

# **DRAFT ENVIRONMENTAL ASSESSMENT CHECKLIST**

## **Ackley Lake State Park Boat Exclusion Area**

**04/17/2023**



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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

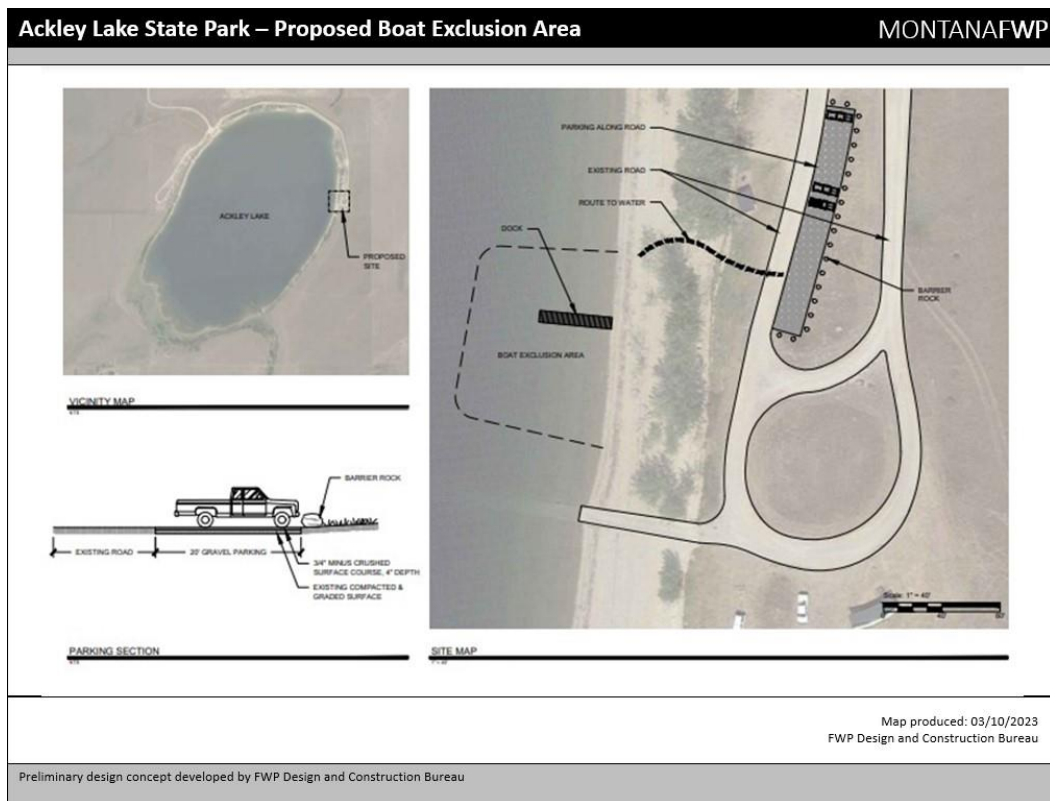
**Name of Project:** Ackley Lake State Park Boat Exclusion Area

Montana Fish, Wildlife & Parks (FWP) and the Ackley Lake Club (ALC) propose the development of a boat exclusion area at Ackley Lake State Park. Visitation at Ackley Lake has increased over the last 10 years, averaging 39,273 visitors annually with visitation doubling between 2012 and 2021. A by-product of this increased visitation is conflicting use between boaters and swimmers at the park’s only dock. The dock is located on the lake’s northwestern side, adjacent to the main boat ramp. This location is utilized by boaters to launch, trailer, and secure watercraft to the dock. Swimmers also use the dock because it provides the opportunity to jump in the water and sunbathe. This conflicting use has become a safety concern because boaters and individuals

backing trailers into the water often can't see swimmers. The goal of this proposed project is to alleviate the conflict between boaters and swimmers and mitigate the safety concern by developing a boat exclusion area, separate from this dock, to provide space for swimmers to recreate.

