

Finding of No Significant Impact for the Environmental Assessment on Musconetcong River Restoration at the Finesville Dam

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

In accordance with the NRCS regulations (7 Code of Federal Regulations (CFR) 650) implementing the National Environmental Policy Act (NEPA), NRCS has completed an environmental review of the following proposed action:

The proposed action involves restoration of the Musconetcong River channel by partial dam removal, stream habitat enhancement, tree and shrub planting, and other practices.

II. NRCS DECISION TO BE MADE

As the delegated Responsible Federal Official for compliance with NEPA, I must make the decision regarding whether the Agency's preferred alternative (Alternative 2, Partial Dam Removal) will or will not be a major Federal action significantly affecting the quality of the human environment. The Environmental Assessment (EA) accompanying this finding has provided the analysis needed to assess the significance of the potential impacts from the selected alternative. The decision on which alternative is to be implemented and the significance of that alternative's impacts are under Part V of this finding.

III. PURPOSE AND NEED FOR ACTION

The purpose of the proposed action is the restoration of a section of the Musconetcong River in the vicinity of the Finesville Dam in order to meet the following underlying needs, which include impaired aquatic ecosystems, impaired public health and safety, and increasing operation, maintenance and liability costs. There is a need to restore the connectivity of the Musconetcong River for the benefit of aquatic species including native diadromous fish species (such as American eels), and improve habitat for other native and naturalized fish populations (such as trout and bass). There is also a need to address public safety and liability issues associated with the aging dam. The dam structure is privately owned and regulated by the State of New Jersey. The owner would like to reduce the liability associated with this structure that is currently being borne by him. Although the full extent and nature of deficiencies is unknown, the dam does not currently meet State Dam Safety requirements and as a result, the owner is faced with substantial expenses to bring the dam into compliance. Actions proposed to accomplish this are described in detail in the EA.

IV. ALTERNATIVES CONSIDERED IN THE EA

Three alternatives were analyzed in the EA and are characterized as follows:

Alternative 1: No Action – Under this alternative no modifications would be made to the Finesville Dam. The private dam owner will be required to maintain the dam according to the requirements set forth by the New Jersey Department of Environmental Protection Bureau of Dam Safety and the Dam Safety Act.

Alternative 2: Agency Preferred Alternative – Partial Dam Removal - Partial dam removal would entail the removal of a portion of the dam leaving the ends of the existing structure to provide support to the streamside walls that extend downstream and also serve as the abutments for the Mount Joy Road Bridge. Stream habitat enhancement, tree and shrub planting, and other conservation practices designed to restore the river channel and corridor would also be part of the project.

Alternative 3: Full Dam Removal – The full dam removal alternative consists of the complete removal of the Finesville Dam. Stream habitat enhancement, tree and shrub planting, and other conservation practices designed to restore the river channel and corridor would also be part of the project.

V. NRCS' DECISION AND FACTORS CONSIDERED IN THE DECISIONS

Based on the evaluation in the EA, I have chosen to select Alternative 2 as the Agency's Preferred Alternative. I have taken into consideration all of the potential impacts of the proposed action, incorporated herein by reference from the EA, and balanced those impacts with considerations of the Agency'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 Preferred Alternative (Alternative 2) to implement. Specifically, I acknowledge that based on the EA, potential impacts to soil, water, air, plants, fish and wildlife, and human resources, including public health and safety and cultural and historic issues, were heavily considered in the decision. As a result, the Agency's Preferred Alternative (Alternative 2) would result in an overall net beneficial impact to the human environment based on all factors considered. This alternative will meet the need to restore aquatic ecosystems, address public health and safety and landowner liability issues while mitigating for adverse impacts to cultural and historic resources.

