



**Montana Fish,
Wildlife & Parks**

2300 Lake Elmo Drive
Billings, MT 59105

October 12, 2006

TO: Environmental Quality Council
Director's Office, Dept. of Environmental Quality
Montana Fish, Wildlife & Parks*

Director's Office	Lands Section
Parks Division	Design & Construction
Fisheries Division	Legal Unit
Wildlife Division	Regional Supervisors

Mike Volesky, Governor's Office*
Sarah Elliott, Press Agent, Governor's Office*
Montana Historical Society, State Preservation Office
Janet Ellis, Montana Audubon Council
Montana Wildlife Federation
Montana State Library*
George Ochenski
Montana Environmental Information Center
Wayne Hirst, Montana State Parks Foundation
FWP Commissioner Shane Colton
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Other Local Interested People or Groups and:
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Scott Bosse, GYC, Bozeman (sbosse@greateryellowstone.org)
Other Local Interested People or Groups

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Ladies and Gentlemen:

Attached for your review is a draft Environmental Assessment for cutthroat portions of Upper and Lower Deer creeks damaged by fire. The fish would be moved to Harney, Thiel, or Barlow creeks (Carbon County) until the risk of ash and debris flows pass and the stream habitat recovers.

Any questions should be directed to Jim Olsen (328-4636) or Jim Darling (247-2961). Written comments should be addressed to the undersigned by October 27, 2006 or e-mailed to ghammond@mt.gov.

Sincerely,

Gary Hammond
Regional Supervisor

RECEIVED

OCT 16 2006

LEGISLATIVE ENVIRONMENTAL
POLICY OFFICE

ENVIRONMENTAL ASSESSMENT CHECKLIST

PART 1. PROPOSED ACTION DESCRIPTION

Project Title: Yellowstone Cutthroat Trout Salvage from Upper and Lower Deer Creeks

Date: October 12, 2006

Name, Address and Phone Number:

Jim Darling
Regional Fisheries Manager
Montana Fish, Wildlife and Parks
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Project Location: Upper (T3S R14E Sec14) and Lower (T3S R15E Sec8) Deer creeks originate on the Gallatin National Forest and drain to the north into the Yellowstone River in Sweet Grass County, Montana. These two streams would serve as the donor source for Yellowstone cutthroat trout (YCT) for this proposed project. Harney Creek (T6S R19E Sec36), Thiel Creek (T6S R19E Sec26), Barlow Creek (T6S R19E Sec16) and an unnamed tributary to Barlow Creek (T6S R19E Sec20) located in Carbon County would serve as the recipient streams for the YCT.

Brief Project Description: The Derby Fire of 2006 severely burned much of the Upper and Lower Deer creek drainages. Because of the steep topography and the intensity of the fire in these areas, the YCT populations in the creeks are at very high risk of extinction if ash and debris flows follow a heavy precipitation or snow-melt event. Montana Fish Wildlife and Parks (FWP), in cooperation with the Gallatin National Forest, is proposing to relocate YCT from the two creeks to suitable habitat outside the burn area. Once habitat and water quality conditions have improved in the Deer Creeks (1-5 years), fish will be transplanted back to the Deer Creeks to repopulate the streams. The proposed recipient streams for the YCT are Harney, Thiel and Barlow creeks. An additional unnamed tributary to Barlow Creek is another proposed recipient stream.

Description of Project:

