

DRAFT

ENVIRONMENTAL ASSESSMENT

CHECKLIST

Teakettle Fishing Access Site Latrine Replacement

June 16, 2023



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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: Teakettle Fishing Access Site Latrine Replacement

FWP is proposing to replace and relocate the latrine at Teakettle Fishing Access Site (FAS) near Columbia Falls on the Flathead River. The popular 3-acre site provides recreational access to the Flathead River for floating, hunting and other water-based recreation. The site features a parking area for approximately 50 vehicles, a boat ramp, and latrine. The site is a popular launch and end point for float trips on the Flathead River with 37,926 vehicles counted at the entrance in 2022. The existing single-vault latrine at the site is approximately 30 years old and in need of replacement. The existing latrine has a leaky roof and no exterior pump out access hatch. The older design does not provide adequate airflow to reduce unpleasant scents. To comply with updated sanitation

regulations, the new latrine would need to be installed in a new location further from the Flathead River as indicated in figure 2. The new latrine would be a double vault unit built to modern standards for ADA access, airflow regulation, and would include an exterior pump-out hatch. The new latrine would have approximately 2,000-gallon capacity compared to the approximately 500-gallon capacity of the existing single-vault latrine.

The area currently occupied by the old latrine would be available for picnicking and staging for float parties waiting for their shuttle vehicle. The project would occur during the summer or fall of 2023 depending on material and contractor availability. The project is expected to cost approximately \$25,000.00.

Affected Area / Location of Proposed Project:

- Legal Description
 - Latitude/Longitude: 48.36589, -114.17080
 - Section, Township, and Range: 30N20W16
 - Town/City, County, Montana: Columbia Falls, Flathead County, Montana
- Location Map

