



SPA 124 PERMIT DECISION NOTICE

Tolan Creek Meadow Restoration – Bitterroot National Forest; Conner, MT

April 23, 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

The Bitterroot National Forest has applied for a Montana Stream Protection Act 124 permit to restore a meadow reach of upper Tolan Creek, a tributary to the East Fork Bitterroot River. The 2022 Trail Ridge Fire burned at high intensity in the headwaters of the Tolan Creek drainage. Subsequent heavy precipitation events in 2023 caused debris flows in several tributaries to Tolan Creek. Debris deposition into Tolan Creek and onto its floodplain has led to complete channel reorganization at several locations and widespread sedimentation issues. The fire and resulting debris flows caused severe habitat degradation by significantly reducing pool habitat, disconnecting channels from floodplains, destabilizing stream banks, introducing fine sediment that causes embedded substrate in spawning reaches, and removing virtually all riparian vegetation necessary for providing cover and shade. Most notably, the post-fire impacts drastically increased summertime maximum temperatures in Tolan Creek to levels that are suboptimal for the resident bull trout population ($> 20^{\circ}\text{C}$). Post-fire electrofishing surveys indicate reductions in both bull trout and westslope cutthroat trout populations.

The proposed project is designed to reestablish the former ecological and watershed processes in the meadow reach of upper Tolan Creek by using low-tech process-based restoration (LTPBR) techniques. Beaver dam analogs (BDA) and large wood structures (LWS) will be installed using hand crews (with chainsaws, untreated wood posts, hydraulic post-pounders, shovels, buckets, loppers, and winches). Willow cuttings and slash to thread through wood posts will be salvaged locally. BDAs will be placed at sites below head cuts, in deep incisions, and below bifurcations to promote floodplain connectivity, channel sinuosity and a multi-channel configuration. BDA locations will be planned holistically, such that they work in concert with each other. BDAs will be constructed to span the bankfull width (20 feet) and require an average of thirteen posts. LWS will be installed into Tolan Creek and/or tributaries using non-mechanized felling techniques (i.e., chainsaws), to enhance aquatic habitat, promote substrate sorting, simulate naturally occurring log jams, and improve floodplain connectivity on an as-needed basis. All materials used for LWS will be sourced on-site, and unburned trees will not be felled so they continue to provide shade. Planting of native trees and riparian vegetation will occur on an as-needed basis on bare soils and banks, using hand crews. Tree seedlings and riparian plantings will be sourced commercially, with an option to salvage willow cuttings locally. The project is expected to commence in mid-July 2025 and will be completed by the end of August 2025.

PURPOSE AND NEED

Given the timeline for natural recovery is likely over a decade, the purpose of this project is to expedite and facilitate the recovery of a meadow complex that historically provided wetland and riparian habitats at the headwaters of Tolan Creek. Restoration actions are necessary because the observed temperatures, sedimentation, and embedded substrate are hindering cutthroat and bull trout habitation and reproduction.

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.

If the No Action alternative is selected, FWP would not issue an SPA 124 permit and the impacted meadow reach in upper Tolan Creek would remain in a degraded state. While natural restoration is likely to occur, it will likely take decades. This could be too late for the affected bull trout population present in the stream.

Alternative 2: Proposed Action

Under the Proposed Action alternative, FWP will issue an SPA 124 permit to the Bitterroot National Forest for the Tolan Creek Meadow Restoration. The following Special Condition applies:

1. Maintenance of BDAs to the specifications in the application is allowed for 5 years. If BDAs are failing to meet project goals, then exposed posts shall be removed or cut off at the streambed.

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 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,



Kendra McKlosky
Regional Supervisor
Montana Fish, Wildlife & Parks