



## DECISION NOTICE

### Stites Private Pond License Review

October 24, 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 October 3, 2023, to October 18, 2023. A legal Notice was published in the Bozeman Daily Chronicle, 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 did not receive any comments during the public comment period.

### **DESCRIPTION OF PROPOSED ACTION**

A private landowner is applying for a Private Fish Pond License and proposes to stock rainbow trout in an unnamed private pond. The pond is 0.9 surface acre pond located on Meridian Road, Three Forks, Montana. The pond is not connected to Jefferson River tributaries, and there is no document fish presence. The pond is fed by a perennial spring with no inlet or outlet. There are no documented Montana Species of Special Concern in the vicinity of the pond. Risk of escapement is low. Rainbow trout are present in the nearest surface water system (Jefferson River). Rainbow trout could be removed from the pond via chemical treatments or stocking can be stopped to let fish die.

The project is sponsored by the private landowner, and the license would be active for 10 years from the year of issuance (2023). The license can be renewed for additional 10-year intervals at the end of each term, and the license is transferable.

### **PURPOSE AND NEED**

The purpose of this project is to issue a Private Fish Pond License for a private landowner to stock rainbow trout in the private pond located at 45.84904, -111.65679 only after careful review of potential impacts to State fish and wildlife resources stemming from the proposed fish stocking.

### **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, FWP would issue the Private Fish Pond License to the applicant, rainbow trout from a state approve source would be stocked in the reservoir, and the statutory obligations of MCA 87-4-603:610 would be abided and enforced.

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

#### **Comment 1:**

The following public comment was received: "I oppose this project due to the potential for Flooding and trout escape into the Jefferson River. Climate change is occurring and flooding will be much more common in the near future. This project could turn into a complete disaster!"

#### **Department Response:**

The pond falls outside of the floodway and would only be threatened by exceptional floods approaching 100-year events. Rainbow trout are already present in the adjacent waterbody, so overall risk to the Jefferson River is negligible since rainbow trout are already present. Montana Code (87-4-603) states that a person who owns or lawfully controls a private fish pond may apply to the department for a fish pond license. The licensee may stock the fish pond with fish procured from a lawful source. FWP inspects and licenses all in-state commercial hatcheries. Fish sought from sources outside the state also require in import permit from FWP, which also requires disease testing. Additionally, under Montana Code, if the

department finds an illegal introduction of fish or the presence of disease in fish in a licensed private fish pond or a natural lake, pond, or body of water, the department shall consult with the landowner or the landowner's agent to determine the appropriate action unless an emergency exists. In an emergency situation, the department may order or take appropriate action to address any threat to the state's fisheries resources, including quarantine or destruction of fish, eggs, or the source of a disease. These controls afforded under the Montana Code limit the disease transmission risk of fish stocked into the pond under this proposed action by the department.

#### 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.

Sincerely,

A handwritten signature in black ink, appearing to read "Warren Hansen", with a long, sweeping horizontal line extending to the right.

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

