



SPA 124 PERMIT DECISION NOTICE

FWP-CEA-FSH-R5-25-004

Dorvall Corner Bank Repairs and Stabilization

3/17/2025

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

Carbon County is planning repairs to a previous bank armoring project on Dorvall Corner on the Edgar Fromberg Road along the Clarks Fork of the Yellowstone River. The original project (SPA 124# CO-06-23; 03/31/2023) was done to prevent further bank erosion after the 2022 flood event along a section of river directly adjacent to the Edgar Fromberg Road. Bank stabilization efforts consisted of placing rock-filled gabion mattresses, which are comprised of galvanized steel mesh filled with rock and/or other fill material, on a 1.5:1 (H:V) slope, on approximately 108 linear feet of riverbank. However, high flows in the spring 2024 (25-year flood event) damaged the gabion mattresses and fill material was transported downstream. Currently, the bank is at risk for additional erosion.

The proposed project entails refilling the gabion mattresses with large angular rock rather than the previous round river rock. Carbon County plans on installing Flexamat material on top of the gabion mattresses to provide additional stabilization. Flexamat is a two layered system that includes a polypropylene grid with concrete blocks cast onto non-woven geotextile fabric. The entire Flexamat will be anchored into the slope with 8-ft long steel cable earth anchors, driven and tensioned, along the 108 linear feet of the Clarks Fork of the Yellowstone River. Flexamat and gabion baskets/mattresses are not recommended by FWP and others for bank stabilization because they are prone to failure, can contribute to channel incision and localized channel widening and avulsions. However, due to economic and timing reasons for Carbon County, FWP is permitting this project with special conditions that the county shall submit a new project design (e.g., no gabion baskets) that allows for better stream form and function, should this method fail again and/or needs substantial repairs.

PURPOSE AND NEED

The Edgar Fromberg Road provides access to the residents who live in the surrounding area, emergency services, and agricultural producers. Action must be taken to ensure the road does not incur additional erosion from the Clarks Fork of the Yellowstone River and remains functional.

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, the gabion mattresses will remain damaged and future high-water events could further erode the bank and damage the Edgar Fromberg Road.

Alternative 2: Proposed Action

Under the Proposed Action, the gabion mattresses will be repaired and reinforced to prevent additional erosion and keep the road functional for residents and agricultural and industrial purposes.

Alternative 3: New Design

FWP requested alternatives to the proposed project. Carbon County informed FWP that they had considered another alternative to remove the non-functioning gabion baskets and implement a new design. This design would have incorporated a more suitable slope for bank protection that would have improved stream form and function and used more natural materials. While this alternative would have been preferred by FWP, it was ultimately rejected by Carbon County due to economic and timing restraints.

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,



Mike Ruggles
Region 5 Supervisor
Montana Fish, Wildlife & Parks