

ENVIRONMENTAL ASSESSMENT

SECTION 205 FLOOD DAMAGE REDUCTION PROJECTS SILVER CREEK DAM EARLY WARNING SYSTEM

SILVERTON, OREGON

INTRODUCTION

Section 205 of the 1948 Flood Control Act, as amended, provides authority to the Corps of Engineers to plan and construct small flood damage reduction projects that have not already been specifically authorized by Congress. There are two types of projects: structural and nonstructural. Structural projects may include levees, flood walls, diversion channels, pumping plants, and bridge modifications. Nonstructural alternatives, which have little or no effect on water surface elevations, might include measures such as floodproofing, relocation of structures, and flood warning systems.

Silver Creek Dam is located on Silver Creek about 2 miles upstream of the City of Silverton, in Marion County, Oregon. Silver Creek meanders through the City of Silverton and the potential flood zone encompasses the majority of the city. The City of Silverton is the non-federal sponsor for the Section 205 project.

The following is a National Environmental Policy Act (NEPA) environmental assessment for the Silver Creek Dam Early Warning System project. NEPA (42 U.S.C. 4321 et seq.) requires that all agencies of the federal government must conduct an appropriate environmental review before taking any action.

PURPOSE AND NEED

Potential flood problems associated with the Silver Creek Dam, and opportunities to minimize their consequences with the implementation of a flood warning system were explored in a Detailed Project Report (DPR). The study was a feasibility level decision document, prepared using the current guidance contained in Engineering Regulation (ER) 1105-2-100, Planning Guidance Notebook and current cost sharing requirements cited in the Water Resources Development Act of 1986, as amended.

The purpose of the study was to identify a project that will reduce the risk of loss of life and flood damage in the City of Silverton while minimizing or avoiding environmental and cultural impacts.

ALTERNATIVES

Proposed Action

The proposed project is the implementation of an early warning (flood) system for the Silver Creek Dam near the City of Silverton in Marion County, Oregon. The plan involves installing monitoring sensors in the dam structure, construction of a small, pre-fabricated building to house monitoring instruments, and the installation of four sirens at key locations within the City of Silverton. The installation of the monitoring sensors will

involve minor trenching on the Silver Creek Dam. The site location of the small building to house monitoring instruments is adjacent to the spillway. All siren locations are within the City of Silverton on right-of-ways. All construction and installation activities will occur on previously disturbed sites. Ground disturbance for installation of the sensors, sirens, and the instrument building will be insignificant. There will be no fill or discharges in any waters of the United States.

No Action Alternative

Under the No Action Alternative, there would be no implementation of the early warning system at the Silver Creek Dam. There would be no reduction in the risk of loss of life and flood damage in the City of Silverton.

ENVIRONMENTAL CONSEQUENCES

The scale of construction activities for this proposal is considered small with only minor, short-term impacts associated with project construction and operations. There will be minor earth disturbance to install and upgrade sensor and monitoring equipment at the Silver Creek Dam. The siren network will include installing four, pole-mounted sirens on existing road right-of-ways at locations within the city of Silverton. All construction activity will occur on or adjacent to the existing dam structure or on previously disturbed sites.

No Effect determinations have been made for threatened and endangered species and designated critical habitats.

There will be no discharges or fills to waters of the United States. There is no inwater work required for this project.

No cumulatively significant, adverse effects were identified for this proposal.

COMPLIANCE WITH LAWS AND REGULATIONS

National Environmental Policy Act: The National Environmental Policy Act (NEPA, 42 U.S.C. 4321 et seq.), requires that all agencies of the federal government must conduct an appropriate environmental review before taking any action. This Environmental Assessment satisfies the requirements of the National Environmental Policy Act of 1969, as amended.

Endangered Species Act: The Endangered Species Act (ESA) established requirements in 16 U.S.C. § 1531 for federal agencies towards actions that they authorize, fund, or carry out in order to ensure that they are not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of designated critical habitat of listed species. The US Fish and Wildlife (USFWS) and National Marine Fisheries Service (NMFS) implement and maintain the current endangered species lists.

Current species lists have been reviewed for Marion County, Oregon.

USFWS listed species:

<http://www.fws.gov/oregonfwo/Species/Lists/Documents/County/MARION%20COUNTY.pdf>

NMFS list: <http://www.nwr.noaa.gov/Species-Lists.cfm>

We have determined that the proposal will have NO EFFECT on listed species and designated critical habitat. A separate MFR detailing the NO EFFECT determination is on file.

