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STATE ENVIRONMENTAL POLICY ACT (SEPA)
DETERMINATION OF NONSIGNIFICANCE (DNS)
ADOPTION OF EXISTING DOCUMENT

Date of issuance: February 9, 2023

Lead Agency: City of Dayton

Staff Contact: City Clerk / Treasurer Deb Hayes dhayes@daytonwa.com

Name of proposal: US Fish and Wildlife Service - Dayton Pond Intake Facility Weir Repair Shoreline Conditional Use Permit and SEPA Environmental Review

Description of proposal: Repair the current weir and install a new Obermeyer Weir on the Touchet River, within a parcel owned by the City of Dayton (Columbia County Parcel #264771). The current weir has experienced erosion during high flows and is now undermined, causing concerns for stability of the structure and safety concerns for the public. The proposed work will stabilize the existing structure and riverbed both upstream and downstream. The installation of the new Obermeyer Weir will maintain the river channel.

Location of proposal: No address; the proposal site is located in the Touchet River (Hydrologic Unit Code 170701020308) east of the terminus of S Cottonwood St. in Dayton, west of the USACE levee, and situated in Section 30, Township 10 N, Range 39 E, W.M. Geo ID: 1160200350000. Full legal descriptions are on-file with the City of Dayton and available upon request; the parcels are within Rainwater and Mustard, Tax 35 (Rock Hill). The weir is located on Columbia County parcel no. 264771. Other potentially affected parcels are nos. 264569, 264768, 264773, 275544.

Proponent: US Fish and Wildlife Service: Amy Klein and/or Mark Robertson
Authorized Agent: Ryan Eldridge, P.E. (WCE Inc.); (208)319 – 9744 ext. 201, reldridge@wce-inc.com, 3813 W. State Street, Boise, Idaho 83703

Title of document being adopted: NEPA Categorical Exclusion

Date adopted document was prepared: January 11, 2023

Description of document being adopted: The US Fish and Wildlife issued an Environmental Action Statement (NEPA Categorical Exclusion) for Repair of the Dayton Pond Intake Facility Weir (attached)

The lead agency has identified and adopted this document as being appropriate for this proposal after independent review. The document meets our environmental review needs for the current proposal and will accompany the proposal to the decision maker.

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment and an environmental impact statement (EIS) is not required under RCW 43.21C.030 (2) (c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request. This determination is based on the following findings:

Findings:

1. The project area is located on the Touchet River, a Type S stream, and includes work on lands covered by water. The proposal is subject to review under the City of Dayton Shoreline Master Program (SMP); the project site is within the Aquatic and Urban Conservancy Environments, and *a Shoreline Conditional Use Permit is required for proposed armoring within the Type S stream*.
2. The following environmental information related to the proposal has been prepared and assessed in conjunction with the SEPA determination:
    - Wetland delineation: Prepared by Adaptive Environmental Planning, LLC on July 20, 2022
    - Biological assessment of anadromous and non-anadromous species: Prepared by Adaptive Environmental Planning, LLC on August 1, 2022
    - Archeological resources survey: Conducted and prepared by the United States Fish and Wildlife Service; prepared on February 14, 2022
    - Endangered Species Act Section 7(a)(2) Biological Opinion for the Dayton Dam Repairs, Touchet River (HUC 170701020308), City of Dayton, Washington. Issued December 13, 2022 by the US Dept of Commerce, National Oceanic and Atmospheric Administration – National Marine Fisheries Service, West Coast Region. Available at: . https://repository.library.noaa.gov/view/noaa/47938
3. The applicant is not proposing any new construction access roads and is proposing that the construction staging areas will be located in previously disturbed areas on the west side of the Touchet River which are maintained by WDFW. There is no proposed vegetation clearing for the Project.
4. The applicant proposes to employ temporary best management practices during construction to limit runoff onto the site and avert sediment or other contaminate runoff from the site. The best management measures will include use of silt fencing, straw wattles, and berms to direct runoff through BMP measures. Also, the applicant anticipates that construction will occur during a low water period on the river as well as during the summer season when runoff generating precipitation is less likely to occur.
5. Once the maintenance and construction on the weir are complete, the project proponent proposes to return the site to a similar condition to that before construction. The only proposed addition of impermeable surface is area from the roof of a small utility shed that will be installed within the existing fenced area at the site. The applicant does not anticipate permanent impacts to drainage patterns and does anticipate that there will be less maintenance required on the weir structure once the project is completed.
6. The applicant proposes efforts to allow downstream migration of fish around the project area during construction. Additionally, the proposal includes a plan for construction to occur during a period when minimal upstream and downstream movement of fish is occurring during the summer months and includes measures to limit fish interaction within the site. Once the project is complete, the condition of the weir and project area will remain largely similar to its current conditions.

7. The US Fish and Wildlife service issued a NEPA Categorical Exclusion on January 11, 2023.
8. The mitigation measures which have been identified in the project and environmental documents are sufficient and no further mitigation measures are necessary.

☑ This DNS is issued under WAC 197-11-340; the lead agency will not act on this proposal for 14 days from the date above. Comments must be submitted by **5:00 p.m. on February 23, 2023.** The Responsible Official will reconsider the DNS based on timely comments and may retain, modify, or, if significant adverse impacts are likely, withdraw the DNS. If the DNS is retained, it will be final after the expiration of the comment deadline.

SEPA Official Signature: Nicole Stickney Date Feb. 8, 2023

Responsible official: Nicole Stickney, AICP, Contract Planner

Address: c/o AHBL, Inc. 5804 Road 90 Ste H, Pasco, WA

Phone: 509-380-5883 / Email nstickney@ahbl.com

NOTE: The issuance of this Determination of Non-Significance (DNS) does not constitute project approval. The applicant must comply with all other applicable requirements of the City of Dayton and other agencies with jurisdiction prior to receiving construction permits.

Dayton Pond Intake Facility Weir Repair Shoreline Conditional Use Permit and SEPA Environmental Review

SEPA CHECKLIST

SEPA ENVIRONMENTAL CHECKLIST

Purpose of checklist:

Governmental agencies use this checklist to help determine whether the environmental impacts of your proposal are significant. This information is also helpful to determine if available avoidance, minimization or compensatory mitigation measures will address the probable significant impacts or if an environmental impact statement will be prepared to further analyze the proposal.

