

**DRAFT**

**ENVIRONMENTAL ASSESSMENT**

**CHECKLIST**

**Mill Creek Phase 2 - 5 Bar 6**

**FWP-FCEA-FSH-R8-2025-002**

**March 31, 2025**



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# Checklist Environmental Assessment

The Montana Department of Fish, Wildlife and Parks (FWP) has prepared this Draft Environmental Assessment (EA) in accordance with the requirements of the Montana Environmental Policy Act (MEPA). The purpose of an EA is to identify, analyze, and disclose the impacts of a proposed state action. This document may disclose impacts that have no required mitigation measures, or over which FWP, more broadly, has no regulatory authority.

Local governments and other state agencies may have authority over different resources and activities under separate regulations. FWP actions will only be approved if the proposed action complies with all applicable regulations. FWP has a separate obligation to comply with any federal, state, or local laws and to obtain any other permits, licenses, or approvals required for any part of the proposed action.

## I. Compliance with the Montana Environmental Policy Act

*Before a proposed project may be approved, environmental review must be conducted to identify and consider potential impacts of the proposed project on the human and physical environment affected by the project. The Montana Environmental Policy Act (MEPA) and its implementing rules and regulations require different levels of environmental review, depending on the proposed project, significance of potential impacts, and the review timeline. § 75-1-201, Montana Code Annotated (“MCA”), and the Administrative Rules of Montana (“ARM”) 12.2.430, General Requirements of the Environmental Review Process.*

*FWP must prepare an EA when:*

- *It is considering a “state-proposed project,” which is defined in § 75-1-220(8)(a) as:
  - (i) a project, program, or activity initiated and directly undertaken by a state agency;
  - (ii) ... a project or activity supported through a contract, grant, subsidy, loan, or other form of funding assistance from a state agency, either singly or in combination with one or more other state agencies; or
  - (iii) ... a project or activity authorized by a state agency acting in a land management capacity for a lease, easement, license, or other authorization to act.*
- *It is not clear without preparation of an EA whether the proposed project is a major one significantly affecting the quality of the human environment. ARM 12.2.430(3)(a));*
- *FWP has not otherwise implemented the interdisciplinary analysis and public review purposes listed in ARM 12.2.430(2) (a) and (d) through a similar planning and decision-making process (ARM 12.2.430(3)(b));*
- *Statutory requirements do not allow sufficient time for the FWP to prepare an EIS (ARM 12.2.430(3)(c));*
- *The project is not specifically excluded from MEPA review according to § 75-1-220(8)(b) or ARM 12.2.430(5); or*
- *As an alternative to preparing an EIS, prepare an EA whenever the project is one that might normally require an EIS, but effects which might otherwise be deemed significant appear to be mitigable below the level of significance through design, or enforceable controls or stipulations or both imposed by the agency or other government agencies. For an EA to suffice in this instance, the agency must determine that all the impacts of the proposed project have been accurately identified, that they will be mitigated below the level of significance, and that no significant impact is likely to occur. The agency may not consider compensation for purposes of determining that impacts have been mitigated below the level of significance (ARM 12.2.430(4)).*

*MEPA is procedural; its intent is to ensure that impacts to the environment associated with a proposed project are fully considered and the public is informed of potential impacts resulting from the project.*

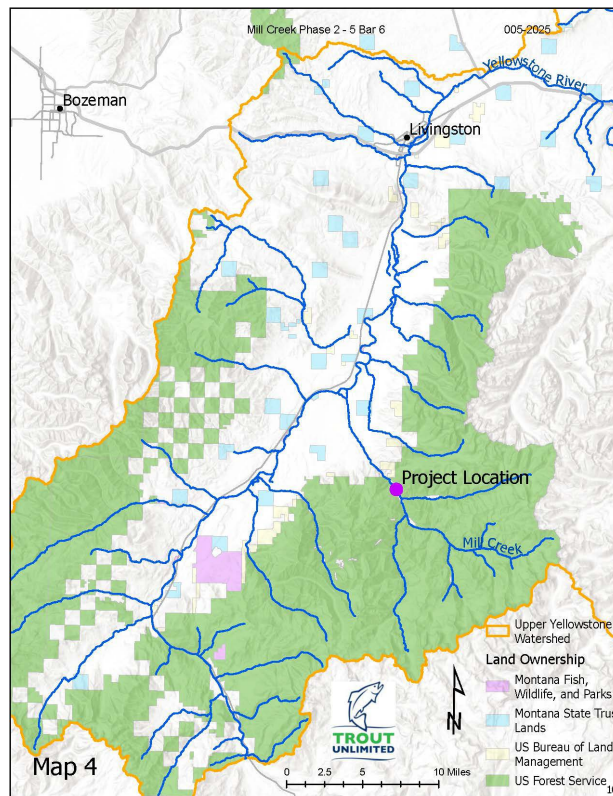
## II. Background and Description of Proposed Project

