

DRAFT

ENVIRONMENTAL ASSESSMENT

CHECKLIST

(FWP-CEA-POR-R4-24-013)

**Morony Pond Wildlife Habitat Improvement
Project**

04/25/2024



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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: Morony Pond Wildlife Habitat Improvement Project

Montana Fish Wildlife & Parks (FWP), in coordination with NorthWestern Energy, proposes the implementation of a wildlife habitat improvement project on State owned property that is managed as part of Giant Springs State Park, located on the North Shore of Morony Reservoir northeast of Great Falls. The project area would be roughly .15 acres, comprised of Northwestern Glaciated Plains, and contains a 60' X 60' pond with a small stream flowing approximately 600 feet into the Missouri River. The landscape is predominately sagebrush steppe, prairie grasslands, Russian olive trees, and native shrubs.

The proposed project would include:

- Hand planting approximately 25 trees along the seep periphery of the pond. Trees would consist of roughly 20 mixed cottonwood trees (of the Black, Daniels, and Plains varieties) as well as 5 Ponderosa pine trees. Seedlings would be approximately 2-3 feet in height. The ponderosa pine trees would provide habitat for other bird species such as great horned owl and bats.
- Installing a 6-foot-tall mesh fence around each tree with steel T posts to hold in place. The fencing would protect the trees from deer browsing. Fencing would remain in place for 3-5 years or until trees reach a size that ensures deer browsing will not jeopardize tree health.
- Removing the wooden outlet structure in the pond and replacing with natural materials. The pond outlet had been enhanced with plywood to increase the head at the outlet, this material would be removed and replaced with stacked rocks to provide a more natural, fortified outlet structure. A small skid-steer will be utilized to transport 5-10 rocks, roughly 3-4 cubic feet in size, to the site where they would be placed into position by hand.

As part of NorthWestern Energy's license to operate their Missouri River hydro power projects, the company is required by the Federal Energy Regulatory Commission to mitigate associated impacts by enhancing native plants and wildlife populations and their habitats on the lands and waters associated with these projects. NorthWestern Energy does this via their Missouri-Madison Technical Advisory Committees. The focus of this proposed project is to increase riparian vegetation and bird habitat. The natural development cycle of cottonwood trees along the Missouri River in Central Montana has been disrupted by the main stem dams that buffer high river flows that traditionally would distribute cottonwood seeds. When cottonwood seedlings develop along the riverbank; they are generally sheared off by ice within a few years. Deer and cattle also impact new seedlings. The loss of mature trees (40 ft height) is mostly attributed to girdling or toppling by beavers, cut banks sloughing trees into the river and fire. Some of the stable cottonwood forests are located on river benches set back from the river where beavers, bank sloughing and ice shear are nonfactors. The Morony Pond site is a good candidate to develop a mixed tree cottonwood forest for bird habitat because it is relatively close to the Missouri River but is not vulnerable to ice shear and beavers impacting trees, as the

project area lies on a bench approximately 103 feet above the reservoir. The natural sub irrigation would provide a high probability of success for the proposed tree planting.

As part of this project, NorthWestern Energy will contract with the University of Montana Bird Ecology lab for biennially bird surveys at the site to measure changes in species and abundance.

Implementation of the proposed project would occur during the early spring of 2024. This would allow time for the trees to establish, prior to the peak summer heat.

Affected Area / Location of Proposed Project:

- Legal Description
 - LATITUDE 47.579998/ LONGITUDE -111.070178
 - SECTION S15, TOWNSHIP T21N, AND RANGE R05 E
 - Great Falls, MT. Cascade County
- Location Map

