

DRAFT

ENVIRONMENTAL ASSESSMENT

CHECKLIST

Vermilion River Grouse Reach Stream Restoration

FWP-CEA-FSH-R1-25-012

April 3, 2025



Table of Contents

I.	Compliance with the Montana Environmental Policy Act.....	3
II.	Background and Description of Proposed Project	3
III.	Purpose and Need	6
IV.	Other Agency Regulatory Responsibilities	7
V.	List of Mitigations, Stipulations	7
	Table 4: SPA 124 Permit Conditions the Department Will Require to Issue Permit.....	8
VI.	Alternatives Considered	9
VII.	Summary of Potential Impacts of the Proposed Project on the Physical Environment and Human Population ...	9
VIII.	Private Property Impact Analysis (Takings).....	22
IX.	Public Participation	22
X.	Recommendation for Further Environmental Analysis	24
XI.	EA Preparation and Review	24
	Attachment 1.....	25
	SPA 124 Permit General Conditions	25

I. Compliance with the Montana Environmental Policy Act

Before a proposed project may be approved, environmental review must be conducted to identify and consider potential impacts of the proposed project on the human and physical environment affected by the project. The Montana Environmental Policy Act (MEPA) and its implementing rules and regulations require different levels of environmental review, depending on the proposed project, significance of potential impacts, and the review timeline. § 75-1-201, Montana Code Annotated (“MCA”), and the Administrative Rules of Montana (“ARM”) 12.2.430, General Requirements of the Environmental Review Process.

FWP must prepare an EA when:

- *It is considering a “state-proposed project,” which is defined in § 75-1-220(8)(a) as:
 - (i) a project, program, or activity initiated and directly undertaken by a state agency;
 - (ii) ... a project or activity supported through a contract, grant, subsidy, loan, or other form of funding assistance from a state agency, either singly or in combination with one or more other state agencies; or
 - (iii) ... a project or activity authorized by a state agency acting in a land management capacity for a lease, easement, license, or other authorization to act.*
- *It is not clear without preparation of an EA whether the proposed project is a major one significantly affecting the quality of the human environment. ARM 12.2.430(3)(a));*
- *FWP has not otherwise implemented the interdisciplinary analysis and public review purposes listed in ARM 12.2.430(2) (a) and (d) through a similar planning and decision-making process (ARM 12.2.430(3)(b));*
- *Statutory requirements do not allow sufficient time for the FWP to prepare an EIS (ARM 12.2.430(3)(c));*
- *The project is not specifically excluded from MEPA review according to § 75-1-220(8)(b) or ARM 12.2.430(5); or*
- *As an alternative to preparing an EIS, prepare an EA whenever the project is one that might normally require an EIS, but effects which might otherwise be deemed significant appear to be mitigable below the level of significance through design, or enforceable controls or stipulations or both imposed by the agency or other government agencies. For an EA to suffice in this instance, the agency must determine that all the impacts of the proposed project have been accurately identified, that they will be mitigated below the level of significance, and that no significant impact is likely to occur. The agency may not consider compensation for purposes of determining that impacts have been mitigated below the level of significance (ARM 12.2.430(4)).*

MEPA is procedural; its intent is to ensure that impacts to the environment associated with a proposed project are fully considered and the public is informed of potential impacts resulting from the project.

II. Background and Description of Proposed Project

Name of Project: Vermilion River Grouse Reach Stream Restoration

This proposed project is located within a portion of the Vermilion River (a tributary to the Lower Clark Fork River) on the Kootenai National Forest (KNF) near Trout Creek, MT (Figure 1; Township 24N Range 30W Section 02; rivermile (rm) 8.70 to 9.25). The Grouse Reach restoration project site exists solely on KNF lands and is downstream of the previous three completed restoration projects (Sims Reach 2021, Miners Gulch Reach 2016, Chapel Slide Reach 2012). The restoration work will focus on reconnecting the floodplain, realigning the channel with a more sinuous historic pattern that would allow for more stream length (an additional 350 feet) and use of the entire width of the floodplain. The project will incorporate in-channel habitat structures by utilizing

approximately 400 large trees with attached roots. This restoration work will reduce fine sediment delivery to the river channel by decommissioning about 0.4 road miles of National Forest System Road (NFSR) 154A. The Grouse Creek trailhead and parking area will also be relocated out of the Vermilion River's floodplain and moved towards Mile Post 0.22 of the NFSR 154A (Figure 2). The segment of the NFSR 154A to be decommissioned would be converted into part of the Grouse Creek Trail.

Mining, logging, and road building have been the predominant disturbance types influencing fish habitat and riparian areas in the Vermilion River watershed (Neesvig et al. 2007). Clearing of riparian vegetation and destabilization of stream channels associated with placer mining has led to degraded conditions that have been driving instability since the late 1800s. Ongoing and historic mining activities are concentrated downstream of Vermilion Falls (i.e., lower river; rm 11.6 to mouth). Riparian harvest occurred in much of the rest of the basin as well. These activities have contributed to the degraded condition of the river and compromised its ability to withstand normal runoff events. Average flow events often result in dramatic channel adjustments that do not occur in similar reference watersheds (Figure 3). There are substantial raw banks producing unnaturally high sediment loads, including some that are chronic contributors at all flow levels. Pool and large woody debris frequencies are very low compared to KNF reference conditions. The riparian vegetative community and stream habitat has degraded in the lower river from anthropogenic activities and has been exacerbated by natural processes.