### **Name of Project:** Mill Creek Phase 2 – 5 Bar 6

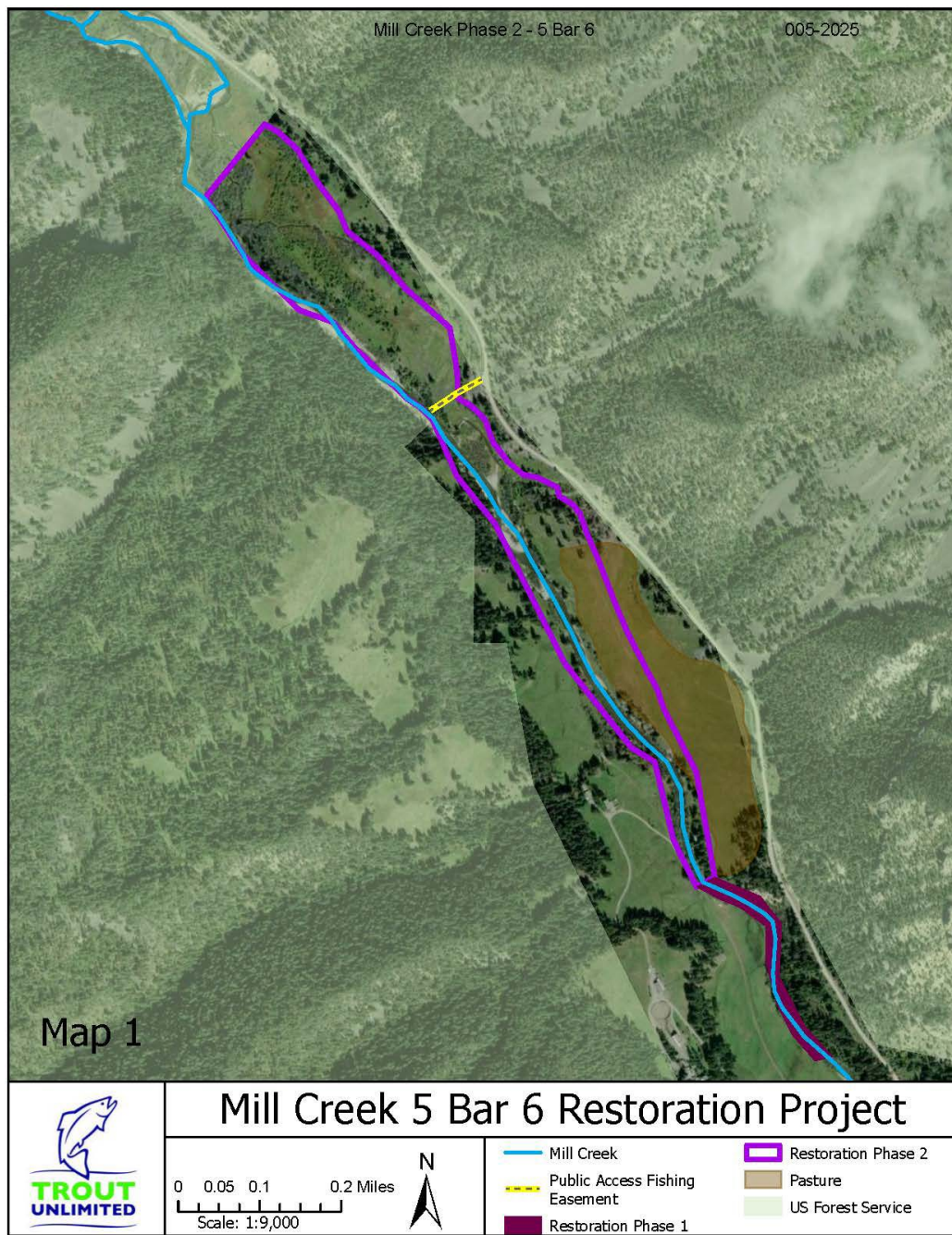
Mill Creek (Park County) is a tributary to the Yellowstone River in the Paradise Valley. It is one of the remaining Yellowstone cutthroat trout strongholds outside of Yellowstone National Park. Past land management included channelization that pushed the channel to the westernmost edge of the valley. Lack of large wood and instream habitat complexity indicates that wood was removed, and the channel became simplified. Despite the limitations, the project area is an important spawning and rearing area for migratory Yellowstone cutthroat trout as it is upstream of dewatering in lower Mill Creek. This project is phase 2 and would continue the restoration on Mill Creek (one mile section) by breaching a historical berm in strategic locations to restore floodplain connectivity, allow side channel formation, and restore natural meadow and stream function. Log jams will be built to create habitat complexity. Reconnection is expected to encourage riparian plant growth. The goal is to improve in-stream and spawning habitat for Yellowstone cutthroat trout and other fish species and to enhance fishing opportunities. FWP's action would be funding this project through the Future Fisheries Improvement Program. The project sponsor is Trout Unlimited and construction is planned for summer 2025 to fall 2026.

