Montana Fish, Wildlife & Parks

Region One
490 North Meridian Rd.
Kalispell, MT 59901
(406) 752-5501
FAX: 406-257-0349
Ref:DV136-02
July 19, 2002

TO: Environmental Quality Council, Capitol Building, Helena, 59620-1704
Dept. of Environmental Quality, Planning, Prevention & Assistance, PO Box 200901, Helena, 59620-0901
Dept. of Environmental Quality, Permitting Compliance, PO Box 200901, Helena, 59620-0901
Montana Fish, Wildlife & Parks; Director's Office, Marilyn Johnson; Fisheries Division, Karen Zackheim & Glenn Phillips; & Legal Unit, Brandi Fisher
Montana Historical Society, SHPO, 225 North Roberts, Veteran's Memorial Building, Helena, 59620-1201
Montana State Library, 1515 East Sixth Ave., Helena, 59620-1800
Jim Jensen, Montana Environmental Information Center, PO Box 1184, Helena, 59624
George Ochenski, PO Box 689, Helena, 59624
Wayne Hirst, Montana State Parks Foundation, PO Box 728, Libby, 59923
Montana State Parks Association, PO Box 699, Billings, 59103
Vicki Sullivan, COE, 10 W 15th Street, Suite 2200, Helena, 59626
Joe Gutkoski, President, Montana River Action Network, 304 N 18th Ave., Bozeman, 59715
Rep. Elaine Sliter, PO Box 118, Somers, 59932-0118
Rep. Roger Somerville, PO Box 1104, Kalispell, 59903-1104
Rep. Rod Bitney, PO Box 10501, Kalispell, 59904-3501
Rep. Darrel Adams, 155 Eastland Crossroad, Columbia Falls, 59912-9300
Sen. Bob DePratu, PO Box 1217, Whitefish, 59937-1217
Sen. Jerry O'Neil, PO Box 2058, Kalispell, 59903-2058
Sen. Bob Keenan, Box 697, Bigfork, 59911-0697
Sen. Arnie Mohl, 3303 Hwy 2 E, Kalispell, 59901-6653
Bob Raney, 212 S. 6th, Livingston, 59047
Flathead County Commissioners, 800 S Main Street, Kalispell, 59901
Flathead County Library, 247 First Avenue E, Kalispell, 59901

Ladies and Gentlemen:

The enclosed draft environmental assessment (EA) has been prepared for a water main replacement project on the Stillwater River near Kalispell for the Evergreen water system.

Questions and comments will be accepted until Friday, August 2, 2002. Please direct your questions or comments to Fisheries Biologist Mark Deleray, FWP, 490 N Meridian Road, Kalispell, MT 59901, (406) 751-4543, or e-mail to mdeleray@state.mt.us. Thank you.

Sincerely,

Daniel P. Vincent
Regional Supervisor

/nli
Enclosure

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Montana Fish, Wildlife and Parks
490 North Meridian Road
Kalispell, MT 59901
(406) 752-5501

DRAFT ENVIRONMENTAL ASSESSMENT CHECKLIST

PART 1. PROPOSED ACTION DESCRIPTION

Project Title: Evergreen Water System - Water Main Replacement Project

Application Date: 2/11/02

Name, Address and Phone Number:

Flathead County Water & Sewer District No. 1
Robert Struck, General Manager
130 Nicholson Dr.
Kalispell, MT 59901
(406) 257-5861

Project Location: Stillwater River near Kalispell (T28N, R21W, S3) in Flathead County.

Description of Project:

Montana Fish Wildlife and Parks is assessing and potentially permitting the project under the Montana Stream Protection Act. The project consists of replacing an existing 12-inch water main with another just upstream by installing pipe 3 feet below streambed. There is approximately 186 feet of pipe to be laid within the 100-year floodplain. Width of trench could approach 20 to 25 feet. Contractor will construct a temporary diversion structure and work pad in the channel. The diversion structure will isolate the work area from stream current during excavation and bed work. Trench excavation in the channel will be roughly 70 feet in length.

Other groups or agencies contacted or which may have overlapping jurisdiction:

Montana Department of Environmental Quality administers the 3A permit.

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PART 2. ENVIRONMENTAL REVIEW

Table 1. Potential impact on physical environment.

Will the proposed action result in potential impacts to:	Unknown	Potentially Significant	Minor	None	Can Be Mitigated	Comments Provided
a. Unique, endangered, fragile, or limited environmental resources				x		
b. Terrestrial or aquatic life and/or habitats		x			x	1b.
c. Introduction of new species into an area				x		
d. Vegetation cover, quantity and quality				x		
e. Water quality, quantity and distribution (surface or groundwater)		x			x	1e.
f. Existing water right or reservation				x		
g. Geology and soil quality, stability and moisture				x		
h. Air quality or objectional odors				x		
i. Historical and archaeological sites				x		
j. Demands on environmental resources of land, water, air & energy				x		
k. Aesthetics			x			1k.

(A description of potentially significant, or unknown, impacts and potential alternatives for mitigation must be provided.)

