

CHECKLIST ENVIRONMENTAL ASSESSMENT

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| Project Name: | Waco-Custer Ditch Diversion Dam Repair |
| Proposed Implementation Date: | Spring 2012 |
| Proponent: | Waco-Custer Ditch Company |
| Location: | Section 1, Township 3 North, Range 31 East (Yellowstone River) |
| County: | Yellowstone County |

I. TYPE AND PURPOSE OF ACTION

The Waco-Custer Ditch Company has applied to the DNRC for a Land Use License for the purpose of rebuilding riprap and restoring and maintaining the integrity of an existing concrete and rock irrigation diversion dam located in a channel of the Yellowstone River in Section 1, T3N, R31E in Yellowstone County. The project consists of: reinforcing the rock on the north side of the diversion; replacing the rock near the inlet and shore up the concrete work at the inlet structure; and rebuilding failed riprap on the island point (spit) between the river channels upstream of the diversion.

Restoration activities are proposed to include: repair of approximately 142' of existing rock dike with 809 cubic yards of 48" maximum rock and surfaced with 2' of gravel; 424' of riprap on the island point (spit) with 1,000 cubic yards of 32" maximum rock; repair of the south river bank/diversion abutment with 426 cubic yards of 48" maximum rock as well as concrete grouting approximately 17 linear feet of rock riprap.

Project activities would occur during low water flow in mid-March to late April of 2012. The project will require that some heavy equipment ford across the north channel of the Yellowstone River to reach the project site.

A less extensive restoration project was completed in 2008 via Land Use License #6172 which expired on 2/28/2010. The flooding that occurred in the spring of 2011 has prompted this new application for additional work on the diversion structure and nearby riprap.

II. PROJECT DEVELOPMENT

1. PUBLIC INVOLVEMENT, AGENCIES, GROUPS OR INDIVIDUALS CONTACTED:

Provide a brief chronology of the scoping and ongoing involvement for this project.

No formal public scoping was performed by DNRC Southern Land Office for this proposed project. The Yellowstone County Conservation District has sent copies of the Joint Application describing the proposed action to the Yellowstone County Floodplain Administrator, the US Army Corps of Engineers and the Montana DEQ.

2. OTHER GOVERNMENTAL AGENCIES WITH JURISDICTION, LIST OF PERMITS NEEDED:

310 Permit from the Yellowstone County Conservation District
404 Permit from the US Army Corps of Engineers
Yellowstone County Floodplain Permit

3. ALTERNATIVES CONSIDERED:

Proposed Alternative: Approve the request by Waco-Custer Ditch Company to issue a Land Use License for the purpose of restoring and maintaining an existing diversion dam and riprap in the Yellowstone River in Section 1-T3N-R31E.

No Action Alternative: Deny the request to issue a Land Use License to Waco-Custer Ditch Company to repair an existing diversion dam and riprap.

III. IMPACTS ON THE PHYSICAL ENVIRONMENT

- *RESOURCES potentially impacted are listed on the form, followed by common issues that would be considered.*
- *Explain POTENTIAL IMPACTS AND MITIGATIONS following each resource heading.*
- *Enter "NONE" if no impacts are identified or the resource is not present.*

4. GEOLOGY AND SOIL QUALITY, STABILITY AND MOISTURE:

Consider the presence of fragile, compactable or unstable soils. Identify unusual geologic features. Specify any special reclamation considerations. Identify any cumulative impacts to soils.

The proposed project is located in a rocky channel of the Yellowstone River and would repair an existing irrigation diversion dam as well as repair existing riprap on the spit of an island. No significant impacts are expected by implementing the proposed action.

5. WATER QUALITY, QUANTITY AND DISTRIBUTION:

Identify important surface or groundwater resources. Consider the potential for violation of ambient water quality standards, drinking water maximum contaminant levels, or degradation of water quality. Identify cumulative effects to water resources.

The proposed project is located in a channel of the Yellowstone River. Project activities would occur during low water flow in mid-March to late April 2012. The project will require that some heavy equipment ford across the north channel of the Yellowstone River to reach the project site. No significant adverse impacts to water quality, quantity or distribution are expected from implementing the proposed action

6. AIR QUALITY:

What pollutants or particulate would be produced? Identify air quality regulations or zones (e.g. Class I air shed) the project would influence. Identify cumulative effects to air quality.

No significant impacts to air quality are expected from implementing the proposed action.

7. VEGETATION COVER, QUANTITY AND QUALITY:

What changes would the action cause to vegetative communities? Consider rare plants or cover types that would be affected. Identify cumulative effects to vegetation.

The majority of the work on the proposed project is located in a channel of the Yellowstone River; however, there will be a small area of disturbance (less than 500 square feet) along the south bank at the diversions south abutment where there is no vegetation cover. No significant adverse impacts to vegetative cover, quantity or quality are expected as a result of implementing the proposed alternative.