### **Affected Area / Location of Proposed Project:**

- Legal Description
  - Latitude/Longitude: 45.31749, -110.56843
  - Section, Township, and Range: Section 13, Township 6, Range 9
  - Town/City, County, Montana: South of Livingston, MT in Park County
- Location Map



**Figure 1. Location Overview** (credit: Trout Unlimited)



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**Figure 1. Project Design** (credit: Trout Unlimited)

### III. Purpose and Need

*The EA must include a description of the purpose and need or benefits of the proposed project. ARM 12.2.432(3)(b). Benefits of the proposed project refer to benefits to the resource, public, department, state, and/or other.*

One goal within FWP's six-year operations plan for the fisheries program is to "protect, maintain, and restore native fish populations, their habitats, life cycles, and genetic diversity to ensure stewardship of native species." This project is located in an area that is considered critical habitat for Yellowstone cutthroat trout. Additionally, the fisheries management program at FWP intends to "restore and enhance degraded fisheries habitats." By

implementing an improvement project and restoring important habitat, this proposed project would help meet this goal. Mill Creek is a tributary to the Yellowstone River and provides spawning habitat for migratory Yellowstone cutthroat trout, as well as rearing habitat for juveniles, and overwinter habitat. In the project area, degradation would be addressed by breaching a berm and building habitat complexity to improve and enhance habitat.

If FWP prepared a cost/benefit analysis before completion of the EA, the EA must contain the cost/benefit analysis or a reference to it. ARM 12.2.432(3)(b).

	Yes*	No
Was a cost/benefit analysis prepared for the proposed project?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

\* If yes, a copy of the cost/benefit analysis prepared for the proposed project is included in Attachment A to this Draft EA

#### IV. Other Agency Regulatory Responsibilities

*FWP must list any federal, state, and/or local agencies that have overlapping or additional jurisdiction, or environmental review responsibility for the proposed project, as well as permits, licenses, and other required authorizations. ARM 12.2.432(3)(c).*

*A list of other required local, state, and federal approvals, such as permits, certificates, and/or licenses from affected agencies is included in **Table 1** below. **Table 1** provides a summary of requirements but does not necessarily represent a complete and comprehensive list of all permits, certificates, or approvals needed for the proposed project. Agency decision-making is governed by state and federal laws, including statutes, rules, and regulations, that form the legal basis for the conditions the proposed project must meet to obtain necessary permits, certificates, licenses, or other approvals. Further, these laws set forth the conditions under which each agency could deny the necessary approvals.*

**Table 1: Federal, State, and/or Local Regulatory Responsibilities**

Agency	Type of Authorization (permit, license, stipulation, other)	Purpose
Park County Conservation District	310 Permit	To allow construction within the streambed and streambanks
MT Department of Environmental Quality	318 Authorization	Allow temporary increase of turbidity
Army Corps of Engineers	404 Permit	To allow construction within the streambed and streambanks

#### V. List of Mitigations, Stipulations

*Mitigations, stipulations, and other enforceable controls required by FWP, or another agency, may be relied upon to limit potential impacts associated with a proposed Project. The table below lists and evaluates enforceable conditions FWP may rely on to limit potential impacts associated with the proposed Project. ARM 12.2.432(3)(g).*

**Table 2: Listing and Evaluation of Enforceable Mitigations Limiting Impacts**

Are enforceable controls limiting potential impacts of the proposed action? If not, no further evaluation is needed.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
If yes, are these controls being relied upon to limit impacts below the level of significance? If yes, list the enforceable control(s) below	Yes <input type="checkbox"/>	No <input type="checkbox"/>

Enforceable Control	Responsible Agency	Authority (Rule, Permit, Stipulation, Other)	Effect of Enforceable Control on Proposed Project

## VI. Alternatives Considered

*In addition to the proposed project, and as required by MEPA, FWP analyzes the "No-Action" alternative in this EA. Under the "No Action" alternative, the proposed project would not occur. Therefore, no additional impacts to the physical environment or human population in the analysis area would occur. The "No Action" alternative forms the baseline from which the potential impacts of the proposed Project can be measured.*

Under the "No Action" alternative, if no funding is provided through the FFIP, either the applicant would have to seek additional sources of funding to complete the project, or the affected area of Mill Creek would remain impaired for floodplain reconnection, riparian vegetation and habitat complexity.

