



**DRAFT**

**ENVIRONMENTAL ASSESSMENT**

**CHECKLIST**

**Sportsman's Bridge FAS land transfer to MDT and permanent easement for the new FAS access road off Hanging Rock Drive as part of MDT HWY 82 Bridge Replacement project (PR#: BR 82-1(5)5).**

**March 24, 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

This section includes a short description of the proposed project including the project sponsor/ applicant/ responsible party, the type of proposed action and the anticipated schedule of the proposed project.

**Name of Project:** Sportsman's Bridge Land Transfer and Easement

**Description of Proposed Project:** In 2009, the Montana Department of Transportation (MDT) began a robust planning process and detailed analysis for the replacement of the Sportsman's Bridge, located over the Flathead River on Highway 82 between Bigfork and Kalispell. MDT's analysis of the project is contained in the MDT Environmental Services Bureau Categorical Exclusion Documentation (Control Number 6850000) and in a letter dated March 28, 2019, from MDT to Montana Fish, Wildlife & Parks (FWP) that details the history of the project and agreed upon mitigation measures. (See accompanying documents).

Sportsman's Bridge Fishing Access Site (FAS) has been accessed by the public since 1959 and the MDT replacement project is not expected to change the historic use of the FAS. However, because the replacement of Sportsman's Bridge encroaches on the existing FAS footprint, modification of the existing FAS would be required. While the proposed changes to the site occur in roughly the same developed footprint it would be necessary to add several new parking spaces, replace the existing boat ramp, and pave the new entrance road and parking area. The proposed changes would maintain the same amenities including the vault toilet. The new entrance road would be accessed from Hanging Rock Road instead of the much busier existing access from HWY 82. This modification of the FAS would provide long-term safety benefits to the public, as the existing Sportsman's Bridge constitutes a safety hazard due to narrow lanes, lack of shoulders and turn lanes, and increasing traffic volumes in the area affected by the project.

The specific intent of the proposed action, and the subject of this Draft EA, is 1) the transfer of approximately 1.5 acres of FWP land (either in fee or easement) to MDT to accommodate bridge replacement and 2) MDT securing a permanent and approximate 3.32-acre easement from the Hanging Rock Homeowner's Association (HOA) and transferring the easement to FWP. The easement would be required to accommodate the new and safer FAS access road under MDT project number BR 82-1(5)5. The land transfer from FWP to MDT is located along the north side of the Sportsman's Bridge FAS. Sportsman's Bridge FAS was purchased and maintained in part with federal Land and Water Conservation Funds (LWCF) as well as Dingell-Johnson funds (DJ), which require mitigation per the United States Fish and Wildlife Service (USFWS) before any transfer of ownership can occur. The LWCF encumbrance on the FAS was mitigated in the early 2000's; however, the DJ encumbrances still exist. FWP is in discussions with the USFWS on the land-disposal process. Final transfer of ownership to MDT and the easement is contingent upon USFWS approval.

### Affected Area / Location of Proposed Project

- Legal Description
  - Latitude/Longitude: 48.09231, -114.11268
  - Section, Township, and Range: Section 23, Township 27 North, Range 20 West
  - Town/City, County, Montana: Bigfork, Flathead County, MONTANA
- Location Map

