring 2006 and 2007 at a density of 250 fish per hectare (Dauwalter and Jackson 2005). Because of the short growing season in eastern Montana, largemouth bass will likely not reach sexual maturity until the second or third season following stocking (Ball 1952, Salia 1952). Accordingly, adult yellow perch will be stocked in autumn 2007 or spring 2008 so their progeny will provide forage to the first lake-produced year class of juvenile bass (Ball 1952, Dauwalter and Jackson 2005). Delayed perch stocking will also safeguard against stunting while bass become established. Adult perch will be stocked at a density of 250 fish per hectare (Dauwalter and Jackson 2005). To provide angling opportunities while largemouth bass become established, 1000 catchable rainbow trout will be stocked in spring 2006 and 2007. Largemouth bass and rainbow trout will be obtained from the Miles City State Fish Hatchery and yellow perch will be transplanted from Johnson's Reservoir, Baker Lake, or Castle Rock Reservoir.

Hollecker Lake will be managed for high densities of small largemouth bass and low densities of large yellow perch. High densities of largemouth bass will create a high-quality kid's fishing pond (i.e., large numbers of catchable fish) and large yellow perch will provide a year-round angling opportunity for a highly desirable species. This management option requires overpopulation of small largemouth bass, which will reduce perch densities thereby preventing stunting and allowing attainment of large size (Guy and Willis 1991, Flinckinger et al. 1999). Accordingly, a 38-cm minimum length

limit for largemouth bass will be imposed to establish high densities (Flinckinger et al. 1999). Management goals are a largemouth bass PSD of 20 and a yellow perch PSD of at least 50 by 2009 (Guy and Willis 1991). Largemouth bass will be annually sampled by night electrofishing and yellow perch by trap netting to assess attainment of management goals. Signs describing this management strategy, and all phases of the project, will be installed.

New screen installation and maintenance practices will reduce invasion and competition by canal fishes and enhance the foraging ability of largemouth bass. The primary factor contributing to the failure of previous stocking efforts has been invasion of fish from the Buffalo Rapids Canal. To reduce the likelihood of invasion, the Glendive Chapter of Walleyes Unlimited has installed a new head gate structure with removable screens of two mesh sizes and a gate that will shut off all flow to the lake. Smaller mesh sizes will prevent access by juvenile or smaller-bodied fishes and the head gate can be closed to reduce access by larval fishes. Additionally, Walleyes Unlimited will assume responsibility for screen cleaning and maintenance to ensure that barriers to canal fish are in place at all times. The canal head gate will also be closed during periods of high turbidities to maintain clear water in the lake. Because largemouth bass are visual predators their growth and survival is positively correlated with water clarity (Stone and Modde 1982). Maintenance of water clarity to depths of at least 46 cm is essential to allow adequate largemouth bass predation to prevent overpopulation and stunting by yellow perch (Flinckinger et al. 1999).

Habitat enhancement will improve bass and perch spawning habitats and concentrate fish to improve angling opportunities. Christmas tree clusters will be placed throughout the lake to provide perch spawning habitat (Kratz 2005) and concentrate perch and bass for anglers (Johnson and Lynch 1992, Rogers and Bergersen 1999). Christmas trees will be placed at depths (4 feet) and orientation to prevailing winds (north and southeast edges) to maximize perch egg deposition (Kratz 2005). Littoral shallow-water bass spawning grounds will be constructed using gravel, logs, and boulders. A floating island will be installed to concentrate fish within casting distance of the handicap fishing access. Use and efficacy of all habitat features will be assessed with annual SCUBA surveys. All materials will be obtained and installed by the Glendive Chapter of Walleyes Unlimited and Montana Fish, Wildlife and Parks during winter 2006 when the lake is drained.

Literature Cited:

Ball, R. C. 1952. Farm pond management in Michigan. Journal of Wildlife Management 16:266-269.

Dauwalter, D. C., and J. R. Jackson. 2005. A re-evaluation of U.S. state fish-stocking recommendations for small, private, warmwater impoundments. Fisheries 30:18-28.

Flickinger, S. A., F. J. Bulow, D. W. Willis. 1999. Small Impoundments. Pages 561-587 *in* C. C. Kohler and W. A. Hubert, editors. Inland fisheries management in North America. American Fisheries Society, Bethesda.

Guy, C. S., and D. W. Willis. 1991. Evaluation of largemouth bass-yellow perch communities in small South Dakota impoundments. North American Journal of Fisheries Management 11:43-49.

