



Montana Fish, Wildlife & Parks

1400 South 19th Avenue
Bozeman, MT 59718
November 5, 2010

To: Madison County Commissioners

Governor's Office, Mike Volesky, State Capitol, Room 204, PO Box 200801, Helena, MT 59620-0801

Environmental Quality Council, State Capitol, Room 106, PO Box 201704, Helena, MT 59620-1704

Dept. of Environmental Quality, Metcalf Building, PO Box 200901, Helena, MT 59620-0901

Dept. of Natural Resources & Conservation, PO Box 201601, Helena, MT 59620-1601

Montana Fish, Wildlife & Parks:

Director's Office

Parks Division

Lands Section

FWP Commissioners

Fisheries Division

Legal Unit

Wildlife Division

Design & Construction

MT Historical Society, State Historic Preservation Office, PO Box 201202, Helena, MT 59620-1202

MT State Parks Association, PO Box 699, Billings, MT 59103

MT State Library, 1515 E. Sixth Ave., PO Box 201800, Helena, MT 59620

James Jensen, Montana Environmental Information Center, PO Box 1184, Helena, MT 59624

Janet Ellis, Montana Audubon Council, PO Box 595, Helena, MT 59624

George Ochenski, PO Box 689, Helena, MT 59624

Charity Fechter, Madison County Planning Director, PO Box 278, Virginia City MT 59755

Tim Bozorth, Dillon BLM Field Office Supervisor, Dillon Field Office, 1005 Selway Drive, Dillon, MT 59725

Rick Waltrup, Dillon BLM Recreation Planner, Dillon Field Office, 1005 Selway Drive, Dillon, MT 59725

Tim Finger, Ennis BLM Recreation Planner, Ennis Field Station, 5 Forest Service Way, Ennis, MT 59749

Campbell, Craig, DNRC Unit Manager, ccampbell@mt.gov

Dave Kumlien, 4431 W. Babcock St., Bozeman, MT 59718

Richard Lessner, Executive Director Madison River Foundation

Travis Morris, President, Madison-Gallatin Chapter, Trout Unlimited, PO Box 52, Bozeman, MT 59771

Ladies and Gentlemen:

The enclosed Draft Environmental Assessment (EA) has been prepared for the Upper Madison River Proposed Exchange of Public Access Agreements. Montana Fish, Wildlife & Parks (FWP) proposes an exchange of access easements for the purpose of ensuring permanent public recreational access to a section of the upper Madison River. FWP would acknowledge that an existing road easement is no longer in effect and in exchange, certain landowners would grant a permanent easement for non-motorized recreational access along a portion of the Madison River. For convenience, this transaction is referred to herein as an exchange of easements. The new easement to be acquired by FWP would actually be multiple easements because it would be granted by multiple landowners.

Montana Fish, Wildlife & Parks invites you to comment on the attached proposal. If requested, FWP will schedule and conduct a public meeting on this proposed project. Public comment will be accepted until 5:00 p.m. on December 5, 2010. Comments can be e-mailed to walker@mt.gov or mailed to the address below:

Upper Madison River -- Proposed Exchange of Public Access Easements
Montana Fish, Wildlife & Parks
1400 South 19th Avenue
Bozeman, MT 59718

The EA may be obtained from FWP at the Region 3 Headquarters in Bozeman and the FWP State Headquarters in Helena, or viewed on FWP's Internet website: <http://www.fwp.mt.gov>.

Sincerely,

A handwritten signature in blue ink that reads "Gerald Walker". The signature is written in a cursive style with a large initial 'G'.

Gerald Walker
Regional Parks Manager

Draft Environmental Assessment
Upper Madison River
Proposed Exchange of Public Access Easements
November 2010



Upper Madison River
Proposed Exchange of Public Access Easements
Draft Environmental Assessment

