

DRAFT ENVIRONMENTAL ASSESSMENT CHECKLIST

FWP-CEA-FSH-R5-24-044

City of Billings Water Treatment Plant Intake #1 Dredging

12/30/2024



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I. Compliance with the Montana Environmental Policy Act

Before a proposed project may be approved, environmental review must be conducted to identify and consider potential impacts of the proposed project on the human and physical environment affected by the project. The Montana Environmental Policy Act (MEPA) and its implementing rules and regulations require different levels of environmental review, depending on the proposed project, significance of potential impacts, and the review timeline. § 75-1-201, Montana Code Annotated (“MCA”), and the Administrative Rules of Montana (“ARM”) 12.2.430, General Requirements of the Environmental Review Process.

FWP must prepare an EA when:

- *It is considering a “state-proposed project,” which is defined in § 75-1-220(8)(a) as:
 - (i) a project, program, or activity initiated and directly undertaken by a state agency;
 - (ii) ... a project or activity supported through a contract, grant, subsidy, loan, or other form of funding assistance from a state agency, either singly or in combination with one or more other state agencies; or
 - (iii) ... a project or activity authorized by a state agency acting in a land management capacity for a lease, easement, license, or other authorization to act.*
- *It is not clear without preparation of an EA whether the proposed project is a major one significantly affecting the quality of the human environment. ARM 12.2.430(3)(a));*
- *FWP has not otherwise implemented the interdisciplinary analysis and public review purposes listed in ARM 12.2.430(2) (a) and (d) through a similar planning and decision-making process (ARM 12.2.430(3)(b));*
- *Statutory requirements do not allow sufficient time for the FWP to prepare an EIS (ARM 12.2.430(3)(c));*
- *The project is not specifically excluded from MEPA review according to § 75-1-220(8)(b) or ARM 12.2.430(5); or*
- *As an alternative to preparing an EIS, prepare an EA whenever the project is one that might normally require an EIS, but effects which might otherwise be deemed significant appear to be mitigable below the level of significance through design, or enforceable controls or stipulations or both imposed by the agency or other government agencies. For an EA to suffice in this instance, the agency must determine that all the impacts of the proposed project have been accurately identified, that they will be mitigated below the level of significance, and that no significant impact is likely to occur. The agency may not consider compensation for purposes of determining that impacts have been mitigated below the level of significance (ARM 12.2.430(4)).*

MEPA is procedural; its intent is to ensure that impacts to the environment associated with a proposed project are fully considered and the public is informed of potential impacts resulting from the project.

II. Background and Description of Proposed Project

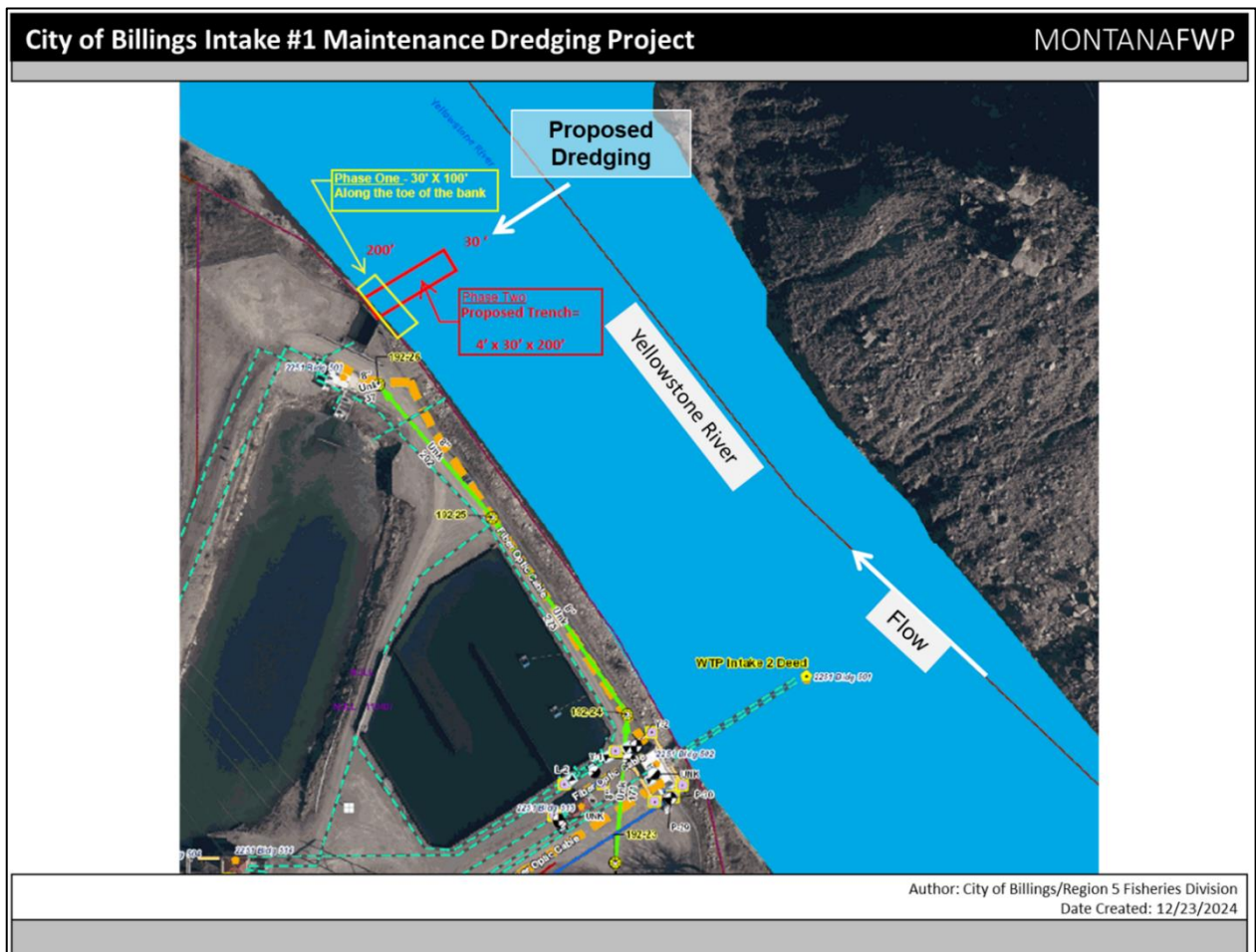
Name of Project: City of Billings WTP Intake #1 Maintenance Dredging