	Yes*	No
Were any additional and reasonable alternatives considered?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

\* If yes, a list and description of the other alternatives considered, but not carried forward for detailed review is included below

	Yes*	No
Were any additional alternatives considered and dismissed for cause?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

\* If yes, a list and description of the other alternatives considered, but not carried forward for detailed review, is included below

## VII. Summary of Potential Impacts of the Proposed Project on the Physical Environment and Human Population

*The impacts analysis identifies and evaluates **direct, secondary, and cumulative impacts**.*

- **Direct impacts** are those that occur at the same time and place as the action that triggers the effect.
- **Secondary impacts** "are further impacts to the human environment that may be stimulated or induced by or otherwise result from a direct impact of the action." ARM 12.2.429(18).
- **Cumulative impacts** "means the collective impacts on the human environment of the proposed action when considered in conjunction with other past and present actions related to the proposed action by location or generic type. Related future actions must also be considered when these actions are under concurrent consideration by any state agency through pre-impact statement studies, separate impact statement evaluation, or permit processing procedures." ARM 12.2.429(7).

*Where impacts are expected to occur, the impact analysis estimates the **extent, duration, frequency, and severity** of the impact. The duration of an impact is quantified as follows:*

- **Short-Term:** impacts that would not last longer than the proposed project.

- **Long-Term:** impacts that would remain or occur following the proposed project.

The severity of an impact is measured using the following:

- **No:** there would be no change from current conditions.
- **Negligible:** an adverse or beneficial effect would occur but would be at the lowest levels of detection.
- **Minor:** the effect would be noticeable but would be relatively small and would not affect the function or integrity of the resource.
- **Moderate:** the effect would be easily identifiable and would change the function or integrity of the resource.
- **Major:** the effect would irretrievably alter the resource.

Some impacts may require mitigation. As defined in ARM 12.2.429, mitigation means:

- Avoiding an impact by not taking a certain action or parts of a project;
- Minimizing impacts by limiting the degree or magnitude of a project and its implementation;
- Rectifying an impact by repairing, rehabilitating, or restoring the affected environment; or
- Reducing or eliminating an impact over time by preservation and maintenance operations during the life of a project or the time period thereafter that an impact continues.

A list of any mitigation strategies including, but not limited to, design, enforceable controls or stipulations, or both, as applicable to the proposed project is included in **Section VI** above.

FWP must analyze impacts to the physical and human environment for each alternative considered. The proposed project considered the following alternatives:

- **Alternative 1: No Action. Evaluation and Summary of Potential Impacts on the Physical Environment and Human Population**

Under the “No Action” alternative, the proposed project would not occur. Therefore, no additional impacts to the physical environment or human population in the analysis area would occur. The “No Action” alternative forms the baseline from which the potential impacts of the proposed Project can be measured.

Under the “No Action” alternative, if no funding is provided through the FFIP, either the applicant would have to seek additional sources of funding to complete the project, or the affected area of Mill Creek would remain impaired for floodplain reconnection, riparian vegetation and habitat complexity.

- **Alternative 2: Proposed Project. Evaluation and Summary of Potential Impacts on the Physical Environment and Human Population**

The proposed action would not result in significant adverse direct climate change impacts. Any impacts of the proposed action would be consistent with current impacts (i.e., the no action alternative). See *Cumulative Impacts Analysis; Table 3, Impacts on Physical Environment; and Table 4, Impacts on Human Population*, below.

## VIII. Cumulative Impacts Analysis

For the purposes of MEPA, "cumulative impact" means the collective impacts on the human environment of the proposed action when considered in conjunction with other past and present actions related to the proposed action by location or generic type. Related future actions must also be considered when such actions are under concurrent consideration by any state agency through pre-impact statement studies, separate impact statement evaluation, or permit processing procedures. ARM 12.2.429(7).

"Action" means a project, program or activity directly undertaken by the agency; a project or activity supported through a contract, grant, subsidy, loan or other form of funding assistance from the agency, either singly or in combination with one or more other state agencies; or a project or activity involving the issuance of a lease, permit, license, certificate, or other entitlement for use or permission to act by the agency, either singly or in combination with other state agencies. ARM 12.2.429(1).

Under the "No Action" alternative, the proposed project would not occur. Therefore, no cumulative impacts to the affected human environment would occur. The "No Action" alternative forms the baseline from which the potential impacts of the proposed project are measured. Past and present actions are accounted for as part of the existing, or "baseline," environmental conditions of the affected human environment prior to approval and implementation of the proposed project, and any known future related project(s).

FWP is unaware of any future related actions that would cumulatively impact the affected human environment with consideration for the proposed project and/or any past and present actions. For the purposes of the proposed project, the cumulative impacts analysis applies to all resources analyzed under Alternative 2, Proposed Project. See Tables 3 and 4 of this Draft EA.

