



SPA 124 PERMIT DECISION NOTICE

DNRC Still Creek Road Restoration

FWP-DN-FSH-R1-25-005

02/21/2025

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

Montana DNRC is proposing to repair a section of the 7951 road. It involves the replacement of a 30" culvert with an appropriately sized 53" x 41" squash pipe culvert on a Class 1 stream, Still Creek, 2 new 18" culvert installations (ditch relief), drainage improvement via the installation of a double sediment traps, ditch plug where stream is leaving channel and stream armament for a cattle watering area in the stream. The road will also be fenced where the cattle were previously entering the stream and causing the stream to leave its channel. The stream is currently leaving its channel to the east due to trampling and subsequently washing out the 7951 road. The existing culvert is undersized and round instead of arched. Work is expected to commence in summer 2025 pending permit approvals.

PURPOSE AND NEED

This project has several purposes to improve the road and stream crossing to meet BMPs. The first purpose is to fix the 7951 road to haul timber out to the 7935 road. The second purpose is to exclude cattle from the inlet side of the culvert and create a fenced in hardened area on the outlet side. The third purpose is upgrade BMP's on the road to right size the culvert for Still Creek, add ditch relief culverts on each side of Still Creek. Add sediment traps south of Still Creek where other drainage opportunities do not exist.

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 road and stream crossing would not be restored and culvert failure and stream degradation would continue.

Alternative 2: Proposed Action

Under the Proposed Action, the road and stream crossing would be restored consistent with BMPs, allowing for effective management of associated timber parcels while protecting the stream from continued degradation.

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 black ink, appearing to read "Matt Boyer". The signature is fluid and cursive, with the first name "Matt" written in a stylized, connected manner, and the last name "Boyer" written in a more standard cursive script.

Matt Boyer
Acting Regional Supervisor
Montana Fish, Wildlife & Parks