

MONTANA FISH AND GAME DEPARTMENT  
Helena, Montana  
July 1964

STATE PROJECT 29-P-0  
HABITAT EVALUATION  
By  
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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.
    1. 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.
    2. 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 Projects Influencing Habitat.

Sponsoring Agency	Date F&G-124 Received	Project Name	Stream Involved	Date report or correspondence sent by F&G		Remarks
				"Not Detrimental"	"Detrimental"	
City of Ronan	7/12/63	APW 69 Sewer Project	Spring Creek	8/7/63		
MHD*	7/19/63	Hall - East Pipestone Hot Springs - West	Flint Creek Homestake Creek Pipestone Creek	8/10/63		
MHD	7/26/63			8/26/63		
MHD	7/30/63	Bearmouth E&W	Clark Fork River		8/26/63	Requested evaluation for this project and Bearmouth West 10/7/63 No Answer
MHD	8/7/63	Lolo-Missoula	Bitterroot River Lolo Creek	9/3/63		
MHD	8/9/63	Belgrade-Bozeman	Hyalite Creek	8/23/63		
MHD	9/23/63	Pipe Organ-North	Beaverhead River		9/23/63	Agreement reached at joint Comm. meet. 9/23/63
Jefferson Co.	9/30/63	County Road	Lump Gulch Creek		10/4/63	Negotiated agreement. Acknowledged by Co. 12/11/63
MHD	10/4/63	Bonner-Ovando	Blackfoot River		10/23/63	Request Add. Info. MHD, delayed F&G rpt. submitted 2/24/64
MHD	10/14/63	Bearmouth-West	Clark Fork River		11/6/63	See Bearmouth E&W. Evaluation 10/7/63. No answer
MHD	11/4/63	Manhattan-Belgrade	Camp Cr., Baker Cr. W. Gallatin Riv.	12/5/63		
* Montana Highway Department						

Table 1. (continued)  
Legal Notices Received and Action Taken on Construction  
Projects Influencing Habitat.

Sponsoring Agency	Date F&G-124 Received	Project Name	Stream Involved	Date report or correspondence sent by F&G		Remarks
				"Not Detrimental"	"Detrimental"	
MHD	11/7/63	Stickney Creek-North	Missouri River		12/2/63	MHD replied on 12/11/63. "We will give careful consideration" (See Cascade 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	Grantsdale-Sleeping Child Creek	Bitterroot River		2/27/64	3/9/64 Negotiated agreement
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		
MHD	2/6/64	Cascade Co. Line-So.	Missouri River		3/3/64	Same project as Stickney Creek-No. No written acknowledgment.
MHD	2/17/64	Maxville-Drummond	Clark Fork River Edwards Creek	3/10/64		
MHD	2/20/64	Drummond E&W	Edwards Creek Morris Creek	3/6/64		
MHD	2/20/64	Homestake East	Homestake Creek	3/6/64		

Sponsoring Agency	Date F&G-124 Received	Project Name	Stream Involved	Date report or correspondence sent by F&G		Remarks
				"Not detrimental"	"Detrimental"	
MHD	3/10/64	Hardy Creek-South	Missouri River		3/26/64	
MHD	3/11/64	White Sulphur Springs Harlowton	Willow Creek 4-Mile Creek			
MHD	4/16/64	Lewistown - Hanover-Judith River	Spring Creek Cottonwood Creek	3/26/64	5/13/64	5/28/64 Still pending. Director had personal conference with Johnson 5/27/64
MHD	4/28/64	Northwest of Troy-Yaak River - Rexford Road	Farrel Creek and 2 locations on Pine Creek	5/27/64		
MHD	5/12/64	Hardy Creek South I 15-5(23) 234 Stickney Cr.-Hardy Cr	Missouri River Sheep Creek Hardy Creek	5/25/64		Same as Hardy Cr. So. above 3/10/64. Gave us what we asked for to mitigate losses.
Fergus Co.	5/12/64	County Road	Cottonwood Creek	5/15/64		Stream is of minor importance