

DRAFT ENVIRONMENTAL ASSESSMENT CHECKLIST



**Intake Fishing Access Site
Water System Improvements
5/23/23**



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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

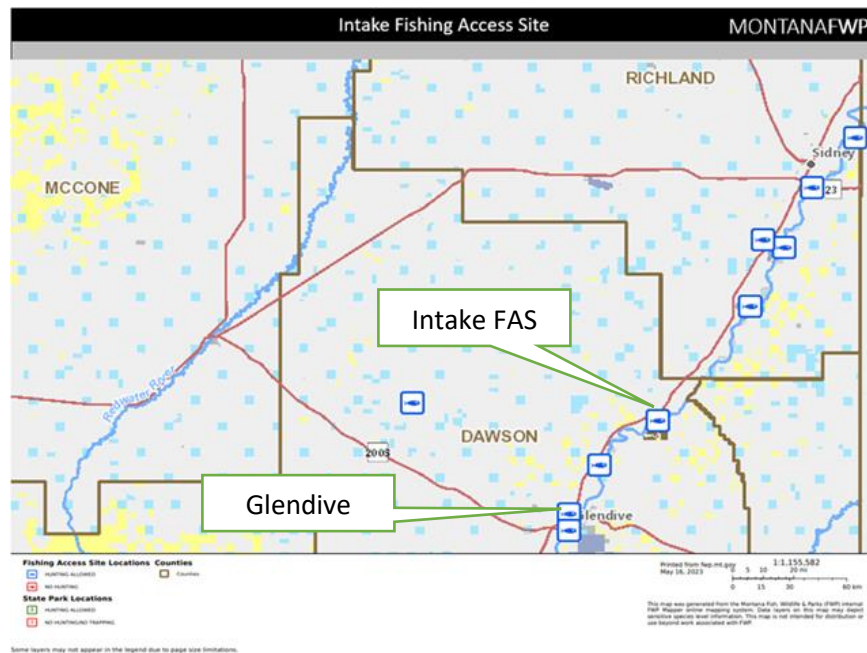
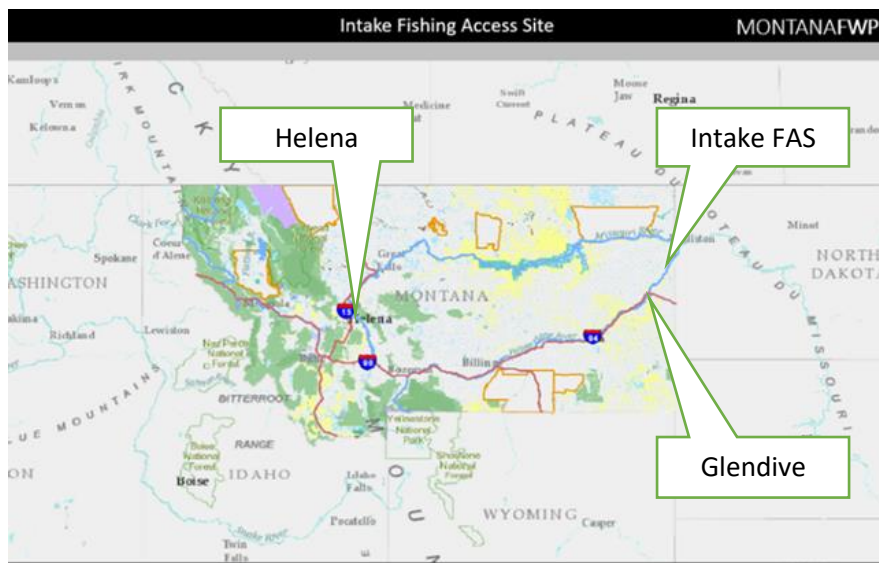
Name of Project: Intake Fishing Access Site Water System Improvements

The existing water system at Intake Fishing Access Site (FAS) is at the end of its useful life and is starting to fail. Reliable potable water is important at Intake FAS and heavily used by visitors to the site. To maintain this existing use, the FAS Water System Improvements are proposed by FWP and include the install of approximately 2,200 lineal feet of 2" water distribution piping within the Intake FAS Campground Area. Appurtenances include six (6) Frost-Proof Hydrant Fill Stations, tees, bends, and valve manifold assemblies.

