

Lower Libby Creek Irrigation Diversion
Draft Environmental Assessment

MEPA/NEPA CHECKLIST

PART I. PROPOSED ACTION DESCRIPTION

- 1. **Type of proposed state action:** Irrigation Diversion Fish Screen Installation
- 2. **Agency authority for the proposed action:** Montana Fish, Wildlife & Parks
- 3. **Name of project:** Lower Libby Creek Irrigation Diversion Fish Screen
- 4. **Name, address, and phone number of project sponsor (if other than the agency):**
- 5. **If applicable:**

Estimated construction/commencement date: September 26, 2005

Estimated completion date: Final construction of the restoration project is expected to be completed by November 1, 2005.

Current status of project design (% complete): 99%

- 6. **Location affected by proposed action (county, range, and township):**

This project will be conducted on Libby Creek located at approximately rivermile 13.3, located approximately 0.2 miles upstream of the Highway 2 bridge that crosses Libby Creek. Specifically, the project is located within Township 28 North, Range 30 West, Southeast ¼, Northeast ¼, Section 5, Lincoln County. Longitude 48°13.238' N and Latitude 115°29.067' W (see attached vicinity map).

- 7. **Project size: Estimate the number of acres that would be directly affected that are currently:**

	Acres		Acres
(a) Developed:		(d) Floodplain	1
residential	0		
industrial	0	(e) Productive:	
		irrigated cropland.....	0
(b) Open Space/Woodlands/Recreation.....	0	dry cropland.....	0
		forestry	0
(c) Wetlands/Riparian Areas	1	rangeland	0
		other	

8. Map/site plan: Attach an original 8½" x 11" or larger section of the most recent USGS 7.5' series topographic map showing the location and boundaries of the area that would be affected by the proposed action. A different map scale may be substituted if more appropriate or if required by agency rule. If available, a site plan should also be attached.

See Figures 1, 2, 3, 4, and 5.

9. Listing of any other local, state or federal agency that has overlapping or additional jurisdiction:

(a) Permits:

Agency Name Permit Date Filed/#

1. Montana Department of Environment and Water Quality, 318 Permit, pending
2. Army Corps of Engineers, 404 Permit, pending
3. Lincoln County Conservation District, 310 Permit, pending
4. Lincoln County, County Floodplain Development Permit, pending

(b) Funding:

Agency Name Funding Amount

Montana Fish, Wildlife & Parks: \$30,000

(c) Other Overlapping or Additional Jurisdictional Responsibilities:

Agency Name Type of Responsibility

N/A

10. Narrative summary of the proposed action or project including the benefits and purpose of the proposed action:

The project site is located on property owned by the U.S. Forest Service, on Libby Creek located at approximately river mile 13.3, located approximately 0.2 miles upstream of the Highway 2 bridge that crosses Libby Creek. Specifically, the project is located within Township 28 North, Range 30 West, Southeast ¼, Northeast ¼, Section 5, Lincoln County, Montana (Figure 1).

Libby Creek provides important spawning, rearing, and a migratory corridor for redband, westslope cutthroat, and bull trout. However, during many years the lower Libby Creek often becomes marginal habitat due to intermittent flows downstream of the proposed project site. Few existing water rights exist on lower Libby Creek. The largest substantial irrigation diversion located on Libby Creek exists at the proposed project site where two water right holders divert water from Libby Creek through a currently unscreened diversion. The John Beebe Family Partnership and Ken and Rhonda Noland are the two sole water users of the diversion. Each party has an individual water right of 1.71 cubic feet per

second (cfs). Each right has a priority date of March 25, 1927 (water right numbers 76D-W-014266-00 IR and 76D-W-141358-00 IR, respectively). The intent of the project is to install a functional fish screen near the point of diversion capable of delivering the legal volume of water for these two water right holders in order to prevent fish entrainment into the irrigation system. The proposed project would install an intake structure (Figure 3), headgate structure (Figure 4) to control the volume of water diverted, and a turbulent fountain fish screen (Figure 5) to prevent fish entrainment into the irrigation ditch.

11. List of agencies consulted during preparation of the EA:

Lincoln County Conservation District, NRCS, US Fish and Wildlife Service, US Army Corp of Engineers, Montana Department of Environmental Quality, State Historic Preservation Office, Lincoln County Planning Department, The US Forest Service, and the Confederated Salish and Kootenai Tribes.

PART II. ENVIRONMENTAL REVIEW

1. Evaluation of the impacts of the proposed action including secondary and cumulative impacts on the Physical and Human Environment.

A. PHYSICAL ENVIRONMENT

1. LAND RESOURCES Will the proposed action result in:	IMPACT *				Can Impact Be Mitigated*	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. **Soil instability or changes in geologic substructure?		X				
b. Disruption, displacement, erosion, compaction, moisture loss, or over-covering of soil which would reduce productivity or fertility?		X				
c. **Destruction, covering or modification of any unique geologic or physical features?		X				
d. Changes in siltation, deposition or erosion patterns that may modify the channel of a river or stream or the bed or shore of a lake?		X				
e. Exposure of people or property to earthquakes, landslides, ground failure, or other natural hazard?		X				
f. Other:						

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):

2. AIR Will the proposed action result in:	IMPACT *				Can Impact Be Mitigated*	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. **Emission of air pollutants or deterioration of ambient air quality? (also see 13 (c))		X				
b. Creation of objectionable odors?		X				
c. Alteration of air movement, moisture, or temperature patterns or any change in climate, either locally or regionally?		X				
d. Adverse effects on vegetation, including crops, due to increased emissions of pollutants?		X				
e. ***For P-R/D-J projects, will the project result in any discharge, which will conflict with federal or state air quality regs? (Also see 2a)		X				
f. Other:						

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Air Resources (Attach additional pages of narrative if needed):

- * Include a narrative explanation under Part III describing the scope and level of impact. If the impact is unknown, explain why the unknown impact has not or can not be evaluated.
- ** Include a narrative description addressing the items identified in 12.8.604-1a (ARM)
- *** Determine whether the described impact may result and respond on the checklist. Describe any minor or potentially significant impacts.
- **** Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

