

FINAL ENVIRONMENTAL ASSESSMENT CHECKLIST



Prescribed Fire for Range Management at Rosebud Battlefield State Park

March 28, 2024

FWP-CEA-POR-R7-24-006



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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. 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: Prescribed Fire for Range Management at Rosebud Battlefield State Park

Description of Proposed Project:

Montana Fish, Wildlife and Parks (FWP), in conjunction with the Montana Department of Natural Resources and Conservation (DNRC), is proposing a controlled burn at Rosebud Battlefield State Park (RBSP) as a vegetation management strategy to reduce fuel levels and promote the health of the park’s ecosystem. Heavy fuel loads

increase the risk for high temperature, uncontrolled wildfires which endanger contributing features to the National Historic Landmark (NHL), important archaeological sites, park infrastructure, as well as neighboring properties. Prescribed burning is a management tool where carefully managed burns are used to reduce fuel levels and improve the overall health of the prairie. Burning up to 500 acres on the north half of the park (from the main road to Crook's Hill and the northern park boundary, see Figure 4) could result in a reduction of vegetation litter, improved health of the landscape, wildlife enhancement, and protection of historical artifacts. If a successful burn is implemented, FWP may consider additional vegetation management through prescribed burning. Any future proposed management action will include public scoping and environmental review as required.

Rosebud Battlefield State Park (RBSP) became a Montana State Park in 1978 when the Montana Legislature appropriated funds to preserve a portion of the battlefield. The Battle of the Rosebud occurred on June 17, 1876, and was fought by Native American forces and the US Army during a period of turmoil known as the Great Sioux Wars of 1876. During the Battle of the Rosebud, Native forces composed of Cheyenne and Lakota warriors halted the US Army's northward movement and that would result in decisive victory eight days later at Battle of the Little Big Horn. The Battle of the Rosebud has significant national historical value, so the park was designated an NHL in 2008. The Rosebud Battlefield is one of only nine NHLs in Montana and is also listed on the National Register of Historic Places (NRHP). In addition, the park contains over fifty precontact archaeological sites unrelated to the battle. These include the Kobold Buffalo Jump, eagle trapping pits, stone circle sites, and rock art, among others.

Affected Area / Location of Proposed Project

- Legal Description
 - Latitude/Longitude: 45.22377, -106.98295
 - Section, Township, and Range: 7S 39E 21.
 - Town/City, County, Montana: Birney, Big Horn County, Montana
- Location Map

