

## **Finding of No Significant Impact for the Environmental Assessment on the Frog Hollow Debris Basin Rehabilitation Project**

### **I. AGENCY ROLE AND RESPONSIBILITY – United States Department of Agriculture Natural Resources Conservation Service (NRCS)**

In accordance with the NRCS regulations (7 CFR Part 650) implementing the National Environmental Policy Act (NEPA), NRCS has completed an environmental review of the following proposed action. The proposed action includes the rehabilitation of the Frog Hollow Debris Basin located within the Warner Draw Watershed, Washington County, Utah.

### **II. NRCS DECISION TO BE MADE**

As the delegated Responsible Federal Official for compliance with NEPA, I must make the following decision:

I must determine if the agency's Preferred Alternative (Dam Rehabilitation) will or will not be a major Federal action significantly affecting the quality of the human environment. The Final Supplemental Watershed Plan No. 8 and Environmental Assessment (Plan-EA) accompanying this finding has provided the analysis needed to assess the significance of the potential impacts from the Preferred Alternative. The decision on which alternative is to be implemented and the significance of that alternative's impacts are under part VI of this finding.

### **III. PURPOSE AND NEED FOR ACTION**

The purpose of the project is to provide continued flood prevention (flood damage reduction) preventing runoff, erosion, and sediment damage in the currently protected area downstream of the dam and to meet current NRCS and Utah Dam Safety and engineering standards. There is a need for continued protection to land, community structures, and community infrastructure from flooding related damages and to decrease the risk of dam failure for approximately 637 people, 343 residential structures/RVs, 6 commercial buildings, numerous roads/highways, and agricultural lands located within the dam breach inundation area. A full project description along with conceptual design plans, are included in the completed Final Plan-EA (October 2018) prepared by McMillen Jacobs Associates in coordination with NRCS, the City of Hurricane, and the U.S. Department of the Interior Bureau of Land Management (BLM).

In addition to the NRCS federal action, the BLM also has federal approval authority on property under BLM control. Therefore, the BLM has agreed to be a "cooperating agency" in the preparation of the Plan-EA. The BLM federal action is to respond to the City of Hurricane's application to amend its right-of-way (ROW) grant to make repairs to the Frog Hollow Debris Basin as established by the BLM's statutory and regulatory responsibilities regarding ROWs under the Federal Land Policy and Management Act of 1976 (43 CFR 2800). BLM will issue a separate determination based on their determination of significance on the Plan-EA.

### **IV. ALTERNATIVES CONSIDERED IN THE FINAL PLAN-EA**

Alternatives that were analyzed in detailed in the Plan-EA include the No Action Alternative and the Dam Rehabilitation Alternative.

No Action Alternative – The Sponsor’s most likely course of action would be to bring the dam into compliance with Utah Dam Safety requirements. The structure does not meet both current NRCS and Utah Dam Safety engineering standards. The Utah Dam Safety criteria applies to all the identified deficiencies with the dam and the No Action Alternative measures would be the same as the Dam Rehabilitation Alternative measures described below.

Dam Rehabilitation Alternative – This alternative would consist of measures designed to meet current NRCS and Utah Dam Safety regulations and current engineering standards, and to extend the life of the structure for 100 years. Rehabilitation of the dam would include replacing chimney drain filter materials and reconstructing the dam crest, restoring cracks and sinkholes along the dam embankment, replacing problematic embankment soils near the principal spillway outlet conduit, and scarifying, recompacting and installing rock mulch on the upstream dam embankment.

The National Economic Development (NED) Alternative, and NRCS and BLM Preferred Alternative, is the Dam Rehabilitation Alternative.