Instructions for applicants:

This environmental checklist asks you to describe some basic information about your proposal. Please answer each question accurately and carefully, to the best of your knowledge. You may need to consult with an agency specialist or private consultant for some questions. You may use "not applicable" or "does not apply" only when you can explain why it does not apply and not when the answer is unknown. You may also attach or incorporate by reference additional studies reports. Complete and accurate answers to these questions often avoid delays with the SEPA process as well as later in the decision-making process.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Instructions for Lead Agencies:

Please adjust the format of this template as needed. Additional information may be necessary to evaluate the existing environment, all interrelated aspects of the proposal and an analysis of adverse impacts. The checklist is considered the first but not necessarily the only source of information needed to make an adequate threshold determination. Once a threshold determination is made, the lead agency is responsible for the completeness and accuracy of the checklist and other supporting documents.

Use of checklist for nonproject proposals:

For nonproject proposals (such as ordinances, regulations, plans and programs), complete the applicable parts of sections A and B plus the SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (part D). Please completely answer all questions that apply and note that the words "project," "applicant," and "property or site" should be read as "proposal," "proponent," and "affected geographic area," respectively. The lead agency may exclude (for non-projects) questions in Part B - Environmental Elements –that do not contribute meaningfully to the analysis of the proposal.

A. Background [HELP]

1. Name of proposed project, if applicable:

US Fish and Wildlife Service - Dayton Pond Intake Facility Weir Repair

2. Name of applicant:

US Fish and Wildlife Service:
Amy Klein
Mark Robertson
Authorized Agent:
Ryan Eldridge, P.E. (WCE Inc.)

3. Address and phone number of applicant and contact person:

Amy Klein: (907) 786 – 3402, amy_klein@fws.gov
Mark Robertson: (208) 378 – 5323, mark_robertson@fws.gov

Ryan Eldridge P.E.: (208) 319 – 9744 ext. 201, reldridge@wce-inc.com, 3813 W. State Street, Boise, Idaho 83703

4. Date checklist prepared:

August 3rd, 2022

5. Agency requesting checklist:

City of Dayton

6. Proposed timing or schedule (including phasing, if applicable):

June 19, 2023	Mobilize the project
July 5 – 7, 2023	Divert Touchet River upstream of weir/ install in-river work pad downstream of weir
July 10 – 28, 2023	Repair the existing weir
July 31, 2023	Install cofferdam around Obermeyer Weir location and remove upstream diversion and divert water to right side of the weir
August 1 – 28, 2023	Construct the new Obermeyer Weir
August 28 – September 8, 2023	Remove Obermeyer Weir cofferdam and downstream work pad
September 15, 2023	Demobilize from the project

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.

No

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

- Wetland delineation: Prepared by Adaptive Environmental Planning, LLC on July 20, 2022
- Biological assessment of anadromous and non-anadromous species: Prepared by Adaptive Environmental Planning, LLC on August 1, 2022
- Archeological resources survey: Conducted and prepared by the United States Fish and Wildlife Service; prepared on February 14, 2022.

ADDED BY CITY OF DAYTON 2/8/2023:
• Environmental Action Statement (NEPA Categorical Exclusion) for the Repair of the Dayton Pond Intake Facility Weir, Issued January 11, 2023 by the United States Fish and Wildlife Service
• Endangered Species Act Section 7(a)(2) Biological Opinion for the Dayton Dam Repairs, Touchet River (HUC 170701020308), City of Dayton, Washington. Issued December 13, 2022 by the US Dept of Commerce, National Oceanic and Atmospheric Administration – National Marine Fisheries Service, West Coast Region. Available at:
. https://repository.library.noaa.gov/view/noaa/47938

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

No

10. List any government approvals or permits that will be needed for your proposal, if known.

Permit	**Approving Agency**
Section 404 Nationwide Perming (JARPA)	USACE
Section 408	USACE
Section 7 Consultation (Biological Assessment)	NMFS, USFWS
NEPA Compliance	USFWS
401 Water Quality Certification (JARPA)	Department of Ecology
Hydraulic Project Approval	WDFW
Section 106 Review	SHPO
Critical Areas Review	City of Dayton, Planning and Community Development
Shoreline Conditional Use Permit	City of Dayton, Planning and Community Development
SEPA	City of Dayton, Planning and Community Development
Building Permit	City of Dayton

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)

Repair the current weir and install a new Obermeyer Weir on the Touchet River, within the City of Dayton property parcel (Columbia County Parcel #264771). The current weir has experienced erosion during high flows and is now undermined, causing concerns for stability of the structure and safety concerns for the public. The proposed work will stabilize the existing structure and riverbed both upstream and downstream. The installation of the new Obermeyer Weir will maintain the river channel.

The Construction sequence generally consists of the following steps:

1. Construct a temporary river diversion upstream of the weir.
2. Install a temporary in-river work pad downstream of the weir.
3. Excavate emergency riprap on the downstream side of the weir, and temporarily place it in the staging area as stockpile or reuse the material for the downstream work pad.
4. Excavate native streambed material down to the bedrock on the downstream side of the weir.
5. Install precast concrete eco blocks on the leveled exposed bedrock surface on the downstream side of the weir to an elevation approximately one foot above the weir footing.
6. Backfill the downstream side of the eco blocks with riprap.
7. Core holes in the upstream portion of the weir in five-foot intervals, and pump concrete in between the eco blocks and void space beneath the weir to a height approximately equal to the top of the eco blocks.
8. Place riprap on top of the concrete eco blocks on the downstream side of the weir.
9. Repair existing riprap armoring along the left bank downstream of the weir by placing riprap at locations that have had riprap scoured from the bank.
10. Repair erosion on the right bank between the end of the weir and the levee toe.
11. Remove the temporary in-river work pad downstream of the weir and restore the riverbed channel to preconstruction conditions.