The project will maintain access to potable water for visitors to Intake FAS. FWP's objective is to begin the project in July 2023, after paddle fish season has ended. Project completion is planned to occur by November 2023.

Affected Area / Location of Proposed Project

- Legal Description
 - Latitude/Longitude: 47.282339, -104.524679
 - Section, Township, and Range: S25, T18 N, R56 E
 - Town/City, County, Montana: Glendive, Dawson, Montana
- Location Map



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.

The purpose of the proposed project is to maintain public access to a safe and reliable potable water resource at Intake Fishing Access Site. The Water System Improvement Project is necessary because the existing water distribution system is at the end of its useful life and the need to supply potable water to the public at this location is ongoing.

Benefits of the proposed project include the following:

- increased reliability of safe drinking water; and
- improved compliance with existing Public Drinking Water standards.

The system would be used by campers, anglers, and other visitors to Intake FAS. FWP's objective is to start the project in July 2023, after paddlefish season, with final work completed by November of 2023.

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 state requirements but does not necessarily represent a complete and comprehensive list of all permits, certificates, or approvals needed. Rather, **Table 1** 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
MT Department of Environmental Quality	Licensed Public Water System	Regulatory Department for Licensed Public Water Systems
Bureau of Reclamation	Letter of Support	BOR is a Landowner of a portion of property known as Intake Fishing Access Site

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

<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	Cultural Assessment and Inventory	Prior to implementation FWP would coordinate a cultural resource inventory of the project site. If cultural resources warranted for protection are discovered, FWP would protect these areas. If cultural artifacts were to be discovered during the implementation of this project, FWP would cease activities and contact the State Historic Preservation Office and potentially adjust the project design to avoid impacting these resources.	
Applicable Water Quality Standards	MT Department of Environmental Quality	Licensed Public Water System	All public water supplies must meet regulatory standards	

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.

The "No-Action" alternative forms the baseline from which the potential impacts of the proposed Project can be measured.

Alternative 1: No Action: 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.

Under the "No Action" alternative, no water system improvement project would occur, and the existing water system would continue to provide potable water to the public at Intake Fishing Access Site. Due to the age and condition of the system it is expected that the system would become less reliable over time and likely experience compliance issues with Public Drinking Water standards in the future. Failure to meet applicable water quality standards would require the system be turned off and the affected public would no longer have access to safe and reliable potable water at the FAS.

Alternative 2: Proposed Project: The proposed project would use a new 2" waterline connected to an existing well to serve potable water at Intake FAS. New frost-free hydrants would be installed to replace existing hydrants. Additional valves, fixtures and fittings would be included, as required, and as outlined in the Intake Fishing Access Site Water System Improvements project plans (FWP Project 7153750).

Reference **Table 3** and **Table 4** below for an analysis of impacts associated with the proposed project.

	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; and
- Alternative 2: Proposed Project

Table 3: Impacts to the Physical Environment – Alternative 2: Proposed Project

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 checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to terrestrial, avian, and aquatic life and habitats would be expected as a result of this project. Wildlife species located within or using the affected area include white tail deer, pheasants and various nongame birds and small mammals. This list is representative but does not constitute a complete list of wildlife species present in the affected area. The proposed project would replace the existing public water supply at the FAS. Construction activities associated with the proposed project may prevent certain wildlife from using the affected area. Further, the proposed project may displace a limited amount of existing wildlife habitat within the FAS footprint. Similar, suitable habitat is located near the FAS, and it is expected any displaced species would naturally use available nearby habitat during construction of the proposed project and following completion of the proposed project, as necessary. Therefore, any impacts would be short- and long-term, negligible, minor, and consistent with existing impacts at the FAS.
Water quality, quantity, and distribution	<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 water quality, quantity, and distribution would be expected as a result of this project. Because the proposed project would replace the existing public water system at the FAS, no impacts to water quantity would be expected because of the proposed project. Improved access to clean and safe potable water and its distribution would occur. Any impacts to water quality and distribution would be 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 as a result of this project. The proposed project