**Table 3 - Potential Impacts of Proposed Project on the Physical Environment**

PHYSICAL ENVIRONMENT	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
	None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	
Terrestrial, avian, and aquatic life and habitats	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to terrestrial, avian, and aquatic life and habitats would be expected because of the proposed project. This project would improve the instream habitat and floodplain of Mill Creek, which is expected to provide additional instream physical habitat, reduce erosion, and improve stream function. This project is intended to improve ecological health and function. Impacts would be long-term, moderate, and beneficial.
Water quality, quantity, and distribution	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to water quality, quantity, and distribution would be expected because of the proposed project. Short term, work would be completed in the stream and along its banks, which may affect turbidity. Operation of equipment in the stream channel will be minimized to the extent practicable. A 318 Authorization will be obtained to meet short-term water quality standards. Long term, the project is expected to maintain minimal sediment inputs and improved water quality through improved floodplain connection and riparian vegetation. Impacts would be mitigated by 318 Authorization requirements. Therefore, any impacts would be short-term, minor and adverse and long-term, moderate and beneficial.
Geology	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to geology would be expected because of the proposed project. The proposed project would not affect any geologic features in the project area; therefore, no impacts to geology would be expected because of the proposed project.
Soil quality, stability, and moisture	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to soil quality, stability, and moisture would be expected because of the proposed project. This project is expected to improve streambank stability through floodplain access and natural stream

PHYSICAL ENVIRONMENT	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
Resource	None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	
									function. The instream habitat installation should also encourage root growth and bank stability. As a result of this project, soil stability should increase, and the overall impact is expected to be positive. Impacts would be long-term, moderate, and beneficial.
Vegetation cover, quantity, and quality	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to vegetation cover, quantity, and quality would be expected because of the proposed project. This project would improve vegetation cover, quantity, and quality by reconnecting the stream to the floodplain. Vegetative communities may be improved through natural recruitment. Increased in-stream cover should provide additional habitat for aquatic species. This project will result in a functional and diverse stream and riparian area, which is expected to improve the vegetative cover, quantity, and quality. Impacts would be long-term, moderate, and beneficial.
Aesthetics	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to the aesthetic nature of the affected area would be expected because of the proposed project. The stream channel will be restored to natural function, a berm will be removed, and more riparian vegetation will be available due to plantings; these improvements would be visually appealing. The property is publicly accessible and improved aesthetics will be readily observed. Impacts would be moderate, long-term, and beneficial.
Air quality	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to air quality in the affected area would be expected because of the proposed project. Air quality in the area affected by the proposed project is currently unclassifiable or in compliance with applicable National and Montana ambient air quality standards (NAAQS/MAAQs). Further, no significant point-sources of air pollution exist in the area affected by the proposed project. Existing sources of air pollution in the

PHYSICAL ENVIRONMENT		Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
Resource		None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	
										area are limited and generally include unpaved county roads (fugitive dust source), vehicle exhaust emissions, and various agricultural practices (vehicle exhaust emissions and fugitive dust). The contractors employed for the project would follow best management practices for working near streams, mitigating any potential impacts. Fugitive dust and vehicle exhaust emissions resulting from the movement of heavy equipment and materials during construction of the proposed project may directly impact air quality in the area. Any impacts would be mitigated, short-term, and negligible.
Unique, endangered, fragile, or limited environmental resources		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	No significant, adverse impacts are expected for any unique, endangered, fragile, or limited environmental resources in the affected area. Observations of nearby Species of Concern were assessed, and species in the area could include Yellowstone cutthroat trout, Canada lynx, grizzly bear, little brown myotis, long-eared myotis, northern hoary bat, Townsend's big-eared bat, wolverine, Cassin's finch, golden eagle, great blue heron, Berry's mountainsnail, beautiful fleabane, whitebark pine, bat roost (cave), and bat roost (non-cave). This project would create additional riparian area and vegetation that is considered beneficial habitat for birds and mammals. Native species will be used for planting and reseeding and natural function will be encouraged, which should benefit all Species of Concern. A direct project goal is to improve habitat for Yellowstone Cutthroat Trout, which is federally recognized as Sensitive and a species of special concern in Montana. The project is expected to improve habitat for migratory adult and juvenile fish; therefore, the impacts on this species due to this project are predicted to be positive, potentially increasing survival and recruitment.