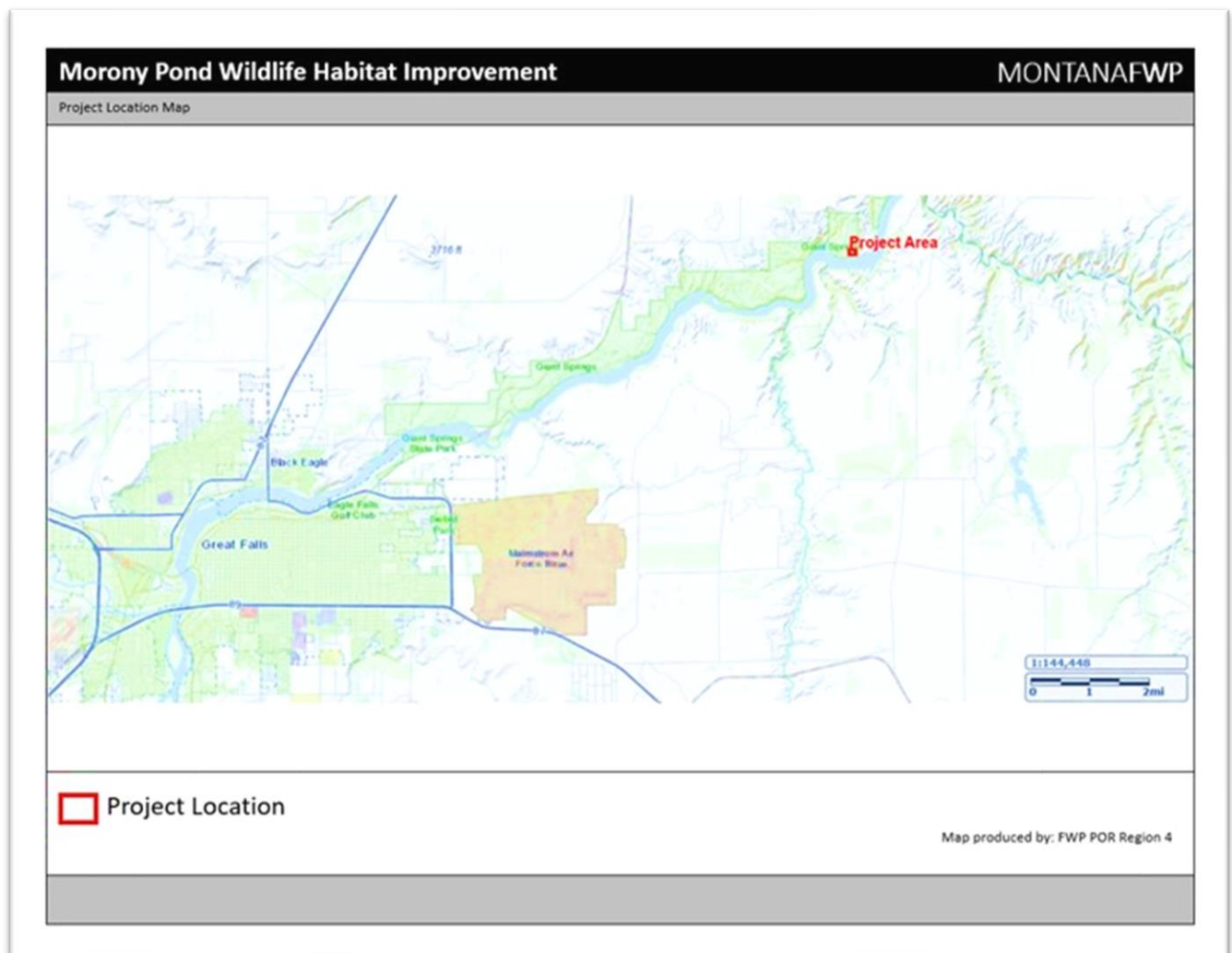


Figure 1 (above): Location of Habitat Improvement Project



Figure 2 (above): Morony Pond, South View



Figure 3 (above): Morony Pond outlet, North View

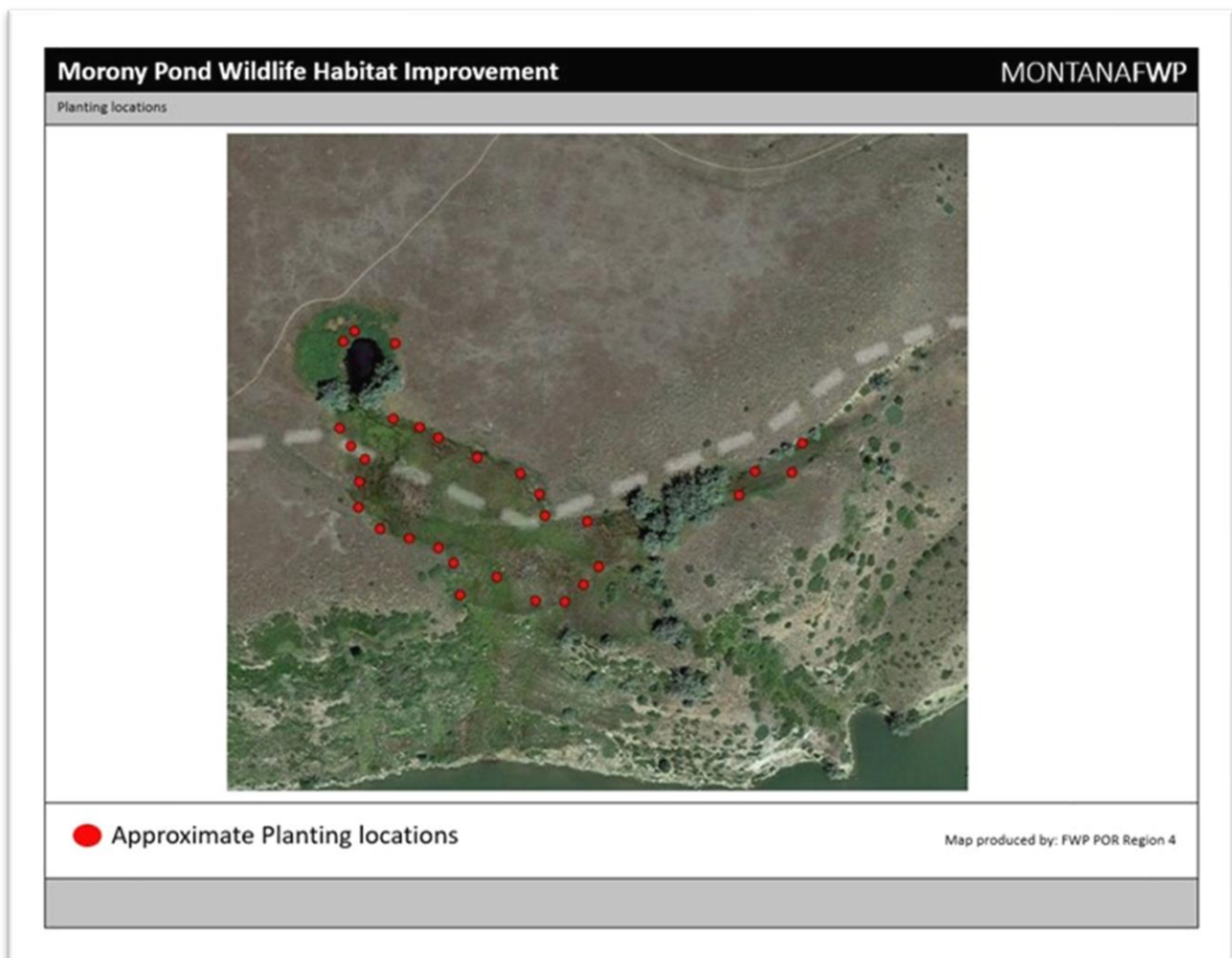


Figure 4 (above): Approximate location of tree planting at Morony Pond

III. Purpose and Need

The EA must include a description of the purpose and need or benefits of the proposed project. ARM 12.2.432(3)(b). Benefits of the proposed project refer to benefits to the resource, public, department, state, and/or other.

The proposed project would consist of planting approximately 25 trees and improving the pond outflow structure. Project success would be measured by the growth of the trees and changes in bird species and abundance of birds at the site.

The Proposed project would provide the following benefits:

- Address the issue of decreasing cottonwood tree populations along the Missouri River by developing a large stand of viable cottonwood and ponderosa pine trees.
- Provide new wildlife habitat, particularly for riparian birds.
- Improve soil stability in the proposed project area.
- Replace a rotting pond outlet structure with natural materials.
- Provide new recreational opportunities for the public including birdwatching and shade for trail users.

Implementation of the proposed project would occur during the spring of 2024. This would allow time for the trees to establish, prior to the peak summer heat.

