



SPA 124 PERMIT DECISION NOTICE

Lolo National Forest Road Decommissioning and Culvert Installation

7/26/2023

ACTION

Decision Notice (DN). Montana Fish, Wildlife & Parks (FWP) shall prepare a DN for the proposed action. The DN must identify the agency decision, the reasons for the decision, and any special conditions surrounding the decision or its implementation.

With this action, FWP hereby adopts the Draft Environmental Assessment or Draft EA prepared for the proposed action as final, and approves Alternative 2, the proposed action.

AUTHORITY: MONTANA ENVIRONMENTAL POLICY ACT

According to the applicable requirements of the Montana Environmental Policy Act or MEPA and its implementing rules and regulations, before a proposed action may be approved, environmental review must be conducted to identify, consider, and disclose any potential impacts of the proposed action on the affected human environment. The level of environmental review will vary with the complexity and seriousness of environmental issues associated with a proposed action. The level of public interest will also vary. The agency is responsible for adjusting public review to match these factors. *Title 75, Chapter 1, Parts 1 through 3, Montana Code Annotated (MCA)*. Based on these factors, FWP determined a Checklist EA (Draft EA) constitutes the appropriate level of review for the proposed action. Therefore, to assess and disclose potential impacts of the proposed action, FWP prepared a Draft EA.

PUBLIC PARTICIPATION PROCESS

Under usual circumstances, FWP makes the Draft EA available for public review and comment. However, in this circumstance, MEPA's required public process for projects of this nature is impacted by a competing statutory deadline. MEPA requires FWP to comply with its terms "*to the fullest extent possible*." To fulfill the stated policy of MEPA, the agency shall conform to the applicable rules prior to reaching a final decision on proposed actions covered by MEPA. *ARM 12.2.428, Policy Statement Concerning MEPA Rules*. More specifically, § 87-5-504, *MCA*, states:

"Within 30 days after the receipt of such plans [for a project subject to SPA 124 permitting], the department shall notify the applicant whether or not such construction project or hydraulic project will adversely affect any fish or game habitat. If the department notifies the applicant that such construction will adversely affect any fish or game habitat, it shall accompany such notice with recommendations or alternative plans which will eliminate or diminish such adverse effect."

Effectively, within 30 days after receipt of an application [for an SPA 124 Permit], FWP must make a final decision on the proposed action/project. Within the applicable 30-day timeframe, the MEPA practitioner or author of the Draft EA must conduct a rigorous process, making it difficult or impossible for FWP to accommodate a public comment period for the Draft EA within the required 30-day time-period. § 87-5-504, MCA.

Therefore, for the purposes of achieving compliance with MEPA, *"to the fullest extent possible,"* FWP prepares a Draft EA for file, sans public comment, and issues a DN identifying the agency decision, reasons for the decision, and any special conditions surrounding the decision or its implementation. Conditions applicable to the approved action, including recommendations or alternative plans to eliminate or diminish any adverse effects, are contained in the approved SPA 124 Permit (see attached).

DESCRIPTION OF PROPOSED ACTION

To issue a SPA 124 permit to the Lolo National Forest to conduct several instream actions on the Seeley Ranger District. Multiple road decommissioning actions will occur throughout the Cottonwood Creek drainage (including Spring Creek). This will involve removal of 14 culverts at road-stream crossings and 5 stream-road fords. Different levels of road decommissioning will be applied, but all instream corrugated metal pipes will be removed and discarded. Roads will be scarified and taken off the national Forest Service road system. Furthermore, an undersized and misaligned culvert in Spread Creek will be upgraded with a larger and properly aligned 36-inch culvert. This site is approximately ¼ mile upstream of the confluence with Monture Creek.

PURPOSE AND NEED

The overall purpose of the Cottonwood Creek project is to decommission large road segments within the drainage. This will involve removal of 14 culverts at road-stream crossings and 5 stream-road fords. Different levels of road decommissioning will be applied, but all instream corrugated metal pipes will be removed and discarded. Roads will be scarified and taken off the national Forest Service road system. Collectively, these actions will improve stream conditions.

The purpose of the Spread Creek project is to install a properly sized crossing structure to facilitate streamflows. Spread Creek avulsed from its channel during Spring 2023 runoff. This event is causing flooding at an outfitter's camp and FSR89 overtopping at a location about a mile downstream of the avulsion location. The consequences of this event damage transportation, watershed, recreation, and fisheries resources. The purpose of installing a 36" culvert at this location is therefore to allow Spread Creek to flow under FSR89 without washing out the existing 18" culvert.

ALTERNATIVES ANALYZED

Alternative 1: No Action

In addition to the proposed action, and as required by MEPA, FWP analyzes the "No-Action" alternative in the EA. Under the No-Action alternative, the proposed action would not occur. Therefore, no additional impacts to the human environment would occur. The No Action alternative forms the baseline from which the potential impacts of the proposed action may be measured.

Under the No Action alternative a SPA 124 permit would not be issued. Problematic road and crossing conditions would continue to negatively impact streams and fisheries resources on the Seeley Ranger district.

Alternative 2: Proposed Action

Under the Proposed Action, a SPA 124 permit will be issued to the Lolo National Forest and several road crossings will be decommissioned or upgraded to improve instream conditions.

DECISION

Based on the environmental review provided in the Draft EA, and, to the greatest extent possible, in accordance with all applicable laws, rules, regulations, and policies, FWP determined the proposed action (Alternative 2), will not have significant adverse impacts on the human environment associated with the proposed action and constitutes a reasonable and appropriate strategy to achieve identified objectives. Therefore, preparation of an environmental impact statement or EIS is unnecessary.

FWP hereby adopts the Draft EA as final and approves Alternative 2, the Proposed Action.

Sincerely,

A handwritten signature in black ink, appearing to read 'Randy Arnold', is written over the printed name.

Randy Arnold

Region 2 Supervisor

Montana Fish, Wildlife & Parks