EA-02-06

Montana Fish, Wildlife & Parks

DECISION NOTICE FOR: Spotted Eagle Lake Habitat Project

DESCRIPTION OF THE PROPOSED ACTION

Spotted Eagle Lake has historically had a large composition of fish species, but recruitment of species targeted by anglers is low. The reservoir is an abandoned gravel pit with homogenous habitat that produces very little vegetation for invertebrate growth and hiding cover for fish. To improve the fishery and angler opportunity the following habitat structures/projects will be constructed: Christmas tree clusters/reefs, rock piles, fabric tunnels, PVC tunnels and anchoring trees along the shoreline. A shallow water channel connecting Spotted Eagle Lake and the surrounding slough will also be developed. These projects will occur over the next 2-3 years as materials and labor are gathered.

PUBLIC PROCESS AND COMMENT

Since this project is not expected to be controversial or have cumulative or significant negative impacts on the environment, mitigation measures are not provide or stipulated and public review is not necessary.

DECISION

Based on the analysis in the Environmental Assessment (EA) and the applicable laws, regulations and policies, I have determined that this action will not have a significant effect on the natural or human environment. Therefore, an Environmental Impact Statement will not be prepared.

It is my decision to implement the proposed action, and proceed with the work identified. By notification of this Decision Notice, the draft EA is hereby made the final EA without any modifications or additions. The final EA may be viewed at or obtained from Montana Fish, Wildlife & Parks at the above address. Please direct any further requests or questions to Bryce Christensen, Region 7 Supervisor, or Brad Schmitz, Region 7 Fish Manager.

Bryce Christensen 11/06/06

Regional Supervisor Date

8/00

Montana Fish, Wildlife and Parks
1420 E 6th Ave, PO Box 200701 Helena, MT 59620-0701
(406) 444-2452

ENVIRONMENTAL ASSESSMENT CHECKLIST

PART 1. PROPOSED ACTION DESCRIPTION

Project Title: Spotted Eagle Lake Habitat Project

Application Date: Dec 23, 2005

Name, Address and Phone Number: Montana Department of Fish, Wildlife & Parks
PO Box 1630
Miles City, MT. 59301
406-234-0900

Project Location: Spotted Eagle Lake is located in Custer County at the following legal description: SE1/4 NW1/4 S4 of T7N R47E.

Description of Project: Spotted Eagle Lake has historically had a large composition of fish species, but recruitment of species targeted by anglers is low. The reservoir is an abandoned gravel pit with homogenous habitat that produces very little vegetation for invertebrate growth and hiding cover for fish. To improve the fishery and angler opportunity the following habitat structures/projects will be constructed: Christmas tree clusters/reefs, rock piles, fabric tunnels, PVC tunnels and anchoring trees along the shoreline. A shallow water channel connecting Spotted Eagle Lake and the surrounding slough will also be developed. These projects will occur over the next 2-3 years as materials and labor are gathered.

Other groups or agencies contacted or which may have overlapping jurisdiction: City of Miles City and US Army Corps of Engineers.

PART 2. ENVIRONMENTAL REVIEW

Table 1. Potential impact on physical environment.

Will the proposed action result in potential impacts to:	Unknown	Potentially Significant	Minor	None	Can Be Mitigated	Comments Provided
1. Unique, endangered, fragile, or limited environmental resources				X		
2. Terrestrial or aquatic life and/or habitats			X			a)
3. Introduction of new species into an area				X		
4. Vegetation cover, quantity and quality				X		
5. Water quality, quantity and distribution (surface or groundwater)				X		
6. Existing water right or reservation				X		
7. Geology and soil quality, stability and moisture				X		
8. Air quality or objectional odors				X		
9. Historical and archaeological sites				X		
10. Demands on environmental resources of land, water, air & energy				X		
11. Aesthetics				X		

Comments

(A description of potentially significant, or unknown, impacts and potential alternatives for mitigation must be provided.)

a) Change fish population structure by increasing spawning and rearing cover, ultimately increasing number of fish and average size.

Table 2. Potential impacts on human environment.

Will the proposed action result in potential impacts to:	Unknown	Potentially Significant	Minor	None	Can Be Mitigated	Comments Provided
1. Social structures and cultural diversity				X		
2. Changes in existing public benefits provided by wildlife populations and/or habitat			X			a)
3. Local and state tax base and tax revenue			X			a)
4. Agricultural production				X		
5. Human health				X		
6. Quantity and distribution of community and personal income				X		
7. Access to and quality of recreational activities			X			b)
8. Locally adopted environmental plans & goals (ordinances)				X		
9. Distribution and density of population and housing				X		
10. Demands for government services				X		
11. Industrial and/or commercial activity				X		

Comments

(A description of potentially significant, or unknown, impacts and potential alternatives for mitigation must be provided as comments.)

a) Potential increase due to anglers visiting area that are seeking improved angler opportuity.

b) May increase angler use in area, putting increased demands on public facilities, increasing bank erosion, and testing social tolerance between different recreational users.

Does the proposed action involve potential risks or adverse effects which are uncertain but extremely harmful if they were to occur? The only risk could be damage to boat motor props from Christmas trees placed in shallow water. The City of Miles City allows operation of powerboats (for testing only) on two days a year, the rest of the year it is closed to powerboats. To minimize prop contact, submerged trees will be placed so the tops of the trees will be at least two feet under the water surface. Some tree clusters will have 50% of the trees sticking out of the water, but these clusters will be located along the shoreline in 3-4 feet of water. They will be obvious to boat operators and located in water too shallow to operate a powerboat.

Does the proposed action have impacts that are individually minor, but cumulatively significant or potentially significant? No

Description and analysis of reasonable alternatives (including the no action alternative) to the proposed action when alternatives are reasonably available and prudent to consider. Include a discussion of how the alternatives would be implemented: The only alternative is "No Action" which will allow the poor fishery to continue. Annual sampling and monitoring would occur under this alternative, but the quality of the fishery would not be expected to change. This will foster additional complaints from anglers that are frustrated by the lack of quality-sized fish. Anglers may also develop the opinion that Montana Department of Fish, Wildlife and Parks is doing nothing to improve or change the situation.

Since this project is not expected to be controversial or have cumulative or significant negative impacts on the environment, mitigation measures are not provide or stipulated. This Environmental Assessment Checklist is the appropriate level of review for this project and an Environmental Impact Statement is not warranted.

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.

Individuals or groups contributing to, or commenting on, this EA: None

EA prepared by: Mike Backes

Date Completed: December 23, 2005

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.