Montana Department of Natural Resources and Conservation (DNRC) owns most of the property around Ackley Lake. FWP leases property from DNRC and manages Ackley Lake State Park. FWP and the ALC developed and submitted two proposals to the DNRC outlining the proposed strategies to mitigate this safety concern. The DNRC reviewed the proposals and provided FWP with notice to proceed. The proposed strategies include sectioning off a 100 foot by 120 foot area for swimmers with buoys and rope on the eastern side of the lake, installing a swim dock in the boat exclusion area, and developing a 70 foot by 20 foot parking area to the east of the boat exclusion area (Figure 1). The location of the boat exclusion area was selected because of its proximity to a latrine, its limited impacts on existing campsites, the availability for future parking, and it avoids infrastructure associated with the Ackley Lake water project (dam infrastructure including the dam itself, spillway and inlet). The proposed dock is shaped like an "I" with a 16 foot gangway entrance (Figure 2); the dock would be 46 feet in length and 20 feet wide. The boat exclusion buoys, rope and the swim dock would be installed early every summer (near the maximum reservoir water elevation), adjusted with dropping water levels and removed in the fall. The anchors associated with the proposed infrastructure would not be permanent. The parking area would accommodate 6 vehicles, be improved with a proper road base, and have barriers to define the boundaries. It is also proposed that FWP would install signage near the park entrance that directs swimmers to the boat exclusion area and swimming dock and install signs at the ramp/dock on the northwestern side of the lake, discouraging swimming.

The proposed project is contingent upon funding of House Bill 5, through the legislative process. If there are no hang-ups, the boat exclusion area (buoys/rope) and swim dock would be installed around the beginning of July 2023 or once the reservoir reaches near peak water surface elevation for the season. The proposed parking area would be developed at a future time, once funding is available.



**Ackley Lake Swimming Dock**

Ackley Lake Club

<b>EZ DOCK</b> <b>MONTANA</b>	<b>CLIENT</b> ACKLEY LAKE CLUB	<b>DOCK LOCATION</b> ACKLEY LAKE MT	<b>PHONE</b>	Date 4/23/22
<b>CLIENT APPROVAL AND ACCEPTANCE</b>  Signature _____ Date _____ Please print full name of purchaser _____	Pricing is valid for ____ days, Valid thru _____. Permits and approvals if needed will be the sole responsibility of the dock owner. No returns on special orders, installed or used parts. ALL NEW ITEMS RETURNED ARE SUBJECT TO A 15% RESTOCKING - 10 DAY RETURN POLICY			Date Revised _____ Job# _____ Drawn By JAW
				<small>EZDM-1150-ORIGENR001_2021</small>