Johnson, D. L., and W. E. Lynch. 1992. Panfish use of and angler success at evergreen tree, brush, and stake-bed structures. North American Journal of Fisheries Management 12:222-229.

Kratz, B. J. 2005. Spawning use of selectively placed Christmas trees by yellow perch. Special Project Fact Sheet number 1:05, North Dakota Game and Fish Department, Jamestown.

Rodgers, K. B., and E. P. Bergersen. Utility of synthetic structures for concentrating adult northern pike and largemouth bass. . North American Journal of Fisheries Management 19:1054-1065.

Saila, S. B. 1952. Some results of farm pond management studies in New York. Journal of Wildlife Management 16:279-282.

Stone, C. C., and T. Modde. 1982. Growth and survival of largemouth bass in newly stocked South Dakota ponds. North American Journal of Fisheries Management 4:326-333.

11. List of agencies consulted during preparation of the EA:

ACOE

PART II. ENVIRONMENTAL REVIEW

1. Evaluation of the impacts of the Proposed Action including secondary and cumulative impacts on the Physical and Human Environment.

A. PHYSICAL ENVIRONMENT

1. LAND RESOURCES **Will the proposed action result in:**	**IMPACT ∗**				**Can Impact Be Mitigated∗**	**Comment Index**
	Unknown ∗	**None**	**Minor ∗**	**Potentially Significant**		
a. ∗∗Soil instability or changes in geologic substructure?		X				
b. Disruption, displacement, erosion, compaction, moisture loss, or over-covering of soil which would reduce productivity or fertility?		X				
c. ∗∗Destruction, covering or modification of any unique geologic or physical features?		X				
d. Changes in siltation, deposition or erosion patterns that may modify the channel of a river or stream or the bed or shore of a lake?		X				
e. Exposure of people or property to earthquakes, landslides, ground failure, or other natural hazard?		X				
f. Other:						

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):

2. AIR **Will the proposed action result in:**	**IMPACT ∗**				**Can Impact Be Mitigated∗**	**Comment Index**
	Unknown ∗	**None**	**Minor ∗**	**Potentially Significant**		
a. ∗∗Emission of air pollutants or deterioration of ambient air quality? (also see 13 (c))		X				
b. Creation of objectionable odors?		X				
c. Alteration of air movement, moisture, or temperature patterns or any change in climate, either locally or regionally?		X				
d. Adverse effects on vegetation, including crops, due to increased emissions of pollutants?		X				
e. ∗∗∗For P-R/D-J projects, will the project result in any discharge, which will conflict with federal or state air quality regs? (Also see 2a)		X				
f. Other:						

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Air Resources (Attach additional pages of narrative if needed):

∗ Include a narrative explanation under Part III describing the scope and level of impact. If the impact is unknown, explain why the unknown impact has not or can not be evaluated.

∗∗ Include a narrative description addressing the items identified in 12.8.604-1a (ARM)

∗∗∗ Determine whether the described impact may result and respond on the checklist. Describe any minor or potentially significant impacts.

∗∗∗∗ Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

3. WATER Will the proposed action result in:	IMPACT *				Can Impact Be Mitigated*	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. *Discharge into surface water or any alteration of surface water quality including but not limited to temperature, dissolved oxygen or turbidity?		X				
b. Changes in drainage patterns or the rate and amount of surface runoff?		X				
c. Alteration of the course or magnitude of floodwater or other flows?		X				
d. Changes in the amount of surface water in any water body or creation of a new water body?		X				
e. Exposure of people or property to water related hazards such as flooding?		X				
f. Changes in the quality of groundwater?		X				
g. Changes in the quantity of groundwater?		X				
h. Increase in risk of contamination of surface or groundwater?		X				
i. Effects on any existing water right or reservation?		X				
j. Effects on other water users as a result of any alteration in surface or groundwater quality?		X				
k. Effects on other users as a result of any alteration in surface or groundwater quantity?		X				
l. ****For P-R/D-J, will the project affect a designated floodplain? (Also see 3c)		X				
m. ***For P-R/D-J, will the project result in any discharge that will affect federal or state water quality regulations? (Also see 3a)		X				
n. Other:						

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Water Resources (Attach additional pages of narrative if needed):

* Include a narrative explanation under Part III describing the scope and level of impact. If the impact is unknown, explain why the unknown impact has not or can not be evaluated.

** Include a narrative description addressing the items identified in 12.8.604-1a (ARM)

*** Determine whether the described impact may result and respond on the checklist. Describe any minor or potentially significant impacts.

**** Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

4. VEGETATION Will the proposed action result in:	IMPACT *				Can Impact Be Mitigated *	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. Changes in the diversity, productivity or abundance of plant species (including trees, shrubs, grass, crops, and aquatic plants)?			X			
b. Alteration of a plant community?		X				
c. Adverse effects on any unique, rare, threatened, or endangered species?		X				
d. Reduction in acreage or productivity of any agricultural land?		X				
e. Establishment or spread of noxious weeds?		X				
f. ****For P-R/D-J, will the project affect wetlands, or prime and unique farmland?						
g. Other:						

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed): Increased diversity and abundances of aquatic vegetation are likely as a result of creation of shallow water bass spawning habitat.

** 5. FISH/WILDLIFE Will the proposed action result in:	IMPACT *				Can Impact Be Mitigated *	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. Deterioration of critical fish or wildlife habitat?		X				
b. Changes in the diversity or abundance of game animals or bird species?				X		
c. Changes in the diversity or abundance of nongame species?		X				
d. Introduction of new species into an area?		X				
e. Creation of a barrier to the migration or movement of animals?		X				
f. Adverse effects on any unique, rare, threatened, or endangered species?		X				
g. Increase in conditions that stress wildlife populations or limit abundance (including harassment, legal or illegal harvest or other human activity)?		X				
h. ****For P-R/D-J, will the project be performed in any area in which T&E species are present, and will the project affect any T&E species or their habitat? (Also see 5f)		X				
i. ***For P-R/D-J, will the project introduce or export any species not presently or historically occurring in the receiving location? (Also see 5d)		X				
j. Other:						

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed): Habitat enhancement structures will result in increased spawning and rearing capabilities for bass and yellow perch thereby improving abundances of desirable game species (see project narrative).

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B. HUMAN ENVIRONMENT

6. NOISE/ELECTRICAL EFFECTS **Will the proposed action result in:**	**IMPACT ∗**				**Can Impact Be Mitigated ∗**	**Comment Index**
	Unknown ∗	**None**	**Minor ∗**	**Potentially Significant**		
a. Increases in existing noise levels?		X				
b. Exposure of people to serve or nuisance noise levels?		X				
c. Creation of electrostatic or electromagnetic effects that could be detrimental to human health or property?		X				
d. Interference with radio or television reception and operation?		X				
e. Other:						

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):

7. LAND USE **Will the proposed action result in:**	**IMPACT ∗**				**Can Impact Be Mitigated ∗**	**Comment Index**
	Unknown ∗	**None**	**Minor ∗**	**Potentially Significant**		
a. Alteration of or interference with the productivity or profitability of the existing land use of an area?		X				
b. Conflicted with a designated natural area or area of unusual scientific or educational importance?		X				
c. Conflict with any existing land use whose presence would constrain or potentially prohibit the proposed action?		X				
d. Adverse effects on or relocation of residences?		X				
e. Other:						

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):

8. RISK/HEALTH HAZARDS **Will the proposed action result in:**	**IMPACT ∗**				**Can Impact Be Mitigated ∗**	**Comment Index**
	Unknown ∗	**None**	**Minor ∗**	**Potentially Significant**		
a. Risk of an explosion or release of hazardous substances (including, but not limited to oil, pesticides, chemicals, or radiation) in the event of an accident or other forms of disruption?		X				
b. Affect an existing emergency response or emergency evacuation plan or create a need for a new plan?		X				
c. Creation of any human health hazard or potential hazard?		X				
d. ∗∗∗For P-R/D-J, will any chemical toxicants be used? (Also see 8a)		X				
e. Other:						

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):

9. COMMUNITY IMPACT **Will the proposed action result in:**	**IMPACT ∗**				**Can Impact Be Mitigated ∗**	**Comment Index**
	Unknown ∗	**None**	**Minor ∗**	**Potentially Significant**		
a. Alteration of the location, distribution, density, or growth rate of the human population of an area?		X				
b. Alteration of the social structure of a community?		X				
c. Alteration of the level or distribution of employment or community or personal income?		X				
d. Changes in industrial or commercial activity?		X				
e. Increased traffic hazards or effects on existing transportation facilities or patterns of movement of people and goods?		X				
f. Other:						

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):