									<p>would replace the existing public water supply at the FAS. The proposed project would result in ground disturbance to facilitate replacement of the public water system. However, the proposed project would take place within the footprint of an existing FAS and no unique geologic formations are located within the affected area. Therefore, ground disturbance associated with the proposed project would not affect any geologic features and no impacts to geology would be expected because of the proposed project.</p>
Soil quality, stability, and moisture	<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"/>	<p>No significant adverse impacts to soil quality, stability and moisture would be expected as a result of this project. The proposed project would replace the existing public water supply system at the FAS. No impacts to soil quality would be expected because of the proposed project. Replacement of the existing public water supply system would require ground disturbance and thus would impact soil stability and moisture in the affected area. Any impacts would be short-term, negligible, and consistent with historic impacts.</p>
Vegetation cover, quantity, and quality	<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"/>	<p>No significant adverse impacts to vegetation cover, quantity, and quality would be expected as a result of this project. In the area of the project the existing vegetation is predominantly crested wheat grass. The proposed project would replace the existing public water supply system at the FAS. Construction activities would necessitate ground disturbance, which may impact existing vegetation. Due to the relatively minor amount of ground disturbance needed to complete the proposed project any impacts would be short-term and negligible. The disturbed area would be reseeded with a mix of native grass species including wheatgrass, fescue and blue grama. Further, ongoing public use of the FAS would increase the opportunity for noxious weeds infestations to occur. FWP would continue to monitor and manage noxious weeds at the site according to the Noxious Weed</p>

									Management Plan. Therefore, any impacts would be long-term and negligible.
Aesthetics	<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 aesthetics would be expected as a result of this project. The proposed project would replace the existing public water supply system at the FAS. Replacement of the existing public water supply would necessitate ground disturbance and limited construction. Some adverse impacts may result from construction activities due to increased levels of noise, odors, fugitive dust, and the presence of equipment and construction materials. Any such impacts would be short-term and negligible, lasting only as long as the construction phase of the proposed project.
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 would be expected as a result of this 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). 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 and fugitive dust emissions). The proposed project would replace the existing public water supply system at the FAS. Replacement of the existing public water supply would necessitate ground disturbance and limited construction, which may result in a limited amount of vehicle exhaust emissions and fugitive dust generation. When completed, the proposed project would not result in additional new air quality impacts in the affected area. Fugitive dust and vehicle exhaust emissions resulting from the movement of equipment and materials for the proposed project may adversely impact air quality. However, any impacts to air quality would be short-term, mitigated by dust control practices, consistent with existing impacts in the affected area, and negligible.

Unique, endangered, fragile, or limited environmental resources	<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 unique, endangered, fragile, or limited environmental resources would be expected as a result of this project. The presence of any animal and/or plant species of concern and/or any Threatened or Endangered species located within or using the affected area were assessed. The following species of special concern have been observed in or near the proposed project site: great blue heron, greater sage-grouse, bobolink, loggerhead shrike, spiny softshell, blue sucker, sauger, sturgeon chub, and paddlefish. The proposed project would replace the existing public water supply system at the FAS, which would necessitate a small amount of disturbance to the ground and existing vegetation. Because the proposed project would occur within an existing FAS, any adverse impacts to affected species that may be located within or use the affected area would be short-term, negligible, and consistent with existing and historic impacts.
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 the Montana Antiquities Act and related regulations (ARM 12.8.501-12.8.510), all undertakings on state lands 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 would cease implementation and contact FWP's Heritage Program for further evaluation. Further, the proposed project would occur within an existing FAS. 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 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 environmental resources of land, water, air, and energy would be expected as a result of this project. Fuel would be required to operate equipment used for the construction phase of the proposed project. However, any impacts would be limited by the anticipated short timeline for the construction phase of the proposed project and, as such, the amount of fuel used would be relatively minimal. Therefore, any impacts to the demands for energy would be short-term 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 occur because of the proposed project. However, any such impacts would be short-term and negligible (see cited impacts analyses above). No other impacts to the demands on environmental resources of land, water, air, and energy would be expected because of the proposed project.

