

**FUTURE FISHERIES IMPROVEMENT PROGRAM
WINTER 2010 FUNDING CYCLE**

Response to Public Comment

Prepared by
Montana Fish, Wildlife and Parks
March 11, 2010

Proposal and Final Action

Members of the Future Fisheries Review Panel submitted funding recommendations for 22 proposed projects from the 2010 winter cycle of the Future Fisheries Improvement Program (FFIP) to the Montana Fish, Wildlife and Parks Commission (Commission) for final approval. The Future Fisheries Review Panel is an independent board appointed by the governor (87-1-273, MCA). The Commission adopted all of the funding recommendations as submitted by the Future Fisheries Review Panel at their regularly scheduled public meeting held in Helena on March 10, 2010.

The Future Fisheries Improvement Program was established in 1995 to establish and implement a statewide voluntary program that promotes fishery habitats and spawning areas for the rivers, streams, and lakes of Montana's fisheries in order to enhance future fisheries through natural reproduction (87-1-272, MCA).

Montana Environmental Policy Act (MEPA)

MEPA requires Montana Fish, Wildlife and Parks to assess the potential consequences of the proposed action for the human and natural environment. Environmental Assessments (EA) were prepared and released by FWP on February 3, 2010 for eight individual proposed projects associated with the winter 2010 Future Fisheries funding cycle. The 30-day public comment period ended March 3. These proposed projects include:

- Big Hole River stock water and water salvage
- Braziel Creek channel restoration
- Hellroaring Creek channel restoration
- Lincoln Spring Creek culvert fish passage
- Rocky Reef Spring Creek channel restoration
- Sauerkraut Creek culvert fish passage
- Skalkaho Creek channel stabilization
- Tin Cup Creek in-stream flow enhancement

Two additional EAs were prepared and released by FWP on February 5, 2010. The 30-day public comment period ended March 8. These proposed projects include:

- Mandeville Creek channel restoration
- Oregon Gulch channel restoration

There were six proposed projects from the winter 2010 funding cycle that fell under categorical exclusions (ARM Rule 12.2.454(a)). These proposed projects include:

Dry Cottonwood Creek riparian fencing
Flint Creek riparian fencing
North Fork Smith River riparian fencing
Madison River/O'Dell Creek riparian fencing
Peterson Creek riparian fencing
South Fork Smith River riparian fencing

Additionally, EA's for three proposed projects, all involving associated actions of removing non-native fishes, are being processed by FWP regional personnel and have not been fully completed to date. These proposed projects include:

Cottonwood Creek fish barrier
Lower Deer Creek fish barrier
North Fork Highwood/Smith creeks fish barriers

There also were three proposed projects involving federal action where environmental assessments are being prepared under NEPA. These assessments have not been fully completed to date. These proposed projects include:

Fleshman Creek flood control and channel restoration
Mattie V Creek channel restoration
Vermilion River channel stabilization

Summary of Public Comment

Subsequent to the conclusion of public comment periods, the following is a summary of comments received from ten EA's drafted for the winter 2010 funding cycle of the FFIP, as well as associated responses from FWP.

Big Hole River stock water and water salvage

One email comment was received from the Montana Wildlife Federation (MWF). No other comments were received. MWF supported the project but noted that they felt the EA was deficient in content and outlined those shortcomings. Issues brought forward in this email comment included:

- 1. The estimated cost of the project is stated to be \$35K of which \$15K is to come from Future Fisheries. Where will the remaining \$20K come from? We cannot adequately evaluate the cost effectiveness aspects of a project without knowing the source of all of the funds to be used.**

Response: The cost share was not listed by contributor source in the draft EA because the sources can change prior to project completion. However, to be qualified for funding from the

Future Fisheries Improvement Program, the total quantity of those matching funds cannot change. The applicant listed the following as matching funds:

\$13,000 from the USFWS, Montana Partners Program
\$5,000 from the Arctic Grayling Recovery Program
\$2,000 from the Big Hole Watershed Committee

- 2. While item VI 7. is labeled “Access to & quality of recreational activities” there is no mention of access in any meaningful sense. We believe it is far past time for FWP to forthrightly recognize and value the public’s interest in access, and in so doing, note that the question was at least asked. We acknowledge that some good projects will not allow public access and that the law does not require it. We note that most projects have been funded with angler dollars with not a hint of whether public access was even discussed.**

Response: The application form for FFIP includes the following two questions: *D. Will the project increase public fishing opportunity for wild fish and, if so, how?* and *G. What public benefits will be realized from the project?* The applicant for this project responded as follows: *D. “Yes!, Ultimately, these projects in conjunction with other efforts will improve habitat conditions throughout the upper Big Hole River by increasing late-season stream flows and reducing temperatures. As mentioned above, this project in cooperation with our partners in the upper Big Hole River will potentially result in fewer and/or shorter fishing closures.” G. “The public benefits realized from this project include increased in-stream flow conditions, particularly late season, on the main-stem Big Hole River and the resulting downstream benefits to water quality and temperature. This project, along with other conservation measures being implemented through the CCAA, will help improve late season flow conditions in the upper Big Hole watershed. As these combined efforts are implemented, we aim to meet the flow targets set for this reach of the river more than 75% of the time (per CCAA), and we also hope to see fewer fishing closures in the Big Hole.”* Although these two questions might not specifically ask about public access, they do request information that is directly associated with public fishing and public benefits. The Future Fisheries Review Panel reviews responses to these two questions, as well as responses to other application questions, in determining their funding recommendations.