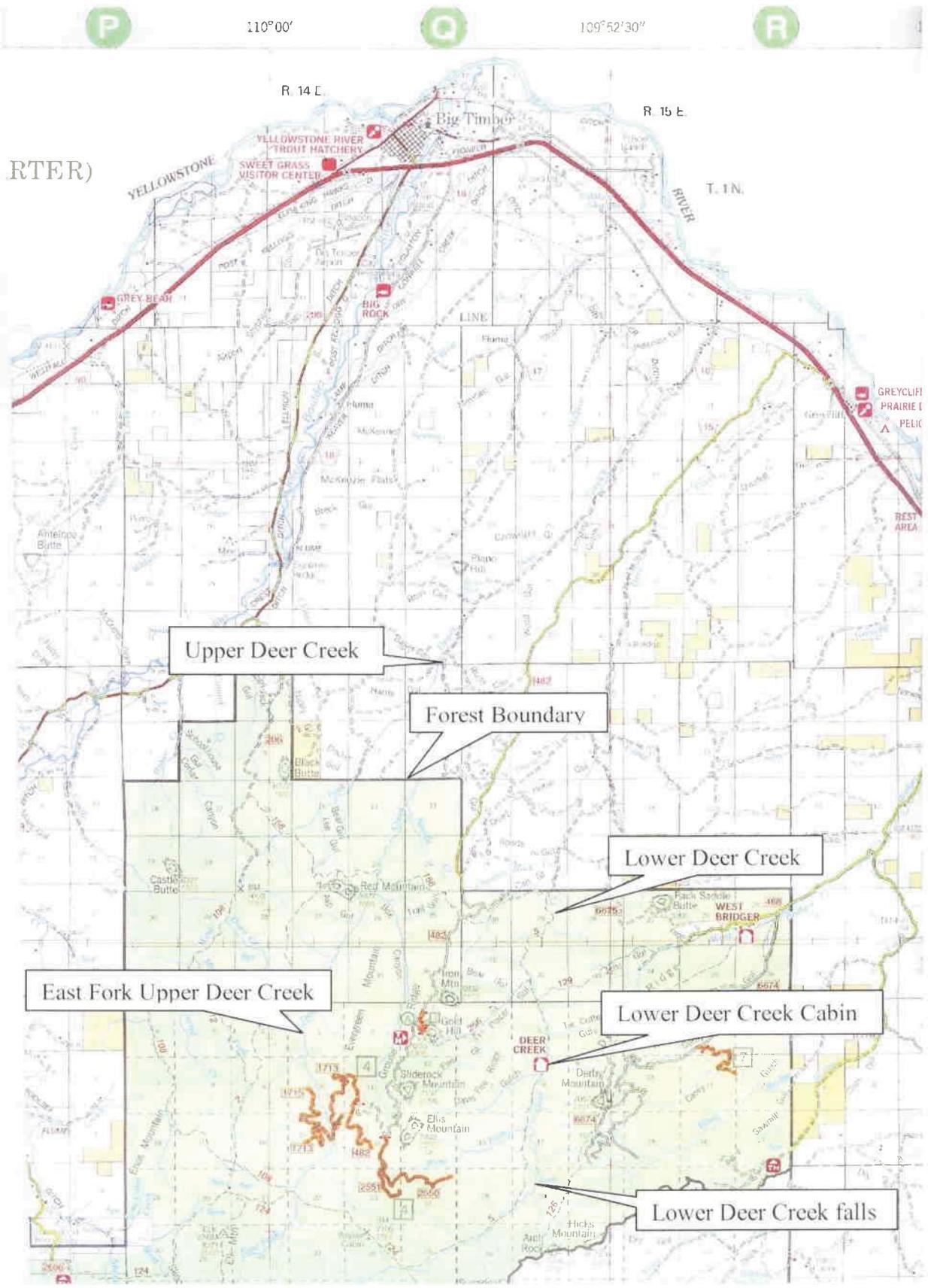
The distribution and abundance of Yellowstone cutthroat trout (*Oncorhynchus clarki bouvieri*) have declined from historical levels over most of their range. In Montana, Idaho and Wyoming, YCT currently occupy less than 60% of their historically occupied 17,397 miles of habitat, and of these, only 7-25% are genetically pure populations (May et al. 2003). YCT are a species of special concern in the State of Montana and on the Sensitive Species List for R1 of the US Forest

Service. Many populations have been in decline or have disappeared because of habitat degradation, introduction of non-native species, disease, and over-harvest. In FWP Region 5 (extending from Springdale to the mouth of the Bighorn River) there are very few YCT populations. Historically, much of the mainstem Yellowstone River and nearly all of its tributaries were occupied by cutthroat trout. Currently, however, YCT occupy only a small fraction of their historical range in Region 5. Most of the streams that are currently occupied by YCT are small isolates at the headwaters of drainages. With the exception of Slough Creek, which drains into Yellowstone National Park, there are no populations of YCT in Region 5 that occupy a network of streams.

Upper and Lower Deer creeks (Map 1) support genetically pure populations of YCT. Although both streams drain to the Yellowstone River, stream flows only periodically reach the main river because of porous substrate and irrigation diversions. Therefore, the streams are only occasionally connected to the Yellowstone River. Connectivity between the river and the Deer Creeks historically coincided with YCT spawning time in late spring (May-June), so it is likely that the Deer Creeks harbored native YCT; however, both have been stocked with YCT. Lower Deer Creek was last stocked with YCT in 1950; Upper Deer Creek in 1948. Because of the historical connection with the Yellowstone River and the length of time since last stocking, FWP manages these populations as endemic.