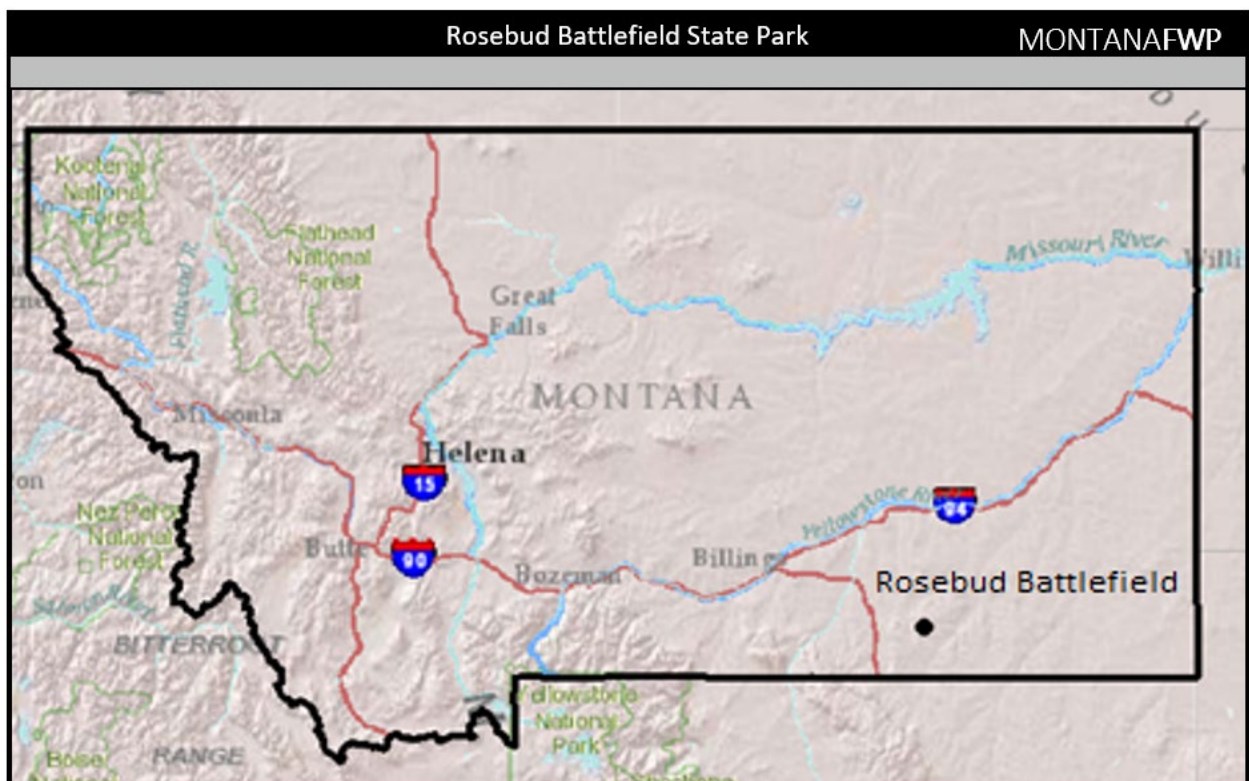


Figure 1. Statewide Reference



Figure 2. Big Horn County, Montana

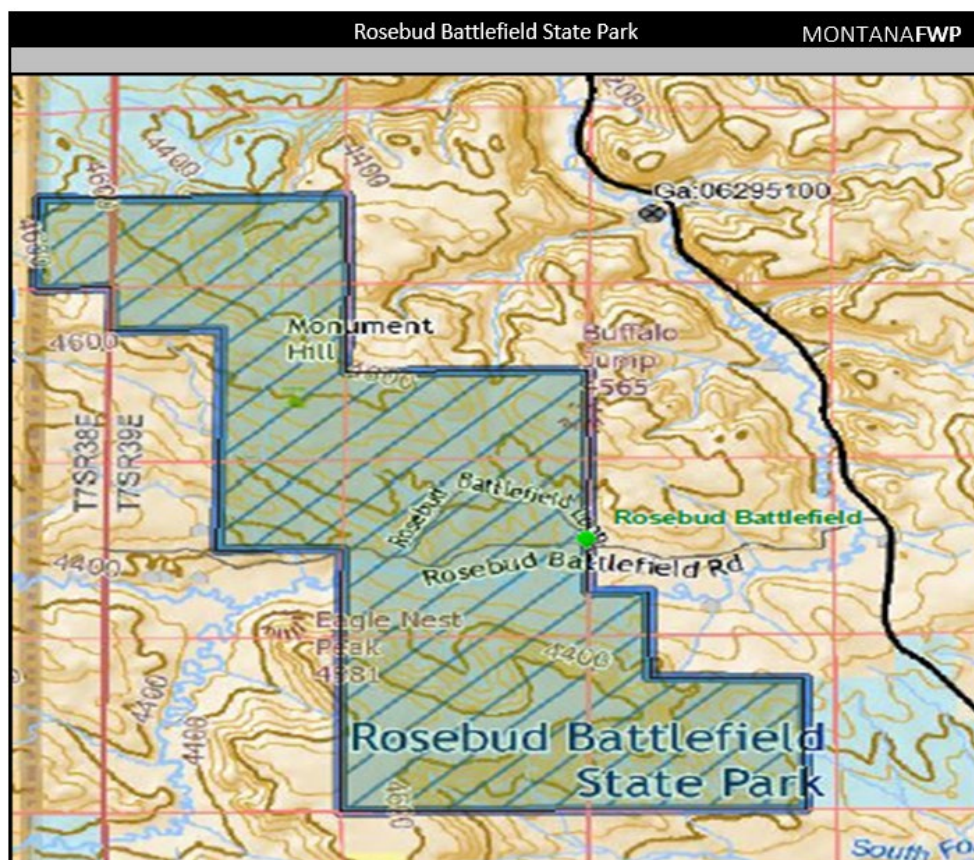


Figure 3. Park Boundary map

III. Purpose and Need

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

Project Purpose and Benefits:

In 2013 and again 2016, wildfires burned several hundred acres within RBSP. Due to the heavy fuel load of dense vegetation, the fires burned intensely and may have destroyed several precontact archaeological sites that had never been fully recorded or evaluated for the NRHP. Due to the large number of sensitive archeological resources across the property and decreasing health of the prairie, Montana State University's (MSU) range management program was invited to do an ecological inventory of the park, with oversight of an archaeologist, to evaluate the environment and recommend best practices for vegetative management. A study of the northern half of the park was completed in 2019 and a second study of the southern half was completed in early 2024. Recommendations from the study done by MSU included "naturalized management through prescribed fires." Instituting a regime of regular controlled burning is therefore being considered as an appropriate way to reduce wildfire risk, protect cultural resources, and enhance overall range health. An initial burn of approximately 500 acres is proposed. If implemented, we will measure the impact of a controlled burn on the landscape, wildlife habitat, and historical resources.

The goals of the project include:

- Reduce fuel load and the potential for uncontrolled wildfire.
- Protect cultural resources.
- Reduce invasive weed infestation.
- Improve range health with an increase in native plant communities.
- Evaluate the use of prescribed burns as a vegetation management tool at Rosebud Battlefield State Park.

This will be a joint project with the Montana Department of Natural Resources and Conservation (DNRC), who can prepare the burn plan and oversee the burn. Prior to implementation, the burn plan would be reviewed by FWP's heritage program and submitted to the Montana State Historic Preservation Office (SHPO) for consultation, in keeping with the FWP's obligations under the Montana Antiquities Act. The burn plan would also be submitted to the Tribal Historic Preservation Offices (THPO) of all tribes with interest in the area for their review, in keeping with FWP's tribal consultation guidelines.

FWP's heritage program is partnering with the THPOs of the Northern Cheyenne and Crow tribes to conduct cultural resource inventories of the proposed treatment areas both before and after burns. The 2024 survey would also include updates and assessment of those sites thought to have been destroyed by the 2013 and 2016 fires. Representatives from the THPOs and a FWP heritage specialist would also be present during the burn to monitor impacts. The inventories and monitoring would be conducted in accordance with Montana's state guidelines as well as the *Secretary of Interior's Standards and Guidelines for Archaeology and Historic Preservation (48 FR 44716-44742)*. The results of these efforts would be compiled into a summary report and submitted to the SHPO and the THPOs of all tribes with interest in the area, along with all requisite site forms and GIS data.

The controlled burn would be planned for the spring of 2024 if weather and other factors allow. The burn perimeter and other fire lines would be mowed to control the area of burn. No heavy equipment would be used to create fire lines.

The expected results include reduced excessive basal cover and litter that makes up fuel load. The reduction of invasive and non-native vegetation and improved overall health of the prairie are also a likely outcome. The prescribed burn would also cut back on the creep of small ponderosa pines into open grassland areas.