- 3. We see nothing in the EA that assures us that the landowner will actually meet the terms of the nominal agreement. What does the agreement say to assure performance?**

Response: All applicants approved for Future Fisheries funding must enter into project agreements with FWP. These agreements are not finalized until the FWP Commission makes a final funding decision. Funding for this project has not received final approval and, as a result, an agreement has not yet been completed. All agreements associated with Future Fisheries projects cover a minimum period of 20 years, require the applicant to provide the quantity of matching funding and in-kind services as listed in the application and require the applicant to complete the project as proposed. Since the applicant is not the same as the water user in this project, the agreement would also include a stipulation that the applicant enter into an agreement with the water user stating that the irrigation diversion will be completely shut down after irrigation is complete (covering the project for a minimum of 20 years). The landowner for this

project is enrolled in the Big Hole Arctic Grayling Candidate Conservation Agreement with Assurances Program (CCAA). One of the requirements of the program is that the landowner will implement flow conservation actions as part of their site-specific conservation plan (SSP). The flow agreements are based on specific triggers in at strategic locations in the watershed. When in-stream flows reach these triggers the individual landowners must implement their flow conservation plan.

4. No mention is made of the length of stream in which augmented late season flows can be expected to remain? Are there downstream diversions that may remove all or part of the newly saved flow? These items are really necessary to evaluate the overall benefits of the project and should have been included in the EA.

Response: The applicant makes no mention of the length of Big Hole River that would potentially be augmented with additional late season flow. However, the entities that provided support letters in the application, including the Arctic Grayling Recovery Program; the Big Hole Watershed Committee, the FWP grayling recovery biologist, and a hydrologist from the Montana Department of Natural Resources and Conservation lend credence that the in-stream flow benefits likely would be substantial. According to the FWP grayling recovery biologist, this is one of many projects that cumulatively will improve in-stream flows as far downstream as Divide. Currently there are 32 landowners and approximately 160,000 acres enrolled in the CCAA. Cumulatively, flow conservation plans will improve in-stream flows and have tremendous benefits to fish and aquatic habitats.

5. There is reference to improved riparian vegetation as a result of the project but no specifics are presented. If the tanks are to provide water for livestock, it is only reasonable to expect that the tanks will be located outside both wetlands and riparian areas. Is this in fact the case? How will grazing management plans interface with the new water sources and the anticipated improvement in riparian vegetation? These are important issues that, once again, should offer support to the overall benefits and how they will be achieved. They appear to have been overlooked from this EA.

Response: One of the other goals of the CCAA is to develop conservation or management actions that maintain or progress riparian areas toward sustainable conditions. These actions may include developing a Grazing Management Plan, installing off stream stock water sites, building riparian or pasture fence to protect riparian areas. This specific stock water system's purpose, however, is to provide the livestock an alternative water source, thereby making it unnecessary to divert water from the Big Hole River. In addition, this stock water system would be located outside the riparian area and thus will minimize impacts from livestock to riparian vegetation, banks and the stream channels. For more information about the riparian conservation measures identified in the CCAA please visit the FWP Arctic grayling website at <http://fwp.mt.gov/wildthings/concern/grayling.html> . The well would be located approximately 0.7 miles to the west of the Big Hole River as shown in Attachment 1 in the draft EA. The stock tanks would be located approximately 0.5 miles to the west of the river. Skinner Meadows Road is located between the river and these proposed stock water developments. Grazing plans associated with the proposed project were not mentioned in the application and are unknown. The draft EA stated "riparian vegetation and cover may benefit from enhanced in-stream flow during the late summer when the stream flow is commonly critically low." The intent of this

statement, although somewhat speculative, is that growing conditions for riparian vegetation may be improved as a result of enhanced in-stream flows during the late summer season.

**6. Does the proposed location of the well pose a risk to base flow recharge into the river?
How has this been determined?**

Response: This area of the Big Hole has a shallow aquifer and is readily replenished by precipitation and snow pack. However, the connection between groundwater and surface water is unknown at this site. The benefits to in-stream flow, should this project be implemented, would far exceed the potential for diminishment of a surface/groundwater connection as a result of a well. The ditch has been documented to divert up to 8 cubic feet per second (cfs) post irrigation. The proposed well will pump a maximum of 11 gallons per minute (0.024 cfs). As a result, the water savings for in-stream flow purposes would be up to 7.98 cfs.

7. We support this project but note the significant deficiencies in the EA.

Response: Noted.

Braziel Creek channel restoration

One email comment was received from MFW. MFW outlined a series of perceived deficiencies in the EA but did not take a stance on support or opposition. The Montana Historical Society (SHPO) submitted a comment recommending that a cultural survey be undertaken. Issues brought forward in public comments included:

1. The cover page states that “...this draft EA will be considered as final if no substantive comments are received...” We object to this language when there is no definition of substantive comments or the identification of who makes the determination.

Response: FWP considers all comments as substantial unless the comment is addressing grammar, spelling or punctuation.

2. We note that the applicant for the funds is unspecified. We continue to believe that the public deserves to know this and also the source of all funds and in-kind contributions to be used in the project. This pattern of not providing this information is not acceptable from our perspective. This is a public process with public funds being expended.

