



**SPA 124 PERMIT DECISION NOTICE**  
**Musselshell County Railroad Crossing Bridge Removal**  
**FWP-CEA-FSH-R5-24-028**  
**CO-04-24**

08/26/2024

**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**

Musselshell County proposes to remove an old railroad crossing bridge on the Musselshell River located immediately downstream of the Goffena Road Bridge, which Montana Department of Transportation (MDT) is currently in the process of replacing. The railroad crossing is comprised of the original wooden railroad ties and abutments, which have become severely degraded and may cause further floodplain encroachment if the old railroad crossing were to fail entirely. In its current state, the crossing creates a narrowed reach of river channel and causes significant flood damage during high water and ice jam events.

### **PURPOSE AND NEED**

The primary purpose of the proposed project is to remove an old railroad crossing bridge that crosses the Musselshell River approximately 13 miles northeast of Roundup, Montana. The crossing creates a narrowed portion of river channel, which can cause severe flood damage during high flow and ice jam events and subsequently affects nearby roads and private croplands. In addition, the crossing is likely to impact the new Goffena Road bridge during high flow events or ice jams given the nearby proximity. Removal of the bridge will allow the river to interact with its floodplain sediments, providing additional habitat complexity and an open river channel, and allow the upstream Goffena Road bridge to maintain its structural integrity in the event of high flow or ice jam events.

### **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 old railroad crossing bridge would not be removed and continue to pose a significant threat to the new Goffena Road Bridge and surrounding private croplands and roads.

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

Under the Proposed Action, Musselshell County would use a selected contractor and heavy machinery operating from the bank to remove the old railroad crossing piers and bridge abutments from the Musselshell River. The selected contractor will slope the banks near the old railroad crossing, install erosion control matting, and reseed the affected area.

### **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,

A handwritten signature in blue ink, appearing to read "Mike Ruggles", is positioned above the printed name.

Mike Ruggles  
Regional Supervisor  
Montana Fish, Wildlife & Parks