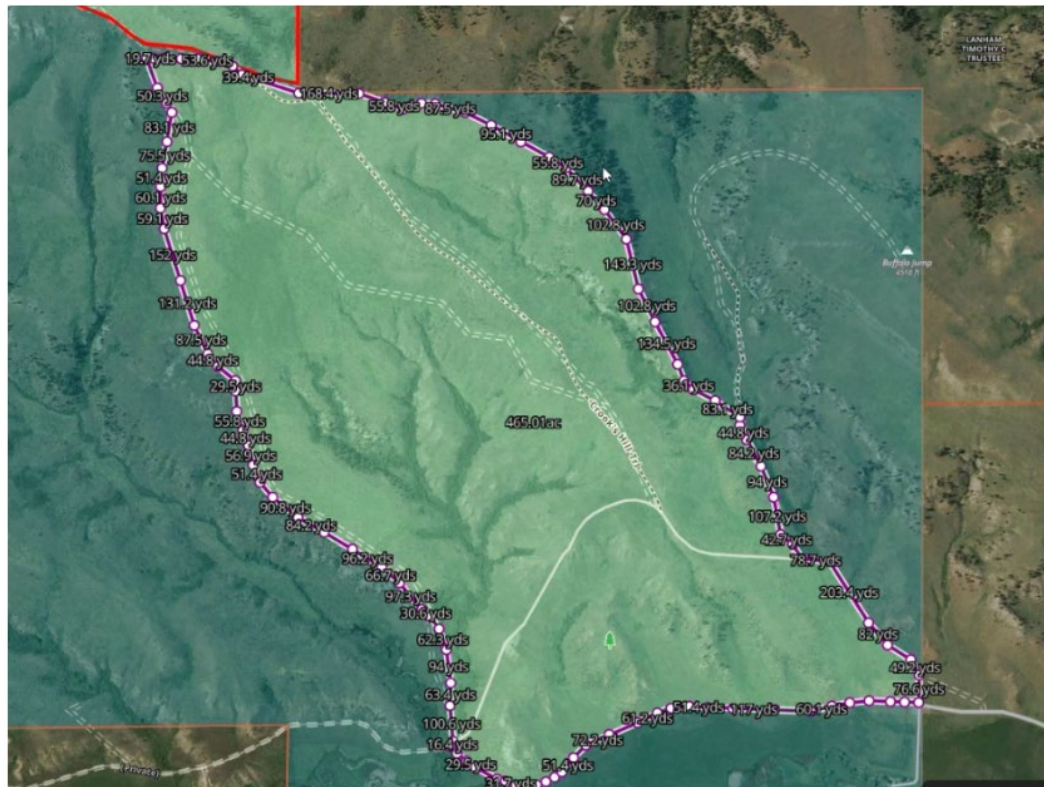


Figure 4. Proposed prescribed burn footprint.



Figure 5, photo 1. Conical Hill east slope November 2018



Photo 2. Crook's Hill June 2019



Photo 3. Looking north from Kollmar Creek September 2019

If FWP prepared a cost/benefit analysis before completion of the EA, the EA must contain the cost/benefit analysis or a reference to it. ARM 12.2.432(3)(b).

	Yes*	No
Was a cost/benefit analysis prepared for the proposed project?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

* If yes, a copy of the cost/benefit analysis prepared for the proposed project is included in Attachment A to this Draft EA

IV. Other Agency Regulatory Responsibilities

FWP must list any federal, state, and/or local agencies that have overlapping or additional jurisdiction, or environmental review responsibility for the proposed project, as well as permits, licenses, and other required authorizations. ARM 12.2.432(3)(c).

A list of other required local, state, and federal approvals, such as permits, certificates, and/or licenses from affected agencies is included in **Table 2** below. **Table 2** provides a summary of state requirements but does not necessarily represent a complete and comprehensive list of all permits, certificates, or approvals needed. Rather, **Table 2** lists the primary state agencies with regulatory responsibilities, the applicable regulation(s) and the purpose of the regulation(s). Agency decision-making is governed by state and federal laws, including statutes, rules, and regulations, that form the legal basis for the conditions the proposed project must meet to obtain necessary permits, certificates, licenses, or other approvals. Further, these laws set forth the conditions under which each agency could deny the necessary approvals.

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

Agency	Type of Authorization (permit, license, stipulation, other)	Purpose
Dept of Natural Resources and Conservation	Conduct burn	DNRC will conduct and be responsible for the burn and fire containment
Big Horn County	Fire permits	Provide support and fire permits for burn
State Historic Preservation Office	Cultural Assessment	Consult with FWP's Heritage Program to identify and evaluate cultural resources with that may impacted by the action and assess effects.
Montana Department of Environmental Quality	Major Open Burn Permit	Burn Permit for agencies and companies that conduct prescribed burns on large tracts of land, as defined in ARM 17.8.601

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 checked="" type="checkbox"/>	No <input type="checkbox"/>
<i>If yes, are these controls being relied upon to limit impacts below the level of significance? If yes, list the enforceable control(s) below</i>			Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Enforceable Control	Responsible Agency	Authority (Rule, Permit, Stipulation, Other)	Effect of Enforceable Control on Proposed Project	
Identification and protection of cultural resources	State Historic Preservation Office (SHPO)	Cultural Assessment and Inventory	Prior to and after implementation, FWP's heritage program will conduct or hire a consultant to perform an inventory. FWP will apply protections to avoid disturbing key sites. The FWP heritage specialist will be on site during the burn.	
Noxious weed control	FWP, Bighorn County	Noxious Weed Law	Establishes noxious weed management agreements and programs.	
Smoke Management	DEQ, Montana/Idaho Airshed Management Group	Air Quality Law	Achieve and maintain levels of air quality that will protect human health and safety; prevent injury to plant and animal life and property; foster comfort and convenience of people; promote economic and social development; and facilitate the enjoyment of the natural attractions of the state.	
Forest Management Mandate	FWP	Forest Management Statutes – 87-1-201(9) (a)(iv), 87-1-621, & 87-1-622	Requires FWP to manage its forested lands for wildlife habitat enhancement, hazardous fuels reduction, and bark beetle infestation—based on a forest management plan and sustained yield—and to deposit any revenue generated from timber sales into the legislatively-created forest management account for use towards future forestry projects.	
Good Neighbor Policy	FWP	23-1-126, MCA	The good neighbor policy of public land use, as applied to public recreational lands, seeks a goal of no impact upon adjoining private and public lands by preventing impact on those adjoining lands from noxious weeds, trespass, litter, noise and light pollution, streambank erosion, and loss of privacy.	

