Montana Fish, Wildlife and Parks
1420 E 6th Ave, PO Box 200701 Helena, MT 59620-0701
(406) 444-2452

ENVIRONMENTAL ASSESSMENT CHECKLIST

PART 1. PROPOSED ACTION DESCRIPTION

Project Title: Wild Animal Menagerie Permit
Application Date: July 12, 2005
Name, Address and Phone Number: Katherine Eldridge
18 Blanch Farm Rd.
Greenville, NH 03048
(603) 878-2255
Project Location: 1601 Sage Creek Road
Dell, MT 59724
(T13S, R9W, Section 2)

Description of Project: Wild animal menageries are regulated through the provisions set forth in 87-4-801 et al, MCA, the Administrative Rules of Montana and license stipulations, if any, established through the permitting process. Wild animal menageries allow the possession of up to ten bears and large cats for non-commercial purposes. Public exhibition or the use of the bear for attracting trade is not allowed under a wild animal menagerie permit.

On July 8, 2005 Montana Fish, Wildlife & Parks (FWP) received an application for a wild animal menagerie permit for one American Black Bear. The applicant proposes building a 12 ft by 24 ft outside facility and an adjacent 5 ft by 5 ft indoor facility. The facility would be fully enclosed to prevent escape by digging or climbing. The application was reviewed and determined to be complete on July 12, 2005. In accordance with the Montana Environmental Policy Act, FWP is required to prepare an Environmental Assessment (EA).

The EA considers the impacts to the physical and human environments if a wild animal menagerie permit is granted. The EA also considers any private property takings under the Private Property Assessment Act. Three alternatives are considered: 1) Do not issue the permit (no action); 2) issue the permit; and, 3) issue the permit with stipulations to mitigate identified impacts or public concerns. If a permit is issued FWP has further responsibility to inspect and approve cages and facilities for size, strength and general animal welfare (ARM 12.6.1532).

Other groups or agencies contacted or which may have overlapping jurisdiction:

Beaverhead County Attorneys Office

PART 2. ENVIRONMENTAL REVIEW

Table 1. Potential impact on physical environment.

Will the proposed action result in potential impacts to:	Unknown	Potentially Significant	Minor	None	Can Be Mitigated	Comments Provided
1. Unique, endangered, fragile, or limited environmental resources				X		
2. Terrestrial or aquatic life and/or habitats			X		X	1.2
3. Introduction of new species into an area				X		
4. Vegetation cover, quantity and quality				X		
5. Water quality, quantity and distribution (surface or groundwater)				X		
6. Existing water right or reservation				X		
7. Geology and soil quality, stability and moisture				X		
8. Air quality or objectionable odors			X		X	1.8
9. Historical and archaeological sites				X		
10. Demands on environmental resources of land, water, air & energy				X		
11. Aesthetics				X		

Comments

(A description of potentially significant, or unknown, impacts and potential alternatives for mitigation must be provided.)

1.2 There is some potential of the facility attracting a wild black or grizzly bear. If a wild bear were attracted to the facility FWP would be immediately notified. Black bears are occasionally seen along the Red Rock River and tributaries. Periodically, FWP is called on to attempt to remove a black bear in the vicinity of Dell. FWP does not believe Sage Creek is a major migration or dispersal corridor for either black or grizzly bears and there is little chance of the menagerie attracting additional bears to the area if routine sanitation of the cages and sound food storage is observed. Administrative rules require the daily sanitation of cages.

1.8 Some odors are expected to be associated with the facility, although it is not expected they would reach neighboring residences. It is the licensee's responsibility to ensure routine sanitation is conducted for the general welfare of the bear and to reduce odors that could attract other animals, including wild bears.

Table 2. Potential impacts on human environment.

Will the proposed action result in potential impacts to:	Unknown	Potentially Significant	Minor	None	Can Be Mitigated	Comments Provided
1. Social structures and cultural diversity				X		
2. Changes in existing public benefits provided by wildlife populations and/or habitat			X		X	2.2
3. Local and state tax base and tax revenue				X		
4. Agricultural production				X		
5. Human health			X		X	2.5
6. Quantity and distribution of community and personal income				X		
7. Access to and quality of recreational activities				X		
8. Locally adopted environmental plans & goals (ordinances)				X		
9. Distribution and density of population and housing				X		
10. Demands for government services			X		X	2.10
11. Industrial and/or commercial activity				X		

Comments

(A description of potentially significant, or unknown, impacts and potential alternatives for mitigation must be provided as comments.)