10. PUBLIC SERVICES/TAXES/UTILITIES **Will the proposed action result in:**	**IMPACT ∗**				**Can Impact Be Mitigated ∗**	**Comment Index**
	Unknown ∗	**None**	**Minor ∗**	**Potentially Significant**		
a. Will the proposed action have an effect upon or result in a need for new or altered governmental services in any of the following areas: fire or police protection, schools, parks/recreational facilities, roads or other public maintenance, water supply, sewer or septic systems, solid waste disposal, health, or other governmental services? If any, specify:		X				
b. Will the proposed action have an effect upon the local or state tax base and revenues?		X				
c. Will the proposed action result in a need for new facilities or substantial alterations of any of the following utilities: electric power, natural gas, other fuel supply or distribution systems, or communications?		X				
d. Will the proposed action result in increased used of any energy source?		X				
e. ∗∗Define projected revenue sources		X				
f. ∗∗Define projected maintenance costs.			X			
g. Other:						

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed): Walleyes Unlimited, a local sportsmen group, will be responsible for maintenance of the inlet structure to assure that fish entrained in the irrigation canal can't access the pond and turbidities don't increase to levels that undermine the effectiveness of the habitat structures (see project narrative).

∗∗ 11. AESTHETICS/RECREATION **Will the proposed action result in:**	**IMPACT ∗**				**Can Impact Be Mitigated ∗**	**Comment Index**
	Unknown ∗	**None**	**Minor ∗**	**Potentially Significant**		
a. Alteration of any scenic vista or creation of an aesthetically offensive site or effect that is open to public view?		X				
b. Alteration of the aesthetic character of a community or neighborhood?		X				
c. ∗∗Alteration of the quality or quantity of recreational/tourism opportunities and settings? (Attach Tourism Report)		X				
d. ∗∗∗For P-R/D-J, will any designated or proposed wild or scenic rivers, trails or wilderness areas be impacted? (Also see 11a, 11c)		X				
e. Other:						

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):

12. CULTURAL/HISTORICAL RESOURCES Will the proposed action result in:	IMPACT *				Can Impact Be Mitigated *	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. **Destruction or alteration of any site, structure or object of prehistoric historic, or paleontological importance?		X				
b. Physical change that would affect unique cultural values?		X				
c. Effects on existing religious or sacred uses of a site or area?		X				
d. ****For P-R/D-J, will the project affect historic or cultural resources? Attach SHPO letter of clearance. (Also see 12.a)		X				
e. Other:						

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):

SIGNIFICANCE CRITERIA

13. SUMMARY EVALUATION OF SIGNIFICANCE Will the proposed action, considered as a whole:	IMPACT *				Can Impact Be Mitigated *	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. Have impacts that are individually limited, but cumulatively considerable? (A project or program may result in impacts on two or more separate resources that create a significant effect when considered together or in total.)		X				
b. Involve potential risks or adverse effects which are uncertain but extremely hazardous if they were to occur?		X				
c. Potentially conflict with the substantive requirements of any local, state, or federal law, regulation, standard or formal plan?		X				
d. Establish a precedent or likelihood that future actions with significant environmental impacts will be proposed?		X				
e. Generate substantial debate or controversy about the nature of the impacts that would be created?		X				
f. ***For P-R/D-J, is the project expected to have organized opposition or generate substantial public controversy? (Also see 13e)		X				
g. ****For P-R/D-J, list any federal or state permits required.						404

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Water Resources (Attach additional pages of narrative if needed):

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PART II. ENVIRONMENTAL REVIEW, CONTINUED

2. Description and analysis of reasonable alternatives (including the no action alternative) to the proposed action whenever alternatives are reasonably available and prudent to consider and a discussion of how the alternatives would be implemented:

Alternatives to the proposed habitat enhancement structures (Christmas trees) include rock and various manufactured habitat structures. Christmas trees are preferable because they are highly effective as spawning and fish attraction habitats and are essentially free. Failing to improve habitat (no action alternative) is unacceptable because of high demand for improved fishing quality that will require improved habitat quality.

3. Evaluation and listing of mitigation, stipulation, or other control measures enforceable by the agency or another government agency:
(This section provides an analysis of impacts to private property by proposed restrictions or stipulations in this EA as required under 75-1-201, MCA, and the Private Property Assessment Act, Chapter 462, Laws of Montana (1995). The analysis provided in this EA is conducted in accordance with implementation guidance issued by the Montana Legislative Services Division (EQC, 1996). A completed checklist designed to assist state agencies in identifying and evaluating proposed agency actions, such as imposed stipulations, that may result in the taking or damaging of private property, is included in Appendix A.)