PHYSICAL ENVIRONMENT		Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
Resource		None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	
										Any impacts would be considered long-term, moderate, and beneficial.
Historical and archaeological sites		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to historic and archaeological sites would be expected because of the proposed project. In keeping with Section 106 of the National Historic Preservation Act, all undertakings requiring federal permits are assessed by a qualified archaeologist or historian for their potential to affect cultural resources. The process for this assessment may include a cultural resource inventory and evaluation of cultural resources within or near the project area, in consultation with the State Historic Preservation Office. FWP also consults with all Tribal Historic Preservation Offices affiliated with each property in accordance with FWP's Tribal Consultation Guidelines. If cultural resources within or near the project area are recorded and are eligible for the National Register of Historic Places, they will be protected from adverse impacts through adjustments to the project design or cancellation of the project if no design alternatives are available. If cultural resources are unexpectedly discovered during project implementation, FWP will cease implementation, and contact FWP's Heritage Program for further evaluation.
Demands on environmental resources of land, water, air, and energy		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant, adverse impacts to demands on the environmental resources of land, water, air, and energy would be expected because of the proposed project. Beyond those impacts identified in the summary analysis for water quality, quantity, and distribution; soil quality, stability, and moisture; vegetation cover, quantity, and quality; and air quality, no other demands on the environmental resources of land, water, air would be expected because of the proposed project. Some demand for energy resources would be realized as fuel would be

PHYSICAL ENVIRONMENT	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
Resource	None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	
									required to operate heavy machinery and vehicles used for the proposed project. Any impacts to demands on environmental resources of land, water, air, and energy in the affected area would be short-term and negligible.

**Table 4 - Potential Impacts of Proposed Project on the Human Population**

HUMAN POPULATION	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
Resource	None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	
Social structures and mores	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant impacts to social structures and mores in the affected area would be expected because of the proposed project. The proposed project constitutes stream and vegetation restoration activities on private land. The proposed project would not impact current land use; therefore, the proposed project would not impact any pre-project social structures, customs, values, or conventions in the affected area.
Cultural uniqueness and diversity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant impacts to cultural uniqueness and diversity in the affected area would be expected because of the proposed project. The proposed project constitutes stream and vegetation restoration activities on private land, and it is not expected this action would result in any relocation of people into or out of the affected area. Therefore, no impacts to the existing cultural uniqueness and diversity of the affected area would be expected because of the proposed project.
Access to and quality of recreational and wilderness activities	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to access or the quality of recreational and wilderness activities would be expected because of the proposed project. Restoration activities could impact the quality of the recreational experience for some individuals, particularly anglers, during construction.

HUMAN POPULATION	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
Resource	None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	
									However, once the construction phase of the proposed project is completed no additional impacts would occur. Long-term, quality of angling opportunities would be expected to improve, thereby benefitting anglers. Because the proposed project is located on private land, angler access is primarily via a U.S. Forest Service easement. Any impact to access and the quality of recreational and wilderness activities in the affected area would be short term adverse and minor, and long-term beneficial and minor.
Local and state tax base and tax revenues	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to the local and state tax base and tax revenue would be expected because of the proposed project. The proposed project constitutes stream and vegetation restoration activities on private property and, when completed, would not result in changes to local or state taxes. The proposed project would be expected to increase state and local tax revenues from the sale of fuel, supplies and/or equipment to complete the project as well as the hiring of local contractors. Any impacts to the local and state tax base and tax revenue would be short-term and minor, lasting only as long as the proposed project.
Agricultural or Industrial production	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to agricultural or industrial production in the affected area would be expected because of the proposed project. The proposed project constitutes stream and vegetation restoration on private property, which includes a small pasture for small herd of highland cattle and yaks. The proposed project is not expected to have a significant impact on existing agricultural practices in the affected area. The landowner would willingly implement this project and create a healthy riparian area. A healthy riparian area is expected to support agricultural benefits, potentially through

HUMAN POPULATION		Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
Resource		None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	
										increases to groundwater (floodplain reconnection). Therefore, there would be negligible, long-term impacts to agricultural or industrial production, but these impacts would be considered beneficial for both the landowner and the ecosystem as a result of the proposed project.
Human health and safety		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant impacts to human health and safety would be expected because of the proposed project. This project takes place on private property and is not expected to affect human safety as there are no current safety or health concerns and the project will be addressing natural stream, riparian, and floodplain function. Affected government staff and/or contractors hired to conduct the project may realize increased risk to human health and safety; however, FWP would require affected staff and/or contractors to operate in a safe manner and utilize best management practices, including the use of available and appropriate safety precautions. Therefore, any potential impacts to human health and safety would be short-term and negligible, lasting only as long as the proposed project.
Quantity and distribution of employment		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to the quantity and distribution of employment in the affected area would be expected because of the proposed project. The proposed project constitutes stream and vegetation restoration activities within private property and, when completed, would not impact the quantity and distribution of employment in the affected area. Short-term impacts to the local quantity and distribution of employment may be realized because of the need for contracted services to complete restoration activities. Any impacts to the quantity and distribution of employment in the affected area would be short-term and negligible.

