



SPA 124 PERMIT DECISION NOTICE

Tolan Drainage Culvert Removals – Bitterroot National Forest; Sula, MT

April 4, 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 2022 Trail Ridge Fire burned at high severity and destabilized soils and stream channels in the Tolan Creek watershed, then heavy precipitation in 2023 caused flooding and debris flows in several tributaries. Debris flows transported large amounts of debris (i.e. rock, wood, fine sediments), which accumulated on National Forest System Road (NFSR) 5740. Numerous culverts plugged and failed, creating chronic sedimentation issues downstream of the road crossings. The Bitterroot National Forest has applied for a Montana Stream Protection Act 124 permit to remove and restore 7 culvert crossings on NFSR 5740. The road, which currently has a year-round closure, will be hydrologically stabilized and then put into storage from MP 5.24 to MP 9.1. All culvert removals are on unnamed tributaries or draws to Tolan Creek, none of which are fish bearing.

NFSR 5740 would be uncompacted by scarifying the road surface to 8” depth or greater with an excavator. Waterbars would be installed every 200 feet and slash would be scattered to eliminate roadway entrainment of water. For culvert removals, an excavator would remove the existing road fill and spread the fill across the adjacent roadbed and crossing area to recontour the roadway. The stream banks and channel dimensions would be shaped to mimic the natural conditions that exist above and below the road crossing. Locally sourced grade control rock or woody debris may be installed in the new channel if necessary. All the disturbed areas would be seeded with a USFS approved seed mix, riparian shrubs would be planted, and woody slash would be scattered on disturbed area to help stabilize the loose soils and reduce erosion. A 36” path would be retained on the road for easier recreational foot access.

The project is expected to commence in mid-July 2025 and will be completed by the end of December 2025.

PURPOSE AND NEED

The 2022 Trail Ridge Fire burned at high severity and destabilized soils and stream channels in the Tolan Creek watershed, then heavy precipitation in 2023 caused flooding and debris flows in several tributaries. Debris flows transported large amounts of debris (i.e. rock, wood, fine sediments), which accumulated on NFSR 5740. Numerous culverts plugged and failed, creating chronic sedimentation issues downstream of the road crossings. The proposed project will remove 7 culvert crossings on NFSR 5740 and hydrologically stabilize the roadbed. This will reduce sediment runoff into Tolan Creek, a stream that supports Federally threatened bull trout as well as native westslope cutthroat trout.

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 existing failed culverts would remain in place. The sites would continue to be chronic sources of sediment for Tolan Creek.

Alternative 2: Proposed Action

Under the Proposed Action alternative, FWP will issue an SPA 124 permit to the Bitterroot National Forest for the Tolan drainage culvert removals.

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