

Environmental Assessment, Finding of No Significant Impact, and Draft Decision Notice

Fisher Peak Carbon Arroyos Watershed Dam FPC-2 Rehabilitation Project
Las Animas County, Colorado

Project Name: Fisher Peak Carbon Arroyo Watershed Dam FPC-2 Rehabilitation

Project Initiation Date: 9/9/2020

Proponent Name: City of Trinidad

Responsible Federal Official (RFO): Clint Evans, State Conservationist, NRCS, Denver, CO

State: Colorado

County: Las Animas

Anticipated Implementation: 2024 - 2026

Signing Authority: RFO

Project Webpage: <https://fisherpeakdamea.com/>
<https://www.nrcs.usda.gov/programs-initiatives/watershed-programs/colorado/watershed-programs-colorado>

General Location: City of Trinidad, Colorado

Applicable Management Areas: N/A

Watersheds: Fisher Peak Carbon Arroyos Watershed

I. AGENCY ROLE AND RESPONSIBILITY

In accordance with the NRCS regulations (40 CFR `500 – 1508, 7 CFR 650, & 7 CFR 622) implementing the National Environmental Policy Act (NEPA), NRCS has completed an environmental review of the proposed action.

The proposed action is the rehabilitation of Fisher Peak Carbon Arroyo Dam FPC-2 to comply with current applicable design, performance, and safety criteria with a service life of 100 years.

The proposed action is federally assisted, authorized under Public Law 83-566, as amended, the Watershed Protection and Flood Prevention Act.

An environmental assessment (EA) was undertaken in conjunction with the development of the supplemental watershed plan. This assessment was conducted in consultation with local,

state, and tribal governments; federal agencies; and interested organizations and individuals.

The EA accompanying this finding was completed to update the original Fishers Peak-Carbon Arroyos Watershed Work Plan completed in 1960.

II. NRCS DECISION TO BE MADE

NRCS must determine if the agency's proposed action will or will not be a major Federal action significantly affecting the quality of the human environment. The EA accompanying this finding has provided the analysis needed to assess the significance of the potential impacts from the proposed action. The decision on which alternative is to be implemented and the significance of that alternative's impacts are described in Chapter 4. Alternatives, Table 4-3, PR&G Analysis Summary of Alternatives Considered, Chapter 5, Environmental Consequences, Table 5-2 Summary and Comparison of Alternative Plans, and Chapter 7, Section 7.1, Rationale for Alternative Preference.

III. PURPOSE AND NEED FOR ACTION

The purpose of the project is to sustain the existing level of flood damage reduction for residential, commercial, and municipal properties downstream of Dam FPC-2 within the City of Trinidad, Colorado. The dam has a number of deficiencies, including damage and corrosion to the toe and foundation drains, excessive observed seepage through and around the toe and foundation drains, an outdated seepage system (i.e., seepage collars), erosional features on the dam embankment and auxiliary spillway, degraded condition of auxiliary spillway cross section and flow line, damage to the low-level drawdown pipe, and excessive sediment build up at the inlet and outlet as well as within the conduit of the low-level drawdown/principal spillway. The need is to bring the dam and spillway facilities into

compliance with current NRCS and State of Colorado design, performance, and safety criteria to reduce the risk of dam failure due to the noted deficiencies.

IV. ALTERNATIVES CONSIDERED IN THE EA.

The NRCS National Watershed Manual (501.12) requires that all reasonable alternatives that address the purpose and need for action must be presented in the watershed project plan, including those not within the program authorities of the NRCS and those not preferred by sponsors. For watershed project plans involving flood protection, consideration must be given to alternative measures to prevent or reduce flood damage, including but not limited to floodproofing of structures; floodplain regulation; acquisition of floodplain lands for recreational, fish and wildlife, and other public purposes; moving buildings and facilities; and conversion of land use to forest. Three alternatives were analyzed in the EA and are characterized as follows:

1. Alternative 1: NO ACTION
2. Alternative 2: PROPOSED ACTION
(the Full Dam Rehabilitation Alternative is the preferred alternative)
3. Alternative 3: FEDERAL DECOMMISSIONING ALTERNATIVE.