Table 4: Impacts to 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 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 social structures and mores would be expected as a result of this project. The proposed project would replace the existing public water

									supply system at the FAS. The Lower Yellowstone River, which is served by the existing FAS, represents a quality fishery and provides other varied recreational opportunities for the affected public. As such, fishing and related services support existing social structure, customs, values, and conventions in the affected area. Improving existing FAS infrastructure by providing a long-term safe potable water supply would further support existing social structures and mores in the affected area. Any impacts would be long-term, consistent with existing impacts, beneficial, and minor.
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 as a result of this project. The proposed project would replace the existing public water supply system at the FAS 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 checked="" type="checkbox"/>	<input checked="" 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 as a result of this project. No Wilderness areas currently exist in the affected area; therefore, no impacts to Wilderness recreation activities would occur because of the proposed project. The proposed project would replace the existing public water supply system at the FAS. Because the proposed project would improve the existing FAS it would likely increase the quality of the recreational experience. No closures of public lands would occur because of the proposed project. Noise, odors and fugitive dust resulting from construction activities could impact the quality of the recreational experience for some individuals. Once the construction phase is completed no additional impacts would occur. Therefore, any impacts would be long-term, beneficial, and minor and short-term, adverse, and negligible.

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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to demands on local and state tax base and tax revenues would be expected as a result of this project. The proposed project would replace the existing public water supply system at the FAS and would thereby increase state and local tax revenues from the sale of fuel, supplies and/or equipment needed to complete the project. Any impacts would be short-term and negligible. Further, the project may result in a minor increase in tourism to the area. Minimal increased tourism would result in beneficial, long-term, and minor impacts to the local tax base.
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 demands on agricultural or industrial production would be expected as a result of this project. The proposed project would replace the existing public water supply system at the FAS. 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 demands on human health and safety would be expected as a result of this project. Affected government staff and/or contractors hired to implement 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. Any potential impacts to human health and safety associated with construction activities would be short-term and negligible. Further, the proposed project would provide the affected public with reliable access to safe potable water, which would have a long-term, moderate, and beneficial impact.
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 demands on quantity and distribution of employment would be expected as a result of this project. The proposed project would replace the existing public water supply system at the FAS. Because affected government staff and/or contractors

									would be hired to conduct the project, short -term and negligible impacts may be realized because existing government staff or contracted services would be required to locate in the affected area to complete construction activities.
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 demands on distribution and density of population and housing would be expected as a result of this project. The proposed project would replace the existing public water supply system at the FAS and existing government staff or contractors would be used to implement the proposed project. Therefore, it is not expected the proposed project would result in the movement of existing or new population into or out of the affected area. Therefore, no impacts 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to demands on demands for government services would be expected as a result of this project. The proposed project would replace the existing public water supply system at the FAS and would use existing government staff or hired contractors to complete the work. Further, FWP staff would regularly monitor the area for any resource damage. Facilities would be maintained to FWP FAS standards. No additional demands for government services would be expected because of the proposed project. Therefore, any impacts would be short- and long-term, and negligible.
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 demands on industrial, agricultural, and commercial activity would be expected as a result of this project. The proposed project would replace the existing public water supply system at the FAS and would not disturb or otherwise impact any industrial, agricultural, or commercial properties or operations in the affected area. Therefore, no impacts 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 demands on locally adopted environmental plans and goals would be expected as a result of this project. FWP is unaware of any locally adopted environmental plans or goals that may be impacted by the proposed project. Therefore, no impacts would be expected because of the proposed project.
Other appropriate social and economic circumstances	<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 demands on other appropriate social and economic circumstances would be expected as a result of this project. Reliable access to potable water for members of the public visiting the project site would have long-term, moderate, and beneficial impacts by providing the affected public with a safe, reliable source of potable water. FWP is unaware of any other appropriate social and economic circumstances that may be impacted by the proposed project

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.</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 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

VIII. 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 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 checked="" 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 checked="" 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 checked="" type="checkbox"/>	
PRIVATE PROPERTY ASSESMENT 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 5a and 5b and continue with question 6.)	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 5a or 5b.			
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.			

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
Glendive Ranger Review	
Sidney Herald	

- 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: 5/23/23

Public Comment Period Ends: 6/7/23

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

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

Name: BRIAN BURKY

Email: brian.burky@mt.gov

Mailing Address:

P.O. Box 1630

Miles City MT 59301

X. 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"/>

XI. EA Preparation and Review

	Name	Title
EA prepared by:	Brian Burky	FWP Region 7 POR Manager
EA reviewed by:	Eric Merchant	MEPA Coordinator