This EA includes assessment of impacts to issue a Stream Protection Act (SPA) 124 permit to FWP for disturbance to the streambed and banks associated with the replacement of the rotting pond outlet structure with natural materials.

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 requirements but does not necessarily represent a complete and comprehensive list of all permits, certificates, or approvals needed for the proposed project. Agency decision-making is governed by state and federal laws, including statutes, rules, and regulations, that form the legal basis for the conditions the proposed project must meet to obtain necessary permits, certificates, licenses, or other approvals. Further, these laws set forth the conditions under which each agency could deny the necessary approvals.*

Table 1: Federal, State, and/or Local Regulatory Responsibilities

| Agency | Type of Authorization (permit, license, stipulation, other) | Purpose |
|---|---|---|
| State of Montana- FWP | SPA 124 Permit | Any agency or subdivision of state, county, or city government proposing a project that may affect the beds or banks of any stream in Montana. Many federal agencies also comply either via a memorandum of understanding or general agreement. |
| MT FWP/MT DEQ | 318 Authorization | Any person, agency, or entity, both public and private, initiating construction activity that will cause short term or temporary violations of state surface water quality standards for turbidity. MT FWP may issue the 318 authorization on behalf of DEQ, if it falls within a programmatic EA. |
| MT DEQ | 401 Certification | The federal Clean Water Act requires state certification for any permit or license issued by a federal agency for an activity that may result in a discharge to state waters, including wetlands. |
| US ACOE | Federal Clean Water Act 404 Permit | Any activity that will result in the temporary or permanent discharge or placement of dredged or fill material into waters of the United States, including wetlands. |
| Montana State Historic Preservation Office | Cultural Assessment | By Montana law (22-3-433 MCA), all state agencies are required to consult with the State Historic Preservation Office to identify heritage properties on land owned by the state that may be adversely impacted by a proposed action or development project. Construction of parking areas and other ground disturbing activities would require consultation with the State Historical Preservation Office to ensure adequate protection of such resources. |

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 | |
| Cultural Resource Protection | Montana State Historic Preservation Office/FWP Heritage Program | Cultural assessment and inventory | A cultural resource inventory will be completed prior to any construction of the project. If cultural resources are unexpectedly discovered during project implementation, FWP will cease implementation, and contact FWP's Heritage Program for further evaluation. | |
| SPA 124 Permit - General Requirements (see Appendix 1) | FWP | SPA 124 | SPA 124 Permit, General Conditions, provide best management practices in the form of enforceable controls to limit potential adverse impacts from the proposed project. Fines may be levied for violating these general requirements and/or corrective action may be required to remedy non-compliance. | |

VI. SPA 124 Permit Action

Any applicable Montana stream work that is not otherwise excluded from MEPA review under the applicable requirements of ARM 12.2.454, Actions that Qualify for a Categorical Exclusion, and has the potential to alter the stream channel or bank, requires a project-specific 124 Stream Protection Act Permit or SPA 124 Permit prior to the start of work. The SPA 124 permit is issued by FWP's Fisheries Division and includes both the general conditions described in Attachment 1 and any additional Special Conditions deemed necessary to protect and preserve the affected waterway. Additional conditions deemed necessary to protect and preserve the affected stream from potential impacts associated with the proposed project are listed in Table 3 below.

Table 3: SPA 124 Permit Conditions the Department Will Require to Issue Permit.

| Activity | Special Condition | Description |
|--|--------------------------|---|
| Disturbance of streambed/bank at interface of pond outlet and stream associated with removal of wooden structure and replacement with rocks. | None | Removing the wooden outlet structure in the pond and replacing with natural materials (rocks) to provide a more natural, fortified outlet |

| | | |
|--|--|---|
| | | structure. A small skid-steer will be utilized to transport 5-10 rocks, roughly 3-4 cubic feet in size, to the site where they would be placed into position by hand. |
| | | |
| | | |
| | | |
| | | |

VII. 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, 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? | <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

VIII. 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.

If the “No Action” alternative was chosen, the proposed project would not be implemented and the benefits including increased cottonwood tree numbers and improving wildlife habitat would not be realized. Thus, no impacts to the physical environment or human population in the analysis area would occur in association with the project.