The City of Billings (City) is proposing to dredge the water treatment plant (WTP) primary raw water intake, identified as Intake #1. Dredging would be needed if raw water flow (freeboard) is restricted causing the WTP to not meet system demand. This could be due to upstream ice jams, extended periods of extreme low temperatures, ice and gravel buildup on the river side of the WTP intake. These conditions can occur between December and March. The anticipated dredging is divided into two phases. Both phases would typically require a track hoe to work from a gravel sandbar near the toe of the riverbank. Phase one would include dredging within the river bottom along the toe of the westside bank approximately 50 feet upstream and 20 feet

downstream of the intake and within the L-structure of Intake #1. The City would perform dredging of the L-structure from the top of the bank. Dredging of the river bottom would extend out a radius of approximately 30 ft into the channel and the City estimates approximately 100 cubic yards of gravel immediately removed from the river bottom. Phase two would include dredging a 4-foot x 30-foot x 200-foot trench from Intake #1 toward the center of the channel. Estimated volume of removed of gravel is 900 cubic yards. This material would be removed from the river bottom within the week of the dredging.

Affected Area / Location of Proposed Project:

- Legal Description
 - Latitude/Longitude: 46.29535, -108.805008
 - Section, Township, and Range: 02, 1S, 26E
 - Town/City, County, Montana: Billings, Montana, Yellowstone County
- Location Map



III. Purpose and Need

The EA must include a description of the benefits and purpose of the proposed project. ARM 12.2.432(3)(b). Benefits of the proposed project refer to benefits to the resource, public, department, state, and/or other.

The purpose of the proposed project is to maintain the main water intake for the City of Billings in the event of future flood events, like the 2022 Yellowstone River flood, and severe ice jams that can create significant deposition near Intake #1. Dredging is required if raw water flow is restricted due to upstream ice jams, extended period of extreme low

temperatures, ice and gravel buildup at the intake, as Intake #1 is the main water supply for the City. The City expects the excavation of depositional gravels will be limited to 4ft x 30ft x 200ft (or approximately 900 CY) extending into the main channel of the Yellowstone. The City will use a track hoe working from a gravel bar in the river bottom to remove the excess deposition near the intake and temporarily stockpile at the toe of the riverbank downstream of Intake #1. The City will then remove the stockpiled material from the toe of the riverbank and floodplain.

Maintaining the Intake #1 through dredging excess depositional fines and gravel will help improve resiliency for the Water Treatment Plant and maintain reliable drinking water for the City of Billings.

The City of Billings proposes to only perform the maintenance dredging when necessary (usually under emergency conditions), and expects the work to only take approximately eight (8) hours to complete. The SPA 124 permit would be valid for five (5) years from the date of issuance.

If FWP prepared a cost/benefit analysis before completion of the EA, the EA must contain the cost/benefit analysis or a reference to it. ARM 12.2.432(3)(b).

