DRAFT

ENVIRONMENTAL ASSESSMENT

CHECKLIST

Glen Lake Outlet Restoration

February 27, 2023

Table of Contents

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: Glen Lake Outlet Restoration

Background and Description of Proposed Project: Through the Community Pond Program, funding would be provided by Montana Fish, Wildlife & Parks (MFWP) to the Glen Lake Outlet Restoration project, managed and constructed by the Bozeman Sunrise Rotary Club. The project is located in Bozeman (Gallatin County) and would convert the linear, steep-sided, excavated drainage ditch from Glen Lake into a meandering, natural-looking spring-fed channel. Glen Lake Rotary Park is a major recreation site for the Bozeman area. The restored channel and associated landscaping will improve aquatic and terrestrial habitat and create additional recreation and

educational opportunities for the public. The improvements are expected to improve both fish habitat and angling opportunities.

Glen Lake was created during the reclamation of a former gravel pit. Since the created lake is spring fed from within the pond footprint, the perennial outflow is relatively constant during the year. The existing ditch was created as a steep-banked linear channel to allow outflow from the lake and maintain a near-constant lake water surface elevation.

The proposed construction will create a meandering stream channel and riparian area and connect the lake with the restored channel. About 355 feet of the existing ditch will be converted into about 470 feet of stream channel. The created channel will include a 4-foot-wide flow area with gentle side slopes. The channel bottom will be sand, gravel, and cobbles with occasional boulders. The side slopes will be filled with gravel and covered with topsoil. The existing lake includes fish stocked by FWP and has public fishing opportunities; this project would ensure these fish remain within the project area and do not reach the East Gallatin River. Construction is proposed to be completed in Summer 2022 and Spring 2023.

Affected Area / Location of Proposed Project:

- Legal Description
    - Latitude/Longitude: 45.70586, -111.0456
    - Section, Township, and Range: 1S, 6E, Section 31
    - Town/City, County, Montana: Bozeman, Gallatin County, Montana

