



SPA 124 PERMIT DECISION NOTICE

Dry Creek Timber Road Crossings
FWP-DN-Fisheries-R3-25-016

May 9, 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

This proposed project would create legal access (not open to public use) to State Land to facilitate log hauling operations for the Dry Creek Timber Permit. Following the completion of the Timber Permit, the next phase of the project will be to reduce conifer encroachment that has severely impacted vegetative conditions on State Land. There would be one ford crossing and two culverts that would be installed to facilitate the proposed work. The ford crossing and culverts would be installed by the winning bidder of the Dry Creek Timber Permit. DNRC has standard protocols required for culvert installation that will be a part of the Timber Permit Contract. On the ford crossing, DNRC would rock the approaches and use heavy mats made from old tires to cross the channel. Once the project is completed, the ford mats would be removed from the channel.

Work associated with the crossing installations will only occur at times when the soil conditions are not saturated from snow melt or rain events. The Forester Officer will be responsible for inspecting the conditions on the ground prior to authorizing any work to occur on this parcel of DNRC Land.

Project sponsor: Brian Krott, DNRC
Schedule: June 2025 – August 2025

PURPOSE AND NEED

This proposed project would create legal access (not open to public use) to State Land to facilitate log hauling operations for the Dry Creek Timber Permit. Following the completion of the Timber Permit, the next phase of the project will be to reduce conifer encroachment that has severely impacted vegetative conditions on State Land. The goals of reducing conifer encroachment through a commercial and non-commercial treatment will improve range conditions, help restore habitat for mule deer, and hopefully return water flows to the landscape after the excessive conifer encroachment vegetation is reduced.

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 a SPA124 permit, which would significantly reduce the amount of logging and conifer removal that could be completed on DNRC lands.

Alternative 2: Proposed Action

Under the Proposed Action, FWP would issue a SPA124 for the project with the following special conditions:

1. The temporary ford should be constructed and used when the soil is dry or frozen. Wattles should be installed as a secondary measure and in the event of wet conditions (e.g., after a storm event) to capture sedimentation and petroleum-based products from being transported downstream.
2. Wattles should be installed to capture sediments during construction. Disturbed areas should be reseeded with native vegetation.
3. The temporary ford should be removed as soon as logging and conifer removal activities are completed. The disturbed area should be revegetated with native vegetation and returned to current conditions.

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 associated with the proposed action 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,

A handwritten signature in cursive script that reads "Kelly Proffitt".

Kelly Proffitt
Region 3 Supervisor