



SPA 124 PERMIT DECISION NOTICE

Cable Creek Connection; Anaconda, MT
7/11/2024

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

Starting just downstream of Highway 1, Storm Lake Creek's current stream channel has limited restoration opportunities because there is current beaver activity in the area. However, opportunities exist within the Cable Creek channel connection section of Storm Lake Creek. Wood will be added where feasible (by hand) from adjacent slopes and digging out pools. As indicated on the attached map, a beaver dam analog will be constructed to push water into a historic flow path to the east and out of the currently entrenched ditch. This will improve water storage and overall habitat complexity through this reach. Additional beaver dam analog (BDA) work is proposed in the historic channel (indicated on the map). From that point downstream to the 90-degree corner the channel/ditch has poor habitat. BDAs, additional large wood, and pools will be constructed to improve habitat and raise the water table.

All work will be completed with a Youth Employment Program crew that has knowledge of these restoration techniques around southwest Montana. No heavy equipment will be used. The project site will be accessed by foot off Highway 1. Equipment utilized includes shovels, pulaskis, other appropriate hand tools, a hydraulic post pounder and chainsaws. Wood and materials to incorporate into BDAs will be sourced on-site near the abandoned ditch downstream of the historic channel that will be re-established. All refueling will occur outside of the riparian area (chainsaws and hydraulic post pounder). All instream work will occur between July 15th and September 1st.

PURPOSE AND NEED

The project purpose is to increase habitat complexity and thermal refugia for native fish in a stream channel that has been highly modified (ditched) to irrigate a hay field along Cable Creek. The limiting factor in this reach of Storm Lake Creek is high complexity habitat and cold water. Adult bull trout have been observed just upstream of the stream restoration reach. Complex habitat and water is occasionally limited in this reach of stream because it has been so highly modified. The current ditched section of Storm Lake Creek has poor habitat and poor connection with Cable Creek. There has been some improvement over the last few years due to beaver actively moving downstream.

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 United States Forest Service would not be permitted to do restoration actions on the Cable Creek Connection portion of Storm Lake Creek.

Alternative 2: Proposed Action

Under the Proposed Action, FWP would issue an SPA 124 permit and the Cable Creek Connection restoration project would be completed as proposed following conditions provided in the SPA 124 permit.

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. The project will allow the United States Forest Service to complete the proposed restoration actions on Storm Lake Creek.

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

Sincerely,



Kendra McKlosky
Regional Supervisor
Montana Fish, Wildlife & Parks