Response: The applicant for Future Fisheries funds for this project was the Big Blackfoot Chapter Trout Unlimited, ATTN Ryen Aasheim, P.O. Box 1, Ovando, MT 59854. The cost share was not listed by contributor source in the draft EA because the sources can change prior to project completion. However, to be qualified for funding from the Future Fisheries Improvement Program, the total quantity of those matching funds cannot change. The applicant listed the following as matching funds and in-kind services:

\$10,000 from the USFWS

\$16,500 from either the Chutney Foundation or DEQ 319 funds

\$3,525 from the Big Blackfoot Chapter of Trout Unlimited

\$125 in in-kind service from the Big Blackfoot Chapter Trout Unlimited

\$4,600 in in-kind service from the landowner(s)

- 3. The document suggests that the bull trout and cutthroat trout enhancement program goals would be furthered if this project were completed. Does the program offer protection to hybrid population like the Braziel Creek cutthroats? It goes on to state that one of the goals is “protecting the genetic integrity of the population and preventing the invasion of non-native species.” Since it is stipulated that the population is hybridized, it does not appear to have “genetic integrity.” Since no fisheries data are presented, it is impossible to know what non-native species are available to invade.**

Response: Genetic testing in Braziel Creek show 98% genetic integrity. FWP classifies westslope cutthroat trout populations that have less than 10% introgression as conservation populations. The primary management goal for these conservation populations is to preserve and conserve unique ecological and behavioral characteristics of the subspecies that exist on a population by population basis. No other species have been detected in Braziel Creek in recent FWP surveys. The intent of the project is to maintain a high level of genetic integrity verses fostering increased introgression. As such, one objective with this project is to keep unwanted fish from entering Braziel Creek, including rainbow trout. Managing for beaver in lower Braziel Creek, maintaining the option to manage flows at the diversion and monitoring are all tools that the applicant plans to use in this effort. Brook trout have not been detected in this area of Nevada Creek Valley and do not present a known risk.

- 4. A fence of 4 wire design is planned for the riparian fence component of the project. This area was formerly used as sheep pasture. A four wire fence is unlikely to be an efficient barrier to sheep entry into the riparian zone. If sheep are still present, a more effective fence type should be chosen.**

Response: Sheep are not part of the current livestock operation. This area is used by cattle, thus a four wire fence will meet the applicant’s objectives of excluding the riparian pasture.

- 5. “Approximately 60 native trees and shrubs will be planted within the riparian corridor.” At that density, one tree or shrub per 25 feet of channel length, little habitat or bank stability is likely to result.**

Response: The applicant plans on incorporating large transplants into established riparian vegetation. Willow sprigging will also be a part of this project and, with exclusion of grazing and the upstream seed source, the applicant is optimistic that they will meet their objective of bank stability.

- 6. A fish screening device is incorporated into the project. It is stated that this will be useful in “eliminating entrainment of fish into an existing irrigation diversion.” What data are available to show that fish are being entrained in the existing irrigation diversion?**

Response: The irrigation ditch has not been sampled to date to detect for entrainment. However, FWP surveys across the Blackfoot Valley have identified a common problem of fish entrainment across the basin, including nearby streams. The landowner has mentioned observing stranded fish. Associated with the objective of expanding the population of Braziel Creek cutthroat into the lower reaches of the stream (the proposed project area) with improved habitat conditions, the applicant felt it was prudent and cost-effective to incorporate a fish screen into an upgraded diversion structure.

- 7. The document goes on to observe that a beaver dam complex near the mouth of Braziel Creek acts as a migration barrier, thus we must assume preventing the entry of exotic species into the upper reaches of the stream. If there is data to support this assertion, why were they not presented in the document?**

Response: As identified in similar small streams within the Garnet Mountains by FWP, the presence of beaver dams in lower reaches of small streams tend to favor the migratory life history of westslope cutthroat trout verses non-native fish. Managing for beaver in the case of Braziel is desirable given the unknown potential for unwanted fish (rainbow trout) to enter the system.

- 8. A sentence in the EA states, “Additionally, recruitment of salmonids to Nevada Creek may increase as a result of the project, although attempts will be made to maintain genetic isolation between the two streams.” How would downstream fish passage be prevented? Why is there no desire for these slightly hybridized fish to enter Nevada Creek? What threat might they pose?**

Response: The intent of the proposed isolation effort is to prevent unwanted fish from entering Braziel Creek, not to prevent recruitment of fish to Nevada Creek. With the planned stream improvements, the resident cutthroat trout population is expected to increase in the downstream direction (project area). As the population expands, recruitment to Nevada Creek is expected to increase. As stated above, there is a combination of natural barriers (beaver) and human barriers (diversions) that could be used to help manage unwanted changes in the species composition should that be necessary.

- 9. The potential for improved recreational fishing on Nevada Creek and the Blackfoot River seems small indeed. A more sober and objective statement would lend greater credence to the proposal.**

Response: The benefits may be small, but improvements will never be made unless positive steps are taken. By nature, restoration projects should be viewed as experimental since outcomes cannot be readily predicted. Monitoring efforts by regional FWP personnel will help address this uncertainty.

- 10. It is good to see an alternative presented. It would be far more useful if it had been treated a little more thoroughly and cost estimates included.**

Response: The inclusion of additional alternatives actually is an error on our part. The action proposed to be undertaken is Commission approval or disapproval of funding recommendations made by the Future Fisheries Review Panel. There are no other alternatives. The Future Fisheries Review Panel is an independent board appointed by the governor charged with approving or rejecting proposed projects and forwarding a list of approved projects to the department who then forwards the list to the Commission for final action (MCA 81-1-273).

- 11. Attachments 2 and 3 are such poor quality copies as to be nearly useless. Please correct this problem in future documents.**

Response: We apologize for the poor quality. The only way we can include this information is to photocopy the documents from the original application. The quality of documents received from project applications can vary greatly and poor quality becomes compounded when we attempt to photocopy a document for inclusion in an EA. The original application diagrams were

made on air photos of the proposed project site. The resolutions from photocopy efforts proved to be poor. Although these documents were of poor quality, we feel that the information they provide likely was better than not including them at all.

12. Mention is made of a grazing plan but nothing regarding its conditions is included.

This is a serious omission since the reader is rendered unable to assess the likely consequences of the grazing plan. How will the consequences of and compliance with the grazing plan be assessed and enforced? By whom?

