



SPA 124 PERMIT DECISION NOTICE

Coyote Creek culvert –
Meagher County, MT – SPA 124 Permit
FWP-CEA-FSH-R4-25-027

May 30, 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

United States Forest Service has proposed to install a culvert on an unnamed tributary to Coyote Creek for a temporary logging road. FWP requires that the culvert be removed and the bank be returned to natural conditions once the temporary road is removed.

Coyote Creek is a tributary to Moose Creek in the Smith River drainage. No fisheries information is available for Coyote Creek, but Moose Creek primarily contains brook trout, rainbow trout, rainbow x westslope cutthroat trout, and rocky mountain sculpin. The unnamed tributary to Coyote Creek likely does not provide fish spawning habitat at the site of the project due to the small amount of flow and location in the top of the drainage.

United States Forest Service is the sponsor of the project and has a planned implementation schedule of August 2025.

PURPOSE AND NEED

The purpose of this project is to issue a Stream Protection Act 124 Permit to the United States Forest Service for the purpose, by the means, at the location, and in accordance with the timeline identified in the attached *Joint Application*, only after careful review of the potential impacts to State fish and wildlife resources stemming from the proposed action.

The purpose of the proposed project is to install a culvert on a temporary road. The goal of the project is to provide a stream crossing for timber harvest.

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 status quo would continue. Logging trucks would have to ford the creek at the crossing site.

Alternative 2: Proposed Action

Under the Proposed Action, FWP would issue the SPA 124 Permit with the applicable general and special conditions outlined in both the draft EA and issued permit.

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 black ink that reads "Jason Rhoten". The signature is written in a cursive, flowing style.

Jason Rhoten
Region 4 Manager
Montana Fish, Wildlife & Parks