Montana Fish, Wildlife & Parks

Stream Protection Act (SPA 124) Permit

Date: November 3, 2015

Applicant Name: Carbon County Commission

Address: P.O. Box 887, Red Lodge, MT 59068-0887

Permit #: CO-10-15

Waterbody: Five Mile Creek

Project Name: East Pryor Road Bridge Replacement over Five Mile Creek

Project Description:

Carbon County will be replacing the East Pryor Road Bridge over Five Mile Creek with a new 36 ft single span bridge that has a 24 ft usable width. The current bridge has been classified as functionally obsolete and poses safety concerns thus the reason for the necessary replacement. The east abutment will be modified to meet requirements of the new precast concrete beam. The west abutment is in poor condition and will be removed and replaced with a new abutment. Rock rip rap will be utilized to protect both the east and west abutments. The replacement bridge will be in approximately the same location as the existing structure located where East Pryor Road Bridge crosses Five Mile Creek near Edgar MT.

Montana Fish, Wildlife & Parks has reviewed the proposed project. The project is approved provided it is carried out in accordance with the information supplied in the application, all general conditions listed on page 3 of this permit, and any special conditions listed below.

Expiration: This permit is valid for 1 year(s) from the date of issuance.

Timing Restrictions: No ◉ Yes ○ if yes see below.

No in-stream work between and .

Special Conditions:

Construction should occur during low discharge conditions.

Disturbed sites should be reclaimed and re-seeded in a timely manner following installation of the new bridge.

Rock rip rap will be used to protect the abutments but should be placed properly and appropriate quantity used so it does not significantly restrict flow under the new bridge.

318 Authorization Review

I have reviewed the above project on behalf of the Montana Department of Environmental Quality (DEQ) pursuant to the Montana Water Quality Act Short-term Water Quality Standards for Turbidity 75-5-318 MCA:

○ This project **will not** increase turbidity if completed according to the conditions listed in the 310 or 124 permit. Therefore, application to DEQ for a 318 authorization **is not** required.

○ Impacts to the physical and biological environment from turbidity generated as a result of this project are uncertain. Therefore, the applicant must contact the Montana Department of Environmental Quality, 1520 East Sixth Avenue, Box 200901, Helena, MT 59620-0901, (406 444-3080) to determine project specific narrative conditions required to meet short-term water quality standards and protect aquatic biota.

● Turbidity generated from this project is expected to be short-term and have only temporary and minor impacts on the physical and biological environment. Therefore, compliance with the conditions stated in the attached letter outlining ***DEQ's Short Term Water Quality Standard for Turbidity Related to Construction Activity***, as well as other conditions listed in the 310 or 124 permit, are appropriate for this project.

Issuing Biologist: Jason Rhoten

Signature:

