



Montana Fish, Wildlife & Parks

1400 South 19th Avenue
Bozeman, MT 59718

December 2, 2011

To: Governor's Office, Mike Volesky, State Capitol, Room 204, P.O. Box 200801, Helena, MT 59620-0801
Environmental Quality Council, State Capitol, Room 106, P.O. Box 201704, Helena, MT 59620-1704
Dept. of Environmental Quality, Metcalf Building, P.O. Box 200901, Helena, MT 59620-0901
Dept. of Natural Resources & Conservation, P.O. 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, P.O. Box 201202, Helena, MT 59620-1202

MT State Parks Association, P.O. Box 699, Billings, MT 59103

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

James Jensen, Montana Environmental Information Center, P.O. Box 1184, Helena, MT 59624

Janet Ellis, Montana Audubon Council, P.O. Box 595, Helena, MT 59624

George Ochenski, P.O. Box 689, Helena, MT 59624

Jerry DiMarco, P.O. Box 1571, Bozeman, MT 59771

Montana Wildlife Federation, P.O. Box 1175, Helena, MT 59624

Wayne Hurst, P.O. Box 728, Libby, MT 59923

Jack Jones, 3014 Irene St., Butte, MT 59701

Vince Stanton, PO BOX 2350, LIVINGSTON, MT 59047

Jennifer Farve, Moore, O'Connell, Refling, P.O. Box 1288, Bozeman, MT 59715

Jane Tecca, Montana Broker Properties, 1201 U.S. Highway 10 West, Suite A-3, Livingston Mt 59047-9192

PMD Ranch, LLC c/o Andy Dana, 115 W. Kagy, Suite P, Bozeman, MT 59715

Barney Hallin, P.O. Box 447, Livingston, MT 59047

Ladies and Gentlemen:

The enclosed Environmental Assessment (EA) was prepared for a proposal to relocate an existing private road easement across the Carter's Bridge Fishing Access Site (FAS) from its current riverfront location onto the existing FWP road through the Carter's Bridge Fishing Access Site. The proposed relocated easement will be appurtenant to the neighboring Harper property and will be for the benefit of the current and future owners of that land, and will minimize the impact of the existing easement on the FAS.

This Draft EA is available for review from FWP at the address provided above, or viewed on FWP's Internet website: <http://www.fwp.mt.gov> .

Montana Fish, Wildlife & Parks invites you to comment on the attached proposal. The public comment period will be accepted until December 12, 2011. Comments should be sent to the following:

Montana Fish, Wildlife & Parks
c/o Carter's Bridge FAS
1400 South 19th Avenue
Bozeman, MT 59718

Or e-mailed to: cartersbrdg@mt.gov

Sincerely,

Patrick J. Flowers
Region Three Supervisor

Attachment

ENVIRONMENTAL ASSESSMENT

CARTER'S BRIDGE FISHING ACCESS SITE ROAD EASEMENT RELOCATION

Montana Fish, Wildlife & Parks

Region 3 – Bozeman

December 1, 2011

I. INTRODUCTION

Montana Fish, Wildlife & Parks (FWP) manages approximately 335 fishing access sites that provide public recreational access to rivers, streams, lakes and reservoirs across the state. These properties have typically been purchased from private landowners willing to sell a small portion of their land to allow the public to fish, float, and otherwise enjoy Montana's exceptional opportunities for water-based recreation.

Through such transactions, FWP seeks to acquire only enough land necessary to meet public needs for water access, parking lot, boat ramp and latrine. That often means a private landowner will split off a small parcel from a farm or ranch and sell that parcel to FWP for the fishing access site. Sometimes, however, this type of small land division results in unanticipated consequences that must be addressed to meet management requirements of the landowner or FWP.

In the case of the Carter's Bridge Fishing Access Site on the Yellowstone River south of Livingston, FWP purchased a 3-acre fishing access site (FAS) from the Berg family in 1977. Just prior to the sale, the neighbors to the north (the Harper family) reserved a road easement to ensure their continued access across the FAS to reach their land immediately to the north.

Due to movement of the Yellowstone River channel over the past 34 years, the route of the road easement now coincides with the shoreline which is the heart of the area used by the public to access the river. Over the past two decades, this issue has been addressed by mutual agreement through which the landowners have *not* exercised their right to develop a road along the river and have instead been allowed to drive on FWP's road through the FAS. Under this arrangement, the landowner's official (recorded) road easement does not coincide with the on-the-ground location of the access route being used.