	Yes*	No
Was a cost/benefit analysis prepared for the proposed project?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

* If yes, a copy of the cost/benefit analysis prepared for the proposed project is included in Attachment A to this Draft EA

IV. Other Agency Regulatory Responsibilities

FWP must list any federal, state, and/or local agencies that have overlapping or additional jurisdiction, or environmental review responsibility for the proposed project, as well as permits, licenses, and other required authorizations. ARM 12.2.432(3)(c).

*A list of other required local, state, and federal approvals, such as permits, certificates, and/or licenses from affected agencies is included in **Table 1** below. **Table 1** provides a summary of state requirements but does not necessarily represent a complete and comprehensive list of all permits, certificates, or approvals needed. Agency decision-making is governed by state and federal laws, including statutes, rules, and regulations, that form the legal basis for the conditions the proposed project must meet to obtain necessary permits, certificates, licenses, or other approvals. Further, these laws set forth the conditions under which each agency could deny the necessary approvals.*

Table 1: Federal, State, and/or Local Regulatory Responsibilities

Agency	Type of Authorization (permit, license, stipulation, other)	Purpose
MT DNRC – County Floodplain	Floodplain Permit	Determine if fill will be placed in floodplain and if project will cause a significant rise in floodplain elevation.
City of Billings Floodplain	City Floodplain Permit	These regulations promote public health, safety, and general welfare of the residents and minimize public and private losses due to flood conditions in regulated flood hazard areas.
US COE	Nationwide 3 Permit	Maintenance of existing structures.
MT DEQ	318 Authorization	Reduce the effects of turbidity on the area of impact.
US COE	Navigable Rivers Land Use Agreement	Ability to complete work within a navigable river

V. List of Mitigations, Stipulations

Mitigations, stipulations, and other enforceable controls required by FWP, or another agency, may be relied upon to limit potential impacts associated with a proposed Project. The table below lists and evaluates enforceable conditions FWP may rely on to limit potential impacts associated with the proposed Project. ARM 12.2.432(3)(g).

Table 2: Listing and Evaluation of Enforceable Mitigations Limiting Impacts

<i>Are enforceable controls limiting potential impacts of the proposed action? If not, no further evaluation is needed.</i>			Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
<i>If yes, are these controls being relied upon to limit impacts below the level of significance? If yes, list the enforceable control(s) below</i>			Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Enforceable Control	Responsible Agency	Authority (Rule, Permit, Stipulation, Other)	Effect of Enforceable Control on Proposed Project	
SPA 124 Permit - General Requirements (see Appendix 1)	FWP	SPA 124	SPA 124 Permit, General Conditions, provide best management practices in the form of enforceable controls to limit potential adverse impacts from the proposed project. Fines may be levied for violating these general requirements and/or corrective action may be required to remedy non-compliance.	
Floodplain Permit – General Requirements	DNRC/Local Administrator	Floodplain	Limiting the amount of fill deposited into the floodplain. Description of how project will contain a ‘no-rise’ effect. See DNRC Permitting information.	
City Floodplain Permit	City Floodplain Administrator	Floodplain	These regulations promote public health, safety, and general welfare of the residents and minimize public and private losses due to flood conditions in regulated flood hazard areas.	
Limiting Fill in a Navigable Waterway	US COE	NW Permit 3	The repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3, provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, requirements of other regulatory agencies, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement are authorized.	

318 Authorization – Short-Term Water Quality Permit	DEQ	318 Authorization	Short-term narrative water quality standards for total suspended sediment and turbidity resulting from stream-related construction activities or stream enhancement projects.
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VI. SPA 124 Permit Action

Any applicable Montana stream work that is not otherwise excluded from MEPA review under the applicable requirements of ARM 12.2.454, Actions that Qualify for a Categorical Exclusion, and has the potential to alter the stream channel or bank, requires a project-specific 124 Stream Protection Act Permit or SPA 124 Permit prior to the start of work. The SPA 124 permit is issued by FWP's Fisheries Division and includes both the general conditions described in Attachment 1 and any additional Special Conditions deemed necessary to protect and preserve the affected waterway. Additional conditions deemed necessary to protect and preserve the affected stream from potential impacts associated with the proposed project are listed in Table 4 below.

Table 3: SPA 124 Permit Conditions the Department Will Require to Issue Permit.

