

Billing Code: 3410-16-P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

[Docket No. NRCS-2024-0011]

Notice of Intent to Prepare an Environmental Impact Statement for the Lower Bear River Watershed Plan in Box Elder County, Utah

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of Intent (NOI) to Prepare an Environmental Impact Statement (EIS).

SUMMARY: The Natural Resources Conservation Service (NRCS) Utah State Office announces its intent to prepare an EIS for the Lower Bear River Watershed Plan in Box Elder County, Utah. The proposed EIS will examine alternative solutions to address agricultural water management, prevent flooding, protect the watershed, and enhance recreational opportunities in Tremonton, Elwood, Bear River City, Garland, and portions of unincorporated Box Elder County. The Lower Bear River Watershed includes small cities and towns, existing irrigation and municipal water resource infrastructure, U.S. Forest Service-managed land in the upper watershed, and wetlands associated with the Great Salt Lake (GSL). NRCS is requesting comments to identify significant issues, potential alternatives, information, and analyses relevant to the proposed action from all interested individuals, Federal and State agencies, and Tribes.

DATES: We will consider comments that we receive by **[Insert date 30 days after date of publication in the *FEDERAL REGISTER*]**. We will consider comments received after close of the comment period to the extent possible.

ADDRESSES: We invite you to submit comments in response to this notice. You may submit your comments through one of the methods below:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and search for docket ID NRCS-2024-0011. Follow the online instructions for submitting comments; or
- *Mail or Hand Delivery:* Derek Hamilton, Water Resources Coordinator, USDA, NRCS, Utah State Office, 125 S. State Street, #4010, Salt Lake City, Utah 84138. In your comments, specify the docket ID NRCS-2024-0011.

All comments received will be posted without change and made publicly available on www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Derek Hamilton: telephone: (801) 524-4560; email: derek.hamilton@usda.gov. Individuals who require alternative means for communication should contact the U.S. Department of Agriculture (USDA) Target Center at (202) 720-2600 (voice and text telephone (TTY)) or dial 711 for Telecommunications Relay service (both voice and text telephone users can initiate this call from any telephone).

SUPPLEMENTARY INFORMATION:

Purpose and Need

The primary purpose for the EIS is to protect the Lower Bear River Watershed in Box Elder County, Utah by providing management options to secure the agricultural water supply, developing secondary water systems for growing communities with limited water resources, reducing potential for flood damage in previously flooded areas, and enhancing recreational opportunities for the community. Watershed planning is authorized under the Watershed Protection and Flood Prevention Act of 1954 (Pub. L. 83-566), as amended, and the Flood Control Act of 1944 (Pub. L. 78-534).

This watershed plan is cosponsored by the Bear River Water Conservancy District and the Bear River Canal Company. The proposed action is needed to address deficiencies in the agricultural water delivery system in the area by improving the reliability and efficiency of water delivery. Canal improvements, diversion and headgate automation, and secondary water systems are needed for sustainability and reliability within the watershed.

Floodwater improvements, including piping and trenching to route flows and ponds and control gates to detain and release flows, are needed to reduce damage to farms, homes, roadways, businesses, and industry.

Improvements such as levee construction, sediment removal, delivery system automation, and bank stabilization are needed to reduce flooding, erosion, sediment, and agriculture-related pollution and enhance wetlands and wildlife habitat.

Additionally, trails are needed to enhance recreational opportunities to bike or walk within areas of the watershed.

Estimated federal funds required for the construction of the proposed action may exceed \$25 million and the proposed action will, therefore, require congressional approval per the 2018 Agriculture Appropriations Act amended funding threshold. In accordance with the regulation in 7 CFR 650.7(a)(2), an EIS is required for projects requiring congressional approval.