Figure 1. Project Location

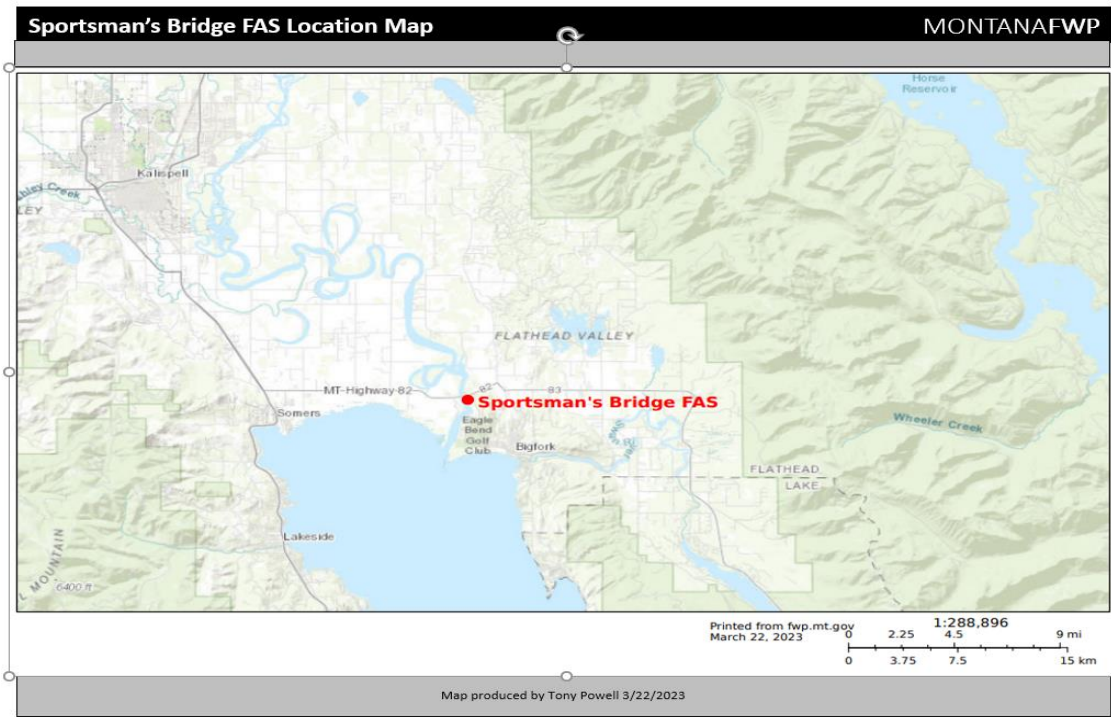
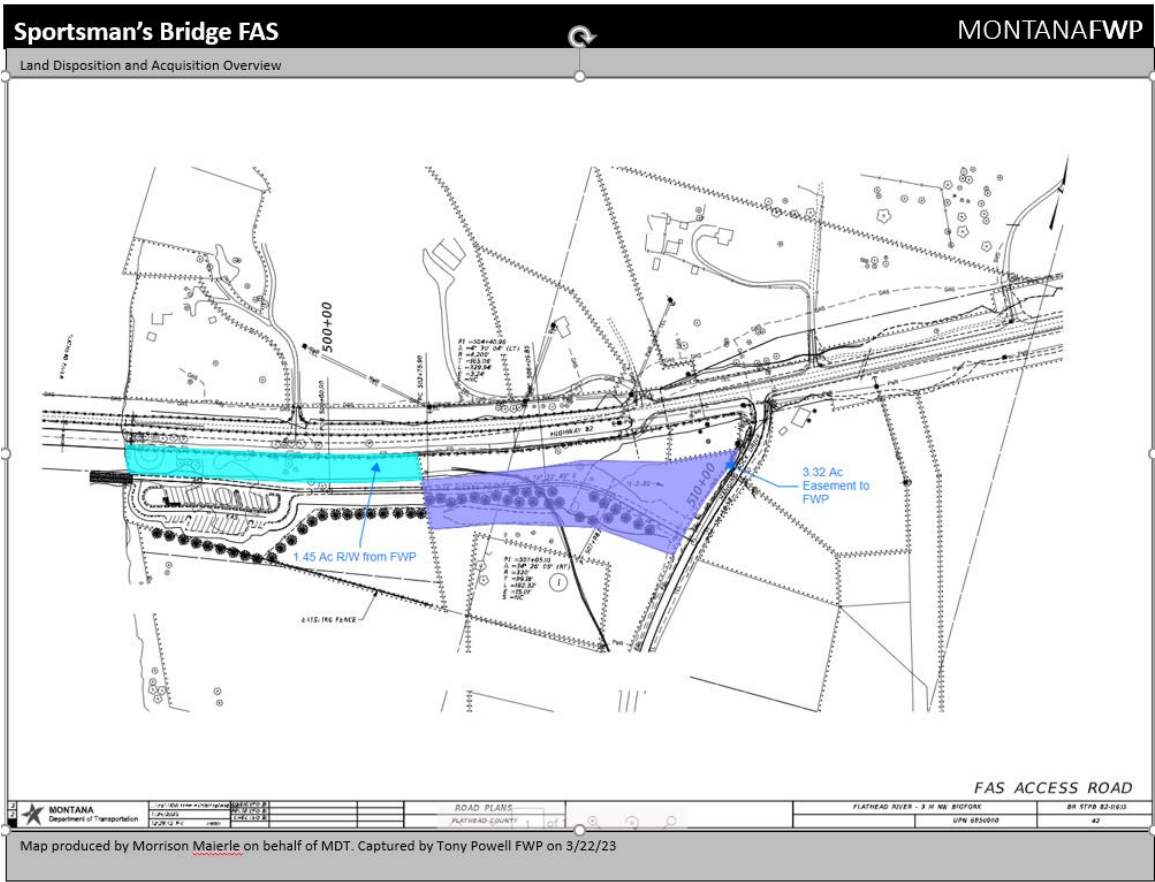