Activity	Special Condition	Description
Heavy machinery/crane	Reduce impacts to fish spawning in the late winter/early spring months	Heavy machinery, if used on the river between the periods of February to April, shall monitor, reduce, & capture any spills from fueling and oiling activities. Heavy machinery shall be promptly removed in event of any risk of ice jams that may cause equipment loss into the river.
Heavy machinery/crane	Work in the stream shall be minimized to avoid excess disturbance and turbidity; prioritize equipment to be operated from the bank rather than in the stream.	Equipment use should be limited to increase certain water quality levels and avoid fuel deposition into Yellowstone River.
Work Activity	Submit written notification to FWP prior to beginning any dredging activity.	Email FWP before any of the Intake #1 dredging activity begins
Work Activity	Limit use of heavy machinery to immediate affected area.	Prioritize using catch nets or other debris gathering equipment while repairing the existing catwalk piers and intake building. There should be no additional woody plant or material removal outside of the existing bridge piers and intake building, and beyond what is necessary to install the temporary bridge structure.
Work Activity	Work shall not occur outside of the project scope outlined in permit.	Clearly defining expectations that work should follow scope established

	Failure to comply could result in violations.	by project proponent in joint application.
FWP Right	FWP reserves the right to revisit, modify, deny, issue an amendment or violation to a previously approved permit.	Clearly defines expectations in the event an amendment and/or modification is required from either the project proponent or FWP staff.

VII. Alternatives Considered

In addition to the proposed Project, and as required by MEPA, FWP analyzes the "no-action" alternative in this EA. Under the "no-action" alternative, FWP would not do the proposed project.

Under the "No Action" alternative, the proposed project would not occur. Therefore, no additional impacts to the physical environment or human population in the analysis area would occur. The "No Action" alternative forms the baseline from which the potential impacts of the proposed Project can be measured.

The No Action alternative was not selected because the catwalk would remain unsafe to access the intake building which is needed to provide safe drinking water to the City of Billings residents. Additionally, this alternative would have a higher risk of the river and associated debris damaging the intake pipeline and rendering the facility unable to provide water to the WTP.

	Yes*	No
Were any additional alternatives considered and dismissed?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

* If yes, a list and description of the other alternatives considered, but not carried forward for detailed review is included below

Alternative 2. The City is currently constructing a new water treatment plant with a raw water reservoir upstream of the existing water treatment plant site and would likely alleviate the need to conduct emergency dredging at Intake #1.

VIII. Summary of Potential Impacts of the Proposed Project on the Physical Environment and Human Population

The impacts analysis identifies and evaluates **direct**, **secondary**, and **cumulative impacts**.

- **Direct impacts** are those that occur at the same time and place as the action that triggers the effect.
- **Secondary impacts** "are further impacts to the human environment that may be stimulated or induced by or otherwise result from a direct impact of the action." ARM 12.2.429(18).
- **Cumulative impacts** "means the collective impacts on the human environment of the proposed action when considered in conjunction with other past and present actions related to the proposed action by location or generic type. Related future actions must also be considered when these actions are under concurrent consideration by any state agency through pre-impact statement studies, separate impact statement evaluation, or permit processing procedures." ARM 12.2.429(7).

Where impacts are expected to occur, the impact analysis estimates the **extent**, **duration**, **frequency**, and **severity** of the impact. The duration of an impact is quantified as follows:

- **Short-Term:** impacts that would not last longer than the proposed project.
- **Long-Term:** impacts that would remain or occur following the proposed project.

The severity of an impact is measured using the following:

- **No Impact:** there would be no change from current conditions.
- **Negligible:** an adverse or beneficial effect would occur but would be at the lowest levels of detection.
- **Minor:** the effect would be noticeable but would be relatively small and would not affect the function or integrity of the resource.
- **Moderate:** the effect would be easily identifiable and would change the function or integrity of the resource.
- **Major:** the effect would irretrievably alter the resource.

Some impacts may require mitigation. As defined in ARM 12.2.429, mitigation means:

- Avoiding an impact by not taking a certain action or parts of a project;
- Minimizing impacts by limiting the degree or magnitude of a project and its implementation;
- Rectifying an impact by repairing, rehabilitating, or restoring the affected environment; or
- Reducing or eliminating an impact over time by preservation and maintenance operations during the life of a project or the time period thereafter that an impact continues.

A list of any mitigation strategies including, but not limited to, design, enforceable controls or stipulations, or both, as applicable to the proposed project is included in **Section VI** above.

FWP must analyze impacts to the physical and human environment for each alternative considered. The proposed project considered the following alternatives:

- **Alternative 1: No Action. Evaluation and Summary of Potential Impacts on the Physical Environment and Human Population**

Under the “No Action” alternative, the proposed project would not occur. Therefore, no additional impacts to the physical environment or human population in the analysis area would occur. The “No Action” alternative forms the baseline from which the potential impacts of the proposed Project can be measured.

- **Alternative 2: Proposed Project. Evaluation and Summary of Potential Impacts on the Physical Environment and Human Population**

See **Table 4** (Impacts on Physical Environment) and **Table 5** (Impacts on Human Population) below.