## V. NRCS’S DECISION AND FACTORS CONSIDERED IN THE DECISION

Based on the evaluation in the Final Plan-EA, I have chosen to select the Dam Rehabilitation Alternative as NRCS’s Preferred Alternative. I have taken into consideration all of the potential impacts of the proposed action, incorporated herein by reference from the Final Plan-EA, and balanced those impacts with considerations of NRCS’s purpose and need for the 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 NRCS’s Preferred Alternative (Dam Rehabilitation) to implement. Specifically, I acknowledge that based on the Final Plan-EA, potential impacts to soil, water, air, plants, fish and wildlife, and human resources were heavily considered in the decision. As a result, NRCS’s Preferred Alternative (Dam Rehabilitation) would result in an overall net beneficial impact to the human environment based on all factors considered. NRCS has preliminarily determined, based upon the evaluation of impacts in the Final Plan-EA for rehabilitating Frog Hollow Debris Basin, attached hereto and made a part hereof, and for the reasons provided below, that there will be no significant individual or cumulative impacts on the quality of the human environment as a result of implementing the Frog Hollow Debris Basin Rehabilitation project 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 the 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 Final Plan-EA, I have determined that the action to be selected, Preferred Alternative (Dam Rehabilitation), would not have a significant effect upon the quality of the human environment. Therefore, preparation of an environmental impact statement (EIS) on the proposed 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 following 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 beneficial and adverse impacts of the proposed action. It is anticipated the proposed action will result in long-term beneficial impacts for environmental resources (i.e. soil, air, water, animals, plants, and human resources). As a result of the analysis (discussed in detail in Chapter 1.0 Table 1-1 and Chapter 4.0 of the Final Plan-EA and incorporated by reference), the Dam Rehabilitation Alternative 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, or mitigate.
- 2) The Dam Rehabilitation Alternative does not significantly affect public health or safety. The indirect effects associated with the implementation of the rehabilitation are in fact anticipated to provide long-term beneficial impacts to improve natural ecosystem functions. Specifically, soil, water, air, fish and wildlife, plants, and cultural issues will be improved and protected through selection of the Dam Rehabilitation Alternative.
- 3) As analyzed in Chapter 1.0 Table 1-1 of the Final Plan-EA, there are no anticipated significant effects to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas from selection of the Dam Rehabilitation Alternative. 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, and ecologically critical areas. In accordance with these requirements, it is not anticipated that implementing the Dam Rehabilitation Alternative would have adverse effects on these resources. On the contrary, the Dam Rehabilitation Alternative is expected to reduce environmental risks associated with past, present, and future restoration actions in the vicinity of the proposed action.
- 4) The effects on the human environment are not considered controversial for the Dam Rehabilitation Alternative. There are no impacts associated with the proposed action that would be considered to be controversial. Two locally advertised public meetings were held and no comments were received during the Scoping comment period and one comment was received during the Draft Plan-EA comment period. An EIS is therefore not required.
- 5) The Dam Rehabilitation Alternative is not considered highly uncertain and does not involve unique or unknown risks.
- 6) The Dam Rehabilitation Alternative will not establish a precedent for future actions with significant effects, nor does it represent a decision in principle about future considerations. The proposed action will be carried out for the Frog Hollow Debris Basin Rehabilitation project only. Other projects not discussed in the Final Plan-EA will be required to undergo NEPA analysis individually.
- 7) Particularly when focusing on the significant adverse impacts which NEPA is intended to help decision makers avoid, minimize, or mitigate, the Dam Rehabilitation Alternative does not result in significant adverse cumulative impacts to the human environment as discussed in Chapter 1.0 Table 1-1 and Chapter 4.0 of the Final Plan-EA. The Dam Rehabilitation Alternative is, however, anticipated to result in beneficial long-term impacts as a result of implementation of the repairs and modifications to the structure.
- 8) The Rehabilitation Alternative will not cause the loss or destruction of significant scientific, cultural, or historical resources as addressed in Chapter 1.0 Table 1-1 of the Final Plan-EA. 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). These consultation agreements focus historic preservation reviews on resources and locations that are of special regional concern to these parties. The Dam Rehabilitation Alternative will result in no effects to cultural or historical resources. A request for concurrence was submitted to the Utah State Historic Preservation Office

and an official concurrence letter was received on August 6, 2015 regarding project impact effect determinations.

- 9) The Dam Rehabilitation Alternative will not adversely affect endangered or threatened species, marine mammals, or critical habitat as discussed in Chapter 4.0 of the Final Plan-EA. NRCS has concluded that the repairs and modifications that have been proposed are not likely to adversely affect threatened and endangered species. A request for concurrence was submitted to the United States Fish and Wildlife Service, which has jurisdiction over these species. An official concurrence letter was received on May 10, 2018 regarding project impact effect determinations.
- 10) The proposed action does not violate Federal, State, or local law requirements imposed for protection of the environment as noted in Chapter 5.0 of the Final Plan-EA. The major laws identified with the selection of the Dam Rehabilitation Alternative include the Clean Water Act, Clean Air Act, Magnuson-Stevens Fishery Conservation and Management Act, Endangered Species Act, National Historic Preservation Act, Marine Mammal Protection Act, the Executive order on Environmental Justice, and Migratory Bird Treaty Act.

The Dam Rehabilitation Alternative is consistent with the requirements of these laws. Based on the information presented in the attached Final Plan-EA, I find in accordance with 40 CFR Section 1508.13 that the selection of NRCS's Preferred Alternative (Dam Rehabilitation) is not a major Federal action significantly affecting the quality of the human environment requiring preparation of an EIS. Therefore, I have made the decision that a Finding of No Significant Impact is approved for the proposed action.

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TIMOTHY WILSON  
State Conservationist

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Date

Attachment: Final Supplemental Watershed Plan No. 8 and Environmental Assessment for the Frog Hollow Debris Basin Rehabilitation