



DECISION NOTICE
NEWLAN CREEK RESERVOIR FISHING ACCESS SITE – LEASE AGREEMENT AND DEVELOPMENT
ENVIRONMENTAL ASSESSMENT
FWP-CEA-POR-R4-25-002

May 14, 2025

ACTION

Decision Notice (DN). Montana Fish, Wildlife & Parks (FWP) shall prepare a DN for the proposed action. The DN must identify the agency decision, the reasons for the decision, and any special conditions surrounding the decision or its implementation.

With this action, FWP hereby adopts the Draft Environmental Assessment or Draft EA as final, without modification, and approves Alternative 2, the proposed action.

AUTHORITY: MONTANA ENVIRONMENTAL POLICY ACT

According to the applicable requirements of the Montana Environmental Policy Act or MEPA and its implementing rules and regulations, before a proposed action may be approved, environmental review must be conducted to identify, consider, and disclose any potential impacts of the proposed action on the affected human environment. The level of environmental review will vary with the complexity and seriousness of environmental issues associated with a proposed action. The level of public interest will also vary. The agency is responsible for adjusting public review to match these factors. *Title 75, Chapter 1, Parts 1 through 3, Montana Code Annotated (MCA)*.

Based on these factors, FWP determined a checklist EA (Draft EA) constitutes the appropriate level of review for the proposed action. Therefore, to assess and disclose potential impacts of the proposed action, FWP prepared a Draft EA for public review and comment. See *Public Participation Process* below.

Further, FWP must consider any substantive comments received in response to an EA and proceed in accordance with one of the following steps: determine the EA did not adequately reflect the issues raised by the proposed action and issue an Environmental Impact Statement or EIS; determine the EA did not adequately reflect the issues raised by the proposed action and issue a supplemental EA; or determine the Draft EA adequately addressed the issues raised by the proposed action and make a final decision, with appropriate modification resulting from the analysis provided in the Draft EA and the analysis of any substantive public comments received. See *Public Comment and FWP Response* below.

PUBLIC PARTICIPATION PROCESS

The Draft EA was made available for public review and comment from 1/29/25-2/12/25. The Draft EA was posted on FWP's Public Notice webpage: <https://fwp.mt.gov/news/public-notice>. The Draft EA was also made available for public review on the Environmental Quality Council or EQC website: <https://leg.mt.gov/mepa/search/>, by individual request, and through notice to identified interested parties. FWP received comments during the public comment period.

DESCRIPTION OF PROPOSED ACTION

Montana Fish, Wildlife and Parks (FWP) has managed public recreation through a no-cost lease agreement on 466 acres of the north shore of Newlan Creek Reservoir, near White Sulphur Springs Montana, since September 3rd, 1997. FWP has leased the property from the Meagher County Newlan Creek Water District (Lessor) for the purpose of establishing a fishing access site (FAS) and has developed infrastructure during the term of this lease to accommodate overnight camping, boat launch, vault toilets, picnicking, roads, and parking areas. Over the course of the lease, Newlan Creek Reservoir FAS has become an increasingly popular recreation site offering camping, swimming, recreational boating, angling, wildlife watching, hunting, and other forms of outdoor recreation. The current lease expired on February 1st, 2025. FWP and the Lessor would like to move forward with another long-term lease and further develop the property to provide for public safety, enhanced public experience, operational efficiency, and natural resource stewardship. FWP has developed a concept improvement plan and has an ask in the 2025 legislative session to secure funds for the project. To bridge the gap between the end of the current lease and the end of the 2025 legislative session (when FWP would know if funds have been secured to complete the improvement project) FWP and the Lessor have agreed to a lease amendment on the existing lease to allow continued management of the site through February 1, 2026. If funds are secured in the 2025 legislative session for the improvement project, FWP and the Lessor propose to enter into a new 25-year no-cost lease agreement for the purpose of retaining and further developing the Newlan Creek Reservoir FAS. If funds for the improvement project are not secured via the 2025 legislative session, FWP and the Lessor would have 1 year on the lease extension which would provide time to discuss future management of the site. A new lease agreement is subject to Fish and Wildlife Commission approval.

PURPOSE AND NEED

The purpose of the proposed long-term lease agreement and the improvement project would be the continued management of the property as a public fishing access site as well as further development of the property to meet management objectives of FWP and the Lessor. The Lessor and FWP both desire the continued operation of the site as a public fishing access site and recognize the need to address resource and management issues while also improving recreational offerings. The Benefits of the proposed long-term lease and the improvement project include:

- Long-term public access to Newlan Creek Reservoir and the associated lands through the fishing access site designation.
- Improve the camping experience.
- Improve and restore natural resource conditions.
- Establish designated day use areas.
- Alleviate congestion and improve safety at the boat ramp.
- Improve and update FWP's signage.