Response: A description of the condition of the riparian corridor was not included in the application. Several photographs included in the application show an over-widened stream channel that is devoid of riparian shrubs. The landowner has agreed to sign a 20 year cooperative agreement, with signatures including US Fish and Wildlife Service and Big Blackfoot Chapter Trout Unlimited. The grazing plan would involve exclusion with off-site water tanks. Additionally, the applicant will need to enter into a project agreement with FWP. This agreement will include language calling for a grazing enclosure for a minimum of 5 years. Implementation of grazing after this five year period would require approval of a grazing plan by FWP. It will be FWP's responsibility to monitor compliance with a riparian enclosure and, after five years, compliance with a potential riparian grazing plan.

13. In terms of public access, we appreciate their attention to it even though access would appear to very difficult. The EA states that “the project site is legally accessible via adjacent Bureau of Land Management lands and through portions of Nevada Creek.” Examination of maps available to MWF suggest that while in the broadest sense the foregoing statement may be true, actually legally accessing the site via public right of way would require a minimum of one mile of wading within the high water marks of either Nevada Creek or Braziel Creek. To call this public access is a stretch.

Response: The road shown in Attachments 2 and 3 of the draft EA is public. Access to Braziel Creek can readily be obtained using Montana's Stream Access Law at the culvert crossing as shown. The intent of this proposed project is not to create a public fishery on a reach of Braziel Creek. Rather, the intent of the project is to preserve and possibly expand a westslope cutthroat trout population that is being managed as a conservation population by FWP.

14. Based on the ground disturbance required by this undertaking we feel that this project has the potential to impact cultural properties. We, therefore, recommend that a cultural resource inventory be conducted in order to determine whether or not sites exist and if they will be impaired.

Response: A cultural survey will be undertaken.

Hellroaring Creek channel restoration

The Montana Historical Society (SHPO) submitted a comment recommending that a cultural survey be undertaken. Issues brought forward in public comments included:

- 1. Based on the ground disturbance required by this undertaking we feel that this project has the potential to impact cultural properties. We, therefore, recommend that a cultural resource inventory be conducted in order to determine whether or not sites exist and if they will be impaired.**

Response: A cultural survey will be undertaken.

Lincoln Spring Creek fish passage

One email comment was received from MFW. MFW supported the project but outlined a series of perceived deficiencies in the EA. Issues brought forward in public comments included:

- 1. The EA states, “The new culvert is designed to provide for stream simulation through the crossing.” We doubt that is what was really intended, but proofreading did not catch it. If this is not so, why should we fund a project that provides for stream simulation? Another indication of poor proofreading, “the new pipe would satisfy a 100-year flood event.”**

Response: Stream-simulation involves constructing an artificial stream channel inside the culvert to provide passage for any aquatic organism that would normally migrate through the reach. Continuity through crossing structures allows all aquatic species present to move freely through them to access habitats, avoid adverse conditions, and seek food and mates. Whether through culverts or bridges, stream-simulation structures have a continuous streambed that mimics the slope, structure and dimensions of the natural streambed. The premise of stream simulation is that, since the simulation has very similar physical characteristics to the natural channel, aquatic species should experience no greater difficulty moving through it. The design for the proposed new crossing also was checked by an engineer to insure the crossing could pass a 100-year frequency flow event.

- 2. We believe in disclosure of the sources of all funds to be used in the project. That is not accomplished by saying “outside sources and in-kind services.” For this project of the almost \$50,000, only 1/6th of the funds are coming from Future Fisheries dollars. We also believe there should be disclosure of who the applicant is for these angler dollars? We are interested in complete and accurate information on where our dollars are being spent.**

Response: The applicant for Future Fisheries funds for this project was the Big Blackfoot Chapter Trout Unlimited, ATTN Ryen Aasheim, P.O. Box 1, Ovando, MT 59854. The cost share was not listed by contributor source in the draft EA because the sources can change prior to project completion. However, to be qualified for funding from the Future Fisheries Improvement Program, the total quantity of those matching funds cannot change. The applicant listed the following as matching funds and in-kind services:

U.S. Fish and Wildlife Service - \$28,000

Lewis and Clark County - \$12,800

Big Blackfoot Chapter Trout Unlimited - \$650 in-kind services

- 3. We find the suggestion that “the intent of the project, in part, to encourage the use of Lincoln Spring Creek by native bull trout and westslope cutthroat trout” is rather optimistic and may not reflect other results that might be anticipated. Isn’t it equally or more likely that the barrier removal will enhance spawning, recruitment and thus competition by brook and brown trout?**

Response: This project is part of a larger on-going effort to restore Lincoln Spring Creek. This undersized and perched culvert has been identified as a partial barrier and is also causing channel impairments--specifically downstream scour and upstream sediment accumulation. Although currently no populations of native fish reside in Lincoln Spring Creek, FWP has detected bull trout use in a downstream section of the stream during a recent telemetry study (Pierce, et. al. 2004. The Upper Blackfoot River Restoration Progress Report for 2002 and 2003). Historic data does support their use of this tributary. Restored upstream sections of Lincoln Spring Creek also provide ideal in-stream habitat, with the potential for increased native trout use. A similar restored nearby spring creek (Grantier Spring Creek) has shown re-colonization (including reproduction) by westslope cutthroat trout in recent years. Given the conditions described above, FWP anticipates increased native fish use of Lincoln Spring Creek once this project is completed. Replacing this undersized culvert will enhance wild fish habitat and access to upstream restoring stream segments. Brown trout and brook trout already inhabit this system.