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

- 5

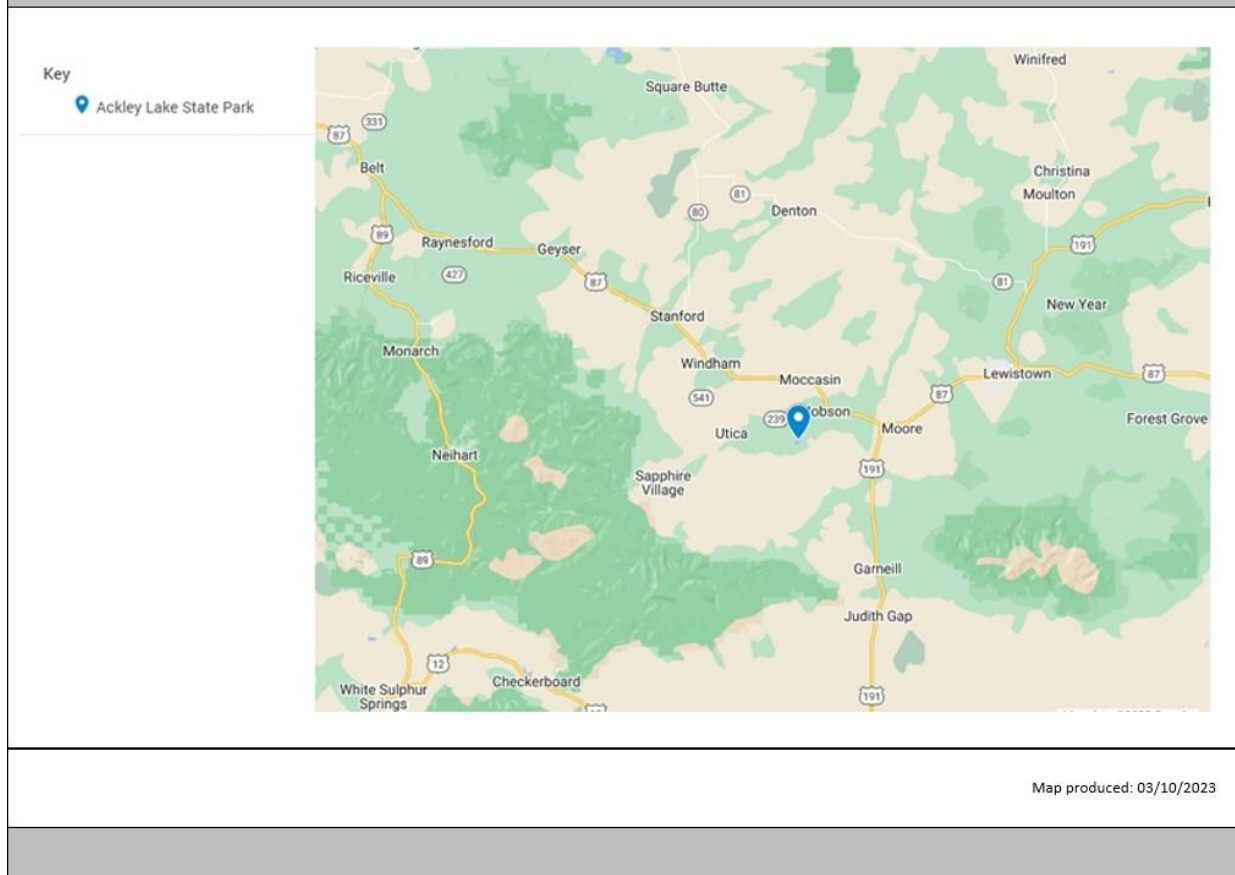


Figure 3. Map of Ackley Lake, the proposed project location

### III. Purpose and Need

*The EA must include a description of the benefits and purpose 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.*

#### Project Purpose and Benefits:

The proposed project is intended to alleviate conflicting use between boaters and swimmers and mitigate safety concerns at Ackley Lake State Park's current dock area. The proposed project would establish a boat exclusion area and install a swim dock, while maintaining a designated place for boaters to launch and trailer their watercraft. A parking area is proposed to be developed to accommodate the increased use at this site in the park.

The benefits of the proposed project include the following:

- Alleviate conflicting use between boaters and swimmers
- Mitigate safety concerns of swimmers in a high boat traffic location
- Provide improved boater launch and trailer space
- Provide swimmers improved recreational opportunity
- Prevent resource damage by developing a parking area to accommodate the increased use of this site within the park's footprint



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 state requirements but does not necessarily represent a complete and comprehensive list of all permits, certificates, or approvals needed. Rather, **Table 2** lists the primary state agencies with regulatory responsibilities, the applicable regulation(s) and the purpose of the regulation(s). 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
Montana Department of Natural Resources and Conservation	Stipulations included in the Ackley Lake State Park Lease and notice to proceed documents	FWP leases Ackley Lake State Park from Montana Department of Natural Resources and Conservation
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. Mostly applies to development of the parking area since the boat exclusion area and swim dock shouldn't cause disturbance.

## 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 checked="" 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 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)	Cultural assessment in inventory	In keeping with the Montana Antiquities Act and related regulations, all undertakings on state lands are assessed for their potential to affect cultural resources. This project will be evaluated according to the process for cultural resource inventory outlined in Administrative Rules 12.8.501-12.8.510, and 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.
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## 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, FWP would not do the proposed project.*

*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.*

Visitation at Ackley Lake has increased over the last 10 years, averaging 39,273 visitors annually with visitation doubling between 2012 and 2021. A by-product of this increased visitation is conflicting use between boaters and swimmers at the park's only dock. The proposed project is intended to alleviate conflicting use between boaters and swimmers and mitigate safety concerns at Ackley Lake State Park's current dock area. If the "No Action" alternative were selected, these existing conditions would continue at Ackley Lake.