PART I. DESCRIPTION OF THE PROPOSED ACTION

- 1. Proposed Action:**
Montana Fish, Wildlife & Parks (FWP) proposes an exchange of access easements for the purpose of ensuring permanent public recreational access to a section of the upper Madison River. FWP would acknowledge that an existing road easement is no longer in effect and in exchange, certain landowners would grant a permanent easement for non-motorized recreational access along a portion of the Madison River. For convenience, this transaction is referred to herein as an exchange of easements. The new easement to be acquired by FWP would actually be multiple easements because it would be granted by multiple landowners. Again, for convenience, those easements will be referred to in the singular.
- 2. Agency Authority for the Proposed Action:**
Section 87-1-209, Montana Code Annotated (MCA), authorizes FWP to acquire interests in land and water for habitat and recreational access. Section 87-1-229, MCA, states FWP's policy to work cooperatively with private landowners on access issues to resolve user conflicts.
- 3. Name of Project:**
Upper Madison River -- Proposed Exchange of Public Access Easements.
- 4. Project Sponsor:**
Montana Fish, Wildlife and Parks, Region 3
1400 South 19th Ave
Bozeman, MT 59718
(406) 994-4042
- 5. Public Involvement and Decision Process Schedule:**
Public Comment Period: November 5 through December 5, 2010
Decision Notice Anticipated: December 5, 2010
FWP Commission Consideration: December 9, 2010
- 6. Location:**
The public access easements proposed for exchange are located along the Madison River in Madison County, approximately 25 miles south of Ennis and immediately north of the BLM Palisades Recreation Area (see

Location Map, page 7). The legal description encompassing the easement location is Section 31, Township 9 South, Range 1 East. The cover photo of this environmental assessment shows the beginning (southern entry point) of the easement proposed to be acquired by FWP. The easement would then continue for 500 yards on private land along the riverbank to reach adjoining public land to the north.

7. Project Size: 3 acres (total)

Component Acres

(a) Developed:		(d) Floodplain	<u>2</u>
Residential	<u>0</u>		
Industrial	<u>0</u>	(e) Production:	
		Irrigated cropland	<u>0</u>
(b) Open Space	<u>3</u>	Dry cropland	<u>0</u>
		Forestry	<u>0</u>
(c) Wetlands/Riparian Areas	<u>2</u>	Grazing	<u>0</u>
		Other	<u>0</u>

8. Local, State or Federal Agencies with Overlapping or Additional Jurisdiction:

- (a) Permits: None required
- (b) Funding: Easement was originally donated to FWP in 1958. The current proposed exchange of easements would be done as a value-for-value exchange, with no funds to be exchanged.
- (c) Other Overlapping or Additional Jurisdictional Responsibilities: None

9. Narrative Summary of the Proposed Action:

Montana Fish, Wildlife & Parks proposes an exchange of access easements for the purpose of ensuring permanent public recreational access to a section of the upper Madison River. The exchange of easements would involve FWP relinquishing an existing "road easement" for public access to the Madison River that was granted to the Department in 1958 by Butler Development Company, the landowner at that time. In exchange for this relinquishment, five current landowners would grant to FWP an easement that provides the public with a permanent right to non-motorized access along the same 500-yard length of private land bordering on the Madison River (see Site Map, Page 7).

Under both the current situation and the proposed easement exchange, the public accesses the riverfront area by parking at the Palisades Recreation Area (owned and managed by the federal Bureau of Land Management) and heading north from that site. The current easement traverses about ¼ mile of private land to reach the riverfront portion of the easement. After the proposed easement exchange, the public would instead travel that ¼-mile distance on land managed by the Montana Department of Natural Resources and Conservation (DNRC). Once the public gets to the Madison River, the location and area of the public access easement would stay the same as it is currently: a 40-foot-wide public

recreational easement that extends along 500 yards of the river shoreline and ends where the corridor again contacts DNRC land. As is the case now, this easement is part of a continuous six-mile stretch along the east bank of the Madison River that is open to walking access.

The proposal for an easement exchange resulted from detailed negotiations between FWP and a group of nine landowners along the easement route. In 2005, one of the landowners contacted FWP and expressed concern that the 1958 easement clouded his property title by indicating that the State of Montana could build a road along the western edge of this land.

The landowner further contended that, because FWP had not constructed a road during the past fifty years, the road easement was no longer in force. FWP did not agree to relinquish the easement. Rather than go to court to resolve the dispute, the parties began negotiations to find a way to meet their respective needs.

During the negotiations, FWP pursued its primary interest to sustain (or strengthen) the public's right of recreational access to the Madison River. FWP also recognized that construction of a road for vehicles, as allowed in the original easement, was neither needed nor desirable in this location as non-motorized access well served public access needs. Additional considerations weighing against potential road development included costs, impacts to wetland/riparian habitat, disturbance to neighbors and river users, and a range of road management issues.

The landowners, while generally comfortable with the idea that the public could walk along the river bank, desired to remove the prospect of FWP ever constructing an access road along the western edge of their property.