Stream Protection Act 124 Permit General Conditions

1. Complete work affecting a streambed or stream bank in an expeditious manner to avoid unnecessary impacts to the stream.
2. Limit the clearing of vegetation to that which is absolutely necessary for construction of the project. Take precautions to preserve existing riparian vegetation. Salvage and reuse native vegetation where possible.
3. Install and maintain erosion control measures where appropriate to protect aquatic resources. Do not clear and grub land adjacent to streams prior to installing proper erosion and sedimentation controls. Conduct all work in a manner that minimizes turbidity and other disturbances to aquatic resources.
4. Plan temporary construction facilities to:
    a. Minimize disturbance to stream banks, stream bank vegetation, and the streambed by locating staging or storage facilities at least 50' horizontally from the highest anticipated water level during construction;
    b. not restrict or impede fish passage in streams; and
    c. not restrict any flow anticipated during use.
5. Provide sediment controls for drainage from topsoil stockpiles, staging areas, access roads, channel changes, and instream excavations.
6. Isolate work zones from flowing and standing waters to prevent turbid water and sediments from being discharged into streams or other drainages that flow directly into the stream. Divert flowing waters around the work zone.
7. Do not spill or dump material into streams. Store and handle petroleum products, chemicals, cement and other deleterious materials in a manner that will prevent their entering streams.
8. Do not permit wash water from cleaning concrete-related equipment or wet concrete to enter streams.
9. Do not operate mechanized equipment in any stream or flowing water unless special authorization is obtained. If special authorization is granted, the following conditions apply:
    a. Powerwash all equipment allowed in a stream prior to entering the stream channel.
    b. Clean and maintain all equipment so that petroleum-based products and hydraulic fluids do not leak or spill into the waterway.
10. Reclaim streambeds and stream banks as closely as possible to their pre-disturbed condition.
11. Restore disturbed stream banks to their natural or pre-disturbed configuration to match adjacent ground contours or as specified in the project plans. Stabilize, reseed, and re-vegetate disturbed areas. Install and maintain long-term biodegradable erosion-control measures to protect these areas until adequate vegetation has been established.
12. Restore temporary access routes and any temporarily disturbed areas to original conditions, including original contours and vegetation.
13. Dispose of any excess material generated from the project above the ordinary high water mark and in an area not classified as a wetland.

DEPARTMENT OF FISH, WILDLIFE AND PARKS
1420 E 6th Ave, PO Box 200701 Helena, MT 59620-0701
(406) 444-2535

ENVIRONMENTAL ASSESSMENT

Project Title East Pryor Road Bridge Replacement over Five Mile Creek

Division/Bureau Fisheries/Management

Program Fisheries

Description of Project Carbon County will be replacing the East Pryor Road Bridge over Five Mile Creek with a new 36 ft single span bridge that has a 24 ft usable width. The current bridge has been classified as functionally obsolete and poses safety concerns thus the reason for the necessary replacement. The east abutment will be modified to meet requirements of the new precast concrete beam. The west abutment is in poor condition and will be removed and replaced with a new abutment. Rock rip rap will be utilized to protect both the east and west abutments. The replacement bridge will be in approximately the same location as the existing structure located where East Pryor Road Bridge crosses Five Mile Creek near Edgar MT.

POTENTIAL IMPACT ON PHYSICAL ENVIRONMENT

	MAJOR	**MODERATE**	**MINOR**	**NONE**	**UNKNOWN**	**COMMENTS ON ATTACHED PAGES**
1. Terrestrial & aquatic life and habitats			X			1
2. Water quality, quantity & distribution			X			
3. Geology & soil quality, stability & moisture				X		1
4. Vegetation cover, quantity & quality			X			1

5. Aesthetics			X			
6. Air quality				X		
7. Unique, endangered, fragile, or limited environmental resources				X		
8. Demands on environmental resources of land, water, air & energy				X		
	MAJOR	**MODERATE**	**MINOR**	**NONE**	**UNKNOWN**	**COMMENTS ON ATTACHED PAGES**
9. Historical & archaeological sites				X		

POTENTIAL IMPACTS ON HUMAN ENVIRONMENT

	MAJOR	**MODERATE**	**MINOR**	**NONE**	**UNKNOWN**	**COMMENTS ON ATTACHED PAGES**
1. Social structures & mores				X		
2. Cultural uniqueness & diversity				X		
3. Local & state tax base & tax revenue				X		
4. Agricultural or industrial production				X		
5. Human health		X				2
6. Quantity & distribution of community & personal income				X		
7. Access to & quality of recreational and wilderness activities			X			2
8. Quantity & distribution of employment				X		

9. Distribution & density of population & housing				X		
10. Demands for government services			X			
11. Industrial & commercial activity				X		
12. Demands for energy				X		
	MAJOR	**MODERATE**	**MINOR**	**NONE**	**UNKNOWN**	**COMMENTS ON ATTACHED PAGES**
13. Locally adopted environmental plans & goals				X		
14. Transportation networks & traffic flows		X				2

