

**FINAL DECISION NOTICE
LAKE HELENA FISHING ACCESS SITE**

**Montana Fish Wildlife & Parks
Helena Area Resource Office
930 Custer Ave. West
Helena, MT 59802**

PROPOSED ACTION

Montana Fish, Wildlife & Parks (FWP) proposes to enter into a Memorandum of Understanding (MOU) with the Bureau of Reclamation (BOR) and the Helena Valley Irrigation District to establish a Fishing Access Site (FAS) on Lake Helena. Development would include an access road, parking area for 15 truck/trailers, fencing around an irrigation canal, a boat ramp, vault toilet, and signs.

Lake Helena is a 2,100-acre body of water in the Helena Valley that has no legitimate boating access. This shallow lake has become a very popular seasonal fishery as fish are attracted to the warm water soon after ice-off. Sampling has shown sport fish such as walleye, yellow perch, rainbow trout, kokanee salmon, mountain whitefish, and brown trout are present in relatively high densities from early spring into July. Anglers are aware of the migration into Lake Helena and heavily fish the causeway. Lake Helena received 6,290 angler days and ranked 18th regionally in angling pressure during 2005. If suitable boat access was available, FWP managers anticipate that early spring to mid-July angler use would dramatically increase.

Fish, Wildlife & Parks has pursued access on Lake Helena before with no success as nearly all the shoreline is in private ownership. Although FWP owns a large portion of the northwest portion of Lake Helena and manages it as a Wildlife Management Area (WMA), this portion of the lake is too shallow to launch fishing boats. The only boat access to Lake Helena currently is a small corner at the Causeway that has a primitive grass/gravel slope into the water. This is a poor site as there is no parking and boat trailers must back across a county road to access the water. Lewis and Clark County has deemed this site unsafe, and it could be closed in the near future leaving no public boat access to Lake Helena.

MONTANA ENVIRONMENTAL POLICY ACT

Montana Fish, Wildlife & Parks is required by the Montana Environmental Policy Act (MEPA) to assess significant potential impacts of a proposed action to the human and physical environment. In compliance with MEPA, an Environmental Assessment (EA) was completed for the proposed project by FWP and released for public comment on June 11, 2008.

Public comment on the proposed project was taken for 30 days (through July 14, 2008). The EA was mailed to 79 individuals and groups; a Statewide press release was sent to the print and broadcast media, legal notices were printed in the *Helena Independent Record*; and the Draft EA was posted on the FWP webpage: <http://fwp.mt.gov/publicnotices/>. In addition, a public meeting

was publicized and held on June 23, 2008. Information from the public meeting was featured on the local news of KTVH TV Channel 12, and a feature article was published regarding the proposal in the Helena Independent Record on June 26, 2008.

SUMMARY OF PUBLIC COMMENT

MFWP received 15 written comments and one verbal comment regarding the proposed action. Ten comments supported the proposed action, one comment disagreed that the BOR owned the property, and 4 comments were opposed to the proposed action.

Comment Issue #1 The BOR does not own the land that the proposed FAS would be developed on.

FWP response: A title search has been completed, and according to all available information the BOR does own the property at the proposed location.

Comment Issue #2 fully supports the project but is concerned with high speed traffic on Lincoln Road and the proposed approach onto the highway.

FWP response: Prior to developing an entrance road, FWP is required to obtain an approach permit from Lewis and Clark County. The county would determine if the approach was safe and could make recommendations and requirements prior to issuing a permit to improve the safety.

Comment Issue #3 FWP did not actively look for other properties that have been for sale around Lake Helena. Since 2002, there have been 4 other properties sold between the proposed site and the Lake Helena WMA. Why doesn't FWP use some of the 10 million access dollars to fund a larger site that could also serve as a state park?

FWP response: The Fisheries Division of FWP has been actively looking for a location on Lake Helena for public access for many years, but Fishing Access Site acquisition funds have not been available to purchase a large parcel of lake front property. Although there is \$10 million in access dollars available to the State of Montana, FWP continues to look for partnership opportunities where sportsmen's license dollars can be maximized to the greatest benefit.

Comment Issue #4 Enforcement of boating regulations on Lake Helena is currently nonexistent.

FWP response: Boating regulations have been enforced on Lake Helena in the past, and citations have been issued. Without adequate public boat access, enforcement personnel have been limited to the shoreline. If the proposed boat ramp is installed, enforcement personnel will have the ability to access and patrol Lake Helena more efficiently

Comment Issue #5 The fence around the ditch will be visually offensive, will devalue our property, and the ditch will continue to be dangerous.

FWP response: FWP, the Helena Valley Irrigation District, and the Bureau of Reclamation are working on an alternative plan to reduce the amount of fencing around the ditch while making it safe for the public.

Comment Issue #6 The proposed project will destroy the habitat and mobility of wildlife in the area including birds and mammals. Bald eagles, belted king fishers, turkey vultures, and numerous other birds frequent the area.