The Vermilion River is an important native fish stronghold in the lower Clark Fork River. The distribution of native fish in the Vermilion River is unique and has been dictated by the presence of natural barriers. Westslope Cutthroat Trout (WCT) occur throughout the drainage, Bull Trout (BULL) and sculpin occur in the lower river downstream of Vermilion Falls (rm 11.6) , while Mountain Whitefish distribution is limited to downstream of China Gorge just upstream on Canyon Creek around rm 4.7. Portions of the lower Vermilion River have extremely low habitat diversity and complexity. The existing condition of the Grouse Reach of the Vermilion River has been shaped by these past events and current channel conditions display departure from reference.

The KNF is the applicant for project and is overseeing the work which will be conducted by a local private contractor. Administrative support from the project is being managed by the Lower Clark Fork Watershed Group. The project is proposed to occur from July through August of 2025.

Affected Area / Location of Proposed Project:

- Legal Description
 - Latitude/Longitude: 47.86924,-115.40944 (approximate mid-point of project)
 - Section, Township, and Range: Section 02, Township 24N, Range 30W
 - Town/City, County, Montana: Trout Creek, Sanders County, Montana
- Location Map

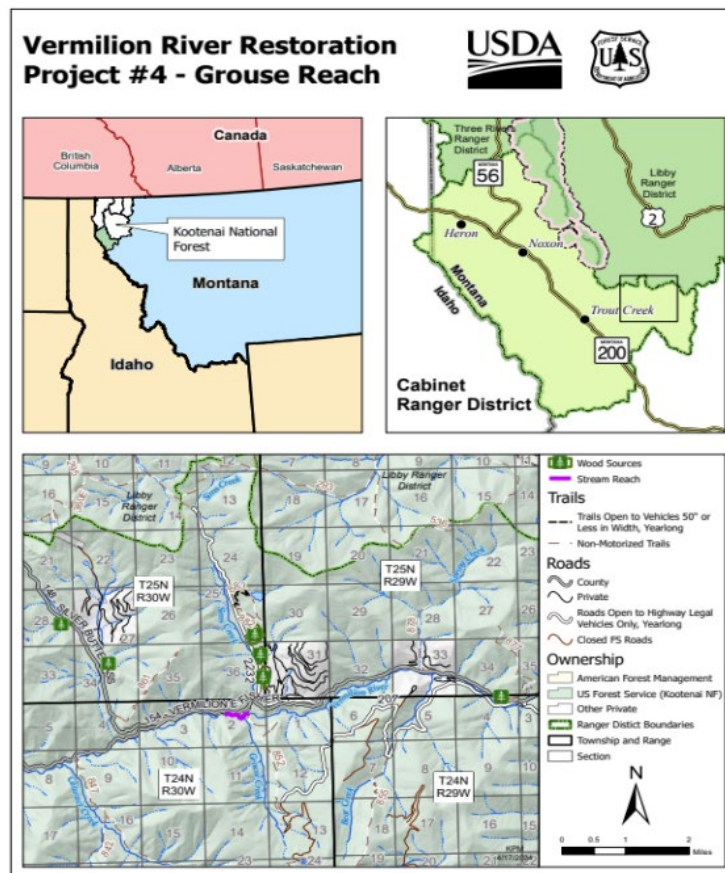


Figure 1. Broad-scale map of Vermilion River and location of the Grouse Reach restoration project.



Figure 2. Fine-scale map of proposed restoration project on the Grouse Reach of the Vermilion River.



Figure 3. Example of 300 feet of channel migration within the proposed Grouse Reach restoration area that was initiated by an average 1.5 year flood event (bankfull flow event). The upper picture is from 2013 and the lower picture is from post-runoff in 2017. The 0.4 miles of NFRS 154A that will be decommissioned and converted to a trail is visible in the upper portion of both pictures.

III. Purpose and Need

The EA must include a description of the benefits and purpose of the proposed project. ARM 12.2.432(3)(b). Benefits of the proposed project refer to benefits to the resource, public, department, state, and/or other.

- Historic placer mining, timber harvest including in the riparian area and road construction coupled with natural processes (ex., annual spring-runoff) has negatively impacted the riparian area, floodplain connectivity, bank erosion as well instream habitat complexity and diversity which have left portions of the river in a degraded state compared to local reference reaches on the KNF.
- A watershed assessment was completed in the Vermilion River in 2007. The Grouse Reach was the fourth highest priority site in reach 6 of the Vermilion River. The first priority restoration site (Chapel Slide) was restored in 2012. The second priority restoration site (Miners Gulch) was restored in 2016. The Third priority restoration site (Sims) was restored in 2021.
- Approximately 2500 feet of the channel will be reconstructed/realigned with a more historic sinuous pattern (Figure 3). The proposed project will add an additional 350 ft of river to this reach and reconnect the river with its floodplain (~ 11 acres), which in turn will allow for the establishment of a more diverse and ecologically resilient riparian community. About 400 whole trees with rootwads will be utilized to construct wood debris structures in the channel and in the floodplain to reduce shear stress on banks, to maintain pools, to increase habitat complexity and diversity and to retain fine sediment in the floodplain to aid in the natural recolonization of native riparian plant species.

- An aggressive revegetation effort of planting approximately 400 black cottonwood seedlings and willow cuttings will compliment the reconnection of the floodplain which help provide for the initiation of a sustainable riparian community. The surrounding conifer and riparian vegetation directly adjacent to the channel will be avoided to the extent possible during the stream restoration activities.

If FWP prepared a cost/benefit analysis before completion of the EA, the EA must contain the cost/benefit analysis or a reference to it. ARM 12.2.432(3)(b).