VI. Alternatives Considered

In addition to the proposed Project (Alternative 2), 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.

NO ACTION – Alternative 1

FWP would not pursue conducting a prescribed fire at RBSP. The current maintenance of the park would be continued by staff. Decadent residual vegetation would remain, increasing the fire load and the potential of wildfires over time which could increase the need for firefighting techniques as were used in 2013, which may have damaged several precontact archaeological sites. No action would result in the continued decline in vegetation quality, an increase of the fuel load, and a continuance of the threat posed of uncontrolled wildfire to the park's cultural resources.

	Yes*	No
Were any additional alternatives considered and dismissed?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

* If yes, a list and description of the other alternatives considered, but not carried forward for detailed review is included below

Other Alternatives Not Carried Forward for Detailed Analysis

Alternative 3:

CATTLE GRAZING BY LEASE AGREEMENT

Cattle grazing by lease agreement was considered in 2017. An environmental assessment was completed, and public comment requested. Many public comments were generated both for and against grazing in the National Historic Landmark. FWP decided to put grazing on hold in the park due to concerns of potential damage to the historic resources. Limited grazing may be considered in the future after additional research has been conducted.

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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input 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 this project. The proposed controlled burn would take place in the spring when it can be more easily controlled because of increased humidity levels and higher soil and vegetation moisture. This will keep the fire from burning too hot despite the heavy fuel load in some areas. This controlled burn will support improved terrestrial habitats. Any impacts would be short-term, minor and beneficial.
Water quality, quantity, and distribution	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant impacts to water quality, quantity, and distribution would be expected due to the proposed project. The project intent is to reduce the susceptibility of the subject property and adjacent lands to high-severity wildfire. The proposed action would reduce fuel loading for several years following treatment. Reduced vegetation and fuel loads may benefit the water quality, quantity, and distribution by allowing for underground water sources to reach the surface and increase water flow. Any impacts would be short-term, minor, and beneficial.
Geology	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant impacts to any geological formations would be expected because of this project in the affected area.
Soil quality, stability, and moisture	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	No significant impacts to soil quality, stability and moisture would be expected from this project. The proposed controlled burn would take place in the spring when it can be more easily controlled. This is expected to result in a cooler burning fire despite some areas with heavy fuel loads. A properly executed controlled burn would result in a healthy stand of native vegetation that would improve soil quality, stability, and moisture. Any impacts should be short-term, moderate, and beneficial.

Vegetation cover, quantity, and quality	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Beneficial short-term and long-term impacts on the vegetation cover, quantity, and quality are expected from this project. The project intent is to reduce the susceptibility of the subject property and adjacent lands to high-severity wildfire. The proposed action would reduce fuel loading for several years following treatment. Noxious weed spread would be mitigated by requiring equipment to be washed before entering the Park, minimizing ground disturbance, immediately reseeding disturbed areas, and treating affected areas with herbicide as needed. Any impacts to vegetation cover, quantity, and quality would be short and long-term, minor, intentional, and generally beneficial.
Aesthetics	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant impacts to aesthetics would be expected due to this project. The proposed controlled burn could result in reduced aesthetics and visitation to the affected area of park during the burn. Some visitors likely would consider the near-term results of the burn to include reduced aesthetic appeal. Over time the proposed controlled burn would aid in the reestablishment native prairie grasses and improved aesthetics, as well as improved access to some areas of the park by way of hiking or horseback that may be less accessible now. Any impacts would be short -term, minor, and generally beneficial.
Air quality	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant impacts to air quality would be expected due to this project. During the proposed controlled burn some smoke would result but if done properly in the moister spring, the smoke would be minor. FWP-DNRC would comply with Airshed 10 smoke management restrictions and Bighorn County open burning timing restrictions. Any impacts to air quality in the area would be short-term, limited by applicable regulations, and minor.
Unique, endangered, fragile, or limited	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant impacts to unique, endangered, fragile, or limited environmental resources would be expected due to this project. The project intent is to reduce the