3. <u>WATER</u> Will the proposed action result in:	IMPACT *				Can Impact Be Mitigated*	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. *Discharge into surface water or any alteration of surface water quality including but not limited to temperature, dissolved oxygen or turbidity?		X				
b. Changes in drainage patterns or the rate and amount of surface runoff?			X			3-A
c. Alteration of the course or magnitude of floodwater or other flows?			X			3-A
d. Changes in the amount of surface water in any water body or creation of a new water body?			X			3-A
e. Exposure of people or property to water related hazards such as flooding?		X				
f. Changes in the quality of groundwater?		X				
g. Changes in the quantity of groundwater?		X				
h. Increase in risk of contamination of surface or groundwater?		X				
i. Effects on any existing water right or reservation?			X			3-B
j. Effects on other water users as a result of any alteration in surface or groundwater quality?		X				
k. Effects on other users as a result of any alteration in surface or groundwater quantity?		X				
l. ****For P-R/D-J, will the project affect a designated floodplain? (Also see 3c)		X				
m. ***For P-R/D-J, will the project result in any discharge that will affect federal or state water quality regulations? (Also see 3a)		X				
n. Other:						

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Water Resources (Attach additional pages of narrative if needed):

3A. Changes in drainage patterns or the rate and amount of surface runoff.

The current irrigation diversion is outdated and has little control over the amount of water that is entrained into the system. Currently the amount of flow that enters the irrigation ditch is controlled by a gravel berm located at the diversion point. This gravel berm must be replaced each year after the spring freshet on Libby Creek. As a result of the limited control the water users have in controlling the amount of water that enters the ditch, often the amount of water that is diverted exceeds their legal water rights. During some low- water years, Libby Creek goes dry in the near proximity below the irrigation diversion. The proposed project would install a functional headgate that would improve the water users' ability to measure and divert up to, but not exceed, the legal water right. As a result, during most years more water will remain in Libby Creek.

3B. Effects on any existing water right or reservation. The proposed project will construct the fish screen capable of screening up to, but not exceeding, the legal water right held by the water users on the irrigation system.

* Include a narrative explanation under Part III describing the scope and level of impact. If the impact is unknown, explain why the unknown impact has not or can not be evaluated.

** Include a narrative description addressing the items identified in 12.8.604-1a (ARM)

*** Determine whether the described impact may result and respond on the checklist. Describe any minor or potentially significant impacts.

**** Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

4. <u>VEGETATION</u> Will the proposed action result in:	IMPACT *				Can Impact Be Mitigated *	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. Changes in the diversity, productivity or abundance of plant species (including trees, shrubs, grass, crops, and aquatic plants)?		X				
b. Alteration of a plant community?		X				
c. Adverse effects on any unique, rare, threatened, or endangered species?		X				
d. Reduction in acreage or productivity of any agricultural land?		X				
e. Establishment or spread of noxious weeds?		X				
f. ****For P-R/D-J, will the project affect wetlands, or prime and unique farmland?		X				
g. Other:						

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):

* Include a narrative explanation under Part III describing the scope and level of impact. If the impact is unknown, explain why the unknown impact has not or can not be evaluated.

** Include a narrative description addressing the items identified in 12.8.604-1a (ARM)

*** Determine whether the described impact may result and respond on the checklist. Describe any minor or potentially significant impacts.

**** Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

5. <u>FISH/WILDLIFE</u> Will the proposed action result in:	IMPACT *				Can Impact Be Mitigated *	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. Deterioration of critical fish or wildlife habitat?		X				
b. Changes in the diversity or abundance of game animals or bird species?			X			5-A
c. Changes in the diversity or abundance of nongame species?		X				5-A
d. Introduction of new species into an area?		X				
e. Creation of a barrier to the migration or movement of animals?		X				
f. Adverse effects on any unique, rare, threatened, or endangered species?		X				
g. Increase in conditions that stress wildlife populations or limit abundance (including harassment, legal or illegal harvest or other human activity)?		X				
h. ****For P-R/D-J, will the project be performed in any area in which T&E species are present, and will the project affect any T&E species or their habitat? (Also see 5f)			X			5-B
i. ***For P-R/D-J, will the project introduce or export any species not presently or historically occurring in the receiving location? (Also see 5d)		X				
j. Other:						

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):

5A. Changes in the diversity or abundance of game and nongame animals or bird species:

The current irrigation diversion entrains resident and migratory fish present in Libby Creek including redband, bull, brook, and rainbow trout, and sculpin. Any fish that are entrained into the current irrigation system are likely lost to the local population, thereby reducing the abundance and productivity of the local populations. Eliminating the loss of individual fish to the irrigation system will likely have a minor effect on the abundance of local fish populations.

5B. List of ESA species located in or near the project area:

COMMON NAME	SCIENTIFIC NAME	STATUS	RANGE – MONTANA
1. Gray Wolf	Canis lupus	E	Forests; Western Montana
2. White Sturgeon	Acipenser transmontanus	E	Bottom dwelling; Kootenai River (Kootenai River population)
3. Grizzly Bear	Ursus arctos horribilis	T	Alpine/subalpine coniferous forest; Western Montana
4. Bald Eagle	Haliaeetus leucocephalus	T*	Forested riparian; statewide
5. Water Howellia	Howellia aquatilis	T	Wetlands; Swan Valley, Lake and Missoula Counties
6. Bull trout	Salvelinus confluentus,	T	(Columbia River basin and St. Mary - Belly River populations)
	West of Continental Divide in Clark Fork, Flathead, Kootenai river basins;- cold water rivers & lakes		

* Include a narrative explanation under Part III describing the scope and level of impact. If the impact is unknown, explain why the unknown impact has not or can not be evaluated.
 ** Include a narrative description addressing the items identified in 12.8.604-1a (ARM)
 *** Determine whether the described impact may result and respond on the checklist. Describe any minor or potentially significant impacts.
 **** Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

7. Canada lynx population) Lynx canadensis T Western Montana - montane spruce/fir forest (contiguous U.S.)

8. Spalding's Campion Silene spaldingii (Proposed T) Upper Flathead River drainage and Tobacco Valley - open grasslands with rough fescue or bluebunch wheatgrass

* On July 6, 1999, the bald eagle was proposed for removal from the Federal List of Endangered and Threatened Wildlife. The bald eagle remains protected as a threatened species until delisting is final.