12. Install a temporary cofferdam around the location where the Obermeyer Weir will be installed and divert river flow to the repaired portion of the weir (right side) as well as continue to divert flow through the fish ladder/intake structure.
13. Install the new Obermeyer Weir.
14. Remove all temporary water diversions.

An approximate total area of 5,465 square feet will be permanently impacted below (waterward of) the ordinary high-water mark (OHWM) of the Touchet River, this includes the weir repair, the installation of the Obermeyer Weir, juvenile bypass pipe, bank repair, and erosion repair.

An approximate total area of 11,250 square feet will be temporarily impacted below (waterward of) the OHWM of the Touchet River, this includes the upstream diversion, Obermeyer Weir cofferdam, and the in-river work pad.

Refer to the Project Description, Drawings, and Photographs for a detailed description of proposed project actions, exhibits, and photos of the existing project area.

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

The entirety of the project will be performed on the City of Dayton property parcel which is approximately 6.2 acres in size. All staging and construction will occur within the U.S. Fish and Wildlife Service's easement on the parcel.

Street address: S. Cottonwood Street, Dayton, Washington 99328, Columbia County
Lat/Long: 46.31185 N Lat/ -117.97298 W Long
T10N, R39E, Sec 30 SE. W. M.
Tax Parcel: 264771
Geographic ID: 1160200350000
Legal Description (Abbrev.): RAINWATER & MUSTARD, TAX 35, (ROCK HILL)

Located on the Touchet River, access from the Dayton Acclimation Facility, which can be accessed from U.S. Highway 12 (Main Street through the City of Dayton), near milemarker 370.

Refer to the Project Description, Drawings, and Photographs for a detailed description of proposed project actions, exhibits, and photos of the existing project area.

The site is located approximately 0.6 miles south of US Highway 12/Main Street at the end of South Cottonwood Street (also named Cameron Street). These streets and highway will not be affected by the proposed project and construction.

B. Environmental Elements [HELP]

1. *Earth* [help]

a. General description of the site:

(circle one): Flat, rolling, hilly, steep slopes, mountainous, other __the site is riparian with a steep bank on the east side of the river and a levee on the west side of the river. Work will occur within the river banks in an area that is mostly flat.

b. What is the steepest slope on the site (approximate percent slope)?

Approximately 85% on the east bank near the structures and 35% on the west bank.

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils.

The NRCS Web Soil Survey shows that soil types in the project area is a cobbly silt loam. The soils are generalized and notated as Patit Creek, which is rated as "Farmland of Statewide Importance". However, the project will take place in and near the river channel, which is an area that is not suitable for farming. No agricultural land will be impacted.

There will be temporary soil disturbances to repair the weir and install the new Obermeyer Weir, but the project will be restored to pre-construction conditions after the work is completed. The staging area for the project is located on previously disturbed lands.

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

No

e. Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill.

Weir Concrete and Riprap Repair:

Purpose – To repair and stabilize the existing weir.
Type – Permanent, dredge and fill
Total Area – 3,325 square feet
Approximate Quantities – 175 cubic yards of concrete, 260 cubic yards of new riprap, and 133 cubic yards of reused riprap
Total Affected Area – 3,325 square feet
Source - The source of fill materials will be from local quarries and concrete suppliers.

Obermeyer Weir Installation:

Purpose – Allow WDFW the flexibility to create a higher velocity zone of flow along the face of the existing intake structure during high flow events in an effort to maintain the thalweg on the left side of the river near the fish ladder and intakes.
Type – Permanent, dredge and fill
Total Area – 100 square feet
Approximate Quantities – 20 cubic yards of dredge and 10 cubic yards of concrete
Total Affected Area – 100 square feet
Source – Obermeyer Hydro, Inc.

Upstream Gravel Removal:

Purpose – Allow the thalweg of the channel to stay on the left bank near the intake/fish ladder so that future maintenance dredging occurs less frequently by reducing the amount of material that may be transported downstream during a flood event.
Type – Permanent, dredge
Total Area – 750 square feet
Approximate Quantities – 200 cubic yards
Total Affected Area – 750 square feet
Source – Excavation

Juvenile Bypass Pipe:

Purpose – To minimize deposition of river sediment at the entrance of the discharge end of the pipe and ensure safe and effective juvenile transport.
Type – Permanent, fill
Total Area – 160 square feet
Approximate Quantities – 12 cubic yards
Total Affected Area – 160 square feet
Source – Isco Industries

Bank Repair:

Purpose – To protect against erosion from the increased velocities caused by the operation of the Obermeyer Weir.
Type – Permanent, fill
Total Area – 1000 square feet
Approximate Quantities – 75 cubic yards
Total Affected Area – 1000 square feet
Source – Locally

Erosion Repair:

Purpose – To repair and protect against erosion the right bank of the stream next to the weir.
Type – Permanent, fill
Total Area – 150 square feet
Approximate Quantities –5 cubic yards
Total Affected Area – 150 square feet
Source - Locally

Temporary Upstream River Diversion (berm and cofferdam):

Purpose – To create a dry area for the project area.
Type – Temporary, dredge and fill
Total Area – 2,425 square feet for the upstream diversion, 5,125 square feet for the upstream diversion dewatered area, 115 square feet for the Obermeyer Weir cofferdam, and 185 square feet for the Obermeyer Weir cofferdam dewatered area.
Approximate Quantities – 125 cubic yards of native materials for the diversion, and 20 cubic yards for the cofferdam
Total Affected Area – 7,850 square feet
Source – Native Material

Temporary In-River Work Pad:

Purpose – Allows dry construction access for the repair of the weir.
Type – Temporary, fill
Total Area – 2,400 square feet for riprap and 1,000 square feet for dewatered area
Approximate Quantities – 310 cubic yards of imported riprap and gravel
Total Affected Area – 3,400 square feet
Source - Locally

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.

A staging area will be located adjacent to the project area on previously disturbed land. There will be minimal vegetation removal or clearing associated with the project. There will also be an in-river work pad to minimize erosion in the construction area. Best Management Practices (BMPs) will be performed for the duration of the project, minimizing any additional erosion.

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

An 8 foot by 10 foot building (essentially a utility shed) to house the control mechanisms for the Obermeyer weir will be constructed at the intake structure adding 0.03 percent more impervious area to the property.