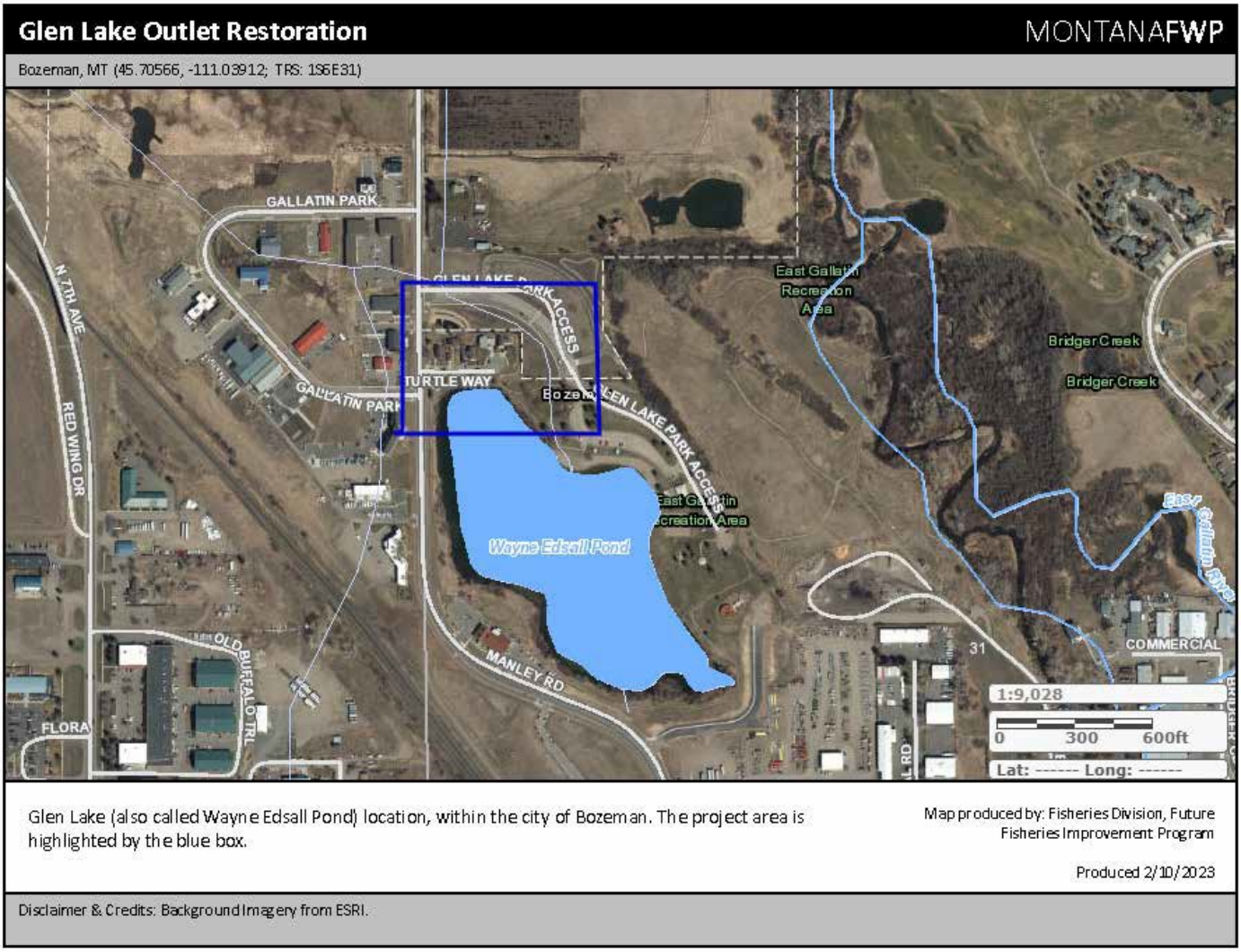

Figure 1. Project Location Map

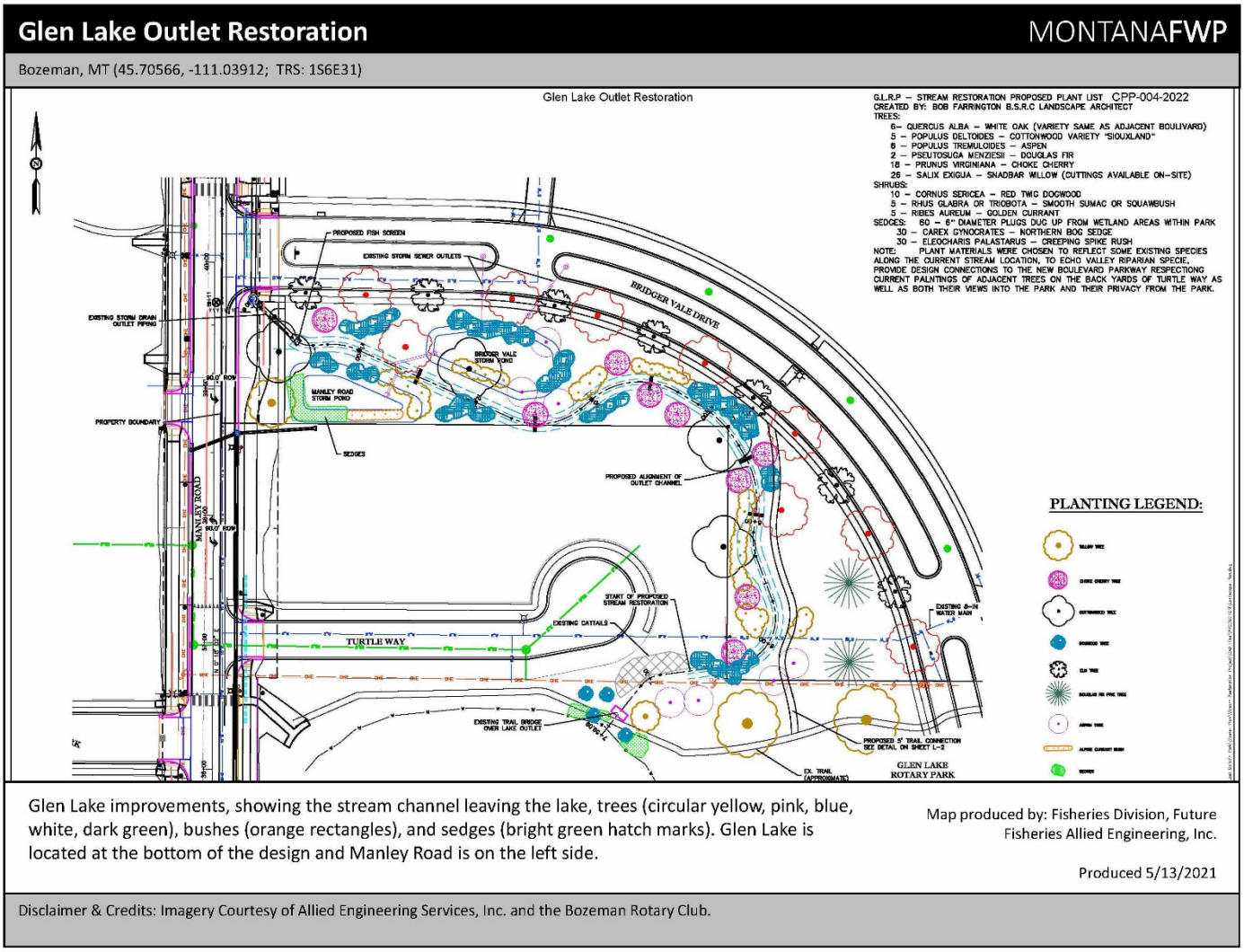

Figure 2. Preliminary design for the side channel and improvements

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 project would replace an existing drainage ditch with a new stream channel with natural stream function (e.g., pool and riffle complexes), riparian areas, and a more diverse plant community. The improvements are expected to benefit vegetative communities and aquatic species, including fish, and encourage natural processes and healthy ecosystems. Anglers and community members are also expected to benefit from improved aesthetics and additional locations for fishing.

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?	☐	☒

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

Agency	Type of Authorization (permit, license, stipulation, other)	Purpose
Department of Environmental Quality (DEQ)	401 Certification	Water Quality Certification
Gallatin Conservation District	310 Permit	Permit to work within the stream, wetland, floodplain
U.S. Army Corps of Engineers	Nationwide Permit 27	Aquatic Habitat Restoration in waters of the US
DEQ and FWP	318 Authorization	Short term water quality standard for turbidity

V. List of Mitigations, Stipulations

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

Table 3: Listing and Evaluation of Enforceable Mitigations Limiting Impacts

Are enforceable controls limiting potential impacts of the proposed action? If not, no further evaluation is needed.			**Yes ☐**	**No ☒**
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 ☐**	**No ☒**
Enforceable Control	**Responsible Agency**	**Authority (Rule, Permit, Stipulation, Other)**	**Effect of Enforceable Control on Proposed Project**	
None				

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.

	Yes*	No
Were any additional alternatives considered and dismissed?	☐	☒

* 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.

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

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

Table 4 - Potential Impacts of Alternative 2: Proposed Project on the Physical Environment

