



Montana Fish, Wildlife & Parks

2300 Lake Elmo Drive
Billings, MT 59105

September 14, 2007

TO: Environmental Quality Council
Director's Office, Dept. of Environmental Quality
Montana Fish, Wildlife & Parks*
 Director's Office
 Parks Division
 Fisheries Division
 Wildlife Division
Mike Volesky, Governor's Office *
Sarah Elliott, Press Agent, 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 (land acquisition projects)
(Vacant) DNRC Area Manager, Southern Land Office
Other Local Interested People or Groups
* (Sent electronically)

Lands Section
Design & Construction
Legal Unit
Regional Supervisors

Ladies and Gentlemen:

Attached for your review is a draft Environmental Assessment for stocking a pond on private land approximately 3 miles south of Bridger, MT in exchange for public fishing access. The pond would be stocked with largemouth bass and rainbow trout as part of a one-year agreement with possibility of renewal.

Any questions should be directed to Jim Olsen (328-4636) or Jim Darling (247-2961). Written comments should be addressed to the undersigned by September 28, 2007.

Sincerely,

Jim Darling
Fisheries Manager
jdarling@mt.gov

Enclosure

ENVIRONMENTAL ASSESSMENT CHECKLIST

PART 1. PROPOSED ACTION DESCRIPTION

Project Title: Largemouth Bass and Rainbow Trout Introduction into the Deveraux Pond

Date: September 14, 2007

Name, Address and Phone Number:

Jim Darling
Regional Fisheries Manager
Montana Fish, Wildlife and Parks
2300 Lake Elmo Drive
Billings, MT 59105
(406) 247-2940
jdarling@mt.gov

Project Location: The Deveraux Pond is located on private land approximately 3 miles south of the Town of Bridger, Montana (T7S R22E Sec 10). The pond is approximately 0.5 surface acres and is fed by a combination of spring and ditch water. Access to the pond is through a private dirt road.

Description of Project:

Through a cooperative agreement, the local landowner has agreed to provide one year of public fishing access to the pond in exchange for management of the pond, which includes the stocking of fish and periodic monitoring of the fish population. The pond will primarily be managed as a family fishing pond that is accessible by permission. No compensation is being provided to the landowner other than the fish being stocked. The pond's habitat is suitable for trout and largemouth bass. There is an abundance of fathead minnows and white suckers to serve as a source of food for bass. The pond is approximately 12 ft deep and cool enough to support trout as well. It was stocked with largemouth bass and rainbow trout by the previous landowner. Montana Fish, Wildlife & Parks (FWP) is proposing to stock the pond with these same two species. Rainbow trout will be stocked at a minimum of 7 inches to reduce bass predation on the stocked fish. Bass will be stocked as either 3-inch fish or retired brood stock that are between 12 and 18 inches. The agreement between FWP and the private landowner is for a period of 1 year with the possibility of renewal. The pond will likely be stocked on a 3-4 year cycle pending the renewal of the access agreement.

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

None.

PART 2. ENVIRONMENTAL REVIEW

1. POTENTIAL IMPACT ON PHYSICAL ENVIRONMENT

WILL THE PROJECT 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 habitat			X			1.2
3. Introduction of a new species into an area			X			1.3
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		
9. Historical and archaeological sites				X		
10. Demands on environmental resources of land, water, air & energy				X		
11. Aesthetics				X		

Comments

1.2. Terrestrial or aquatic life and/or habitat

The introduction of largemouth bass and rainbow trout will have direct impacts on invertebrate and vertebrate organisms in the pond through predation. The primary food source for the trout in the pond will likely be freshwater invertebrates, but will also include other terrestrial invertebrates. An amphibian survey has not been conducted, but it is possible that chorus frogs, leopard frogs, boreal toads, and tiger salamanders inhabit the pond. Trout could potentially prey upon both juvenile and adult amphibians. Largemouth bass will likely prey upon fathead minnows, white suckers, and amphibians. Because there has been an historic bass and rainbow trout fishery in the Deveraux Pond, the potential impacts of stocking on invertebrate and vertebrate populations should be minimal and similar to past impacts.

1.3. Introduction of a new species into an area

See comment 1.2.

2. POTENTIAL IMPACTS ON HUMAN ENVIRONMENT

WILL THE PROJECT 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			2.2
3. Local and state tax base and tax revenue				X		
4. Agricultural production				X		
5. Human health				X		
6. Quantity and distribution of community income				X		
7. Access to and quality of recreational activities			X			2.7
8. Locally adopted environmental plans & goals				X		
9. Distribution and density of population and housing				X		
10. Demands for government services				X		
11. Industry and/or commercial activity				X		

Comments

2.2. Changes in the existing public benefits provided by wildlife populations and/or habitat

By establishing a bass and trout fishery in the Deveraux Pond the recreational opportunities to catch game fish will increase. The accessibility of the pond by vehicle to young and old will be a public benefit.

2.7. Access to and quality of recreational activities

The primary purpose for reintroducing game fish into the Deveraux Pond is to provide a recreational fishery for local anglers. The intent of the landowner is to increase fishing opportunities primarily for children. Establishing bass and rainbow trout populations in the pond will expand fishing opportunities, but it is unlikely that substantial fishing pressure will occur because of the relative remoteness of the lake from large population centers. Mostly local residents of Bridger, Belfry and Fromberg will likely use the pond.

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

No

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

No

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:

1. The "No Action" Alternative

If no action is taken the following consequences are likely to result:

If Montana Fish Wildlife and Parks does not stock the pond with fish, the angling public will lose the opportunity to fish a small, relatively accessible pond. Further, the landowner will likely obtain a private pond license and stock the pond on his own and create a private fishery that will not be available to the public. Therefore, if FWP is not a partner in this pond agreement the environmental impacts of having fish in the pond will still occur and the public will have lost a fishing opportunity.

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

None

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

EA prepared by: Jim Olsen, Regional Fisheries Biologist, Montana Fish Wildlife and Parks

Date Completed: 9/12/07

Mail comments to:

Jim Darling
Regional Fisheries Manager
Montana Fish, Wildlife and Parks
2300 Lake Elmo Dr.
Billings, MT 59105
jdarling@mt.gov

Comments due by: September 28, 2007

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 STIPALTIONS REQUIRED, OR NOTE "NONE")

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

YES

NO

- | | | |
|-------|--------------|---|
| _____ | <u> X </u> | 1. Does the action pertain to land or water management or environmental regulation affecting private real property or water rights? |
| _____ | <u> X </u> | 2. Does the action result in either a permanent or indefinite physical occupation of private property? |
| _____ | <u> X </u> | 3. Does the action deprive the owner of all economically viable uses of the property? |
| _____ | <u> X </u> | 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.