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

The construction access for the Project will be on the west side of the Touchet River, on an existing gravel access road maintained by WDFW. There will be no new construction access roads required for the Project. Additionally, the construction staging areas will be located in previously disturbed areas on the west side of the Touchet River which are maintained by WDFW. There is no proposed vegetation clearing for the Project. Best Management Practices will be installed in the construction access and staging areas where appropriate, to reduce erosion and capture surface runoff.

A temporary berm and cofferdam will be installed upstream of the work area to divert water from the site and prevent any unanticipated flux of river water.

2. Air [help]

a. What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known.

Gasoline and diesel engine emissions will be temporarily produced by equipment such as trucks, excavators, etc. Additionally, some dust emissions may be associated with the site during the duration of the project, which will be controlled with the use of a water truck or trailer; however, there will be no emissions after the completion of the project and during maintenance.

b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.

No.

c. Proposed measures to reduce or control emissions or other impacts to air, if any:

Engines will be turned off when not in use. The temporary emissions will be negligible and immediate to the project area. Dust control to be implemented using a water truck or trailer.

3. Water [help]

a. Surface Water: [help]

1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

The project is located on the Touchet River (a Type S Stream according to Washington State Department of Natural Resources) in Dayton, Washington. A majority of the project is located below the ordinary high-water mark (OHWM). There are wetlands in the immediate area.

2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

Yes, work will be conducted in the Touchet River, however, the river will be temporarily diverted during construction. A berm will be installed upstream of the current weir, which will divert approximately 90 cubic feet per second (cfs) of water into the existing intake facility/ fish ladder, and discharge into the Touchet River downstream of the weir through the existing fish ladder entrance. The temporary diversion will be discontinued once the work is completed.

3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.

Waters of the US Permanent Impacts

Items # and Feature	Area (Square feet / [acre])	Dredge (Cubic yards)	Fill (Cubic yards)	Fill Type
Permanent Impacts				
#1 – Weir Repair Concrete	600 / [0.014]	175	175	Concrete
#2 – Weir Repair New Riprap	1,825 / [0.042]	260	260	Riprap
#3 – Weir Repair Reused Riprap	900 / [0.021]	133	133	Riprap
#4 – Obermeyer Weir	100 / [0.0002]	20	10	Concrete
#5 – Upstream Gravel Removal	730 / [0.0168]	200	0	--
#6 – Juvenile Bypass Pipe	160 / [0.004]	12	12	Plastic Pipe and Bedding
#7 – Bank Repair	1,000/ [0.023	0	75	Riprap
#8 – Erosion Repair	150 / [0.003]	5	5	Native Material
TOTAL	5,465 / [0.125]	805	670	--

Waters of the US Temporary Impacts

Item # and Feature	Area (Square feet / [acre])	Dredge (Cubic yards)	Fill (Cubic yards)	Fill Type
Temporary Impacts				
#9 – Upstream River Diversion	2425 / [0.056]	125	125	Native Material
#10 – Upstream River Diversion Dewatered Area	5,125 / [0.118]	--	--	--
#11 – Obermeyer Weir Cofferdam	115 / [0.003]	0	20	Native Material Filled Propylene Bags
#12 – Obermeyer Weir Cofferdam Dewatered Area	185 / [0.004]	--	--	--
#13 – In-River Work Pad	2,400 / [0.055]	0	310	Native Material Filled Propylene Bags
#14 – In-River Work Pad Dewatered Area	1,000 / [0.023]	--	--	--
TOTAL	11,250 / [0.258]	125	455	--

Riprap and concrete will be supplied from local quarries.

4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.

A berm will be temporally installed upstream of the weir, diverting water into the existing intake facility/ fish ladder, then discharging into the Touchet River downstream of the wier through the existing fish ladder entrance. Native material will be used to form the berm. Approximately 125 cubic yards of temporary fill will be installed in the Touchet River. Additionally, a cofferdam will be constructed near the upstream side of the new Obermeyer Weir installation, preventing water from seeping into the excavation site. The cofferdam will be constructed from polypropylene bags filled with water, or bulk bags filled with native sediment. Approximately 20 cubic yards of temporary fill will be installed in the Touchet River.

5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.

Yes. The project area is below (waterward of) the OHWM and is located within the 100-year floodplain. The staging area is upland of the project area and is not located within the 100-floodplain.

6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

No waste materials will be directly discharged to surface waters. There will be increased turbidity in the Touchet River near the project area during construction and will be monitored according to requirements set in the 401 Water Quality Certification Permit from the Department of Ecology. It is anticipated that these requirements will include turbidity monitoring, turbidity curtains, and alternative measures if turbidity is above allowed values. No additional discharges of waste materials to surface waters are anticipated.

b. Ground Water: [help]

1) Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known.

There will be no groundwater used for the project.

2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals. . . ; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

There will be no waste discharged into the ground for the project.

c. Water runoff (including stormwater):

1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

Best management practices will be used to limit stormwater runoff to the project site. Runoff from the site will be controlled and best management practices will be used to limit sedimentation and/or other contaminates from entering the stormwater before leaving the site.

2) Could waste materials enter ground or surface waters? If so, generally describe.

Waste materials are not anticipated to enter the surface waters at the site. Waste materials will be limited, and housekeeping management practices will be employed. Waste materials will be contained in a roll off container upland from the water ways. This roll off container will be emptied periodically, covered during rain events, and placed behind a containment berm to limit run off from the area.

3) Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe.

There will be no permanent change to the drainage patterns at the site. Temporary changes will occur within the river to divert the Touchet River waters around the work area, but no other changes are anticipated.

d. Proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any:

Temporary best management practices will be employed during construction to limit runoff onto the site and avert sediment or other contaminate runoff from the site. It is anticipated that construction will occur during a low water period on the river as well as during the summer season when runoff generating precipitation is less likely to occur. Management measures to control impacts during construction will include use of silt fencing, straw wattles, and berms to direct runoff through BMP measures.

