

Region 5
2300 Lake Elmo Drive
Billings MT 59105
April 17, 2007

Yellowstone County Sheriff
P.O. Box 35017
217 North 26th Street
Billings, MT 59105

SUBJECT: Permit No. CO-01-07 R-5 Waterbody: Yellowstone River
 Project Name: Donnes Ramp Near Huntley Water Code: 22-6999

Dear County Sheriff:

Relative to the Montana Stream Preservation Act, the Department has completed our review of your proposed project on the Yellowstone River. The project has been approved if it is carried out in accordance with the following conditions.

1. All in-stream work shall be completed in an expeditious manner to avoid unnecessary impacts to the stream;
2. Extra precautions shall be taken to preserve existing riparian vegetation;
3. All construction activities performed in the stream and immediate vicinity shall be conducted in a manner to reduce in-stream turbidity along with minimizing disturbances to the streambed and/or streambank.
4. The use of machinery in the watercourse shall be avoided unless absolutely necessary. To prevent leaks of petroleum products into waterways, no defective equipment shall be operated in the watercourse or adjacent areas capable of contributing surface flow to the watercourse;
5. All streambank and adjacent areas disturbed by the construction activity shall be protected with temporary erosion control measures during the construction activities. These areas shall be reclaimed with long-term erosion control measures and revegetated immediately after construction;
6. Any excess material generated from this project must be disposed of above the ordinary high water mark and not in an area classified as a wetland;
7. Clearing of vegetation will be limited to that which is absolutely necessary for construction of the project;

8. All external rebar shall be removed from the planks, and the broken areas shall be removed or patched;
9. If excessive erosion is occurring around the planks, they may be removed and replaced after high water recedes. Otherwise, future bank disturbance should be minimized.

NOTE: This permit is valid for **one year** from the date of receipt.

I have reviewed the above project on behalf of the Montana Department of Environmental Quality (DEQ) pursuant to the Montana Water Quality Act Short-term Water Quality Standards for Turbidity 75-5-318 MCA:

- O This project **will not** increase turbidity if completed according to the conditions listed in the 310 or 124 permit. Therefore, application to DEQ for a 318 authorization **is not** required.
- O Impacts to the physical and biological environment from turbidity generated as a result of this project are uncertain. Therefore, the applicant must contact the Montana Department of Environmental Quality, 1520 East Sixth Avenue, Box 200901, Helena, MT 59620-0901, (406 444-3080) to determine project specific narrative conditions required to meet short-term water quality standards and protect aquatic biota.
- x Turbidity generated from this project is expected to be short-term and have only temporary and minor impacts on the physical and biological environment. Therefore, compliance with the conditions stated in *DEQ's Short Term Water Quality Standard for Turbidity Related to Construction Activity*, as well as other conditions listed in the 310 or 124 permit, are appropriate for this project. **Please sign both copies of the enclosed 318 Authorization, keep one, and return the other to me.**

Sincerely,

James E. Darling
Fisheries Manager

c: Fisheries Division, FWP

DEPARTMENT OF FISH, WILDLIFE AND PARKS
 1420 E 6th Ave, PO Box 200701 Helena, MT 59620-0701
 (406) 444-2535

ENVIRONMENTAL ASSESSMENT

Project Title Donnes Boat Ramp on Yellowstone River Near Huntley

Division/Bureau Fisheries/Management

Program Fisheries

Description of Project Frank Donnes, with help from the Yellowstone County Sheriff's Department, proposes to install up to four 10 ft by 20 ft concrete planks on the bank of the Yellowstone River at T2N, R27E, S24 to serve as a boat ramp. The ramp will be installed downstream from an existing weir using a loader and backhoe. A bank area approximately 30 ft by 40 ft will be affected.

I. POTENTIAL IMPACT ON PHYSICAL ENVIRONMENT

	MAJOR	MODERATE	MINOR	NONE	UNKNOWN	COMMENTS ON ATTACHED PAGES
1. Terrestrial & aquatic life and habitats			X			I.1.
2. Water quality, quantity & distribution			X			I.2.
3. Geology & soil quality, stability & moisture			X			I.3.
4. Vegetation cover, quantity & quality				X		
5. Aesthetics			X			I.5.
6. Air quality				X		
7. Unique, endangered, fragile, or limited environmental resources				X		
8. Demands on environmental resources of land, water, air & energy				X		
9. Historical & archaeological sites					X	I.9.

II. POTENTIAL IMPACTS ON HUMAN ENVIRONMENT

	MAJOR	MODERATE	MINOR	NONE	UNKNOWN	COMMENTS ON ATTACHED PAGES
1. Social structures & mores				X		
2. Cultural uniqueness & diversity				X		
3. Local & state tax base & tax revenue				X		
4. Agricultural or industrial production				X		
5. Human health		X				II.5.
6. Quantity & distribution of community & personal income				X		
7. Access to & quality of recreational and wilderness activities				X		
8. Quantity & distribution of employment				X		
9. Distribution & density of population & housing				X		
10. Demands for government services				X		
11. Industrial & commercial activity				X		
12. Demands for energy				X		
13. Locally adopted environmental plans & goals				X		
14. Transportation networks & traffic flows				X		

Other groups or agencies contacted or which may have overlapping jurisdiction U.S. Army Corps of Engineers, Department of Natural Resources and Conservation, Yellowstone County Floodplain Administrator

Individuals or groups contributing to this EA: None

Recommendation concerning preparation of EIS None Required

EA prepared by : Jim Darling

Date: 4-17-07

COMMENTS

- I.1. A small number of aquatic invertebrates may be crushed or displaced during construction.
- I.2. Water in the immediate vicinity of the ramp will become turbid during construction. Most of the sediment will settle within a short distance of the weir.
- I.3. More stable concrete planks will replace the bank gravel. If the soil around the planks begins eroding, they can be removed and replaced after the high water subsides.
- I.5. Concrete planks will overlie the gravel bank. Installers will cut all external rebar and patch broken areas on the planks.
- I.9. This area has been disturbed previously.
- II.5. The ramp will provide an emergency launch site in a key area for Search and Rescue operations.

**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	
_____	<u> X </u>	1. Does the action pertain to land or water management or environmental regulation affecting private real property or water rights?
_____	<u> X </u>	2. Does the action result in either a permanent or indefinite physical occupation of private property?
_____	<u> X </u>	3. Does the action deprive the owner of all economically viable uses of the property?
_____	<u> X </u>	4. Does the action deny a fundamental attribute of ownership?
_____	<u> X </u>	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.]

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|-------|--------------|---|
| _____ | _____ | 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? |
| _____ | <u> X </u> | 6. Does the action have a severe impact on the value of the property? |
| _____ | <u> X </u> | 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.