	Yes*	No
Was a cost/benefit analysis prepared for the proposed project?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

* If yes, a copy of the cost/benefit analysis prepared for the proposed project is included in Attachment A to this Draft EA

IV. Other Agency Regulatory Responsibilities

FWP must list any federal, state, and/or local agencies that have overlapping or additional jurisdiction, or environmental review responsibility for the proposed project, as well as permits, licenses, and other required authorizations. ARM 12.2.432(3)(c).

*A list of other required local, state, and federal approvals, such as permits, certificates, and/or licenses from affected agencies is included in **Table 1** below. **Table 1** provides a summary of state requirements but does not necessarily represent a complete and comprehensive list of all permits, certificates, or approvals needed. Agency decision-making is governed by state and federal laws, including statutes, rules, and regulations, that form the legal basis for the conditions the proposed project must meet to obtain necessary permits, certificates, licenses, or other approvals. Further, these laws set forth the conditions under which each agency could deny the necessary approvals.*

Table 1: Federal, State, and/or Local Regulatory Responsibilities

Agency	Type of Authorization (permit, license, stipulation, other)	Purpose
US Fish and Wildlife Service	Section 7 of Endangered Species Act (ESA) consultation	Interagency cooperation to minimize deleterious impacts to ESA listed species
US Army Corps of Engineers	404 Permit -Nationwide Permit 27	Authorizes discharge of dredge or fill materials in the waters of the United States for restoration

V. List of Mitigations, Stipulations

Mitigations, stipulations, and other enforceable controls required by FWP, or another agency, may be relied upon to limit potential impacts associated with a proposed Project. The table below lists and evaluates enforceable conditions FWP may rely on to limit potential impacts associated with the proposed Project. ARM 12.2.432(3)(g).

Table 2: Listing and Evaluation of Enforceable Mitigations Limiting Impacts

Are enforceable controls limiting potential impacts of the proposed action? If not, no further evaluation is needed.	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
If yes, are these controls being relied upon to limit impacts below the level of significance? If yes, list the enforceable control(s) below	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

Enforceable Control	Responsible Agency	Authority (Rule, Permit, Stipulation, Other)	Effect of Enforceable Control on Proposed Project
SPA 124 Permit - General Requirements (see Appendix 1)	FWP	SPA 124	SPA 124 Permit, General Conditions, provide best management practices in the form of enforceable controls to limit potential adverse impacts from the proposed project. Fines may be levied for violating these general requirements and/or corrective action may be required to remedy non-compliance.

VI. SPA 124 Permit Action

Any applicable Montana stream work that is not otherwise excluded from MEPA review under the applicable requirements of ARM 12.2.454, Actions that Qualify for a Categorical Exclusion, and has the potential to alter the stream channel or bank, requires a project-specific 124 Stream Protection Act Permit or SPA 124 Permit prior to the start of work. The SPA 124 permit is issued by FWP's Fisheries Division and includes both the general conditions described in Attachment 1 and any additional Special Conditions deemed necessary to protect and preserve the affected waterway. Additional conditions deemed necessary to protect and preserve the affected stream from potential impacts associated with the proposed project are listed in Table 4 below.

Table 3: SPA 124 Permit Conditions the Department Will Require to Issue Permit.

Activity	Special Condition	Description
Instream construction with heavy machinery to improve aquatic habitat conditions by increased sinuosity, floodplain connectivity, habitat complexity/resiliency	Instream construction that impacts or modifies the streambed or streambank may only occur from July 15 to August 31, 2025.	This specific location and portion of the Vermilion River is prime spawning and rearing habitat for both WCT and BULL, as well habitat for both sub-adult and adult fish of both species. Sculpin are also present in this reach in high abundance. By conducting instream work within this 6-week window deleterious impacts of fine sediment on redds, incubation and early rearing within the streambed gravel will be minimized for both native trout species.
Channel diversions	FWP will lead the fish salvage effort for the initial channel diversion and any subsequent diversions. The initial diversion date should be scheduled in advance and as soon as possible. For additional diversions within the construction window, FWP request 3-5 business day notice to be able to mobilize.	This portion of the Vermilion River (China Gorge to Vermilion Falls) has the highest abundance of WCT and BULL within the drainage. This effort will help minimize direct mortality associated with channel diversion. All native species will be salvaged and moved to the wetted channel.
Installation of temporary bridges	At the request of the KNF, temporary bridges may be installed the week of July 6 as long as they do not impact	Two temporary bridges will be installed to allow for the mobilization of materials (wood and rock) that will

	or modify the streambed or stream bank.	be used in the project. This will the project to begin on July 15 and will help facilitate the project being completed by the end of the instream construction window, August 31, 2025.
Construction in dry portions of the floodplain	Construction work may also occur in dry portions of the floodplain following the installation of temporary bridges during the week of July 6 as long as it does not impact or modify the streambed, stream bank or occur in a wetted channel. This work will not impact the stream as the floodplain is large, much of it is devoid of perennial vegetation and is comprised of coarse rocky substrate.	Allowing work to occur in the dry floodplain following the installation of temporary bridges during the week of July 6 will allow this project to be completed by the end of the instream construction window, August 31, 2025.

VII. Alternatives Considered

In addition to the proposed Project, and as required by MEPA, FWP analyzes the "no-action" alternative in this EA. Under the "no-action" alternative, FWP would not do the proposed project.

Under the "No Action" alternative, the proposed project would not occur. Therefore, no additional impacts to the physical environment or human population in the analysis area would occur. The "No Action" alternative forms the baseline from which the potential impacts of the proposed Project can be measured.

