



SPA 124 PERMIT DECISION NOTICE

FWP-DN-FSH-R7-25-001

Issue a Stream Protection Act 124 Permit with stipulations to the Design and Construction Bureau of Montana Fish Wildlife & Parks in Helena for installing a gravel aggregate boat ramp on the Missouri River near the Red Water Confluence.

January 29, 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

The overall project consists of developing a new fishing access site including a gravel access road, cattle guards, fencing, drainage culverts, parking area, vault latrine, and a gravel aggregate boat ramp. Installation of the boat ramp is the only activities of the proposed project requiring a SPA 124 Permit. Construction of the boat ramp includes minor excavation of the riverbank and some streambed to create the correct slope and room to install underlayment materials consisting of a geotextile fabric, 6 inches of 2.5 inch minus road ballast, and topped with 4 inches of ¾ inch minus gravel aggregate. The boat ramp will be 16 feet wide by 73 feet long by 10 inches thick and extend 25 feet into the water with 2 feet of water over the end of the boat ramp (as measured during normal base river flows). The proposed action of this decision notice is issuing an SPA 124 Permit for construction of the gravel aggregate boat ramp.

PURPOSE AND NEED

Ensure that installation of the boat ramp occurs with limited environmental impacts to the form and function of the river and does not impact fish habitat or spawning migrations of pallid sturgeon. For example, stipulations within the SPA 124 Permit include conducting work during low river flow periods to reduce negative impacts to stream function and an identified work restriction May 15 – July 15 to avoid negative impacts to pallid sturgeon spawning migrations and larval drift.

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, not issuing the SPA 124 Permit would leave the area undeveloped and generally inaccessible to the public and reduce opportunities to launch boats into the Missouri River. Public boat ramps are generally the only access points for the public and emergency services (search and rescue) to the Missouri River. Providing and maintaining functional boat ramps is a fundamental demand from local users and improves recreational opportunities and quality of living.

Alternative 2: Proposed Action

Under the Proposed Action, issue a SPA 124 Permit with stipulations for constructing a gravel aggregate boat ramp per the application details.

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 blue ink, reading "Kenneth M. Backes".

Kenneth M. Backes
Region 7 Fisheries Manager
Montana Fish, Wildlife & Parks