



SPA 124 PERMIT DECISION NOTICE

BLM Coal Banks Landing Boat Ramp

FWP-CEA-FSH-R4-24-017

4/26/2024

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 proposed boat ramp is located at the Coal Banks Landing Recreation Area. This popular access point has an existing concrete ramp that has become unusable by motorized watercraft at discharges below 7,500 cfs because of an upstream bar on the upstream side that create a deposition zone in the channel below the ramp. During flows below 7,500 cfs motorized watercraft have been accessing the river at the Virgelle Ferry landing sites. The BLM proposes to construct a new concrete ramp located approximately 300 feet upstream of the existing ramp. The proposed concrete ramp located at the southern end of the BLM property, will be 20 feet wide, 207 feet long, and have an additional 5 feet of rip rap on each side of the ramp. The ramp will extend 24 feet into the river at low flows and extends 65 feet below the ordinary high-water mark. Construction will occur after Labor Day to minimize impact to recreational users and to ensure that work occurs during low flow conditions. Additionally, the timing of the proposed work will avoid the May 15-July 15 window where pallid sturgeon migration and spawning activity occurs.

PURPOSE AND NEED

Coal Banks Landing is a popular access point for floating the Upper Missouri River Breaks National Monument and has an existing concrete ramp which has become unusable by motorized watercraft at discharges below 7,500 cfs because of an upstream bar on the upstream side that create a deposition zone in the channel below the ramp. During flows below 7,500 cfs motorized watercraft including MTFWP staff have been accessing the river at the Virgelle Ferry landing sites which can cause conflicts with the county. The proposed ramp will provide motorized watercraft a designated public access point that is usable at flows lower than 7,500 cfs. The ramp is expected to be constructed in the fall of 2024.

The purpose of the EA and this DN is to evaluate impacts associated with issuing a Stream Protection Act 124 Permit to the BLM to allow construction activities.

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 the only designated motorized boat access at Coal Banks Landing will continue to be unusable by motorized boats below 7,500 cfs.

Alternative 2: Proposed Action

Under the Proposed Action, a new concrete ramp will be constructed approximately 300 feet upstream of the existing ramp. The proposed concrete ramp located at the southern end of the BLM property, will be 20 feet wide, 207 feet long, and have an additional 5 feet of rip rap on each side of the ramp. The ramp will extend 24 feet into the river at low flows and extends 65 feet below the ordinary high-water mark. The proposed ramp will provide motorized watercraft a designated public access point that is usable at flows lower than 7,500 cfs.

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 cursive script that reads "Jason Rhoten".

Jason Rhoten
Region 4 Supervisor
Montana Fish, Wildlife & Parks