EA-44-00

ENVIRONMENTAL REVIEW OF FISH INTRODUCTIONS
PRIVATE POND APPLICATION

Name and address of applicant Gary and Randall Pates
P.O. Box 31214
Billings, MT 59107
248-4222 (h); 672-3795 ©; 248-7771 (w)

Has the pond been approved for a private pond permit? Yes
Location:

County Carbon Township 7S Range 20E Section 15, SE, SE

Name of the drainage where the pond would be located Rock Creek

Name(s) of fish species proposed for introduction Rainbow trout, Yellowstone cutthroat trout
Is this species legally present in the drainage? Yes

Species of special concern present in the drainage Yellowstone cutthroat trout

RISKS:

Potential for impacts on genetic structure of existing fish populations?
None x Minor ____ Major

Comments:

Impacts to any life stage of existing fish populations due to competition and/or predation?
None x Minor ____ Major

Comments:

Impacts to other forms of aquatic life that may be caused by this introduction?
None ____ Minor x Major

Comments: Pond invertebrates become prey.

Potential for the proposed new species to reproduce in this location?
None x Minor ____ Major

Comments:

If necessary, would it be feasible to remove this species after it has been stocked?
Yes, using seines, traps, or chemical treatment.

Would this introduction result in impacts that are individually limited, but cumulatively considerable?
No.

Describe reasonable and prudent alternatives to this action, if any (including no action).
Deny permit or require different fish species.

Describe and evaluate mitigation, stipulations, or other control measures enforceable by the agency, if any.
Screens on inlets and outlets.

List any other agencies or individuals that may be affected by the proposed introduction:
N/A

List all agencies and individuals who have been notified of this proposed introduction:
Posted on FWP internet bulletin board.
DNRC, Billings
EQC

Based on this evaluation, is an EIS required? No. If no, explain why the EA is the appropriate level of analysis for the proposed action.
No significant impacts.

EA prepared by: J. Darling

Comments will be accepted until N/A

Comments should be sent to: Montana Fish, Wildlife & Parks
Attn: Fisheries Manager
2300 Lake Elmo Drive
Billings, MT 59105

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):

(List any mitigation/stipulations required, or note "None".)

None.

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.