The YCT population in the Upper Deer Creek drainage is confined to the headwaters of the East Fork of Upper Deer Creek. Brown and brook trout are also present in the drainage. In the headwaters of the East Fork, YCT are sympatric with brook trout. Surveys in 2004 indicated that brook trout outnumber YCT in the headwaters 10 to 1, but the YCT present are reproducing (as evidenced by age-0 fish). The East Fork of Upper Deer Creek is heavily forested and has only fair habitat for trout because of its small size, cold water and lack of pools. Genetic testing from fish collected in 1998 indicated that the YCT are non-hybridized.

The Lower Deer Creek population of YCT is much more extensive than Upper Deer Creek's. Surveys conducted in 2005 indicated that YCT are present in the stream from the falls (approximately 5.5 miles into the Gallatin National Forest) to at least 4 miles downstream of the forest boundary (on private land). The habitat quality in Lower Deer Creek is better than that of Upper Deer Creek because of increased water volume and better developed pool habitat. YCT in Lower Deer Creek are sympatric with brown trout. The proportion of brown to YCT in Lower Deer Creek at the Deer Creek Cabin is 7 to 3, and approximately 4 miles downstream of the forest boundary the proportion is 5 to 1. The Lower Deer Creek population of YCT appears to be unique because of its ability to persist in the presence of abundant brown trout. In most other streams where non-native trout species are present, YCT dwindle and often go extinct (such as in Upper Deer Creek, Bad Canyon Creek, and Brushy Fork of Willow Creek (Olsen 2006)). Either the habitat conditions or the YCT are unique in Lower Deer Creek because the YCT have persisted in the presence of brown trout for at least 50 years.



Map 1. Upper and Lower Deer Creeks.

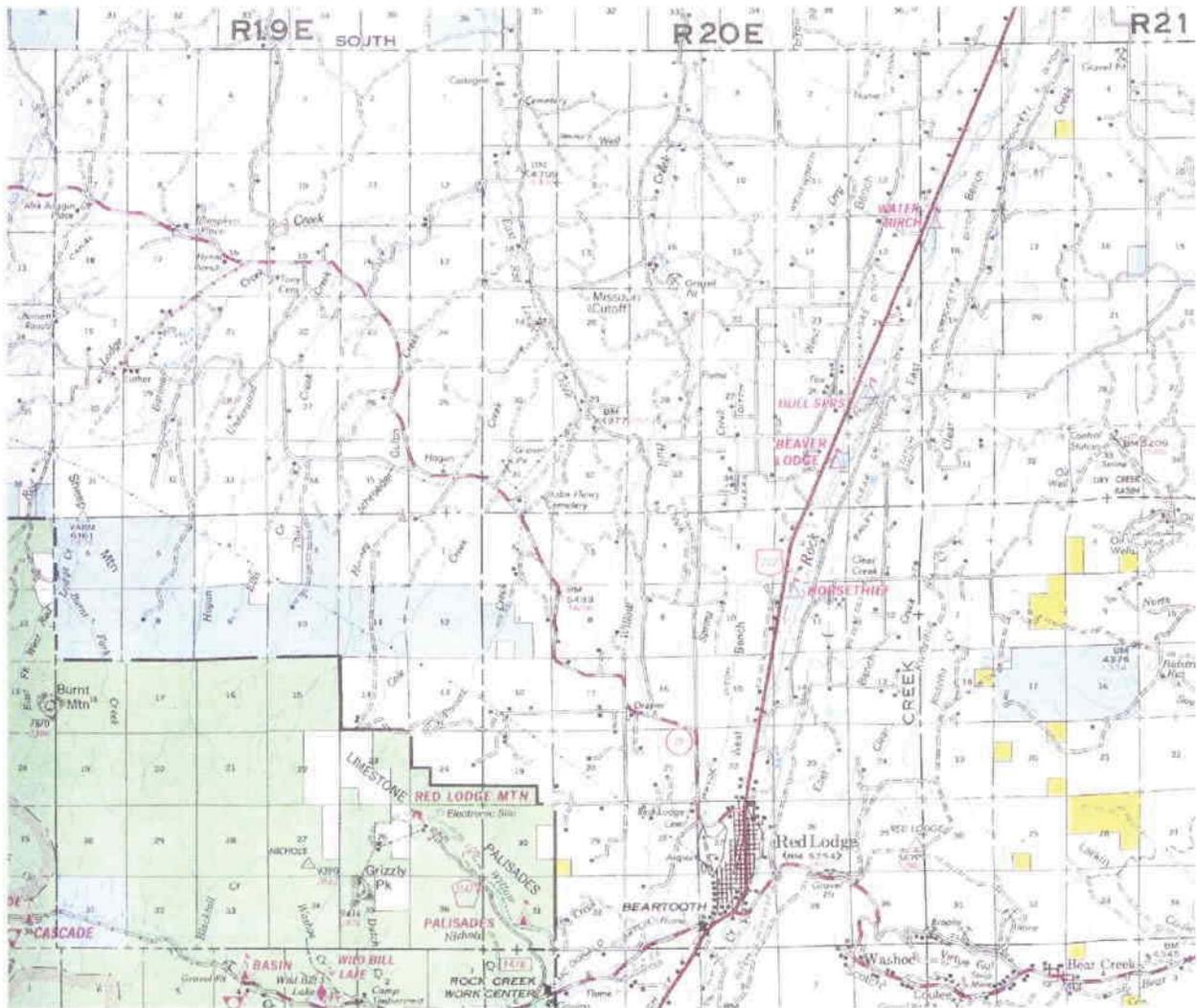
Upstream of the falls in Lower Deer Creek (Map 1) no fish were present until 2002 when YCT were introduced into approximately 6 miles of habitat. In 2005, FWP and the Gallatin National Forest entered into a cost-share agreement to protect and restore YCT in Lower Deer Creek. They created a fish migration barrier on land owned by the State of Montana downstream of the forest boundary, and removed brown trout upstream of the barrier. Genetic testing in 1989 indicated that the YCT on the Gallatin National Forest were non-hybridized. Genetic testing in 2005 indicated that some YCT were hybridized with rainbow trout on private land downstream of the forest. The likely source of the rainbow trout is private ponds in the drainage or the Yellowstone River.