In 2009, FWP and the landowners reached agreement on a settlement that would accomplish the following:

- The 1958 easement will be removed from the four southernmost private tracts, and FWP will have no further public access rights across these tracts.
Discussion: These tracts have no frontage on the Madison River, and have no public recreational value. Relinquishment of the easement on these tracts still leaves the public with two other ways to access the riverfront portion of the easement from the Palisades parking area: either walking north on the DNRC land or walking north along the river shoreline.
- The 1958 easement would also be removed from the five northern riverfront tracts. However, landowners for each of the five northern tracts will grant to FWP a 40-foot-wide easement for public recreational use of

the Madison River. The easement is for non-motorized use and also provides administrative access to FWP for any necessary trail work, maintenance, weed control, or signage.

Discussion: This riverfront easement is in the same location and covers the same 40-foot-wide footprint as the 1958 road easement. The allowance for FWP administrative use ensures that any necessary management activities can be accomplished.

- FWP may construct and maintain a narrow walking path through the easement area.

Discussion: This settlement agreement allows FWP to construct a 5-foot wide path within the easement area to facilitate public access. There are no current plans to construct the trail. The path would only be constructed if determined necessary by FWP and would be evaluated under a separate environmental analysis. A path or trail is much more appropriate for site conditions and users' needs than the road contemplated by the original 1958 easement.

- FWP would provide small signs to indicate to the public the eastern boundary of the easement area.

Discussion: The signage should ensure that the public stays within the easement right of way and does not enter onto the adjoining private land.

FWP proposes to execute the terms of the settlement agreement by relinquishing the rights granted to FWP under the 1958 easement and simultaneously accepting the new substitute public access easement which will be granted to FWP by the easement area landowners holding property that fronts directly on the Madison River. Together these actions will implement the provisions of the settlement agreement as described above.

10. Description and analysis of reasonable alternatives:

Alternative A: No Action

Under the no action alternative, FWP would not implement the terms of the settlement agreement. FWP would still hold the 1958 easement. Presumably, a landowner or landowners would challenge the validity of the 1958 easement. If the landowners challenged the easement in court, FWP may or may not prevail. It is possible that FWP could lose the easement entirely and the public could lose access to several miles of Madison Riverfront.

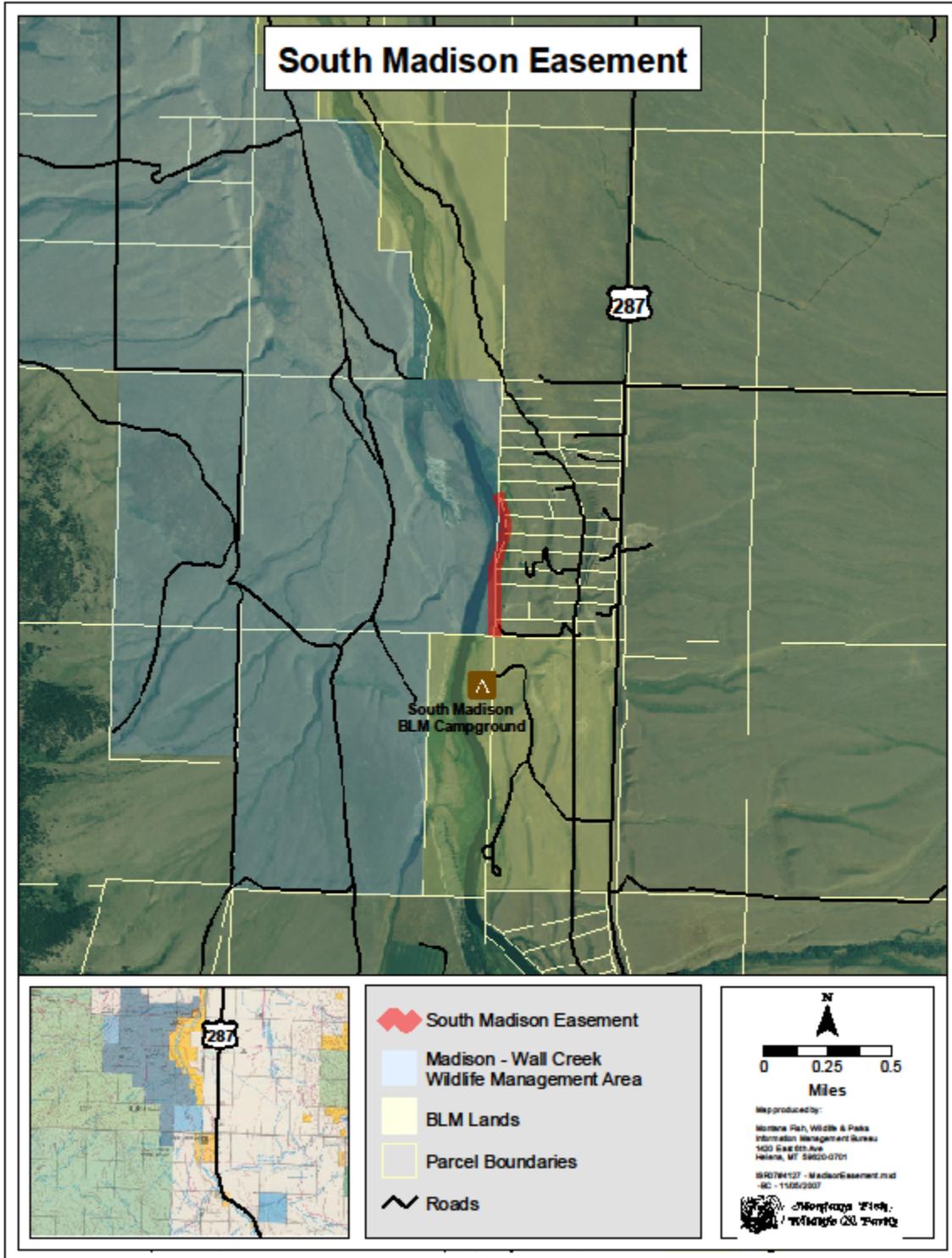
Preferred Alternative B: Proposed Action