B. HUMAN ENVIRONMENT

6. <u>NOISE/ELECTRICAL EFFECTS</u> Will the proposed action result in:	IMPACT *				Can Impact Be Mitigated *	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. Increases in existing noise levels?		X				
b. Exposure of people to serve or nuisance noise levels?		X				
c. Creation of electrostatic or electromagnetic effects that could be detrimental to human health or property?		X				
d. Interference with radio or television reception and operation?		X				
e. Other:						

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):

7. <u>LAND USE</u> Will the proposed action result in:	IMPACT *				Can Impact Be Mitigated *	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. Alteration of or interference with the productivity or profitability of the existing land use of an area?		X				
b. Conflicted with a designated natural area or area of unusual scientific or educational importance?		X				
c. Conflict with any existing land use whose presence would constrain or potentially prohibit the proposed action?		X				
d. Adverse effects on or relocation of residences?		X				
e. Other:						

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):

* Include a narrative explanation under Part III describing the scope and level of impact. If the impact is unknown, explain why the unknown impact has not or can not be evaluated.
 ** Include a narrative description addressing the items identified in 12.8.604-1a (ARM)
 *** Determine whether the described impact may result and respond on the checklist. Describe any minor or potentially significant impacts.
 **** Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

8. <u>RISK/HEALTH HAZARDS</u> Will the proposed action result in:	IMPACT *				Can Impact Be Mitigated *	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. Risk of an explosion or release of hazardous substances (including, but not limited to oil, pesticides, chemicals, or radiation) in the event of an accident or other forms of disruption?		X				
b. Affect an existing emergency response or emergency evacuation plan or create a need for a new plan?		X				
c. Creation of any human health hazard or potential hazard?		X				
d. ***For P-R/D-J, will any chemical toxicants be used? (Also see 8a)		X				
e. Other:						

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):

9. <u>COMMUNITY IMPACT</u> Will the proposed action result in:	IMPACT *				Can Impact Be Mitigated *	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. Alteration of the location, distribution, density, or growth rate of the human population of an area?		X				
b. Alteration of the social structure of a community?		X				
c. Alteration of the level or distribution of employment or community or personal income?		X				
d. Changes in industrial or commercial activity?		X				
e. Increased traffic hazards or effects on existing transportation facilities or patterns of movement of people and goods?		X				
f. Other:						

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):

* Include a narrative explanation under Part III describing the scope and level of impact. If the impact is unknown, explain why the unknown impact has not or can not be evaluated.
 ** Include a narrative description addressing the items identified in 12.8.604-1a (ARM)
 *** Determine whether the described impact may result and respond on the checklist. Describe any minor or potentially significant impacts.
 **** Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

10. <u>PUBLIC SERVICES/TAXES/UTILITIES</u> Will the proposed action result in:	IMPACT *				Can Impact Be Mitigated *	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. Will the proposed action have an effect upon or result in a need for new or altered governmental services in any of the following areas: fire or police protection, schools, parks/recreational facilities, roads or other public maintenance, water supply, sewer or septic systems, solid waste disposal, health, or other governmental services? If any, specify:		X				
b. Will the proposed action have an effect upon the local or state tax base and revenues?		X				
c. Will the proposed action result in a need for new facilities or substantial alterations of any of the following utilities: electric power, natural gas, other fuel supply or distribution systems, or communications?		X				
d. Will the proposed action result in increased used of any energy source?		X				
e. **Define projected revenue sources		X				
f. **Define projected maintenance costs.			X			10-A
g. Other:						

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):

10A. Project maintenance costs.

We have budgeted 10% of the total project cost for potential maintenance for this project. Maintenance needs may be needed for this project following post project bankfull or greater water discharges.

* Include a narrative explanation under Part III describing the scope and level of impact. If the impact is unknown, explain why the unknown impact has not or can not be evaluated.
 ** Include a narrative description addressing the items identified in 12.8.604-1a (ARM)
 *** Determine whether the described impact may result and respond on the checklist. Describe any minor or potentially significant impacts.
 **** Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

11. <u>AESTHETICS/RECREATION</u> Will the proposed action result in:	IMPACT *				Can Impact Be Mitigated *	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. Alteration of any scenic vista or creation of an aesthetically offensive site or effect that is open to public view?		X				
b. Alteration of the aesthetic character of a community or neighborhood?		X				
c. **Alteration of the quality or quantity of recreational/tourism opportunities and settings? (Attach Tourism Report)		X				
d. ***For P-R/D-J, will any designated or proposed wild or scenic rivers, trails or wilderness areas be impacted? (Also see 11a, 11c)		X				
e. Other:						

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):

12. <u>CULTURAL/HISTORICAL RESOURCES</u> Will the proposed action result in:	IMPACT *				Can Impact Be Mitigated *	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. **Destruction or alteration of any site, structure or object of prehistoric historic, or paleontological importance?		X				
b. Physical change that would affect unique cultural values?		X				
c. Effects on existing religious or sacred uses of a site or area?		X				
d. ****For P-R/D-J, will the project affect historic or cultural resources? Attach SHPO letter of clearance. (Also see 12.a)			X			12-A
e. Other:						

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):

12A. Cultural/Historical Resources

The proposed project is inside the “footprint” of previously disturbed land. It is unlikely that any historic or cultural resources exist in the previously disturbed area.