In August and September of 2006, the Derby Mountain Wildfire consumed 223,000 acres of land in Stillwater and Sweet Grass counties, including much of Upper and Lower Deer creeks. Although there did not appear to be any significant immediate effects of the fire on the fish populations in the creeks, post-fire inventory of the burned area by the Burned Area Emergency Management (BAER) team suggested that the areas most intensely and contiguously burned were in the Deer Creek drainages. Much of the heavily forested area burned extremely hot creating hydrophobic soils. Because of the severity and extent of burned area, the steepness of the terrain, and the highly erosive nature of the soils, severe erosion and debris flow are forecasted for the Deer Creeks. Under a worst-case scenario, as much as 19 tons of sediment per acre is forecasted to erode from the slopes of the Deer Creeks. Extreme sediment loads, combined with the toxic effects of ash in the water, have the potential to cause the extirpation of YCT and other trout species from the Upper and Lower Deer creeks. The BAER teams predict that the likelihood of losing the fish populations in the creeks is very high.

Because of the potential to lose these important and potentially unique populations of YCT, FWP (in cooperation with the Gallatin National Forest) is proposing to salvage YCT from Upper Deer Creek and Lower Deer Creek and transplant them into unburned streams. The intent of the proposed action is to preserve the locally adapted traits of YCT in these drainages and eventually move fish back into the Deer Creeks once habitat conditions improve. Four streams have been selected and inventoried as possible introduction sites: Harney Creek, Thiel Creek, Barlow Creek and an unnamed tributary to Barlow Creek (Map 2). Precedence for similar salvage projects has been set in other states. In Utah, Bonneville cutthroat trout were temporarily transplanted from a burned watershed to an unburned stream while habitat conditions stabilized. The fish were successfully moved back into the burned watershed 2 years after the fire (Bruce May, personal communication).

Prior to the movement of any wild fish within Montana, they must first be tested for diseases. In addition, because of the presence of hybridized fish in Lower Deer Creek, genetic testing must be performed there farther upstream. Disease and genetics samples were collected on 9/2/06 from both Upper and Lower Deer creeks. The samples from Lower Deer Creek were collected on the Gallatin National Forest approximately 5 miles upstream from the location where hybridized fish were detected in 2005. Fish from Upper Deer Creek were collected near the headwaters at the same location where the 1998 genetic samples were taken. Sixty brown and brook samples collected for disease analysis will be analyzed within 28 days from the time of collection. Results of the disease and genetics testing should be back by the end of October. If the fish are diseased

or are hybridized with rainbow trout, the project will not proceed, and no fish will be transplanted from the drainage. If the fish are disease free and non-hybridized, however, they will be translocated as soon as possible. Single-pass electrofishing will be used to capture YCT from the Deer Creeks. Therefore, not all YCT will be removed from the creeks and, in the event that transplantation is not successful and there is little affect of the fire on the fish populations, YCT would remain in the Deer Creeks. In Lower Deer Creek electrofishing would begin at the location genetics samples were collected and will extend upstream to the falls. In Upper Deer Creek the entire headwaters will be electrofished if time and weather permit. A helicopter will be used to transport the fish from the Deer Creeks to their recipient waters. It is possible that 1,000 fish or more could be moved from Lower Deer Creek, and approximately 100 from Upper Deer Creek. It will likely take 4-7 days to capture the fish and one day to transport them. Because of the onset of winter and difficulty of capturing and transporting fish in cold, icy weather, there will likely only be a 1-3 week window of opportunity to complete this project in early November 2006.