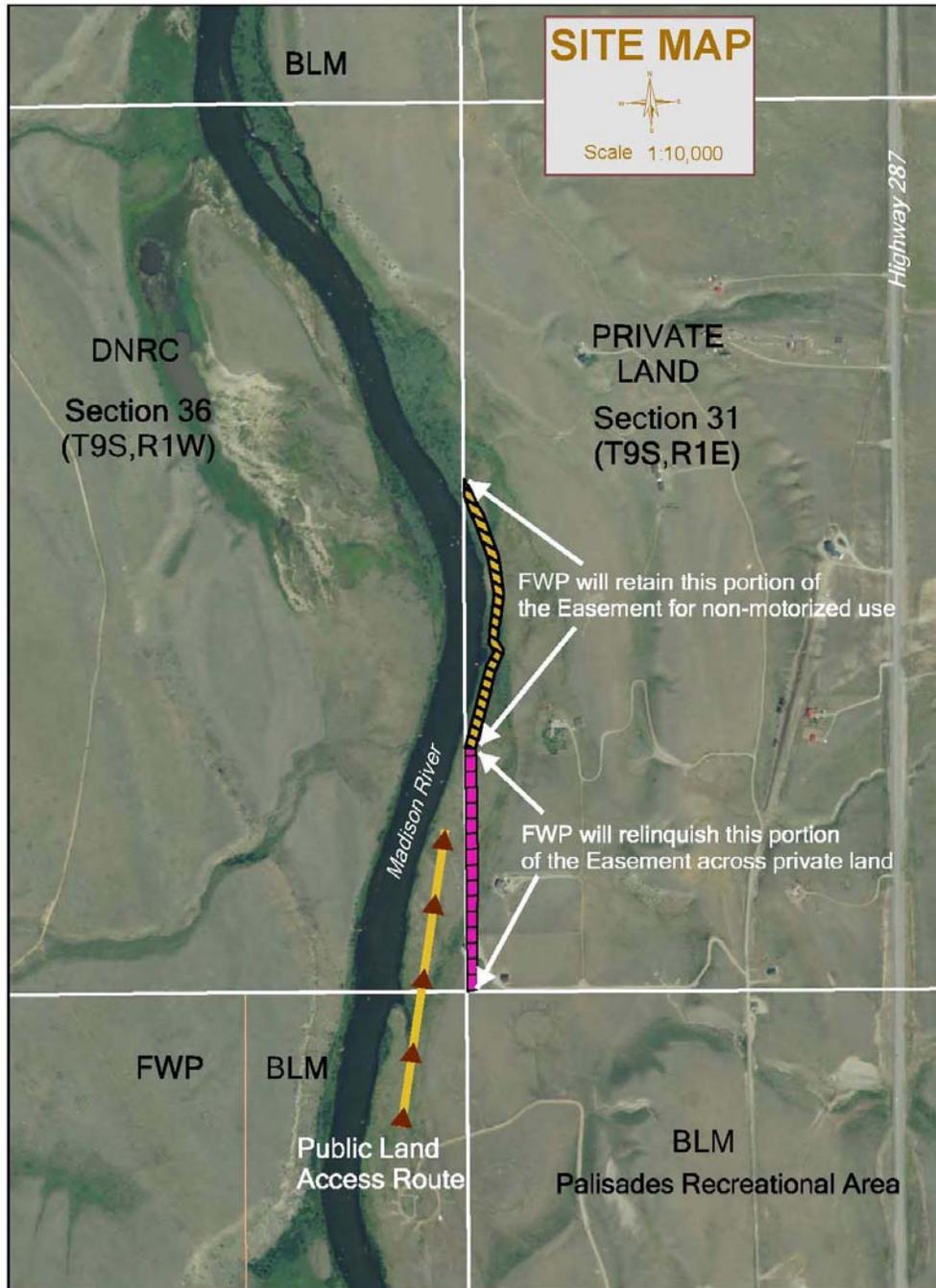
FWP proposes an exchange of access easements for the purpose of ensuring permanent public recreational access to a section of the upper Madison River.

