



DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

[Docket No. NRCS-2023-0010]

Notice of Intent to Prepare an Environmental Impact Statement for the St. Mary Canal Modernization Project, Glacier County, MT

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) Montana State Office, in coordination with the U.S. Bureau of Reclamation, announces its intent to prepare a Watershed Plan and EIS for the St. Mary Canal Modernization Watershed Project (Milk River Project), located east of Babb, in Glacier County, Montana. The proposed Watershed Plan will examine alternatives through the EIS process for improving the St. Mary Canal system to provide for agricultural water management. 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 45 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. Comments received after close of comment period will be considered 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-2023-0010. Follow the online instructions for submitting comments; or
- *Mail or Hand Delivery:* Alyssa Fellow, Environmental Compliance Specialist, 10 East Babcock Street, Room 443, Bozeman, MT 59715. For written comments, specify the docket ID NRCS-2023-0010.

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

FOR FURTHER INFORMATION CONTACT: Alyssa Fellow; telephone: (406) 587-6712; e-mail: Alyssa.Fellow@usda.gov for questions related to submitting comments; or visit the project website:

<https://www.milkriverproject.com/projects/watershed/>. 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 of the proposed watershed project is to improve agricultural water management by rehabilitating and modernizing the St. Mary Canal along its existing alignment in Glacier County, Montana. 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).

The proposed project is needed due to existing St. Mary Canal system inadequacies, as well as the risk of infrastructure failure. The current St. Mary Canal system inadequacies have reduced the water delivery reliability to users who rely on the St. Mary Canal for agricultural, municipal, residential, industrial, and recreational uses. Failure could lead to environmental damage on the Blackfeet Indian Reservation, the St. Mary River, and the North Fork Milk River.

The Milk River Joint Board of Control (MRJBOC) is the umbrella organization that works with the U.S. Bureau of Reclamation to operate and maintain the St. Mary Canal for the users that receive Milk River Project water. Milk River Project water diverted from the St. Mary River is conveyed through the St. Mary Canal to the North Fork Milk River. The Milk River Project supplies water to approximately 120,000 acres, including eight irrigation districts, the Blackfeet Indian Reservation, numerous private irrigators, several municipalities, and the Bowdoin National Wildlife Refuge.

The proposed Milk River Project will address the deteriorating state of the St. Mary Canal and associated infrastructure including the 29 mile St. Mary Canal, siphons, and concrete drops. Most of the structures have exceeded their design life and require major repairs or replacement. Aging of the St. Mary Canal system has resulted in reduced flow rates from the original design of 850 cubic feet per second (cfs) to around 600 cfs. The steel siphons are at risk of failure due to slope stability problems and leaks, and the concrete in three of the five drop structures are severely deteriorating. According to a report published by the Montana Department of Natural Resources and Conservation

(DNRC), many hydraulic components of the conveyance system have an elevated risk of failure with potential damages ranging from minor to catastrophic (DNRC 2010¹).

Agriculture is an essential part of the north-central Montana economy and agricultural production depends on the structural integrity of the St. Mary Canal and associated infrastructure. Water diverted from the St. Mary River and conveyed to the North Fork Milk River through the St. Mary Canal comprises a range of 70–95 percent of the total flow in the Milk River, as measured in Havre, MT, from May through September, depending upon whether it was a dry or average year for precipitation (DNRC 2006²). Correspondingly, water conveyed through the St. Mary Canal comprises over half of the Milk River Project’s water supply in an average year (Reclamation 2012³).

A Preliminary Investigation Feasibility Report (PIFR), completed in 2021, investigated and studied possible solutions to address agricultural water management for the St. Mary Canal and associated infrastructure. As a result of the information obtained during the PIFR process, the level of National Environmental Policy Act (NEPA) analysis required an EIS. Estimated federal funds required for the construction of the proposed action may exceed \$25 million. The proposed action will therefore require congressional approval per the 2018 Agriculture Appropriations Act amended funding threshold. In accordance with 7 CFR 650.7(a)(2), an EIS is required for projects requiring congressional approval.