Table 4 - Potential Impacts of the Proposed Project on the Physical Environment

PHYSICAL ENVIRONMENT	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
	None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	
Terrestrial, avian, and aquatic life and habitats	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	FWP does not expect significant impacts to the terrestrial, avian, and aquatic life and habitats because of this project. The proposed project would entail dredging the Yellowstone River around the primary raw water intake, Intake #1, in the event of flooding or ice jam sediment deposition. The project will have moderate and short-term impacts associated with the dredging of the river gravels ¹ . However, the City expects the dredging to be limited to the immediate (proposed) area during emergency conditions, and only take a day to complete.
Water quality, quantity, and distribution	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	FWP does not expect significant impacts to the water quality, quantity, and distribution of water because of this project. The proposed project would entail dredging the Yellowstone River around the primary raw water intake, Intake #1, in the event of flooding or ice jam sediment deposition. These activities will likely have short-term, moderate impacts to the water quality by elevating the turbidity in the immediate area as sediment is displaced and removed associated with dredging. FWP expects these impacts to be short-term and last only as long as the material is being actively removed and/or displaced.
Geology	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	FWP does not expect any significant impacts to the geology because of this project. There are no known unique geologic features, and the project is occurring in a relatively small area that would not pick up any geologic impact ² .
Soil quality, stability, and moisture	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	FWP does not expect any significant impacts to the soil quality, stability, and moisture because of this project. The project area is largely within Quaternary alluvium soils and

¹Montana Natural Heritage Program. for Latitude 45.76386 to 45.78143 and Longitude -108.47226 to -108.49642. Retrieved on 12/16/2024.

²Montana Bureau of Mines and Geology. Montana Geologic Maps GIS Data Hub. Date Accessed: 12/27/2024.

PHYSICAL ENVIRONMENT	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
Resource	None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	
									the City anticipates minimal displacement of material associated with the dredging. There are likely to be short-term, moderate impacts associated with the removal of native river materials from the streambed ³ .
Vegetation cover, quantity, and quality	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	FWP does not expect significant impacts to the vegetation cover, quantity, or quality because of this project. The proposed project would entail dredging the Yellowstone River around the primary raw water intake, Intake #1, in the event of flooding or ice jam sediment deposition. There is minimal established vegetation on the rip rap bank near the WTP structures ¹ .
Aesthetics	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	FWP does not expect significant impacts to the aesthetics because of this project. The proposed project would entail dredging the Yellowstone River around the primary raw water intake, Intake #1, in the event of flooding or ice jam sediment deposition. FWP expects minor, short-term impacts because of the machinery used during dredging. However, the dredging will be limited to the immediate project area and the City expects the work to last a day.
Air quality	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	FWP does not expect significant impacts to air quality in the affected area because of the proposed project. The proposed project would entail dredging the Yellowstone River around the primary raw water intake, Intake #1, in the event of flooding or ice jam sediment deposition and, when completed, would not result in additional new land, air, or water disturbance in the area. Fugitive dust and vehicle exhaust emissions resulting from the movement of heavy equipment and maintenance materials for the proposed project may directly impact air quality in the

³Natural Resource Conservation Service. Web Soil Survey Report for Yellowstone County. Date Retrieved on 6/21/2024. *Report still applied to project area and FWP reviewed report on 12/27/2024.

PHYSICAL ENVIRONMENT	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
Resource	None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	
									area in the short term. Any impacts would be negligible, lasting only as long as the proposed project.
Unique, endangered, fragile, or limited environmental resources	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	FWP does not expect significant impacts to unique, endangered, fragile, or limited environmental resources because of the proposed project. The proposed project would entail dredging the Yellowstone River around the primary raw water intake, Intake #1, in the event of flooding or ice jam sediment deposition. FWP expects short-term, minor impacts to any unique or endangered species/habitats because work will occur in a previously impacted area and thus is not within listed critical habitats of concern.
Historical and archaeological sites	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	FWP does not expect significant impacts to historical and archaeological sites because of this project. There are no known historic sites in the immediate project area ⁴ .
Demands on environmental resources of land, water, air, and energy	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	FWP does not expect significant adverse impacts to demand on the environmental resources of land, water, and air because of the proposed project. Fuel would be required to operate heavy machinery and vehicles used for the proposed project. There are no other demands on the environmental resources of land, water, air, and energy because of the proposed project. Therefore, any impacts to demands on environmental resources of land, water, air, and energy in the affected area would be short-term and negligible.

⁴Urbaniak, T., TRU Technologies. 2024. City of Billings, Montana Water Treatment Plant Intake No. 2 Repair and Modifications Section 106 Review. 27 pp.