environmental resources									susceptibility of the subject property and adjacent lands to high-severity wildfire. The proposed action would reduce fuel loading for several years following treatment. Some sage brush species may be minorly impacted. Wyoming Big Sage may take decades to reestablish in burned areas. Any impacts to vegetation cover, quantity, and quality would be short and long-term, minor, intentional, and generally beneficial.
Historical and archaeological sites	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	No significant adverse effects to historic and archaeological sites would be expected because of the proposed project. In keeping with the Montana Antiquities Act and related regulations (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 that are eligible for the National Register of Historic Places, they will be protected from adverse effects 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 will cease implementation, and contact FWP's Heritage Program for further evaluation.
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 impacts on demands on environmental resources of land, water, air, and energy would be expected because of the proposed project.

Table 5: Impacts to the Human Population

HUMAN POPULATION	Duration of Impact			Severity of Impact					
Resource	None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
Social structures and mores	<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 social structures would be expected due to this project. The proposed project would not impact current land use; therefore, the proposed project would not impact any pre-project social structures, customs, values, and conventions.
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 in the affected area would be expected because of the proposed project. The proposed project involves mitigation of hazardous fuels and would not result in any relocation of people into or out of the affected area. Therefore, no impacts to the existing cultural uniqueness and diversity of the affected area would be expected because of the proposed project.
Access to and quality of recreational and wilderness activities	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant impacts to access or quality of recreation would be expected due to this project. No closures would occur as a result of the project. Signage would be placed near the entrance to the park to alert recreationists of prescribed fire activity in the affected area during the proposed project. Prescribed fire activities could impact the quality of the recreational experience for some individuals during the project. Once the proposed project is completed no additional impacts would occur. Therefore, any adverse impact to access and the quality of recreational and wilderness activities in the affected area would be short-term and negligible.

Local and state tax base and tax revenues	<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 impact to local and state tax base and tax revenues would be expected due to this project. The project would be expected to provide a minor increase to state and local tax revenues from the sale of fuel and/or supplies. Any impacts to the local and state tax base and tax revenue would be short-term and minor, lasting only as long as the proposed project.
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 impacts to agricultural or industrial production in the affected area 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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant impacts to human health and safety would be expected due to this project. Prescribed fire activities are inherently dangerous. All agency personnel conducting the prescribed burn would be qualified through their agency and conduct the activities in accordance with a prescribed fire plan. All appropriate personal safety equipment would be used. Any impacts to human health and safety would be short-term and minor.
Quantity and distribution of employment	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to the quantity and distribution of employment in the affected area would be expected because of the proposed project.
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 in the affected area would be expected because of the proposed project.
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 impacts to government services would be expected due to this project. Other government agencies would perform prescribed fire work. These types of activities are typical in the affected area. Therefore, any impact to demands for government services would be short-term, negligible, and consistent with current impacts in the affected area.
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 agricultural or industrial production in the affected area 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 in the affected area would be expected because of the proposed project.
Other appropriate social and economic circumstances	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to other social and economic circumstances would be expected due to this project. At this time, FWP-DNRC is not aware of any other appropriate social and economic circumstances that would be impacted by the proposed project. Any impacts from the proposed project would be consistent with current practices in the affected area.

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 severity, duration, geographic extent, and frequency of the occurrence of the impact</p> <p>“Severity” describes the density of the potential impact, while “extent” describes the area where the impact will likely occur, e.g., a project may propagate ten noxious weeds on a surface area of 1 square foot. Here, the impact may be high in severity, but over a low extent. In contrast, if ten noxious weeds were distributed over ten acres, there may be low severity over a larger extent.</p> <p>“Duration” describes the time period during which an impact may occur, while “frequency” describes how often the impact may occur, e.g., an operation that uses lights to mine at night may have frequent lighting impacts during one season (duration).</p>
2	The probability that the impact will occur if the proposed project occurs; or conversely, reasonable assurance in keeping with the potential severity of an impact that the impact will not occur
3	Growth-inducing or growth-inhibiting aspects of the impact, including the relationship or contribution of the impact to cumulative impacts
4	The quantity and quality of each environmental resource or value that would be affected, including the uniqueness and fragility of those resources and values