Map 2. The location of Harney, Thiel, and Barlow creeks is indicate on the map.

Four potential introduction streams have been identified within the Red Lodge Creek drainage approximately 30 miles away. Thiel Creek has the highest quality of habitat and length of stream with suitable water. It has high quality pools and very stable stream banks. Water is withdrawn from Thiel Creek to irrigate adjacent fields, but the abundance of brook trout indicates that sufficient water remains in the stream perennially to support fish. In addition, there are abundant mottled sculpin and a few creek chubs. One landowner who supports the introduction of YCT owns land along Thiel Creek upstream of Highway 78. There is approximately 2 miles of suitable habitat available for YCT there. To reduce competition between brook trout and the introduced YCT, electrofishing removal of brook trout will occur from the Highway 78 crossing upstream. Brook trout will be transported downstream of the highway, adipose fin-clipped and released. An existing diversion structure approximately ¼ mile upstream of the highway crossing will be used as a temporary barrier to prevent brook trout from migrating back upstream. An additional temporary barrier is proposed to be constructed in the creek upstream of the highway crossing and upstream of the confluence with Schroeder Creek. This structure would not likely be constructed until spring 2007 because of funding and timing constraints this fall. Electrofishing removals of brook trout would take place at least twice a year in the future (in the spring and fall), and fish would be relocated downstream. If the cutthroat trout successfully spawn in the creek, juvenile and adult fish will be transplanted back to the Deer Creeks to repopulate the streams. Sufficient YCT will be left in Thiel Creek to maintain the population.

Harney Creek is very similar to Thiel Creek except more water is withdrawn for irrigation. There are more miles of habitat available in Harney Creek than Thiel or Barlow Creek, but some reaches of the creek are substantially dewatered. Four landowners are present along Harney Creek from its headwaters to its confluence with the East Fork of Red Lodge Creek. Three of the four are in favor of the project, and the fourth has not been contacted yet. The three landowners who have expressed support for the project are all downstream of Highway 78. If the landowner upstream of the highway agrees, it is our intent to extend the introduction of YCT to the headwaters. Harney Creek also has brook trout and mottled sculpins. No rainbow trout are present. After Thiel Creek, Harney Creek has the most suitable habitat for YCT introduction. Approximately 2.5 miles of habitat are present downstream of the highway, with an additional 1.5 miles upstream. Similar methods proposed for Thiel Creek would be employed in Harney Creek to reduce the numbers of brook trout and transport them downstream of a barrier. A temporary barrier would eventually be constructed upstream from the confluence with the East Fork of Red Lodge Creek to prevent brook trout recolonization.

Barlow Creek has brown trout, mottled sculpins, mountain suckers, white suckers and lake chubs. An irrigation diversion creates a 4 ft vertical drop approximately 100 y downstream of the Highway 78 crossing. This structure appears to be a barrier to fish passage and with some modification (filling the plunge pool downstream), could be made a definite barrier. One drawback to Barlow Creek is that irrigation water from West Red Lodge Creek is wasted into the creek. West Red Lodge Creek contains mostly brown trout. Hybridized cutthroats are present upstream on the Custer National Forest and rainbow trout are present, albeit rare, farther downstream in Red Lodge Creek near Cooney Reservoir. Therefore, the hybridization risk is greater in Barlow Creek than in either Thiel or Harney creek. Electrofishing in West Red Lodge Creek at the Highway 78 in 2004 yielded no rainbow trout and 182 brown trout. Electrofishing in

Barlow Creek in 2006 also yielded no rainbow trout. Although the hybridization threat is present in Barlow Creek, it appears to be very minimal. The habitat quality in the creek is excellent with highly undercut banks and deep pools. Barlow Creek does not suffer from dewatering upstream of Highway 78. Approximately 1.5 miles of habitat are present in Barlow Creek that could be occupied by YCT. Because of the hybridization potential, this creek is third in priority for receiving YCT.

An unnamed spring tributary flows approximately $\frac{3}{4}$ mi before reaching Barlow Creek. This spring creek has brook trout and a pond at its headwaters that also contains brook trout. The habitat in the creek is good with abundant spawning areas and a moderate number of pools. The same procedure would be followed as described for Thiel Creek with the exception of adding screening to the pond outlet to prevent brook trout from the pond from colonizing the creek. With so few YCT in Upper Deer Creek, it is likely that the entire population could be stocked into this spring creek. The creek habitat could be enhanced to facilitate spawning and improve adult habitat.