* Include a narrative explanation under Part III describing the scope and level of impact. If the impact is unknown, explain why the unknown impact has not or can not be evaluated.
 ** Include a narrative description addressing the items identified in 12.8.604-1a (ARM)
 *** Determine whether the described impact may result and respond on the checklist. Describe any minor or potentially significant impacts.
 **** Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

SIGNIFICANCE CRITERIA

13. SUMMARY EVALUATION OF SIGNIFICANCE Will the proposed action, considered as a whole:	IMPACT *				Can Impact Be Mitigated *	Comment Index
	Unknown *	None	Minor *	Potentially Significant		
a. Have impacts that are individually limited, but cumulatively considerable? (A project or program may result in impacts on two or more separate resources that create a significant effect when considered together or in total.)			X			13-A
b. Involve potential risks or adverse effects which are uncertain but extremely hazardous if they were to occur?		X				
c. Potentially conflict with the substantive requirements of any local, state, or federal law, regulation, standard or formal plan?		X				
d. Establish a precedent or likelihood that future actions with significant environmental impacts will be proposed?		X				
e. Generate substantial debate or controversy about the nature of the impacts that would be created?		X				
f. ***For P-R/D-J, is the project expected to have organized opposition or generate substantial public controversy? (Also see 13e)		X				
g. ****For P-R/D-J, list any federal or state permits required.						

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Water Resources (Attach additional pages of narrative if needed):

13A. Cumulative Effects:

The proposed project if implemented would represent the third stream restoration/mitigation project that Montana Fish, Wildlife & Parks has completed on Libby Creek in the last 4 years. The total net impact of this project in conjunction with the earlier completed projects and potential future projects on Libby Creek are expected to have long-term positive and beneficial trends to restore salmonid populations and their habitats.

* Include a narrative explanation under Part III describing the scope and level of impact. If the impact is unknown, explain why the unknown impact has not or can not be evaluated.
 ** Include a narrative description addressing the items identified in 12.8.604-1a (ARM)
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PART II. ENVIRONMENTAL REVIEW (CONTINUED)

2. Description and analysis of reasonable alternatives (including the no-action alternative) to the proposed action, whenever alternatives are reasonably available and prudent to consider, and a discussion of how the alternatives would be implemented:

1. No-Action Alternative

If no action is taken, the irrigation diversion on lower Libby Creek will remain unscreened and will continue to allow juvenile salmonids to become entrained into the irrigation system.

2. The Proposed Alternative

The proposed alternative will install a functional fish screen on the irrigation diversion located on lower Libby Creek and prevent juvenile salmonids from being entrained into the irrigation system. This alternative may increase trout populations in Libby Creek due to a reduction in juvenile mortality associated with entrainment into the existing irrigation system.

3. Evaluation and listing of mitigation, stipulation, or other control measures enforceable by the agency or another government agency:

(This section provides an analysis of impacts to private property by proposed restrictions or stipulations in this EA as required under 75-1-201, MCA, and the Private Property Assessment Act, Chapter 462, Laws of Montana (1995). The analysis provided in this EA is conducted in accordance with implementation guidance issued by the Montana Legislative Services Division (EQC, 1996). A completed checklist designed to assist state agencies in identifying and evaluating proposed agency actions, such as imposed stipulations, that may result in the taking or damaging of private property, is included in Appendix A.)

PART III. NARRATIVE EVALUATION AND COMMENT

3. WATER

A. Changes in drainage patterns or the rate and amount of surface runoff.

The current irrigation diversion is outdated and has little control over the amount of water that is entrained into the system. Currently the amount of flow that enters the irrigation ditch is controlled by a gravel berm located at the diversion point. This gravel berm must be replaced each year after the spring freshet on Libby Creek. As a result of the limited control the water users have in controlling the amount of water that enters the ditch, often the amount of water that is diverted exceeds their legal water rights. During some low-water years, Libby Creek goes dry in the near proximity below the irrigation diversion. The proposed project would install a functional headgate that would improve the water users' ability to measure and divert up to, but not exceed, the legal water right. As a result, during most years more water will remain in Libby Creek.

B. Effects on any existing water right or reservation.

The proposed project will construct the fish screen capable of screening up to, but not exceeding, the legal water right held by the water users on the irrigation system.

5. FISH/WILDLIFE

A. Changes in the diversity or abundance of game and non-game animals or bird species?

The current irrigation diversion entrains resident and migratory fish present in Libby Creek including redband, bull, brook, and rainbow trout, and sculpin. Any fish that are entrained into the current irrigation system are likely lost to the local population, thereby reducing the abundance and productivity of the local populations. Eliminating the loss of individual fish to the irrigation system will likely have a minor effect on the abundance of local fish populations.

B. List of ESA species located in or near the project area.

COMMON NAME	SCIENTIFIC NAME	STATUS	RANGE – MONTANA
1. Gray Wolf	Canis lupus	E	Forests; Western Montana
2. White Sturgeon	Acipenser transmontanus	E	Bottom dwelling; Kootenai River (Kootenai River population)
3. Grizzly Bear	Ursus arctos horribilis	T	Alpine/subalpine coniferous forest; Western Montana
4. Bald Eagle	Haliaeetus leucocephalus	T*	Forested riparian; statewide
5. Water Howellia	Howellia aquatilis	T	Wetlands; Swan Valley, Lake and Missoula Counties
6. Bull trout	Salvelinus confluentus,	T	(Columbia River basin and St. Mary - Belly River populations) West of Continental Divide in Clark Fork, Flathead, Kootenai river basins;- cold water rivers & lakes
7. Canada lynx	Lynx canadensis	T	Western Montana - montane spruce/fir forest (contiguous U.S. population)
8. Spalding's Campion	Silene spaldingii	(Proposed T)	Upper Flathead River drainage and Tobacco Valley - open grasslands with rough fescue or bluebunch wheatgrass

* On July 6, 1999, the bald eagle was proposed for removal from the Federal List of Endangered and Threatened Wildlife. The bald eagle remains protected as a threatened species until delisting is final.