8. TERRESTRIAL, AVIAN AND AQUATIC LIFE AND HABITATS:

Consider substantial habitat values and use of the area by wildlife, birds or fish. Identify cumulative effects to fish and wildlife.

A variety of fish, big game, small mammals, raptors, and birds use this area. The proposed projects construction activities could disrupt wildlife movement and patterns. Due to the relatively short duration of the proposed installation activities, less than one month, and minimal area of impact there are not expected to be significant adverse impacts if the proposed alternative is implemented.

The Waco-Custer Ditch Company was formed during the early 1900's. The dam diverts enough water (125 cubic feet/second) to irrigate approximately 4,300 acres. This structure appears to be a barrier to fish passage, at least during flows at or below 20,000 cubic feet/second (Bureau of Reclamation and Montana Fish Wildlife and Parks 1999). The proposed project is located on an adjacent side channel to the Waco-Custer Dam.

The existing diversion dam, where the proposed project would occur, consists of rock, concrete, and other material deposited in a broken fashion, not a continuous solid barrier. The proposed project would continue this broken, non-solid barrier construction pattern to allow for fish passage. No significant impacts to terrestrial, avian and aquatic life and habitats are expected to occur as a result of implementing the proposed alternative.

9. UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES:

Consider any federally listed threatened or endangered species or habitat identified in the project area. Determine effects to wetlands. Consider Sensitive Species or Species of special concern. Identify cumulative effects to these species and their habitat.

A proposed project area search of the Montana Natural Heritage Program database identified nine vertebrate animals that are listed as a species of concern, threatened, or endangered: Great Blue Heron, Bald Eagle, Greater Sage-Grouse, Burrowing Owl, Sauger, Spotted Bat, Black-tailed Prairie Dog, Snapping Turtle and Spiny Softshell. Of these nine species, the Snapping Turtle and Spiny Softshell would have the highest potential for negative impact since they occupy the Yellowstone River in this area and the project includes work in the river and the fording of heavy equipment across the north channel of the Yellowstone. Additionally, the Great Blue Heron and Bald Eagle have confirmed nesting sites in the area and the construction could cause some disturbance. However, the BNSF line essentially forms the south shore of the Yellowstone River in this area and Interstate 94 is located approximately ¼-mile to the south/southeast so there is already noise in this area from these transportation facilities.

The remainder of the species may occupy lands in the area or traverse it, but it is not expected that this action will have any significant effect on any of the species identified. The disturbance from equipment will be of a relatively short duration.

10. HISTORICAL AND ARCHAEOLOGICAL SITES:

Identify and determine effects to historical, archaeological or paleontological resources.

The proposed project is mainly located within the low water marks of the Yellowstone River. No significant adverse impacts to historic or archaeological sites are expected as a result of implementing the proposed alternative.

11. AESTHETICS:

Determine if the project is located on a prominent topographic feature, or may be visible from populated or scenic areas. What level of noise, light or visual change would be produced? Identify cumulative effects to aesthetics.

The proposed action would result in the repair of an existing diversion dam and riprap and is located in a relatively remote and sparsely populated area. The project does require the utilization of heavy equipment, but will be of a relatively short duration (less than one month). There is a BNSF line that essentially forms the south shore of the Yellowstone River in this area and Interstate 94 is located approximately ¼-mile to the south/southeast so there is already noise in this area from these transportation facilities. No significant adverse impact to aesthetics is expected as a result of implementing the proposed alternative.

12. DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AIR OR ENERGY:

Determine the amount of limited resources the project would require. Identify other activities nearby that the project would affect. Identify cumulative effects to environmental resources.

No significant adverse impacts to environmental resources of land, water, air or energy are expected to occur as a result of implementing the proposed alternative.

13. OTHER ENVIRONMENTAL DOCUMENTS PERTINENT TO THE AREA:

List other studies, plans or projects on this tract. Determine cumulative impacts likely to occur as a result of current private, state or federal actions in the analysis area, and from future proposed state actions in the analysis area that are under MEPA review (scoped) or permitting review by any state agency.

There are no other known state or federal environmental reviews taking place in the subject area.

| IV. IMPACTS ON THE HUMAN POPULATION |
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| <ul style="list-style-type: none">• <i>RESOURCES potentially impacted are listed on the form, followed by common issues that would be considered.</i>• <i>Explain POTENTIAL IMPACTS AND MITIGATIONS following each resource heading.</i>• <i>Enter "NONE" if no impacts are identified or the resource is not present.</i> |
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14. HUMAN HEALTH AND SAFETY:

Identify any health and safety risks posed by the project.

No significant adverse impacts to human health and safety are expected to occur as a result of implementing the proposed alternative.

15. INDUSTRIAL, COMMERCIAL AND AGRICULTURE ACTIVITIES AND PRODUCTION:

Identify how the project would add to or alter these activities.

