



File Code: 2670
Date: November 15, 2019

Bechtold Law Firm PLLC
317 East Spruce St.
P.O. Box 7051
Missoula, MT 59807

RE: Response to 60-Day Notice of Intent to Sue under the Endangered Species Act: East Fork Rock Creek Reservoir, Beaverhead-Deerlodge National Forest

Dear Mr. Bechtold:

You addressed a letter dated September 16, 2019 to the Secretary, U.S. Department of Agriculture, Secretary, U.S. Department of Interior and Chief, U.S. Forest Service (USFS). The letter was sent on behalf of Michael Garrity, Alliance for the Wild Rockies, and Chuck Irestone, Save the Bull Trout. The letter stated that a lawsuit was intended to be filed after the 60-day notice period unless the alleged Endangered Species Act, 16 U.S.C. § 1531-1544, (ESA) violation described related to the East Fork Rock Creek Reservoir was cured. The USFS has carefully reviewed your letter and responds as follows.

Your letter asserts:

"The [Forest Service] DN & FONSI [Decision Notice & Finding of No Significant Impact] provided that the Forest Service would engage in §7 consultation with FWS [U.S. Fish & Wildlife Service] to address the impact to bull trout of the Montana DNRC's [Department of Natural Resources and Conservation] management of the reservoir to control water storage and the volume of water releases, the DNRC's management of diversion headgate to divert water to the Flint Creek Ditch, and the operation, evaluation, and maintenance of the fish screen. The Forest Service has not complied with this requirement in the DN & FONSI, in violation of law."

A technical team made up of representatives from the USFS, United States Fish and Wildlife Service (USFWS), Montana Fish Wildlife and Parks (FWP), and Montana DNRC (DNRC) has been meeting for over a decade for the purpose of studying elements of the operation and maintenance of the East Fork Rock Creek Reservoir and associated infrastructure (EFRCCR). Please see the attached letter regarding our consultation with the USFWS on the EFRCCR.

The USFS will continue to uphold its obligations under the ESA and to ensure that our actions do not jeopardize threatened and endangered species, that our actions do not result in the unauthorized take of bull trout, and that our actions promote conservation and recovery of the species.

Thank you for your interest in the EFRCCR and bull trout.

Sincerely,

CHERI A. FORD
Forest Supervisor