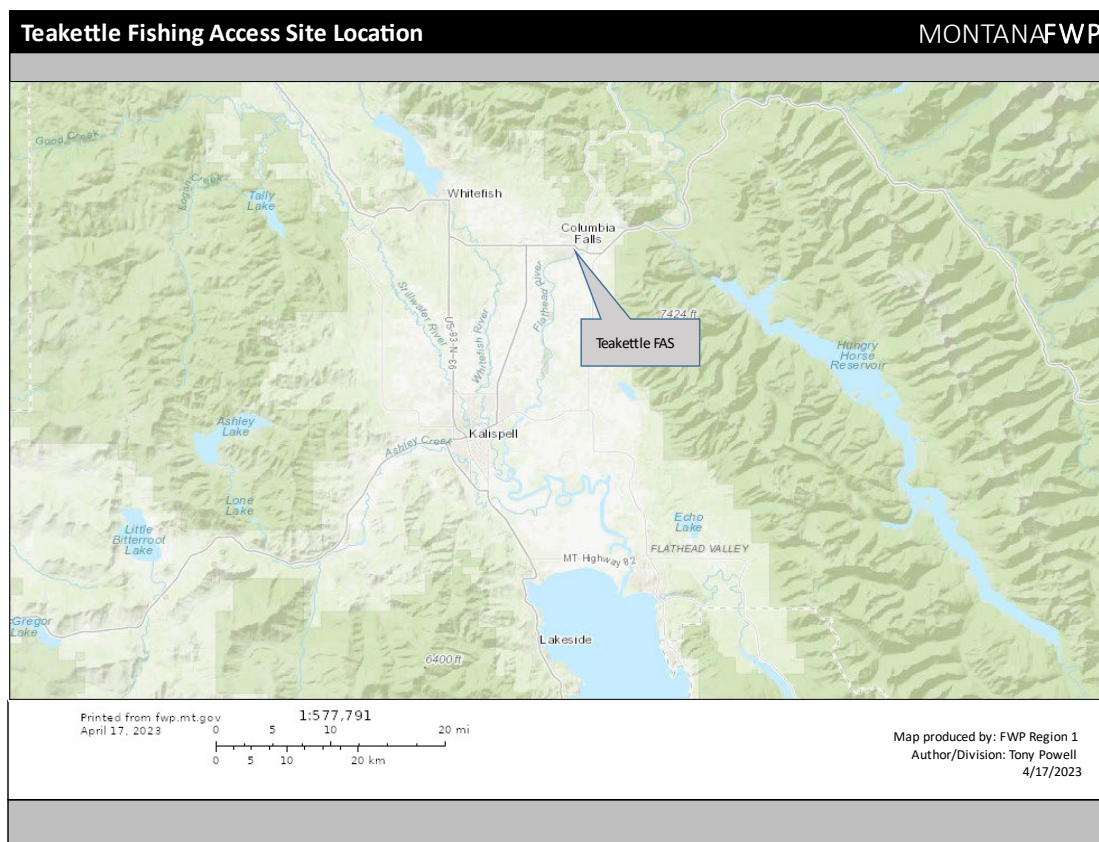


Figure 1- Project Layout

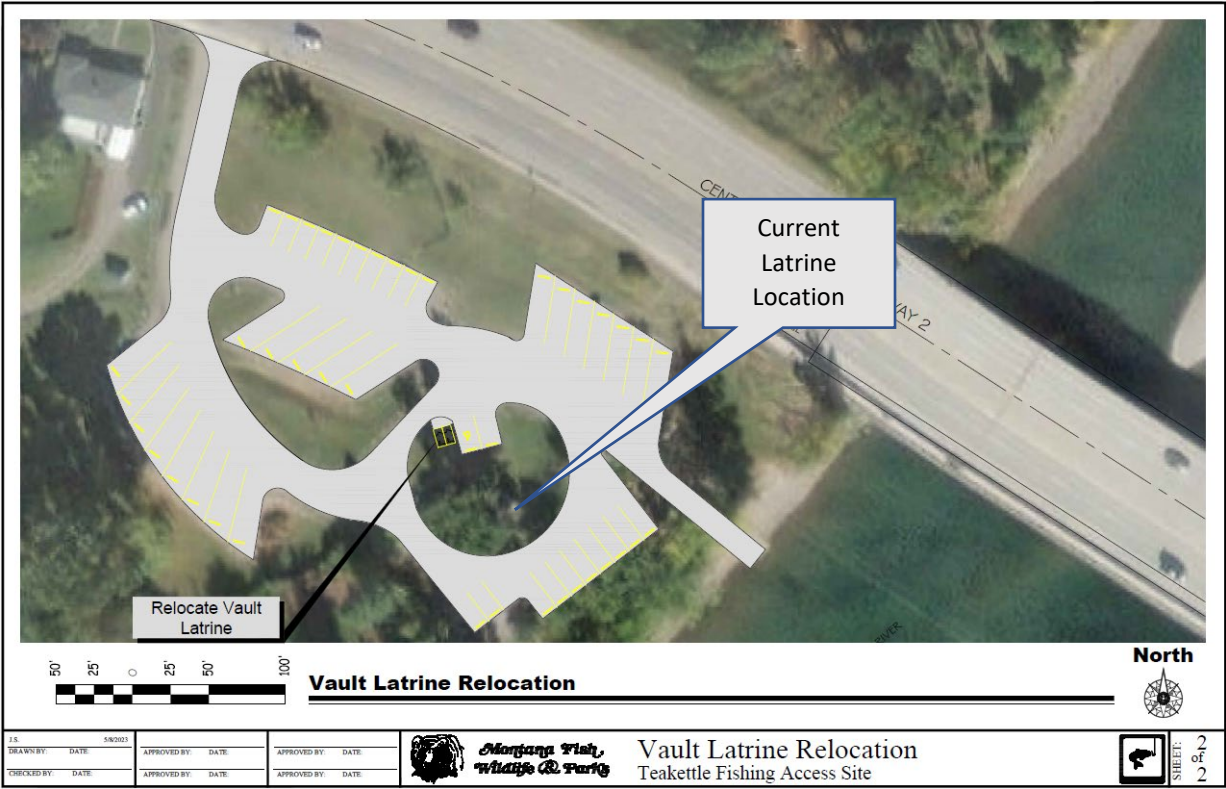