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

The proposed action does not involve any ground-disturbing activity. If the proposed alternative is adopted and the new easement is acquired, FWP will place a small number of signs that will delineate the boundary of the easement in order to keep the recreating public within the easement area. Because the proposal does not involve any ground-disturbing activity or site development, FWP is not proposing any other mitigation or control measures.

Location Map:





- * Include a narrative explanation under Part III describing the scope and level of impact. If the impact is unknown, explain why the unknown impact has not or cannot be evaluated.
- ** Include a narrative description addressing the items identified in 12.8.604-1a (ARM).
- *** Determine whether the described impact may result and respond on the checklist. Describe any minor or potentially significant impacts.
- **** Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

PART II. ENVIRONMENTAL REVIEW CHECKLIST

Evaluation of the impacts of the Proposed Action including secondary and cumulative impacts on the Physical and Human Environment.

A. PHYSICAL ENVIRONMENT

1. <u>LAND RESOURCES</u> Will the proposed action result in:	IMPACT *					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. **Soil instability or changes in geologic substructure?		X				
b. Disruption, displacement, erosion, compaction, moisture loss, or over-covering of soil, which would reduce productivity or fertility?		X				
c. **Destruction, covering or modification of any unique geologic or physical features?		X				
d. Changes in siltation, deposition or erosion patterns that may modify the channel of a river or stream or the bed or shore of a lake?		X				
e. Exposure of people or property to earthquakes, landslides, ground failure, or other natural hazard?		X				
f. Other:						

The proposed action would have no impacts to land resources.

* Include a narrative explanation under Part III describing the scope and level of impact. If the impact is unknown, explain why the unknown impact has not or cannot be evaluated.

** Include a narrative description addressing the items identified in 12.8.604-1a (ARM).

*** Determine whether the described impact may result and respond on the checklist. Describe any minor or potentially significant impacts.

**** Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

2. <u>AIR</u> Will the proposed action result in:	IMPACT *					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. **Emission of air pollutants or deterioration of ambient air quality? (Also see 13 (c).)		X				
b. Creation of objectionable odors?		X				
c. Alteration of air movement, moisture, or temperature patterns or any change in climate, either locally or regionally?		X				
d. Adverse effects on vegetation, including crops, due to increased emissions of pollutants?		X				
e. ***For P-R/D-J projects, will the project result in any discharge, which will conflict with federal or state air quality regs? (Also see 2a.)		N/A				
f. Other:						

The proposed action would have no impacts to air quality.

* Include a narrative explanation under Part III describing the scope and level of impact. If the impact is unknown, explain why the unknown impact has not or cannot be evaluated.

** Include a narrative description addressing the items identified in 12.8.604-1a (ARM).

*** Determine whether the described impact may result and respond on the checklist. Describe any minor or potentially significant impacts.

**** Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

3. <u>WATER</u> Will the proposed action result in:	IMPACT *					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. *Discharge into surface water or any alteration of surface water quality including but not limited to temperature, dissolved oxygen or turbidity?		X				
b. Changes in drainage patterns or the rate and amount of surface runoff?		X				
c. Alteration of the course or magnitude of floodwater or other flows?		X				
d. Changes in the amount of surface water in any water body or creation of a new water body?		X				
e. Exposure of people or property to water related hazards such as flooding?		X				
f. Changes in the quality of groundwater?		X				
g. Changes in the quantity of groundwater?		X				
h. Increase in risk of contamination of surface or groundwater?		X				
i. Effects on any existing water right or reservation?		X				
j. Effects on other water users as a result of any alteration in surface or groundwater quality?		X				
k. Effects on other users as a result of any alteration in surface or groundwater quantity?		X				
l. ****For P-R/D-J, will the project affect a designated floodplain? (Also see 3c.)		N/A				
m. ***For P-R/D-J, will the project result in any discharge that will affect federal or state water quality regulations? (Also see 3a.)		N/A				
n. Other:						

The proposed action would have no impacts to water resources.