	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

## 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 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.

Visitation at Ackley Lake has increased over the last 10 years, averaging 39,273 visitors annually with visitation doubling between 2012 and 2021. A by-product of this increased visitation is conflicting use between boaters and swimmers at the park’s only dock. The proposed project is intended to alleviate conflicting use between boaters and swimmers and mitigate safety concerns at Ackley Lake State Park’s current dock area. If the “No Action” alternative were selected, these existing conditions would continue at Ackley Lake.

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

See **Table 3** (Impacts on Physical Environment) and **Table 4** (Impacts on Human Population) below.

**Table 3 - 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 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 terrestrial, avian, and aquatic life and habitats would be expected because of the proposed project. The project and its associated recreational use would have negligible impact on these habitats. The project has a relatively small footprint and portions of the project are non-permanent infrastructure that will only be in place for 4-5 months a year. Therefore, any impacts from the proposed project to terrestrial, avian, and aquatic life and habitats in the affected area would be long-term and negligible considering the level of existing use occurring at Ackley Lake State Park.
Water quality, quantity, and distribution	<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 water quality, quantity, and distribution would be expected because of the proposed project. Any secondary or cumulative impacts to water quality, quantity, and distribution from the proposed project and associated recreational use are expected to be negligible and to not contribute to a level of impact greater than that already caused by the existing use of Ackley Lake State Park.
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 in any way affect any geologic features in the project area; therefore, no impacts to the area geology are expected from the proposed project.
Soil quality, stability, and moisture	<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 soil quality, stability, and moisture would be expected because of the proposed project. Impacts from the boat exclusion area and the associated recreational use would be largely limited to the already impacted area below the high-water mark and not contribute to a level of impact greater than that already caused by existing use of the park. The proposed parking

									area would cause soil disturbance and compaction, but it is intended to concentrate the impacts to a small area and prevent further unnecessary resource damage. Therefore, any impacts from the proposed project to soil quality, stability, and moisture in the affected area would be long-term and negligible.
Vegetation cover, quantity, and quality	<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 vegetation cover, quantity, and quality would be expected because of the proposed project. Impacts associated with the boat exclusion area and the associated recreational use would be largely limited to the already impacted area below the high-water mark and not contribute to a level of impact greater than that already caused by existing use of the park. The proposed parking area would result in vegetation loss in an area roughly the size of 1,400 square feet, but it is intended to concentrate the impacts to a small area and prevent further unnecessary resource damage. Therefore, any impacts from the proposed project to vegetation cover, quantity, and quality in the affected area would be long-term and minor.
Aesthetics	<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 aesthetics would be expected because of the proposed project. The project has a relatively small footprint and portions of the project are non-permanent infrastructure that will only be in place for 4-5 months a year. Construction noise associated with the development of the parking would result in short term, moderately adverse impacts to users of Ackley Lake State Park. Further, the affected area has historically been used for similar recreational purposes and any potential aesthetic impacts would be consistent with historic impacts. Therefore, any impacts would be, short term, long-term and minor, and moderate.
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 are expected from the proposed project. Air quality in the area affected by the proposed project is currently unclassifiable or in compliance with applicable national ambient air quality standards (NAAQS) for

									<p>particulate matter and all other regulated air pollutants. Further, no significant point-sources of air pollution exist in the area affected by the proposed project. Existing sources of air pollution in the 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). Fugitive dust and vehicle exhaust emissions resulting from the movement of heavy equipment and materials for development of the parking area and dock may adversely impact air quality. When completed, no additional new air quality impacts would be expected because of the proposed project. Therefore, any impacts to air quality would be short-term, consistent with existing impacts within the affected area, and negligible.</p>
Unique, endangered, fragile, or limited environmental resources	<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"/>	<p>There would be no significant adverse impacts to the unique, endangered, fragile, or limited environmental resources from the proposed project. The Montana Natural Heritage Program (MTNHP) data indicates that the following animal species of concern are present or have been observed within the immediate area of Ackley Lake State Park:</p> <ul style="list-style-type: none"> <li>• Bobolink (<i>Dolichonyx oryzivorus</i>) – Global Rank: G5 State Rank: S3B</li> <li>• Long-billed Curlew (<i>Numenius americanus</i>) – Global Rank: G5 State Rank S3B</li> <li>• Brewer’s Sparrow (<i>Spizella Breweri</i>) - Global Rank: G5 State RankS3B</li> <li>• Chestnut-collared Longspur (<i>Calcarius ornatus</i>) - Global Rank: G5 State Rank S2B</li> <li>• Sprague’s Pipit (<i>Anthus spragueii</i>) - Global Rank G3G4 State Rank S3B</li> </ul> <p>MTNHP data indicates the following important animal habitat is present within the immediate area of Ackley Lake State Park:</p>