- **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 Proposed Project on the Physical Environment

| PHYSICAL ENVIRONMENT | Duration of Impact | | | Severity of Impact | | | | | Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures |
|---|--------------------------|-------------------------------------|-------------------------------------|--------------------------|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--|
| | None | Short-Term | Long-Term | None | Negligible | Minor | Moderate | Major | |
| Terrestrial, avian, and aquatic life and habitats | <input type="checkbox"/> | <input 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 because of the proposed project. The proposed project constitutes tree planting and pond outflow improvements and is intended to increase numbers of cottonwood trees and improve wildlife habitat. There may be short-term and long-term negligible impacts to aquatic life associated with removal of the wooden structure and replacement with rocks. These impacts would be expected to be short-term, adverse, and negligible associated with increased turbidity. Long-term impacts to aquatic life associated with more natural materials would be expected to be beneficial and negligible. Any long-term impacts from the proposed project to terrestrial, avian, and habitats in the affected area would be negligible and beneficial. |
| Water quality, quantity, and distribution | <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 water quality, quantity and distribution would be expected because of the proposed project. The proposed project constitutes tree planting and pond outflow improvements where approximately 25 trees would be planted on the perimeter of the existing pond. Removing the existing plywood outflow structure and replacing with a natural rock structure is not intended to change the quality, quantity or distribution of water but return the site to a more nature appearance and provide a structure that's not prone to rot. Outflow improvement work could result in short-term, adverse, negligible impacts on water quality associated with increased turbidity that would cease upon completion of construction activities. There may be a long-term negligible, beneficial impact on water quality with improved riparian vegetation and riparian shading. |

| PHYSICAL ENVIRONMENT | Duration of Impact | | | Severity of Impact | | | | | Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures |
|---|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--|
| Resource | None | Short-Term | Long-Term | None | Negligible | Minor | Moderate | Major | |
| Geology | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | No significant adverse impacts to geology would be expected because of the proposed project. No unique geologic formations are located within the project area, therefore, no impacts to geology would be expected because of the proposed project. |
| Soil quality, stability, and moisture | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | No significant adverse impacts to soil quality, stability, and moisture would be expected because of the proposed project. The proposed project constitutes tree planting and pond outflow improvements. The proposed project could be expected to result in long-term minor improvement to soil stability and minimize erosion through the development of tree roots. Short-term, minor impacts on soil quality, stability and moisture could occur from the tree planting and outflow improvements during project construction activity. |
| Vegetation cover, quantity, and quality | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | No significant adverse impacts to vegetation cover, quantity and quality would be expected from the proposed project. The proposed project constitutes tree planting and pond outflow improvements. Through planting approximately 25 trees, the proposed project would improve vegetation cover, quantity, and quality within the project area. Therefore, any impacts from the project would be long-term, negligible, and beneficial. |
| Aesthetics | <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 the aesthetic nature of the affected area would be expected because of the proposed project. The proposed project constitutes tree planting and pond outflow improvements. The existing plywood outflow structure would be removed and replaced with natural materials. The tree planting would add aesthetic value to the project area. Therefore, any impacts from the proposed project would be long-term, minor, and beneficial. |

| PHYSICAL ENVIRONMENT | Duration of Impact | | | Severity of Impact | | | | | Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures |
|---|--------------------------|-------------------------------------|-------------------------------------|--------------------------|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--|
| Resource | None | Short-Term | Long-Term | None | Negligible | Minor | Moderate | Major | |
| Air 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"/> | No significant adverse impacts to air quality would be expected from the proposed project. Air quality in the area affected by the proposed project is currently unclassifiable or in compliance with the applicable National and Montana ambient air quality standards (NAAQS/MAAQs). Further, no significant point-sources of air pollution exist in the area affected by the proposed project. Existing sources of air pollution in the area are limited and generally include unpaved county roads (fugitive dust source), vehicle exhaust emissions and various agricultural practices (vehicle exhaust emissions and fugitive dust). A small skid-steer would be utilized (2-3 hours) to transport 5-10 rocks to the site where they would be placed by hand and would create minimal exhaust emissions. Therefore, any impacts from the proposed project to air quality would be short term and negligible during project implementation. In addition to producing clean air, trees also remove pollutants from the air, therefore, long term impacts on air quality are expected to be beneficial and negligible following the completion of the proposed tree planting project. |
| Unique, endangered, fragile, or limited environmental resources | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <p>No significant adverse impacts to unique, endangered, fragile, or limited environmental resources would be anticipated from the proposed project. The Montana Natural Heritage Program (MTNHP) data indicates that the following animal species of concern are present or have been observed within the immediate area of the proposed project.</p> <ul style="list-style-type: none"> Bald Eagle (<i>Haliaeetus leucocephalus</i>) – Global Rank G5, State Rank S4 Greater Short-horned Lizard (<i>Phrynosoma hernandesi</i>) – Global Rank G5, State Rank S3 |