The current landowner family (the Harpers) and FWP agree that this situation needs to be resolved, and have carefully reviewed how best to define the road access across the Carter's Bridge Fishing Access Site. FWP and the Harpers are now jointly proposing to address this issue by relocating the road easement. The purpose of the easement relocation is to provide a legal and usable access route for the landowner in a manner that sustains FWP's ability to manage the Carter's Bridge FAS for its intended purpose of public recreational access.

II. DESCRIPTION OF PROPOSED ACTION

Montana Fish, Wildlife and Parks proposes to relocate a private road easement across the Carter's Bridge Fishing Access Site from its current riverfront location onto the existing FWP road through the Carter's Bridge Fishing Access Site. The relocated easement will be appurtenant to the neighboring Harper property and will be for the benefit of the current and future owners of that land, and will minimize the impact of the existing easement on the FAS.

The existing FWP road runs the north-south length of the Carter's Bridge FAS, a distance of about 160 yards from its entrance off of East River Road to the Harper property line. The road was developed by FWP to facilitate vehicle access, parking, and general management of the FAS.

Under the proposed easement relocation, FWP will retain management control of the road while granting the Harpers a 16-foot-wide easement to use the existing road surface *as it has already been developed by FWP*. This solution is acceptable to the Harpers because the existing road footprint is adequate to meet their access needs. The road easement will not grant any construction rights to the Harpers, and thus there will be no disturbance to the site or to public use of the site. The Harpers will be able to remove any natural obstructions from the road in the event that FWP does not do so, and plow the road if necessary for winter access.

In return for the relocation of the road easement, the Harpers will relinquish their current easement which runs along the river shoreline. This relinquishment will eliminate the prospect of the Harper family, or any successors in ownership of the Harper property, ever building a road through the shoreline area that the public uses to access the Yellowstone River.

III. AUTHORITY AND DIRECTION

Section 87-1-209, Montana Code Annotated (MCA), authorizes FWP to acquire land for public fishing areas. The FWP Fisheries Bureau pursues this goal through its Fishing Access Site program, purchasing properties from willing sellers and managing those properties for public water access and related uses. In addition, Section 87-1-209(1), MCA authorizes FWP to grant and acquire certain right-of-way easements without approval by the FWP Commission.

IV. PROJECT LOCATION

The Carter's Bridge Fishing Access Site is located in Park County about 3 miles south of Livingston. The property is accessed by turning east from U.S. Highway 89 onto East River Road (Route 540), then proceeding east for about ½ mile. Immediately after the road crosses the Yellowstone River (Carter's Bridge), turn left (north) at the signed entry road to Carter's Bridge Fishing Access Site. FWP ownership at the site consists of 3 acres in a portion of Lot 1 in the NW1/4 of Section 12, Township 3 South, Range 9 East (see location map and site map).

V. PURPOSE, BENEFITS AND NEED FOR THE PROPOSED ACTION

The purpose of the proposed action is to accommodate a neighboring landowner's legal right for road access across the Carter's Bridge Fishing Access Site in a way that ensures FWP retains management control of this important and heavily used fishing access site. This will be accomplished by the transfer of the neighbor's road easement onto the route of FWP's existing road coupled with the neighbor's relinquishment of the riverfront easement location established in 1977. This course of action is necessary to eliminate the prospect of road development or vehicular use along the shoreline of the Yellowstone River where the easement currently is located. During the busy summer floating season, public use of the fishing access site often exceeds 50 users per day, and vehicle travel along the shoreline would inevitably result in user conflicts and safety concerns.

The terms of the relocated road easement will require the landowner to use the surface of the existing road as developed by FWP, thus maintaining FWP's management control of the fishing access site. Additionally, the road easement is dedicated to serve the landowner's needs for limited residential use and is not drafted to accommodate commercial or subdivision use.

From the neighboring landowner's perspective, the relocation of the road easement ensures that their legal right of access coincides with an already developed and usable roadway.

VI. DESCRIPTION AND DISCUSSION OF ALTERNATIVES TO THE PROPOSED ACTION

1. No-Action Alternative

Under the no-action alternative, FWP would not pursue relocation of the road easement across the Carter's Bridge FAS. This alternative would not grant the neighboring landowner any use rights on the FWP road through the FAS. However, the neighboring landowner would retain the existing road easement and thus would retain the option of developing a road along the river shoreline.