Once the maintenance and construction on the weir are complete, the project site will be left in a similar condition to that before construction. The only addition of impermeable surface is area from the roof of a small utility shed that will be installed within the existing fenced area at the site. No permanent impacts to drainage patterns are anticipated.

*4. **Plants*** [help]

a. Check the types of vegetation found on the site:

____deciduous tree: alder, maple, aspen, other
____evergreen tree: fir, cedar, pine, other
__X_shrubs
__X_grass
____pasture
____crop or grain
____Orchards, vineyards or other permanent crops.
__X_wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other
___water plants: water lily, eelgrass, milfoil, other
____other types of vegetation

b. What kind and amount of vegetation will be removed or altered?

Minimum disturbance to vegetation is anticipated as part of this project. Approximately 1000 square feet of disturbance is anticipated on the left bank of the project and 150 square feet is anticipated on the right bank of the project. The left bank consists mostly of riprap boulders with some interspersed vegetation in the voids. In these areas vegetation may be altered during the construction of the repairs.

The right bank consists of some riprap and grasses which will be altered to make the repairs on the right side of the weir. In these areas some grasses will be removed.

c. List threatened and endangered species known to be on or near the site.

No known threatened and endangered vegetation species are known to be on or near the site.

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

There is no proposed landscaping for the project.

e. List all noxious weeds and invasive species known to be on or near the site.

Possible noxious weeds known to be in the area from the invasivespecies.wa.gov database are: Brazilian Eloda, Common Reed, Eurasian Watermilfoil, Japanese Knotwood, Knapweeds, Parrotfeather, Purple Loosestrife, and Saltcedar

5. Animals [help]

a. List any birds and other animals which have been observed on or near the site or are known to be on or near the site.

Wallowa and Touchet stock summer steelhead, spring Chinook salmon, rainbow trout, bull trout, Northwest white-tailed deer, and yellow-billed cuckoo are known to be at the site.

b. List any threatened and endangered species known to be on or near the site.

Bull trout - Salvelinus confluentus
Steelhead - Oncorhynchus mykiss
Yellow-billed Cuckoo – Coccyzus americanus
Monarch Butterfly – Danaus plexippus

c. Is the site part of a migration route? If so, explain.

Yes, the site is a known fish migration habitat area and juvenile rearing occurs within the area.

d. Proposed measures to preserve or enhance wildlife, if any:

During construction, efforts will be undertaken to allow downstream migration of fish around the project area. Additionally, construction will occur during a period when minimal upstream and downstream movement of fish is occurring during the summer months and will include measures to limit fish interaction within the site. Once the project is complete, the condition of the weir and project area will remain largely similar to its current conditions.

e. List any invasive animal species known to be on or near the site.

No known invasive animal species are present at the site.

6. Energy and Natural Resources [help]

a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.

The facility has an existing electrical connection which will meet the needs of the project to operate air compressors and controls for the Obermeyer Weir.

b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.

No project actions would affect solar energy usage.

c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:

Motors and components will be sized for their purpose and will not be oversized.

7. Environmental Health [help]

a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe.

The construction of the project will utilize large machinery and equipment on-site; best management practices will be followed so no impacts during the operations and re-fueling efforts will occur. Measures, such as a daily inspection of machinery, and defective equipment will not be allowed in or near the river. These measures will be in the Stormwater Pollution Prevention Plan and Water Quality Projection Plan once they are developed prior to construction.

1) Describe any known or possible contamination at the site from present or past uses.

There is no known contamination present at the project site area. The past use of this site does not indicate any land uses that would present contamination.

2) Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity.

There are no known hazardous/chemical conditions at the project area.

3) Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project.

Gasoline and diesel will be utilized during construction. All hazardous materials will be properly stored during construction. There will be no hazardous materials associated with completion of the project.

4) Describe special emergency services that might be required.

No special emergency services are anticipated to be needed for this project.

5) Proposed measures to reduce or control environmental health hazards, if any:

Vehicle engines will be turned off when not in use. All hazardous materials will be properly stored during construction. Daily inspections of machinery will be observed, any defective equipment will not be allowed in or near the Touchet River. Clean out for concrete trucks and residual from the pump will be completed in the designated staging area.

b. Noise

1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

Occasional construction equipment.

2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

During construction, noise will be generated from vehicles and equipment. This noise will be temporary and will occur within normal hours of operation.

3) Proposed measures to reduce or control noise impacts, if any:

Construction will take place during normal hours of operation. No other measures are proposed to reduce noise impacts.

8. Land and Shoreline Use *[help]*

a. What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe.

Current use of the Site:
The site is currently used as an intake for the Dayton Acclimation Pond and for local irrigators. Access to the site by the public is limited through "No Trespassing" signage as well other posted signs. The public still attempts to access the site and use it for recreation purposes.

Upstream and downstream of the site public use is allowed and during summer months is accessed by the general public. No long-term effects are anticipated for the uses of the land within the area and on adjacent properties.

Adjacent properties include the following:
(West) Columbia County, Open space recreational use, property ID 264772 and 264768
(Northeast) United States Army Corps of Engineers property, property ID 264773
(Southwest) Eslick, Paul F Trust ½ (S), Private property, property ID 264769

b. Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses as a result of the proposal, if any? If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to nonfarm or nonforest use?

No, the project area has not been used as working farmlands or working forest lands.

1) Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how:

No, the project will not either affect or be affected by surrounding working farm or forest land business operations.

c. Describe any structures on the site.

The Site consist of the following structures:

- Weir which is a 120 foot by 5-foot concrete structure

- Fenced operations area
- Concrete intake structure
- Concrete fish ladder
- Electrical panels
- Traveling screens for debris removal
- Adjacent to the project site is a flood protection levee

d. Will any structures be demolished? If so, what?

No structures will be demolished, except that the current weir will be replaced.

e. What is the current zoning classification of the site?

The current zoning classification of the Site is: Open space recreational

f. What is the current comprehensive plan designation of the site?

Open space recreational

g. If applicable, what is the current shoreline master program designation of the site?

Aquatic Environment. The upland areas (extending 200 feet laterally from the OHWM) are designated as Urban Conservancy Environment. (Ord. 1910 Exhibit 6, Appendix A)

h. Has any part of the site been classified as a critical area by the city or county? If so, specify.

