



DECISION NOTICE

Martinsdale Land & Cattle Private Pond License Review

FWP-CEA-FSH-R4-24-018

05/22/2024

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 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 for public review and comment. See *Public Participation Process* below.

Further, FWP must consider any substantive comments received in response to an EA and proceed in accordance with one of the following steps: determine the EA did not adequately reflect the issues raised by the proposed action and issue an Environmental Impact Statement or EIS; determine the EA did not adequately reflect the issues raised by the proposed action and issue a supplemental EA; or determine the Draft EA adequately addressed the issues raised by the proposed action and make a final decision, with appropriate modification resulting from the analysis provided in the Draft EA and the analysis of any substantive public comments received. See *Public Comment and FWP Response* below.

PUBLIC PARTICIPATION PROCESS

The Draft EA was made available for public review and comment from May 6, 2024 – May 21, 2024. The

Draft EA was posted on FWP's Public Notice webpage: <https://fwp.mt.gov/news/public-notice>. The Draft EA was also made available for public review on the Environmental Quality Council or EQC website: <https://leg.mt.gov/mepa/search/>, by individual request, and through notice to identified interested parties. FWP DID NOT RECEIVE comments during the public comment period.

DESCRIPTION OF PROPOSED ACTION

A private landowner is applying for a Private Fish Pond License and proposes to stock brown trout, rainbow trout and Yellowstone cutthroat trout. FWP is required to review the potential impacts of issuing a Private Fish Pond License. The pond was originally permitted in 2020 for rainbow trout and brown trout. A new permit is required to add Yellowstone cutthroat trout to the species allowed to be stocked in this pond. The pond is located approximately 300-feet from RM 6.1 of the North Fork Musselshell River on the abandoned Gillis (Sandeno) Ditch in HUC6-Lower North Fork Musselshell River/HUC5-North Fork Musselshell River/HUC4-Upper Musselshell River. Rainbow trout and brown trout are both present in the North Fork Musselshell River drainage.

The primary water source for the pond is groundwater. The pond inlet consists of an abandoned irrigation ditch/channel that may activate during periods of high flow via the ditch. The pond outlet returns to the historic channel/irrigation ditch, where it then flows downstream for approximately 0.7 miles before returning to the North Fork Musselshell at RM 5.3. There is no pond outlet control, but the outlet channel of the pond will be screened. Within the proposed pond, reproduction of the proposed species would not be expected due to a lack of suitable habitat. If the proposed species were to escape downstream to the North Fork Musselshell River, successful reproduction would be anticipated.

Yellowstone cutthroat trout are present in the headwaters of East Fork Haymaker Creek, isolated above numerous on-stream impoundments and a seasonally dry channel. Westslope Cutthroat trout are not believed to be aboriginal to the drainage but are present in some reservoirs and headwaters in the drainage as a result of stocking. Other Montana State Species of Concern present in the Upper Musselshell drainage are northern redbelly dace and redbelly x finescale dace hybrids (chromid dace). Associated risks to known SOC stemming from stocked trout are considered low to nonexistent given the proposed species presence in the drainage and existing barriers preventing escaped fish from accessing critical habitats. The potential genetic impacts to downstream fish populations are considered negligible. Non-native trout populations are present in the North Fork Musselshell River drainage. Genetic impacts to those populations would be expected to be minimal and of no concern. Nearby westslope and Yellowstone cutthroat trout populations in the Upper Musselshell River drainage are protected via anthropogenic and natural barriers.

The project is sponsored by the private landowner and the license would be active for a period of 10-years from the year of issuance (2024). The license can be renewed for additional 10-year intervals at the end of each term and the license is transferable.

PURPOSE AND NEED

The purpose of this project is to issue a Private Fish Pond License for a private landowner to stock brown trout, rainbow trout, and Yellowstone cutthroat trout in the private pond located at T9N R11E S28 SW, only after careful review of potential impacts to State fish and wildlife resources stemming from the proposed fish stocking.

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 the Private Fish Pond License, no action would occur, and the status quo would be maintained.

Alternative 2: Proposed Action

Under the Proposed Action, FWP would issue the Private Fish Pond License to the applicant, brown trout, rainbow trout, and Yellowstone cutthroat trout from a state approved source could be stocked in the reservoir, and the statutory obligations of § 87-4-603:610 MCA would be abided and enforced.

PUBLIC COMMENT AND FWP RESPONSE

No public comments were received during the public comment period.

DECISION

Based on the environmental review provided in the Draft EA, and 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 EIS is unnecessary. FWP hereby adopts the Draft EA as final and approves the Alternative 2, the proposed action.

With this DN, FWP hereby adopts the Final EA and approves the proposed action.

Sincerely,

A handwritten signature in cursive script that reads "Jason Rhoten".

Jason Rhoten
Region 4 Supervisor
Montana Fish, Wildlife & Parks