* Include a narrative explanation under Part III describing the scope and level of impact. If the impact is unknown, explain why the unknown impact has not or cannot be evaluated.

** Include a narrative description addressing the items identified in 12.8.604-1a (ARM).

*** Determine whether the described impact may result and respond on the checklist. Describe any minor or potentially significant impacts.

**** Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

4. <u>VEGETATION</u> Will the proposed action result in?	IMPACT *					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Changes in the diversity, productivity or abundance of plant species (including trees, shrubs, grass, crops, and aquatic plants)?		X				
b. Alteration of a plant community?		X				
c. Adverse effects on any unique, rare, threatened, or endangered species?		X				
d. Reduction in acreage or productivity of any agricultural land?		X				
e. Establishment or spread of noxious weeds?		X				
f. ****For P-R/D-J, will the project affect wetlands, or prime and unique farmland?		N/A				
g. Other:						

The proposed action would have no impacts to vegetation.

* Include a narrative explanation under Part III describing the scope and level of impact. If the impact is unknown, explain why the unknown impact has not or cannot be evaluated.

** Include a narrative description addressing the items identified in 12.8.604-1a (ARM).

*** Determine whether the described impact may result and respond on the checklist. Describe any minor or potentially significant impacts.

**** Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

** 5. FISH/WILDLIFE Will the proposed action result in:	IMPACT *					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Deterioration of critical fish or wildlife habitat?		X				
b. Changes in the diversity or abundance of game animals or bird species?		X				
c. Changes in the diversity or abundance of nongame species?		X				
d. Introduction of new species into an area?		X				
e. Creation of a barrier to the migration or movement of animals?		X				
f. Adverse effects on any unique, rare, threatened, or endangered species?		X				
g. Increase in conditions that stress wildlife populations or limit abundance (including harassment, legal or illegal harvest or other human activity)?		X				
h. ****For P-R/D-J, will the project be performed in any area in which T&E species are present, and will the project affect any T&E species or their habitat? (Also see 5f.)		N/A				
i. ***For P-R/D-J, will the project introduce or export any species not presently or historically occurring in the receiving location? (Also see 5d.)		N/A				
j. Other:						

The proposed action would have no impacts to fish and wildlife.

* Include a narrative explanation under Part III describing the scope and level of impact. If the impact is unknown, explain why the unknown impact has not or cannot be evaluated.

** Include a narrative description addressing the items identified in 12.8.604-1a (ARM).

*** Determine whether the described impact may result and respond on the checklist. Describe any minor or potentially significant impacts.

**** Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

B. HUMAN ENVIRONMENT

6. <u>NOISE/ELECTRICAL EFFECTS</u> Will the proposed action result in:	IMPACT *					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Increases in existing noise levels?		X				
b. Exposure of people to serve or nuisance noise levels?		X				
c. Creation of electrostatic or electromagnetic effects that could be detrimental to human health or property?		X				
d. Interference with radio or television reception and operation?		X				
e. Other:						

The proposed action would have no impacts on noise nor would it cause any electrical effects.

7. <u>LAND USE</u> Will the proposed action result in:	IMPACT *					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Alteration of or interference with the productivity or profitability of the existing land use of an area?		X				
b. Conflicted with a designated natural area or area of unusual scientific or educational importance?		X				
c. Conflict with any existing land use whose presence would constrain or potentially prohibit the proposed action?		X				
d. Adverse effects on or relocation of residences?		X				
e. Other:						

The proposed action would have no impacts to existing or potential land uses. The removal of the 1958 easement from the 4 southernmost private tracts could be construed as a positive impact to these landowners as their property would no longer be encumbered by a public access easement.

* Include a narrative explanation under Part III describing the scope and level of impact. If the impact is unknown, explain why the unknown impact has not or cannot be evaluated.

** Include a narrative description addressing the items identified in 12.8.604-1a (ARM).

*** Determine whether the described impact may result and respond on the checklist. Describe any minor or potentially significant impacts.

**** Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

8. <u>RISK/HEALTH HAZARDS</u> Will the proposed action result in:	IMPACT *					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Risk of an explosion or release of hazardous substances (including, but not limited to oil, pesticides, chemicals, or radiation) in the event of an accident or other forms of disruption?		X				
b. Affect an existing emergency response or emergency evacuation plan, or create a need for a new plan?		X				
c. Creation of any human health hazard or potential hazard?		X				
d. ***For P-R/D-J, will any chemical toxicants be used? (Also see 8a)		N/A				
e. Other:						

The proposed action would not create any additional risks or human health hazards.