ALTERNATIVES ANALYZED

Alternative 1: No Action

In addition to the proposed action, and as required by MEPA, FWP analyzes the "No-Action" alternative in the EA. Under the No-Action alternative, the proposed action would not occur. Therefore, no additional impacts to the human environment would occur. The No Action alternative forms the baseline from which the potential impacts of the proposed action may be measured.

If the No Action alternative is selected, FWP would not enter into a 25 year no cost lease agreement with the Meagher County Newlan Creek Water District for the management of Newlan Creek Reservoir Fishing Access Site. The proposed improvement project would not proceed, and the benefits of the proposed action would not be realized. The undeveloped areas would remain undeveloped, the natural resource and other management issues would continue, and the property would not offer day use areas for the public. FWP management of the property would continue until the short-term lease amendment expires in February of 2026. The future management of the property, which includes most of the infrastructure at the site, would be unknown.

Alternative 2: Proposed Action

The purpose of the proposed long-term lease agreement and the improvement project would be the continued management of the property as a public fishing access site as well as further development of the property to meet management objectives of FWP and the Lessor. The Lessor and FWP both desire the continued operation of the site as a public fishing access site and recognize the need to address resource and management issues while also improving recreational offerings.

PUBLIC COMMENT AND FWP RESPONSE

FWP received substantive public comments on the Draft EA. A substantive public comment was defined as the identification of a specific issue or impact. The following provides the public comments received and FWP response(s).

1.	Received: 2/4/2025	Sender: Bert Otis
Comment: Dear Fish Wildlife & Parks Commission, I support the new lease agreement for Newlan Creek Reservoir FAS. The planned improvements look great and it should be a win/win for everyone.		
FWP Response: Thank you for submitting comments.		

2.	Received: 2/12/2025	Sender: Ron and Chris Kaaland
<p>Comment: We are opposing the development plan of New Creek Reservoir for numerous reasons.</p> <ol style="list-style-type: none"> 1) Trespassers: We've had to post our property and kids and adults still come up to our house in pickups, bicycles and dirt bikes. They say they're just looking. 2) Unsupervised kids: They have taken our mail and put rocks in our mailbox. We had to get a lock mail box. 3) Dogs: They're running lose everywhere. Last year two German Sheperds came to the house and chased our dog into the house. Then they stayed at the door and wouldn't let us out. People are always coming up asking if we've seen their dogs. We live here and can't even take our dog down to the lake for a swim because of all the dogs running lose. 4) Dirt bikes and ATV's: We can no longer take our ATV down to fish. Campers bring their ATV's and dirt bikes and still ride all over. Underage kids ride on the county road and up and down the banks from early morning till late. We can call the Sheriff but they're back at it shortly after the Sheriff leaves. We would have to be calling all day and night long. 5) Trash: Thrown on our property and along the roadside. It's bringing more bears in. 6) No phone service: No cell service at the lake so people come to the house asking to use our phone or do we have jumper cables or they're stuck. We don't mind helping people if we can but now a days you don't know if they're looking to rob us. 7) Drive to fast: I almost got hit turning into my driveway and had my blinker on. Close calls are common. 8) Road damage: We pay taxes on the County road and the County doesn't get up here very regular so when these campers hot rod and spin donuts, we have to deal with the road damage-pot holes and washboards. 9) We lose our privileges because of the campers and fishermen. We don't even fish here anymore. We go somewhere else. That's sad because that's why we live here. We built our house 23 years ago and retired here. We listen to screaming and cursing in the middle of the night plus cars racing up and down the road at late hours. The quiet Reservoir isn't quiet any more since you put the first campsites in. We could go on and on with stories. <p>In closing, these are just some of the reasons we don't want more development on the reservoir. Feel free to call us.</p>		
<p>FWP Response: Thank you for submitting comments. The improvements that FWP has proposed at Newlan Creek Reservoir FAS are intended to address a number of issues, including a few mentioned in your comment. Currently, much of the property is undeveloped which has led to natural resource impacts, crowding, a lack of clarity regarding rules/regulations, and rule enforcement challenges. By</p>		

