



SPA 124 PERMIT DECISION NOTICE

5/23/2025

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.

DESCRIPTION OF PROPOSED ACTION

A new pump house will be installed around an existing well on the south edge of the city of Deer Lodge. A 12-inch water main will then convey water from the pump house to the north under Peterson Creek where it will extend through Fifth Street and connect to an existing 12-inch water main at Conley Avenue. The water main crossing will consist of an open trench crossing of Peterson Creek that will be constructed during the summer months when Peterson Creek is dry.

PURPOSE AND NEED

The purpose of this project is to provide the City of Deer Lodge with a new water supply through a new pump house and 12-inch water main. This will give the county a third well so that they have appropriate redundancy in their water supply system.

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 FWP would not issue an SPA 124 permit and the City of Deer Lodge would not be permitted to construct the proposed water main crossing. The City of Deer Lodge would lose access to one of their three municipal water supply wells.

Alternative 2: Proposed Action

Under the Proposed Action, FWP would issue an SPA 124 permit and the proposed water main crossing would be upgraded as proposed following conditions provided in the SPA 124 permit. The following Special Conditions apply:

1. Cobbles and substrate removed from the top 12-inches of Peterson creek should be set aside when the open trench is dug and put back on the surface when the stream channel is backfilled. Cobbles that match upstream cobble sizes shall be sourced and used if the existing material cannot be saved and replaced.
2. The stream channel and banks shall be built back to the same profile (i.e., width and depth) at the site of the open trench crossing.

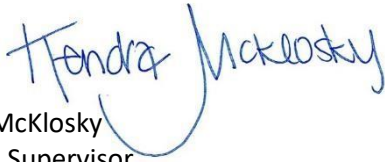
3. The stream banks shall be revegetated using seed and sod-mats harvested during excavation. The sapling cottonwood trees at the site of the crossing should be saved in a sod mat and re-planted where they are currently growing.
4. No in-stream work that will mobilize sediments shall be completed 5/15/2025 to 7/15/2025 or 10/15/2025 to 3/15/2026.
5. Fill excavated shall be stored out of the immediate floodplain and any unused backfill removed from the site after completion of the project.

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. The project will allow the City of Deer Lodge to complete the proposed water main crossing under Peterson Creek to improve the city municipal water supply system.

FWP hereby adopts the Draft EA as final and approves Alternative 2, the Proposed Action.

Sincerely,



Kendra McKlosky
Regional Supervisor
Montana Fish, Wildlife & Parks