PHYSICAL ENVIRONMENT	Duration of Impact			Severity of Impact					
Resource	None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
Terrestrial, avian, and aquatic life and habitats	☐	☐	☒	☐	☐	☐	☒	☐	No significant adverse impacts to terrestrial, avian, and aquatic life and habitats would be expected because of the proposed project. This project would change the drainage ditch to a stream channel and revegetate the stream banks and riparian area, which is expected to provide additional shade, instream habitat, and minimize erosion. Creation of instream habitat and riparian revegetation is expected to have long term improvements to fish habitats as well as terrestrial habitats. This project is intended to improve ecological health and function. Impacts would be long-term, moderate, and beneficial.
Water quality, quantity, and distribution	☐	☒	☒	☐	☐	☒	☐	☐	No significant adverse impacts to water quality, quantity, and distribution would be expected because of the proposed project. No changes in streamflow would occur as a result of the proposed project. Short term, work would be completed in the ditch and along its banks, which may affect turbidity. Operation of equipment in the stream channel will be minimized to the extent practicable. A 318 Authorization has been obtained to meet short-term water quality standards. Long term, the project is expected to maintain minimal sediment inputs through improved riparian vegetation and water quality through reduced sediment inputs. Impacts would be short-term minor and adverse and long-term beneficial.
Geology	☒	☐	☐	☒	☐	☐	☐	☐	The proposed project would not affect any geologic features in the project area; therefore, no impacts to geology would be expected because of the proposed project.
Soil quality, stability, and moisture	☐	☐	☒	☐	☐	☒	☐	☐	No significant adverse impacts to soil quality, stability, and moisture would be expected because of the proposed project. This project is expected to have a minor

									improvement to soil stability and minimized erosion by establishing gently sloped banks and a riparian area. The bank treatments and riparian plantings are intended to encourage root growth and hold soil together. As a result of this project, more soil would be contained within the streambanks and would not erode into the channel. Impacts would be long-term and beneficial.
Vegetation cover, quantity, and quality	☐	☐	☒	☐	☐	☐	☒	☐	No significant adverse impacts to vegetation cover, quantity, and quality would be expected because of the proposed project. This project would have a moderate improvement on vegetation cover, quantity, and quality by revegetation of the stream banks and riparian area. Vegetative communities will be actively created through planting and native seeding, and riparian fencing. Natural recruitment will be encouraged. Increased overhead and in-stream vegetative cover should provide additional habitat for aquatic species. This project will encourage a functional and diverse stream and riparian corridor. Impacts would be long-term, moderate, and beneficial.
Aesthetics	☐	☐	☒	☐	☐	☒	☐	☐	No significant adverse impacts to the aesthetic nature of the affected area would be expected because of the proposed project. The drainage ditch will be transformed to a stream channel with a more natural form, more riparian vegetation, and fish habitat. Additional angling and wildlife viewing locations will be created, making the park more visually appealing. Impacts would be minor and beneficial.
Air quality	☐	☒	☐	☐	☒	☐	☐	☐	No significant impacts to air quality in the affected area would be expected because of the proposed project. The contractors employed for the project would follow best management practices for working near streams, mitigating any potential impacts. Fugitive dust and vehicle exhaust emissions resulting from the movement of heavy equipment and materials during construction of the proposed project may directly impact air quality in the area. Any impacts would be short-term and negligible.

Unique, endangered, fragile, or limited environmental resources	☐	☐	☒	☐	☐	☒	☐	☐	No significant, adverse effects are expected for any unique, endangered, fragile, or limited environmental resources in the affected area. Observations of nearby Species of Concern were assessed, and species in the area could include Veery, Suckley Cuckoo Bumble Bee, Evening Grosbeak, Bobolink, Hoary Bat, Bald Eagle, Little Brown Myotis, Long-billed Curlew, Pileated Woodpecker, Green-tailed Towhee, Cassin's Finch, Clark's Nutcracker, American Bittern, Brown Creeper, Pacific Wren, Brewer's Sparrow, Varied Thrush, and Bat Roost (Non-Cave). This project would create additional riparian area and vegetation that is considered beneficial habitat for birds and bats. Therefore, any impacts would be considered long-term, minor, and beneficial.
Historical and archaeological sites	☒	☐	☐	☒	☐	☐	☐	☐	Prior to implementation, FWP will perform a cultural resource inventory. If cultural resources warranted for protection are discovered, FWP would apply protections to avoid disturbing these sites. If cultural artifacts were to be discovered during implementation of the project, FWP would cease activities.
Demands on environmental resources of land, water, air, and energy	☐	☒	☐	☐	☒	☐	☐	☐	Fuel would be required to operate heavy machinery and vehicles used for the proposed project. No other demands on the environmental resources of land, water, air, and energy would be expected because of the proposed project. Therefore, any impacts to demands on environmental resources of land, water, air, and energy in the affected area would be short-term and negligible.