developing these undeveloped loops, FWP anticipates that the resource impacts will decrease (as vehicles will be limited to designated roads/sites), crowding and congestion will become less of an issue (there will be limited sites), the public will be better informed of the site's rules/regulations (the site will be better signed), and FWP law enforcement staff will have an easier time enforcing the rules and regulations with designated and developed campsites and roadways within the FAS. FWP is proposing the installation of new signage throughout the FAS. As a mitigation measure and to inform and provide clarity to the public of existing FAS regulations, new signs will list and emphasize current ARM rules such as leash requirements (ARM 12.12.111), respecting private land surrounding the FAS, littering (ARM 12.12.110), food storage requirements (ARM 12.12.109), and off-road restrictions (ARM 12.12.115). ATV's and motorized vehicles will be allowed to travel on authorized routes in an authorized manner within the FAS as stated in ARM 12.12.115. The proposed project would establish authorized routes for motor vehicles and would provide clarity as to what roads are open and what roads are closed within the FAS. Traveling off-road or above posted speed limits are examples of violations to this rule. County Roadway maintenance and enforcement of county roadway laws are outside of FWP's legal authority and therefor outside the scope of the EA.

3.	Received: 2/12/2025	Sender: Ron and Chris Kaaland
<p>Comment: I just found out that this was approved months ago. The comment portion is just something you have to do. It makes us pretty angry that you already knew this. You're going to do what you want to do no matter what we say. You don't enforce your own rules here at the lake. We suffer and you go on your merry way.</p>		
<p>FWP Response: Thank you for submitting comments. Over the last 2 years, FWP has held meetings with the Lessor to discuss the development proposal and the proposed lease agreement. The discussions between FWP (Lessee) and the Lessor were necessary to ensure the two entities agreed on the proposed management direction of the property before the public processes began. The Lessor has permitted the department to proceed with the proposal to lease the land as a fishing access site and develop the site (as outlined in the draft EA). Moving forward with these actions initiated the Montana Environmental Policy Act (MEPA) requirements and necessitated the development of an Environmental Assessment. FWP drafted the Environmental Assessment for the proposed developments and lease agreement and provided a 15-day public comment period as required by MEPA. The next step of the process will be the Fish and Wildlife Commission acting on the proposed lease agreement, which is scheduled to take place at a future Commission meeting. An additional public comment opportunity will be provided for that Commission agenda item. The proposed developments would not occur without first establishing a new lease agreement; therefore, no development project has been approved unless and until the Fish and Wildlife Commission approves a lease.</p>		

4.	Received: 2/17/2025	Sender: Michael Walter
<p>Comment: Please find attached my comments. I realize it is past the end of the comment period, but as an adjacent landowner to Newlan Creek Reservoir I was surprised I wasn't notified about this, as I believe is FWP policy. Perhaps because I'm only adjacent to the lake, and not the actual lease?</p> <p>Anyway here are my comments:</p> <ol style="list-style-type: none"> 1. Enforcement is the biggest issue. People still park and camp as they wish at the reservoir (both within the developed and undeveloped areas), which causes significant damage to the property. This still happens on the west end in loops A, B, and C, and I don't see anything added here to fix that issue. As a side note enhanced enforcement could pay for the upgrades, especially on busy weekends. 2. Adding additional paid spots will likely not meet the goals since at least some portion of users camp at undeveloped sites to avoid paying, once again without enforcement, adding more sites will just increase this issue by reducing the undeveloped space 3. The day use area at the far east end (inlet) of the lake would likely not meet the needs of most users, especially locals, who go to the lake for swimming or even fishing, since the better experience is obtained on the west and north west portions of the lake due to more consistent water (doesn't depend on a wet or dry year to be in a good spot), as well as the depth of water. 4. The map of the lease area is incorrect, there are at least two fenced off areas where land owners have access to springs to water livestock which are included in the red outline of the diagram showing the lease area in Figure 12 		
<p>FWP Response: Thank you for submitting comments. FWP used Montana Cadastral to create a mailing list of adjacent landowners of the proposed project property to inform them of the opportunity to comment on the draft EA. We apologize if this unintentionally excluded you as an adjacent landowner. FWP has received your comments.</p> <p>The undeveloped loops do not have established campsites, and because of this the enforcement of FAS rules/regulations is difficult in these areas. Enforcement action is easier and does occur in loops A, B, and C where the rules/regulations are clearly posted, and the sites are delineated with gravel pads and numbered sites. The proposed developments seek to provide clarity regarding FAS camping rules/regulations and a mechanism in which to easily enforce the existing camping in designated spaces - rule (ARM 12.12.107). Camping outside of established campsites would no longer be permitted at the FAS once established campsites are developed in the undeveloped loops. Improved rule/regulation signage would be added to all loops which will help with rule compliance and enforcement.</p> <p>There were discussion between the Lessor and FWP regarding the designation of a day use only area on the reservoir. To balance the strong desire from the public for camping with the desire of adding a day use only area, it was determined that the proposed location for a day use only area would have the least impact on camping, while providing a desirable location for day use. Day use would also be improved near the boat ramp with the additional parking space and removal of the two campsites that often-caused congestion of the boat ramp area. Day use is not prohibited on portions of the FAS not</p>		

described as day use only, however, there was a desire to designate portions of the FAS for the sole purpose of day use only activities.

