



SPA 124 PERMIT DECISION NOTICE

Clark Fork River Screw Trap Installation; Anaconda, MT

5/1/2024

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 goal of this project is to install a screw trap for a short period of time (1-3 months in the spring and 1-2 months in the fall) to capture out-migrating brown trout from nearby tributaries. This project intends to be a pilot project to better understand how to effectively operate screw traps in this setting for a potential future project on the upper Clark Fork. This project intends to address questions related to recruitment of brown trout to the upper Clark Fork River. To hold the trap in place anchors will be placed on banks, either pounded wood posts or concrete ecology blocks. Anchors will be set no closer than 5' of the waters edge. We will then run a large metal cable between the two anchors that will be used to hold a 5' screw trap in place. The screw trap will be moved laterally across the cable so that it is always situated in or near the thalweg of the river. The trap will be situated in the thalweg and should not cause any impacts to the bed or banks of the river other than the impact of placing anchors.

PURPOSE AND NEED

This project is needed to address questions related to recruitment of brown trout to the Clark Fork River upstream of Deer Lodge. The project will aim to address data gaps while having minimal impact to the bed or banks of the Clark Fork River.

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 FWP would not be permitted to install a screw trap on the Clark Fork River.

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. The Special Conditions for this permit are:

1. Any disturbance to vegetation on the banks or floodplain from operating machinery shall be revegetated using appropriate species.
2. Any anchors placed in the floodplain should be removed and area revegetated at the completion of the project.

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 Montana Fish, Wildlife and Parks to install a screw trap on the Clark Fork River.

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 'H' that are connected. The last name "McKlosky" is written in a similar cursive style. The signature is positioned to the right of the word "Sincerely,".

Kendra McKlosky
Acting Regional Supervisor
Montana Fish, Wildlife & Parks