The site is partially within the OHWM and is bounded by the USACE levees. This is a delineated wetland on the right bank of the river immediately upstream of the site that is inundated during various flow events.

i. Approximately how many people would reside or work in the completed project?

None

j. Approximately how many people would the completed project displace?

None.

k. Proposed measures to avoid or reduce displacement impacts, if any:

N/A

l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:

The proposed project will not significantly change the current structures and operation of the facility. It is anticipated that less maintenance will be required on the structure once the project is completed.

m. Proposed measures to reduce or control impacts to agricultural and forest lands of long-term commercial significance, if any:

None. There are no anticipated impacts to agricultural and forest lands.

9. Housing [help]

a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.

None

b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

None

c. Proposed measures to reduce or control housing impacts, if any:

None

10. Aesthetics [help]

a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

The tallest structure is the proposed shed that is 9 foot tall and will consist of a wood construction.

b. What views in the immediate vicinity would be altered or obstructed?

No views will be permanently altered or obstructed from this project; however, there will be some temporary construction equipment on the Site for the duration of the project, temporarily altering or obstructing views.

b. Proposed measures to reduce or control aesthetic impacts, if any:

N/A

11. Light and Glare [help]

a. What type of light or glare will the proposal produce? What time of day would it mainly occur?

The project is not anticipated to produce any light or glare. However, construction will occur within normal business/operating hours.

b. Could light or glare from the finished project be a safety hazard or interfere with views?

No, the finished project will not produce any light or glare.

c. What existing off-site sources of light or glare may affect your proposal?

No existing off-site sources of light or glare would affect the project.

d. Proposed measures to reduce or control light and glare impacts, if any:

Due to the lack of expected light and glare impacts, no measures are proposed.

12. Recreation [help]

a. What designated and informal recreational opportunities are in the immediate vicinity?

Fishing, hiking/walking, swimming, ballfields, watersports

b. Would the proposed project displace any existing recreational uses? If so, describe.

The Site and associated construction areas will be closed to the public for the duration of the project (June – September 2023).

No long-term changes to recreational opportunities are anticipated for this project.

c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

The Site and associated construction areas will be closed to the public for the duration of the project (June – September 2023).

13. Historic and cultural preservation [help]

a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers? If so, specifically describe.

No.

b. Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources.

No.

c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc.

A cultural resource/archaeological clearance survey was performed by USFWS personnel as part of this project. A clearance consultation occurred on December 7, 2021, with the Confederated Tribes of the Colville Reservation, Nez Perce Tribe and the Confederated Tribes of the Umatilla Indian Reservation. The Umatilla Tribe requested a survey of the project area.

A survey of the Area of Potential Effects was conducted on February 10, 2022. The area is highly disturbed from previous construction activities for siting of the facility and subsequent activities by the City of Dayton in the Staging Area. No cultural resources were identified during the survey.

d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.

A cultural survey has been conducted at the site and no resources were found. An inadvertent discovery plan will be in place requiring the contractor to stop work and contact the USFWS in the event of an inadvertent discovery. USFWS cultural resources personnel will follow established protocols for the handling of the discovery.

14. Transportation [help]

a. Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any.

The site currently has access to the street system and no changes are planned. The closest highway to the Site is US Highway 12, which is named Main Street through the City of Dayton. It is approximately 0.6 miles from the Site. The site is accessed from South Cottonwood Street (also named Cameron Street). These roads will not be affected by the proposed project and construction.

b. Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop?

No.

c. How many additional parking spaces would the completed project or non-project proposal have? How many would the project or proposal eliminate?

None.

d. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private).

No.

e. *Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.*

No.

f. *How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and nonpassenger vehicles). What data or transportation models were used to make these estimates?*

No additional vehicle trips will be generated by the project.

g. Will the proposal interfere with, affect or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe.

No.

h. Proposed measures to reduce or control transportation impacts, if any:

N/A

15. Public Services [help]

a. Would the project result in an increased need for public services (for example: fire protection, police protection, public transit, health care, schools, other)? If so, generally describe.

No.

b. Proposed measures to reduce or control direct impacts on public services, if any.

N/A

16. Utilities [help]

a. Circle utilities currently available at the site:
electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other _____

b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

No additional utilities will be required for the project. A portable sanitation facility will be used during construction; this facility will be kept upland in a contained area.

