



SPA 124 PERMIT DECISION NOTICE
[USFS Yaak River Lower Ford Bank Stabilization]
FWP-DN-FSH-R1-24-022

08/21/2024

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 stream bank has been eroding annually due to an exposed, unprotected bank along a legacy river ford. The ford has been getting seasonal use during the lower flow months from private land near the east bank. Non-mechanical attempts to deter river crossing have been ineffective, and mechanical work is needed to prevent further bank loss/erosion. The USFS Three Rivers Ranger District is proposing to stabilize the streambank and block future vehicle access to the site.

Bank work would include peeling back and excavating a portion of the bank (approximately 30-40ft long and approximately 6 ft into the bank), placing logs & root wads for stabilization, and then replacing the soil/willows/etc. back on top of the buried logs and root wads. The log work would be as follows (general sequence):

- Excavate bank (preferably by taking chunks of bank with intact willows/soil/roots) to allow for log placement.
- Place sediment control fencing in stream around excavation area (natural fiber fencing with stakes).
- Excavate down into streambed at toe of existing bank (east/west orientation) to allow for placement of footer logs in streambed.
- Place footer logs (approximately 1-3 logs) oriented east/west from ford out towards river; footer logs would be placed in excavated linear hole along stream bank toe. Stems with root wads attached would be used if possible, which would help redirect flow energy from bank.
- Place short stems with root wads attached (some or all) oriented north/south on top of the footer log(s). Stems would go from within excavated bank out on top of and over the footer log approximately flush with bottom of streambed.
- Backfill over the placed logs with excavated streambed and bank material, to include willow and other vegetation, keeping vegetation as intact as possible and attempt to keep in contact with (or near) water as closely as possible. Water/consolidate the placed material and vegetation as needed.

- Place at least one log on top of the newly-placed vegetation to help ensure there is no future flotation of the logs/bank.

Following bank repair, the USFS plans to block vehicle access by placing several large boulders along and beside the existing ford access from the west (above the ordinary high water mark (OHWM)). The proposed project would begin as early as September 1, 2024 and require one to two days to complete.

PURPOSE AND NEED

Beginning as early as September 1, 2024, the USFS proposes to repair the bank which has been eroding due to river flows at high water and from vehicle traffic. The stream bank would be excavated down to stream level, logs would be placed, and then the stream bank would be replaced, keeping vegetation intact. The USFS plans to block vehicle access by placing several large boulders along and beside the existing ford access from the west (above the ordinary high water mark (OHWM)). Work will be completed in one to two days.

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 eroding streambank would not be restored and protected, leading to further degradation from high stream flows and vehicle use.

Alternative 2: Proposed Action

Under the Proposed Action, the eroding streambank would be restored and revegetated, and protected from future vehicle access. Restoration and protection would stabilize the site and reduce further risks to stream bank degradation.

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 that reads "Lee Anderson". The signature is written in a cursive, flowing style.

Lee Anderson
Region 1 Supervisor
Montana Fish, Wildlife & Parks