



## SPA 124 PERMIT DECISION NOTICE

FWP-CEA-FSH-R5-24-025

SPA 124 #: MI-15-24

City of Billings West End Water Treatment Plant – Hogan Slough Water Transmission Main

07/24/2024

### **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 City of Billings proposes to install a water transmission main to efficiently transfer water from the West End Water Treatment Plant (WTP) up to both the West End and Heights communities of Billings. Population growth has substantially increased in the Billings area in recent years, which has led to an increasing demand for reliable drinking water. The WTP transmission main project involves the installation of a new, 36-inch transmission main to connect to the new West End Water Treatment Plant (currently under construction) in the City of Billings. The transmission main will transect Hogan's Slough and an associated fringe wetland at the south side of the Shiloh Conservation area. The area directly south was historically mined for gravel and pump operations control whether the area is flooded or dry. Vegetation is mainly reed canarygrass with larger species such as willow and cottonwood. The City proposes to install the transmission main via trenching under Hogan's Slough, and water within Hogan's Slough will be temporarily re-routed via piping or open channel through a temporary channel. This linear project is part of the West End Water Treatment Plant Transmission Main Phase 1.

#### **PURPOSE AND NEED**

The primary goal of the West End Water Treatment Plant transmission main project is to enhance the water distribution infrastructure for the City of Billings. This project is necessary to support the growing demand for water in the West End and to provide a reliable water supply to the residents and businesses in the area. By connecting the new treatment plant to the existing transmission system, the City aims to improve water quality and distribution efficiency, ensuring long-term sustainability.

The City proposes to implement the transmission main project mid-September 2024 and complete the project by December 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, the intake screens would not be updated, and the Lockwood Water Treatment facility would be at risk of losing potable water for Lockwood community residents and available water for fire flows.

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

Under the Proposed Action, the City of Billings would install water transmission main via trenching under Hogan's Slough and an associated fringe wetland at the south side of the Shiloh Conservation area to efficiently transfer water from the West End Water Treatment Plant to the West End and Heights communities of Billings, Montana.

## **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,



Shannon Blackburn  
Region 5 Fisheries Program Manager  
Montana Fish, Wildlife & Parks