VI. FINDING OF NO SIGNIFICANT IMPACT

To determine the significance of the action analyzed in this EA, the Agency is required by NEPA regulations at 40 CFR 1508.27 and NRCS regulations at 7 CFR Part 650 to consider the context and intensity of the proposed action. Based on the 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, Alternative 2 (Partial Dam Removal), 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, 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 Part 1508.27 and from NRCS regulations at 7 CFR Part 650:

- 1) The EA evaluated both beneficial and adverse impacts of the proposed action. It is anticipated the proposed action will result in no significant adverse long-term impacts for environmental resources (i.e., soil, air, water, animals, plants, and human resources). As a result of the analysis (discussed in detail in the EA and incorporated by reference), Alternative 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, or mitigate.
- 2) Alternative 2 does not significantly affect public health or safety. The indirect effects associated with the implementation of the action are anticipated to provide long term beneficial impacts to improve natural ecosystem functions. Public safety and landowner liability issues associated with the aging dam will be addressed by this alternative, and are anticipated to improve as a result of the proposed action. NRCS does not anticipate that public health will be impacted by the proposed action. As described in the EA, the agency recognizes that a small number of old, relatively shallow wells in the vicinity of the dam may be impacted by the proposed action, but is committed to developing a protocol for evaluating shallow wells that may be impacted and determining appropriate mitigation should adverse impacts to household water supplies occur.
- 3) As described in the EA, there are no anticipated significant effects to unique characteristics of the geographic area, such as historic or cultural resources, threatened and endangered species, natural areas, park lands, prime farmlands, wetlands, wild and scenic rivers, coastal zones, migratory birds, floodplains, or low income or minority communities from the selection of Alternative 2. NRCS regulations (7 CFR Part 650) and policy (GM 420 Part 401), require that NRCS identify, assess, and avoid effects to historic or cultural resources, rare, threatened and endangered species, natural areas, scenic beauty and floodplain management. In accordance with these requirements, it is not anticipated that implementing Alternative 2 would have significant adverse effects on these resources. On the contrary, Alternative 2 is expected to restore and improve natural resources.
- 4) The effects of the proposed action on the human environment are not considered controversial and are described in detail in the EA.
- 5) Alternative 2 is not considered highly uncertain and does not involve unique or unknown risks. Potential impacts and risks associated with the proposed action have been described and evaluated in the EA. Similar partial dam removal

projects have been successfully implemented in nearby in the past.

- 6) Alternative 2 will not establish a precedent for future actions with significant effects, nor does it represent a decision in principle about future considerations.
- 7) Particularly when focusing on the significant adverse impacts which NEPA is intended to help decision-makers avoid, minimize, or mitigate, Alternative 2 does not result in significant adverse cumulative impacts to the human environment.
- 8) Alternative 2 will not significantly affect the Finesville Historic District, structure or objects listed in or eligible for listing in the National Register of Historic Places (NHPA) or cause the loss or destruction of significant scientific, cultural, or historical resources as addressed in the EA. NRCS followed the Advisory Council on Historic Preservation's regulations for implementation of Section 106 of the NHPA (36 CFR Part 800) and has negotiated and signed a Memorandum of Agreement (MOA) with the State Historic Preservation Officer (SHPO) (attached), effective December 29, 2010.
- 9) Alternative 2 will not adversely affect endangered or threatened species, marine mammals, or critical habitat as discussed in the EA. There are no federally-listed or proposed threatened or endangered species, critical habitats or marine mammals located within the project area. State species listed as endangered or threatened species, including mussels, are not present in the vicinity of the project area.
- 10) The proposed action does not violate Federal, State, or local law requirements imposed for protection of the environment as noted in the EA. The major laws identified with the selection of Alternative 2 include the Clean Water Act, Clean Air Act, Magnuson-Stevens Fishery Conservation and Management Act, Coastal Zone Management Act, Endangered Species Act, National Historic Preservation Act, the Migratory Bird Treaty Act, Bald and Golden Eagle Protection Act, and Wild and Scenic River Act. Alternative 2 is consistent with the requirements of these laws. The following permits will be required and will be obtained prior to commencement of the proposed action: erosion and sediment control permits to be obtained from the Warren County and/or Hunterdon County Soil Conservation Districts; Dam Safety Construction Permit, Freshwater Wetlands Permit and Flood Hazard Area Control Permit, and Water Lowering Permit from the New Jersey Department of Environmental Protection. Permits may also be required by and will be obtained from the Highlands Council as well as local governments.

Based on the information presented in the attached EA, I find in accordance with 40 CFR Part 1508.13 that the selection of the Agency Preferred Alternative (Alternative 2) is not a Major Federal Action significantly affecting the quality of the human environment requiring preparation of an EIS.



12-29-2010

Thomas Drewes
New Jersey State Conservationist
USDA Natural Resources Conservation Service

Date