Figure 2- Site photo

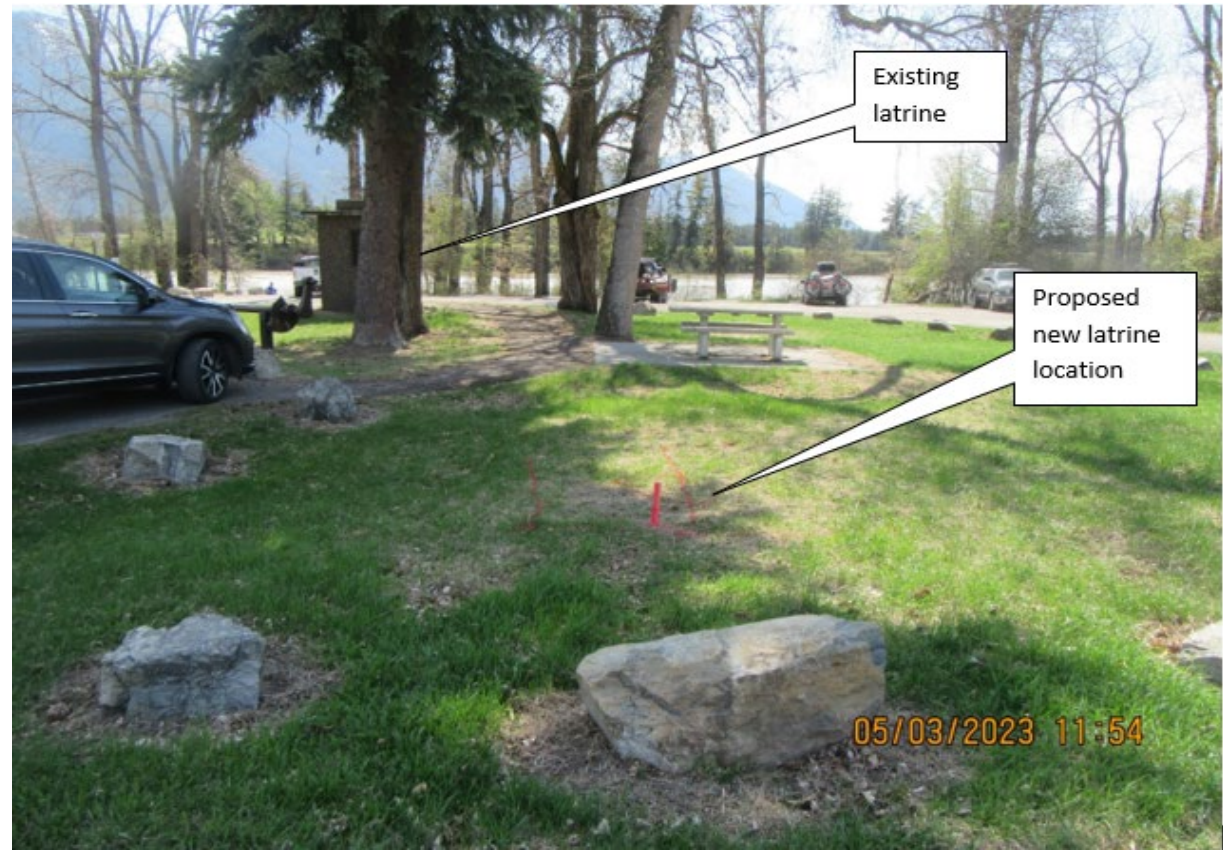
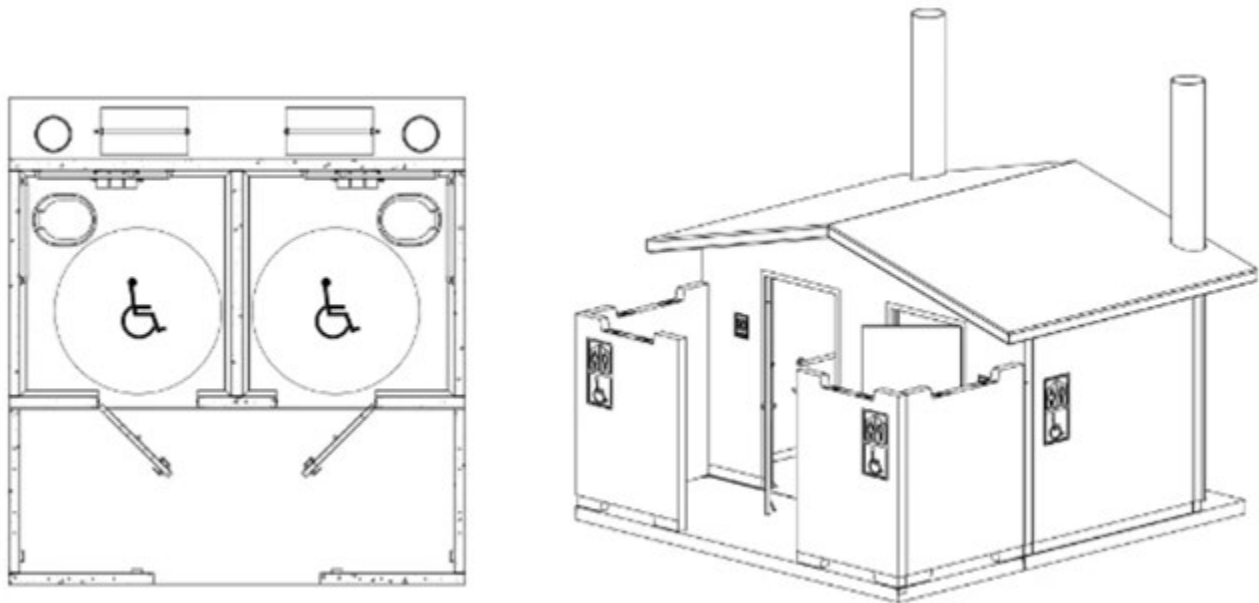