	Yes*	No
Were any additional and reasonable alternatives considered?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

* If yes, a list and description of the other alternatives considered, but not carried forward for detailed review is included below

	Yes*	No
Were any additional alternatives considered and dismissed for cause?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

* If yes, a list and description of the other alternatives considered, but not carried forward for detailed review, is included below

VIII. Summary of Potential Impacts of the Proposed Project on the Physical Environment and Human Population

The impacts analysis identifies and evaluates **direct**, **secondary**, and **cumulative impacts**.

- **Direct impacts** are those that occur at the same time and place as the action that triggers the effect.
- **Secondary impacts** "are further impacts to the human environment that may be stimulated or induced by or otherwise result from a direct impact of the action." ARM 12.2.429(18).
- **Cumulative impacts** "means the collective impacts on the human environment of the proposed action when considered in conjunction with other past and present actions related to the proposed action by location or generic type. Related future actions must also be considered when these actions are under concurrent

consideration by any state agency through pre-impact statement studies, separate impact statement evaluation, or permit processing procedures.” ARM 12.2.429(7).

Where impacts are expected to occur, the impact analysis estimates the **extent, duration, frequency, and severity** of the impact. The duration of an impact is quantified as follows:

- **Short-Term:** impacts that would not last longer than the proposed project.
- **Long-Term:** impacts that would remain or occur following the proposed project.

The severity of an impact is measured using the following:

- **No Impact:** there would be no change from current conditions.
- **Negligible:** an adverse or beneficial effect would occur but would be at the lowest levels of detection.
- **Minor:** the effect would be noticeable but would be relatively small and would not affect the function or integrity of the resource.
- **Moderate:** the effect would be easily identifiable and would change the function or integrity of the resource.
- **Major:** the effect would irretrievably alter the resource.

Some impacts may require mitigation. As defined in ARM 12.2.429, mitigation means:

- Avoiding an impact by not taking a certain action or parts of a project;
- Minimizing impacts by limiting the degree or magnitude of a project and its implementation;
- Rectifying an impact by repairing, rehabilitating, or restoring the affected environment; or
- Reducing or eliminating an impact over time by preservation and maintenance operations during the life of a project or the time period thereafter that an impact continues.

A list of any mitigation strategies including, but not limited to, design, enforceable controls or stipulations, or both, as applicable to the proposed project is included in **Section VI** above.

FWP must analyze impacts to the physical and human environment for each alternative considered. The proposed project considered the following alternatives:

- **Alternative 1: No Action. Evaluation and Summary of Potential Impacts on the Physical Environment and Human Population**

Under the “No Action” alternative, the proposed project would not occur. Therefore, no additional impacts to the physical environment or human population in the analysis area would occur. The “No Action” alternative forms the baseline from which the potential impacts of the proposed Project can be measured.

- **Alternative 2: Proposed Project. Evaluation and Summary of Potential Impacts on the Physical Environment and Human Population**

See **Table 4** (Impacts on Physical Environment) and **Table 5** (Impacts on Human Population) below.

IX. Cumulative Impacts Analysis

For the purposes of MEPA, "cumulative impact" means the collective impacts on the human environment of the proposed action when considered in conjunction with other past and present actions related to the proposed action by location or generic type. Related future actions must also be considered when such actions are under concurrent consideration by any state agency through pre-impact statement studies, separate impact statement evaluation, or permit processing procedures. ARM 12.2.429(7).

"Action" means a project, program or activity directly undertaken by the agency; a project or activity supported through a contract, grant, subsidy, loan or other form of funding assistance from the agency, either singly or in combination with one or more other state agencies; or a project or activity involving the issuance of a lease, permit, license, certificate, or other entitlement for use or permission to act by the agency, either singly or in combination with other state agencies. ARM 12.2.429(1).

Under the "No Action" alternative, the proposed project would not occur. Therefore, no cumulative impacts to the affected human environment would occur. The "No Action" alternative forms the baseline from which the potential impacts of the proposed project are measured. For the purposes of the proposed project, the cumulative impacts analysis applies to all resources analyzed under Alternative 2, Proposed Project. See Tables 3 and 4 of this Draft EA.

The proposed project would improve habitat conditions in the Grouse reach of the Vermilion River which is an important stronghold for native trout in the lower Clark Fork River drainage. The proposed aquatic/terrestrial restoration work would include reconnecting 11 acres of floodplain; realigning the channel to a more sinuous historic pattern that would allow for more stream length (an additional 350 feet); use of large woody debris in the channel and floodplain to improve habitat diversity, complexity, bank stability and the deposition of fine sediment and upstream seed sources in the floodplain to help jump start natural revegetation; and planting/fencing of native riparian vegetation to help begin to reestablish a healthy and resilient riparian area. No significant adverse cumulative impacts would be expected because of the proposed project; however, cumulative impacts would occur.

The information below identifies past, present, and future actions (i.e., activities to be considered by the cumulative impacts analysis) related to the proposed action by location or generic type. Actions considered in these analyses were identified by FWP and other subject matter experts. Past and present actions are accounted for as part of the existing, or "baseline," environmental conditions. MEPA is forward-looking, with analyses focused on the potential impacts of the proposed action with consideration for any past, present, or future related actions.

Related Past, Present, and Future State Actions:

Past, Present, and Future Related MEPA Review

The following list identifies environmental review conducted to assess potential impacts to the affected human environment from past, present, and known future related projects or actions. Past and present actions are accounted for as part of the existing, or "baseline," environmental conditions of the affected human environment prior to approval and implementation of the proposed project, and any known future related project(s).

