



DECISION NOTICE

Pyrenees Rescue Center Trust Private Pond License Review FWP-CEA-FSH-R5-24-026

08/06/2024

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, without modification, 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. 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 June 28, 2024 to July 12, 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 not receive comments during the public comment period.

DESCRIPTION OF PROPOSED ACTION

A landowner is applying for a private fish pond license and proposes to stock Yellowstone cutthroat trout. The pond is located on private land near Barlow Creek, which is a tributary to West Red Lodge Creek. The pond supplied by groundwater sources and contains a domestic groundwater water right for fishery purposes (43D 30018332). The private pond is approximately 0.3 surface acres and approximately 1.2 miles southeast of Luther, Carbon County, Montana. The outlet of the pond is a screened (~3/4 mesh), 10" culvert pipe with a two-foot drop. In addition, it is an earthen dam pond and fish escapement is likely during both normal operations and high flow events. Fish surveys in West Red Lodge Creek have documented both non-native sport fish (e.g., brown trout, brook trout) and native Yellowstone cutthroat trout in the east fork of West Red Lodge Creek. Although non-native salmonids are present, the fisheries management goals for this drainage include reducing the numbers of rainbow, brown, and brook trout where Yellowstone cutthroat trout could be negatively affected. The risks with stocking the pond with hatchery-reared Yellowstone cutthroat trout is minimal as escapement is likely but Barlow Creek experiences intermittent flows in drier years. The project is sponsored by the private landowner, and the license would be active for 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 for a private landowner to stock Yellowstone cutthroat in their private pond located on an unnamed tributary to Barlow Creek, a tributary to West Red Lodge Creek. The primary benefit would be providing angling opportunity for the landowner. Stocking would only occur after 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, an angling opportunity would not be available for the landowner in their private pond.

Alternative 2: Proposed Action

Under the Proposed Action, FWP would issue the Private Fish Pond License to the applicant, Yellowstone cutthroat trout from a state approved source would be stocked in the reservoir, and the statutory obligations of MCA 87-4-603:610 would be abided and enforced.

PUBLIC COMMENT AND FWP RESPONSE

No public comments were received during the public comment period.

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, without modifications, and approves the proposed action.
Sincerely,

A handwritten signature in blue ink, appearing to read "Mike Ruggles". The signature is fluid and cursive, with the first name "Mike" and last name "Ruggles" clearly distinguishable.

Mike Ruggles
Regional Supervisor
Montana Fish, Wildlife & Parks