Magnuson-Stevens Fishery Conservation and Management Act: The Magnuson-Stevens Fishery Conservation and Management Act (MSA), Public Law 94-265 as amended, established procedures designed to identify, conserve, and enhance Essential Fish Habitat (EFH) for fisheries regulated under a Federal fisheries management plan. Federal agencies must consult with the National Marine Fisheries Service (NMFS) on all proposed actions authorized, funded, or carried out by the agency that may adversely affect EFH.

Chinook salmon are found in Silver Creek below Silverton Dam. There are no proposed inwater works or discharges to waters of the United States with this project. There will be no impacts to EFH.

Clean Water Act:

Section 404 – Section 404 authorizes the Secretary of the Army to permit the discharge of dredged or fill material into waters of the United States, only at specified disposal sites. Disposal sites are evaluated and authorized through the application of the Section 404(b) (1) Guidelines, further described in 40 CFR 230. Though Corps Civil Works does not permit itself through Section 404, per 33 CFR 336.1(a) it complies with all applicable substantive legal requirements, including application of section 404 (b) (1) guidelines to evaluate compliance with the Clean Water Act.

Section 401 – Section 401 (a) (1) requires certification from the State in which a discharge would occur to waters of the U.S., and is applicable to construction and operation of facilities. The State must certify that the discharge will not violate the states' water quality standards. EPA retains jurisdiction in limited cases. Though the Corps does not permit itself, the Corps seeks a State Water Quality Certification per 33 CFR 336.1 (a) (1) when its activities result in a discharge.

Section 402 – Section 402 (a) (1) authorizes the EPA or States in which the EPA has delegated such authority to issue permits for the discharge of any pollutant or combination of pollutants under procedures established to implement the National Pollutant Discharge Elimination System (NPDES) program. Regulated categories of discharges generally include point-source discharges and storm-water runoff, and permit conditions are usually required to ensure compliance with all applicable effluent and water quality standards.

There is no inwater work proposed for this project. There will be no discharges to waters of the United States. The ground disturbance for installation of the project is minimal. A Section 404 permit is not required for this proposal. Section 401 water quality certification will not be required. Section 402 NPDES permits will not be required.

Coastal Zone Management Act of 1972: The Act provides for management of the nation's coastal resources, including the Great Lakes, and balances economic development with environmental conservation.

The proposed project is not within the boundaries covered by the CZMA and therefore not subject to this act.

Marine Protection, Research and Sanctuaries Act of 1972: The Marine Protection, Research, and Sanctuaries Act prohibits the dumping of material into the ocean that would unreasonably degrade or endanger human health or the marine environment.

The proposal does not involve ocean dumping and therefore not subject to this act.

Marine Mammal Protection Act: The 1972 Marine Mammal Protection Act established a Federal responsibility to conserve marine mammals. With certain specified exceptions, the Act establishes a moratorium on the taking and importation of marine mammals as well as products taken from them, and establishes procedures for waiving the moratorium and transferring management responsibility to the States.

No marine mammals are present at the site.

National Historic Preservation Act: National Historic Preservation Act: Section 106 of the NHPA requires agencies to consider the potential effects of their projects, undertakings, on historic properties eligible for or listed on the National Register of Historic Places. Historic properties are archaeological sites or historic structures or the remnants of sites or structures. To determine the potential effect of the project on known or unknown historic properties: the nature of the proposed activity and its effect on the landscape is evaluated; the likelihood that historic properties are present within a project area; whether the ground is disturbed by previous land use activities and the extent of the disturbance; reviewing listings of known archeological or historic site locations, including site data bases and areas previously surveyed or listings of sites on the National Register of Historic Places.

There will be minor earth disturbance to install and upgrade sensor and monitoring equipment at the Silver Creek Dam. The siren network will include installing four, pole-mounted sirens on existing road right-of-ways at locations within the city of Silverton. All construction activity will occur on or adjacent to the existing dam structure or on previously disturbed sites. The scale of construction activities for this proposal is considered small.

The proposed undertaking has been coordinated with the District's Cultural Resources Team and has no potential to affect historic properties as it occurs on disturbed contexts which have been previously surveyed.