C. Signature [HELP]

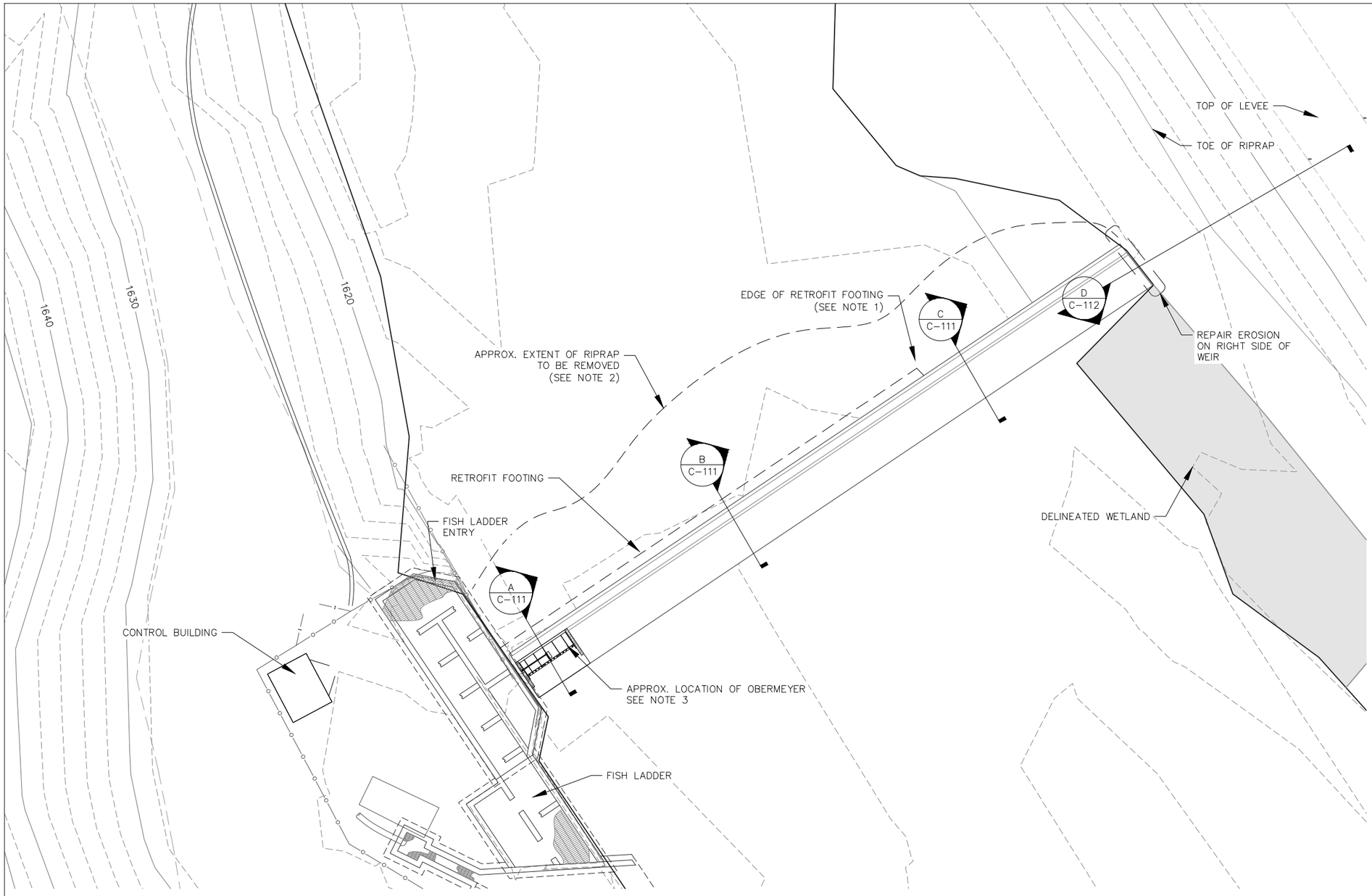
The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: Ryan A. Eldridge
Name of signee Ryan A. Eldridge
Position and Agency/Organization Senior Project Manager/Water, Civil, and Environmental Inc.
Date Submitted: 08/04/2022

ADDED BY CITY OF DAYTON 2/8/2023:
This is the last page of the SEPA Checklist (Part D is not required)

Dayton Pond Intake Facility Weir Repair Shoreline Conditional Use Permit and SEPA Environmental Review

PROJECT DRAWINGS



1 — 1" = 10'
WEIR REPAIR ENLARGED PLAN VIEW

NOTES:
1. RETROFIT FOOTING INSTALLED PREVIOUSLY DOES NOT EXTEND ACROSS ENTIRE FACE OF WEIR.
2. REMOVE AND STOCK PILE RIPRAP TO ALLOW PLACEMENT OF BULKHEAD FOR CONCRETE WORK.
3. SEE SHEET C-120 OBERMEYER WEIR TO BE CONSTRUCTED ONCE FOOTING REPAIR IS COMPLETED.

N

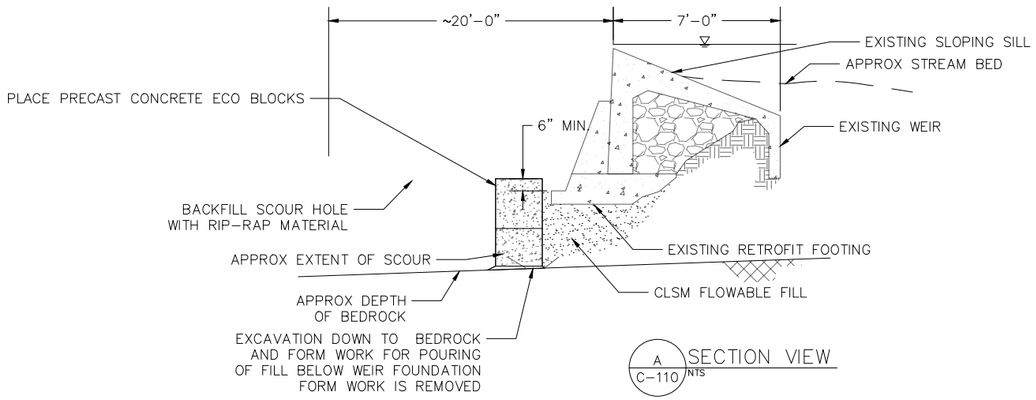
WATER, CIVIL, AND ENVIRONMENTAL INC.