9. <u>COMMUNITY IMPACT</u> Will the proposed action result in:	IMPACT *					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Alteration of the location, distribution, density, or growth rate of the human population of an area?		X				
b. Alteration of the social structure of a community?		X				
c. Alteration of the level or distribution of employment or community or personal income?		X				
d. Changes in industrial or commercial activity?		X				
e. Increased traffic hazards or effects on existing transportation facilities or patterns of movement of people and goods?		X				
f. Other:						

The proposed action would not impact the local community but would maintain the status quo.

* Include a narrative explanation under Part III describing the scope and level of impact. If the impact is unknown, explain why the unknown impact has not or cannot be evaluated.

** Include a narrative description addressing the items identified in 12.8.604-1a (ARM).

*** Determine whether the described impact may result and respond on the checklist. Describe any minor or potentially significant impacts.

**** Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

10. <u>PUBLIC SERVICES/TAXES/UTILITIES</u> Will the proposed action result in:	IMPACT *					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Will the proposed action have an effect upon or result in a need for new or altered governmental services in any of the following areas: fire or police protection, schools, parks/recreational facilities, roads or other public maintenance, water supply, sewer or septic systems, solid waste disposal, health, or other governmental services? If any, specify:		X				
b. Will the proposed action have an effect upon the local or state tax base and revenues?		X				
c. Will the proposed action result in a need for new facilities or substantial alterations of any of the following utilities: electric power, natural gas, other fuel supply or distribution systems, or communications?			X			
d. Will the proposed action result in increased use of any energy source?		X				
e. **Define projected revenue sources		NA				
f. **Define projected maintenance costs.			X			
g. Other:						

10c. The proposed action would require signing to be posted to indicate to the public the eastern boundary of the easement area. (This would not affect utilities, would it?)

10f. Projected maintenance costs are \$200 annually for sign maintenance and weed control activities.

* Include a narrative explanation under Part III describing the scope and level of impact. If the impact is unknown, explain why the unknown impact has not or cannot be evaluated.

** Include a narrative description addressing the items identified in 12.8.604-1a (ARM).

*** Determine whether the described impact may result and respond on the checklist. Describe any minor or potentially significant impacts.

**** Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

** 11. <u>AESTHETICS/RECREATION</u> Will the proposed action result in:	IMPACT *					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Alteration of any scenic vista or creation of an aesthetically offensive site or effect that is open to public view?		X				
b. Alteration of the aesthetic character of a community or neighborhood?		X				
c. **Alteration of the quality or quantity of recreational/tourism opportunities and settings? (Attach Tourism Report.)		X				
d. ***For P-R/D-J, will any designated or proposed wild or scenic rivers, trails or wilderness areas be impacted? (Also see 11a, 11c.)		N/A				
e. Other:						

The proposed action would have no impacts to aesthetics or existing recreational opportunities along the Madison River.

12. <u>CULTURAL/HISTORICAL RESOURCES</u> Will the proposed action result in:	IMPACT *					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. **Destruction or alteration of any site, structure or object of prehistoric historic, or paleontological importance?		X				
b. Physical change that would affect unique cultural values?		X				
c. Effects on existing religious or sacred uses of a site or area?		X				
d. ****For P-R/D-J, will the project affect historic or cultural resources? Attach SHPO letter of clearance. (Also see 12.a.)		N/A				
e. Other:						

The proposed action would have no impacts to cultural or historical resources.

* Include a narrative explanation under Part III describing the scope and level of impact. If the impact is unknown, explain why the unknown impact has not or cannot be evaluated.

** Include a narrative description addressing the items identified in 12.8.604-1a (ARM).

*** Determine whether the described impact may result and respond on the checklist. Describe any minor or potentially significant impacts.

**** Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

SIGNIFICANCE CRITERIA

13. <u>SUMMARY EVALUATION OF SIGNIFICANCE</u> Will the proposed action, considered as a whole:	IMPACT *					
	Unknown	None	Minor	Potentially Significant	Can Impact Be Mitigated	Comment Index
a. Have impacts that are individually limited, but cumulatively considerable? (A project or program may result in impacts on two or more separate resources that create a significant effect when considered together or in total.)		X				
b. Involve potential risks or adverse effects, which are uncertain but extremely hazardous if they were to occur?		X				
c. Potentially conflict with the substantive requirements of any local, state, or federal law, regulation, standard or formal plan?		X				
d. Establish a precedent or likelihood that future actions with significant environmental impacts will be proposed?		X				
e. Generate substantial debate or controversy about the nature of the impacts that would be created?		X				
f. ***For P-R/D-J, is the project expected to have organized opposition or generate substantial public controversy? (Also see 13e.)		N/A				
g. ****For P-R/D-J, list any federal or state permits required.		N/A				

The proposed action would have no impact to the significance criteria listed above.