Preliminary Proposed Action and Alternatives, Including No Action

The EIS objective is to formulate and evaluate alternatives for agricultural water management, flood control and prevention, watershed protection, and recreational opportunities in the 249,572 acre Lower Bear River Watershed area. The EIS is expected to evaluate three alternatives: two action alternatives, and one no action alternative. The alternatives that may be considered for detailed analysis include:

- *Alternative 1 – No Action Alternative:* Taking no action would consist of activities conducted if no federal action or funding were provided. If the No Action Alternative is selected, the Hammond Main and West Canals would not be improved. Irrigators would likely have more periods without water to irrigate crops as repairs would be needed to address periodic canal failures. Water shortages would lead to associated crop and related economic losses. Communities within the watershed would need to restrict growth. Property owners would need to plan for periodic flooding of their properties and be prepared for the cleanup and repairs associated with that flooding. Managers of waterfowl habitat areas would need to remove sediment from key water holding areas periodically and would not be able to deliver water where it is needed in areas where levees are failing. The existing structures would continue to operate in their deteriorating condition and would not meet the purpose and need of agricultural water management improvement, flood prevention, watershed protection, or enhancement of recreational opportunities.
- *Alternative 2 – Proposed Action – Combine Canals Alternative.* The proposed action would combine the Bear River Canal Company's Hammond Main Canal into the West Main Canal through the canyon area to reduce the breach risk and improve delivery efficiencies. The West

Canal would be improved by installing box culverts through the canyon and would require siphoning water across the Bear River. This alternative would also install automation and telemetry to existing irrigation canal head gates, pipe the Highland Ditch and other canals to improve water delivery near the ends of canals, construct agricultural water equalization ponds, and construct secondary water systems within Tremonton, Elwood, Bear River City, and Garland. Additionally, to address flood concerns, this alternative would install flood control channels and ponds around Tremonton, construct a flood control pond in the Bothwell Pocket, and improve a spillway along the Malad River. To protect the watershed by reducing floodwaters, erosion, and sediment, and improving habitat near the GSL, the proposed action would improve levees, dikes, and banks along waterways near the GSL and the Bear River Migratory Bird Refuge and construct a sediment basin at Salt Creek. This alternative would also construct a recreational trail along the railway and an existing canal alignment through Tremonton to provide recreational opportunities.

- *Alternative 3 — Reasonable Alternative – Hammond Main and West Main Canal Improvement Alternative.* The alternative would enclose the Bear River Canal Company’s Hammond Main and West Main Canals through the canyon to reduce the breach risk and improve delivery efficiencies and would not require siphoning water across the Bear River. Besides the Hammond Main and West Main Canal improvements and associated actions, the remainder of agricultural water improvements (i.e., automation and telemetry installation, Highland Ditch and other canal piping, secondary water systems construction, etc.) and all flood control, watershed protection, and recreation improvements would be the same as in Alternative 2.

Summary of Expected Impacts

As mentioned above, the estimated Federal contribution to construction cost will exceed \$25 million.

The EIS will be prepared as required by section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA); the Council on Environmental Quality Regulations (40 CFR parts 1500-1508); and NRCS regulations that implement NEPA in 7 CFR Part 650.

Resource concerns for scoping were identified and categorized as relevant or not relevant to the proposed action. The Bear River Water Conservancy District, the Bear River Canal Company, and NRCS evaluated the current condition of the Lower Bear River watershed along with relevant resource concerns for each proposed solution. Environmental resources in the project area consist of the natural and man-made resources. Resource concerns to be identified and addressed in the Watershed Plan-EIS include wetland and channel alteration, potential disturbances to wildlife, and disturbances to riparian areas. Long-term beneficial effects would include more efficient irrigation delivery for the agricultural system, water quality improvement, and irrigation water supply improvement through secondary water development. Additionally, proposed activities would reduce strain on existing secondary residential water supply systems, reduce flooding danger, protect the watershed, and provide recreational opportunities within the watershed.

Anticipated Permits and Authorizations

The following permits and authorizations are anticipated to be required:

- *Federal Emergency Management Agency Floodplain Development permit.*
Implementation of the proposed action would require coordination with the local floodplain administrator and may require a Floodplain Development Permit to ensure all development and engineering requirements for construction within the Special Flood Hazard Areas are implemented.
- *Clean Water Act (CWA) and National Pollutant Discharge Elimination System (NPDES).* The proposed action may require water quality certification under Section 401 of the CWA, permitting under Section 402 of the NPDES, and Section 404 of the CWA for potential impacts to wetlands and Waters of the United States.

- *National Historic Preservation Act (NHPA) Section 106.* Consultation with Tribal Nations and interested parties would be conducted as required by the NHPA.
- *Local Encroachment.* Consultation and potential encroachment permits would be required with Tremonton, Elwood, Bear River City, Garland, and Box Elder County for all construction work within the local roadway rights-of-way.
- *Encroachment Permit.* The proposed action may require coordination and permitting with Utah Department of Transportation for temporary construction work within state and federal roadway rights-of-way.