FWP response: FWP recognizes that many birds and mammals including bald eagles pass through the area and use the shoreline of Lake Helena. The increase in activity at this site will likely displace birds and mammals during periods of heavy use. However, FWP intends to leave as much of the natural vegetation as possible including trees and brush along the shoreline. The small size of the parcel and minimal scale of development at the site will not have a significant impact on wildlife or wildlife habitat.

Comment Issue #7 We feel the construction of the public facility would adversely affect aspects of our property as well as cause the value of our property to decrease.

FWP response: FWP consulted with the Lewis and Clark County Planning Department and the Department of Revenue Assessors Office and could find no evidence that the proposed action would have a negative effect on the value of adjacent property.

Comment Issue #8 Dust will be a continual problem for landowners to the east, and vehicle emissions will continue indefinitely.

FWP response: If dust becomes a problem, FWP will apply dust control to the entrance road and parking area such as has been done at other sites like York Bridge FAS. Vehicle emissions will slightly increase in the area, but impacts will be minimal over time. Anticipated peak use of this site will be during the spring (April-July). Use outside of this period is not expected to be heavy.

Comment Issue #9 What happens when the latrine becomes closed due to vandalism as has been seen in other unsupervised areas? Who will maintain the restrooms then?

FWP response: FWP manages numerous vault latrines around the Helena area including the Causeway FAS, York Bridge FAS, and the Helena Valley Regulating Reservoir FAS. None of the latrines have been closed due to vandalism, and we have not received any complaints due to odors. The proposed site is located along a major travel route used by FWP parks maintenance staff traveling to other sites, so the latrine will be maintained frequently and if vandalism occurs, repairs will be made immediately.

Comment Issue #10 It is very likely the boat ramp will replace the only existing trees on the shoreline in this plot of land. What erosion control is planned when users impact the site?

FWP response: The goal of developing the site would be to impact the natural vegetation as little as possible so that the shoreline vegetation would serve as erosion control. Some ongoing natural erosion will occur due to ice movement and wave action, but if significant impacts are seen FWP could harden the shoreline with rip-rap.

Comment issue #11 It's only a matter of time before a boat will carry foreign flora or fauna into the lake. As user populations increase and people discover the access, this risk will increase as well.

FWP response: Lake Helena is directly connected to the Missouri River system including Canyon Ferry and Hauser Reservoirs, so similar flora and fauna would be expected in Lake Helena. Recommendations on reducing the transfer of aquatic species will be posted at the boat ramp.

Comment Issue #12 Based on the map provided, the boat ramp would be located closer than 40 yards from the property to the east, a pasture occupied by livestock. Sixty yards to the north, that property houses breeding livestock that require an undisturbed environment to thrive. This livestock facility is attached to the residence. Would you build a public boat ramp this close to your house? "Vegetative buffer" consists of one or two trees at the shore and a short row of old and thinning trees to the west of the site. This does not even approach mitigation. Currently some boaters are more than impolite, often loudly coming to our shoreline.

FWP response: If needed, FWP could plant vegetation along the boundaries of the property to reduce impacts to neighboring landowners. FWP has done this at other locations.

Comment Issue #13 Signage indicates this area is a Water Quality Protection District. Your report appears to demonstrate the impact of signage. We have heard often that Lake Helena fish carry toxicity from the agricultural residues in the water from the irrigation canals. Intentional use of herbicides in proximity to the lake seems an insensitive solution to a weed management concern. We mow and pull weeds by hand. Shouldn't you?

FWP response: FWP uses a variety of techniques to control noxious weeds including mechanical applications, chemical applications and biological applications. FWP is required to abide by state laws regarding chemical applications and use a certified noxious weed sprayer if chemical applications are applied.

Comment Issue #14 Signage will not control restrictions of fire use or off road vehicle use in an unsupervised area this close to Helena. Fire and police protection must be addressed in this EA.

FWP response: Fires will not be permitted at the Lake Helena FAS, and vehicles will be restricted to driving on the established roadway. FWP Wardens and Parks staff will patrol the site, and the county Sheriffs department will be aware of the site regulations. Other Fishing Access Sites in the area have similar restrictions, and FWP has not had significant problems with illegal fires or off road driving.

Comment Issue #15 Please make available the details of the cost estimate. If you only include weed control and latrine pumping, you might consider contingent expenses for road and parking lot maintenance, fire damage, and increased compensation for losses.

FWP Response: The complete grant application that details the development cost estimate can be viewed at www.apleco.com/docmats/grantawards.htm. The operations and maintenance

component of the project will cover weed control, latrine pumping, latrine maintenance, site maintenance, litter and debris removal, entrance road and parking area maintenance (including dust control), sign installation, and boat ramp maintenance.

Comment Issue #16 Persisting to develop land next to objecting neighbors, especially land not owned by the State or FWP, would establish a precedent that tarnishes the image of a state agency dedicated to all citizens of Montana.

FWP response: As an agency, we are charged with and responsible for providing access to bodies of water for the enjoyment of the public. If we ceased to provide access because of objections by neighbors or others, we cease to provide this access. It is not uncommon for public land neighbors to complain about public use, but as an agency we try to be a good neighbor and attempt to mitigate impacts to adjacent landowners.