Figure 2. Project Layout



### 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: MDT's bridge replacement project number BR 82-1(5)5 requires approximately 1.5 acres of FWP lands at the existing Sportsman's Bridge FAS to be transferred to MDT (either in fee or easement) and MDT must acquire permanent easement for FWP on approximately 3.32 acres owned by the Hanging Rock HOA. The easement is necessary to complete MDT's bridge replacement project and would accommodate a new and safer access road into Sportsman's Bridge FAS off Hanging Rock Drive. Failing to complete the proposed action would result in the project not being completed at this time and the potential loss of significant federal funds necessary for MDT to complete the larger bridge replacement project.

There is overwhelming community support for the bridge replacement project as it increases safety for highway users and FAS users, upgrades the facilities at the FAS within the same general developed footprint, and minimizes impacts to the natural resources and the affected public. Final transfer of land (either in fee or easement) to MDT is contingent upon USFWS approval because of the DJ encumbrances that exist on the land.

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"/>	x

\* 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
USFWS	other	Authorization to dispose or transfer federally encumbered lands necessary for the project

## V. List of Mitigations, Stipulations

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

**Table 3: Listing and Evaluation of Enforceable Mitigations Limiting Impacts**

<i>Are enforceable controls limiting potential impacts of the proposed action? If not, no further evaluation is needed.</i>			Yes <input type="checkbox"/>	No <input checked="" 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 type="checkbox"/>	No <input checked="" type="checkbox"/>
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. The “no-action” alternative forms the baseline from which the potential impacts of the proposed Project can be measured.

FWP would not transfer the lands needed by MDT to complete the bridge replacement project (Project Number: BR 82-1(5)5) and the Hanging Rock HOA would not grant the necessary easement to FWP. The existing Sportsman’s Bridge and FAS would remain, as is, and continue to be a safety hazard due to narrow lanes, lack of shoulders and turn lanes, and increasing traffic volumes.

	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 4: 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 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 this resource category would occur as a result of the proposed action. Environmental review has already occurred for the overall bridge replacement project and no significant impacts were identified for any of the resources analyzed through prior environmental review, including all physical changes accommodated by the proposed action. The prior environmental review is housed in MDT's Categorical Exclusion Document (Control Number 6850000).
Water quality, quantity, and distribution	<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 this resource category would occur as a result of the proposed action. Environmental review has already occurred for the overall bridge replacement project and no significant adverse impacts were identified for any of the resources analyzed through prior environmental review, including all physical changes accommodated by the proposed action. The prior environmental review is housed in MDT's Categorical Exclusion Document (Control Number 6850000).
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 this resource category would occur as a result of the proposed action. Environmental review has already occurred for the overall bridge replacement project and no significant impacts were identified for any of the resources analyzed through prior environmental review, including all physical changes accommodated by the proposed action. The prior environmental review is housed in MDT's Categorical Exclusion Document (Control Number 6850000).
Soil quality, stability, and moisture	<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 this resource category would occur as a result of the proposed action. Environmental review has already occurred for the overall bridge replacement project and no significant impacts

