EA #:

ENVIRONMENTAL REVIEW OF FISH INTRODUCTIONS
PRIVATE POND APPLICATION

Name and address of applicant: Jon and Dorothy Fossel
P O Box 974
Ennis, MT 59729

Has the pond been approved for a private pond permit in the past? No.

Location:

County: Madison Township: 5S Range: 1E Section: 36

Name of the drainage where the pond would be located: Jack Creek, Madison River drainage

Name(s) of fish species proposed for introduction: Rainbow Trout

Is this species native to the drainage? If not, was it introduced legally (i.e. by a fish management agency)? Not native, but was legally introduced.

List species of special concern present in the drainage: Arctic Grayling in Ennis Lake, Madison drainage

RISKS:
Inlets to or outlets from the pond? Yes__X_ No __
Explain: Pond discharges spring to wetland perched high above Jack Creek, isolated from state waters.

Potential for impacts on genetic structure of wild fish populations?
None_X_ Minor__ Major__
Comments required for minor or major impacts:

Impacts to any life stage of existing fish populations due to competition and/or predation?
None_X_ Minor__ Major__
Comments required for minor or major impacts:

Impacts to other forms of aquatic life that may be caused by this introduction?
None_X_ Minor__ Major__
Comments required for minor or major impacts:

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

Comments required for minor or major impacts:
Pond inhabitants may be able to reproduce in inlet spring flow, but probability for successful reproduction is low.

If necessary, would it be feasible to remove this species after it has been stocked? How?
Yes, by chemical means.

Would this introduction result in impacts that are individually limited, but cumulatively considerable?
Yes, although this introduction poses little risk, cumulatively, private fish ponds do pose risks to wild fisheries.

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

Describe and evaluate mitigation, stipulations, or other control measures enforceable by the agency, if any.
Stock fish from state approved source only.

List any other agencies or individuals that may be affected by the proposed introduction:
None.

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

Based on this evaluation, is an EIS required? Yes___ No_X_ If no, explain why the EA is the appropriate level of analysis for the proposed action.
An introduction of this scope does not warrant a full EIS.

Literature Cited: N/A

EA prepared by: Tim Weiss

Comments will be accepted until: N/A

Comments should be sent to: Bruce Rich
Montana Fish, Wildlife & Parks
1400 South 19th Avenue
Bozeman, MT 59718

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”.)

DOES THE PROPOSED AGENCY ACTION HAVE TAKINGS IMPLICATIONS UNDER THE PRIVATE PROPERTY ASSESSMENT ACT?

YES	NO	
_____	_____	1. Does the action pertain to land or water management or environmental regulation affecting private real property or water rights?
_____	_____	2. Does the action result in either a permanent or indefinite physical occupation of private property?
_____	_____	3. Does the action deprive the owner of all economically viable uses of the property?
_____	_____	4. Does the action deny a fundamental attribute of ownership?
_____	_____	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?
_____	_____	6. Does the action have a severe impact on the value of the property?
_____	_____	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.