



Montana Fish, Wildlife & Parks

ENVIRONMENTAL ASSESSMENT AND RECORD OF DECISION for LOWER LIBBY CREEK IRRIGATION DIVERSION FISH SCREEN PROJECT

October 17, 2005

Project Proposal and Justification:

Libby Creek provides important spawning and rearing habitat and a migratory corridor for redband, westslope cutthroat, and bull trout. However, during many years, 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 on Libby Creek exists at the proposed project site where two water rights holders divert water from Libby Creek through a currently unscreened diversion. The John Beebe Family Partnership and Ronda 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 rights holders in order to prevent fish entrainment into the irrigation system. The proposed project would install intake and head gate structures to control the volume of water diverted and a turbulent fountain fish screen to prevent fish entrainment into the irrigation ditch. Montana Fish, Wildlife & Parks (FWP), in cooperation with the two water rights holders, will install the fish screen near the historical point of diversion on Libby Creek.

Location of Project:

The project site is located on Libby Creek on property owned by the U.S. Forest Service located at approximately river mile 13.3, which is 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 $\frac{1}{4}$ of Northeast $\frac{1}{4}$ of Section 5, Lincoln County, Montana.

Environmental and Social Impacts of Project:

There may be short-term increases in turbidity during the project construction phase, but these impacts are expected to be minor and not impact aquatic life in Libby Creek. During project construction, all reasonable and applicable Best Management Practices will be employed to minimize sedimentation to Libby Creek. For example, we will minimize turbidity by 1) scheduling construction to occur during a low flow period; 2) installing the intake, head gate, and fish screen

in the dry to every practicable extent; and 3) filtering water across the vegetated floodplain areas that drain away from the active channel during construction. Riparian vegetation disturbance during project implementation is expected to be minimal and will not impact the overall health of the riparian community. This project is expected to improve the productivity of westslope cutthroat, redband, and bull trout populations within Libby Creek by reducing mortality caused by entrainment into the irrigation system.

Public Involvement:

In compliance with the Montana Environmental Policy Act, an environmental assessment was prepared and circulated for public comment from August 21 through September 21, 2005. Notices were placed in two local newspapers, and notification was mailed to both water rights holders on lower Libby Creek, local conservation groups, local timber companies, selected businesses, and natural resource agencies. Copies of the EA were made available at three local libraries and the Montana FWP Region 1 headquarters in Kalispell, and the Montana FWP internet web site. We received one comment from the Montana Department of Natural Resources and Conservation (MT DNRC), Water Resources Division, located in Kalispell, Montana. The DNRC comment and our response are summarized below.

DNRC Comment:

Administrative Rules of Montana 36.12.1901 state that "...an application to change must be filed when an applicant desires to change the point of diversion of a water right." It is not readily apparent from the Figure 2 general plan view in the EA if the point where the water is diverted from the source is moving. It appears that the diversion will move from the 'head gate' to the 'intake.' If that is the case, it may require department approval. If there are any changes in the legal land description of the point of diversion; if the means of diversion is changing, such as from an open ditch to a pipe line and head gate; if you are adding a pipe below the head gate to a previously open channel; anything that changes the nature of the diversion works at all and particularly if it would create a need for a record to be added to the applicant's file, a change application is probably needed. MCA 85-2-402(1) states "...an appropriator may not make a change in an appropriation right without the approval of the department." Currently approval, after application is made, may take a couple of months to complete.

We advise that the water rights owners consult with the DNRC WRD Kalispell office as soon as possible and provide a more detailed plan description so that a decision can be made if a change application is needed. It does appear that a change application is needed, but that determination cannot be definitively made with the current drawings.

Response:

Montana FWP staff did consult with the DNRC WRD Kalispell office and was subsequently informed by the DNRC that a change application is needed for this project for the two reasons stated above. The Libby FWP staff will assist the water rights holders to prepare and submit this application. The change application will be finalized and approved prior to project construction.

Decision notice:

Based on the comment we received during the public comment period for the draft environmental assessment for the Lower Libby Creek Irrigation Diversion Fish Screen Project, we have prepared the final environmental assessment for this project. Due to the urgent need to reduce native salmonid entrainment and mortality associated with the unscreened irrigation diversion, I recommend that the proposed project be implemented as needed.

Jim Satterfield,
Region One Supervisor

Date