



SPA 124 PERMIT DECISION NOTICE

NRDP and FWP - South Fork Spotted Dog Creek Restoration Project; Avon, MT

6/18/2025

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

Project goals will be achieved by removing both human placed fill and natural high areas from the historic floodplain and using the material to fill existing incised channel to restore it to a fully connected, “Stage Zero” condition. By filling the existing channel and letting flows spread across the valley bottom, natural floodplain processes will be restored resulting in improved hydrologic connectivity, re-establishment of the native willow and wetland vegetation community, and improved habitat for fish and wildlife. Streamflow will be diverted around the project area during floodplain grading. High quality riparian vegetation such as willows and wetland sod mats will be placed throughout the re-connected floodplain. Woody debris will also be placed throughout the new surface. Woody debris will be harvested on site from conifer encroachment occurring in the vicinity of the project.

PURPOSE AND NEED

The purpose of the project is to improve riparian, aquatic, and wetland resources on the Spotted Dog WMA. The current condition of the South Fork of Spotted Dog Creek in this section is heavily impaired. The goal of the project is to restore floodplain connection to a 2,000 foot reach of the South Fork of Spotted Dog Creek. The project is being completed to improve fish and wildlife habitat and improve riparian function.

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 Natural Resource Damage Program and Montana Fish, Wildlife and Parks would not be permitted to construct the proposed restoration project. South Fork of Spotted Dog Creek would stay in an impaired state through this reach.

Alternative 2: Proposed Action

Under the Proposed Action, FWP would issue an SPA 124 permit, and the proposed restoration project would be constructed as proposed following conditions provided in the SPA 124 permit. Special Conditions include:

1. The project shall be monitored after subsequent high water. Re-planting and channel maintenance will be completed where necessary.

2. FWP fisheries staff (Caleb Uerling) shall be notified at least one week ahead of channel de-watering to facilitate fish salvage.
3. Beaver habitat structures shall maintain surface water connectivity over structures at a grade appropriate for fish passage. Coordinate a post-project inspection of structures with FWP fisheries staff (Caleb Uerling).
4. No in-stream work shall be completed prior to 7/15/2025 except for the temporary crossing on the unnamed tributary to the South Fork of Spotted Dog Creek.

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 permit the Natural Resource Damage Program and Montana Fish, Wildlife and Parks to complete the proposed restoration project in the South Fork of Spotted Dog Creek to improve aquatic and terrestrial habitat.

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

Sincerely,



Kendra McKlosky
Regional Supervisor
Montana Fish, Wildlife & Parks