Comment Issue #17 We are concerned about trespassing, we have had problems in the past.

FWP response: Although no one can prevent trespassing, we have had no problems with trespassing at other Helena area Fishing Access Sites. The Lewis and Clark County Sheriffs Department is authorized to address trespass complaints as is our FWP enforcement division. The 1-800-TIP MONT line provides complainants a 24-hour phone line and the option of anonymity.

Comment Issue #18 We are planning on building a home on the property to the west of the proposed site, and the proposed vault latrine would be fairly near our backyard and door. With the Lewis and Clark County Commission so concerned about groundwater in the Helena Valley, why would they allow a latrine that may or may not be pumped out and cleaned regularly?

FWP response: Latrines in the Helena area Fishing Access Sites are typically cleaned every other day and pumped as needed during the high use season. Prior to installing a sealed vault latrine, FWP would apply for a sanitation permit through the county, and the county would decide if there were any ground water issues to be addressed.

Comment Issue #19 FWP did not address the issue of ice fishing during the winter. At the meeting on June 23rd, they stated they were unaware of any ice fishing. We have noticed an increase over the last few years.

FWP response: Several of our other Fishing Access Sites in the area accommodate ice fishing, and currently Lake Helena is accessible for ice fishing from the Causeway and the Lake Helena WMA. FWP has maintenance staff year round to maintain the facilities so ice fisherman should not have a negative impact on resources.

Comment Issue #20 Does the Bureau of Reclamation and the Helena Valley Irrigation District have the authority to enter into an agreement with FWP for a fishing access site at this location, or is the use limited to irrigation?

FWP response: Yes, The Federal Water Project Recreation Act, Public Law 89-72, as amended by the Reclamation Recreation Management Act of 1992 (Title 28 of Public Law 102-575), provides authority for Reclamation to enter into agreements for the construction, operation and maintenance of recreation facilities with non-Federal public entities such as local or state governments.

The Helena Valley Irrigation District performs the operation and maintenance functions for the Helena Valley Unit of the Pick-Sloan Missouri Basin Program including the Helena Valley Main Canal Wasteway that is located on the five-acre parcel of Reclamation land proposed for development as a fishing access site. The Helena Valley Irrigation District would be included in the agreement to ensure that any proposed development is coordinated with the District's operation and maintenance needs for this location.

Comment Issue #21 Why not improve the Lake Helena WMA? The site is already developed with a boat ramp and parking area. Why not dredge out the boat ramp area at the WMA? The proposed site is extremely shallow and would certainly have to be dredged.

FWP response: The Lake Helena Wildlife Management area is too shallow and the grade is too flat to install a functional boat ramp. The WMA also has rules in place that prohibit the use of the ramp during certain times of the year. To dredge out the boat ramp at the WMA would require removing thousands of cubic yards of material every year that would be replaced by debris running down the ditch annually. The Helena Valley Irrigation District currently dredges the outlet of the irrigation ditch at the proposed location.

Comment Issue #22 Why only develop 15 parking spaces? The parking will overflow and become an issue if FWP doesn't create more parking spaces. Plan ahead and make more parking or leave open space for parking.

FWP response: With the small parcel of property and close proximity of residents to the site, FWP thought that 15 parking spaces was the appropriate use level initially. Parking space is a management technique used to control use of an area.

Comment Issue #23 A developed boat ramp on Lake Helena will be an open invitation for hundreds of boats to slaughter the Lake Helena/Hauser Lake walleye. Increased boat traffic will also disturb many of the birds that use the water. Lake Helena should be accessible by hand launch only instead of developing a new boat launch site.

FWP response: By limiting the parking area to 15 spaces, FWP hopes to limit the use of Lake Helena so it is not over run. FWP Fisheries Biologists manage fish species by setting daily limits, size limits, and possession limits to make sure species are not over harvested.

DECISION

Based on the analysis in the Environmental Assessment (EA) and 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 proceed with the project as proposed with the exception of redesigning the chain link fence around the irrigation outlet to modify the visual impact of this structure while continuing to protect the public from the potential hazard.

There are no modifications necessary to the Draft Environmental Assessment based on public comment. The Draft Environmental Assessment, together with this Decision Notice, will serve as the final document for this proposal. The final EA and Decision Notice may be viewed or obtained from Montana Fish Wildlife & Parks, Helena Area Resource Office, 930 Custer Ave, Helena, MT 59620 or on the internet at : <http://fwp.state.mt.us/publicnotices>.

Implementation of the project is planned to take place in Spring 2009.

APPEAL

This project is subject to appeal, which must be submitted to the FWP Director (Mr. Jeff Hagener, Director, Montana Fish, Wildlife & Parks, PO Box 200701, Helena, MT 59620-0701) in writing and postmarked within 30 days of the date on this decision notice. The appeal must specifically describe the basis for the appeal, explain how the appellant has previously commented to the department or participated in the decision-making process, and lay out how FWP may address the concerns in the appeal. If you have questions regarding this decision notice, please contact Craig Marr, HARO Park Manager at 406-495-3270.



Patrick J. Flowers
Region 3 Supervisor