Comments

1b. During trench excavation, pipe placement, and trench backfilling, fine sediments are likely to be suspended and washed downstream. This would have a negative impact on downstream habitat. The amount and duration of this sedimentation is dependent on how well the site is isolated from stream current, the level of stream flow, and the duration of in-stream construction activity. The greatest disturbance would be under conditions where current is running over the trench or disturbing streambed during construction activities. Although this disturbance cannot be completely avoided, isolating the work area and construction activities from river current and working during low flow periods can mitigate the negative impact. Under this type of scenario, river current would be diverted and isolated from the immediate work area while trenching, pipe placement, and backfilling occur. Sediment-laden water could be pumped out of the work area once backfilling is completed prior to exposing the work area to river current. The project work period would be confined to months of lowest river flows. This approach would minimize sediment transport and negative impacts.

Terrestrial disturbance of stream banks during excavation will be mitigated by placement of topsoil, erosion control fabrics, and seeding. Banks and channel will be restored to original shapes. All construction activities will occur during low stream flow conditions.

1e. Water quality will be reduced as fine sediments are suspended through construction activities. Turbidity and sediment transport can be minimized and largely mitigated by isolating the work area from direct river current (see 1. above).

1k. There will be a short-term (month) work period where heavy equipment will operate. This may cause some concern for aesthetics by nearby residents.

Table 2. Potential impacts on human environment.

Will the proposed action result in potential impacts to:	Unknown	Potentially Significant	Minor	None	Can Be Mitigated	Comments Provided
a. Social structures and cultural diversity				X		
b. Changes in existing public benefits provided by wildlife populations and/or habitat				X		
c. Local and state tax base and tax revenue				X		
d. Agricultural production				X		
e. Human health				X		
f. Quantity and distribution of community and personal income			X			2f.
g. Access to and quality of recreational activities			X			2g.
h. Locally adopted environmental plans & goals (ordinances)				X		
i. Distribution and density of population and housing				X		
j. Demands for government services				X		
k. Industrial and/or commercial activity				X		

(A description of potentially significant, or unknown, impacts and potential alternatives for mitigation must be provided as comments.)

Comments

2f. Mitigating for potential negative impacts of sedimentation will raise the cost and duration of the construction project for the Flathead County Water & Sewer District No. 1.

2g. Construction will block river uses temporarily during construction period.

Does the proposed action involve potential risks or adverse effects, which are uncertain but extremely harmful if they were to occur? No

Does the proposed action have impacts that are individually minor, but cumulatively significant or potentially significant? Not if mitigation measures are adequately applied. If mitigation is not completed as described, significant negative impacts will likely occur.

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

No-action Alternative: The water main is exposed and under a relatively high level of stress. With no action, the pipe will likely fail, restricting service to water users. It would then have to be repaired, and it would be more difficult to control timing of construction and negative impacts of sedimentation.

Alternative 1: Project would be completed without mitigation of sedimentation. Work would be conducted

without isolating immediate work site from river current. This alternative would release the greatest amount of fine sediments to downstream waters, reduce water quality the most, and require more streambed disturbance since current would move bed material into recently excavated trench. This is the least expensive approach.

Alternative 2: Project would be completed by directionally drilling under the streambed. This would avoid all sedimentation and reduction to water quality. This is the most expensive technique.

Recommended Alternative: Project would be completed with mitigation of sedimentation as described in above comments regarding the impacts to physical environment. This alternative would minimize sedimentation to downstream habitats and reduction in water quality. This is more expensive than Alternative 1, but much less than Alternative 2. Sedimentation would likely be reduced to minor impact levels if mitigation measures as described were implemented.

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

Through the 124 permit administered by Montana Fish Wildlife and Parks, this department can require mitigation (see above discussions) for potential negative impacts associated with the project. Likewise, through the 3A permit administered by Montana Department of Environmental Quality, this department can require mitigative actions.

Individuals or groups contributing to, or commenting on, this EA:

EA prepared by: Mark Deleray, Montana Fish, Wildlife and Parks

Date Completed: 6/8/02

E-mail address for comments: mdeleray@state.mt.us

Mail comments to:

Mark Deleray, Fisheries Biologist
Montana Fish Wildlife and Parks
490 N. Meridian Road
Kalispell, MT 59901
(406) 751-4543

Comments due by: Friday, August 2, 2002

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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 STIPULATIONS REQUIRED, OR NOTE "NONE")

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

YES	NO	
_____	X	1. Does the action pertain to land or water management or environmental regulation affecting private real property or water rights?
_____	X	2. Does the action result in either a permanent or indefinite physical occupation of private property?
_____	X	3. Does the action deprive the owner of all economically viable uses of the property?
_____	X	4. Does the action deny a fundamental attribute of ownership?
X	_____	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.]
X	_____	5a. Is there a reasonable, specific connection between the government requirement and legitimate state interests?
X	_____	5b. Is the government requirement roughly proportional to the impact of the proposed use of the property?
_____	X	6. Does the action have a severe impact on the value of the property?

____	X	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.]
_____	_____	7a. Is the impact of government action direct, peculiar, and significant?
_____	_____	7b. Has government action resulted in the property becoming practically inaccessible, waterlogged, or flooded?
_____	_____	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.