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

HUMAN POPULATION	Duration of Impact			Severity of Impact					
Resource	None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
Social structures and mores	☒	☐	☐	☒	☐	☐	☐	☐	No significant impacts to social structures and mores in the affected area would be expected because of the proposed project. The proposed project constitutes stream and vegetation restoration activities within an existing park. The proposed project would not impact current land use; therefore, the proposed project would not impact any pre-project social structures, customs, values, or conventions in the affected area.
Cultural uniqueness and diversity	☐	☐	☒	☐	☐	☒	☐	☐	No significant impacts to cultural uniqueness and diversity in the affected area would be expected because of the proposed project. The proposed project constitutes stream and vegetation restoration activities within an existing park/green space. Parks and green spaces and the wildlife and habitats they support are culturally important to most Montana residents as well as visitors to the area. When completed, the proposed project would restore the natural features of the affected stream and associated vegetation thereby improving habitat within the affected area. Any impacts to cultural uniqueness and diversity in the affected area would be long-term, minor, and beneficial.
Access to and quality of recreational and wilderness activities	☐	☒	☒	☐	☐	☒	☐	☐	No significant adverse impacts to access or the quality of recreational and wilderness activities would be expected because of the proposed project. Restoration activities could impact the quality of the recreational experience for some individuals. However, once the construction phase of the proposed project is completed no additional impacts would occur. This project takes place in an existing park. By converting a drainage ditch to a stream channel, the project will increase the quality of park recreational areas. Any impact to access and the quality of

									recreational and wilderness activities in the affected area would be short-term adverse and minor, and long-term beneficial and minor.
Local and state tax base and tax revenues	☐	☒	☐	☐	☒	☐	☐	☐	No significant adverse impacts to the local and state tax base and tax revenue would be expected because of the proposed project. The proposed project constitutes stream and vegetation restoration activities within an existing park and, when completed, would not result in changes to local or state taxes. The proposed project would be expected to increase state and local tax revenues from the sale of fuel, supplies and/or equipment to complete the project. Any impacts to the local and state tax base and tax revenue would be short-term and negligible, lasting only as long as the proposed project.
Agricultural or Industrial production	☒	☐	☐	☒	☐	☐	☐	☐	No significant impacts to agricultural or industrial production in the affected area would be expected because of the proposed project. The proposed project constitutes stream and vegetation restoration activities within an existing park. Because the affected area is not currently used for agricultural and/or industrial production, the proposed project would not impact such practices. Therefore, no impacts to agricultural or industrial production would be expected because of the proposed project.
Human health and safety	☐	☐	☒	☐	☐	☒	☐	☐	No significant impacts to human health and safety would be expected because of the proposed project. This project is expected to have a long-term, minor impact to human safety as the banks of the drainage ditch will become more gently sloped when the stream channel is created, thus mitigating risk of injury for future park visitors and anglers.
Quantity and distribution of employment	☐	☒	☐	☐	☒	☐	☐	☐	No significant adverse impacts to the quantity and distribution of employment in the affected area would be expected because of the proposed project. The proposed project constitutes stream and vegetation restoration activities within an existing park and, when completed,