HUMAN POPULATION	Duration of Impact			Severity of Impact					
Resource	None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
Distribution and density of population and housing	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant impacts to the distribution and density of population or housing in the affected area would be expected because of the proposed project. The proposed project constitutes stream and vegetation restoration activities within private property and would not impact the distribution and density of population or housing in the affected area.
Demands for government services	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to the demands for government services in the affected area would be expected because of the proposed project. The proposed project constitutes stream and vegetation restoration activities within private property and would not impact demands for government services.
Industrial, agricultural, and commercial activity	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to the demands for industrial, agricultural, or commercial activity in the affected area would be expected because of the proposed project. The proposed project constitutes stream and vegetation restoration activities on private. No industrial or commercial activities currently occur on the affected private property; therefore, no impacts to industrial or commercial activity would be expected because of the proposed project. The property includes a pasture for a small herd of highland cattle and yaks. Therefore, any impacts to agricultural or commercial activity are expected to negligible, beneficial, and long-term because of the proposed project.
Locally adopted environmental plans and goals	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to locally adopted environmental plans and goals would be expected because of the proposed project. The affected area is private property, and the primary objective of the proposed project is to improve aquatic habitat and natural function of the stream and riparian area through restoration activities. FWP is aware of several locally

HUMAN POPULATION	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
Resource	None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	
									adopted environmental plans and goals in the proposed project area, including the FWP Statewide Fisheries Management Plan (SFMP). This project would contribute to the goals of the SFMP and would not impact the goals of the other plans. Therefore, no adverse impacts to any locally adopted environmental plans and goals would be expected. Minor, long-term benefits would be expected, as project outcomes would meet the goals of that plan.
Other appropriate social and economic circumstances	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to other appropriate social and economic circumstances would be expected because of the proposed project. FWP is unaware of any other appropriate social and economic circumstances that may be impacted by the proposed project; therefore, no impacts would be expected.

**Table 5: Determining the Significance of Impacts on the Quality of the Human Environment**

<p>If the EA identifies impacts associated with the proposed project FWP must determine the significance of the impacts. ARM 12.2.431. This determination forms the basis for FWP's decision as to whether it is necessary to prepare an environmental impact statement. An impact may be adverse, beneficial, or both. If none of the adverse effects of the impact are significant, an EIS is not required. An EIS is required if an impact has a significant adverse effect, even if the agency believes that the effect on balance will be beneficial. ARM 12.2.431.</p> <p>According to the applicable requirements of ARM 12.2.431, FWP must consider the criteria identified in this table to determine the significance of each impact on the quality of the human environment. The significance determination is made by giving weight to these criteria in their totality. For example, impacts identified as moderate or major in severity may not be significant if the duration is short-term. However, moderate or major impacts of short-term duration may be significant if the quantity and quality of the resource is limited and/or the resource is unique or fragile. Further, moderate or major impacts to a resource may not be significant if the quantity of that resource is high or the quality of the resource is not unique or fragile.</p>	
<b>Criteria Used to Determine Significance</b>	
1	<p>The <b>severity, duration, geographic extent, and frequency</b> of the occurrence of the impact</p> <p><b>“Severity”</b> describes the density of the potential impact, while <b>“extent”</b> describes the area where the impact will likely occur, e.g., a project may propagate ten noxious weeds on a surface area of 1 square foot. Here, the impact may be high in severity, but over a low extent. In contrast, if ten</p>

	<p>noxious weeds were distributed over ten acres, there may be low severity over a larger extent.</p> <p><b>“Duration”</b> describes the time period during which an impact may occur, while <b>“frequency”</b> describes how often the impact may occur, e.g., an operation that uses lights to mine at night may have frequent lighting impacts during one season (duration).</p>
2	The probability that the impact will occur if the proposed project occurs; or conversely, reasonable assurance in keeping with the potential severity of an impact that the impact will not occur
3	Growth-inducing or growth-inhibiting aspects of the impact, including the relationship or contribution of the impact to cumulative impacts
4	The quantity and quality of each environmental resource or value that would be affected, including the uniqueness and fragility of those resources and values
5	The importance to the state and to society of each environmental resource or value that would be affected
6	Any precedent that would be set as a result of an impact of the proposed project that would commit FWP to future actions with significant impacts or a decision in principle about such future actions
7	Potential conflict with local, state, or federal laws, requirements, or formal plans

## IX. Private Property Impact Analysis (Takings)

*The 54<sup>th</sup> Montana Legislature enacted the Private Property Assessment Act, now found at § 2-10-101. The intent was to establish an orderly and consistent process by which state agencies evaluate their proposed projects 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 projects pertaining to land or water management or to some other environmental matter that, if adopted and enforced without due process of law and just 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 agencies to assess the impact of a proposed agency project 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 project has taking or damaging implications, the agency must prepare an impact assessment in accordance with Section 5 of the Private Property Assessment Act.*