- 4. Is the fact that no project alternatives were provided in the EA to be interpreted that you chose not to consider other alternatives? We find no mention of alternatives that were considered a serious concern.**

Response: The action proposed to be undertaken is Commission approval or disapproval of funding recommendations made by the Future Fisheries Review Panel. There are no other alternatives. The Future Fisheries Review Panel is an independent board appointed by the governor charged with approving or rejecting proposed projects and forwarding a list of approved projects to the department who then forwards the list to the Commission for final action (MCA 81-1-273).

- 5. Despite the noted shortcomings in content of the document we support the funding of this project.**

Response: Noted.

Mandeville Creek channel restoration

Seventeen emails were received supporting the proposed project. One email comment was received from the Montana Wildlife Federation (MWF) who opposed the project, noting that they felt the EA was deficient in content and outlined those shortcomings. Issues brought forward in email comments included:

- 1. Seventeen emails from individuals stating project support.**

Response: Noted.

- 2. We are supportive of education/demonstration projects and believe that the future welfare of our natural resources is best served by an informed public. In this case, however, we are unable to extend our support due to the lack of pertinent supporting information in the FWP document.**

Response: Noted.

- 3. This is another EA where there is no specific mention of the parties sharing in the benefits and costs of a proposed project. We don't even know who proposed this project. Of a total estimated cost of \$169,010.00, \$25K are sought from Future Fisheries, and the remaining \$144, 010.00 are to come "from outside sources and in-kind services." Funders of this project deserve more complete information.**

Response: The applicant for Future Fisheries funds for this project was Bozeman High School, ATTN Robin Hompesch, 205 North 11th Avenue, Bozeman, MT 59715. The cost share was not listed by contributor source in the draft EA because the sources can change prior to project completion. However, to be qualified for funding from the Future Fisheries Improvement Program, the total quantity of those matching funds cannot change. The original request to FFIP was for \$50,000. The Future Fisheries Review Panel recommended funding at \$25,000. The applicant listed the following as matching funds and in-kind services:

National Fish and Wildlife Foundation - \$25,000
Bozeman High School renovation fund - \$35,000
Montana Watercourse - \$2,100 in-kind services and \$900 cash
Confluence, Inc. - \$2,250 in-kind services
Clayton Marlow - \$5,040 in in-kind services
Trout Unlimited – 10,000
Volunteers - \$16,000 in-kind services

- 3. The project is only a couple of miles from the R-3 FWP headquarters and yet no specific fisheries data is provided or evidently considered. We would expect someone to spend a reasonable amount of time shocking the creek to provide up to date data for a \$25K investment of sportsmen's money? These data would provide a basis for evaluating the project. What are the implications for sustainable wild fish populations? Could successful reproduction in the rebuilt section contribute to fisheries in the East Gallatin?**

Response: There are no recent data concerning fisheries presence, absence or densities for this reach of Mandeville Creek. In the professional opinion of the local FWP fisheries biologist, this stream likely supports low numbers of brook trout, white sucker, longnose sucker and longnose dace. A few brown trout also could be present. The local FWP fisheries biologist noted in a support letter submitted as part of the application that "There is no doubt in my mind that fish numbers and sizes would be enhanced in the project reach." The potential for improved recruitment to the East Gallatin River likely is extremely limited. It is unknown if fish passage barriers exist downstream of the proposed project site.

- 4. There are no data provided regarding the characteristics of Mandeville Creek above or below the project area. In the absence of these data it is impossible to evaluate the cost effectiveness of the proposal. Is the stream perennial, seasonal, intermittent?**

Response: Immediately upstream of the proposed project site, the stream is buried in a pipe underneath the infrastructure of Bozeman for approximately 0.6 miles. Upstream of the buried reach, the stream continues to flow through more of the urban area of Bozeman, including through the campus of Montana State University (MSU). The Mandeville Creek Restoration Workgroup recently restored approximately 200 feet of the stream on the MSU campus. Mandeville Creek is a perennial stream that flows into the East Gallatin River.

- 5. The omissions noted above and others make it impossible to weigh the merits of this proposal. We regret that we cannot offer our support to a project of this nature. In the future please provide sufficient information to enable a responsible evaluation of projects.**

Response: Noted.

Rocky Reef Spring Creek

One email comment was received from the Montana Wildlife Federation (MWF) who opposed the project, noting that they felt the EA was deficient in content and outlined those shortcomings. The Montana Historical Society (SHPO) submitted a comment recommending that a cultural survey be undertaken. Issues brought forward in email comments included:

- 1. The cover page states that “...this draft EA will be considered as final if no substantive comments are received...” We take exception to this provision where there does not appear to be an accepted definition of “substantive comments” or who will make the determination.**

Response: We consider all comments as substantive except for comments addressing spelling, grammar or punctuation.

- 2. Once more we contend that the information included in the EA is inadequate for our objective assessment of the merits of the project.**

- **The applicant for the funds is unspecified,**

Response: The applicant for Future Fisheries funds for this project was Leland F. Wilson Living Trust, 29 Rocky Reef Road, Fort Shaw, MT 59443.

- **The sources of the other \$375,000 is/are unspecified.**

Response: The cost share was not listed by contributor source in the draft EA because the sources can change prior to project completion. However, to be qualified for funding from the Future Fisheries Improvement Program, the total quantity of those matching funds cannot change. The applicant listed the following as matching funds and in-kind services (the local angling group Missouri River Flyfishers and the Montana Trout Foundation have already contributed their portions of the contributions to provide funding to complete the design work):

MATCHING CONTRIBUTIONS

| CONTRIBUTOR | IN-KIND SERVICE | IN-KIND CASH | TOTAL |
|-----------------------------|-----------------|--------------|--------------|
| Missouri River Flyfishers + | \$ - | \$ 1,000.00 | \$ 1,000.00 |
| PPL Montana | \$ - | \$ 80,000.00 | \$ 80,000.00 |

| | | | |
|----------------------------|---------------|---------------|---------------|
| Montana Trout Foundation + | \$ - | \$ 4,000.00 | \$ 4,000.00 |
| USDA-NRCS * | \$ 3,000.00 | \$ 68,582.56 | \$ 71,582.56 |
| Lee Wilson-landowner | \$ 154,605.00 | \$ 59,888.20 | \$ 214,493.20 |
| MT FWP | \$ 3,600.00 | \$ 70,530.00 | \$ 74,130.00 |
| TOTAL | \$ 161,205.00 | \$ 284,000.76 | \$ 445,205.76 |

*NRCS paying for pivot tower bridges, native plants
+ Missouri River Flyfishers and Trout Foundation paying for design work

- Potential benefits to the angling public are mentioned only peripherally.

