

**Montana Fish, Wildlife and Parks**  
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## **ENVIRONMENTAL ASSESSMENT**

### **PART 1. PROPOSED ACTION DESCRIPTION**

Project Title: Fjelstad Pond

Application Date: 1/22/2010

Name, Address and Phone Number: Mike Backes – region 7 Headquarters  
P.O. Box 1630  
Miles City, MT 59301

Project Location: Treasure County, MT  
T06N, R36E, Sec 12

#### **Description of Project:**

Fjelstad Pond is located in Treasure County near Hysham, Montana. The pond is located on a small-unnamed tributary of Sarpy Creek of the Yellowstone River drainage. When full it has a maximum depth of eleven feet and is approximately 3 surface acres in size. The ponds water supply is from the adjacent Hysham Irrigation Ditch.

Fish stocking is proposed to provide a fishing opportunity in the rural area. Yellow perch (*Perca flavescens*) will be stocked and evaluated for survival, growth and contribution to the fishery.

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

None

### **PART 2. ENVIRONMENTAL REVIEW**

Table 1. Potential impact on physical environment.

Will the proposed action result in potential impacts to:	Unknown	Potentially Significant	Minor	None	Can Be Mitigated	Comments Provided
1. Unique, endangered, fragile, or limited environmental resources				X		
2. Terrestrial or aquatic life and/or habitats				X		
3. Introduction of new species into an area				X		
4. Vegetation cover, quantity and quality				X		
5. Water quality, quantity and distribution (surface or groundwater)				X		
6. Existing water right or reservation				X		
7. Geology and soil quality, stability and moisture				X		
8. Air quality or objectional odors				X		
9. Historical and archaeological sites				X		
10. Demands on environmental resources of land, water, air & energy				X		
11. Aesthetics				X		

## **Comments**

(A description of potentially significant, or unknown, impacts and potential alternatives for mitigation must be provided.)

There are no known or expected impacts to the environment from establishing a recreational fishery in Fjelstad Pond.

Table 2. Potential impacts on human environment.

Will the proposed action 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			
3. Local and state tax base and tax revenue				X		
4. Agricultural production				X		
5. Human health				X		
6. Quantity and distribution of community and personal income				X		
7. Access to and quality of recreational activities			X			
8. Locally adopted environmental plans & goals (ordinances)				X		
9. Distribution and density of population and housing				X		
10. Demands for government services				X		
11. Industrial and/or commercial activity				X		

**Comments**

(A description of potentially significant, or unknown, impacts and potential alternatives for mitigation must be provided as comments.)

Fishing opportunities are limited in Southeastern Montana. Establishing a new fishery increases opportunity for residents of area to experience recreational fishing in a setting close to home.

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

Species proposed for stocking into Fjelstad Pond currently exist in the Sarpy Creek and Yellowstone River drainage. Escapement of the proposed species would not impact the existing fisheries in downstream waters.

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

**potentially significant?**

None known

**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 By not stocking the proposed species, absence of fish in pond will reduce angling opportunity.

There are no other alternatives proposed for stocking fish in Fjalstad Pond.

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

This section provides an analysis of impacts to private property by proposed restrictions or stipulations in this EA as required under 75-1-201, MCA, and the Private Property Assessment Act, Chapter 462, Laws of Montana (1995). The analysis provided in this EA is conducted in accordance with implementation guidance issued by the Montana Legislative Services Division (EQC, 1996). A completed checklist designed to assist state agencies in identifying and evaluating proposed agency actions, such as imposed stipulations, that may result in the taking or damaging of private property, is included in Appendix A.

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

None

**EA prepared by:** Mike Backes – Region 7 Fish Tech III

**Date Completed:** 1/21/2010

**Public Comments due by:** March 1, 2010

# 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):

### 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 <b>NO</b> , 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 <b>NO</b> , 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.