

MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS

FISHERIES DIVISION  
JOB PROGRESS REPORT

STATE: MONTANA

PROJECT NUMBER: F-46-R-7

JOB NUMBER: VI-A

PROJECT TITLE: STATEWIDE FISHERIES INVESTIGATIONS  
STATE TITLE: STATEWIDE SURVEY AND INVENTORIES  
JOB TITLE: STREAM PROTECTION COORDINATOR  
PERIOD COVERED: JULY 1, 1993 TO JUNE 30, 1994

ABSTRACT

During the report period, 309 Notices of Construction were received and reviewed under the Stream Protection Act program. Measures were requested to reduce or mitigate damage to streams and fish habitat at each project site.

Fish and wildlife information for environmental assessments was provided to the State Department of Transportation upon request. Environmental impact assessments submitted for all state highway projects were reviewed and commented on as required.

Regional fisheries personnel reviewed approximately 1000 project applications for 310 permits. Team inspections were conducted on approximately 70% of these.

An engineering firm was contracted to assist with hydraulic problems on projects that required special consideration.

OBJECTIVES

1. To coordinate administration of the Stream Protection Act (SPA) and the Natural Streambed and Land Preservation Act (310) to ensure the preservation of Montana streams in their natural, existing state.
2. To provide recommendations pertaining to Sec. 404 of the Clean Water Act to avoid impacts to wetlands contiguous to streams or in project corridors.
3. To coordinate with other state and federal agencies, agricultural, corporate and other private entities in an effort to promote stream habitat management.

Objective 3 was accomplished with state funding.

## PROCEDURES

State, county, municipal and political subdivisions are required to provide SPA notices to the Department of Fish, Wildlife and Parks (DFWP) at least 60 days prior to construction for projects which may affect stream beds or stream banks. Irrigation district projects and emergencies are exempt from the act.

The Department provides notification forms to applicants which must be completed and returned to the department. Plans are reviewed by Helena and regional staff to determine if adverse impacts to fish or wildlife will occur. Recommendations are made to the applicant to eliminate or reduce adverse impacts. The act provides for an arbitration procedure if a discrepancy arises.

The regions continue to process SPA applications for miscellaneous projects such as those applied for by entities of local government. The Helena office processes all Montana Department of Transportation sponsored applications and maintains a central file of all permits and transactions.

A Memorandum of Understanding with the Montana Department of Health and Environmental Sciences provides that we screen construction projects for potential exceedence of water quality standards. The MOU allows us to review erosion control plans for road construction activities, make recommendations, and monitor projects for compliance. Other state agencies cooperate to varying degrees under informal agreements.

Several federal agencies have entered into a Memorandum of Understanding with the Department to facilitate compliance with the Stream Protection Act. The Department periodically meets with the federal agencies to renew and update existing MOU's and to evaluate compliance.

A private individual, corporation, firm, partnership, association, or other legal entity not covered under the Stream Protection Act must, before altering or modifying the bed or banks of stream, obtain a 310 permit from the local Conservation District. Fisheries personnel are required, as part of the permitting process, to review plans and make recommendations for reducing or eliminating impacts to the streambed or banks. The permitting process normally includes on-site inspections and takes less than 60 days. If a dispute occurs, there is a provision for arbitration or litigation.

Guidelines have been developed to facilitate consistent statewide administration of 310 projects. Division activities are coordinated on all arbitration proceedings dealing with disagreements and violations. Technical assistance is provided to fisheries personnel when unusual, difficult or hard to solve hydrologic problems occur. Training is provided for new fisheries

biologists assigned to stream protection duties.

Engineering consultation is provided through a contract with a private engineering firm.

## FINDINGS

### Stream Protection Act

A total of 309 Notice of Construction applications were reviewed and processed during this report period. Of these, 63 were for state highway projects (Table 1), and 246 for miscellaneous projects (Table 2) submitted by federal agencies, municipalities, counties, and state agencies other than the Department of Transportation (MDT).

The Department is operating under a renewed Memoranda of Understanding (MOU) with several state and federal agencies which establishes operating procedures for identifying, evaluating and mitigating impacts to wetlands from highway construction. This MOU provides for compliance with Federal requirements of Section 404 of the Clean Water Act. A wetland technical subcommittee coordinates the program under direction of an Interagency Wetlands Group.

The Department has also revised our MOU with MDT to initiate procedural changes that are necessary to reduce the number of SPA violations and bring projects into compliance with the SPA requirements and stipulations. We have experienced much better compliance as a result of these changes.

### Natural Streambed and Land Preservation Act (310)

Regional fisheries personnel received notification of approximately 1000 applications for 310 permits from 49 conservation districts throughout the state. Team inspections were held on approximately 70% of the projects. Projects included: stream crossings (bridges, culverts, fords, pipelines and cables); irrigation diversions (headgates, pumps and instream structures); streambank and channel stabilization; mining; miscellaneous (ramps, pond development, debris removal and dredging); and fish habitat enhancement.

The majority of 310 projects were located in the western and southwestern part of the state. Numbers of projects have remained relatively constant over the last four years.

## RECOMMENDATIONS

Stream protection activities are among the most important functions performed by the Department. Cooperation with other agencies, conservation districts, and the agricultural community continues to improve as all segments of society become increasingly aware of the

importance of habitat for sustaining fishery resources. River mechanics and other aquatic habitat training workshops should continue to be offered to those involved with the permitting process and having stream protection responsibilities.

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Date: September 15, 1994