Draft
Environmental Assessment

Foy's Bend Fee Title Land Purchase

Prepared By R-1 Fisheries
September 25, 2008

Montana Fish, Wildlife & Parks

Foy's Bend Fee Title Land Purchase
Draft Environmental Assessment
MEPA, NEPA, MCA 23-1-110 CHECKLIST

PART I. PROPOSED ACTION DESCRIPTION

1. Type of proposed state action: Land Purchase

2. Agency authority for the proposed action: Montana Fish, Wildlife & Parks. State statute 87-1-209 defines the authority Montana Fish, Wildlife & Parks has in acquiring land for the restoration, propagation, and/or protection of game, birds, fish, or fur-bearing animals.

Additionally, 75-7-101 of the Montana Code Annotated provides protection to natural rivers and streambeds and the lands and property immediately adjacent to them to be protected and preserved in order to keep soil erosion and sedimentation to a minimum.

3. Name of project: Foy's Bend Fee Title Lane Purchase

4. Anticipated Schedule:
Estimated Completion Date: December 31, 2008
-

5. Location affected by proposed action:
Flathead County, Range 21 W, Township 28 N, Sections 26, 27, 34, & 35

6. Project size:

	Acres		Acres
(a) Developed:		(d) Floodplain	241.30
Residential	1	(2/3 in 100-year & 1/3 in 500-year flood plain)	
Industrial	0	(e) Productive:	
(existing shop area)		Irrigated cropland	50
(b) Open Space/ Woodlands/Recreation	234	Dry cropland	0
		Forestry	0
(c) Wetlands/Riparian Areas	141	Rangeland	0
		Other	0

7. Listing of any other local, state, or federal agency that has overlapping or additional jurisdiction:

(a) Permits: Permits will be filed at least 2 weeks prior to project start.

Agency Name _____ Permits _____

(b) Funding:

Agency Name:	Funding Amount:
Montana Fish, Wildlife & Parks	$2,000,000

(c) Other overlapping or additional jurisdictional responsibilities:

Agency Name	Type of Responsibility
State Historic Preservation Office – cultural resources	

8. Narrative summary:

Under the proposed 2007-2009 approved BPA fisheries budget and Memorandum of Understanding between Montana Fish, Wildlife & Parks (FWP), the Confederated Salish & Kootenai Tribes (CSKT), and the Bonneville Power Administration (BPA), Montana will have approximately $8 million available in capital funding over the next 2 years to conserve and protect fisheries habitats in the Flathead River basin. The BPA funds are to be used to replace fisheries habitats impacted by Hungry Horse Dam. The partners have already spent approximately $3.5 million on habitat projects in the Swan, Flathead, and Jocko Valleys. FWP and the CSKT worked cooperatively to develop the criteria for ranking lands suitable for fisheries habitat conservation. The proposed Foy's Bend land acquisition of approximately 235 acres has been selected by the joint fisheries team to move forward. This parcel is located just below the transition zone between the upper braided and the lower meandering sections of the Flathead River. As shown in Fig. 1, it consists of the interior of one of the larger meander reaches of the Flathead River and is nearly surrounded by water. It includes approximately 3.5 km of high quality, intact, cottonwood/riparian riverbank habitat. The Foy's Bend area contains substantial areas of deep, large, woody debris in the river channel, which provides cover and over-winter habitat for adult bull trout. The only building structures on the property include a mobile home and large hay shed. Most of the property falls within the 100-year floodplain.

The proposed project adjoins 190 acres of land, with 1.4 km of riverbank, already under conservation easement and is across the river from another 265 acres and about 2.4 km of riverbank under conservation easement (Fig. 1). This project will protect another 3.4 km of riverbank and will greatly help maintain the habitat integrity of this portion of the Flathead River system where the Stillwater and upper Flathead merge and transition into the meandering lower Flathead River system.