2. Relocation of Road Easement without Protective Terms

Under this alternative, the neighboring landowner's 1977 easement would be relocated onto the existing FWP road through the FAS, and the landowner would maintain full road construction and maintenance rights as granted under that 1977 easement. As a result,

FWP would not have any role in managing the easement holder's road use and related construction activities.

VII. EVALUATION OF IMPACTS ON THE PHYSICAL ENVIRONMENT

1. Land Resources

Impact of Proposed Action: There would be no anticipated impact on land resources because the easement location would be transferred to the location of the existing road through the Carter's Bridge FAS. That road is now used by the public and by the Harper family to serve a single-family residence, and that use by the Harper family has not caused any adverse impacts to the FAS over the past several decades.

Alternative 1: There would be a potential for adverse impacts on land resources under the No-Action alternative because the neighboring landowner might decide to develop a road on the riverfront route to ensure access to the private property north of the FAS.

Alternative 2: There could be a moderate adverse impact on land resources if the neighboring landowner decided to exercise their rights and widen the existing road in a manner that disturbs adjoining soil and vegetation. Additionally, the amount of road use could increase because the easement would not include road-use limitations.

2. Air Resources

Impact of Proposed Action: There would be no impact as current levels of road use and resultant road dust are anticipated to continue.

Alternative 1: No impact would be anticipated.

Alternative 2: No impact would be anticipated.

3. Water Resources

Impact of Proposed Action: No adverse impacts to water resources are anticipated.

Alternative 1: There would be the potential for adverse impact to water resources if a road were to be developed in the shoreline area.

Alternative 2: No adverse impacts to water resources are anticipated.

4. Vegetation Resources

Same as discussion of impacts to land resources.

5. Fish/Wildlife Resources

Impact of Proposed Action: No adverse impacts to fish/wildlife resources are anticipated.

Alternative 1: No adverse impacts to fish/wildlife are anticipated.

Alternative 2: No adverse impacts to fish/wildlife are anticipated.

VIII. EVALUATION OF IMPACTS ON THE HUMAN ENVIRONMENT

1. Noise/Electrical Effects

Impact of Proposed Action: There would be no impact.

Alternatives 1 & 2: There would be no impact.

2. Land Use

Impact of Proposed Action: There would be no change from current land use at the Carter's Bridge FAS.

Alternative 1: If a road were to be developed in the shoreline area, the periodic use could interfere with recreational use of the site and result in occasional conflicts with boat launching.

Alternative 2: There would be no change from current land use at the Carter's Bridge FAS.

3. Risk/Health Hazards

Impact of Proposed Action: There would be no change from current conditions.

Alternative 1: If a road were to be developed in the shoreline area, this could pose potential traffic problems and related safety hazards to recreationists using the FAS. The site is already used to capacity during the summer floating season, so a new additional road along the shoreline would be expected to create significant conflicts between site users and road users.

Alternative 2: There would be no change from current conditions.

4. Community Impacts

Impact of Proposed Action: The proposed road easement would not affect the local community because road use will stay the same as under current conditions.

Alternative 1: Any potential impacts would be limited to the fishing access site and would not be expected to impact the broader community in this area.

Alternative 2: There would be no change from current conditions.

5. Public Services/Taxes/Utilities

There would be no impact under any of the alternatives on public services, taxes, or utilities.

6. Aesthetics/Recreation

Impact of Proposed Action: The proposed action would maintain the status quo in terms of recreational use of the Carter's Bridge Fishing Access Site by ensuring that a shoreline road is not developed and that use levels of the FWP road remain as they are currently.

Alternative 1: If FWP did not pursue the proposed action, there would be a strong potential for adverse impacts on recreational use of the FAS. These impacts would occur if the neighboring landowner decided to exercise the right to develop a shoreline road as provided for in the 1977 road easement. This road location is coincident with the area where the public accesses the Yellowstone River to fish and to launch/land boats. This is a heavily used fishing access site, and management conflicts and safety issues would arise under this alternative.

Alternative 2: There could be minor adverse impacts on site aesthetics if the landowner were able to further develop (widen) the existing road.

7. Cultural/Historic Resources

There would be no impact under any of the alternatives on cultural or historic resources.

