

DECISION NOTICE
SKALKAHO CREEK BANK STABILIZATION PROJECT

Prepared by
Montana Fish, Wildlife and Parks
March 24, 2009

I. Proposal

Montana Fish, Wildlife and Parks (FWP) proposes to provide partial funding through the Future Fisheries Improvement Program for a bank stabilization project on a reach of Skalkaho Creek, a tributary to the Bitterroot River.

II. Montana Environmental Policy Act (MEPA)

MEPA required FWP to assess the potential consequences of the proposed action for the human and natural environment. The proposal was detailed in an Environmental Assessment (EA) released by FWP on February 20, 2009. The 30-day comment period for this EA ended March 23, 2009.

Issues raised during the public comment period for this EA are addressed in the Comments section of this Decision Notice. The draft EA and Decision Notice will serve as the final document.

III. Summary of Public Comment

One written e-mail comment was received in response to the draft EA. No other comments were received. The commenter stated **“We protest the proposal and oppose funding of this project in the strongest possible terms. Further, we ask that projects where Future fisheries funds may be sought for private purposes with minimal or no public benefits be rejected out of hand. This proposal should never have been submitted.”**

Response: We agree that a bank stabilization project not linked to a positive change in land use activity, in most cases, provides little benefit to the public. However, both the Future Fisheries review panel and the FWP Commission have determined that this proposed project provided enough benefit to justify approval of the requested Program funding.

To ensure that the our decision maker, the FWP Commission, has the opportunity to fully review all public comments associated with the Future Fisheries Program prior to Commission action being taken, we will be adjusting our EA timing process starting in July 2009. Additionally, we would encourage you to take advantage of additional opportunities for providing your comments to the Program decision makers. These opportunities include the meetings of the Future Fisheries review panel and the meetings of the FWP Commission. Future

Fisheries proposals are presented to the Commission during their regularly scheduled meetings in March and September.

Issues brought forward from this written comment included:

- 1. “The intent....to protect private property...” We are astonished that a purpose of this nature should be even a casual consideration for the use of Future Fisheries funds. We believe that projects funded from Future Fisheries should have as their primary goal, the enhancement of Montana’s fisheries resources. In the document’s preceding paragraph we find no mention, direct or implied, of the protection of private property as a legitimate use of this program or these monies. The only circumstance in which private property protection might seem even marginally acceptable would be when previous FWP sponsored and/or initiated activities had been directly responsible for the threat to private property. If this is the case in this instance, then it should be fully described in this paragraph.**

Response: We agree that property protection falls outside the purpose of the Program. The enabling legislation for the Program called for “An act creating the future fisheries program; providing for the protection and enhancement of Montana fisheries through voluntary enhancement of spawning streams and other habitat for the natural reproduction of fish and growth of populations of wild fish...”. However, both the Future Fisheries review panel and the FWP Commission have determined that this proposed project provided enough fisheries benefits to justify approval of the requested Program funding. The proposed effort calls for installing log jams and creating a bank full floodplain bench with extensive re-vegetation of the bench. The logjams and vegetated bench could provide some overhead cover in a localized area of the stream.

Again, to ensure that the our decision maker, the FWP Commission, has the opportunity to fully review all public comments associated with the Future Fisheries Program prior to Commission action being taken, we will be adjusting our EA timing process starting in July 2009. We also encourage you to take advantage of additional opportunities, as described above, for providing your comments to the Program decision makers.

- 2. Why is the bank designed to exceed bank full elevation? Is this for additional flood protection of private property?**

Response: The applicant for the project funding did not provide a justification. We surmise the applicant is proposing to construct a slightly elevated bench to aid in the establishment of woody riparian vegetation

- 3. The project is expected to cost \$18,000 of which \$3,500 is to be sought from Future Fisheries. How will the remainder of the cost be funded?**

Response: The applicant/landowner is providing \$4,850 in matching funds and is applying to a variety of other funding entities for the remainder. These entities include the Bitterroot Conservation District, Bitterroot Trout Unlimited, and the National Forest Service Resource Advisory Committee.

4. Who would be the permittee if this project were to proceed?

Response: The landowners, Gregory Chester and Steven Sheahan.

5. When benefits to either bull trout or cutthroat trout are asserted, information on the genetic integrity of the stocks should also be presented.

Response: This reach of Skalkaho Creek supports a mix of native and non- native trout, as well as some native suckers. Westslope cutthroat trout have been tested at more than one location in Skalkaho Creek. Samples taken closest to the project area were from the Ward Ditch, located upstream about 2 miles. Samples have indicated the cutthroats are over 99% genetically pure. Bull trout are found in this reach in small numbers. We have observed both pure bull trout and hybrids with brook trout in Skalkaho Creek.

6. In a topic labeled “Access to and quality of recreational activities” why is there no mention of access? These are angler dollars, why are their interests not represented here?

Response: The proposed project is located in an area where Highway 38 is adjacent to and parallels Skalkaho Creek. Anglers can readily access this reach of stream through Montana’s stream access law. The enabling legislation for the Program and the associated Montana Code Annotated (MCA) are very clear about not requiring public access on private property where a Future Fisheries Improvement project has been completed. Those projects that include public access, however, are given more favorable consideration through the evaluation process.

IV. Modifications to the Environmental Assessment

Modifications to the draft EA are deemed to be unnecessary.

V. Decision

After review of the proposal, it is my decision to proceed with funding though the Future Fisheries Improvement Program for the Skalkaho Creek Bank Stabilization Project. The action may benefit the fishery in a localized reach of the stream.

I find there to be no significant impacts associated with this action and conclude that an Environmental Impact Statement is not needed. The completed EA and the Decision Notice provide an adequate level of analysis.

Jim Darling, Habitat Bureau Chief
Fisheries Division