



Region 5, 2300 Lake Elmo Road, Billings, MT 59105
Decision Notice and Finding of No Significant Impact for the
Otter Creek LLC Island Acquisition and Expansion of Indian Fort Fishing Access Site.

November 10, 2022

Description of Proposed Project

Montana Fish, Wildlife & Parks (FWP) appreciates the reviews and comments regarding the proposed Otter Creek LLC land acquisition by FWP. As detailed in the draft Environmental Assessment (EA), FWP proposes to acquire a 107-acre island complex upstream of Indian Fort Fishing Access Site. The complex could be acquired with mitigation funds administered by the Montana Natural Resource Damage Program (NRDP) as a result of the Exxon Mobil Pipeline Company July 1, 2011, Yellowstone River Oil Spill. This site is adjacent to Indian Fort Fishing Access Site (FAS), 4 river miles below Bratten FAS site, and 7 river miles above Twin Bridges. The islands are in a high priority reach of the Yellowstone River for additional public access. The NRDP has provisions to allow for natural function of river processes and recruitment of large woody debris--typically cottonwoods--to the river during floods by securing cottonwood riparian areas that are exposed to natural riverine forces. The natural riverine function builds islands and provides habitat for terrestrial and aquatic organisms. The NRDP proposes to fund FWP to purchase the islands from Otter Creek Ranch LLC. FWP would hold title and administer the property on behalf of the State of Montana. The islands would remain as an undeveloped area for wildlife stewardship and provide recreational resources for the public such as angling, birdwatching, and camping.

MONTANA ENVIRONMENTAL POLICY ACT (MEPA) PROCESS

Pursuant to the Montana Environmental Policy Act (MEPA) FWP released a draft EA for public review on September 28th, 2022 and asked for public comment through October 28th, 2022. Notice of the EA's availability was published in the Billings Gazette, Helena Independent Record, Stillwater County News, and Big Timber Pioneer. Adjacent landowners were also notified. The EA was posted on FWP's official website and was also available at the Region Five Headquarters in Billings.

The EA evaluated potential impacts of the following alternatives:

- 1. Alternative A: No Action** Under this alternative FWP would not accept or continue to invest time to acquire the island complex as part of the Indian Fort FAS. NRDP would seek other projects that meet the criteria for riparian lands that could meet the Large Woody Debris Program criteria.

2. Alternative B: Proposed Action Under this alternative, FWP will work with NRDP and Otter Creek Ranch LLC to acquire lands and add on to the already existing Indian Fort FAS, thereby meeting objectives in the NRDP restoration plan and FWP statewide management plan.

SUMMMARY OF PUBLIC COMMENT

FWP received 11 public comments, 2 from Trout Unlimited and 9 from individuals. 10 comments were in support of the acquisition while 1 comment was against, bringing up multiple issues with the purchase. The Sweet Grass County Commissioners support the project.

The issues raised against acquiring the islands include erosion and islands changing, vegetation and weed issues, hunting pressure and safety, only accessible by boats, fire, management costs, and overpriced evaluation of the land.

- Erosion and island change

FWP response: We understand the concern for the loss and change of the islands and acknowledge this is a real issue. This is the reason the Natural Resource Damage Program has interest in the islands. The money being used to buy the islands is specifically marked for allowing natural river functions and the accumulation of woody debris. FWP is also not considering development of the islands.

- Vegetation and weed issues

FWP response: We acknowledge that islands are often dense with vegetation and can harbor weeds. We plan to leave the native vegetation alone to allow for the recruitment of large woody debris during floods. As for the weeds, FWP will include these parcels in the weed management program and work with partners to manage invasive species present.

- Hunting pressure and safety

FWP response: As an addition to Indian Fort Fishing Access Site no discharge of weapons would be allowed under the current rules. This may be reconsidered in the future for these parcels and was not a part of EA process and public comment.

- Only accessible by boat

FWP response: The public has supported diversified opportunity including sites that are boat in only. This area has seen increased demand for public recreational access.

- Fire

FWP response: This is a concern for this area as well as others that are accessed privately and by the public. These parcels are separated from the mainland by the river and present little risk beyond the sites.

- Management costs

FWP response: The site is adjacent to an existing fishing access site there for limited costs for travel are anticipated. There are no plans for development with the expectation they deform and flood regularly. Regular weed management costs are anticipated.

- Overpriced evaluation of the land

FWP response: The price was determined through standard appraisal practices. The funds being used for the purchase are in place to purchase lands that can generate large woody debris, typically cottonwoods to the river during floods and regenerate more trees. FWP receives regular public support to secure additional Yellowstone River access including diversified use. The Natural Resource Damage Program completed a programmatic EA for the type of project.

DECISION

After considering the public comment, FWP recommends approval of the proposed action, to acquire the 107-acre island complex upstream of Indian Fort Fishing Access Site. Following the Environmental Assessment, I have determined the proposed action will not have negative effects on the human and physical environments associated with this project. I conclude that the EA is the appropriate level of analysis, and the preparation of an Environmental Impact Statement is unnecessary. Provided the proposed acquisition is approved by the Montana Fish and Wildlife Commission, the department will proceed with the Otter Creek LLC Island Addition to Indian Fort FAS project with anticipation of a spring 2023 closing. FWP accepts the draft EA as final. By this Decision Notice, the draft EA is hereby made final.



Mike Ruggles
Region 5 Supervisor
Montana Fish Wildlife and Parks

Date