IX. SUMMARY EVALUATION OF SIGNIFICANCE

The proposed action, transferring an historic road easement from its riverfront route onto the course of an existing road, will eliminate the prospect of future road development along the shoreline of the Yellowstone River at the Carter's Bridge Fishing Access Site. This action will continue the status quo of road use through the site and is not anticipated to have adverse environmental impacts, nor will it have adverse cumulative or secondary impacts, nor will it affect any unique, endangered, fragile, or limited environmental resources.

X. EVALUATION OF NEED FOR AN EIS

This environmental assessment (EA) has not identified any significant negative impacts from the proposed action, so an environmental impact statement is not required. This EA is the appropriate level of review.

XI. PREFERRED ALTERNATIVE AND PUBLIC INVOLVEMENT

FWP's preferred alternative is to implement the proposed action as described in Section II of this EA. Public comment will be taken from the December 1, 2011, release date of this EA through December 12, 2011.

Comments may be delivered by mail, fax, in person, by email or phone to:

Montana Fish, Wildlife & Parks – Region 3
Attn: Carter's Bridge EA Comments
1400 S. 19th Avenue
Bozeman, MT 59718

Email: cartersbrdg@mt.gov
Phone: (406) 994-6987

XII. DECISION-MAKING PROCESS

After the close of the public comment period, we will evaluate the comments and prepare a Decision Notice that reviews and responds to public comments, and indicates whether or not FWP will proceed with the proposed action. The Decision Notice will be provided to all persons who commented on the proposal, and will be posted on the FWP website at <http://fwp.mt.gov/news/publicNotices>.

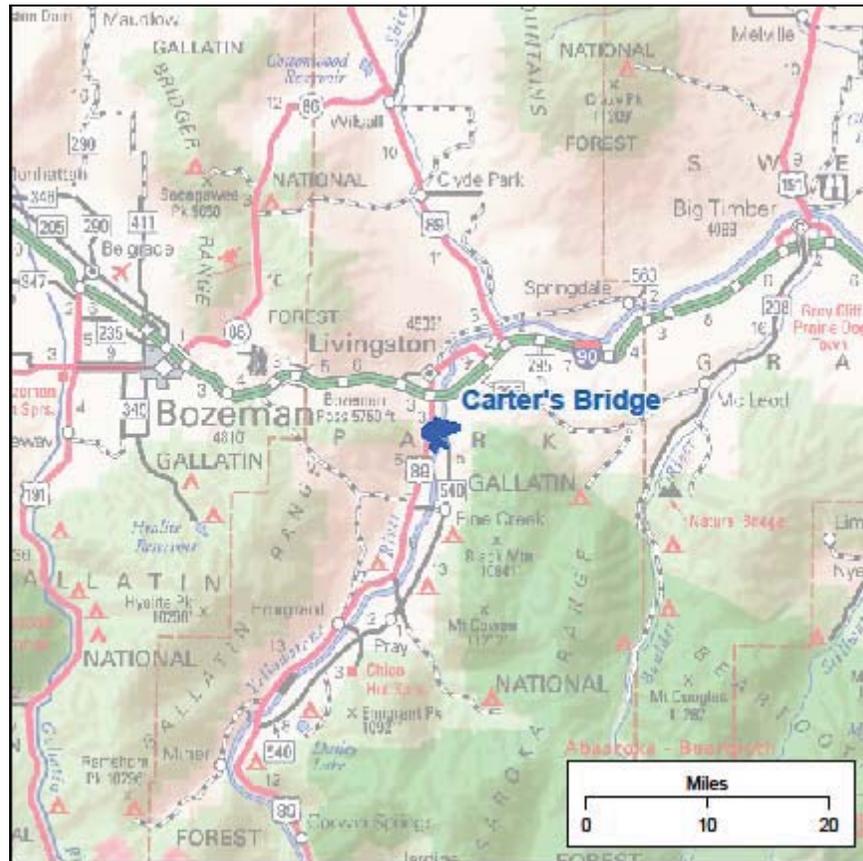
XIII. CONTACT INFORMATION FOR PERSONS PREPARING THIS EA

Hugh Zackheim, Lands Program Manager, Montana Fish, Wildlife & Parks, Helena
Phone: 406-444-4029; Email: hzackheim@mt.gov

