

DEPARTMENT OF FISH, WILDLIFE AND PARKS
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ENVIRONMENTAL ASSESSMENT

Project Title Rock Creek Riprap at Granite Road

Division/Bureau Fisheries/Management

Program Fisheries

Description of Project Carbon County proposes to riprap approximately 100 feet of eroding bank where Rock Creek impinges against Granite Road at T4S, R22E, S14, SE1/4, SE1/4. In addition, they propose to repair approximately 500 feet of existing riprap, using a total of 150 cubic yards of sandstone or limestone rock. Both the road and a gas pipeline are being threatened. Most of the work will be done from Granite Road to minimize stream encroachment.

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 | | | I.4. |
| 5. Aesthetics | | | | X | | |
| 6. Air quality | | | | X | | |
| 7. Unique, endangered, fragile, or limited environmental resources | | | | X | | |
| 8. Demands on environmental resources of land, water, air & energy | | | | X | | |

| | MAJOR | MODERATE | MINOR | NONE | UNKNOWN | COMMENTS ON ATTACHED PAGES |
|--------------------------------------|-------|----------|-------|------|---------|----------------------------|
| 9. Historical & archaeological sites | | | | | X | |

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 | | |
| 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 | | |

| | MAJOR | MODERATE | MINOR | NONE | UNKNOWN | COMMENTS ON ATTACHED PAGES |
|---|-------|----------|-------|------|---------|----------------------------|
| 13. Locally adopted environmental plans & goals | | | | X | | |
| 14. Transportation networks & traffic flows | | | X | | | II.14. |

Other groups or agencies contacted or which may have overlapping jurisdiction Corps of Engineers

Individuals or groups contributing to this EA Mike Poore, Contracted Biologist

Recommendation concerning preparation of EIS None required; no significant impacts

EA prepared by : Jim Darling

Date: 9/17/08

COMMENTS

I.1. Invertebrates and fish using the immediate vicinity of the riprap project will be displaced during construction. The area should recolonize after construction is completed.

I.2. Turbidity will increase during construction. Conducting most of the work from Granite Road will minimize this increase.

I.3. Streambank stability will be increased by the additional riprap. The stream's erosive energy will be displaced downstream.

I.4. Grasses interspersed with existing riprap and other grasses upstream for approximately 100 feet upstream will be removed or covered by additional sandstone or limestone rock. Some will resprout next spring.

II.14. Completing this project will help ensure that traffic along Granite Road will not be disrupted by failure of the bank and undermining of the road bed.

ALTERNATIVES

No Action

Without this project, Rock Creek will continue to erode the bank, expose a gas pipeline, and undermine Granite Road.

Weirs

Weirs could be installed to direct stream flows away from the eroding bank. Weirs would involve more material being placed into the stream than riprap and could affect boating. Because most of this area is already riprapped, its repair and the addition of 100 feet are the least intrusive option.

**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.] |

- | | | |
|-------|--------------|---|
| _____ | _____ | 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.