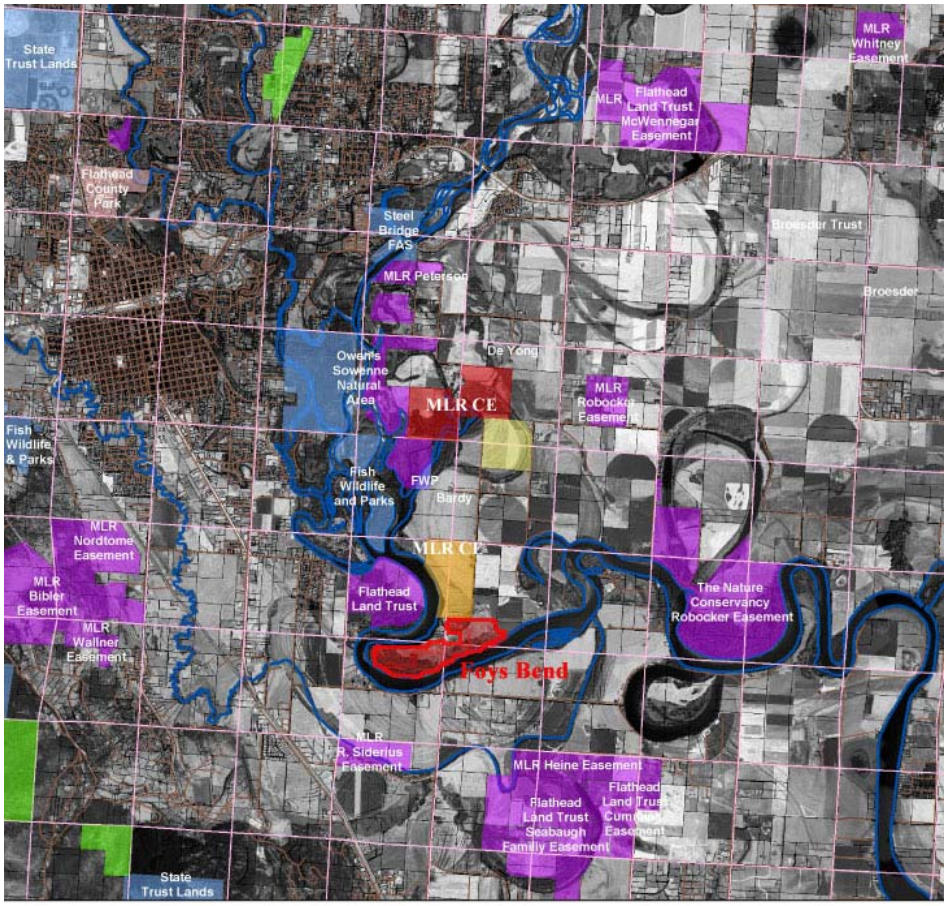

Figure 1. Location of Proposed Foys Bend project southeast of Kalispell along the Flathead River, Flathead County, Montana**.**

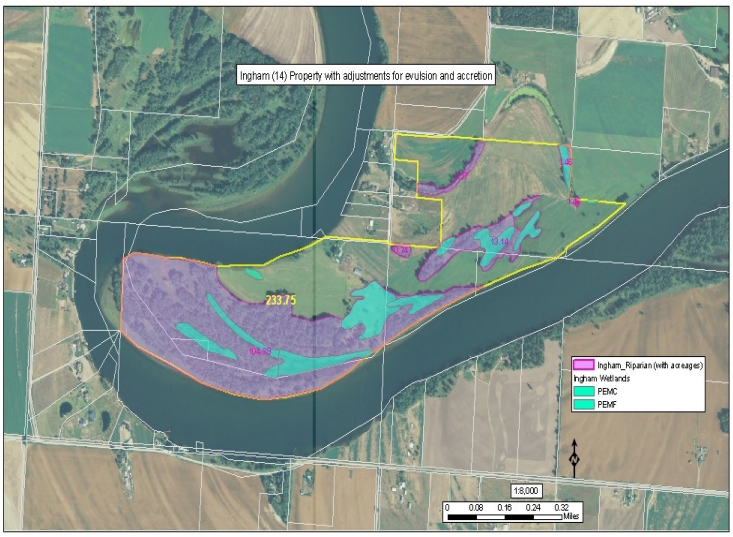

Figure 2. Aerial photo of Foy's Bend property (outlined in yellow) on the Flathead River near Kalispell. Riparian areas are shaded in purple and wetlands in blue.

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

Alternative A: No Action

Landowners would continue to offer sale of property on open market until sold. If FWP cannot purchase this parcel, it is likely that a private party would purchase it. If developed, the fisheries habitat values and restoration options may be impaired, altered, or limited, and fish and wildlife values could be diminished.

Alternative B: Proposed Action

Purchase the property using funds available from BPA**.** The landowner is not interested in selling a conservation easement. The parcel is “for sale by owner” and does have numerous possible building sites on it.

