



SPA 124 PERMIT DECISION NOTICE

Graves Creek Ford Stream Repair
DN-FWP-DN-FSH-R1-24-014

June 28, 2024

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

The Graves Creek Ford Stream Repair project is located on the remains of National Forest Service Road (NFSR) 367 (Graves Creek Road) and NFSR 7610. On 5/23/2023, as an emergency post fire action, two culverts were removed from NFSR 367. They had failed after spring flows caused blockage and water over topped the roadbed causing significant erosion and sediment delivery. Both culverts were removed at that time, and streambanks were roughly stabilized as a temporary fix while a road reroute was designed and implemented outside of the riparian area for NFSR 367. It is the intention of this project to readdress the two sites where culverts were removed for final rehabilitation. The purpose of the project is to reclaim the previous emergency bank stabilization measures. The upper site will be restored to a more natural state of fluvial morphology, while the lower site will be converted to a drivable ford to reestablish administrative access to NFSR 7610 (gate will be moved from current location). A ford is considered an appropriate structure (instead of a new culvert) because it will be located behind a year-round locked gate so it will not receive public use, only very infrequent administrative use. Following the project, NFSR 367 will be rerouted.

PURPOSE AND NEED

The purpose of this project is to conduct final remediation at two stream crossings that were impacted by fire, plugged with debris, and caused significant erosion and associated sediment delivery to Graves Creek. Stream banks will be recontoured to restore to a more natural state to minimize future sediment delivery to Graves Creek. A rock ford will be constructed at one site on a permanently gated road to allow infrequent administrative access. The sites will be revegetated by transplanting riparian species from nearby if available, container plants from the nursery, and native seed mix. These actions will help the riparian area and floodplain heal and will facilitate the long-term stability on an ephemeral tributary (unnamed) to Graves Creek. This work should help reduce sediment input to Graves Creek which is an important bull trout and westslope cutthroat trout spawning and rearing stream. Actions taken to reduce sediment delivery to the stream will benefit native salmonids and their habitat as excess fine sediment can smother incubating eggs in the streambed, entomb emerging fry, as well as fill in interstitial spaces in streambed substrate thereby reducing stream habitat complexity and quality. Large cobble and the interstitial species between streambed substrate function as a critical form of habitat for juvenile bull trout and westslope cutthroat trout.

Work will occur at low flow conditions, between July 15 and August 31, 2024, to minimize sediment delivery and mobilization. Equipment will not track into the stream channel (bucket only). Slash and

revegetation of the disturbed areas will further mitigate erosion, sedimentation, and turbidity. Stream channel work will be limited to re-establishing bank lines (if needed) at the upper site. At the lower site, the channel will be armored to provide a driving surface through the creek so long-term, infrequent administrative use will not cause additional impacts. There currently is no vegetation due to the previous emergency action. Rehabilitating the disturbed area will encourage the colonization of appropriately functioning riparian vegetation. Weeds will be controlled by inspecting equipment before entering the project area and the site will be monitored for weeds in the future and addressed accordingly.

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, the disturbed stream crossings on a headwater ephemeral tributary to Graves Creek would remain in a degraded state which could lead to continued excessive sediment delivery to Graves Creek which is an important spawning and rearing stream for native bull trout and westslope cutthroat trout.

Alternative 2: Proposed Action

Under the Proposed Action, stream rehabilitation work including recontouring the streambank and floodplain along with the reestablishment of native riparian vegetation will help restore the stream to a more natural state which in turn will minimize future sediment delivery to Graves Creek and lessen associated deleterious impacts to aquatic life including native bull trout and westslope cutthroat trout.

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,



Lee Anderson
Region 1 Supervisor
Montana Fish, Wildlife & Parks