V. NRCS'S DECISION AND FACTORS CONSIDERED IN THE DECISION

Based on the evaluation in the EA, I have chosen the proposed action to construct the Fisher Peak Carbon Arroyo Watershed Dam FPC-2 Full Dam Rehabilitation as the agency's preferred alternative. I have taken into consideration all the potential impacts of the proposed action, incorporated herein by reference from the Final Plan-EA and balanced those impacts with considerations of the NRCS's purpose and need for action.

In accordance with the Council on Environmental Quality’s (CEQ) “40 Most Asked Questions” guidance on NEPA, Question 37(a), NRCS has considered “which factors were weighed most heavily in the determination” when choosing the agency proposed action (rehabilitation of Fisher Peak Carbon Arroyos Dam FPC-2) to implement. Specifically, acknowledging that based on the Final Plan-EA, potential impacts to soil, water, air, plants, fish and wildlife, and human resources were considered in the decision. As a result, and for the reasons provided below, there will be no significant individual or cumulative impacts on the quality of the human environment as a result of implementing the Proposed Action as authorized by Section 216 of the Flood Control Act of 1950, Public Law 81–516, 33 U.S.C. 701b–1; and Section 403 of the Agricultural Credit Act of 1978, Public Law 95–334, as amended by Section 382, of the Federal Agriculture Improvement and Reform Act of 1996, Public Law 104–127, 16 U.S.C. 2203 of the SWP; particularly when focusing on the significant adverse impacts which the NEPA is intended to help decision makers avoid and mitigate against.

VI. FINDING OF NO SIGNIFICANT IMPACT

To determine the significance of the action analyzed in this Final Plan-EA, NRCS is required by NEPA regulations at 40 CFR Section 1508.27 and NRCS regulations at 7 CFR Part 650 to consider the context and intensity of the proposed action. Based on the Final Plan-EA, review of the NEPA criteria for significant effects, and based on the analysis in the EA, I have determined that the action to be selected, rehabilitation of Fisher Peak Carbon Arroyos Dam FPC-2 (the agency preferred alternative), would not have a significant effect upon the quality of the human environment. Therefore, preparation of an environmental impact statement (EIS) on the final action is not required under section 102(2)(c) of the

NEPA, CEQ implementing regulations (40 CFR Part 1500-1508, Section 1508.13), or NRCS environmental review procedures (7 CFR Part 650). This finding is based on the factors from CEQ's implementing regulations at 40 CFR Section 1508.27 and from NRCS regulations at 7 CFR Part 650:

- 1) The Final Plan-EA evaluated both the beneficial and adverse impacts of the proposed action. It is anticipated the proposed action will provide long term beneficial impacts for environmental resources (i.e., soil, air, water, animals, plants, and human resources). As a result of the NEPA analysis (discussed in detail in Chapter 5 and incorporated by reference), the proposed action, rehabilitation of Fisher Peak Carbon Arroyo Dam FPC-2, does not result in significant impacts to the human environment, particularly when focusing on the significant adverse impacts, which NEPA is intended to help decision makers avoid, minimize, and mitigate. The analysis shows there are temporary and short and long-term minor effects imposed by the project. With the implementation of BMPs during construction, short-term and long-term impacts to water resources are expected to be minor. No cumulative impacts are anticipated.
- 2) The proposed action, rehabilitation of Fisher Peak Carbon Arroyo Dam FPC-2, will not result in significant adverse effects on public health or safety. It is expected to provide long term beneficial impacts to improve natural ecosystems functions. Specifically, soil, water, fish, wildlife, and land will be improved and protected through selection of the preferred alternative.
- 3) As analyzed in Chapter 5 of the Final Plan-EA, there are no significant effects to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas from selection of the proposed action, rehabilitation of Fisher

Peak Carbon Arroyos Dam FPC-2. NRCS regulations (7 CFR Part 650) and policy (Title 420, General Manual, Part 401), require that NRCS identify, assess, and avoid effects to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas. In accordance with these requirements, it is not anticipated that implementing the proposed action, rehabilitation of Fisher Peak Carbon Arroyo Dam FPC-2, would have any major adverse effects on these resources. Wetland mitigation is not expected due to the minimal amount of disturbance that wetlands would experience.