Table 5 - Potential Impacts of the Proposed Project on the Human Population

HUMAN POPULATION	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
	None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	
Social structures and mores	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	FWP does not expect significant impacts to social structures and more because of this project. The proposed project would entail dredging the Yellowstone River around the primary raw water intake, Intake #1, in the event of flooding or ice jam sediment deposition. FWP expects long term, beneficial impacts as the Intake #1 structure at the Billings WTP is the main raw water intake. This infrastructure is critical for providing reliable drinking water supply to the City.
Cultural uniqueness and diversity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	FWP does not expect significant impacts to cultural uniqueness and diversity because of this project. The proposed project would entail dredging the Yellowstone River around the primary raw water intake, Intake #1, in the event of flooding or ice jam sediment deposition. The proposed project does not significantly change the current cultural uniqueness and diversity already present within the Billings community.
Access to and quality of recreational and wilderness activities	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	FWP does not expect significant impacts to access to and quality of recreational and wilderness activities because of the proposed project. The proposed project would entail dredging the Yellowstone River around the primary raw water intake, Intake #1, in the event of flooding or ice jam sediment deposition. In addition, the work is occurring primarily on the City of Billings Water Treatment Plant grounds, which does not provide public access. FWP and the City anticipate no restrictions or closures for the Yellowstone River for the proposed project therefore any impacts to river recreators will be short-term and negligible.

HUMAN POPULATION	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
Resource	None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	
Local and state tax base and tax revenues	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	FWP does not expect significant adverse impacts to the local and state tax base and tax revenues because of the proposed project. The proposed project would entail dredging the Yellowstone River around the primary raw water intake, Intake #1, in the event of flooding or ice jam sediment deposition. FWP is not aware if the recent increases (as of 2024) in water and sewer prices are associated with maintenance dredging. Instead, FWP anticipates the proposed project would increase state and local tax revenues from the sale of fuel, supplies and/or equipment to complete the project. Any impacts to the local and state tax base and tax revenue would be short-term and negligible, lasting only as long as the proposed project.
Agricultural or Industrial production	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	FWP does not expect significant impacts to agricultural or industrial production in the affected area because of the proposed project. The proposed project would entail dredging the Yellowstone River around the primary raw water intake, Intake #1, in the event of flooding or ice jam sediment deposition. The Water Treatment Plant largely distributes water and sewer for the residents of Billings, which may include businesses within the City that facilitate agricultural or industrial production.
Human health and safety	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	FWP does not expect significant to the human health and safety because of this project. The proposed project would entail dredging the Yellowstone River around the primary raw water intake, Intake #1, in the event of flooding or ice jam sediment deposition. Affected City staff and/or contractors hired to conduct the project may realize increased risk to human health and safety, Therefore, any potential impacts to human health and safety would be short-term and negligible, lasting only as long as the proposed project. This system is critical for

HUMAN POPULATION	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
	None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	
									distributing water to the City of Billings. FWP expects long-term, moderate beneficial impacts as dredging will provide a reliable source of potable water to the Billings community.
Quantity and distribution of employment	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	There are no significant adverse impacts to the quantity and distribution of employment in the affected area because of the proposed project. The proposed project would entail dredging the Yellowstone River around the primary raw water intake, Intake #1, in the event of flooding or ice jam sediment deposition, which would not impact the quantity and distribution of employment in the affected area. Short-term impacts to the local quantity and distribution may be realized because of the need for contracted services to complete maintenance activities. Any impacts the quantity and distribution of employment in the affected area would be short-term and negligible.
Distribution and density of population and housing	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	There are no significant impacts to the distribution and density of population and housing in the affected area because of the proposed project. The proposed project would entail dredging the Yellowstone River around the primary raw water intake, Intake #1, in the event of flooding or ice jam sediment deposition and, when completed, would not impact the distribution and density of population and housing in the affected area.
Demands for government services	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	FWP does not expect significant adverse effects to the demands for government services because of this project. There may be short-term, moderate effects to transportation associated with the operating heavy machinery; however, this will be limited to the City of Billings WTP area and likely will not be within a busy roadway.

HUMAN POPULATION	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
	None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	
Industrial, agricultural, and commercial activity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	FWP does not expect significant impacts to industrial, agricultural, and commercial activity because of the proposed project. The proposed project would entail dredging the Yellowstone River around the primary raw water intake, Intake #1, in the event of flooding or ice jam sediment deposition. This maintenance does not directly impact these activities.
Locally adopted environmental plans and goals	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	FWP does not expect significant effects to the locally adopted environmental plans and goals. The City last updated their Capital Improvements Plan in 2022. The proposed project would entail dredging the Yellowstone River around the primary raw water intake, Intake #1 in the event of flooding or ice jam sediment deposition, which is consistent with the Capital Improvements Plan and thus the project will have long-term, beneficial impacts to the plans and goals for the City.
Other appropriate social and economic circumstances	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	FWP is unaware of any other appropriate social and economic circumstances that may be impacted by the proposed project.

