



SPA 124 PERMIT DECISION NOTICE

Temporary Bridges on the West Fork of Blacktail Deer Creek FWP-DN-FSH-R3-24-031

May 10, 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

With this action, the DNRC is proposing to install two temporary 30' CLT bridges to provide access to hauling routes for a timber sale east of the West Fork of Blacktail Deer Creek.

PURPOSE AND NEED

The project will install two temporary 30' CLT bridges to provide access to and hauling routes from a timber sale east of the West Fork of Blacktail Deer Creek. These bridges provide crossings over two un-named class I streams. The timber sale is being administered by DNRC, and its benefits and purpose have been previously scoped by DNRC.

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 a SPA124 permit, which would require the DNRC to pursue an SPA124 application for a ford through the stream and lead to significant habitat degradation.

Alternative 2: Proposed Action

Under the Proposed Action, FWP would issue a SPA124 with the following special conditions:

1. The bridges should be installed and removed during baseflow or dry channel conditions with flowing waters isolated from sediment and road fill input by staking straw wattles adjacent to the stream prior to abutment construction and removal.
2. Approaches shall be constructed to rise to and drain away from the bridge such that no sediment can run down the road and onto the bridge.
3. Following bridge removal, any existing road fill in the floodplain shall be removed and the area contoured to match the existing floodplain and revegetated with an emphasis on dormant transplanted native sod mats and/or an approved native species seed mix. Coconut fabric should be used in conjunction with seeding on steep grades to reduce sedimentation.
4. Provide FWP with pictures of each bridge following installation and removal.

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.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Adam Pankratz', with a stylized flourish extending to the right.

Adam Pankratz
Acting Region 3 Supervisor