| PHYSICAL ENVIRONMENT | Duration of Impact | | | Severity of Impact | | | | | Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures |
|-------------------------------------|-------------------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--|
| Resource | None | Short-Term | Long-Term | None | Negligible | Minor | Moderate | Major | |
| | | | | | | | | | <ul style="list-style-type: none"> • Spiny Softshell (<i>Apalone spinifera</i>) – Global Rank G5, State Rank S3 • Loggerhead Shrike (<i>Lanius ludovicianus</i>) – Global Rank G4, State Rank S3B • Grizzly Bear (<i>Ursus arctos</i>) – Global Rank G4, State Rank S2S3 <p>MTNHP classifies the land cover of the proposed project location as grassland systems, human land use, sparse and barren systems, wetland, and riparian systems, recently disturbed or modified, shrubland, steppe and savanna systems, and forest and woodland systems. Therefore, there may be short-term negligible adverse impacts associated with disbursement from the site during construction activities and long-term minor beneficial impacts associated with improved riparian vegetation.</p> |
| Historical and archaeological sites | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <p>No significant adverse impacts to historic and archaeological sites would be expected because of the proposed project. In keeping with the Montana Antiquities Act and related regulations (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</p> |

| PHYSICAL ENVIRONMENT | | Duration of Impact | | | Severity of Impact | | | | | Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures |
|--|--|--------------------------|-------------------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|---|
| Resource | | None | Short-Term | Long-Term | None | Negligible | Minor | Moderate | Major | |
| | | | | | | | | | | 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. |
| 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 or demands on environmental resources of land, water, air, and energy would be expected because of the proposed project. The trees would require water to establish and grow. FWP staff would water the seedlings by hand, as needed, until roots are established. A small skid-steer would be utilized (2-3 hours) to transport 5-10 rocks, roughly 3-4 cubic feet in size, to the site where they would be placed by hand into position. This would create some minimal ground disturbance. Therefore, any impacts on the demands on the environmental resources of land, water, air, and energy would be short-term, negligible, and adverse. |

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

| HUMAN POPULATION | | Duration of Impact | | | Severity of Impact | | | | | Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures |
|-----------------------------|--|--------------------------|--------------------------|-------------------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--|
| Resource | | 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 checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | No significant adverse impacts to social structures and mores would be expected from the proposed project. The |

| HUMAN POPULATION | | Duration of Impact | | | Severity of Impact | | | | | Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures |
|---|--|-------------------------------------|--------------------------|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|---|
| Resource | | None | Short-Term | Long-Term | None | Negligible | Minor | Moderate | Major | |
| | | | | | | | | | | proposed project constitutes tree planting for wildlife habitat and pond outflow improvements. The proposed project could slightly change how the area is used as individuals utilizing the adjacent portion of the River's Edge Trail system might be drawn to the pond because of the shade, however the area does not receive significant amounts of use. Therefore, any impacts to social structures and mores from the proposed project would be long-term, and negligible. |
| 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 impacts to cultural uniqueness and diversity would be expected because of the proposed project. The proposed project would constitute tree planting and pond outflow improvements and would not result in any new or changed employment opportunities. Therefore, the proposed project is not expected to result in any relocation of people into or out of the affected area. Therefore, no impacts to 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 type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | No significant adverse impacts to access to and quality of recreational and wilderness activities would be expected because of the proposed project. No wilderness areas currently exist in the proposed project area; therefore, no impact to wilderness recreation activities would occur because of the proposed project. No closure to public lands would be expected because of the proposed project. The proposed project is intended to improve wildlife habitat and therefore could result in improved opportunities for birdwatching. Additionally, once the trees mature, they would provide an opportunity for shade and shelter, which is not abundantly available to users of the Lewis and Clark Heritage Greenway Conservation Easement. Therefore, any impacts to the |