The four potential recipient streams have been selected because of their lack of hybridizing trout species, relatively similar habitat and elevation to the Deer Creeks, their small size (so non-natives numbers can be effectively reduced and YCT can be recaptured eventually and transplanted back into the Deer Creeks), and their ease of access. Other options on National Forest and private lands were explored but were found less suitable. Sufficient time was not available to perform an exhaustive inventory of potential recipient waters, but many streams were excluded because of the presence of hybridizing species, their large size leading to our inability to eventually recapture YCT, or poor access to the streams. Very few fishless streams with suitable habitat for YCT introduction exist in the vicinity and the known streams are either within the Absaroka-Beartooth Wilderness Area or in a Research Natural Area. Placing Deer Creek YCT into each of these four streams will reduce the likelihood of losing the populations to environmental (drought or flood) or other factors. Further, if fish successfully reproduce in the recipient streams, the numbers of fish available to re-found the Deer Creek populations should be greater than if only one stream were used.

The habitat conditions in Upper and Lower Deer creeks will be monitored in the coming years. When the impacted creeks are stabilized and habitat conditions are suitable, YCT will be captured from the recipient streams and transported back to the Deer Creeks. Prior to their re-establishment, genetic samples will be collected, and fish from the recipient waters will be tested for disease. If fish are hybridized or diseased, they will not be transported back into the Deer Creeks. The YCT back, the fish will likely be trucked from the recipient streams to the Deer Creeks. Primarily juvenile fish will be transplanted because they are easier to move than adult fish, and moving juvenile fish will allow the YCT populations to persist in the recipient waters. Four-wheelers will be used to stock Lower Deer Creek; Upper Deer Creek is accessible by truck. Fish transplants will likely occur over a period of several years to ensure sufficient numbers are moved to re-found the populations. Depending on the severity of the erosion in the drainages, it may be 3-5 years before habitat conditions improve to the point where reintroduction is feasible.

It is possible that severe erosion will not occur in Upper and Lower Deer creeks, and there may be only negligible effects of the fire on the fish populations. If loss of the fish populations does not occur, removing many of the YCT from the creek would give non-native browns and brook trout an even greater competitive advantage. Preserving the locally adapted fish from the creeks in nearby watersheds with similar habitats, however, would allow for barrier construction, removal of the non-native fish, and restoration of YCT (as outlined in the current cost share agreement between FWP and the Gallatin National Forest) to Upper and Lower Deer creeks.

Review of Alternatives to the Proposed Action:

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:

No Action Alternative:

If no action were taken to preserve the existing YCT in the Deer Creeks, it is highly probably that flooding and erosion would eliminate the fish populations. No action could result in the loss of an endemic fish population that is unique in its ability to persist in the presence of non-native brown trout. If the fish populations were extirpated, YCT from the Big Timber Hatchery would be used to refound YCT in the drainages, and barriers would be proposed to prevent non-native trout from recolonizing the streams.

It is also possible that severe erosion will not occur in Upper and Lower Deer creeks, and the fires will not affect the fish substantially. If this scenario occurs under the “no action alternative”, then the trout populations would continue as they did before the fire. Lower Deer Creek YCT would be threatened by the presence of hybridized fish and non-native brown trout, but work would continue to preserve the YCT in the creek through the cost-share agreement. It is very likely that the YCT in Upper Deer Creek will go extinct in the near future under the “no action alternative” through either the effects of the fire or competition from the non-native brook trout.

Rehabilitate burned areas to reduce erosion:

To reduce erosion in the drainage, it is possible to perform post-fire rehabilitation on the severely burned areas. Given the rugged nature and inaccessibility of many of the burned areas, the most effective technique would be helimulching, where seed and mulch are applied with a helicopter. Helimulching is extremely expensive and would be only partially effective in the Deer Creeks because of the steepness of the terrain. According the BAER team, to treat only the most severely burned areas in the Deer Creeks would cost in the millions of dollars and, therefore, would not be feasible. A small area of a tributary to Lower Deer Creek (Placer Gulch) that is populated by YCT will be treated with helimulching to reduce erosion.

Move fish into a hatchery:

Another option considered to preserve the Upper and Lower Deer Creek stocks of YCT was to temporarily move them into one of the state's fish hatcheries. It is the policy of the state hatchery system, however, that no live fish from the wild can enter the hatchery due to the risk of infection. If a hatchery becomes infected with a fish disease it can result in the loss of millions of fish and hundreds of thousands of dollars. All the fish in hatchery are destroyed, and a rigorous process is followed to disinfect the hatchery and its water source. It can often take years before the hatchery can be once again certified disease free. Only fertilized eggs can be moved from the wild into a state hatchery because they can be successfully disinfected. Therefore, moving the fish from Upper and Lower Deer creeks into the hatchery is not a possibility.