XIV. OTHER GROUPS OR AGENCIES CONTACTED OR WHICH MAY HAVE OVERLAPPING JURISDICTION

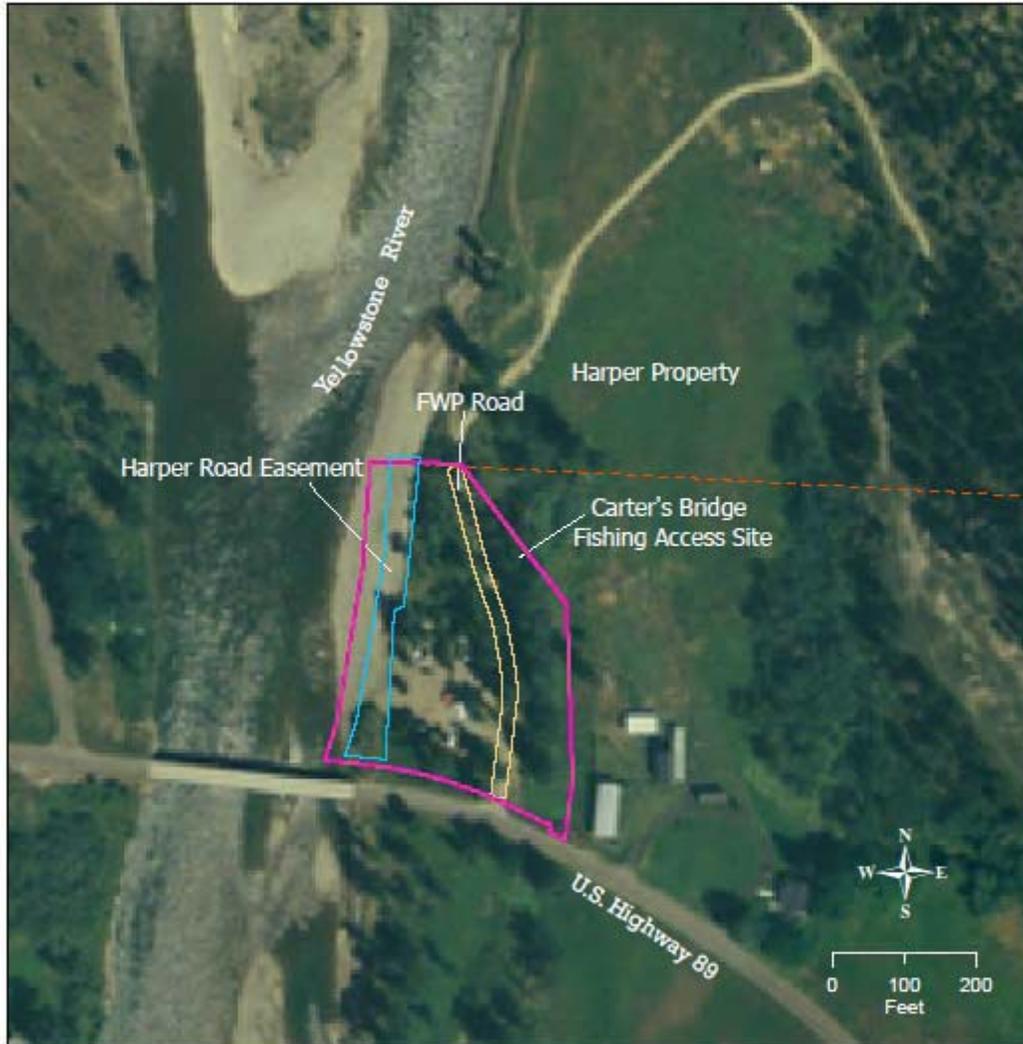
None identified.

Location Map



Site Map

Carter's Bridge Fishing Access Site Park County, Montana



The Harper Road Easement (outlined in blue) was reserved in 1977, before the underlying property was sold to Montana, Fish, Wildlife & Parks (FWP). The easement overlies the Yellowstone River shoreline at the precise location within Carter's Bridge Fishing Access Site where the public accesses the river and launches boats. A road or even seasonal driving use in this location would adversely affect this public use, in addition to raising significant safety concerns.

Rather than develop a road here and initiate conflict with recreational use, FWP and the Harpers propose to move the road easement from the shoreline route to an interior route (outlined in yellow). This route coincides with FWP's existing road. Harpers would use the road surface as maintained by FWP, but would not have management or control of the road.