MONTANA FISH AND GAME DEPARTMENT Helena, Montana July 1964

STATE PROJECT 29-P-0
HABITAT EVALUATION
By
John Peters

The 1963 Montana Legislature enacted legislation stating that Montana's fishing waters are to be protected and preserved. This Stream Preservation Law became effective July 1, 1963, enabling the Fish and Game Department to work with other agencies or subdivisions of state government to prevent or decrease damage to stream fish habitat. Unless the 1965 legislature makes this law permanent, the law will end on June 30, 1965.

During the first year we have administered the law, the department has received 34 legal notices of construction projects from State Agencies under the Stream Preservation Law (Table 1). The following is an outline summary of the action taken on these projects.

- I. Three notices were received from cities or counties.
 - A. No special provisions were recommended on two projects.
 - 1. One was a right-angle pipeline crossing
 - 2. The other did not warrant additional construction expense necessary to avoid a small amount of fish habitat loss.
 - B. A recommended line change was accepted by the county on one project.
- II. Thirty-one notices were received from the Montana Highway Department.
 - A. No special provisions were asked on 22 of the 31 projects.
 - 1. Seven of the 22 involved right-angle bridge crossings.
 - 2. Fifteen of the 22 involved projects where additional construction expense necessary to avoid a small amount of habitat loss was not justified.
 - B. Special provisions were asked on 9 of the 31 projects.
 - On six projects we have reached agreement. These provisions included a line change, additional bridges, building a replacement meander, and combination jetties and access areas.
 - No agreement was reached on three projects.

The arbitration clause provided for by the law has never been used.

The Fish and Game Department negotiated agreements with Federal Agencies not under the Stream Preservation Law. With these agreements, the department is notified of projects which influence stream habitat. Federal Agencies who follow the intent of the Stream Preservation Law include the Forest Service, the Fish and Wildlife Service, the Bureau of Reclamation, the Bureau of Land Management, the Bureau of Public Roads, and the Soil Conservation Service.

We have negotiated an agreement with the Montana Highway Department to receive notification of every project that is authorized to be surveyed. By receiving these Preconstruction Notices, we are able to review potential damage before final detail construction plans are designed for a route. Often suggested line changes to avoid streams have been negotiated in the field. We have reviewed 216 preconstruction notices received from the Highway Department.

It is recommended that a hydrologist be hired by the Montana Fish and Game Department to provide technical information needed to increase the effectiveness of the law.

Table 1. Legal Notices Received and Action Taken on Construction

Proj	Influencing	tat.		. E.11	
			не	correspondence	*
ate F&G-124 Received	Project Name	Stream Involved	"Not Detrimental"	"Detrimental"	Remarks
7/12/63	APW 69 Sewer Project	Spring Creek	8/1/63		
7/19/63	ı	Flint Creek	8/10/63		
7/26/63	stone ngs -	Homestake Creek Pipestone Creek	8/26/63		•
7/30/63	선	/ Clark Fork River		8/26/63	Requested eval- uation for this
			£		project and Bearmouth West 10/7/63 No Answer
8/7/63	Lolo-Missoula	Bitterroot River Lolo Creek	6/3/63		
8/6/8	Belgrade-Bozeman	Hyalite Creek	8/23/63	ar A A	g g
9/23/63	Pipe Organ-North	Beaverhead River		9/23/63	Agreement reached at joint Comm. meet. 9/23/63
6/30/63	County Road	Lump Gulch Creek		10/4/63	ated lent. /ledge 12/1
10/4/63	Bonner-Ovando	Blackfoot River /		10/23/63	Request Add. Info. MHD,de- layed F&G rpt. submitted 2/24/64
10/14/63	Bearmouth-West	Clark Fork River		11/6/63	See Bearmouth E&W. Evaluation 10/7/63. No answer
11/4/63	Manhattan-Belgrade	Camp Cr.,Baker Cr. W. Gallatin Riv.	12/5/63		
* Montana Highway Department					
	Date F&G-124 Received 7/12/63 7/19/63 7/26/63 7/30/63 9/23/63 9/30/63 10/4/63 11/4/63 11/4/63 11/4/63	Project Name APW 69 Sewer Project Hall - East Pipestone Hot Springs - West Belgrade-Bozema Pipe Organ-Nort Pipe Organ-Nort Bonner-Ovando Bonner-Ovando Manhattan-Belgr	Project Influencing Habitat. APW 69 Sewer Project Spring Creek Hall - East Flint Creek Pipestone Hot Homestake Creek Springs - West Pipestone Creek Springs - West Homestake Creek Springs - West Homestake Creek Belgrade-Bozeman Hyalite Creek Belgrade-Bozeman Hyalite Creek Pipe Organ-North Beaverhead Rive Bonner-Ovando Blackfoot Rives County Road Lump Gulch Creek Bonner-Ovando Blackfoot Rives Gamp Cr., Baker Manhattan-Belgrade W. Gallatin Riv	Project Influencing Habitat. Project Stream Stream "Not Name Involved Detrime Sewer Project Spring Creek 8/10/6; Bewer Project Spring Creek 8/10/6; Pipestone Hot Homestake Creek 8/26/6; Bearmouth E&W Clark Fork River 9/3/63 Belgrade-Bozeman Hyalite Creek 8/23/6; Pipe Organ-North Beaverhead River Bearmouth-West Clark Fork River Manhattan-Belgrade W. Gallatin Riv. 12/5/6	Project Influencing Habitat. Project Stream Stream "Not sent by Sewer Project Involved Detrimental" Apw 69 Sewer Project Spring Creek 8/10/63 Hall - East Flint Greek 8/26/63 Pipestone Hot Phestone Creek 8/26/63 Bearmouth E&W Clark Fork River 9/3/63 Belgrade-Bozeman Hyalite Creek 8/23/63 Pipe Organ-North Beaverhead River 8/23/63 Bonner-Ovando Blackfoot River Gamp Cr., Baker Cr. Manhattan-Belgrade W. Gallatin Riv. 12/5/63