10. PUBLIC SERVICES/TAXES/UTILITIES

A. Project maintenance costs.

We have budgeted 10% of the total project cost for potential maintenance for this project. Maintenance needs may be needed for this project following post project bankfull or greater water discharges.

12. CULTURAL/HISTORICAL RESOURCES

A. Historic or cultural resources.

The proposed project is inside the “footprint” of previously disturbed land. It is unlikely that any historic or cultural resources exist in the previously disturbed area.

13. SUMMARY EVALUATION OF SIGNIFICANCE

A. Cumulative Effects

The proposed project if implemented would represent the third stream restoration/mitigation project that Montana Fish, Wildlife & Parks has completed on Libby Creek in the last 4 years. The total net impact of this project in conjunction with the earlier completed projects and potential future projects on Libby Creek are expected to have long-term positive and beneficial trends to restore salmonid populations and their habitats.

PART IV. EA CONCLUSION SECTION

1. Based on the significance criteria evaluated in this EA, is an EIS required (YES/NO)? If an EIS is not required, explain why the EA is the appropriate level of analysis for this proposed action.

Montana Fish, Wildlife & Parks concluded that an EIS is not required for the implementation of this project. Montana Fish, Wildlife & Parks further concludes from the information presented in this document that the proposed activities will have either no impact or a positive impact on the physical and human environment.

2. Describe the level of public involvement for this project if any and, given the complexity and the seriousness of the environmental issues associated with the proposed action, is the level of public involvement appropriate under the circumstances?

The Environmental Assessment (EA) is being distributed to all individuals and groups listed on the cover letter. The EA will be published on the Montana Fish, Wildlife & Parks web site.

3. Duration of comment period, if any.

There will be a 30-day public comment period. Comments will be accepted through Wednesday, September 21, 2005.

4. Name, title, address and phone number of the person(s) responsible for preparing the EA: Jim Dunnigan, Fisheries Biologist, Libby Area Office, 475 Fish Hatchery Road, Libby, Montana, 406-293-4161.

APPENDIX A

PRIVATE PROPERTY ASSESSMENT ACT CHECKLIST

The 54th Legislature enacted the Private Property Assessment Act, Chapter 462, Laws of Montana (1995). The intent of the legislation is to establish an orderly and consistent process by which state agencies evaluate their proposed actions under the "Takings Clauses" of the United States and Montana Constitutions. The Takings Clause of the Fifth Amendment of the United States Constitution provides: "nor shall private property be taken for public use, without just compensation." Similarly, Article II, Section 29 of the Montana Constitution provides: "Private property shall not be taken or damaged for public use without just compensation..."

The Private Property Assessment Act applies to proposed agency actions pertaining to land or water management or to some other environmental matter that, if adopted and enforced without compensation, would constitute a deprivation of private property in violation of the United States or Montana Constitutions.

The Montana State Attorney General's Office has developed guidelines for use by state agency to assess the impact of a proposed agency action on private property. The assessment process includes a careful review of all issues identified in the Attorney General's guidance document (Montana Department of Justice 1997). If the use of the guidelines and checklist indicates that a proposed agency action has taking or damaging implications, the agency must prepare an impact assessment in accordance with Section 5 of the Private Property Assessment Act. For the purposes of this EA, the questions on the following checklist refer to the following required stipulation(s):

(LIST ANY MITIGATION OR STIPALTIONS REQUIRED, OR NOTE "NONE")

None

DOES THE PROPOSED AGENCY ACTION HAVE TAKINGS IMPLICATIONS UNDER THE PRIVATE PROPERTY ASSESSMENT ACT?

YES	NO	
_____	<u> X </u>	1. Does the action pertain to land or water management or environmental regulation affecting private real property or water rights?
_____	<u> X </u>	2. Does the action result in either a permanent or indefinite physical occupation of private property?
_____	<u> X </u>	3. Does the action deprive the owner of all economically viable uses of the property?
_____	<u> X </u>	4. Does the action deny a fundamental attribute of ownership?

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|-------------------------------------|-------------------------------------|---|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 5. Does the action require a property owner to dedicate a portion of property or to grant an easement? [If the answer is NO , skip questions 5a and 5b and continue with question 6.] |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 5a. Is there a reasonable, specific connection between the government requirement and legitimate state interests? |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 5b. Is the government requirement roughly proportional to the impact of the proposed use of the property? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 6. Does the action have a severe impact on the value of the property? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 7. Does the action damage the property by causing some physical disturbance with respect to the property in excess of that sustained by the public generally? [If the answer is NO , do not answer questions 7a-7c.] |
| <input type="checkbox"/> | <input type="checkbox"/> | 7a. Is the impact of government action direct, peculiar, and significant? |
| <input type="checkbox"/> | <input type="checkbox"/> | 7b. Has government action resulted in the property becoming practically inaccessible, waterlogged, or flooded? |
| <input type="checkbox"/> | <input type="checkbox"/> | 7c. Has government action diminished property values by more than 30% and necessitated the physical taking of adjacent property or property across a public way from the property in question? |

Taking or damaging implications exist if **YES** is checked in response to question 1 and also to any one or more of the following questions: 2, 3, 4, 6, 7a, 7b, 7c; or if **NO** is checked in response to questions 5a or 5b.

If taking or damaging implications exist, the agency must comply with Section 5 of the Private Property Assessment Act, to include the preparation of a taking or damaging impact assessment. Normally, the preparation of an impact assessment will require consultation with agency legal staff.

