



SPA 124 PERMIT DECISION NOTICE

Caras Park River Access, Missoula, MT

5/24/2024

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 City of Missoula proposes to create formal river access and viewing area while enhancing the vegetation and natural landscaping in the project vicinity. The existing observation deck and the upper portion of the grouted Brennan's Wave structure will be removed. It will be replaced with terraced seating area and stairs along each side. An ADA access path will be built along the length of the site, wrapping below the seating area. The railing along this path will be removed if it's likely to be inundated by high river flows. In addition, three other stair access sites will be placed along the bank.

The project is on a flood levee and Federal regulations limit natural stabilization of the bank. The current condition is rock rip rap and sparse vegetation including invasive willows. Most of the proposed work is above the ordinary high-water mark (OHWM) except for the extension of three access stairways, protection of a culvert outfall, and a portion of the ADA access trail. Nearly all the access trail below the OHWM would be on top of existing grouted rock, so additional degradation of the streambed would be minimal.

Revegetation of the site will vary. Moving from the uppermost segment of the bank to lower, the revegetation plan will consist of 1) topsoil imported and planted with shrubs, grasses, and forbs and 2) revegetated rip rap with topsoil and plantings including native willows. The lowest portion of the project will have little disturbance or plantings because it is regularly inundated by river water. Temporary irrigation should improve survival of planted vegetation. Fencing will be installed to protect grasses, forbs, and shrubs.

PURPOSE AND NEED

The Caras Park River Access project would provide access to the Clark Fork River and Brennan's Wave and prevent destabilization of the riverbank from river users and observers.

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 an SPA 124 permit and the City of Missoula would not complete the project. Not doing this project would result in continued degradation of vegetation on the riverbank levee by users because of random access points and trampling. Rock seating, stairs and concrete path would not be built. ADA access would not be accommodated. Scattered rip rap and sparse vegetation on the levee would remain. Maintenance of infrastructure after flooding would not be a concern.

Alternative 2: Proposed Action

Under the Proposed Action, FWP would issue an SPA 124 permit and the project would be completed following conditions provided in the SPA 124 permit that include requiring 70% or higher survival of planted vegetation after two years and consideration of educating people that the project is a levee improvement and not typical riverbank management. This alternative will allow construction to improve access to the Clark Fork River and at Brennan's wave as well as revegetation of the affected flood levee.

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 and constitutes a reasonable and appropriate strategy to achieve identified objectives. Therefore, preparation of an environmental impact statement or EIS is unnecessary. The project will allow the City of Missoula to improve access to the Clark Fork River for users and observers as well as restore bank vegetation on a Clark Fork River flood levee.

FWP hereby adopts the Draft EA as final and approves Alternative 2, the Proposed Action.

Sincerely,



Kendra McKlosky
Regional Supervisor
Montana Fish, Wildlife & Parks