Preliminary Proposed Action and Alternatives

The objective of the EIS is to formulate and evaluate alternatives for agricultural water management along the St. Mary Canal alignment. The alternatives were preliminarily identified through the PIFR process as likely to be evaluated in the EIS, given their anticipated viability of meeting the purpose and need of the proposed watershed project. The EIS is expected to evaluate three alternatives: two action alternatives or no action alternative. The alternatives that may be considered for detailed analysis include:

¹Montana Department of Natural Resources and Conservation (DNRC). 2010. *St. Mary Diversion and Conveyance Facilities Failure and O&M Reference Guide*. Helena, MT.

²DNRC. 2006. *St. Mary Diversion Facilities Data Review, Preliminary Cost Estimate, and Proposed Rehabilitation Plan*. Helena, MT.

³U.S. Bureau of Reclamation (Reclamation). 2012. *St. Mary River and Milk River Basins Study Summary Report*. Billings, MT.

Alternative 1 - No Action: Taking no action would consist of activities carried out if no Federal action or funding were provided. No watershed project would be implemented, and the St. Mary Canal and associated infrastructure would not be modernized.

Alternative 2 - Proposed Action: This alternative would include the following system improvement measures including: canal lining and reshaping, siphon replacement, drop structure replacement, access road improvements, wasteway turnouts, underdrain replacements, and slide mitigation. Options for each measure would be evaluated.

Alternative 3 - Proposed Action: This alternative would include the following system improvement measures including: canal reshaping (no lining), siphon replacement, drop structure replacement, access road improvements, wasteway turnouts, underdrain replacements, and slide mitigation. Options for each measure would be evaluated.

Summary of Expected Impacts

Initial cost estimates of the proposed actions have determined that the Federal contribution to construction will exceed \$25 million, requiring congressional approval. Per 7 CFR 650.7, an EIS is required when projects require congressional action. The NRCS Montana State Conservationist, has determined that the preparation of an EIS is required for this watershed project. An EIS will be prepared as required by section 102(2)(C) of NEPA; the Council on Environmental Quality Regulations (40 CFR parts 1500-1508); and NRCS regulations that implement NEPA in 7 CFR parts 622 and 650. In addition, the EIS will be prepared in accordance with the Principles, Requirements, and Guidelines for Water and Land Related Resources Implementation Studies (PR&Gs, USDA NRCS 2017⁴). NEPA compliance will cover the analysis of various resource concerns listed below, while compliance with the PR&Gs will include additional assessments such as analyzing effects to ecosystem services and a National Economic Efficiency Analysis.

Environmental resources in the Milk River Project area consist of the natural and human-made environment. Resource issues identified through the PIFR process included water delivery efficiency issues, soil aggregate instability, soil organism habitat loss or

⁴USDA NRCS. (2017). *Guidance for Conducting Analyses Under the Principles, Requirements, and Guidelines for Water and Land Related Resources Implementation Studies and Federal Water Resource Investments*. <https://www.usda.gov/directives/dm-9500-013>.

degradation, surface water quality, and surface water quantity. Any additional resource issues will be identified and addressed in the EIS and potential for impacts will be analyzed for Cultural Resources, Economics, Soils, Land Use, Environmental Justice, Endangered and Threatened Species, Wildlife, Hydrology, Wetlands, Vegetation, and Climate Change.