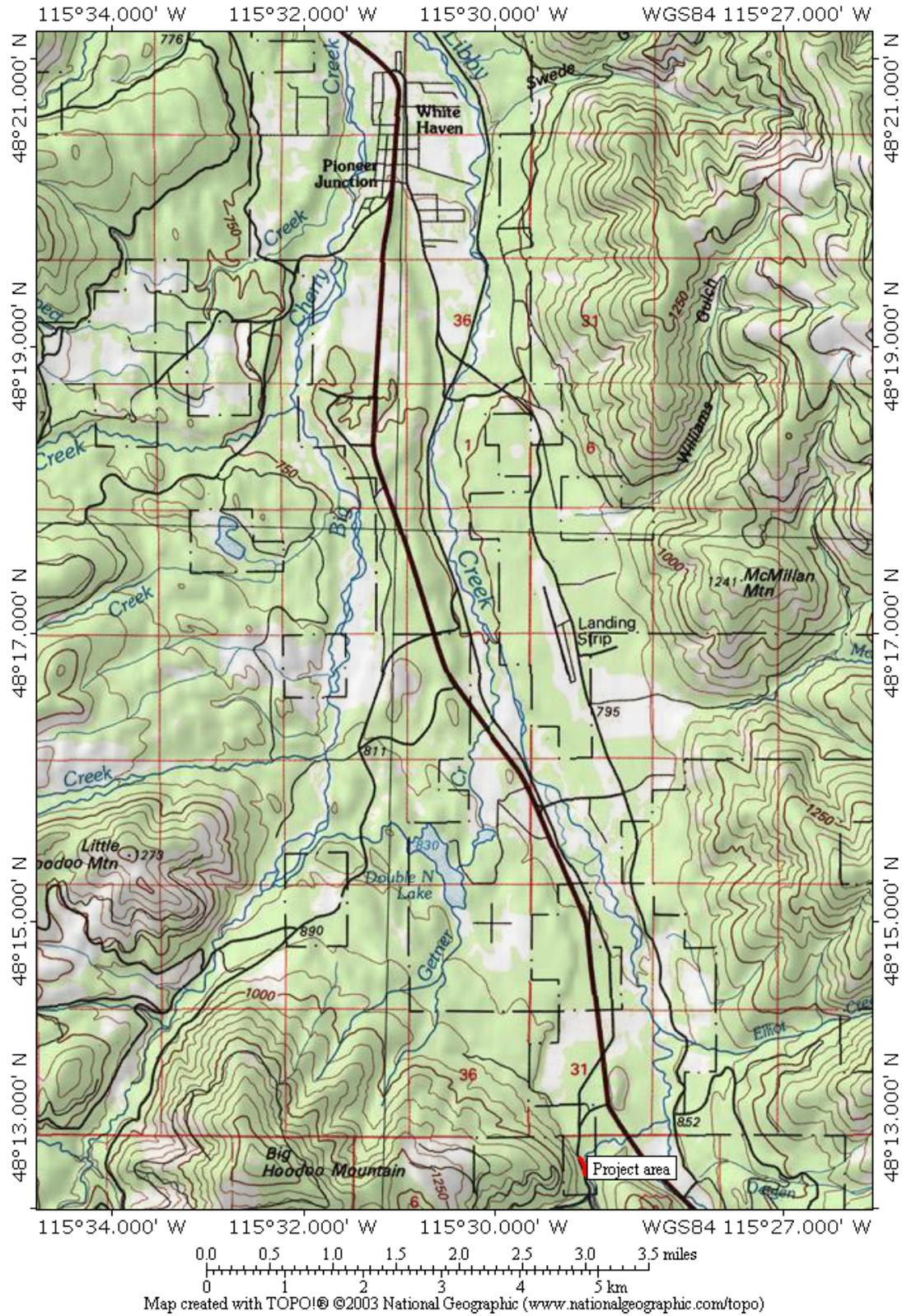


Figure 1. General vicinity map of Grave Creek Phase II Stream Restoration Project.