Move fish into a pond not part of the hatchery system:

A fourth option in addition to the proposed action would be to move the fish from the Deer Creeks into a pond. This option was closely considered, but there are several drawbacks to relocating fish into a pond from a small stream, in addition to finding a suitable pond for introduction. The primary concern is that the fish growth in pond environments is generally much greater than in streams. The largest cutthroat captured in Lower Deer Creek was 15 in. Within 1 year in a pond environment, fish would likely grow to a size greater than the maximum size found in the creek. Transporting large fish is difficult, and it is unlikely that food in the creek would be sufficient to support such large fish. If fish were relocated to a pond environment, it is likely that rather than transporting live fish back to the Deer Creeks, adult fish would be spawned and either fertilized eggs or fry would be transplanted back to the creeks. Capturing spawning fish in ponds has proven to be difficult. Further, if the fertilized eggs were taken into the hatchery for rearing to fry, the adult fish would have to be killed and tested for disease. If more time and resources were available for this project, and a suitable pond were available, stocking the fish into a pond environment would be a more feasible option. Given the financial and time limitation of the project, however, it is not the preferred option.

Other groups or agencies contacted or which may have overlapping jurisdiction:

Upper Deer Creek and Lower Deer Creek are within the Gallatin National Forest. Fisheries management outside wilderness areas is the authority of the state agencies. This project is consistent with fish population and habitat management goals and objectives for streams within the Gallatin National Forest. The goals of this project are consistent with USFS sensitive species management goals, and specific objectives outlined in the Cooperative Conservation Agreement for Yellowstone Cutthroat Trout within Montana (CCA 2000) entered into by several state and federal resource management agencies, including FWP and the GNF. The recipient waters are all on private land, with the exception of the headwaters of Harney and Thiel creeks that are on land owned by the State of Montana. Water quantity limits fish populations in these headwater areas, and this project is not expected to extend onto state lands at this time.

1. POTENTIAL IMPACT ON PHYSICAL ENVIRONMENT

WILL THE PROJECT RESULT IN POTENTIAL IMPACTS TO:	UNKNOWN	POTENTIALLY SIGNIFICANT	MINOR	NONE	CAN BE MITIGATED	COMMENTS PROVIDED
1. Unique, endangered, fragile or limited environmental resources			X		Yes	1.1
2. Terrestrial or aquatic life and/or habitat				X		
3. Introduction of a new species into an area			X		Yes	1.3
4. Vegetation cover, quantity and quality			X		Yes	1.4
5. Water quality, quantity and distribution (surface or groundwater)			X		Yes	1.5
6. Existing water right or reservation				X		1.6
7. Geology and soil quality, stability and moisture				X		
8. Air quality or objectionable odors				X		
9. Historical and archaeological sites				X		
10. Demands on environmental resources of land, water, air & energy				X		
11. Aesthetics				X		

Comments

1.1. Unique, endangered, fragile, or limited environmental resources

The Yellowstone cutthroat trout is listed as a "Species of Special Concern" in Montana and is classified as a Sensitive Species by the GNF. The intent of this project is to establish a wild, self-sustaining population of YCT, a highly valued native fish species and the only indigenous trout species in the Yellowstone Drainage. If the transplant is successful, the potentially unique qualities and local adaptation of the Deer Creek cutthroats will be preserved from the potentially dramatic effects of the fire. Further, YCT will be introduced into several streams to potentially form new populations, thus expanding their current range. Therefore, the effects of this project are expected to be positive for YCT.

1.3. Introduction of a new species into an area

YCT are native to Harney, Thiel and Hogan creeks. The fish were likely extirpated in the early 1900's due to habitat loss, over-fishing and, more importantly, introduction of

non-native brook and brown trout. Stocking YCT into these streams and suppressing non-native fish should establish self-sustaining populations. The impacts to aquatic life in the streams as a result of YCT introduction should be similar to those of the current population of brook trout.

1.4. Vegetation cover, quantity and quality

When barrier structures are installed in the creek, there will be a minor disturbance to riparian vegetation. This disturbance should be limited to no more than 20 ft of stream bank and would only occur on Harney and Thiel creeks. Removed vegetation will be salvaged and replanted once barrier construction is completed. Native grass seed will be used to reseed disturbed areas where salvaged sod cannot be used.