As noted, none of the project-specific environmental review documents cited above identified the potential for significant adverse impacts, including cumulative impacts, to the affected human environment. Therefore, preparation of an Environmental Impact Statement or EIS-level MEPA review was not required, and each project was approved through EA-level MEPA review. With consideration for potential impacts from the proposed project, FWP determined that no significant adverse cumulative impacts would be expected because of the proposed project. For additional information see the resource-specific impacts analyses contained in the section of the Draft EA titled "Evaluation and

Summary of Potential Impacts on the Physical Environment and Human Population,” for the proposed action and any alternatives to the proposed action.

Permits, Leases, Licenses, and other Authorizations

The following list identifies none

Memorandums of Understanding and other Formal Agreements

The following list identifies none.

Guiding Documents

Further, several guiding documents inform, have informed, and will continue to inform actions such as the proposed action. These guiding documents outline strategies and considerations for taking management action and addressing any potential impacts from such management actions. These guiding documents, and affected regulatory entities, include the following: Vermilion River Watershed Assessment, NEPA conducted by KNF for Grouse Reach Restoration Project

- Neesvig, C., Grupenhoff, D., and A. Reif. 2007. Vermilion River Watershed Assessment and Preliminary Restoration Plan. USDA Forest Service Kootenai National Forest, Libby, Montana.
- Project specific NEPA conducted by KNF.

Again, the guiding documents identified above outline strategies and considerations for taking management action to address potential adverse impacts from such management actions and thereby ensure the proposed project is conducted in a manner consistent with limiting the potential for adverse cumulative impacts. Therefore, no significant adverse cumulative impacts would be expected because of the proposed project. For additional information see the resource-specific impacts analyses contained in Tables 4 and 5 of this Draft EA.

Table 4 - Potential Impacts of the Proposed Project on the Physical Environment

PHYSICAL ENVIRONMENT		Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
Resource		None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	
Terrestrial, avian, and aquatic life and habitats		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>The proposed project is expected to have short-term, negligible adverse effects on terrestrial and avian habitats. The main impact would be from the use of, and disturbance associated with heavy machinery along the stream to wildlife and bird species.</p> <p>To conduct the instream restoration work the channel will need to be diverted , potentially more than once. Heavy machinery will be used on site which is expected to have short-term, minor adverse impacts to fish and other aquatic resource through desiccation, predation and direct mortality from construction work such as being crushed by heavy machinery given some water tends to stay in the main channel even after diversion. These impacts will be addressed to the largest degree possible through fish salvage led by FWP fisheries staff as noted in the Special Conditions portion of this document (Table 3, VI .SPA 124 Permit Action).</p> <p>Potential mobilization of fine sediment is expected to have short-term and local negative impacts to aquatic habitat; however, this impact will be mitigated to greatest extent possible by conducting the work from July 15 to August 31 as noted in the Special Conditions portion of this document (Table 3, VI .SPA 124 Permit Action). The possible addition of fine sediment downstream should not impact redds or early life stages of BULL or WCT incubating or emerging from the gravel as YOY fish should have emerged from the gravel by this date.</p>

PHYSICAL ENVIRONMENT	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
	None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	
									<p>The impact on fish movement through the reach is expected to be minimal as the diverted channel will still allow for fish passage during construction</p> <p>The proposed stream restoration project is expected to improve channel form/function, floodplain connectivity, stream bank stability as well as instream and riparian habitat complexity, diversity and resiliency. This project should ultimately improve local habitat conditions for fish, amphibians, wildlife, and bird species within this portion of the Vermilion River.</p>
Water quality, quantity, and distribution	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>The proposed project is expected to have short-term negligible adverse impacts on water quality, distribution but not quantity. Water quality may be impaired though mobilization of fine sediment through construction activities but its impact to native trout spawning/recruitment will be minimized based on the time of year the project will occur as noted in the Special Conditions portion of this document (Table 3, VI .SPA 124 Permit Action). Since the channel will be diverted to a nearby channel there will be short-term, negligible effects on water distribution and aquatic organism, however these impacts will be mitigated for by fish/amphibian salvage efforts during diversions. Water quantity in the Vermilion River will not be affected.</p> <p>The proposed stream restoration project is expected to improve channel form/function, floodplain connectivity, stream bank stability as well as instream and riparian habitat complexity, diversity and resiliency. This work upon completion is expected to improve long-term streambank stability and reduce erosion and sediment delivery to the Vermilion River.</p>

PHYSICAL ENVIRONMENT	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
Resource	None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	
Geology	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>The proposed project is expected to have short-term negligible adverse effects on geology given construction (i.e., earth moving) will occur in the floodplain to reconnect the river to approximately 11 acres of its historic floodplain.</p> <p>The proposed stream restoration project is expected to improve channel form/function, floodplain connectivity, stream bank stability as well as instream and riparian habitat complexity, diversity and resiliency. This work upon completion is expected to improve long-term streambank stability, reduce erosion and sedimentation and allow for the reestablishment of a resilient and diverse riparian vegetative community.</p>
Soil quality, stability, and moisture	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>The proposed project is expected to have long-term, moderate positive impacts to soil quality, stability, and moisture by: 1) reconstructing the wetted stream channel to increase sinuosity and reduce sheer stress on streambanks that currently have little if any perennial vegetation, 2) reconnecting the river to its floodplain and installing large wood in the floodplain to allow for deposition of fine sediment (needed for plant growth) and native seeds from upstream sources, and 3) by revegetating streambanks in the impacted area with native trees and shrubs. The project is expected to restore the stream to a more natural pattern and profile, and help jump start the establishment of a healthy, diverse and resilient riparian community; thereby improving stream bank stability and reducing erosive potential.</p>
Vegetation cover, quantity, and quality	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>The proposed project is expected to have long-term, moderate positive impacts to vegetation cover, quantity</p>