Table 6: Determining the Significance of Impacts on the Quality of the Human Environment

If the EA identifies impacts associated with the proposed project FWP must determine the significance of the impacts. ARM 12.2.431. This determination forms the basis for FWP's decision as to whether it is necessary to prepare an environmental impact statement. An impact may be adverse, beneficial, or both. If none of the adverse effects of the impact are significant, an EIS is not required. An EIS is required if an impact has a significant adverse effect, even if the agency believes that the effect on balance will be beneficial. ARM 12.2.431.

According to the applicable requirements of ARM 12.2.431, FWP must consider the criteria identified in this table to determine the significance of each impact on the quality of the human environment. The significance determination is made by giving weight to these criteria in their totality. For example, impacts identified as moderate or major in severity may not be significant if the duration is short-term. However, moderate or major impacts of short-term duration may be significant if the quantity and quality of the resource is limited and/or the resource is unique or fragile. Further, moderate or major impacts to a resource may not be significant if the quantity of that resource is high or the quality of the resource is not unique or fragile.

Criteria Used to Determine Significance	
1	<p>The severity, duration, geographic extent, and frequency of the occurrence of the impact</p> <p>“Severity” describes the density of the potential impact, while “extent” describes the area where the impact will likely occur, e.g., a project may propagate ten noxious weeds on a surface area of 1 square foot. Here, the impact may be high in severity, but over a low extent. In contrast, if ten noxious weeds were distributed over ten acres, there may be low severity over a larger extent.</p> <p>“Duration” describes the time period during which an impact may occur, while “frequency” describes how often the impact may occur, e.g., an operation that uses lights to mine at night may have frequent lighting impacts during one season (duration).</p>
2	The probability that the impact will occur if the proposed project occurs; or conversely, reasonable assurance in keeping with the potential severity of an impact that the impact will not occur
3	Growth-inducing or growth-inhibiting aspects of the impact, including the relationship or contribution of the impact to cumulative impacts
4	The quantity and quality of each environmental resource or value that would be affected, including the uniqueness and fragility of those resources and values
5	The importance to the state and to society of each environmental resource or value that would be affected
6	Any precedent that would be set as a result of an impact of the proposed project that would commit FWP to future actions with significant impacts or a decision in principle about such future actions
7	Potential conflict with local, state, or federal laws, requirements, or formal plans

IX. Private Property Impact Analysis (Takings)

The 54th Montana Legislature enacted the Private Property Assessment Act, now found at § 2-10-101. The intent was to establish an orderly and consistent process by which state agencies evaluate their proposed projects 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 projects pertaining to land or water management or to some other environmental matter that, if adopted and enforced without due process of law and just 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 agencies to assess the impact of a proposed agency project 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 project has taking or damaging implications, the agency must prepare an impact assessment in accordance with Section 5 of the Private Property Assessment Act.

Table 7: Private Property Assessment (Takings)

	Yes	No	
Is FWP regulating the use of private property under a regulatory statute adopted pursuant to the police power of the state? (Property management, grants of financial assistance, and the exercise of the power of eminent domain are not within this category.) If not, no further analysis is required	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Does the proposed regulatory action restrict the use of the regulated person's private property? If not, no further analysis is required.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Does FWP have legal discretion to impose or not impose the proposed restriction or discretion as to how the restriction will be imposed? If not, no further analysis is required	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
If so, FWP must determine if there are alternatives that would reduce, minimize, or eliminate the restriction on the use of private property, and analyze such alternatives. Have alternatives been considered and/or analyzed? If so, describe below:	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
PRIVATE PROPERTY ASSESMENT ACT (PPAA)			
Does the Proposed Action Have Takings Implications under the PPAA?	Question #	Yes	No
Does the project pertain to land or water management or environmental regulations affecting private property or water rights?	1	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the action result in either a permanent or an indefinite physical occupation of private property?	2	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the action deprive the owner of all economically viable uses of the property?	3	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the action require a property owner to dedicate a portion of property or to grant an easement? (If answer is NO, skip questions 4a and 4b and continue with question 5)	4	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Is there a reasonable, specific connection between the government requirement and legitimate state interest?	4a	<input type="checkbox"/>	<input type="checkbox"/>
Is the government requirement roughly proportional to the impact of the proposed use of the property?	4b	<input type="checkbox"/>	<input type="checkbox"/>

Does the action deny a fundamental attribute of ownership?	5	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the action have a severe impact of the value of the property?	6	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the action damage the property by causing some physical disturbance with respect to the property in excess of that sustained by the public general? (If the answer is NO, skip questions 7a-7c.)	7	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Is the impact of government action direct, peculiar, and significant?	7a	<input type="checkbox"/>	<input type="checkbox"/>
Has the government action resulted in the property becoming practically inaccessible, waterlogged, or flooded?	7b	<input type="checkbox"/>	<input type="checkbox"/>
Has the 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?	7c	<input type="checkbox"/>	<input type="checkbox"/>
Does the proposed action result in taking or damaging implications?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
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 question 4a or 4b.			
If taking or damaging implications exist, the agency must comply with MCA § 2-10-105 of the PPAA, 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.			
Alternatives: The analysis under the Private Property Assessment Act, §§ 2-10-101 through -112, MCA, indicates no impact. FWP does not plan to impose conditions that would restrict the regulated person's use of private property to constitute a taking.			