The boundary of the lease was generated using Montana Cadastral land ownership boundaries. The lease agreement between Meagher County Newlan Creek Water District and FWP would not impact existing easements, rights-of-way, agreements, or water rights held within the property boundaries.

5.	Received: 2/18/2025	Sender: Nancy and Thad Hereim
<p>I am writing this letter to you per our telephone conversation regarding the "Public Comment" period for the proposed changes/improvements to the Newlan Creek Reservoir Fishing Access Site Lease.</p> <p>As I stated during our telephone conversation, my husband and I, are landowners adjacent to the Newlan Creek Reservoir and we did not receive any postal mailings or otherwise notifying us of the public comment period. The land we own is substantial acreage directly across the fence from the Newlan Creek Dam area. The land is held in the name of Thad and Nancy Hereim. My brother, Michael Walter, is also an adjacent landowner and he did not receive any notification either. Per my telephone conversation with you, I notified my brother and he has submitted an email to you as well to this email address.</p> <p>My husband and I would like to strongly urge the Fish Wildlife and Parks to make it FWP's top priority when considering the proposed Improvement Project and the Lease itself to provide "policing" or substantial increased supervision by FWP of the recreation area. This needs to be FWP's top priority! My family and ourselves have lived adjacent to the reservoir my entire life and the biggest problem with the lease by FWP is lack of adequate supervision and enforcement of the posted rules and regulations. My family, the Lester and Lena Walter family, owned a large part of the area that is now the Newlan Creek Reservoir. It was taken by from our family by Eminent Domain, so we have "lived" with the multiple and ongoing problems that the Newlan Creek Fishing Access Site Lease has created and continues to create and contribute to the adjacent landowners. To our knowledge, there is currently NOT a FWP Warden even residing in Meagher County. When we have a problem that needs addressed, it appears the closest FWP Warden is over, at least, 100 miles from the Newlan Creek Fishing Access Lease. Most, if not all, of our concerns or problems have to be addressed by local county law enforcement. When John Lesofski was FWP local Warden, he did a really good job helping to address issues. Since his retirement, I would say there has NOT been any adequate supervision by FWPs.</p> <p>The proposed camping improvements may or may not address the congestion and erosion problems addressed in the FWP Environmental Assessment Checklist. But, without proper supervision/policing of the fishing access area - all that is planned is in "vain". It is well known, state wide, and then some,</p>		

that FWP Wardens do not supervise the fishing access nor enforce any of the rules and regulations posted at the Newlan Creek Fishing Access in shape or form.

There is continued litter, camping at the designated sites without paying, guns being fired, fire works being set off (year round), private land encroachment, fishing without licenses, boating and watercraft infractions, campfires during high fire seasons, leaving campers in the campsite areas for weeks even months at a time. A HUGE infraction is running all over the Newlan Creek Reservoir Leased Area (AND) the private landowners property with off-road vehicles - ATVs, motorcycles, side by sides. The campers continually race up and down the county road from the camping/fishing access area through private property and up and down the county road that goes directly through our ranch buildings for "joy rides", to immediately turn around and go right back thru, and at high speeds, back up to the fishing access. All the while, harrasing our horses and cattle.

It is also ridiculous that the FWP has removed the DOG LEASH regulation/requirement in the FWP campsite areas and in the reservoir area itself. I have been chased and bitten at by campers dogs when I have been on foot, horseback and in my vehicle - just traversing to and from our personal property adjacent to the reservoir. We have also had our cattle, in their pasture, across the fence from the Newlan Creek Dam area, chased and harrassed by camper/recreationist's dogs that are running wild all over the area.