									were identified for any of the resources analyzed through prior environmental review, including all physical changes accommodated by the proposed action. The prior environmental review is housed in MDT's Categorical Exclusion Document (Control Number 6850000).
Vegetation cover, quantity, and quality	<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 this resource category would occur as a result of the proposed action. Environmental review has already occurred for the overall bridge replacement project and no significant impacts were identified for any of the resources analyzed through prior environmental review, including all physical changes accommodated by the proposed action. The prior environmental review is housed in MDT's Categorical Exclusion Document (Control Number 6850000).
Aesthetics	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to this resource category would occur as a result of the proposed action. Environmental review has already occurred for the overall bridge replacement project and no significant impacts were identified for any of the resources analyzed through prior environmental review, including all physical changes accommodated by the proposed action. The prior environmental review is housed in MDT's Categorical Exclusion Document (Control Number 6850000).
Air quality	<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 this resource category would occur as a result of the proposed action. Environmental review has already occurred for the overall bridge replacement project and no significant impacts were identified for any of the resources analyzed through prior environmental review, including all physical changes accommodated by the proposed action. The prior environmental review is housed in MDT's Categorical Exclusion Document (Control Number 6850000).
Unique, endangered, fragile, or limited environmental resources	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to this resource category would occur as a result of the proposed action. Environmental review has already occurred for the overall bridge replacement project and no significant impacts

									were identified for any of the resources analyzed through prior environmental review, including all physical changes accommodated by the proposed action. The prior environmental review is housed in MDT's Categorical Exclusion Document (Control Number 6850000).
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 this resource category would occur as a result of the proposed action. Environmental review has already occurred for the overall bridge replacement project and no significant impacts were identified for any of the resources analyzed through prior environmental review, including all physical changes accommodated by the proposed action. The prior environmental review is housed in MDT's Categorical Exclusion Document (Control Number 6850000).
Demands on environmental resources of land, water, air, and energy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to this resource category would occur as a result of the proposed action. Environmental review has already occurred for the overall bridge replacement project and no significant impacts were identified for any of the resources analyzed through prior environmental review, including all physical changes accommodated by the proposed action. The prior environmental review is housed in MDT's Categorical Exclusion Document (Control Number 6850000).

**Table 5: 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 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 this resource category would occur as a result of the proposed action.

									Environmental review has already occurred for the overall bridge replacement project and no significant impacts were identified for any of the resources analyzed through prior environmental review, including all physical changes accommodated by the proposed action. The prior environmental review is housed in MDT's Categorical Exclusion Document (Control Number 6850000).
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 this resource category would occur as a result of the proposed action. Environmental review has already occurred for the overall bridge replacement project and no significant impacts were identified for any of the resources analyzed through prior environmental review, including all physical changes accommodated by the proposed action. The prior environmental review is housed in MDT's Categorical Exclusion Document (Control Number 6850000).
Access to and quality of recreational and wilderness activities	<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 this resource category would occur as a result of the proposed action. Environmental review has already occurred for the overall bridge replacement project and no significant impacts were identified for any of the resources analyzed through prior environmental review, including all physical changes accommodated by the proposed action. The prior environmental review is housed in MDT's Categorical Exclusion Document (Control Number 6850000).
Local and state tax base and tax revenues	<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"/>	A decrease in county property tax revenue could result from the transfer of FWP land to MDT for highway right of way and securing easement through the Hanging Rock HOA under the proposed action. Any impacts would be long-term and minor.
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 this resource category would occur as a result of the proposed action. Environmental review has already occurred for the overall bridge replacement project and no significant impacts were identified for any of the resources analyzed through prior environmental review, including all physical changes

									accommodated by the proposed action. The prior environmental review is housed in MDT's Categorical Exclusion Document (Control Number 6850000).
Human health and safety	<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"/>	<p>No significant adverse impacts to this resource category would occur as a result of the proposed action. Environmental review has already occurred for the overall bridge replacement project and no significant impacts were identified for any of the resources analyzed through prior environmental review, including all physical changes accommodated by the proposed action. The prior environmental review is housed in MDT's Categorical Exclusion Document (Control Number 6850000). Beneficial impacts to human health and safety would be expected because of the proposed project. The proposed project would accommodate the transfer of lands to MDT and securing easement for the new FAS entrance off Hanging Rock Road. The current entrance is directly off HWY 82 which is narrow, has short site distances and lacks turn lanes. There will be turn lanes off/on HWY 82 and the entrance to the FAS will be on a much less traveled county road with greater site distances and slower speeds.</p>
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"/>	<p>No significant adverse impacts to this resource category would occur as a result of the proposed action. Environmental review has already occurred for the overall bridge replacement project and no significant impacts were identified for any of the resources analyzed through prior environmental review, including all physical changes accommodated by the proposed action. The prior environmental review is housed in MDT's Categorical Exclusion Document (Control Number 6850000).</p>
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"/>	<p>No significant adverse impacts to this resource category would occur as a result of the proposed action. Environmental review has already occurred for the overall bridge replacement project and no significant impacts were identified for any of the resources analyzed through prior environmental review, including all physical changes accommodated by the proposed action. The prior</p>