| 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 | |
| | | | | | | | | | access to and quality of recreational and wilderness activities will be long-term, negligible, and beneficial. |
| Local and state tax base and tax revenues | <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 the local and state tax base and tax revenues would be expected because of the proposed project. There could be some impacts to the local and state tax revenues as a potential contractor might spend money in local businesses during the project. Therefore, any impacts to local and state tax base and tax revenues would be short-term, negligible, and beneficial. |
| Agricultural or Industrial production | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | No significant adverse impacts to agricultural or industrial production would be expected because of the proposed project. The proposed project would constitute tree planting and pond outflow improvements to an area where no agricultural or industrial production occurs. Therefore, no impacts to agricultural or industrial production would be expected because of the proposed project. |
| Human health and safety | <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 human health and safety would be expected because of the proposed project. Affected government staff or contractors may realize increased risk to human health and safety; however, FWP would require affected staff and contractors to operate in a safe manner and utilize best management practices, including the use of available and appropriate safety precautions. Therefore, any impacts from the proposed project to human health and safety would be short-term, and negligible. |
| 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 the quality and distribution of employment would be expected because of the proposed project. Short-term and negligible impacts to the local quantity and distribution of employment may be realized because of existing government staff or contractors required to complete the project activities. |

| 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 |
| | | | | | | | | | Any impacts to the quantity and distribution of employment in the affected area would be short-term and negligible, lasting only as long as the proposed project. |
| Distribution and density of population and housing | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | No significant adverse impacts to the distribution and density of population and housing would be expected because of the proposed project. The proposed project would constitute tree planting and pond outflow improvements and would not result in the movement of existing or new populations in to or out of the affected area. Therefore, no impacts to the distribution and density of population and housing needs would be expected because of the proposed project. |
| Demands for government services | <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 on the demands for government services would be expected because of the proposed project. FWP staff would water the seedlings by hand, as needed, until roots are established. Any impacts would be short-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 industrial, agricultural, and commercial activity. The proposed project would constitute tree planting and pond outflow improvements. The project would not disturb or otherwise impact any industrial, agricultural, or commercial properties or operations; therefore, no impacts to industrial, agricultural, or commercial activity would be expected because of the proposed project. |
| Locally adopted environmental plans and goals | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | No significant adverse impacts to locally adopted environmental plans and goals would be expected because of the proposed project. FWP is unaware of any locally adopted environmental plans or goals that may be impacted by the proposed project. |
| Other appropriate social and economic circumstances | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | No significant adverse impacts would be expected because of the proposed project. FWP is unaware of any other appropriate social and economic circumstances that |

| HUMAN POPULATION | Duration of Impact | | | Severity of Impact | | | | | Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures |
|------------------|--------------------|------------|-----------|--------------------|------------|-------|----------|-------|---|
| Resource | None | Short-Term | Long-Term | None | Negligible | Minor | Moderate | Major | |
| | | | | | | | | | may be impacted by the proposed project. Therefore, no impacts would be expected because of the proposed project. |

Table 6: Determining the Significance of Impacts on the Quality of the Human Environment

| <p>If the EA identifies impacts associated with the proposed project FWP must determine the significance of the impacts. ARM 12.2.431. This determination forms the basis for FWP's decision as to whether it is necessary to prepare an environmental impact statement. An impact may be adverse, beneficial, or both. If none of the adverse effects of the impact are significant, an EIS is not required. An EIS is required if an impact has a significant adverse effect, even if the agency believes that the effect on balance will be beneficial. ARM 12.2.431.</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 |

IX. Private Property Impact Analysis (Takings)

The 54th Montana Legislature enacted the Private Property Assessment Act, now found at § 2-10-101. The intent was to establish an orderly and consistent process by which state agencies evaluate their proposed projects under the "Takings Clauses" of the United States and Montana Constitutions. The Takings Clause of the Fifth Amendment of the United States Constitution provides: "nor shall private property be taken for public use, without just compensation." Similarly, Article II, Section 29 of the Montana Constitution provides: "Private property shall not be taken or damaged for public use without just compensation..."