PART II. ENVIRONMENTAL REVIEW CHECKLIST

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

A. PHYSICAL ENVIRONMENT

1. LAND RESOURCES 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:						

If purchased by FWP, no additional development will occur on this parcel. Most of the property would remain as natural habitat. A portion of the property that is cultivated may continue to be cultivated for wildlife habitat purposes. The property has been grazed for many years. Under FWP ownership, grazing would no longer occur except for possibly 1-3 years following the sale to FWP depending on final negotiations with current landowner. Land resources such as bank condition will improve over time under FWP ownership. The homesite may continue to be used by a caretaker to help manage and protect resources of the property.

2. AIR **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.)		X				
f. Other:						

There should be no impacts to air quality or air resources with this proposed land acquisition.

3. WATER 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.)		X				
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.)		X				
n. Other:						

The acquisition of this parcel will result in improved water quality over time. FWP will no longer allow grazing on the property (except to a limited degree for first 1-3 years as part of the sale agreement with current landowner). After grazing is no longer allowed, water quality will improve as banks begin to re-vegetate. FWP will likely need to manage weeds and may help restore native vegetation to accelerate bank stabilization and reduce erosion. Restoration actions would be part of future draft EA process that would be completed after detailed inventories and assessments of need are conducted.

4. VEGETATION **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?		X				
g. Other:		X				

The purpose of the purchase of this parcel is to protect native fish habitat for bull trout and westslope cutthroat trout. All existing riparian and wetland vegetation will be left in its natural state. If weeds become a problem they will managed to control or eliminate them per state law. FWP may need to help restore native riparian vegetation to accelerate bank stabilization, reduce erosion, and improve habitat and water quality. Active restoration actions would be part of future draft EA process that would be completed after detailed inventories and assessments of need are conducted.

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.)		X				
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.)		X				
j. Other:						

The purchased parcel will be primarily managed for fish and wildlife habitat and left in its natural state or enhanced through restoration and revegetation efforts. Habitat values for fish & wildlife habitat will likely improve over time. Details of any revegetation and restoration plans will be subject of future draft EA and public review process.

B. HUMAN ENVIRONMENT

6. NOISE/ELECTRICAL EFFECTS 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				6a
b. Exposure of people to severe 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:						

6a. In the past, the property has been managed primarily for agricultural production, including grazing. Current landowner has also allowed hunting. If purchased by FWP, the land will remain relatively undeveloped with the possibility of continuing limited crop production on about 50 acres for wildlife benefits. Hunting may also be allowed. These land uses and noises would be similar to those of previous landowner and no changes or increases in noise would likely occur. The existing homesite may be used by host/caretaker, and normal noises associated with this use may continue.

If any other changes are to occur to the property use in the future, those concerns will be addressed in a new EA and public comment for the purposed property project.

7. LAND USE 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 purchase should not affect existing land uses in the area. If purchased by FWP, the land will remain relatively undeveloped with the possibility of continuing limited crop production for wildlife benefits. Grazing will eventually be eliminated. Hunting may also be allowed. The existing homesite may be used by host/caretaker. These land uses are similar with previous land uses, and no changes would likely occur. No other structures or uses would be added.

If any other changes are to occur to the property use in the future, those concerns will be addressed in a new EA and public review process.

8. RISK/HEALTH HAZARDS 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)		X				
e. Other:						

No chemicals or hazardous materials will be used on this parcel. Noxious weeds may be controlled using legal application of herbicides.

9. COMMUNITY IMPACT 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:						

No impacts should occur at the community level on this parcel. There may be a greater number of vehicles using the county road to access this area on a seasonal basis. Uses that the public may have could include wildlife viewing, hunting, or education. Public use and management will be the subject of a management plan and future draft EA and public review process.

10. PUBLIC SERVICES/TAXES/UTILITIES 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				10b.
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						
f. Define projected maintenance costs.		X				10f.
g. Other:						

10b. FWP makes payments to counties in lieu of taxes for property owned in that county; assessments are equal to taxes assessed to private lands (unless the agency owns less than 100 acres in that county, 87-1-603, MCA, under which circumstances lands are exempt). Taxes in 2007 were $4,254.71.

10f. Maintenance costs will be necessary to manage this parcel. They will include costs associated with surveys, boundary markings, parking area, display signs, management of fences, weeds, and habitat as well as the maintenance of the possible caretaker site. Costs will come primarily from BPA as part of the FWP Region 1 Fisheries program budget. Costs are expected to range, annually, from $5,000 to $10,000 per year.