									<ul style="list-style-type: none"> <li>Bat Roost (Non-Cave, natural roost types) – No Rank, point observations occurring in rock outcrops, trees, mines, bridges, or buildings.</li> </ul> <p>MTNHP classifies the land cover of the proposed project location as Human land use, grassland systems, recently disturbed/modified, and wetland/riparian. The proposed project has a relatively small footprint on both the land and the water. Additionally, much of the footprint is already disturbed land. The area that would be impacted by the public for the boat exclusion area and the swim dock is disturbed land below the high-water mark and the parking area is land that has traditionally been mowed by FWP staff. Therefore, any impacts from the proposed project to the unique, endangered, fragile, or limited environmental resources in the affected area would be short-term and long-term, consistent with existing and historic impacts, -and minor.</p>
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"/>	<p>No significant adverse impacts to historic and archaeological sites would be expected because of the proposed project. In keeping with the Montana Antiquities Act and related regulations, all undertakings on state lands are assessed for their potential to affect cultural resources. This project will be evaluated according to the process for cultural resource inventory outlined in Administrative Rules 12.8.501-12.8.510, and 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 would cease implementation and contact FWP's Heritage Program for further evaluation.</p>

									Further, the affected area has historically been used for similar recreational purposes. Therefore, no impacts to any historical and archaeological sites would be expected because of the proposed project.
Demands on environmental resources of land, water, air, and energy	<input type="checkbox"/>	<input checked="" 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 demands on environmental resources of land, water, air, and energy would be expected because of the proposed project. A relatively small amount of fuel would be required to operate heavy equipment used for the construction phase of the proposed project. Any impacts to the environmental resource of energy would be consistent with existing impacts and negligible. As identified previously through the analyses of potential impacts to water quality, quantity, and distribution; soil quality, stability, and moisture; vegetation cover, quantity, and quality; and air quality, some impacts to the environmental resources of land, water, and air may also occur because of the proposed project. Any impacts are expected to be short- and long term, negligible and consistent with current use of the park and mitigated by FWP staff presence and maintenance.

**Table 4 - Potential Impacts of Alternative 2: 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
	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 adverse impacts to social structures and mores would be expected because of the proposed project. The proposed project would establish a boat exclusion area, install a swim dock, and create a new parking area to accommodate the potential for increased use of this site within the existing state park. The proposed project would not change current land use or human activities in the affected area. Therefore, the proposed project would not impact any pre-project social



									structures, customs, values, and 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 adverse impacts to cultural uniqueness and diversity would be expected because of the proposed project. The proposed project would establish a boat exclusion area, install a swim dock, and create a new parking area to accommodate the potential for increased use of this site within the existing state park. 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 and population would be expected because of the proposed project.
Access to and quality of recreational and wilderness activities	<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 access to and quality of recreational and wilderness activities would be expected because of the proposed project. The project's aim is to alleviate swimming/boating conflicts at the boat ramp while maintaining or improving recreation opportunity. The project would restrict use of 120 feet of shoreline and 12,000 square feet of surface water to just swimming which would cause long term, negligible impact to boating opportunities. The proposed project is expected to have long-term, moderate, beneficial, impacts to the access (both swimming and boating) and the quality of recreation at Ackley Lake State Park.
Local and state tax base and tax revenues	<input type="checkbox"/>	<input checked="" 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 local and state tax base and tax revenues would be expected because of the proposed project. 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. The project is not expected to significantly increase visitation to Ackley Lake State Park. Therefore, any impacts from the proposed project to local and state tax base and tax revenues in the local area would be, short term, long-term and negligible.