Other groups or agencies contacted or which may have overlapping jurisdiction Army Corps of Engineers , Local Floodplain Administrator

Individuals or groups contributing to this EA: Montana Department of Fish Wildlife and Parks

Recommendation concerning preparation of EIS No EIS required

EA prepared by : Jason Rhoten

Date: November 3, 2015

COMMENTS

1. Limited vegetation and soil material will be disturbed and moved during the project. The disturbance should be minimal and temporary and disturbed areas on the stream banks and road slopes will be reclaimed and reseeded.
2. The proposed structure will increase safety and reliability by replacing the exisiting bridge that has been classified as functionally obsolete with a new bridge that has a 36ft span and 24 ft width.

APPENDIX A
PRIVATE PROPERTY ASSESSMENT ACT CHECKLIST

The 54th Legislature enacted the Private Property Assessment Act, Chapter 462, Laws of Montana (1995). The intent of the legislation is to establish an orderly and consistent process by which state agencies evaluate their proposed actions under the "Takings Clauses" of the United States and Montana Constitutions. The Takings Clause of the Fifth Amendment of the United States Constitution provides: "nor shall private property be taken for public use, without just compensation." Similarly, Article II, Section 29 of the Montana Constitution provides: "Private property shall not be taken or damaged for public use without just compensation..."

The Private Property Assessment Act applies to proposed agency actions pertaining to land or water management or to some other environmental matter that, if adopted and enforced without compensation, would constitute a deprivation of private property in violation of the United States or Montana Constitutions.

The Montana State Attorney General's Office has developed guidelines for use by state agency to assess the impact of a proposed agency action on private property. The assessment process includes a careful review of all issues identified in the Attorney General's guidance document (Montana Department of Justice 1997). If the use of the guidelines and checklist indicates that a proposed agency action has taking or damaging implications, the agency must prepare an impact assessment in accordance with Section 5 of the Private Property Assessment Act. For the purposes of this EA, the questions on the following checklist refer to the following required stipulation(s):

(List any mitigation/stipulations required, or note "None".)

DOES THE PROPOSED AGENCY ACTION HAVE TAKINGS IMPLICATIONS UNDER THE PRIVATE PROPERTY ASSESSMENT ACT?

YES	NO	
_____	X	1. Does the action pertain to land or water management or environmental regulation affecting private real property or water rights?
_____	X	2. Does the action result in either a permanent or indefinite physical occupation of private property?
_____	X	3. Does the action deprive the owner of all economically viable uses of the property?
_____	X	4. Does the action deny a fundamental attribute of ownership?
_____	X	5. Does the action require a property owner to dedicate a portion of property or to grant an easement? [If the answer is **NO**, skip questions 5a and 5b and continue with question 6.]

_____	_____		5a. Is there a reasonable, specific connection between the government requirement and legitimate state interests?
_____	_____		5b. Is the government requirement roughly proportional to the impact of the proposed use of the property?
_____	X	6.	Does the action have a severe impact on the value of the property?
_____	X	7.	Does the action damage the property by causing some physical disturbance with respect to the property in excess of that sustained by the public generally? [If the answer is **NO**, do not answer questions 7a-7c.]
_____	_____		7a. Is the impact of government action direct, peculiar, and significant?
_____	_____		7b. Has government action resulted in the property becoming practically inaccessible, waterlogged, or flooded?
_____	_____		7c. Has government action diminished property values by more than 30% and necessitated the physical taking of adjacent property or property across a public way from the property in question?

Taking or damaging implications exist if **YES** is checked in response to question 1 and also to any one or more of the following questions: 2, 3, 4, 6, 7a, 7b, 7c; or if **NO** is checked in response to questions 5a or 5b.

If taking or damaging implications exist, the agency must comply with Section 5 of the Private Property Assessment Act, to include the preparation of a taking or damaging impact assessment. Normally, the preparation of an impact assessment will require consultation with agency legal staff.