

Judge asked to lift hold on Yellowstone dam and protect fish

February 2 2017, by Matthew Brown

U.S. officials are pressing a federal judge to lift his 2015 order blocking a proposed irrigation dam and fish passage on the Yellowstone River, warning that a rapidly-disappearing, ancient fish species faces a grim future with further delays to construction.

Fisheries biologists have questioned if the \$57 million project near Glendive, Montana would indeed save the 125 wild pallid sturgeon that survive in the Yellowstone. For decades, the fish have been prevented from reaching hundreds of miles of upstream spawning habitat because of an existing rock weir at the proposed dam site.

Federal wildlife officials contend the fish passage around the site is the sturgeons' best hope.

Putting off the project any longer means it will likely lose funding, "costing the lives of many of the last wild pallids," Michael Thabault, assistant regional director of the U.S. Fish and Wildlife Service, said in a court document filed late Wednesday.

"This is a loss, forever, of that fish's potential contribution to the recovery of the species," Thabault added.

Pallid sturgeon can reach 6 feet in length, live up to 50 years and are known for a distinctive, long snout that's changed little over millions of years. They've been around since the time of dinosaurs—earning the moniker "living fossils"—but suffered widespread decline after dams

were built along the Missouri River system in recent decades.

They were listed as an endangered species in 1990. The government-sponsored restoration program for the species ranks among the most expensive for any imperiled wildlife.

The Army Corps of Engineers wants to start construction in July. That's almost two years after U.S. District Judge Brian Morris issued an injunction that halted the project in response to a lawsuit from Defenders of Wildlife and the Natural Resources Defense Council.

In response to Morris' September 2015 order rejecting the government's justification for the project as insufficient, federal officials spent \$2.5 million on further environmental studies, according to David Ponganis with the Army Corps' Northwestern Division.

Government attorneys say those studies made the injunction moot. The corps wants to notify contractors that they can proceed with construction by April 15. Otherwise, the agency is likely to use the money it set aside for the project for other purposes, Ponganis said.

The irrigation dam would divert water for 55,000 acres in Montana and North Dakota that produce sugar beets, wheat and other crops. The existing rock weir serves the same purpose, but needs to be replaced because there's essentially no way for sturgeon to get around it.

Farmers have backed the government's proposal, saying the dam and fish bypass offer a solution for pallid sturgeon while also preserving an irrigation system that serves about about 400 farms.

The weir is part of a Congressionally-authorized irrigation project built between 1905 and 1909. Critics of the fish passage, including government biologists from Montana's Fish, Wildlife and Parks

Department, say it would be better to simply remove the weir and use pumps to provide irrigation water.

"They recycled the same flawed dam building plan that we successfully blocked in court," said Jonathan Proctor with Defenders of Wildlife.

"The agency thinks they can do better than nature. The biologists disagree."

Removing the rock weir was rejected by federal officials last year as too costly. Supporters of the idea said the government's estimated price tag of \$138 million to more than \$500 million was exaggerated.

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