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 would be expected because of the proposed project. Because the affected area is not currently used for agricultural and/or industrial production the proposed project would not impact such practices
Human health and safety	<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 human health and safety would be expected because of the proposed project. Affected government staff may realize increased risk to human health and safety; however, FWP would require affected staff to operate in a safe manner and utilize best management practices, including the use of available and appropriate safety precautions. The project's goal is to mitigate safety concerns associated with swimming at the park's only dock which is a high traffic boat area. Therefore, any impacts from the proposed project to human health and safety at Ackley Lake State Park area would be short-term, adverse, and minor and long-term and moderately beneficial.
Quantity and distribution of employment	<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 quantity and distribution of employment in the affected area would be expected because of the proposed project. No additional FWP staff would be required to accommodate the proposed project. Therefore, when construction has been completed, no additional impacts would be expected because of the proposed project. Any impacts the quantity and distribution of employment in the affected area would be short -term and negligible, lasting only as long as the construction phase of the proposed 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 would be expected because of the proposed project. A limited number of existing government staff or local contractors would be used to accomplish the proposed project and would not otherwise require or result in the movement of existing or new population into or out of the affected area. Therefore, no impacts to distribution and density of

									population and housing would be expected because of the proposed project.
Demands for government services	<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 demands for government services would be expected because of the proposed project. Current FWP staffing levels at the park will be sufficient to absorb most impacts of the proposed project. Additional FWP staff time will be needed to install, adjust, and remove the boat exclusion area and swim dock each year. Therefore, any impacts from the proposed project to demands for government services in the local area would be, short term, long-term and minor.
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 significant adverse impacts to industrial, agricultural, and commercial activity would be expected because of the proposed project. The proposed project would be located in an existing State Park and would not disturb or otherwise impact any industrial, agricultural, or commercial properties or operations; therefore, no impacts to industrial, agricultural, and commercial activity would be expected because of the proposed project.
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"/>	No significant adverse impacts to locally adopted environmental plans and goals would be expected because of the proposed project. The original objective of the state park was to provide the public with safe recreational opportunities at Ackley Lake. The proposed project would further that objective. FWP is not aware of any other locally adopted environmental plans or goals that may be impacted by the proposed project. Therefore, no impacts would be expected from the proposed project.
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 any 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 additional impacts are expected from the proposed project.

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

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.

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.

**Criteria Used to Determine Significance**

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 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

## VIII. 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)**

	Yes	No	
<i>Is FWP regulating the use of private property under a regulatory statute adopted pursuant to the police power of the state? (Property management, grants of financial assistance, and the exercise of the power of eminent domain are not within this category.) If not, no further analysis is required</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<i>Does the proposed regulatory action restrict the use of the regulated person's private property? If not, no further analysis is required.</i>	<input type="checkbox"/>	<input type="checkbox"/>	
<i>Does FWP have legal discretion to impose or not impose the proposed restriction or discretion as to how the restriction will be imposed? If not, no further analysis is required</i>	<input type="checkbox"/>	<input type="checkbox"/>	
<i>If so, FWP must determine if there are alternatives that would reduce, minimize, or eliminate the restriction on the use of private property, and analyze such alternatives. Have alternatives been considered and/or analyzed? If so, describe below:</i>	<input type="checkbox"/>	<input type="checkbox"/>	
<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 <b>YES</b> 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 <b>NO</b> 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.			
<b>Alternatives:</b> 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.			

## IX. 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/aboutfwp/public-comment-opportunities>*
- *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
Lewistown News-Argus	04/19/2023

- *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:** April 19, 2023  
**Public Comment Period Ends:** May 3, 2023 @ 5pm

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

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

Name: ALEX SHOLES

Email: [alex.sholes@mt.gov](mailto:alex.sholes@mt.gov)

Mailing Address:

FWP Region 4

Attn: Ackley Lake Boat Exclusion Area

4600 Giant Springs Rd

Great Falls, MT 59405

## X. 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"/>

## XI. EA Preparation and Review

	Name	Title
<b>EA prepared by:</b>	Alex Sholes	Regional Recreation Manager, FWP Region 4
<b>EA reviewed by:</b>	Jason Rhoten	Acting Regional Supervisor, FWP Region 4
	Beth Shumate	Park and Outdoor Recreation Division Assistant Administrator, FWP
	Eric Merchant	MEPA Coordinator, FWP