



1400 South 19<sup>th</sup> Avenue  
Bozeman MT 59718-5496

## SPA 124 PERMIT DECISION NOTICE

### Hyalite Creek Bridge Replacement

FWP-FSH-R3-23-017

November 13, 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**

Gallatin County proposes to replace an aging, wooden bridge and backwalls over Hyalite Creek along with a new bridge and concrete footings. The new bridge will be placed at the same elevation, but the abutments will each be set back nearly 10 feet with a sloped riprap bank. Therefore, the new bridge will facilitate greater flows than existing conditions, which will reduce flooding threats. The lateral extent of the riprap will be minimized as much as possible (8-10 feet on either side of the bridge) to reduce effects to adjacent streambanks. The project is proposed to start on July 1, 2024, with completion anticipated in early August 2024.

#### **PURPOSE AND NEED**

The wooden abutments/walls of the existing bridge are aging and beginning to fail. Therefore, a new bridge is needed to support continued use of Blackwood Road.

#### **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, FWP would not issue a SPA124 permit and the existing bridge would likely fail in the coming years, which would prohibit the public from using Blackwood Road as a major thoroughfare on the outskirts of Bozeman.

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

Under the Proposed Action, FWP would issue a SPA124 permit and the project would be completed following the special conditions provided in the permit.

- 1) The toe of the riprap will be trenched below the scour depth of the streambed.
- 2) The lateral extent of the riprap will not exceed 10 feet upstream or downstream of the new abutments.
- 3) Any trees or woody vegetation removed during construction will be replaced immediately following completion of the project.

**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 "Warren Hansen", written in a cursive style.

Warren Hansen  
Acting Region 3 Supervisor  
Montana Fish, Wildlife & Parks