1.5. Water quality, quantity and distribution

Minor amounts of turbidity will be generated when barriers are installed. The streambed will be prepared for barrier installation by leveling larger stones and shaping the stream banks. To minimize the effects of turbidity on aquatic life, the stream will be temporarily diverted around the construction area. Once the barrier is in place, the stream will be directed back into its original channel, and the diversion channel will be reclaimed with salvaged sod and native grass seed mix.

1.6. Existing water rights or reservations

There will be no effects of this project on existing water rights or irrigation practices. All of the streams, with the exception of the unnamed tributary to Barlow Creek, are used as a source of irrigation water. These streams were selected for potential YCT introduction sites based on their current fisheries and the fisheries information collected during fall of 2006 which indicated that the streams have constant flows sufficient to support juvenile and adult trout and natural reproduction. This information was gathered following one of the locally driest summers in the past 10 years. If flows under current irrigation practices are sufficient to support the existing brown and brook trout fisheries, it is likely that flows will be sufficient to support YCT.

2. POTENTIAL IMPACTS ON HUMAN ENVIRONMENT

WILL THE PROJECT 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		

WILL THE PROJECT RESULT IN POTENTIAL IMPACTS TO:	UNKNOWN	POTENTIALLY SIGNIFICANT	MINOR	NONE	CAN BE MITIGATED	COMMENTS PROVIDED
3. Local and state tax base and tax revenue				X		
4. Agricultural production				X		
5. Human health				X		
6. Quantity and distribution of Community income				X		
7. Access to and quality of recreational activities				X		
8. Locally adopted environmental plans & goals				X		
9. Distribution and density of population and housing				X		
10. Demands for government services					X	2.10
11. Industry and or commercial activity				X		

Comments

2.10. Demands on government services

This project will require a substantial investment of state and federal time and money to complete. To minimize competition from non-native trout in the receiving waters, electrofishing of brown and brook trout will occur twice annually. Transplanting YCT from the Deer Creeks will take several days, and the use of a helicopter to initially transport the fish will cost \$370/hour. The funding for the initial transplant of fish from the Deer Creeks to their receiving waters will be covered through federal emergency fire relief funds. Funding for barrier construction and suppression on brown and brook trout will be funded jointly by the US Forest Service and FWP.

Does the proposed action involve potential risks of adverse effects that are uncertain but extremely harmful if they were to occur?

No

Does the proposed action have impacts that are individually minor, but cumulatively significant or potentially significant?

No

Evaluation and listing of mitigation, stipulation, or other control measures enforceable by the agency or another government agency:

None

Individuals or groups contributing to, or commenting on this EA:

Bill Avey (District Ranger) and Scot Shuler (Fisheries Biologist), Gallatin National Forest

EA prepared by: Jim Olsen, Regional Fisheries Biologist, Montana Fish Wildlife and Parks

Date Completed: October 12, 2006

Mail comments to:

Jim Darling
Regional Fisheries Manager
Montana Fish, Wildlife and Parks
2300 Lake Elmo Dr.
Billings, MT 59105

Comments due by: October 27, 2006

References

Cooperative Conservation Agreement. 2000. Cooperative conservation agreement for Yellowstone cutthroat trout within Montana between Crow Tribe, Montana Department of Fish, Wildlife and Parks, Montana Department of Environmental Quality, Montana Department of Natural Resources and Conservation, USDA Forest Service Gallatin and Custer National Forests, USDI Bureau of Land Management, USDI Fish and Wildlife Service, USDI Bureau of Indian Affairs, and Yellowstone National Park. Montana Department of Fish, Wildlife and Parks, Helena, Montana.

Marcuson, P. E. 1980. Fisheries management plan for mountain lakes of the Boulder River drainage, Montana. Department of Fish and Game, Billings, MT.

May, B. E., W. Urie, B. B. Shepard, and Montana Cooperative Fishery Research Unit. 2003. Range-wide status of Yellowstone cutthroat trout (*Oncorhynchus clarki bouvieri*): 2001. Bozeman, MT.

Olsen, J. R. 2006. Draft Mid-Yellowstone drainage investigations. Montana Fish Wildlife and Parks Job Progress Report F-113-R-1, 2.

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 OR STIPALTIONS REQUIRED, OR NOTE "NONE")

None.

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

YES

NO

- | | | |
|--------------------------|-------------------------------------|---|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 1. Does the action pertain to land or water management or environmental regulation affecting private real property or water rights? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2. Does the action result in either a permanent or indefinite physical occupation of private property? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 3. Does the action deprive the owner of all economically viable uses of the property? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 4. Does the action deny a fundamental attribute of ownership? |

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?
6. Does the action have a severe impact on the value of the property?
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.