**Table 6: Private Property Assessment (Takings)**

<b>PRIVATE PROPERTY ASSESMENT ACT (PPAA)</b>			
<b>Does the Proposed Action Have Takings Implications under the PPAA?</b>	<b>Question #</b>	<b>Yes</b>	<b>No</b>
Does the project pertain to land or water management or environmental regulations affecting private property or water rights?	1	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the action result in either a permanent or an indefinite physical occupation of private property?	2	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the action deprive the owner of all economically viable uses of the property?	3	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the action require a property owner to dedicate a portion of property or to grant an easement? (If answer is NO, skip questions 4a and 4b and continue with question 5)	4	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Is there a reasonable, specific connection between the government requirement and legitimate state interest?	4a	<input type="checkbox"/>	<input type="checkbox"/>
Is the government requirement roughly proportional to the impact of the proposed use of the property?	4b	<input type="checkbox"/>	<input type="checkbox"/>
Does the action deny a fundamental attribute of ownership?	5	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the action have a severe impact of the value of the property?	6	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the action damage the property by causing some physical disturbance with respect to the property in excess of that sustained by the public general? (If the answer is NO, skip questions 7a-7c.)	7	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Is the impact of government action direct, peculiar, and significant?	7a	<input type="checkbox"/>	<input type="checkbox"/>
Has the government action resulted in the property becoming practically inaccessible, waterlogged, or flooded?	7b	<input type="checkbox"/>	<input type="checkbox"/>
Has the 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?	7c	<input type="checkbox"/>	<input type="checkbox"/>
<b>Does the proposed action result in taking or damaging implications?</b>		<input type="checkbox"/>	<input checked="" type="checkbox"/>

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 question 4a or 4b.

If taking or damaging implications exist, the agency must comply with MCA § 2-10-105 of the PPAA, 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.

**Alternatives:**

The analysis under the Private Property Assessment Act, §§ 2-10-101 through -112, MCA, indicates no impact. FWP does not plan to impose conditions that would restrict the regulated person's use of private property to constitute a taking.

## X. Public Participation

*The level of analysis in an EA will vary with the complexity and seriousness of environmental issues associated with a proposed action. The level of public interest will also vary. FWP is responsible for adjusting public review to match these factors (ARM 12.2.433(1)). Because FWP determines the proposed action will result in limited environmental impact, and little public interest has been expressed, FWP determines the following public notice strategy will provide an appropriate level of public review:*

- *An EA is a public document and may be inspected upon request. Any person may obtain a copy of an EA by making a request to FWP. If the document is out-of-print, a copying charge may be levied (ARM 12.2.433(2)).*
- *Public notice will be served on the Montana Fish, Wildlife and Parks website at: <https://fwp.mt.gov/news/public-notice>. Public notice will announce the availability of the Draft EA, summarize its content, and solicit public comment.*
- *Copies will be distributed to neighboring landowners to ensure their knowledge of the proposed project and opportunity for review and comment on the proposed action.*
- *FWP maintains a mailing list of persons interested in a particular action or type of action. FWP will notify all interested persons and distribute copies of the Draft EA to those persons for review and comment (ARM 12.2.433(3)).*
- *FWP issues a biweekly press release containing all FWP public commenting opportunities.*
- ***Duration of Public Comment Period:*** *The public comment period begins on the date the Draft EA is published on FWP's website. Written or e-mailed comments will be accepted until 5:00 p.m., MST, on the last day of public comment period, as listed below:*

**Length of Public Comment Period:** 15 days

**Public Comment Period Begins:** March 31, 2025

**Public Comment Period Ends:** April 15, 2025

Comments must be addressed to the FWP contact, as listed below.

- ***Where to Mail or Email Comments on the Draft EA:***

Name: MICHELLE MCGREE

Email: [mmcgree@mt.gov](mailto:mmcgree@mt.gov)

Mailing Address:

1420 E. Sixth Ave.

P.O. Box 200701

Helena, MT 59602

## XI. Recommendation for Further Environmental Analysis

<b>NO</b> further analysis is needed for the proposed action	<input checked="" type="checkbox"/>
FWP must conduct <b>EIS</b> level review for the proposed action	<input type="checkbox"/>

## XII. EA Preparation and Review

	<b>Name</b>	<b>Title</b>
<b>EA prepared by:</b>	Michelle McGree	Future Fisheries Coordinator
<b>EA reviewed by:</b>	Scott Opitz	Area Fisheries Biologist
<b>EA reviewed by:</b>	Jason Garber	Acting Fish Habitat Bureau Chief