Response: The proposed project will restore habitat and remove migration barriers to make access available to spawning and rearing areas to enhance wild trout recruitment. Based on fisheries work in the Sun, Missouri and Smith river drainages, tributary enhancement would provide potential benefits to trout populations in all these waters, as well as creating/enhancing resident fisheries; all of which would benefit the angling public. The new potential fishery in the spring creek would be made available to the public by access permission from the landowner, as well as access through the Stream Access Law (23-2-301-322, MCA) and HB190 from the county road that crosses the spring creek, access from the north on a parcel of state land, and access from the state parcel that the lower portion of the creek flows through. Additionally floaters or wade anglers can access the spring creek from its junction with the Sun River, which is located approximately 1.8 river miles below the Fort Shaw Fishing Access Site.

- The suggestion that Sun River fisheries might benefit seems an extreme reach since it is our understanding that the trout fishery in that reach of the Sun is marginal at best.

Response: FWP Region 4 fisheries staff has advocated the implementation of projects similar to this proposal on other spring creek channels and tributaries in the Sun River drainage based on the professional opinion that it would benefit the trout fisheries in the Sun River. Most tributaries of the Sun River have migration barriers that prevent full connectivity with the main-stem. This project, if implemented, would represent a first step in reconnecting tributaries for spawning and rearing, as well as for thermal refuges. Funding has recently been secured to investigate what additional work on other tributaries would allow improved connectivity with the main-stem. The commenter is correct that the fisheries of the Sun River is impaired and populations of trout are substantially lower than fish populations upstream in the North and South Forks of the Sun or in other similar waters in North Central Montana. However, FWP Region 4 fisheries staff anticipates the project would provide main-stem benefits. Since the Sun River is impaired, addressing those impairments one step at a time could result in the development of a significantly improved fishery resource than what exists today. With that in mind, FWP, Montana Trout Unlimited, the Medicine River Canoe Club (an MWF affiliate), and the Missouri River Flyfishers have continued a dialogue with the Bureau of Reclamation, irrigation districts that are part of the Sun River Project, individual farmer and ranchers and other interested parties through the Sun River Watershed Group to improve habitat conditions for the fisheries. A result of that dialogue is the Sun River Special Study that is identifying alternatives that would benefit in-stream flows. These steps, including the proposed Rocky Reef Spring Creek Channel Restoration Project, are being taken to incrementally improve conditions in the Sun River drainage to benefit the aquatic resources, recreation and the trout fishery.

- There is no data suggesting that the Sun River fishery is depressed due to lack of recruitment.

Response: The commenter is correct that FWP has no data that directly demonstrate that the Sun River fishery is depressed due to lack of recruitment. Typically FWP management biologists do not have the resources to gather the data necessary to make that direct association. Even in reaches of the Missouri River that have been intensively studied; where spawning habitat has been mapped, is known to be limited, and trout populations are lower than the long term average; it would be difficult to definitively identify the cause. However, the existing trout population in the main-stem of the Sun River is dominated by a disproportionate percentage of larger sized fish. Additionally, sampling in the spring suggests that migratory rainbow trout that may be from other waters utilize the Sun River drainage for spawning. Increasing spawning and rearing habitat as well as increasing habitat in a tributary not subjected to the same environmental perturbations as the main-stem (i.e., ice flows on brown trout redds) will help ensure recruitment is maximized so trout populations can be maintained at the highest level possible.

- It is stated that there is currently no livestock use on the property. Is there easement language or some other mechanism to assure that this remains the case? Is a vegetative buffer 50 feet wide needed if no grazing is permitted?

Response: Although there is a conservation easement in place along the spring creek, FWP does not hold the easement and it is unknown if easement restrictions prohibit livestock grazing on this portion of the property. In the last several years, most fences in the reaches of the spring creek and the proposed project have been removed and the agricultural operation has been modified to a farming operation that does not include a livestock component. Conversations have indicated that livestock grazing is not planned to be added in the future and it is a priority in the management of the land to protect the riparian zone. Any project funded by the Future Fisheries Program requires an agreement to be signed before the project moves forward and becomes eligible to use the funds. A stipulation in the agreement would require fencing to be installed to protect the riparian zone if any grazing were to occur on the farm ground in the future. In response to the second part of this comment, riparian or vegetative buffers are highly beneficial for aquatic and terrestrial wildlife communities. We would advocate as the proposal specifies, that a riparian zone dominated by shrubs that is at a minimum 50 feet wide on each side of the spring creek channel is highly desirable and needed even if no grazing is permitted. The intent of this project element is to prevent other land use practices (i.e., cropping) from encroaching into the riparian zone.

- Given that some fertile Montana spring creeks require a per-rod fee for access and that if improved this spring creek may draw this kind of commercial interest; what assurances can you give Montana license holders that their public license money isn't being used to facilitate a commercial operation?