	or corres- t by F&G	"Not Detrimental" "Detrimental Remarks	MHD replied on 12/2/63 12/11/63. "We will	give careful consideration" (See Cascade	ביים ביים	7/			3/9/64 Negotiated	T
Construction 	Date report or corres- pondence sent by F&G	"Not Detrimental"				12/9/63	3/3/64	3/3/64		
and Action Taken on bitat.	·Q.	Stream Involved	Missouri River			Clark Fork River	Dayton Creek	Flathead River	Bitterroot River	Flint Creek
Table 1. (continued) Legal Notices Received and Action Taken on Construction Projects Influencing Habitat.		Project Name	Stickney Creek-North		Van Buren Street in	Missoula - Bonner	Pablo-Kalispell	West Glacier - East Glacier Park	Grantsdale-Sleeping Child Creek	
1. (continued) 1		Date F&G-124 Received	11/7/63		2/01/11	11/19/03	2/5/64	2/5/64	2/5/64	0 /- //
Table		Sponsoring Agency	МНД		WHD	THE T	MHD	MHD	MHD	duM

Tab	Table 1. (continued)	Legal Notices Received Projects Influencing Ha	ed and Action Taken on Habitat.	Construction		1
			ræ.	Date report c pondence sent	ort or corres- sent by F&G	
Sponsoring Agency	Date F&G-124 Received	Project Name	Stream Involved	"Not Detrimental"	"Detrimental	Remarks
МНБ	11/7/63	Stickney Creek-North	Missouri River		12/2/63	MHD replied on 12/11/63. "We will give careful considerate on 12/11/62.
						Co. Line-South)
MHD	11/19/63	Van Buren Street in Missoula - Bonner	Clark Fork River	12/9/63		
MHD	2/5/64	Pablo-Kalispell	Dayton Creek	3/3/64		
MHD	2/5/64	West Glacier - East Glacier Park	Flathead River	3/3/64		
MHD	2/5/64	sdale-Sl Creek	Bitterroot River		2/27/64	3/9/64 Negotiated
MHD	2/5/64	Porters Corner-SW	Flint Creek Trout Creek	2/26/64		
MHD	2/5/64	Logan-North	Gallatin River	2/26/64		
MHD	2/6/64	Ledger E&W	Dry Fork Marias River	3/3/64		
MHD	2/6/64	Missoula Urban	Rattlesnake Creek	2/26/64		
MHD	2/6/64	Bridger - Laurel	Rock Creek	2/11/64		
MHD	2/6/64	Bridger - Laurel	Elbow Creek	2/11/64		
MHD	2/7/64	Whitehall E&W	Whitehall Creek	2/26/64		
MHD	2/7/64	Great Falls - West Side	Sun River	3/3/64		
МНО	2/6/64	Cascade Co. Line-So.	Missouri River		3/3/64	Same project as Stickney Greek-No. No written acknowi-
CHW	2/17/64	Maxville-Drummond	Clark Fork River Edwards Creek	3/10/64		eagement.
MHD	2/20/64		Edwards Creek Morris Creek	3/6/64		
MHD	2/20/64	Homestake East	Homestake Creek	3/6/64		7
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Projects Influencing Habitat

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		Remarks			5/28/64 Still pending. Director had personal con- ference with Johnson 5/27/64	7. T	Same as Hardy Cr. So. above 3/10/64. Gave us what we asked for to mitigate losses.	Stream is of minor importance	
	r corres- by F&G	'Detrimental'	3/26/64	:	5/13/64		9		
	Date report or corres- pondence sent by F&G	"Not detrimental" "Detrimental'	¥	3/26/64		5/27/64	5/25/64	5/15/64	
tat		Stream Involved	Missouri River	Willow Creek 4-Mile Creek	Spring Creek Cottonwood Creek	Farrel Creek and 2 locations on Pine Creek	Missouri River Sheep Creek Hardy Creek	Cottonwood Creek	
Projects Influencing Habitat		Project Name	Hardy Creek-South	White Sulphur Springs Harlowton	Lewistown - Hanover- Judith River	Northwest of Troy- Yaak River - Rexford Road	8	County Road	
		Date F&G-124 Received	3/10/64	3/11/64	4/16/64	4/28/64	5/12/64	5/12/64	
		Sponsoring Agency	MHD	МНД	МНБ	МНБ	МНД	Fergus Co.	