



SPA 124 PERMIT DECISION NOTICE

Moulton Dam Rehabilitation; Butte, MT

6/6/2024

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

Moulton Dam has been deemed a high hazard dam and needs repairs and updates. Part of the proposed updates includes upgrades to the spillway and associated energy dissipation structure. The proposed spillway will be constructed at the current spillway location at the left abutment of the dam. The existing earthen spillway conveyance channel will be incorporated into the proposed design. A portion of the existing spillway is concrete; the concrete portion of the existing spillway is to be removed. This will be replaced with an ogee crest that transitions to a concrete channel. The concrete channel will lead to a 55" I.D. (63" O.D.) HDPE pipe which will act as the primary spillway. There will also be a rectangular weir cut into the left wall of the concrete channel which will direct discharge not conveyed through the pipe to the existing spillway conveyance channel. The HDPE pipe will safely convey the Inflow Design Flood (IDF) flow prior to overtopping the rectangular weir. The rectangular weir has been designed to convey an additional IDF. A baffled outlet then discharges into a rock-lined channel and energy dissipation structure which ties into the natural channel further downstream.

PURPOSE AND NEED

Moulton Reservoir Dam #1 has been deemed a high hazard dam and needs repairs to stabilize and improve the existing structure. Part of the required upgrades includes updating the spillway structure and the associated energy dissipating pad that interfaces with the stream. The majority of the project falls outside the jurisdiction of the 124 permit with the exception of the energy dissipation structure.

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 Butte-Silver Bow would not be permitted to upgrade the spillway and energy dissipation structure on Moulton Dam.

Alternative 2: Proposed Action

Under the Proposed Action, FWP would issue an SPA 124 permit and the Moulton Dam Rehabilitation would be completed as proposed following conditions provided in the SPA 124 permit. Special Conditions include, 1) any area disturbed around the project shall be revegetated with a riparian seed mix or appropriate upland seed mix, and 2) vegetation removal in the riparian area should be limited to the footprint of the energy dissipation structure.

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 Butte-Silver Bow Public Works to complete upgrades to the Moulton Reservoir Dam.

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

Sincerely,



Kendra McKlosky
Regional Supervisor
Montana Fish, Wildlife & Parks