Response: Any project funded by the Future Fisheries Program requires an agreement to be signed before the project moves forward and is eligible to use the funds. The project agreement ties the applicant to their responses submitted as part of their application. A question found on the application form is *I. Will the project result in the development of commercial recreational use on the site?* The applicant responded as follows: "No. There is no intention of commercial recreational use on the property as a result of this project. No rod fees or access fees or any other commercialization of the creek/fishery is contemplated." Upon expiration of the agreement (20 years), there is no guarantee that the landowner at that time couldn't implement such a restriction on private land. However, as mentioned in the response to comment 4, the potential means of

access through the Stream Access Law from the county road that crosses the spring creek, access from the north on a parcel of state land, and access from the state parcel that the lower portion of the creek flows through; as well as accessing the spring creek from its junction with the Sun River, which is located approximately 1.8 river miles below the Fort Shaw Fishing Access Site; provides numerous legal means to access the stream if some future landowner chooses to deny access to the public.

3. Based on the inadequate information presented in the EA, we do not support an expenditure of m\$70K (sic) of sportsperson’s money.

Response: Noted.

4. Based on the ground disturbance required by this undertaking we feel that this project has the potential to impact cultural properties. We, therefore, recommend that a cultural resource inventory be conducted in order to determine whether or not sites exist and if they will be impaired.

Response: A cultural survey will be undertaken.

Sauerkraut Creek culvert fish passage

One email comment was received from the Montana Wildlife Federation (MWF) who opposed the project, noting that they felt the EA was deficient in content and outlined those shortcomings. A second email comment was received from the Montana Natural Heritage Program over the need to address the presence of Western Pearlshell mussels within the vicinity of the project site. Issues brought forward in email comments included:

1. The financial information indicates only the sum sought from Future Fisheries, \$67,250, and offers no information on sources of the other approximately \$112,000 need for the project. We find it difficult if not impossible to evaluate the cost effectiveness of the project not knowing the other contributions and who will make them. We continue to see the absence of this information as a deficiency that must be corrected.

Response: The cost share was not listed by contributor source in the draft EA because the sources can change prior to project completion. However, to be qualified for funding from the Future Fisheries Improvement Program, the total quantity of those matching funds cannot change. The applicant listed the following as matching funds and in-kind services:

USFWS - \$90,000

Embrace-a-stream - \$10,000

Big Blackfoot Chapter Trout Unlimited – 5,523.50 cash and \$2,000 in in-kind services

Landowner - \$5,000 in in-kind services

2. It is our understanding that these bridges are proposed to be located on private roads. We find the price of \$179, 774 to be excessive when the expressed purpose is replacing culverts to allow additional fish passage. The use of precast concrete bridges with the capacity to pass 100 year flows appears to be a “high end” solution. It would seem that there are vastly less expensive alternatives that would adequately meet stream crossing

and fish passage needs. We find it unacceptable to have no other alternatives considered and documented in the EA.

Response: The action proposed to be undertaken is Commission approval or disapproval of funding recommendations made by the Future Fisheries Review Panel. There are no other alternatives. The Future Fisheries Review Panel is an independent board appointed by the governor charged with approving or rejecting proposed projects and forwarding a list of approved projects to the department who then forwards the list to the Commission for final action (MCA 81-1-273). As discussed at the Future Fisheries Review Panel meeting, the applicant did consider several alternatives for this project. Reference reach bankfull width on Sauerkraut Creek is 12 feet and in order to meet fish passage, hydrologic and channel stability objectives the proposed replacement structure width needs to be a minimum of 14 feet. With the elevations of the existing road prism, appropriately sized culverts would not fit the site due to the associated heights and fills. The applicant solicited bids on three different bridge material types including steel, wood and concrete. Concrete came in as the lowest price and thus this option was chosen.

3. Again, there is no mention of public access to the stream even being discussed. We recognize that the statute specifically eliminates the requirement for public recreational access as a condition for funding by Future Fisheries. On the other hand, we believe that the exemption does not relieve s (sic) FWP of a responsibility to at least inquire about public access on all projects funded through the Future Fisheries program.

Response: The application form for FFIP includes the following two questions: *D. Will the project increase public fishing opportunity for wild fish and, if so, how?* and *G. What public benefits will be realized from the project?* The applicant for this project responded as follows: D. “Yes, by providing off-site recruitment to the Blackfoot River and angling opportunities on-site. Sauerkraut Creek enters a portion of the Blackfoot River that receives high angling pressure.” and G. “This project involves the continuation of the Blackfoot River Restoration program and the restoration of a bull trout and westslope cutthroat trout stream. Public benefits include: 1) recruitment of recreational fisheries to the Blackfoot River, 2) increasing the amount of fishable water, 3) improved water quality (temperature and sediment reductions) on-site and downstream, and 4) contribute (sic) to the recovery of bull trout and delisting of bull trout from the ESA.” The Future Fisheries Review Panel considered the responses to these two questions, among other considerations, in making their funding recommendation. The project site is bordered by USFS. Also the mouth of Sauerkraut Creek is easily accessed by the Blackfoot River. The Landowner also is enrolled in the block management program and the applicant believes that fishing access with landowner permission will be available.

4. We oppose this project based on the apparent excessive cost and failure to consider alternatives that might have met needs at a lower more reasonable cost. We also continue to have our evaluations stymied by a lack of information needed to do cost/benefit analyses.

Response: Noted.

