



## SPA 124 PERMIT DECISION NOTICE

FWP-CEA-FSH-R5-24-019

### Bartlett Canal Emergency Watershed Protection Project

11/05/2024

#### **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 Stillwater Conservation District is sponsoring the Bartlett Canal Bank Armoring EWP project. Heavy bank erosion occurred during the historic June 2022 flooding event resulting in significant loss of stream bank upstream of the Bartlett Canal headgate in Carbon County. The project site is approximately 160 linear feet of eroded stream bank along the Clarks Fork of the Yellowstone River (Clarks Fork), 5.7 miles upstream of the town of Fromberg. The stream bank is now steep and undercut with visible signs of scouring. The area of erosion is directly upstream of the existing headgate for the Bartlett Canal. The Bartlett Canal Company relies on the headgate to provide irrigation water from the Clarks Fork to its users. As such, it is important to armor and stabilize the stream bank due to the proximity of the headgate. The project consists of installing approximately 635 cubic yards of MDT class I rock rip rap and 165 cubic yards of gravel filter. The rip rap revetment will be placed along 160 linear feet of stream bank and keyed into the bank 20 feet at the upstream extent of the bank stabilization. Approximately 483 cubic yards of the rock rip rap and 125 cubic yards of the gravel filter will be placed below the ordinary high-water mark for reinforcement of the eroded streambank at the project. Large-tracked excavators will be used to clear and grub the site, excavate the stream bank, stockpile material, grade bank lines, install rip rap rock and gravel filter, and complete final grading. Dump trucks and side dumps will be used to deliver gravel and riprap rock materials to the project site and haul away debris and overburden materials. All disturbance areas will be reseeded with the riparian/floodplain and dry upland seed mixes recommended by the NRCS Carbon County Field Office District Conservationist. Final stabilization of disturbed areas will be considered complete when vegetation establishment is 70 percent of background.

### **PURPOSE AND NEED**

The intent of the project is to armor 160 linear feet of the Clark Forks of the Yellowstone River streambank immediately upstream of the Bartlett Canal headgate. The placement of rock riprap will help ensure the longevity of the irrigation infrastructure during high flows and if the river continues to migrate towards the north bank. The Bartlett Canal provides irrigation for agricultural purposes in Carbon County.

### **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 stream bank immediately upstream of the Bartlett Canal headgate could continue to erode in high water events like spring runoff, damage the headgate, and interfere with water availability to irrigation users.

**Alternative 2: Proposed Action**

Under the Proposed Action, 160 linear feet of stream bank along the Clarks Fork will be armored with 635 cubic yards of class I rock rip rap to mitigate erosion and ensure continual operation of the irrigation canal.

**Alternative 3: Vegetated Revetment**

Under this Proposed Action, a vegetated revetment bank would be installed along the 160 linear feet of eroded stream bank using coir lifts and willow stakes. The applicant stated that due to the high velocities of the Clarks Fork and the low probability of a vegetated bank to take root, this alternative was not selected.

**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,



Mike Ruggles  
Regional Supervisor  
Montana Fish, Wildlife & Parks