PHYSICAL ENVIRONMENT	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
Resource	None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	
									and quality by:) reconstructing the wetted stream channel to increase sinuosity and reduce sheer stress on streambanks that currently little if any perennial vegetation, 2) reconnecting the river to its floodplain and installing large wood in the floodplain to allow for deposition of fine sediment (needed for plants growth) and native seeds from upstream sources, and 3) by revegetating streambanks in the impacted area with native trees and shrubs. The project is expected to help restore the stream to a more natural pattern and profile, and help jump start the establishment of a healthy, diverse and resilient riparian community; thereby improving stream bank stability and reducing erosive potential.
Aesthetics	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The proposed project is expected to have long-term, minor positive impacts to aesthetics of the area by conducting a full-scale restoration project that would help allow the section of river to heal and begin to revert back to more historic conditions by improving channel form and function, floodplain connectivity, riparian health and instream habitat complexity.
Air quality	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>The proposed project is expected to have short-term, negligible adverse impacts to air quality through the use of trucks and heavy machinery needed to complete the project. Air quality in the area affected by the proposed project is currently unclassifiable or in compliance with applicable National 15 and Montana ambient air quality standards (NAAQS/MAAQS).</p> <p>The proposed stream restoration project is expected to improve channel form/function, floodplain connectivity, stream bank stability as well as instream and riparian habitat complexity, diversity and resiliency. This work</p>

PHYSICAL ENVIRONMENT	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
	None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	
									<p>upon completion is expected to improve long-term streambank stability, reduce erosion and sediment and allow for the re-establishment of a resilient and diverse riparian community. When complete, the project would not result in additional new air quality disturbance in the affected area.</p> <p>Further, no significant point-sources of air pollution exists in the area affected by the proposed project. Existing sources of air pollution in the area are associated with the unpaved road network on the U.S. Forest Service lands in the area (fugitive dust source) and vehicle exhaust emissions. Fugitive dust and vehicle exhaust emissions resulting from the use of motor vehicles and heavy machinery for the proposed project may adversely impact air quality. However, any impacts to air quality would be short-term, consistent with existing impacts, and negligible.</p>
Unique, endangered, fragile, or limited environmental resources	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>The project is expected to have short-term, minor adverse impacts on unique, endangered (i.e., BULL) and fragile (ex., WCT, Rocky Mountain tailed frog) species or limited environmental resources that occur downstream of the project area as a result of channel diversion and instream construction as well as potential short-term increased sediment delivery and turbidity associated with site construction. The Special Conditions portion of this document (Table 3, VI .SPA 124 Permit Action) outlines various actions that will be taken to minimize impacts to unique, endangered, fragile species or limited environmental resources.</p> <p>The short-term and local nature of the impairment focused on river, floodplain and riparian restoration</p>

PHYSICAL ENVIRONMENT	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
	None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	
									should ultimately improve habitat conditions for unique, endangered and fragile species or limited environmental resources.
Historical and archaeological sites	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No impacts to historical or archaeological sites are expected to occur. Given the proposed project occurs in a stream and along its floodplain, such historical and archeological sites would have been subject to disturbance associated with flooding from spring run-off with the frequency of disturbance depending on the magnitude of the flooding event and a site's location in the floodplain. The KNF addressed historical and archaeological issue in the NEPA scoping process.
Demands on environmental resources of land, water, air, and energy	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The proposed project is expected to have short-term, negligible adverse impacts to public access to this portion of the Vermilion River during the construction window. However, nearly all of the Vermilion River drainage occurs on land managed by the KNF and therefore overall recreational opportunities in the drainage will not be limited.

Table 5 - Potential Impacts of the Proposed Project on the Human Population

HUMAN POPULATION	Duration of Impact			Severity of Impact					
Resource	None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
Social structures and mores	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	This project will not adversely affect social structures and mores as the proposed project entails stream and floodplain restoration which will occur over a six-week period in July and August of 2025.
Cultural uniqueness and diversity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	This project will not adversely affect cultural uniqueness and diversity as the proposed project entails stream and floodplain restoration which will occur over a six-week period in July and August of 2025.
Access to and quality of recreational and wilderness activities	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The proposed project is expected to have a short-term, negligible adverse impacts to public access to this portion of the Vermilion River during the construction window. However, nearly all of the Vermilion River drainage occurs on land managed by the KNF and therefore overall recreational opportunities in the drainage will not be limited. No wilderness occurs in the drainage therefore the project will not have adverse impacts to wilderness activities.
Local and state tax base and tax revenues	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	This project will not adversely affect local and state tax base and tax revenues as the proposed project entails stream and floodplain restoration which will occur over a six-week period in July and August of 2025.
Agricultural or Industrial production	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	This project will not adversely affect agricultural or industrial production as the proposed project entails stream and floodplain restoration which will occur over a six-week period in July and August of 2025.
Human health and safety	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	This project may have short-term negligible adverse impacts to the health and safety of the contractor and staffs working on or overseeing the project given multiple types of heavy machinery will be used concurrently.
Quantity and distribution of employment	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	This project may have short-term, negligible positive impact to the quantity or distribution of employment by hiring a local contractor to conduct the work which in turn will fund multiple local jobs over the course of the project.