X. Public Participation

The level of analysis in an EA will vary with the complexity and seriousness of environmental issues associated with a proposed action. The level of public interest will also vary. FWP is responsible for adjusting public review to match these factors (ARM 12.2.433(1)). Because FWP determines the proposed action will result in limited environmental impact, and little public interest has been expressed, FWP determines the following public notice strategy will provide an appropriate level of public review:

- *An EA is a public document and may be inspected upon request. Any person may obtain a copy of an EA by making a request to FWP. If the document is out-of-print, a copying charge may be levied (ARM 12.2.433(2)).*
- *Public notice will be served on the Montana Fish, Wildlife and Parks website at:
<https://fwp.mt.gov/aboutfwp/public-comment-opportunities>*
- *FWP maintains a mailing list of persons interested in a particular action or type of action. FWP will notify all interested persons and distribute copies of the EA to those persons for review and comment (ARM 12.2.433(3)).*
- *Public notice will announce the availability of the EA, summarize its content, and solicit public comment.*

○ **Where to Mail or Email Comments on the Final EA:**

Name: DEMI BLYTHE

Email: demi.blythe@mt.gov

Mailing Address:

Montana Fish, Wildlife & Parks
Re: City of Billings WTP Intake #1 Maintenance Dredging
2300 Lake Elmo Drive
Billings, MT 59105

XI. Recommendation for Further Environmental Analysis

NO further analysis is needed for the proposed action	<input checked="" type="checkbox"/>
FWP must conduct EIS level review for the proposed action	<input type="checkbox"/>

XII. EA Preparation and Review

	Name	Title
EA prepared by:	Demi Blythe	R5 Fisheries Biologist
EA reviewed by:	Shannon Blackburn	R5 Fisheries Manager

Attachment 1

SPA 124 Permit General Conditions

FWP.MT.GOV



THE **OUTSIDE** IS IN US ALL.

Stream Protection Act 124 Permit General Conditions

1. Complete work affecting a streambed or stream bank in an expeditious manner to avoid unnecessary impacts to the stream.
2. Limit the clearing of vegetation to that which is absolutely necessary for construction of the project. Take precautions to preserve existing riparian vegetation. Salvage and reuse native vegetation where possible.
3. Install and maintain erosion control measures where appropriate to protect aquatic resources. Do not clear and grub land adjacent to streams prior to installing proper erosion and sedimentation controls. Conduct all work in a manner that minimizes turbidity and other disturbances to aquatic resources.
4. Plan temporary construction facilities to:
 - a. Minimize disturbance to stream banks, stream bank vegetation, and the streambed by locating staging or storage facilities at least 50' horizontally from the highest anticipated water level during construction;
 - b. not restrict or impede fish passage in streams; and
 - c. not restrict any flow anticipated during use.
5. Provide sediment controls for drainage from topsoil stockpiles, staging areas, access roads, channel changes, and instream excavations.
6. Isolate work zones from flowing and standing waters to prevent turbid water and sediments from being discharged into streams or other drainages that flow directly into the stream. Divert flowing waters around the work zone.
7. Do not spill or dump material into streams. Store and handle petroleum products, chemicals, cement and other deleterious materials in a manner that will prevent their entering streams.
8. Do not permit wash water from cleaning concrete-related equipment or wet concrete to enter streams.
9. Do not operate mechanized equipment in any stream or flowing water unless special authorization is obtained. If special authorization is granted, the following conditions apply:
 - a. Power-wash all equipment allowed in a stream prior to entering the stream channel.
 - b. Clean and maintain all equipment so that petroleum-based products and hydraulic fluids do not leak or spill into the waterway.
10. Reclaim streambeds and stream banks as closely as possible to their pre-disturbed condition.
11. Restore disturbed stream banks to their natural or pre-disturbed configuration to match adjacent ground contours or as specified in the project plans. Stabilize, reseed, and re-vegetate disturbed areas. Install and maintain long-term biodegradable erosion-control measures to protect these areas until adequate vegetation has been established.
12. Restore temporary access routes and any temporarily disturbed areas to original conditions, including original contours and vegetation.
13. Dispose of any excess material generated from the project above the ordinary high-water mark and in an area not classified as a wetland.