



## SPA 124 PERMIT DECISION NOTICE

City of Missoula Stormwater Utility Maintenance  
SPA 124 Permit Application – City of Missoula  
September 30, 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 proposed project will remove fallen trees and branches from two locations within the City of Missoula to preserve the functionality of flood control and stormwater facilities. Adjacent area, including live trees and riparian vegetation, will not be disturbed. The project is expected to be completed in fall of 2024.

### **PURPOSE AND NEED**

The proposed project will address fallen woody debris and public infrastructure hazards at two locations within the City of Missoula. Fallen trees were a result of a major windstorm in the area on July 24, 2024. Downed trees and branches are currently at or just upstream of public flood control and stormwater facilities. If not removed, functionality of the infrastructure may be compromised affected and exacerbated flooding may occur in spring 2025.

### **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.

If the No Action alternative is selected, FWP would not issue a SPA 124 permit and identified hazard trees would remain in place. The functionality of public flood control and stormwater facilities would likely be compromised.

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

Under the Proposed Action, FWP would issue a SPA 124 permit and the project would be completed following standard conditions provided in the SPA 124 permit. Special Conditions include:

- 1) Remove cut tree sections and branches with minimal disturbance to riverbanks, soil, and adjacent woody vegetation. No other vegetation may be cut or removed.
- 2) Limit use of heavy equipment to the road surface and shoulder.
- 3) Trees and limbs shall be chipped off-site.

### **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 removal of dead trees and

branches as part of maintenance of flood control and stormwater facilities at two locations within the City of Missoula.

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

Sincerely,

A handwritten signature in blue ink that reads "Kendra McKlosky". The signature is written in a cursive, flowing style. The first name "Kendra" is written with a large, stylized 'K' and 'e'. The last name "McKlosky" is written with a large, stylized 'M' and 'K'. The signature is positioned to the right of the word "Sincerely,".

Kendra McKlosky  
Region 2 Supervisor  
Montana Fish, Wildlife & Parks