Clean Air Act: This Act established a comprehensive program for improving and maintaining air quality throughout the United States. Its goals are achieved through permitting of stationary sources, restricting the emission of toxic substances from stationary and mobile sources, and establishing National Ambient Air Quality Standards. Title IV of the Act includes provisions for complying with noise pollution standards. Section 118 (42 U.S.C. 7418) of the Clean Air Act specifies that each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any property or facility or (2) engaged in any activity resulting, or which may result, in the discharge of air pollutants, shall be subject to, and comply with, all Federal, State, interstate, and local requirements respecting the control and abatement of air pollution in the same manner, and to the same extent as any non-governmental entity. Corps activities resulting in the discharge of air pollutants must conform to National Ambient Air Quality Standards (NAAQS) and State Implementation Plans (SIP), unless the activity is explicitly exempted by EPA regulations.

No impacts to air quality are expected from this proposal. Any potential emissions that could occur from project construction are expected to be de minimus and short-term.

Comprehensive Environmental Response, Compensation, and Liability Act: CERCLA is the federal law designed to clean up abandoned hazardous waste sites and is commonly known as "Superfund". It provides broad authority to clean up releases or threatened releases of hazardous substances that may endanger public health or the environment. The location of the proposed project is not within the boundaries of a site designated by the USEPA for a response action under Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), nor is it a part of a National Priority List site under CERCLA.

The proposed project is not within a designated CERCLA location.

Fish and Wildlife Coordination Act: The Fish and Wildlife Coordination Act of 1934 states that federal agencies involved in water resource development are to consult with the USFWS and state agencies administering wildlife resources concerning proposed actions or plans. Any coordination under the Act will be in accordance with the *2003 Agreement Between the US Fish and Wildlife Service and the US Army Corps of Engineers for Conducting Fish and Wildlife Coordination Act Activities*.

The project is not a new water development effort and is not subject to this act.

Migratory Bird Treaty Act: Unless permitted by regulations, the Act provides that it is unlawful to pursue, hunt, take, capture or kill; attempt to take, capture or kill; possess, offer to or sell, barter, purchase, deliver or cause to be shipped, exported, imported,

transported, carried or received any migratory bird, part, nest, egg or product, manufactured or not.

The proposed project will not impact migratory birds or their habitats.

Bald and Golden Eagle Protection Act: This law provides for the protection of the bald eagle and the golden eagle by prohibiting, except under certain specified conditions, the taking, possession and commerce of such birds.

The proposed project will not impact bald eagle or golden eagles. There are no known nest sites near the project vicinity.

Wild and Scenic Rivers Act: Under the Act, a Federal agency may not assist the construction of a water resources project that would have a direct and adverse effect on the free-flowing, scenic, and natural values of a Federally designated wild or scenic river.

The site is not within a designated wild or scenic river and will have no affect to designated rivers.

Analysis of Impacts on Prime and Unique Farmlands

As a result of a substantial decrease in the amount of open farmland, the Farmland Protection Policy Act (FPPA) was put forth by Congress. In the statement of purpose, Federal programs which contribute to the unnecessary and irreversible conversion of farmland to nonagricultural uses will be minimized. It follows that Federal programs shall be administered in a manner that, as practicable, will be compatible with state and local government and private programs and policies to protect farmland.

No farm land will be impacted by this project.

Executive Order 11988, Floodplain Management Guidelines, May 24, 1977: This order directs Federal agencies to evaluate the potential effects of proposed actions on floodplains and to avoid undertaking actions that directly or indirectly induce growth in the floodplain or adversely affect natural floodplain values.

The proposal will have no affect to floodplains and will not directly or indirectly induce growth in the floodplain or adversely affect natural floodplain values.

Executive Order 11990, Protection of Wetlands, May 24, 1977: Executive Order 11990 encourages Federal agencies to take actions to minimize the destruction, loss, or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands when undertaking Federal activities and programs.

No wetlands will be impacted by this proposal.

Executive Order 12898, Environmental Justice: This executive order requires federal agencies to consider and minimize potential impacts on subsistence, low-income or

minority communities. The goal is to ensure that no person or group of people should shoulder a disproportionate share of the negative environmental impacts resulting from the execution of this country's domestic and foreign policy programs.

The proposal will have no adverse impacts to subsistence, low-income or minority communities.