									would not impact the quantity and distribution of employment in the affected area. Short-term and minor impacts to the local quantity and distribution of employment may be realized because of the need for contracted services to complete restoration activities. Any impacts to the quantity and distribution of employment in the affected area would be short-term and negligible.
Distribution and density of population and housing	☒	☐	☐	☒	☐	☐	☐	☐	No significant impacts to the distribution and density of population or housing in the affected area would be expected because of the proposed project. The proposed project constitutes stream and vegetation restoration activities within an existing park and would not impact the distribution and density of population or housing in the affected area.
Demands for government services	☒	☐	☐	☒	☐	☐	☐	☐	No significant adverse impacts to the demands for government services in the affected area would be expected because of the proposed project. The proposed project constitutes stream and vegetation restoration activities within an existing park and would not impact demands for government services.
Industrial, agricultural, and commercial activity	☒	☐	☐	☒	☐	☐	☐	☐	No significant adverse impacts to the demands for industrial, agricultural, or commercial activity in the affected area would be expected because of the proposed project. The proposed project constitutes stream and vegetation restoration activities within an existing park. Because the affected area is not currently used for industrial, agricultural and/or commercial activities, the proposed project would not impact such practices. Therefore, no impacts to industrial, agricultural, or commercial activity would be expected because of the proposed project.
Locally adopted environmental plans and goals	☐	☐	☒	☐	☐	☒	☐	☐	No significant adverse impacts to locally adopted environmental plans and goals would be expected because of the proposed project. The town of Bozeman and many municipalities throughout Montana recognize

									the importance of green space within their community for the enjoyment of its residents, maintenance of wildlife, and native vegetation. The primary objective of the proposed project is to improve the existing green space through stream and vegetation restoration activities; therefore, the proposed project would result in long-term, minor, and beneficial impacts to the existing green space. FWP is unaware of any other locally adopted environmental plans and goals in the proposed project area.
Other appropriate social and economic circumstances	☒	☐	☐	☒	☐	☐	☐	☐	FWP is unaware of any other appropriate social and economic circumstances that may be impacted by the proposed project.

Table 6: 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	The **severity, duration, geographic extent,** and **frequency** of the occurrence of the impact **"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. **"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).
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 7: Private Property Assessment (Takings)

		Yes	No
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		☐	☒
Does the proposed regulatory action restrict the use of the regulated person's private property? If not, no further analysis is required.		☐	☒
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		☐	☒
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:		☐	☒
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	☐	☒
Does the action result in either a permanent or an indefinite physical occupation of private property?	2	☐	☒
Does the action deprive the owner of all economically viable uses of the property?	3	☐	☒
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	☐	☒
Is there a reasonable, specific connection between the government requirement and legitimate state interest?	4a	☐	☐
Is the government requirement roughly proportional to the impact of the proposed use of the property?	4b	☐	☐

Does the action deny a fundamental attribute of ownership?	5	☐	☒
Does the action have a severe impact of the value of the property?	6	☐	☒
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	☐	☒
Is the impact of government action direct, peculiar, and significant?	7a	☐	☐
Has the government action resulted in the property becoming practically inaccessible, waterlogged, or flooded?	7b	☐	☐
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	☐	☐
Does the proposed action result in taking or damaging implications?		☐	☒
Taking or damaging implications exist if **YES** is checked in response to Question 1 and also to any one or more of the following questions: 2, 3, 4, 6, 7a, 7b, 7c; or if **NO** is checked in response to question 4a or 4b.			
If taking or damaging implications exist, the agency must comply with MCA § 2-10-105 of the PPAA, to include the preparation of a taking or damaging impact assessment. Normally, the preparation of an impact assessment will require consultation with agency legal staff.			
Alternatives: The analysis under the Private Property Assessment Act, §§ 2-10-101 through -112, MCA, indicates no impact. FWP does not plan to impose conditions that would restrict the regulated person's use of private property to constitute a taking.			

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
TBD	TBD

- 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: February 27, 2023
Public Comment Period Ends: March 14, 2023

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

- **Where to Mail or Email Comments on the Draft EA:**
  Name: MICHELLE MCGREE
  Email: mmcgree@mt.gov

  Mailing Address:
  Fisheries Division
  1420 E Sixth Ave
  P.O. Box 200701
  Helena, MT 59620

X. Recommendation for Further Environmental Analysis

NO further analysis is needed for the proposed action	☒
FWP must conduct **EIS** level review for the proposed action	☐

XI. EA Preparation and Review

	Name	**Title**
EA prepared by:	Michelle McGree	Future Fisheries Coordinator
EA reviewed by:	Eric Merchant	MEPA Coordinator