Figure 3- Sketch of proposed new double-vault latrine.



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.

FWP is proposing to replace and relocate the latrine at Teakettle FAS. A new latrine would be installed at location further away from the Flathead River. The benefits of the proposed project include:

- Improving visitor experience by providing a modern double-vault latrine with improved air flow functionality and ADA compatible design.
- Expanding latrine capacity from approximately 500 gallons to approximately 2,000 gallons requiring less frequent pumping.
- Improving sanitation by providing an exterior pumping hatch.
- Decreasing maintenance costs associated with the old latrine.
- Compliance with updated sanitation and floodplain regulations to reduce the risk of surface and ground water contamination.
- Additional picnicking and staging area in the space currently occupied by the existing latrine.

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 2** below. **Table 2** 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 2: Federal, State, and/or Local Regulatory Responsibilities

Agency	Type of Authorization (permit, license, stipulation, other)	Purpose
Flathead County	Septic permit	To prevent ground and surface water contamination
FWP Heritage Program; Montana State Historic Preservation Office	Cultural Assessment/Survey	Identification of historic and/or archaeological site located within or near the proposed project area

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 3: Listing and Evaluation of Enforceable Mitigations Limiting Impacts

<i>Are enforceable controls limiting potential impacts of the proposed action? If not, no further evaluation is needed.</i>			Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
<i>If yes, are these controls being relied upon to limit impacts below the level of significance? If yes, list the enforceable control(s) below</i>			Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Enforceable Control	Responsible Agency	Authority (Rule, Permit, Stipulation, Other)	Effect of Enforceable Control on Proposed Project	
Identification and protection of cultural resources	State Historic Preservation Office (SHPO) and FWP	Cultural assessment in inventory	FWP will consult with SHPO and all appropriate tribal heritage protection offices.	
Environmental health, sewage, and septic	Flathead County	Septic approval	FWP will seek septic approval from Flathead County Environmental health department	

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, the old latrine would remain in its current location.

