

WITHDRAWAL OF FINDING OF NO SIGNIFICANT IMPACT, WITHDRAWAL OF ENVIRONMENTAL ACTION STATEMENT, WITHDRAWAL OF ENDANGERED SPECIES ACT SECTION 7 CONSULTATION, WITHDRAWAL OF WILDERNESS ACT MINIMUM REQUIREMENTS ANALYSIS DETERMINATIONS, WITHDRAWAL OF FINDINGS RELATED TO NATIONAL HISTORIC PRESERVATION ACT COMPLIANCE AND WITHDRAWAL OF DECISION TO IMPLEMENT CONSERVATION EFFORTS FOR ARCTIC GRAYLING

RED ROCK LAKES NATIONAL WILDLIFE REFUGE

Lima, Montana

On June 1, 2023, the U.S. Fish and Wildlife Service (Service) decided it would implement a project to try to improve over-winter habitat for Arctic grayling in Upper Red Rock Lake (URRL) at Red Rock Lakes National Wildlife Refuge (Refuge). The project that was proposed would have increased dissolved oxygen levels in deeper portions of URRL at the Refuge, with the goal of improving grayling winter survival and maintain existing grayling genetic variation.

The project, described in Alternative D - “Shambow Pond Diversion Pipeline” in an Environmental Assessment (EA) prepared by the Service in compliance with the National Environmental Policy Act (NEPA) and accompanying Finding of No Significant Impact (FONSI) dated June 1, 2023, would have used a buried, gravity flow diversion pipeline to deliver oxygenated water to URRL during winter months to try to improve conditions for grayling. The Shambow Pond Diversion Pipeline would convey water from East Shambow Creek and Shambow Pond to the center of URRL. The project would occur in designated wilderness under the Wilderness Act. The pipeline was to be built in cooperation with the State of Montana.

With respect to the proposal, the Service conducted a biological evaluation (EA Appendix B) in compliance with Section 7 of the Endangered Species Act on February 16, 2023, and determined the proposed action would have no effect on, or may affect but not likely to adversely affect, the species listed as threatened and endangered or candidate species that may exist in the area. The Service also conducted a Minimum Requirements Analysis dated May 23, 2023, for the project. The Service took initial steps to consult on potential effects to historic properties in accordance with Section 106 of the National Historic Preservation Act (NHPA, 54 USC § 306108) and its implementing regulations (36 CFR Part 800), including a file and literature search conducted on May 25, 2023, and reconnaissance level survey of the area of potential effects conducted from May 30 to June 2, 2023. During development of the EA, the Service coordinated with interested and/or affected parties. On June 26, 2023, several organizations filed a complaint for declaratory and injunctive relief, raising claims under the Wilderness Act and Administrative Procedure Act. After briefing and oral argument on plaintiffs’ motion for preliminary injunction, the U.S. District Court for the District of Montana issued an Opinion and Order on August 3, 2023, granting that motion and enjoining the Service from “engaging in any Project-related construction activities or other prohibited activity within the Wilderness Area.” Opinion and Order at 36. The Service has complied with the Order from the court.

Decision

The Service has decided to withdraw its decision to allow for the installation of the pipeline from Shambow Pond to URRL. The Service will focus on alternative conservation measures for Arctic grayling and continued stewardship of the Red Rocks Lake Wilderness under the Wilderness Act in collaboration with interested parties. Any further action will be subject to additional analyses, with the appropriate public review and input. The Service will not be taking further action on the Shambow Pond Diversion Pipeline at this time.

The Service is committed to working with our partners to gather additional information and consider additional recommendations for the conservation of Arctic grayling consistent with applicable laws and policies in the future.

The action is consistent with applicable laws and policies, including but not limited to the Council on Environmental Quality’s NEPA Implementing Regulations (40 CFR Parts 1500-1508), Department of Interior NEPA Regulations (43 CFR. Part 46), Department of the Interior NEPA Policy (516 DM 1-4; 516 DM 8), and the Service’s NEPA Policy (550 FW 3).

The Service will notify its partners and affected parties of this decision.

Regional Director

Date