Executive Order 13514 – Federal Leadership in Environmental, Energy, and Economic Performance:

Federal agencies shall increase energy efficiency; measure, report, and reduce their greenhouse gas emissions from direct and indirect activities; conserve and protect water resources through efficiency, reuse, and stormwater management; eliminate waste, recycle, and prevent pollution; leverage agency acquisitions to foster markets for sustainable technologies and environmentally preferable materials, products, and services; design, construct, maintain, and operate high performance sustainable buildings in sustainable locations; strengthen the vitality and livability of the communities in which Federal facilities are located; and inform Federal employees about and involve them in the achievement of these goals.

The proposal is within the parameters established by this EO.

FINDING OF NO SIGNIFICANT IMPACT (FONSI)

SECTION 205 FLOOD DAMAGE REDUCTION PROJECTS SILVER CREEK DAM EARLY WARNING SYSTEM

CITY OF SILVERTON, MARION COUNTY, OREGON

The US Army Corps of Engineers, Portland District (COE) and the City of Silverton plan to construct an early warning (flood) system for the Silver Creek Dam to reduce the risk of loss of life and flood damage in the City of Silverton while minimizing or avoiding environmental and cultural impacts.

Section 205 of the 1948 Flood Control Act, as amended, provides authority to the COE to plan and construct small flood damage reduction projects that have not already been specifically authorized by Congress. There are two types of projects: structural and nonstructural. Structural projects may include levees, flood walls, diversion channels, pumping plants, and bridge modifications. Nonstructural alternatives, which have little or no effect on water surface elevations, might include measures such as floodproofing, relocation of structures, and flood warning systems.

An Environmental Assessment (EA) was completed for this action. No significant issues were identified in the analysis. We determined there will be no effect to species protected under the Endangered Species Act. The proposal does not require further actions under the Clean Water Act. The undertaking has no potential to affect historic properties as it occurs on disturbed contexts which have been previously surveyed.

While acknowledging the impacts discussed in the EA and outlined above, the COE is required by the National Environmental Policy Act (NEPA) to make a determination of the significance of those impacts. A checklist of considerations that help in making the determination of whether impacts of a project rise to the level of *significantly affecting the human environment* is provided at 40 CFR 1508.27. Following is the checklist from (1) to (10):

(1) *Significant impacts* include both beneficial and harmful impacts: Only minor disturbances are expected from the construction of the proposed project. Ground disturbance for installation of the monitoring and warning system will be small with an expected rapid recovery on previously disturbed sites. This it is not a significant federal action.

(2) Public health and safety: The early warning system will improve safety for the City of Silverton. There will be no adverse impacts to public health and safety with implementation of the early warning system.

(3) Unique characteristics of geographical area: No unique geographical characteristics of the area were identified for this project. There will be no impacts or changes to the geographical characteristics of the area with this project.

(4) Are effects on quality of human environment controversial? Based on public scoping and review, there is no controversy over the effects of the project.

(5) Are the risks uncertain or unique? There are no uncertain or unique risks associated with the development of this project.

(6) Future Precedents: The action is not likely to establish a precedent for future actions with significant effects because this action is not unusual in and of itself, nor does it lead to any further actions that are unique.

(7) Cumulative Impacts: The effects of this project have been considered along with other reasonably foreseeable future actions within and adjacent to the project area. The proposed project is not expected to have any indirect effects beyond the benefits expected from providing an early warning system for the City of Silverton. Only minor and reversible construction impacts are expected from installation of the early warning system.

(8) National Register of Historic Places and other historical and culturally significant places: The proposed undertaking has been coordinated by the District's Cultural Resources Team and has no potential to affect historic properties as it occurs on disturbed contexts which have been previously surveyed.

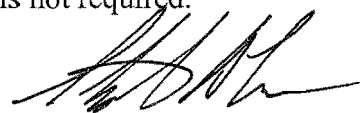
(9) Endangered Species Act: *No Effect* determinations were made for all listed species and designated critical habitats under the jurisdiction of the US Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS). The ground disturbance for project implantation is considered minor and discountable.

(10) Other Legal Requirements: There are no known violations of any federal, state, or local law in the proposed action.

The EA and this FONSI have listed all of the important considerations and their environmental impacts; these, both individually and cumulatively, are *not significant* as *significant* has been defined by NEPA regulations and case law.

Based upon my review of the environmental assessment and supporting documents, I have determined that the proposed action would not significantly affect the quality of the human environment and that an Environmental Impact Statement is not required.

Date: 14 July 2014



STEPHAN A. CAPPS
LTC, EN

Deputy Commander, P.E.
Colonel, Corps of Engineers
District Commander