The campers, day traffic and recreationists continue to litter when trespassing onto our private adjacent ground. The outhouses, placed about 10 years ago, have helped with the amount of toilet paper and human feces on our private adjacent land. However, that liter continues to be thrown out across the fence on to our ground and or blows onto our property. Additionally, litter from the campers/day recreationists regularly blow out of the back of their vehicles as they leave the Newlan Creek Reservoir while "packing out" their garbage. It either flies out of the back of their vehicle and scatters all over our property or they throw it out as they leave on their way by or they help themselves to our private garbage containers at our driveway - which we have to pay to be picked up to our garbage service. We live on the county road headed west, directly below the physical dam. FWPs needs to replace garbage bins back in the campgrounds and pay for this service to be picked up themselves. I know for a fact, that was the practice for years 1970s - 1990s and early 2000s, because my uncle, Tom Walter, was employed by FWPs to do so.

The FWPs Environmental Assessment mentions concerns and interest in mitigating resource impacts through the planned improvements. However, one environmental impact that has been noticeably absent, again another HUGE impact, the mitigation of noxious weeds through proper and consistent noxious weed spraying protocols by FWPs. The infestation of spotted knapweed around the lake in ALL campground areas and on all the banks for the lake is outrageous! The noxious weeds are choking out and eliminating the natrual grasses and vegetation 100% and encroaching on the private, adjacent landowners lands. A minimal effort has been made in the past several years to spray the noxious weeds but the effort is grossly lacking any real results. The weed spayers are either spraying at the wrong time of the year and/or either cannot identigy the noxious weeds to spray or just can't see them. It is sickening to see all the noxious weeds that have taken over the majority of vegetation from seeds packed into the Newlan Creek Reservoir area and from negligent efforts to mitigate the noxious

weeds. With new construction/disruption of the dirt - increased noxious weeds will grow as well and absolutely must be addressed if FWP's cares at all about the environmental impacts of this proposal.

Finally, the Environmental Assessment Checklist includes two livestock water gaps as part of the leased area from the Newlan Creek Water Users. This is absolutely incorrect. Both livestock water gaps are held by Thad and Nancy Hereim thru Montana Legal Water Rights held for many, many years and were not subject to the Eminent Domain Condemnation Order. I suggest the FWP's understand the legality of Montana Livestock Water Rights Filings and Rights.

One last comment, with the proposed project turning the area into more "formal" camp ground areas and day parking areas - FWP's must consider that fact that people will likely infringe and trespass more on private adjacent grounds as overflow areas.

Thank you for including our comments in the public comments for this proposed project changes at the Newlan Creek Reservoir, we encourage FWP's to take our comments seriously.

FWP Response: Thank you for submitting comments. FWP uses Montana Cadastral to create a mailing list of adjacent landowners of the proposed project property. We apologize if this unintentionally excluded an adjacent landowner.

Please see the response to comment 2 for proposed mitigation measures using signage and FWP's enforcement authority. The White Sulphur Springs Game Warden District was vacant during the summer of 2024 and was covered by Wardens from other Districts. This Game Warden position has since been filled and the Warden will be completing required field training over the coming months.

FWP continues to enter into a Memorandum of Understanding with the Meagher County Weed District for Noxious Weed Management at Newlan Creek Reservoir Fishing Access Site. The MOU is renewed in 1-year intervals for the purpose of noxious weed control by Meagher County Weed District at Newlan Creek Reservoir FAS, Martinsdale Reservoir FAS, and Fort Logan FAS. In 2024, FWP paid the Meagher County Weed District \$1,250.00 for noxious weed control at Newlan Creek Reservoir.

FWP does not offer garbage disposal within Fishing Access Sites in Region 4, and instead requires pack in/pack out. In busy campgrounds, such as Newlan Creek Reservoir FAS, garbage disposal bins frequently reach capacity before garbage removal services can empty the bins (typically no greater than once per week). Additionally, garbage bins are subject to uses outside of those recreating at the FAS and often are observed being used for household garbage and garbage from people recreating or camping on lands outside of the FAS, such as on US Forest Service lands.

The boundary of the lease was generated using Montana Cadastral land ownership boundaries. The lease agreement between Meagher County Newlan Creek Water District and FWP would not impact existing easements, rights-of-way, agreements, or water rights held within the property boundaries.

DECISION

Based on the environmental review provided in the Draft EA, and in accordance with all applicable laws, rules, regulations, and policies, FWP determined the proposed action (Alternative 2), will not have significant adverse impacts on the human environment associated with the proposed action and constitutes a reasonable and appropriate strategy to achieve identified objectives. Therefore, preparation of an EIS is unnecessary. FWP hereby adopts the Draft EA as final and approves the Alternative 2, the proposed action.

With this DN, FWP hereby adopts the Final EA, with modifications, and approves the proposed action.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Jason Rhoten', with a stylized flourish at the end.

Jason Rhoten
Regional Supervisor, Region 4
Montana Fish, Wildlife & Parks