



## SPA 124 PERMIT DECISION NOTICE

City of Helena Ten Mile Diversions Project  
FWP-CEA-FSH-R4-24-020

01 June 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 purpose of the project is to remove and replace six (6) existing concrete diversion structures within the Ten Mile Creek drainage. The structures were constructed in 1921 have reached their serviceable lives and need to be replaced. The structures are identified as follows: Ten Mile Creek Diversion; Walker Creek Diversion; Moose Creek Diversion; Minnehaha Creek Diversion; Beaver Creek Diversion; and Banner Creek Diversion. The project is proposed to be constructed starting in early fall 2024.

The Ten Mile Water Treatment Plant (WTP) and the associated raw water collection structures are located 6.5 miles west to 15 miles southwest the City of Helena in Lewis and Clark County Montana. The raw water collection system is located within the Tenmile Creek drainage. The Ten Mile Raw Water Collection System components consists of two surface water reservoirs (Scott & Chessman), a five-mile long diversion flume/canal (Red Mountain Canal), and a 7.5-mile-long 18-inch diameter concrete supply pipeline to the Ten Mile Water treatment facility which captures water at six intakes along the creeks intercepted by the pipe alignment.

The existing water intake structures are designed and operated to intercept the flow of water in their respective drainage channels until the water depth rises at each location to a level where it can be diverted into an intake box and enter the raw water concrete pipeline that transports water to the City’s Tenmile water treatment plant (WTP). Each intake box is screened to limit the amount and size of debris that is flushed through the pipeline and into the WTP. During high flows at each diversion structure, water flow rates exceeding the intake capacity of the pipeline can be released through gates and/or overflow spillways at the intake structures into the downstream natural drainage channels. When the intake structures are not in use and/or during flood events, the diversion gates are raised out of the way to allow the natural drainage flow or high flow to continue without interruption. The intakes are operated, cleaned, and maintained by the City of Helena WTP operations personnel. The City uses the intakes in various combinations as necessary to obtain the desired plant intake flow up to the City’s water right allowance and to intercept the highest quality water available at a given time.

The existing concrete headwalls and structures were constructed in 1921 with the slide gates replaced and/or updated at later dates. The intake structures are over 100 years old and in poor condition with areas of concrete delamination, spalling, deterioration, and exposed rebar. The slide gates and winch assemblies are functional in some instances but require frequent maintenance and repair. In addition, bank erosion which has occurred at several of the intake structures is threatening the stability of the structure(s). The

diversion structure replacements will consist of similar cast-in-place concrete diversion structures, vertical slide/sluice gates designed to back water up behind each diversion structure and redirect the flows to the new concrete intake vaults, and subsequently to connect to existing downstream pipelines. The replacement structures will generally be in-kind replacement structures within the same footprint of the existing structures and set to match the existing structure invert elevations and heights.

## **PURPOSE AND NEED**

The purpose of the project is to issue a SPA 124 permit to allow removal and replacement of six (6) existing concrete diversion structures within the Ten Mile Creek drainage. The structures were constructed in 1921 have reached their serviceable lives and need to be replaced. The structures are identified as follows: Ten Mile Creek Diversion; Walker Creek Diversion; Moose Creek Diversion; Minnehaha Creek Diversion; Beaver Creek Diversion; and Banner Creek Diversion. The project is proposed to be constructed starting in early fall 2024.

## **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 City of Helena would not be able to proceed with the construction of new intake structures.

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

Under the Proposed Action, the City of Helena would proceed with the construction of the following intake structures: Ten Mile Creek Diversion; Walker Creek Diversion; Moose Creek Diversion; Minnehaha Creek Diversion; Beaver Creek Diversion; and Banner Creek Diversion.

## **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,



Jason Rhoten  
Region 4 Supervisor  
Montana Fish, Wildlife & Parks