11. AESTHETICS/RECREATION 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.)		X				
e. Other:						

The parcel will be managed primarily for habitat purposes. No additional buildings are planned. The current homesite and hay shed may remain. Habitats will likely be restored or improved. Recreational opportunities may increase under public ownership subject to a management plan and future draft EA and public review process. No visual obtrusions to scenic vistas or landscape would occur.

12. CULTURAL/HISTORICAL RESOURCES 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				12a.
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.)		X				12d.
e. Other:						

12a & 12d. See Appendix A

SIGNIFICANCE CRITERIA

13. SUMMARY EVALUATION OF SIGNIFICANCE 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				13e.
f. For P-R/D-J, is the project expected to have organized opposition or generate substantial public controversy? (Also see 13e.)		X				
g. For P-R/D-J, list any federal or state permits required.		X				

13e. The parcel will be primarily managed for habitat and fish and wildlife values that will benefit water quality and wildlife and fish populations. Acquisition by FWP for these purposes will not significantly change the neighborhood land uses nor be incompatible with adjoining agricultural operations or nearby residential landowners. Limited agricultural land uses may continue with benefit for wildlife. The existing residence may remain in use by a caretaker. The opportunities for compatible public uses may increase. Hunting and wildlife viewing may occur with the possible seasonal increase in local traffic. Public use will be subject to management plan and future draft EA and public review process.

2. Evaluation and listing of mitigation, stipulation, or other control measures enforceable by the agency or another government agency: Not applicable.

PART III. NARRATIVE EVALUATION AND COMMENT

This analysis did not reveal any significant impacts to the human or physical environment. The proposed project consists only of transfer of ownership to the state of Montana. No additional construction or improvements of any kind are included in this proposal. Any additional habitat restoration, public use, or development of a management plan will be subject to future draft EA and public review process.

PART IV. PUBLIC PARTICIPATION

1. Public involvement for this project:

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

- Two public notices in The Daily Inter Lake & Bigfork Eagle newspapers
- One statewide press release
- Public notice on the Fish, Wildlife & Parks web site: *http://fwp.mt.gov*.

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, many of which can be mitigated.

Duration of comment period:

The public comment period will be 21 days, from September 25 through October 15, 2008. Comments may be e-mailed to jwachsmuth@mt.gov, or written comments may be sent to the following address:

John L. Wachsmuth
Fisheries Conservation Specialist
Montana Fish, Wildlife & Parks
490 N. Meridian Road
Kalispell, MT 59901

PART V. EA PREPARATION

1. Based on the significance criteria evaluated in this EA, is an EIS required? No. Based on an evaluation of impacts to the physical and human environment under MEPA, this environmental review revealed no significant negative impacts from the proposed action because land uses would be similar to existing uses, with an increased emphasis on fish and wildlife habitat management that would have beneficial effects. In addition, the EA is sufficient to identify critical issues and all potential impacts; therefore, an EIS is not necessary and an environmental assessment is the appropriate level of analysis.

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

John Wachsmuth, Fisheries Conservation Specialist 406.751.4554
Gael Bissell, Wildlife Biologist
Joel Tohtz, Fisheries Biologist

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

Montana Fish, Wildlife & Parks
- Fisheries Division
- Wildlife Division
- Lands
- Legal Bureau

Montana State Historic Preservation Office (SHPO)
Confederated Salish and Kootenai Tribes (CSKT)

APPENDIX A

September 9, 2008

John L. Wachsmuth

FWP

490 N Meridian Road

Kalsipell MT 59901

RE: FOY'S BEND LAND ACQUISITION, 234 ACRES, FLATHEAD RIVER. SHPO Project #: 2008090907

Dear Mr. Wachsmuth:

I have conducted a cultural resource file search for the above-cited project located in Sections 26, 27, 34, and 35, T28N R21W. According to our records there have been no previously recorded sites within the designated search locales. The absence of cultural properties in the area does not mean that they do not exist but rather may reflect the absence of any previous cultural resource inventory in the area, as our records indicated none.

We feel that there is a low likelihood cultural properties will be impacted with this land acquisition. We, therefore, feel that a recommendation for a cultural resource inventory is unwarranted at this time. However, should future projects in this area contain any ground disturbing activities we would ask that a cultural resource inventory be conducted prior to any ground disturbing activities.

If you have any further questions or comments you may contact me at (406) 444-7767 or by e-mail at dmurdo@mt.gov <mailto:dmurdo@mt.gov>. Thank you for consulting with us.

Sincerely,

Damon Murdo

Cultural Records Manager

File: FWP/FISH/2008