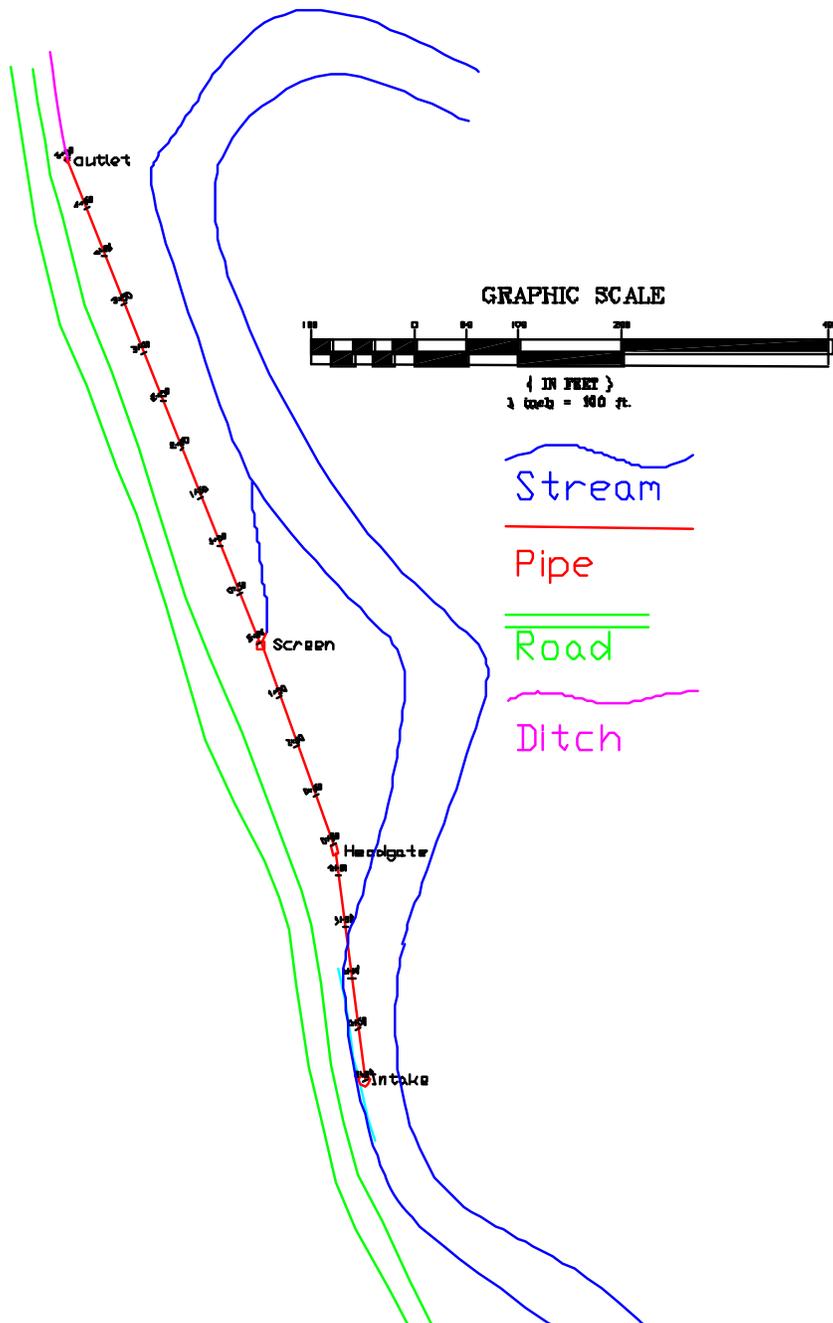


Figure 2. General plan view of the proposed irrigation diversion intake, headgate, and fish screen located on lower Libby Creek.

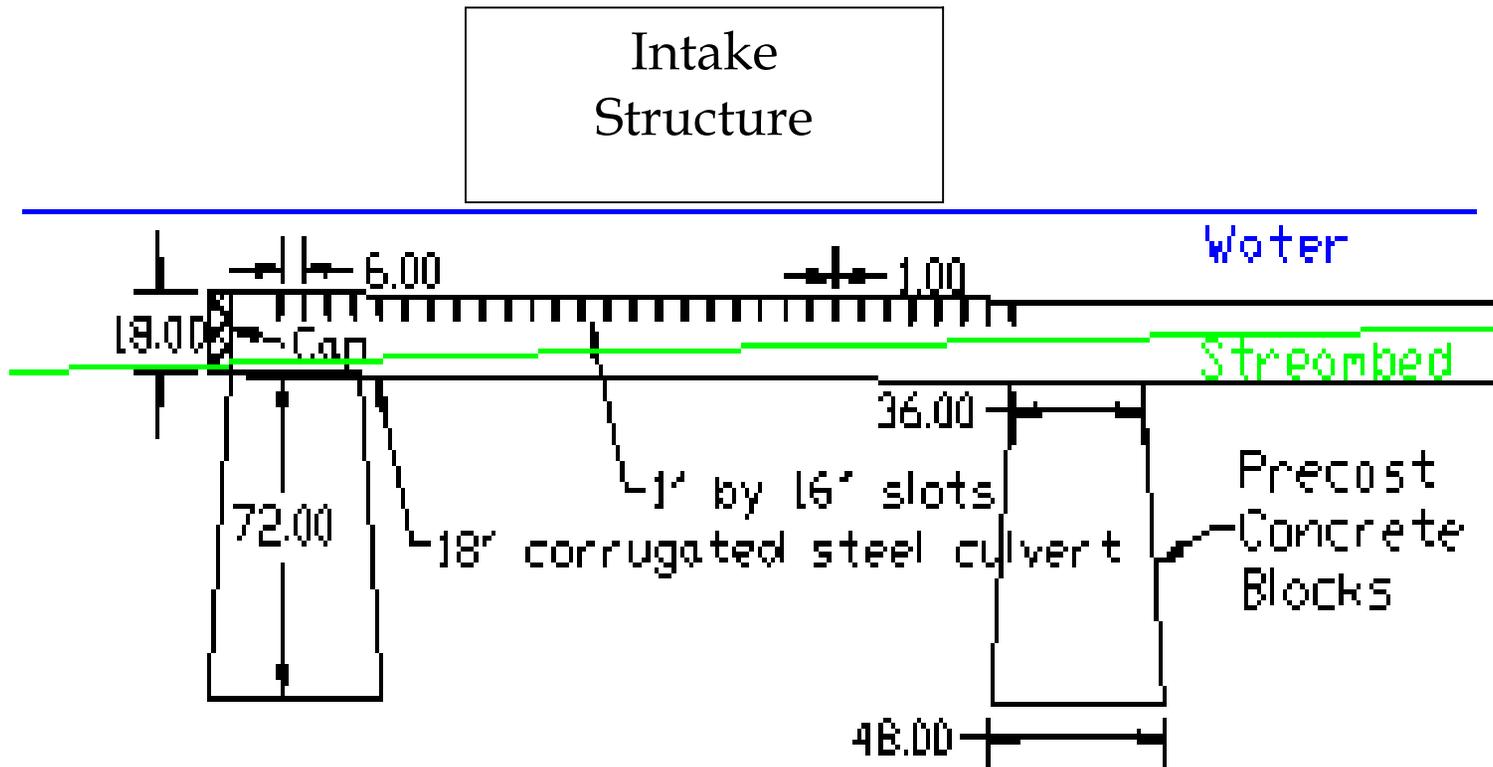


Figure 3. Diagram of the Intake structure for the lower Libby Creek Irrigation Diversion.

