



SPA 124 PERMIT DECISION NOTICE

FWP-CEA-FSH-R5-24-003
Fromberg Bank Stabilization

06/10/2024

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 County Conservation District has proposed a bank stabilization project through the Emergency Watershed Protection (EWP) program in the town of Fromberg, Montana. In June 2022, historic flooding occurred on the Clark’s Fork of the Yellowstone River. Constrained by the River Street Bridge, and roads and residential structures on either side of the river, the flood caused considerable damage. Previous riprap failed and currently the left bank is a sheer vertical wall approximately 6–8 feet high with active bank erosion. The bank stabilization project proposes to riprap approximately 1,200 linear feet up to the 2-year water surface elevation and use 4,000 cubic yards of cobble fill. Cobble fill will be sourced from excavations near the project site and from a previous dredging operation around the bridge. The cobble fill will function as a floodplain bench; reseeded with native riparian seed mix and planted with dense riparian shrubs and willows. The upland bench will be planted with trees that will stabilize the bank and prevent further channel migration in larger flood events. In-channel debris removal, excavation, and channel shaping will be used to restore channel geometry and sediment transport. Proposed channel shaping has been designed to recreate a bend pool typical to this reach of the Clark’s Fork and mimic pre-flood condition. Overtime, the riparian plantings will provide habitat and flood protection up to the 25-year flood event, and upland plantings will provide habitat and flood protection for events greater than the 25-year event.

PURPOSE AND NEED

The proposed project is necessary to protect a residential structure and mitigate unwanted future channel migration towards the East River Street Bridge and other infrastructure in the town of Fromberg as the channel’s thalweg is now against the actively eroding left bank. Continued channel migration could place the adjacent road and downstream bridge at risk. The proposed project will stabilize the left bank as well as restore channel geometry similar to pre-flood conditions.

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 Clark's Fork of the Yellowstone River will continue to actively erode the left bank and could threaten a residential structure and important town infrastructure. Additionally, riprap placed during emergency repairs would likely fall into the river channel during normal spring runoff events. Future work and mitigation at this site would be needed and be more expensive and have greater adverse impacts to natural resources than the proposed action.

Alternative 2: Proposed Action

Under the Proposed Action, the bank will be stabilized to protect the town of Fromberg while using a design that allows the river to better access its floodplain and increase vegetation through this reach.

Alternative 3: Riprap Only

Using the riprap only alternative included importing class III riprap from the low water surface elevation to the top of the bank with no floodplain bench or revegetation efforts. This option was not chosen due to high mitigation costs and negative impacts to natural resources.

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