5	The importance to the state and to society of each environmental resource or value that would be affected
6	Any precedent that would be set as a result of an impact of the proposed project that would commit FWP to future actions with significant impacts or a decision in principle about such future actions
7	Potential conflict with local, state, or federal laws, requirements, or formal plans

VIII. Private Property Impact Analysis (Takings)

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

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

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

Table 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"/>	
PRIVATE PROPERTY ASSESMENT ACT (PPAA)			
Does the Proposed Action Have Takings Implications under the PPAA?	Question #	Yes	No
Does the project pertain to land or water management or environmental regulations affecting private property or water rights?	1	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the action result in either a permanent or an indefinite physical occupation of private property?	2	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the action deprive the owner of all economically viable uses of the property?	3	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the action require a property owner to dedicate a portion of property or to grant an easement? (If answer is NO, skip questions 5a and 5b and continue with question 6.)	4	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Is there a reasonable, specific connection between the government requirement and legitimate state interest?	4a	<input type="checkbox"/>	<input type="checkbox"/>
Is the government requirement roughly proportional to the impact of the proposed use of the property?	4b	<input type="checkbox"/>	<input type="checkbox"/>

Does the action deny a fundamental attribute of ownership?	5	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the action have a severe impact of the value of the property?	6	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the action damage the property by causing some physical disturbance with respect to the property in excess of that sustained by the public general? (If the answer is NO, skip questions 7a-7c.)	7	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Is the impact of government action direct, peculiar, and significant?	7a	<input type="checkbox"/>	<input type="checkbox"/>
Has the government action resulted in the property becoming practically inaccessible, waterlogged, or flooded?	7b	<input type="checkbox"/>	<input type="checkbox"/>
Has the government action diminished property values by more than 30% and necessitated the physical taking of adjacent property or property across a public way from the property in question?	7c	<input type="checkbox"/>	<input type="checkbox"/>
Does the proposed action result in taking or damaging implications?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Taking or damaging implications exist if YES is checked in response to Question 1 and also to any one or more of the following questions: 2, 3, 4, 6, 7a, 7b, 7c; or if NO is checked in response to question 5a or 5b.			
If taking or damaging implications exist, the agency must comply with MCA § 2-10-105 of the PPAA, to include the preparation of a taking or damaging impact assessment. Normally, the preparation of an impact assessment will require consultation with agency legal staff.			
Alternatives: The analysis under the Private Property Assessment Act, §§ 2-10-101 through -112, MCA, indicates no impact. FWP does not plan to impose conditions that would restrict the regulated person's use of private property to constitute a taking.			

IX. Public Participation

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

- An EA is a public document and may be inspected upon request. Any person may obtain a copy of an EA by making a request to FWP. If the document is out-of-print, a copying charge may be levied (ARM 12.2.433(2)).
- Public notice will be served on the Montana Fish, Wildlife and Parks website at:
<https://fwp.mt.gov/aboutfwp/public-comment-opportunities>
- Copies will be distributed to neighboring landowners to ensure their knowledge of the proposed project and opportunity for review and comment on the proposed action.
- FWP maintains a mailing list of persons interested in a particular action or type of action. FWP will notify all interested persons and distribute copies of the EA to those persons for review and comment (ARM 12.2.433(3)).
- FWP will issue public notice in the following newspaper periodical(s) on the date(s) indicated.

Newspaper / Periodical	Date(s) Public Notice Issued
Big Horn County News	

- 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. 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: March 29, 2024
Public Comment Period Ends: April 13, 2024

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

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

Name: RAYMOND K SCHELL, RECREATION MANAGER

Email: Raymond.Schell@mt.gov

Mailing Address:

Rosebud Battlefield State Park

Attn: Rosebud Battlefield Prescribed Burn

PO BOX 8

Decker MT, 59025

X. Recommendation for Further Environmental Analysis

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

XI. EA Preparation and Review

	Name	Title
EA prepared by:	Raymond K Schell	Recreation Manager, Rosebud Battlefield State Park
EA reviewed by:	Jason Parke	Forester
	Brenna Moloney	Heritage Specialist
	Ryan DeVore	Wildlife Biologist
	Brian Burky	Region 7 POR Manager