



Montana Fish, Wildlife & Parks

2300 Lake Elmo Drive
Billings MT 59105
March 29, 2010

TO: Environmental Quality Council
Director's Office, Dept. of Environmental Quality
Montana Fish, Wildlife & Parks*

Director's Office	Lands Section
Parks Division	Design & Construction
Fisheries Division	Legal Unit
Wildlife Division	Regional Supervisors

Mike Volesky, Governor's Office *
Sarah Elliott, Press Agent, Governor's Office*
Maureen Theisen, Governor's Office*
Montana Historical Society, State Preservation Office
Janet Ellis, Montana Audubon Council
Montana Wildlife Federation
Montana State Library
George Ochenski
Montana Environmental Information Center
Wayne Hirst, Montana State Parks Foundation
FWP Commissioner Shane Colton*
Montana Parks Association/Our Montana (land acquisition projects)
David Moore, DNRC Area Manager, Southern Land Office
County Commissioners
Other Local Interested People or Groups
* (Sent electronically)

Ladies and Gentlemen:

The enclosed draft Environmental Assessment (EA) has been prepared for the introduction of Yellowstone cutthroat trout into Broadview Reservoir to provide an additional opportunity for anglers fishing this popular public pond. Questions and comments will be accepted until 5:00 p.m. April 15, 2010.

If you have questions or need additional copies of the draft EA, please contact Montana Fish, Wildlife & Parks at 247-2940. All comments may be sent by mail to: Ken Frazer, R5 Fisheries Manager at Fish, Wildlife & Parks, 2300 Lake Elmo Drive, Billings, MT 59105; or by e-mail to kfrazer@mt.gov.

Thank you for your interest.

Ken Frazer
Region 5 Fisheries Manager

Enclosures

ENVIRONMENTAL REVIEW OF FISH INTRODUCTIONS

INTRODUCTION OF YELLOWSTONE CUTTHROAT TROUT INTO BROADVIEW RESERVOIR TO PROVIDE AN ADDITIONAL OPPORTUNITY FOR ANGLERS FISHING THIS POPULAR PUBLIC POND.

Name and address of applicant Montana Fish, Wildlife & Parks, 2300 Lake Elmo Drive, Billings, MT 59105

Has the pond been approved for a private pond permit? No – This is a public lake
Location:

County Yellowstone/Golden Valley Township 4 N Range 23 E Section 09

Name of the drainage where the pond would be located Sand Creek – closed basin

Name(s) of fish species proposed for introduction Yellowstone cutthroat trout

Is this species legally present in the drainage? No

Species of special concern present in the drainage None

RISKS:

Potential for impacts on genetic structure of existing fish populations?

None Minor Major

Comments: The Yellowstone cutthroat trout stocked into Broadview Reservoir would be retired brood fish from the Big Timber Trout Hatchery. These are genetically pure fish, and would provide another opportunity for anglers to catch and harvest native cutthroat trout.

Impacts to any life stage of existing fish populations due to competition and/or predation?

None Minor Major

Comments: Stocked cutthroat would compete for food with other fish species in Broadview Reservoir. Rainbow trout and largemouth bass are already stocked into Broadview to provide a sport fishery, and growth rates and conditions of these fish are monitored with annual netting. Stocking rates for rainbows and/or cutthroat could be adjusted if competition becomes a problem.

Impacts to other forms of aquatic life that may be caused by this introduction?

None Minor Major

Comments: Cutthroat trout will become another predator on the invertebrate population in Broadview.

Potential for the proposed new species to reproduce in this location?

None Minor Major

Comments:

If necessary, would it be feasible to remove this species after it has been stocked?

Yes It would be possible to chemically treat Broadview Reservoir to remove fish.

Would this introduction result in impacts that are individually limited, but cumulatively considerable?

No.

Describe reasonable and prudent alternatives to this action, if any (including no action).

Not stock Yellowstone cutthroat into Broadview.

Describe and evaluate mitigation, stipulations, or other control measures enforceable by the agency, if any. Managers at the Big Timber Trout Hatchery operate under a strict management program to maintain and ensure the genetic integrity of the Yellowstone cutthroat produced and planted from the hatchery.

List any other agencies or individuals that may be affected by the proposed introduction:

N/A

List all agencies and individuals who have been notified of this proposed introduction:

Posted on FWP internet bulletin board.

Based on this evaluation, is an EIS required? No. If no, explain why the EA is the appropriate level of analysis for the proposed action.

No significant impacts.

EA prepared by: Ken Frazer

Comments will be accepted until April 15, 2010

Comments should be sent to: Montana Fish, Wildlife & Parks

Attn: Ken Frazer
2300 Lake Elmo Drive
Billings, MT 59105

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