The Private Property Assessment Act applies to proposed agency projects pertaining to land or water management or to some other environmental matter that, if adopted and enforced without due process of law and just compensation, would constitute a deprivation of private property in violation of the United States or Montana Constitutions.

The Montana State Attorney General's Office has developed guidelines for use by state agencies to assess the impact of a proposed agency project on private property. The assessment process includes a careful review of all issues identified in the Attorney General's guidance document (Montana Department of Justice 1997). If the use of the guidelines and checklist indicates that a proposed agency project has taking or damaging implications, the agency must prepare an impact assessment in accordance with Section 5 of the Private Property Assessment Act.

Table 7: Private Property Assessment (Takings)

| PRIVATE PROPERTY 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 4a and 4b and continue with question 5) | 4 | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Is there a reasonable, specific connection between the government requirement and legitimate state interest? | 4a | <input type="checkbox"/> | <input type="checkbox"/> |
| Is the government requirement roughly proportional to the impact of the proposed use of the property? | 4b | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the action deny a fundamental attribute of ownership? | 5 | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Does the action have a severe impact of the value of the property? | 6 | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Does the action damage the property by causing some physical disturbance with respect to the property in excess of that sustained by the public general? (If the answer is NO, skip questions 7a-7c.) | 7 | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Is the impact of government action direct, peculiar, and significant? | 7a | <input type="checkbox"/> | <input type="checkbox"/> |
| Has the government action resulted in the property becoming practically inaccessible, waterlogged, or flooded? | 7b | <input type="checkbox"/> | <input type="checkbox"/> |
| Has the government action diminished property values by more than 30% and necessitated the physical taking of adjacent property or property across a public way from the property in question? | 7c | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the proposed action result in taking or damaging implications? | | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Taking or damaging implications exist if **YES** is checked in response to Question 1 and also to any one or more of the following questions: 2, 3, 4, 6, 7a, 7b, 7c; or if **NO** is checked in response to question 4a or 4b.

If taking or damaging implications exist, the agency must comply with MCA § 2-10-105 of the PPAA, to include the preparation of a taking or damaging impact assessment. Normally, the preparation of an impact assessment will require consultation with agency legal staff.

Alternatives:

The analysis under the Private Property Assessment Act, §§ 2-10-101 through -112, MCA, indicates no impact. FWP does not plan to impose conditions that would restrict the regulated person's use of private property to constitute a taking.

X. Public Participation

The level of analysis in an EA will vary with the complexity and seriousness of environmental issues associated with a proposed action. The level of public interest will also vary. FWP is responsible for adjusting public review to match these factors (ARM 12.2.433(1)). Because FWP determines the proposed action will result in limited environmental impact, and little public interest has been expressed, FWP determines the following public notice strategy will provide an appropriate level of public review:

- *An EA is a public document and may be inspected upon request. Any person may obtain a copy of an EA by making a request to FWP. If the document is out-of-print, a copying charge may be levied (ARM 12.2.433(2)).*
- *Public notice will be served on the Montana Fish, Wildlife and Parks website at: <https://fwp.mt.gov/news/public-notices>*
- *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 |
|------------------------|------------------------------|
| | |
| | |

- *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: 04/25/2024

Public Comment Period Ends: 05/09/2024

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

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

Name: FWP-STEFFEN JANI KULA

Email: sjanikula@mt.gov

Mailing Address:

4803 Giant Springs Road

Great Falls, MT 59405

XI. Recommendation for Further Environmental Analysis

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

XII. EA Preparation and Review

| | Name | Title |
|------------------------|------------------|--|
| EA prepared by: | Steffen Janikula | FWP Recreation Manager, Giant Springs State Park |
| EA reviewed by: | Alex Sholes | FWP Regional Recreation Manager, Region 4 |
| EA reviewed by: | Alex Kunkel | FWP Wildlife Biologist, Region 4 |
| EA reviewed by: | Jason Mullen | FWP Regional Fisheries Manager, Region 4 |
| EA reviewed by: | Jason Rhoten | FWP Regional Supervisor, Region 4 |