The existing latrine would continue to function poorly and would continue to negatively affect visitor experience through objectionable odors. The old latrine would continue to present a sanitation issue due to its interior pump out access and would continue to require more frequent pumping. The old latrine would not comply with updated ADA accessibility requirements or updated septic regulations. There would continue to be the potential for sewage to enter the waterway.

	Yes*	No
Were any additional alternatives considered and dismissed?	<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

VI. 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 Impact:** 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.

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

See **Table 4** (Impacts on Physical Environment) and **Table 5** (Impacts on Human Population) below.

Table 4 - Potential Impacts of Alternative 2: 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 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 are expected to terrestrial, avian, and aquatic life and habitats because of the proposed project. Approximately 300 square ft of non-native grass and topsoil would be excavated to accommodate the new latrine. This non-native grass does not provide quality habitat or forage for wildlife. The old latrine would be removed, and its footprint would be reclaimed with topsoil and grass seed.
Water quality, quantity, and distribution	<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"/>	Relocating the new latrine farther from the riverbank is expected to reduce the risk of sewage entering the Flathead River resulting in a minor improvement to water quality in the long term.
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 are expected because of the proposed project. The proposed project constitutes the replacement and relocation of an existing latrine and would not impact geology of the site.
Soil quality, stability, and moisture	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Approximately 300 square feet of non-native grasses and topsoil would be removed to accommodate the new latrine. The old latrine would be removed, and its footprint would be reclaimed with topsoil and grass seed. These actions would result in a long-term negligible level of change in soil quality, stability and moisture.
Vegetation cover, quantity, and quality	<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"/>	Approximately 300 square feet of non-native grasses and topsoil would be removed to accommodate the new latrine. The old latrine would be removed, and its footprint would be reclaimed with topsoil and grass seed. This would cause a long-term negligible impact on vegetation cover, quantity and quality.
Aesthetics	<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 adverse impacts to aesthetics are expected because of the proposed project. The proposed project constitutes the replacement and relocation of an existing latrine

									which is expected to result in no change to the aesthetics of the site.
Air quality	<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"/>	Construction activity and equipment would create dust and exhaust fumes while construction is occurring. This would be a short term and localized impact occurring only during active construction which is expected to be approximately two days long. The new latrine would improve air flow and ventilation in the immediate area resulting in a minor beneficial improvement in air quality in the immediate area of the latrine.
Unique, endangered, fragile, or limited environmental resources	<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 unique, endangered, fragile, or limited environmental resources are expected because of the proposed project. A search by the MNHP found that two animal species listed as Threatened by the U.S. Fish and Wildlife Service (USFWS) have been observed within the vicinity of the FAS, including grizzly bear and bull trout. The project would not include any work in or near the riverbank that would affect bull trout or its habitat. While grizzly bears have been observed near Teakettle FAS, the site does not provide quality habitat for grizzly bear. While it is possible for grizzly bear to travel through the vicinity of the project area, the project would not alter the quality of the habitat.
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 effects to historic and archaeological sites would be expected because of the proposed project. In keeping with the Montana Antiquities Act and related regulations (12.8.501-12.8.510), all undertakings on state lands are assessed by a qualified archaeologist 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 that are eligible for the National Register of Historic Places, they will be protected from adverse effects 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 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 additional demands on environmental resources of land, water, air and energy are expected because of the proposed project. The proposed project constitutes the replacement and relocation of an existing latrine which would place additional demands on environmental resources of water, air and energy beyond those already occurring.

Table 5 - Potential Impacts of Alternative 2: Proposed Project on the Human Population

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
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 adverse impacts to social structures and mores are expected because of the proposed project. The proposed project constitutes the replacement and relocation of an existing latrine and would not impact social structures or mores.
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 adverse impacts to cultural uniqueness and diversity are expected because of the proposed project. The proposed project constitutes the replacement and relocation of an existing latrine and would not impact cultural uniqueness or diversity.

