



## DECISION NOTICE

### [Eugene Ruiz Private Fish Pond License]

08/30/2023

#### **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 as final, without modification, 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 for public review and comment. See *Public Participation Process* below.

Further, FWP must consider any substantive comments received in response to an EA and proceed in accordance with one of the following steps: determine the EA did not adequately reflect the issues raised by the proposed action and issue an Environmental Impact Statement or EIS; determine the EA did not adequately reflect the issues raised by the proposed action and issue a supplemental EA; or determine the Draft EA adequately addressed the issues raised by the proposed action and make a final decision, with appropriate modification resulting from the analysis provided in the Draft EA and the analysis of any substantive public comments received. See *Public Comment and FWP Response* below.

#### **PUBLIC PARTICIPATION PROCESS**

The Draft EA was made available for public review and comment from August 4, 2023, to August 21, 2023. A legal Notice was published in the Missoulian and the Draft EA was posted on FWP's Public Notice

webpage: <https://fwp.mt.gov/news/public-notice>. The Draft EA was also made available for public review on the Environmental Quality Council or EQC website: <https://leg.mt.gov/mepa/search/>, by individual request, and through notice to identified interested parties. FWP received one comment during the public comment period.

### **DESCRIPTION OF PROPOSED ACTION**

The project consists of a private pond constructed with the intent to stock fish for angling. The pond is located in Missoula County in the Clark Fork River drainage. The landowner proposes stocking rainbow trout and westslope cutthroat trout.

### **PURPOSE AND NEED**

The project will provide the landowner with the opportunity to stock fish from a state approved hatchery in the constructed pond.

### **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 an angling opportunity would not be available for the landowner in their private pond.

#### **Alternative 2: Proposed Action**

Under the Proposed Action, the private pond will be stocked with rainbow trout and/or westslope cutthroat trout from an approved hatchery source to provide angling opportunity for the landowner at the private pond.

#### **Alternative 3: Stocking of Alternative Fish Species**

Under this alternative, different fish species that are currently present in the region and would have negligible environmental impact were considered. This alternative was dismissed because the species proposed by landowner (rainbow trout and westslope cutthroat trout) are best suited for the pond, will have negligible potential environmental impacts, and the landowner (applicant) prefers these species.

### **PUBLIC COMMENT AND FWP RESPONSE**

*Comment: 'I'm not opposed to mr Ruiz haven't the trout in the pond I am upset at how I and 2 of my neighbors lost every drop of seasonal water in or creek bed since the pond was put in we normally had 3 to 4 months of a small stream of water now we get nothing even in the spring state guy supposedly looked at what the people that developed it did found no problem people I've talked to tell me it's illegal to divert water from a existing stream aparently we got taken advantage of I feel I'm not wealthy enough they knew i couldn't Persue this in court it wasn't Eugene that developed the pond it was the people that sold it to him. '*

FWP Response: The EA process and FWP action only involve analysis of stocking fish in the Ruiz pond. Although the application demonstrated valid water rights for the pond and water source, FWP has no jurisdiction or authority related to water rights or effects on water supply for neighboring properties.

### **DECISION**

Based on the environmental review provided in the Draft EA, and 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 EIS is unnecessary. FWP hereby adopts the Draft EA as final and approves the Alternative 2, the proposed action.

With this DN, FWP hereby adopts the Final EA, without modifications, and approves the proposed action.

Sincerely,

A handwritten signature in black ink, appearing to read "Randy Arnold", written in a cursive style.

Randy Arnold  
Region 2 Supervisor  
Montana Fish, Wildlife & Parks