									environmental review is housed in MDT's Categorical Exclusion Document (Control Number 6850000).
Demands for government services	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to this resource category would occur as a result of the proposed action. Environmental review has already occurred for the overall bridge replacement project and no significant impacts were identified for any of the resources analyzed through prior environmental review, including all physical changes accommodated by the proposed action. The prior environmental review is housed in MDT's Categorical Exclusion Document (Control Number 6850000).
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 this resource category would occur as a result of the proposed action. Environmental review has already occurred for the overall bridge replacement project and no significant impacts were identified for any of the resources analyzed through prior environmental review, including all physical changes accommodated by the proposed action. The prior environmental review is housed in MDT's Categorical Exclusion Document (Control Number 6850000).
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 this resource category would occur as a result of the proposed action. Environmental review has already occurred for the overall bridge replacement project and no significant impacts were identified for any of the resources analyzed through prior environmental review, including all physical changes accommodated by the proposed action. The prior environmental review is housed in MDT's Categorical Exclusion Document (Control Number 6850000).
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 this resource category would occur as a result of the proposed action. Environmental review has already occurred for the overall bridge replacement project and no significant impacts were identified for any of the resources analyzed through prior environmental review, including all physical changes accommodated by the proposed action. The prior

									environmental review is housed in MDT's Categorical Exclusion Document (Control Number 6850000).
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**Table 6: Determining the Significance of Impacts on the Quality of the Human Environment**

<p>If the EA identifies impacts associated with the proposed project FWP must determine the significance of the impacts. ARM 12.2.431. This determination forms the basis for FWP's decision as to whether it is necessary to prepare an environmental impact statement.</p> <p>According to the applicable requirements of ARM 12.2.431, FWP must consider the criteria identified in this table to determine the significance of each impact on the quality of the human environment. The significance determination is made by giving weight to these criteria in their totality. For example, impacts identified as moderate or major in severity may not be significant if the duration is short-term. However, moderate or major impacts of short-term duration may be significant if the quantity and quality of the resource is limited and/or the resource is unique or fragile. Further, moderate or major impacts to a resource may not be significant if the quantity of that resource is high or the quality of the resource is not unique or fragile.</p>	
Criteria Used to Determine Significance	
1	<p>The <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 7: 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"/>	
<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 checked="" type="checkbox"/>	<input type="checkbox"/>
Is there a reasonable, specific connection between the government requirement and legitimate state interest?	4a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Is the government requirement roughly proportional to the impact of the proposed use of the property?	4b	<input checked="" 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 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.			
<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: <https://fwp.mt.gov/news/public-notices>.
  - **Duration of Public Comment Period:** The public comment period begins on the date of publication of legal notice on the website above. 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:** March 24, 2023

**Public Comment Period Ends:** April 8, 2023

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

Tony Powell

490 N Meridian Rd.

Kalispell, MT 59901

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

## 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

	<b>Name</b>	<b>Title</b>
<b>EA prepared by:</b>	Lee Anderson	Region One Supervisor
<b>EA reviewed by:</b>	Eric Merchant	MEPA Coordinator, FWP

# Attachment A

## Supplemental Information

April 21, 2020 Montana Department of Transportation Environmental Services Bureau Categorical Exclusion (CD) Documentation

October 26, 2022 USFWS Biological Opinion for The Flathead River—3 M NW Bigfork (BR 82-1(5)5; UPN 6850000) Project Number: 2022-0089301-S7

October 2022 Least Damaging Practicable Alternative Analysis. Project Name: Flathead River—3 M NW Bigfork Project Number BR 82-1(5)5; UPN 6850000. Us Army Corps File Number: NWO-2011-00403-MT

March 28, 2019 MDT letter to FWP about Impacts to Sportsman’s Bridge FAS and mitigation for the Flathead River-3M NW Bigfork Project

MDT Responses to comments Sportsmans Bridge CWA404 Application Comments

(See link to Attachment A under the subject Draft Environmental Assessment on the Montana Fish, Wildlife & Parks News and Public Notice webpage at <https://fwp.mt.gov/news/public-notices>)