Schedule of Decision-Making Process

A Draft EIS (DEIS) will be prepared and circulated for review and comment by agencies, Tribes, consulting parties, and the public for 45 days as required by the regulations in 40 CFR 1503.1, 1502.20, 1506.11, and 1502.17, and 7 CFR 650.13. The DEIS is anticipated to be published in the *Federal Register*, approximately 21 months after publication of this NOI. A Final EIS is anticipated to be published within 3 months of completion of the public comment period for the DEIS.

NRCS will decide whether to implement one of the action alternatives as evaluated in the EIS. A Record of Decision will be completed after the required 30-day waiting period and will be publicly available. The responsible Federal official and decision maker for NRCS is the Utah State Conservationist.

Public Scoping Process

A public scoping meeting was held on November 9, 2023. Comments received, including the names and addresses of those who commented, are part of the public record. The date, time, and location for a second meeting will be announced on the project website.

Federal, State, Tribal, local agencies and representatives, and the public were invited to take part in the watershed plan scoping period. The Bear River Water Conservancy District, the Bear River Canal Company, and NRCS organized the public scoping meeting to provide an opportunity to review and evaluate the project alternatives, express concern, or support, and gain further information regarding the project. To

determine the most viable alternatives to carry forward to the EIS, the Bear River Water Conservancy District, the Bear River Canal Company, and NRCS used input obtained during public scoping discussions to focus on relevant resource concerns and issues and eliminated those that were not relevant from further detailed study. The U.S. Environmental Protection Agency, U.S. Army Corps of Engineers, and U.S. Bureau of Reclamation have joined as cooperating agencies, and will continue to be consulted throughout this process.

NRCS will coordinate the scoping process to correspond with Section 106 of the NHPA (54 U.S.C. 306108), as allowed in 36 CFR 800.2(d)(3) and 800.8.

Identification of Potential Alternatives, Information, and Analyses

NRCS invites agencies, Tribes, consulting parties, and individuals that have special expertise, legal jurisdiction, or interest in the Lower Bear River Watershed Plan to provide written comments concerning the scope of the analysis and identification of potential alternatives, information, and analyses relevant to the Proposed Action.

The information about historic and cultural resources within the area potentially affected by the proposed project will assist NRCS in identifying and evaluating impacts to such resources in the context of both NEPA and NHPA.

NRCS will consult with Native American tribes on a government-to-government basis in accordance with the regulations in 36 CFR 800.2 and 800.3, Executive Order 13175, and other policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources and historic properties, will be given due consideration.

Authorities

This document is published as specified by the NEPA regulations regarding publication of an NOI to issue an EIS (40 CFR 1501.9(d)). Watershed planning is authorized under the Watershed Protection and Flood Prevention Act of 1954, as amended and the Flood Control Act of 1944.

Federal Assistance Programs

The title and number of the Federal Assistance Program as found in the Assistance Listing¹ to which this document applies is 10.904, Watershed Protection and Flood Prevention.

Executive Order 12372

Executive Order 12372, “Intergovernmental Review of Federal Programs,” requires consultation with State and local officials that would be directly affected by proposed Federal financial assistance. The objectives of the Executive order are to foster an intergovernmental partnership and a strengthened federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance and direct Federal development. This project is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

USDA Non-Discrimination Policy

In accordance with Federal civil rights law and USDA civil rights regulations and policies, USDA, its agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family or parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Individuals who require alternative means of communication for program information (for example, braille, large print, audiotope, American Sign Language, etc.) should contact the responsible Agency or USDA TARGET Center at (202) 720–2600 (voice and telephone) or dial 711 for Telecommunications Relay Service (both voice and text telephone users can initiate this call from any phone). Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at:

¹See <https://sam.gov/content/assistance-listings>.

<https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint> and at any USDA office or write a letter addressed to USDA and provide in the letter all the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail to: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410; (2) Fax: (202) 690-7442; or (3) email: program.intake@usda.gov.

USDA is an equal opportunity provider, employer, and lender.

Travis Mote,
Acting Utah State Conservationist,
Natural Resources Conservation Service.