Headgate Structure

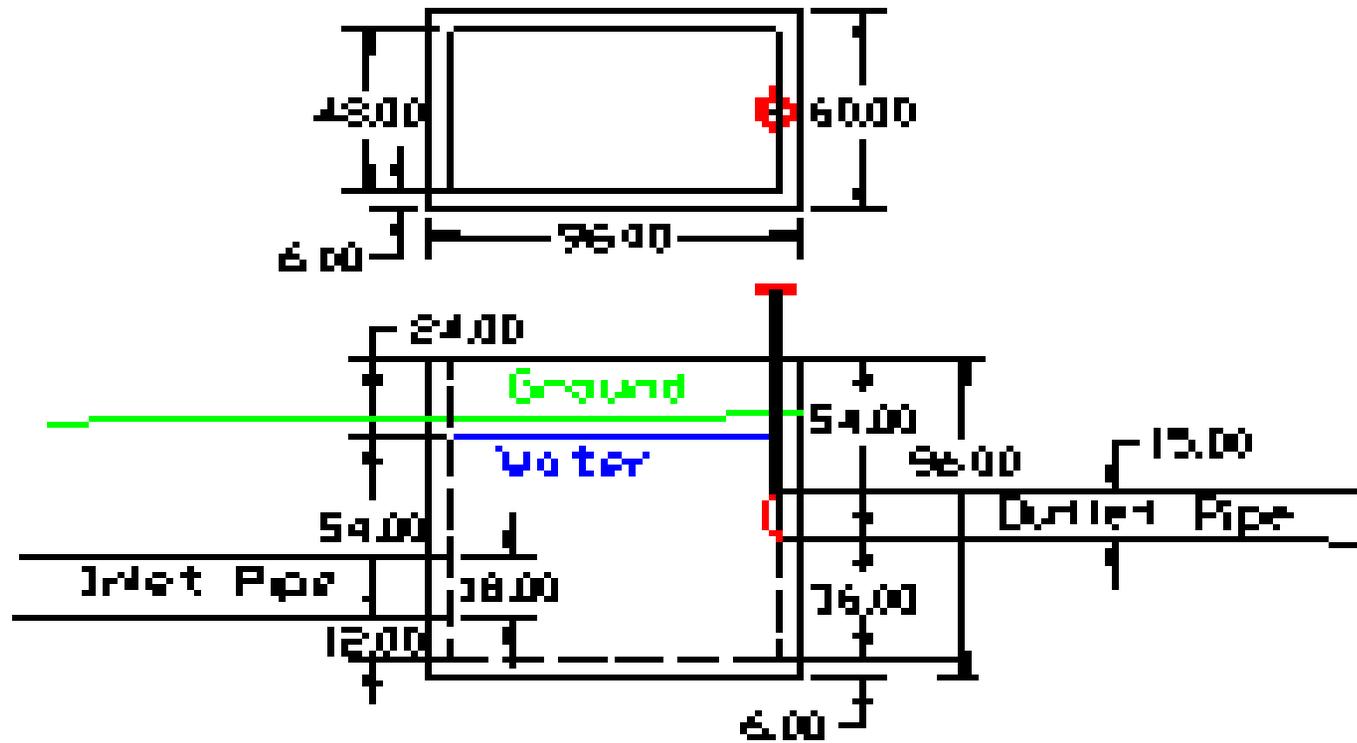


Figure 4. A diagram of the headgate structure for the lower Libby Creek Irrigation Diversion used to control the flow of water into the system.

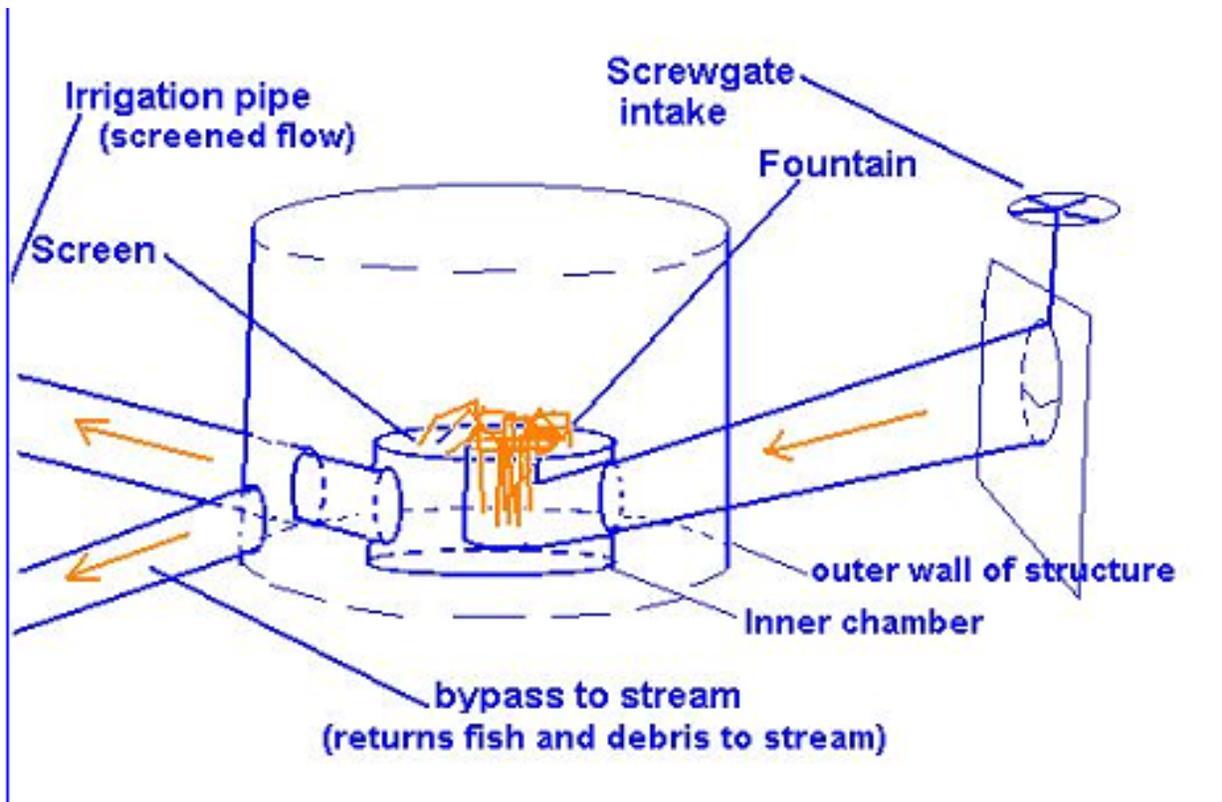


Figure 5. A diagram of a turbulent, fountain fish screen similar to the one that will be used on the lower Libby Creek Irrigation Diversion. The fish screen on the turbulent fountain used for this project will be cone-shaped, rather than flat as indicated in this diagram.