Anticipated Permits and Authorizations

The following permits and authorizations are anticipated to be required:

- *Endangered Species Act (ESA) Consultation.* Consultation with the U.S. Fish and Wildlife Service will be conducted as required by the Endangered Species Act of 1973.
- *Tribal Consultation.* Consultation with the Blackfeet Tribe is required as the Canal lies completely within the Blackfeet Indian Reservation in Glacier County, MT. Required permits will be determined through consultation.
- *Section 106 Consultation.* Consultation with the Tribal Historic Preservation Office will be conducted as required by the National Historic Preservation Act (NHPA) of 1966.
- *Clean Water Act (CWA) Section 404 Permit.* Implementation of the proposed Federal action would require a CWA section 404 permit from the U.S. Army Corps of Engineers. Permitting with the U.S. Army Corps of Engineers regarding potential impacts will be finalized prior to final design and construction.
- *Ordinance 117 Permit.* Implementation of the proposed Federal action would require an Aquatic Lands Protection Ordinance 117 permit from the Blackfeet Nation.

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 at least 45 days as required by 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 6 months after publication of this NOI. A Final EIS is anticipated to be published within 6 months of completion of the public comment period for the DEIS.

NRCS will decide whether to implement one of the 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 the NRCS is the Montana NRCS State Conservationist.

Public Scoping Process

Public scoping meetings will be held in Browning, Havre, and Malta to determine the scope of the analysis presented in the EIS. Meetings are scheduled to occur in the summer of 2023 and will be held at selected public venues in each location. Exact meeting locations and times will be determined closer to the dates of the events. Public notices will be placed in local newspapers and on the NRCS, MRJBOC, and the U.S. Bureau of Reclamation websites. Additionally, a letter providing details on the public meetings and the scoping comment and objection processes will be sent to Federal and state agencies, Tribes, local landowners, and interested parties.

Public scoping meetings provide an opportunity to review and evaluate the Milk River Project alternatives, express concern or support, and gain further information regarding the Milk River Project. Comments received, including the names and addresses of those who comment, will be part of the public record. Comments submitted anonymously will be accepted and considered.

Identification of Potential Alternatives, Information, and Analyses

NRCS, MRJBOC, and the U.S. Bureau of Reclamation invite agencies, Tribes, and individuals that have special expertise, legal jurisdiction, or interest, to provide comments concerning the scope of the analysis and identification of potential alternatives, information, and analyses relevant to the Proposed Action in writing.

NRCS, MRJBOC, and the U.S. Bureau of Reclamation will use the scoping process to help fulfill the public involvement process under section 106 of the NHPA (54 U.S.C. 306108), as provided in 36 CFR 800.2(d)(3). Information about historic and cultural resources within the area potentially affected by the proposed action and alternatives will assist NRCS, MRJBOC, and the U.S. Bureau of Reclamation in identifying and evaluating impacts to resources in the context of both NEPA and section 106.

Native American Tribal consultations will be conducted in accordance with Tribal policy, and Tribal concerns will be given due consideration. In addition, Federal, State, and local agencies, along with other stakeholders that may be interested or affected by NRCS, MRJBOC, or the U.S. Bureau of Reclamation decisions on this Milk River Project, are invited to participate in the scoping process. Eligible entities may request or be requested by the NRCS to participate as a cooperating or participating agency.

Authorities

This document is published pursuant to the NEPA regulations regarding publication of a NOI to issue an EIS (40 CFR 1501.9(d)). This EIS will be prepared to evaluate potential environmental impacts as required by section 102(2)(C) of NEPA; the Council on Environmental Quality regulations (40 CFR parts 1500–1508); and NRCS regulations that implement NEPA in 7 CFR part 650. Watershed planning is authorized under the Watershed Protection and Flood Prevention Act of 1954, as amended, (Pub. L. 83–566) and the Flood Control Act of 1944 (Pub. L. 78–534).

Federal Assistance Program

The title and number of the Federal Assistance Programs as found in the Assistance Listing,⁵ 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 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 to direct Federal development. This Watershed Plan 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.)

⁵See <https://sam.gov/content/assistance-listings>.

should contact the responsible Agency or USDA TARGET Center at (202) 720–2600 (voice and text 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: <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 mail to: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or email: OAC@usda.gov.

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Kyle Tackett,

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Natural Resources Conservation Service.*

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