Access to and quality of recreational and wilderness activities	<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"/>	The project is intended to improve the quality of the recreational experience at Teakettle FAS by providing modern double-vault latrine which would improve sanitary conditions and decrease foul odors resulting in a long-term moderate improvement in the quality of recreational activity at the site.
Local and state tax base and tax revenues	<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 impacts to local and state tax base and revenues are expected because of the proposed project. The proposed project constitutes the replacement and relocation of an existing latrine and would not change tax base or revenues. FWP pays property taxes on the property at Teakettle FAS which would remain unchanged.
Agricultural or Industrial production	<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 agricultural or industrial production are expected because of the proposed project. The proposed project constitutes the replacement and relocation of an existing latrine. Teakettle FAS is not used for agricultural or industrial activity
Human health and safety	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Relocating the new latrine farther from the riverbank is expected to reduce the risk of sewage entering the Flathead River. The updated latrine design with the exterior pump-out hatch is intended to be safer and cleaner for users and maintenance staff. An overall moderate, long-term improvement to health and human safety is expected. Construction activities could pose a short-term minor safety concern. Care would be taken to keep the general public out of the construction area during construction.
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"/>	The project would create some short-term employment opportunities for contractors resulting in a short-term, negligible effect on the quantity and distribution of employment which would end with completion of the project.
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 adverse impacts to the distribution and density of population and housing are expected because of the proposed project. The proposed project constitutes

									the replacement and relocation of an existing latrine and would not impact the housing conditions in the 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 additional demands for government services would be created by the proposed project. The proposed project constitutes the replacement and relocation of an existing latrine and no additional demands for government services beyond those that already exist would be created.
Industrial, agricultural, and commercial activity	<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 impacts to industrial, agricultural, and commercial activity are expected because of the proposed project. The proposed project constitutes the replacement and relocation of an existing latrine which would not affect industrial, agricultural, or commercial activity.
Locally adopted environmental plans and goals	<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"/>	The project does not impact any locally adopted environmental plans and goals. The proposed project constitutes the replacement and relocation of an existing latrine and is consistent with existing land use plans and environmental regulations.
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 other appropriate social and economic circumstances would be impacted because of the proposed project.

Table 6: 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.</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>	
Criteria Used to Determine Significance	
1	<p>The severity, duration, geographic extent, and frequency of the occurrence of the impact</p> <p>"Severity" describes the density of the potential impact, while "extent" describes the area where the impact will likely occur, e.g., a project may</p>

	<p>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 noxious weeds were distributed over ten acres, there may be low severity over a larger extent.</p> <p>“Duration” describes the time period during which an impact may occur, while “frequency” 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

VII. Private Property Impact Analysis (Takings)

The 54th 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 7: Private Property Assessment (Takings)

PRIVATE PROPERTY ASSESSMENT ACT (PPAA)			
Does the Proposed Action Have Takings Implications under the PPAA?	Question #	Yes	No
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"/>
Does the proposed action result in taking or damaging implications?		<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.

VIII. 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>
- 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 EA to those persons for review and comment (ARM 12.2.433(3)).
- FWP will issue public notice in the following newspaper periodical(s) on the date(s) indicated.

Newspaper / Periodical	Date(s) Public Notice Issued
Daily Interlake	June 20, 2023
Helena Independent Record	June 20, 2023

- Public notice will announce the availability of the EA, summarize its content, and solicit public comment.
 - **Duration of Public Comment Period:** The public comment period begins on the date of publication of legal notice in area newspapers (see above). Written or e-mailed comments will be accepted until 5:00 p.m., MST, on the last day of public comment, as listed below:

Length of Public Comment Period: 15 days

Public Comment Period Begins: June 16, 2023

Public Comment Period Ends: June 30, 2023

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

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

Name: TONY POWELL

Email: tpowell@mt.gov

Mailing Address: 490 N Meridian Rd, Kalispell, MT 59901

IX. Recommendation for Further Environmental Analysis

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

X. EA Preparation and Review

	Name	Title
EA prepared by:	Tony Powell	Recreation Manager
EA reviewed by:	Lee Anderson	Region 1 Supervisor