PART III. NARRATIVE EVALUATION AND COMMENT

PART IV. EA CONCLUSION SECTION

1. Based on the significance criteria evaluated in this EA, is an EIS required (YES/NO)? If an EIS is not required, explain <u>why</u> the EA is the appropriate level of analysis for this proposed action.

NO. The EA is the appropriate level of analysis because of the small size and effects of the proposed project. This project will involve very minor habitat alterations in a closed system.

2. Describe the level of public involvement for this project if any and, given the complexity and the seriousness of the environmental issues associated with the proposed action, is the level of public involvement appropriate under the circumstances?

This project was structured in cooperation with a local sportsmen group, Walleyes Unlimited, who will be involved in all phases of implementation and maintenance (see narrative). Public involvement includes obtaining Christmas trees, participating in placement of habitat improvement structures, and maintenance of fish screens on the inlet structure by local angling and sportsman groups. This level of public involvement is appropriate as the complexity and seriousness of the environmental issues associated with the proposed action are minor.

3. Duration of comment period, if any.

15 days.

4. Name, title, address and phone number of the person(s) responsible for preparing the EA:

Matthew Jaeger
Fisheries Biologist
2068 Highway 16
Glendive, MT 59330

406-687-3057

APPENDIX A

PRIVATE PROPERTY ASSESSMENT ACT CHECKLIST

The 54th Legislature enacted the Private Property Assessment Act, Chapter 462, Laws of Montana (1995). The intent of the legislation is to establish an orderly and consistent process by which state agencies evaluate their proposed actions under the "Takings Clauses" of the United States and Montana Constitutions. The Takings Clause of the Fifth Amendment of the United States Constitution provides: "nor shall private property be taken for public use, without just compensation." Similarly, Article II, Section 29 of the Montana Constitution provides: "Private property shall not be taken or damaged for public use without just compensation..."

The Private Property Assessment Act applies to proposed agency actions pertaining to land or water management or to some other environmental matter that, if adopted and enforced without compensation, would constitute a deprivation of private property in violation of the United States or Montana Constitutions.

The Montana State Attorney General's Office has developed guidelines for use by state agency to assess the impact of a proposed agency action on private property. The assessment process includes a careful review of all issues identified in the Attorney General's guidance document (Montana Department of Justice 1997). If the use of the guidelines and checklist indicates that a proposed agency action has taking or damaging implications, the agency must prepare an impact assessment in accordance with Section 5 of the Private Property Assessment Act. For the purposes of this EA, the questions on the following checklist refer to the following required stipulation(s):

DOES THE PROPOSED AGENCY ACTION HAVE TAKINGS IMPLICATIONS UNDER THE PRIVATE PROPERTY ASSESSMENT ACT?

YES	NO	
_____	X_____	1. Does the action pertain to land or water management or environmental regulation affecting private real property or water rights?
_____	X_____	2. Does the action result in either a permanent or indefinite physical occupation of private property?
_____	X_____	3. Does the action deprive the owner of all economically viable uses of the property?
_____	X_____	4. Does the action deny a fundamental attribute of ownership?
_____	X_____	5. Does the action require a property owner to dedicate a portion of property or to grant an easement? [If the answer is **NO**, skip questions 5a and 5b and continue with question 6.]
_____	_____	5a. Is there a reasonable, specific connection between the government requirement and legitimate state interests?
_____	_____	5b. Is the government requirement roughly proportional to the impact of the proposed use of the property?
_____	X_____	6. Does the action have a severe impact on the value of the property?
_____	X_____	7. Does the action damage the property by causing some physical disturbance with respect to the property in excess of that sustained by the public generally? [If the answer is **NO**, do not answer questions 7a-7c.]
_____	_____	7a. Is the impact of government action direct, peculiar, and significant?
_____	_____	7b. Has government action resulted in the property becoming practically inaccessible, waterlogged, or flooded?
_____	_____	7c. Has government action diminished property values by more than 30% and necessitated the physical taking of adjacent property or property across a public way from the property in question?

Taking or damaging implications exist if **YES** is checked in response to question 1 and also to any one or more of the following questions: 2, 3, 4, 6, 7a, 7b, 7c; or if **NO** is checked in response to questions 5a or 5b.

If taking or damaging implications exist, the agency must comply with Section 5 of the Private Property Assessment Act, to include the preparation of a taking or damaging impact assessment. Normally, the preparation of an impact assessment will require consultation with agency legal staff.