



DECISION NOTICE

Sullivan Private Pond
FWP-CEA-FSH-R4-24-016

05/14/2024

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 April 26, 2024 – May 10, 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 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 brook trout, brown trout, cutthroat trout, rainbow trout and largemouth bass. FWP is required to review the potential impacts of issuing a Private Fish Pond License. The pond is located on an ephemeral drainage that feeds into an unnamed tributary of South Fork McDonald Creek. The pond has a manmade dam and is fed by overflow from a nearby solar tank. The landowner intends to install a screened pipe below the rock spillway as an outlet for the pond. There is no documented fish presence in the drainage the pond is on, or the unnamed tributary it feeds into. South Fork McDonald Creek in this area has a prairie fish assemblage. Species documented in South Fork McDonald Creek are lake chub, longnose dace, longnose sucker, white sucker and mountain sucker. South Fork McDonald Creek does not provide popular sportfishing. Surveys in nearby Tyler Creek have documented Northern Redbelly Dace, a Montana Species of Special Concern. It is very likely that Northern Redbelly Dace are present in South Fork McDonald Creek and the unnamed tributary the pond drainage flows into.

Risk of escapement is minimal if the outlet pipe is properly sized and screened. The pond is high in the drainage and will only occasionally see large runoff events that could lead to escapement. It is possible that trout or bass get washed downstream into the unnamed tributary, or South Fork McDonald Creek itself. High sediment loads appear to preclude trout from becoming established in this drainage, therefore risks associated with trout escapement are minimal and short term in duration. Largemouth bass are piscivorous and if they escape could predate upon Northern Redbelly Dace and other species. These impacts would be anticipated to have a short-term impact, as it is unlikely that largemouth bass would persist long term in the drainage.

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 brook trout, brown trout, cutthroat trout, rainbow trout, and largemouth bass in the private pond located at T15N R20E S32 NENW, 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, brook trout, brown trout, cutthroat trout, rainbow trout, and largemouth bass 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

FWP received substantive public comments on the Draft EA. A substantive public comment was defined as the identification of a specific issue or impact. The following provides the public comments received and FWP response(s).

Comment 1: "I strongly oppose the Sullivan Private Pond proposal. I feel that any risk of largemouth bass escaping from this pond into the surrounding waters that could further endanger the survival of the redbelly dace is not an effort the MT FWP should be pursuing. There are many more worthwhile projects that could be addressed instead of this one."

FWP Response: In reviewing the potential impacts associated with the issuance of this license, FWP did consider risks associated with including largemouth bass on the list of allowed species. Adult largemouth bass are highly piscivorous and should they escape from the private pond some predation of northern redbelly dace may occur. However, sustained presence or establishment of largemouth bass in occupied northern redbelly dace habitat would not be expected due to the lack of suitable largemouth bass habitat. Largemouth bass require well oxygenated, warm, lentic waters of adequate depth to survive and establish a population. Such habitats are not present or accessible via the downstream drainage network. Because of this, any predation impacts that may result from escaped largemouth bass would be anticipated to be short-term in duration and we would not anticipate population level impacts to the downstream northern redbelly dace populations. Additionally, the risk of escapement from the private pond can be mitigated by adequately screening the pond outlet structure. FWP has the authority to stipulate, as a condition of the Private Fish Pond License, that the outlet be screened to minimize the risk of fish escaping the pond and entering the downstream drainage network. Such a screening requirement would be applied to the proposed License. Due to these factors, FWP identified the potential impacts to aquatic life in the draft EA as short-term in duration and minor in severity.

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,



Jason Rhoten
Region 4 Supervisor
Montana Fish, Wildlife & Parks

Derrick Miller for Jason Rhoten