HUMAN POPULATION	Duration of Impact			Severity of Impact					
Resource	None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
Distribution and density of population and housing	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	This project will not adversely affect distribution and density of population and housing as the proposed project entails stream and floodplain restoration which will occur over a six-week period in July and August of 2025.
Demands for government services	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	This project will not adversely affect demands for government services as the proposed project entails stream and floodplain restoration which will occur over a six-week period in July and August of 2025.
Industrial, agricultural, and commercial activity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	This project will not adversely affect industrial, agricultural, and commercial activity as the proposed project entails stream and floodplain restoration which will occur over a six-week period in July and August of 2025.
Locally adopted environmental plans and goals	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	This project will not adversely affect locally adopted environmental plans and goals as the proposed project entails stream and floodplain restoration which will occur over a six-week period in July and August of 2025.
Other appropriate social and economic circumstances	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	This project will not adversely affect other appropriate social and economic circumstances as the proposed project entails stream and floodplain restoration which will occur over a six-week period in July and August of 2025.

Table 6: Determining the Significance of Impacts on the Quality of the Human Environment

If the EA identifies impacts associated with the proposed project FWP must determine the significance of the impacts. ARM 12.2.431. This determination forms the basis for FWP's decision as to whether it is necessary to prepare an environmental impact statement. An impact may be adverse, beneficial, or both. If none of the adverse effects of the impact are significant, an EIS is not required. An EIS is required if an impact has a significant adverse effect, even if the agency believes that the effect on balance will be beneficial. ARM 12.2.431.

According to the applicable requirements of ARM 12.2.431, FWP must consider the criteria identified in this table to determine the significance of each impact

on the quality of the human environment. The significance determination is made by giving weight to these criteria in their totality. For example, impacts identified as moderate or major in severity may not be significant if the duration is short-term. However, moderate or major impacts of short-term duration may be significant if the quantity and quality of the resource is limited and/or the resource is unique or fragile. Further, moderate or major impacts to a resource may not be significant if the quantity of that resource is high or the quality of the resource is not unique or fragile.

Criteria Used to Determine Significance

1	<p>The severity, duration, geographic extent, and frequency of the occurrence of the impact</p> <p>“Severity” describes the density of the potential impact, while “extent” describes the area where the impact will likely occur, e.g., a project may propagate ten noxious weeds on a surface area of 1 square foot. Here, the impact may be high in severity, but over a low extent. In contrast, if ten noxious weeds were distributed over ten acres, there may be low severity over a larger extent.</p> <p>“Duration” describes the time period during which an impact may occur, while “frequency” describes how often the impact may occur, e.g., an operation that uses lights to mine at night may have frequent lighting impacts during one season (duration).</p>
2	The probability that the impact will occur if the proposed project occurs; or conversely, reasonable assurance in keeping with the potential severity of an impact that the impact will not occur
3	Growth-inducing or growth-inhibiting aspects of the impact, including the relationship or contribution of the impact to cumulative impacts
4	The quantity and quality of each environmental resource or value that would be affected, including the uniqueness and fragility of those resources and values
5	The importance to the state and to society of each environmental resource or value that would be affected
6	Any precedent that would be set as a result of an impact of the proposed project that would commit FWP to future actions with significant impacts or a decision in principle about such future actions
7	Potential conflict with local, state, or federal laws, requirements, or formal plans

X. Private Property Impact Analysis (Takings and Damages)

The 54th Montana Legislature enacted the Private Property Assessment Act, now found at § 2-10-101. The intent was to establish an orderly and consistent process by which state agencies evaluate their proposed projects under the "Takings Clauses" of the United States and Montana Constitutions. The Takings Clause of the Fifth Amendment of the United States Constitution provides: "nor shall private property be taken for public use, without just compensation." Similarly, Article II, Section 29 of the Montana Constitution provides: "Private property shall not be taken or damaged for public use without just compensation..."

The Private Property Assessment Act applies to proposed agency projects pertaining to land or water management or to some other environmental matter that, if adopted and enforced without due process of law and just compensation, would constitute a deprivation of private property in violation of the United States or Montana Constitutions.

The Montana State Attorney General's Office has developed guidelines for use by state agencies to assess the impact of a proposed agency project on private property. The assessment process includes a careful review of all issues identified in the Attorney General's guidance document (Montana Department of Justice 1997). If the use of the guidelines and checklist indicates that a proposed agency project has taking or damaging implications, the agency must prepare an impact assessment in accordance with Section 5 of the Private Property Assessment Act.

Table 7: Private Property Assessment (Takings)

PRIVATE PROPERTY ASSESMENT ACT (PPAA)			
Does the Proposed Action Have Takings Implications under the PPAA?	Question #	Yes	No
Does the project pertain to land or water management or environmental regulations affecting private property or water rights?	1	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the action result in either a permanent or an indefinite physical occupation of private property?	2	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the action deprive the owner of all economically viable uses of the property?	3	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the action require a property owner to dedicate a portion of property or to grant an easement? (If answer is NO, skip questions 4a and 4b and continue with question 5)	4	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Is there a reasonable, specific connection between the government requirement and legitimate state interest?	4a	<input type="checkbox"/>	<input type="checkbox"/>
Is the government requirement roughly proportional to the impact of the proposed use of the property?	4b	<input type="checkbox"/>	<input type="checkbox"/>
Does the action deny a fundamental attribute of ownership?	5	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the action have a severe impact of the value of the property?	6	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the action damage the property by causing some physical disturbance with respect to the property in excess of that sustained by the public general? (If the answer is NO, skip questions 7a-7c.)	7	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Is the impact of government action direct, peculiar, and significant?	7a	<input type="checkbox"/>	<input type="checkbox"/>
Has the government action resulted in the property becoming practically inaccessible, waterlogged, or flooded?	7b	<input type="checkbox"/>	<input type="checkbox"/>
Has the government action diminished property values by more than 30% and necessitated the physical taking of adjacent property or property across a public way from the property in question?	7c	<input type="checkbox"/>	<input type="checkbox"/>
Does the proposed action result in taking or damaging implications?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Taking or damaging implications exist if YES is checked in response to Question 1 and also to any one or more of the following questions: 2, 3, 4, 6, 7a, 7b, 7c; or if NO is checked in response to question 4a or 4b.			