The proposed project would aide in diverting water to the Waco-Custer intake structure and the ditch system, thereby maintaining the ability to irrigate agricultural lands. No significant adverse impacts to industrial, commercial and agricultural activities and production are expected to occur as a result of implementing the proposed alternative.

16. QUANTITY AND DISTRIBUTION OF EMPLOYMENT:

Estimate the number of jobs the project would create, move or eliminate. Identify cumulative effects to the employment market.

The proposed action will not have a significant adverse impact on the quantity and distribution of employment.

17. LOCAL AND STATE TAX BASE AND TAX REVENUES:

Estimate tax revenue the project would create or eliminate. Identify cumulative effects to taxes and revenue.

The proposed action will not have an adverse impact on tax revenue.

18. DEMAND FOR GOVERNMENT SERVICES:

Estimate increases in traffic and changes to traffic patterns. What changes would be needed to fire protection, police, schools, etc.? Identify cumulative effects of this and other projects on government services

The implementation of the proposed alternative will not generate any additional demands on governmental services.

19. LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS:

List State, County, City, USFS, BLM, Tribal, and other zoning or management plans, and identify how they would affect this project.

Implementation of the proposed alternative will not conflict with any locally adopted plans.

20. ACCESS TO AND QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES:

Identify any wilderness or recreational areas nearby or access routes through this tract. Determine the effects of the project on recreational potential within the tract. Identify cumulative effects to recreational and wilderness activities.

The majority of the work in proposed project area is between the low water marks of the Yellowstone River. As presently exists, any recreational boat users would need to portage around either the Waco-Custer diversion structure or utilize the north river channel to avoid them. The implementation of the proposed alternative is not expected to have an adverse impact on the recreational use of this Trust land.

21. DENSITY AND DISTRIBUTION OF POPULATION AND HOUSING:

Estimate population changes and additional housing the project would require. Identify cumulative effects to population and housing.

No significant adverse impacts to density and distribution of population and housing would occur as a result of implementing the proposed alternative.

22. SOCIAL STRUCTURES AND MORES:

Identify potential disruption of native or traditional lifestyles or communities.

There are no native, unique or traditional lifestyles or communities in the vicinity that would be impacted by the proposed alternative.

23. CULTURAL UNIQUENESS AND DIVERSITY:

How would the action affect any unique quality of the area?

The proposed alternative will not have a significant adverse impact on cultural uniqueness or diversity.

24. OTHER APPROPRIATE SOCIAL AND ECONOMIC CIRCUMSTANCES:

Estimate the return to the trust. Include appropriate economic analysis. Identify potential future uses for the analysis area other than existing management. Identify cumulative economic and social effects likely to occur as a result of the proposed action.

The proposed action has provided \$25 via a Land Use License application fee and would provide a one-time \$150 rental fee.

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| EA Checklist Prepared By: | Name: Jeff Bollman, AICP | Date: 15 March 2012 |
| | Title: Area Planner, Southern Land Office | |

V. FINDING

25. ALTERNATIVE SELECTED:

After review, the proposed alternative has been selected and it is recommended that a Land Use License be issued for the purpose of restoring and maintaining the integrity of an existing concrete and rock irrigation diversion dam and repairing riprap on the island spit on land located in a channel of the Yellowstone River in Section 1, T3N, R31E. This alternative can be implemented in a manner that is consistent with the long-term sustainable natural resource management of the area.

26. SIGNIFICANCE OF POTENTIAL IMPACTS:

The potential for significant adverse impacts to the Trust lands listed above are minimal based on the above analysis and the nature of the proposed action. There are no natural features that are expected to be impacted and produce adverse impacts if the proposed action is implemented.

I conclude all identified potential impacts will be avoided or mitigated by the project size, short duration, timing, design, and no significant impacts will occur as a result of implementing the selected alternative.

Mitigation measures:

1. All in-river work shall be completed in an expeditious manner during low water flow to avoid unnecessary impacts to the river.
2. Licensee must carry general liability insurance for all its activities upon the tract that lists the Licensee and the State as co-insured. The minimum coverage shall be in the amount of \$1,000,000 combined single limit per occurrence.
3. All activities performed in the river and immediate vicinity shall be conducted in a manner to reduce turbidity along with minimizing disturbances to the riverbed and riverbank.
4. To prevent leaks of petroleum products into the river, no defective equipment shall be operated in the river or adjacent areas.
5. All necessary permits shall be secured before any activities begin.

27. NEED FOR FURTHER ENVIRONMENTAL ANALYSIS:

EIS

More Detailed EA

No Further Analysis

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| EA Checklist Approved By: | Name: Matthew Wolcott |
| | Title: Area Manager, Southern Land Office |
| Signature: /s/ Matthew Wolcott | Date: March 21, 2012 |