- 4) The effects on the human environment are not considered controversial for the proposed action, rehabilitation of Fisher Peak Carbon Arroyos Dam FPC-2. There are no impacts associated with the proposed action that would be considered controversial.
- 5) The proposed action is not considered highly uncertain and does not involve unique or unknown risks.
- 6) The proposed action, rehabilitation of Fisher Peak Carbon Arroyo Dam FPC-2, will not establish a precedent for future actions with significant effects, nor does it represent a decision in principle about future considerations.
- 7) The proposed action, rehabilitation of Fisher Peak Carbon Arroyo Dam FPC-2, will not result in individually or cumulatively significant adverse impacts to the human environment, particularly when focusing on the significant adverse impacts which NEPA is intended to help decision makers avoid, minimize, or mitigate. Cumulative impacts resulting from rehabilitation of Fisher Peak Carbon Arroyos Dam FPC-2 are anticipated to be beneficial overall with little to no threat to human environment (see section 5.17 in the attached EA).

- 8) The proposed action, rehabilitation of Fisher Peak Carbon Arroyo Dam FPC-2, will not adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or cause loss or destruction of significance scientific, cultural, or historical resources. NRCS follows the procedures developed in accordance with a nationwide programmatic agreement between NRCS, the Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers, which called for NRCS to develop consultation agreements with State historic preservation officers and federally recognized Tribes (or their designated Tribal historic preservation officers).
- 9) The proposed action, rehabilitation of Fisher Peak Carbon Arroyo Dam FPC-2, will not adversely affect endangered or threatened species, marine mammals, or critical habitat as discussed in section 5.3 of the EA. It has been concluded that the proposed actions either have no effect on threatened and endangered species or will not likely adversely affect threatened and endangered species. The United States Fish and Wildlife Service, which has jurisdiction over these species, has reviewed the report and has concurred with our findings. The concurrence letter provided by USFWS is included in the EA under Appendix A.
- 10) The proposed action will not violate Federal, State, or local law requirements imposed for protection of the environment as noted in section 7.4 of the EA. The major laws, orders, and permits identified with the selection of the preferred alternative, rehabilitation of Fisher Peak Carbon Arroyo Dam FPC-2, include the Clean Air Act; Section 404 - Clean Water Act Permit; Section 401 - Clean Water Act-Water Quality Certification (WQC); Section 402 - Clean Water Act – National Pollutant Discharge Elimination System

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Permit; Endangered Species Act (ESA); National Historic Preservation Act; 16 U.S.C. 668-668d, 54 Stat. 250, Bald and Golden Eagle Protection Act; Migratory Bird Treaty Act (MBTA); Fish and Wildlife Coordination Act; Executive Order 11988 - Floodplain Management; Executive Order 11990 - Protection of Wetlands; Executive Order 13112 - Invasive Species; Executive Order 13186 - Responsibilities of Federal Agencies to Protect Migratory Birds, and 2CCR-402-1, Colorado Rules and Regulations for Dam Safety and Dam Construction. The preferred alternative is consistent with the requirements of these laws.

Findings of No Significant Impact: Having reviewed the information provided by the Fisher Peak Carbon Arroyos Watershed Dam FPC-2 Rehabilitation and all interested parties and an assessment of the environmental impacts, I find that this action will not have a significant impact on the quality of the human environment. Therefore, an environmental impact statement will not be required.

CLINTON EVANS, State Conservationist

Attachment: Final Supplemental Watershed Plan No. 1 & Environmental Assessment for Rehabilitation of Dam FPC-2 of the Fisher Peak Carbon Arroyos Watershed, Las Animas County, Colorado