* Include a narrative explanation under Part III describing the scope and level of impact. If the impact is unknown, explain why the unknown impact has not or cannot be evaluated.

** Include a narrative description addressing the items identified in 12.8.604-1a (ARM).

*** Determine whether the described impact may result and respond on the checklist. Describe any minor or potentially significant impacts.

**** Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

PART III. NARRATIVE EVALUATION AND COMMENT

The proposed exchange of access easements action would have no negative short-term or cumulative effects on the biological, physical, and human environments. When considered over the long term, the proposed action secures a positive outcome for public access to the Madison River, a popular river for recreation with a nationally recognized wild trout population. The easement exchange provides this positive outcome in three ways: by eliminating any existing dispute between FWP and neighboring landowners over the use of the 1958 road easement, by providing a permanent non-motorized public recreational access easement that allows the public to use this section of the Madison River shoreline bordered by private land, and by providing the easement connection across the private land in a location that completes a six-mile section of the east bank of the Madison River that is available for public walk-in fishing.

No significant adverse environmental impacts are attributable to this proposal to exchange access easements. The proposed alternative would have no impact on fish or terrestrial wildlife as the dominant use of the easement area will continue to be the same as at present: walk-in fishing by the public and by neighboring private landowners. Throughout the upper Madison River, bald eagles, wild ungulates, and other riverine and riparian species have for decades been exposed to high levels of recreational use of the river corridor, and no adverse impacts have been documented. Because the easement exchange simply continues legal public access to the easement area which has been in place since 1958, it is not anticipated that the exchange will affect recreational user levels on this section of the river.

This environmental analysis focuses solely on the proposed easement exchange. If FWP were to initiate development of a trail on the easement property, a separate environmental assessment would be completed and the public would have the opportunity to comment on this proposed action.

PART IV. PUBLIC PARTICIPATION

1. Public Involvement:

The public will be notified in the following manners to comment on this current EA, the proposed action and alternatives:

- Public notice in each of these papers: Bozeman Daily Chronicle, the Madisonian, the Helena Independent Record.
- Public notice on the Fish, Wildlife & Parks web page: <http://fwp.mt.gov>.
- Draft EA's will be available at the FWP Region 3 Headquarters in Bozeman and the FWP State Headquarters in Helena.
- A news release will be prepared and distributed to a standard list of media outlets interested in FWP Region 3 issues.

Copies of this environmental assessment will be distributed to the neighboring landowners and interested parties to ensure their knowledge of the proposed project.

This level of public notice and participation is appropriate for a project of this scope having limited impacts.

2. Duration of comment period:

The public comment period will extend for (30) thirty days following the publication of the legal notice in area newspapers. Written comments will be accepted until 5:00 p.m., December 5, 2010, and can be e-mailed to gwalker@mt.gov or mailed to the address below:

Upper Madison River -- Proposed Exchange of Public Access Easements
Montana Fish, Wildlife & Parks
1400 South 19th Avenue
Bozeman, MT 59718

If requested within the comment period, FWP will schedule and conduct a public meeting on this proposed project.

PART V. EA PREPARATION

1. Based on the significance criteria evaluated in this EA, is an EIS required?
NO.

If an EIS is not required, explain why the EA is the appropriate level of analysis for this proposed action.

Based upon the above assessment, which has identified a very limited number of minor impacts from the proposed action, an EIS is not required and an environmental assessment is the appropriate level of review.

2. Person(s) responsible for preparing the EA:

Hugh Zackheim
Lands Section Supervisor
Montana Fish, Wildlife & Parks
1420 E. 6th Ave.
P.O. Box 200701
Helena, MT 59620
406-444-4029

Gerald Walker
Regional Park Manager
Montana Fish, Wildlife & Parks
1400 S. 19th Ave.
Bozeman, MT 59718
406-994-3552

William Schenk
Legal Counsel

Montana Fish, Wildlife & Parks
1420 E. 6th Ave.
P.O. Box 200701
Helena, MT 59620
406-444-3312

3. List of agencies consulted during preparation of the EA:

Montana Fish, Wildlife & Parks
Parks Division
Legal Bureau