5. It was brought to my attention last fall from Ryen Aasheim (Blackfoot Trout Unlimited) that she spotted Western Pearlshell (*Margaritifera falcata*) mussel shells below one of these culverts that it being proposed for removal during this restoration effort. This mussel species is a MT Species of Concern (S2, At risk because of very limited and/or potentially declining population numbers, making it vulnerable to extirpation in the state <http://mtnhp.org/SpeciesOfConcern/?AorP=a>) and was not mentioned or addressed in the EA at all. At a minimum, surveys should be performed in areas 0-150 meters downstream of the culvert removal sites to determine the presence of live Western Pearlshell (sic) mussels, if present, appropriate relocation activities can be further addressed if these populations could potentially be harmed during the culvert removal process and/or subsequent silt or sedimentation issues be mediated. Ryen and I briefly chatted about visiting these sites, but have not followed through yet; despite this, I think it is imperative that this species be addressed in the EA as a potential aquatic species harmed during this project (let's not forget Upper Willow Creek) and every effort made to not harm mussel beds or populations in the Blackfoot Drainage. Please let me know if I can help in surveying or providing further information on this species in the watershed. On another note Ron Pierce and I have a relocation project in the works for mussels below Emily A dam to sites within the main-stem Blackfoot drainage.

Response: Thank you for bringing this matter to our attention. We will be sure to have the applicant contact you prior to the initiation of any work, should funding be approved, to follow your recommendations for survey and, if necessary, mediation.

Skalkaho Creek channel stabilization

One email comment was received from the Montana Wildlife Federation (MWF) who opposed the project because fisheries benefits appear to be minor and it appears the purpose of the project is to protect a private residence. The Montana Historical Society (SHPO) submitted a comment recommending that a cultural survey be undertaken. Issues brought forward in email comments included:

1. **To us, it appears that the purpose of this project is to protect a private residence, with perhaps some indirect fisheries benefits. There appear to be no demonstrated impediments to the fishery that the project would fix; since there is no demonstrated loss in fishery value occurring, FF dollars should not be used. If there are any fisheries benefits created by the project, they appear minor, extremely localized, and again, indirect.**

Response: The Future Fisheries Review Panel considered the potential fisheries benefits associated with this project in making their funding recommendations based on what they reviewed in the application. The applicant claimed in the application that fish habitat would benefit by “reducing velocity by adding hydraulic roughness; improving habitat through increased sediment sorting and gravel retention; increasing pool habitat in the project reach; minimizing aquatic species competition through increased habitat complexity and partitioning; and increasing in-stream and overhead cover.” The local FWP fisheries biologist indicated that the fisheries benefits associated with the project appear to primarily be associated with some localized pool development, providing additional habitat for adult trout. The Future Fisheries

Review Panel determined that these potential fisheries benefits were sufficient to justify approval of the funding.

- 2. In March, 2009 the FWP Commission approved a different, but remarkably similar bank stabilization project on Skalkaho Creek. In response to MWF comments that opposed the use of Future Fisheries funds for that previous private property protection project, the decision notice stated: "We agree that a bank stabilization project not linked to a positive change in land use activity, in most cases, provides little benefit to the public. However, both the Future Fisheries review panel and the FWP Commission have determined that this proposed project provided enough benefit to justify approval of the requested Program funding." In addressing another comment, the decision notice stated: "We agree that property protection falls outside the purpose of the Program." Assuming that the Department's position is the same and that it opposes this latest private property protection project, we vigorously encourage the Department to notify the Commission of your position relative to this project, and recommend that the Commission not approve funding.**

The enabling legislation for the Future Fisheries Program called for "An act creating the future fisheries program; providing for the protection and enhancement of Montana fisheries through voluntary enhancement of spawning streams and other habitat for the natural reproduction of fish and growth of populations of wild fish..." Nowhere does the act, or program guidelines, allow for the use of funds for projects that are primarily for purposes other than benefiting wild fisheries. MWF strongly encourages the Commission to deny funding for this project.

Response: Please see response to comment #1. Commissioners received a copy of your comments prior to their March 10 meeting in Helena.

Tin Cup Creek in-stream flow enhancement

One email comment was received from the Montana Wildlife Federation (MWF). No other comments were received. MWF supported the project but noted that they felt the EA was deficient in content and outlined those shortcomings. Issues brought forward in this email comment included:

- 1. The cover page states that "...this draft EA will be considered as final if no substantive comments are received..." Please define substantive comments, in detail, and stipulate how and by whom that definition/decision will be made.**

Response: We consider all comments as substantive except for comments addressing spelling, grammar or punctuation.

- 2. We note that the applicant for the funds is unspecified, an egregious error.**

Response: The applicant for this project was Tin Cup Water and Sewer District and The Montana Water Trust, P.O. Box 292, Darby, MT 59829.

- 3. Total project cost is stated to be \$450,000. Of this total, \$100,000 is intended to come from Future Fisheries and \$300,000 from the Montana Water Trust. Where will the remaining \$50,000 be found? It would be heartening to believe that the major beneficiaries of the project, the irrigators, might be putting something into the project.**

Response: The applicant has contributed \$25,000 in cash for installation of satellite controlled outlet gates (installed in 2009). The applicant also is contributing \$10,000 in in-kind services for project management.

- 4. There is no mention of public access. We are thoroughly disgusted with FWP's unwillingness to meet its responsibilities to the anglers who pay for these projects and the salaries of the people who fail to protect their interests.**

Response: Tin Cup Creek flows for approximately 18.5 miles before its confluence with the Bitterroot River. The lower 3.5 miles (approximately) of the stream flows through private land. The remainder of the stream flows through property of the Bitterroot National Forest, which provides full and unimpeded public access.

- 5. Despite the shortcomings noted above, we observe that this document is substantially better prepared than the average quality Future Fisheries EA and we are pleased.**

Response: Noted.

- 6. We support this proposal and the expenditure of angler's funds contingent upon the successful achievement of the required permits for the rehabilitation work on the dam.**

Response: It will be the applicants' responsibility to obtain the required permits to conduct the work on the dam. The regulatory agencies associated with these permits will be responsible to ensure compliance.