If taking or damaging implications exist, the agency must comply with MCA § 2-10-105 of the PPAA, to include the preparation of a taking or damaging impact assessment. Normally, the preparation of an impact assessment will require consultation with agency legal staff.

Alternatives:

The analysis under the Private Property Assessment Act, §§ 2-10-101 through -112, MCA, indicates no impact. FWP does not plan to impose conditions that would restrict the regulated person's use of private property to constitute a taking.

XI. Public Participation

The level of analysis in an EA will vary with the complexity and seriousness of environmental issues associated with a proposed action. The level of analysis in an EA will vary with the complexity and seriousness of environmental issues associated with a proposed action. The level of public interest will also vary. FWP is responsible for adjusting public review to match these factors (ARM 12.2.433(1)). Because FWP determines the proposed action will result in limited environmental impact, and little public interest has been expressed, FWP determines the following public notice strategy will provide an appropriate level of public review:

Under usual circumstances, FWP makes all Draft EAs available for public comment, as 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*. However, in this circumstance, MEPA's public process is impacted by a competing statutory deadline. 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.

- *An EA is a public document and may be inspected upon request. Any person may obtain a copy of an EA by making a request to FWP. If the document is out-of-print, a copying charge may be levied (ARM 12.2.433(2)).*
- *Public notice will be served on the Montana Fish, Wildlife and Parks website at: <https://fwp.mt.gov/news/public-notices>. Public notice will announce the availability of the Draft EA, summarize its content, and solicit public comment.*
- *Copies will be distributed to neighboring landowners to ensure their knowledge of the proposed project and opportunity for review and comment on the proposed action.*
- *FWP maintains a mailing list of persons interested in a particular action or type of action. FWP will notify all interested persons and distribute copies of the Draft EA to those persons for review and comment (ARM 12.2.433(3)).*
- *FWP issues a biweekly press release containing all FWP public commenting opportunities.*

XII. Recommendation for Further Environmental Analysis

NO further analysis is needed for the proposed action	<input checked="" type="checkbox"/>
FWP must conduct EIS level review for the proposed action	<input type="checkbox"/>

XIII. EA Preparation and Review

	Name	Title
EA prepared by:	Jason Blakney	Fisheries Biologist, FWP Region 1
EA reviewed by:	Mike Hensler	Fisheries Manager, FWP Region 1

Attachment 1

SPA 124 Permit General Conditions

FWP.MT.GOV



THE **OUTSIDE** IS IN US ALL.

Stream Protection Act 124 Permit General Conditions

1. Complete work affecting a streambed or stream bank in an expeditious manner to avoid unnecessary impacts to the stream.
2. Limit the clearing of vegetation to that which is absolutely necessary for construction of the project. Take precautions to preserve existing riparian vegetation. Salvage and reuse native vegetation where possible.
3. Install and maintain erosion control measures where appropriate to protect aquatic resources. Do not clear and grub land adjacent to streams prior to installing proper erosion and sedimentation controls. Conduct all work in a manner that minimizes turbidity and other disturbances to aquatic resources.
4. Plan temporary construction facilities to:
 - a. Minimize disturbance to stream banks, stream bank vegetation, and the streambed by locating staging or storage facilities at least 50' horizontally from the highest anticipated water level during construction;
 - b. not restrict or impede fish passage in streams; and
 - c. not restrict any flow anticipated during use.
5. Provide sediment controls for drainage from topsoil stockpiles, staging areas, access roads, channel changes, and instream excavations.
6. Isolate work zones from flowing and standing waters to prevent turbid water and sediments from being discharged into streams or other drainages that flow directly into the stream. Divert flowing waters around the work zone.
7. Do not spill or dump material into streams. Store and handle petroleum products, chemicals, cement and other deleterious materials in a manner that will prevent their entering streams.
8. Do not permit wash water from cleaning concrete-related equipment or wet concrete to enter streams.
9. Do not operate mechanized equipment in any stream or flowing water unless special authorization is obtained. If special authorization is granted, the following conditions apply:
 - a. Power-wash all equipment allowed in a stream prior to entering the stream channel.
 - b. Clean and maintain all equipment so that petroleum-based products and hydraulic fluids do not leak or spill into the waterway.
10. Reclaim streambeds and stream banks as closely as possible to their pre-disturbed condition.
11. Restore disturbed stream banks to their natural or pre-disturbed configuration to match adjacent ground contours or as specified in the project plans. Stabilize, reseed, and re-vegetate disturbed areas. Install and maintain long-term biodegradable erosion-control measures to protect these areas until adequate vegetation has been established.
12. Restore temporary access routes and any temporarily disturbed areas to original conditions, including original contours and vegetation.
13. Dispose of any excess material generated from the project above the ordinary high-water mark and in an area not classified as a wetland.