2.2 There is some potential of the facility attracting wild black or grizzly bears. Black bears are occasionally seen along the Red Rock River and tributaries. Periodically, FWP is called on to attempt to remove a black bear in the vicinity of Dell. FWP does not believe Sage Creek is a major migration or dispersal corridor for either black or grizzly bears and there is little chance of the menagerie attracting additional bears to the area if routine sanitation of the cages and sound food storage is observed.

2.5 Black bears pose some risks to human health and property because of their size and strength; however, the species can also be trained to be non-aggressive toward humans and is generally perceived as being

very intelligent. FWP cage specifications require both a top and solid or chain link floor to prevent escape. The particular bear to be enclosed in the proposed facility is reported by the current owner to be mentally retarded and have Down Syndrome that limits its mobility and coordination to the point where it poses little risk to humans. The applicant plans to permit the facility through the natural life of this bear and not hold other bears thereafter.

2.10 FWP has the responsibility under 87-4-801 et al, MCA, to provide and review applications for wild animal menageries. The process involves both the Wildlife and Enforcement Divisions of FWP. Licensees have the responsibility for cage construction, animal welfare and record keeping. In the event the facility is not being run in accordance with the applicable statutes FWP can impose stipulations, fines, confiscate animals and revoke permits without right of renewal.

Does the proposed action involve potential risks or adverse effects which are uncertain but extremely harmful if they were to occur?

None

Does the proposed action have impacts that are individually minor, but cumulatively significant or potentially significant?

None

Description and analysis of reasonable alternatives (including the no action alternative) to the proposed action when alternatives are reasonably available and prudent to consider. Include a discussion of how the alternatives would be implemented:

Alternative 1: No Action. Under this alternative a wild animal menagerie license would not be issued. This alternative would only be adopted if the menagerie were prohibited by local ordinance; the applicant was unfit due to past violations pertaining to animal welfare or other applicable statutes; or, the EA or public comment identified impacts to the human or physical environments that could not be mitigated.

Alternative 2: Issue the license. (Preferred Alternative). Under this alternative the wild animal menagerie license would be issued pending inspection and approval of the cages. The identified impacts to the human and physical environments were all judged to be minor and easily mitigated through routine sanitation, sound food storage and sound cage design and construction. The physical limitations (mental retardation, Down Syndrome) of the particular bear to be held at the menagerie further mitigates the human health and safety risks inherent with a captive carnivore. The applicant has no plans to hold additional black bears after this animal expires. In the event a wild bear is attracted to the facility stipulations may be added if the facility or presence of the bear is the attractant. FWP does not believe Sage Creek is a major migration or dispersal corridor for either black or grizzly bears and there is little chance of the menagerie attracting additional bears to the area if routine sanitation of the cages and sound food storage is observed.

Alternative 3: Issue the license with stipulations. Under this alternative the wild animal menagerie license would be issued with stipulations to mitigate identified impacts. No significant impacts associated with the site were identified; therefore stipulations to the license are not necessary. The physical limitations (mental retardation, Down Syndrome) of the particular bear to be held at the menagerie further mitigates the human

health and safety risks inherent with a captive carnivore.

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

FWP has the right and responsibility under 87-4-806 MCA to conduct periodic inspections of menageries. Other state and local ordinances regarding animal welfare may also apply.

Individuals or groups contributing to, or commenting on, this EA:

EA prepared by: Craig Fager (406) 683-9305

Date Completed: August 29, 2005

Email address for comments: cfager@mt.gov
Mail comments to: **MT Fish, Wildlife & Parks**
Attn: Craig Fager
730 North Montana
Dillon, MT 59725

Comments due by: 5:00 pm, September 15, 2005

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 OR 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?
_____	___X___	6. Does the action have a severe impact on the value of the property?
_____	___X___	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.