VERIFY SCALE
THIS BAR IS ONE INCH ON ORIGINAL DRAWING
0" ——— 1"
ADJUST SCALES ACCORDINGLY, IF NOT ONE INCH ON THIS SHEET

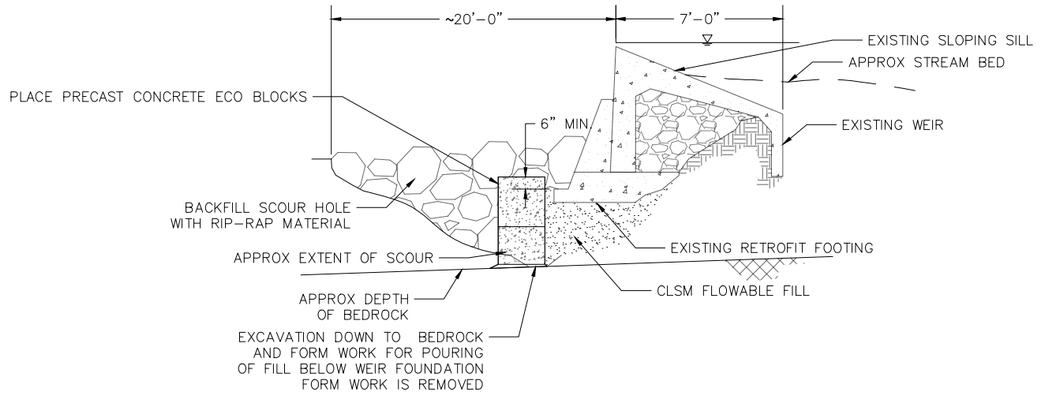
REV	DATE	DESCRIPTION	BY

DAYTON POND INTAKE FACILITY
WEIR REPAIR
WEIR PLAN VIEWS

DESIGNED	DRAWN	CHECKED	DATE	DRAWING NO.
RAE	KS	RAE	10/7/21	C-110



A C-110 SECTION VIEW NTS



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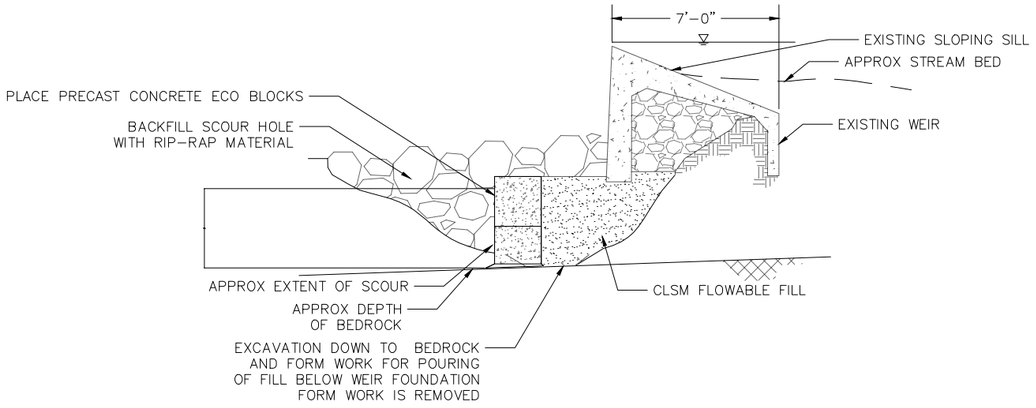

C C-110 SECTION VIEW NTS

WATER, CIVIL, AND ENVIRONMENTAL INC.

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REV	DATE	DESCRIPTION	BY

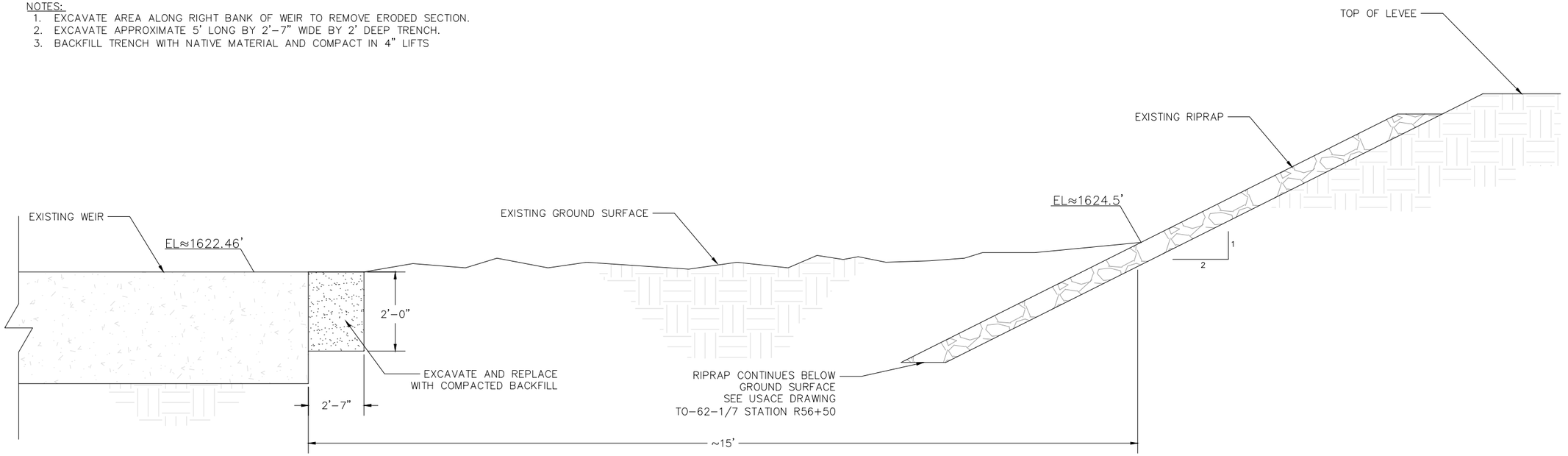
DAYTON POND INTAKE FACILITY

WEIR REPAIR

WEIR SECTION VIEWS

DESIGNED	DRAWN	CHECKED	DATE	DRAWING NO.
KF	KS	RAE	10/20/21	C-111

NOTES:
1. EXCAVATE AREA ALONG RIGHT BANK OF WEIR TO REMOVE ERODED SECTION.
2. EXCAVATE APPROXIMATE 5' LONG BY 2'-7" WIDE BY 2' DEEP TRENCH.
3. BACKFILL TRENCH WITH NATIVE MATERIAL AND COMPACT IN 4" LIFTS



D / C110 SECTION VIEW
NTS

WATER, CIVIL, AND ENVIRONMENTAL INC.

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REV	DATE	DESCRIPTION	BY

DAYTON POND INTAKE FACILITY
WEIR REPAIR
WEIR SECTION VIEWS

DESIGNED	DRAWN	CHECKED	DATE	DRAWING NO.
KF	KS	RAE	10/20/21	C-112

Dayton Pond Intake Facility Weir Repair Shoreline Conditional Use Permit and SEPA Environmental Review

NEPA CATEGORICAL EXCLUSION

Memorandum

To: Dayton Pond Intake Facility File; Lower Snake River Compensation Plan Office, Boise, Idaho

From: Nate Wiese, Administrator

Date: January 11, 2023

Subject: Environmental Action Statement (NEPA Categorical Exclusion) for Repair of the Dayton Pond Intake Facility Weir

UNITED STATES FISH AND WILDLIFE SERVICE

ENVIRONMENTAL ACTION STATEMENT FOR CATEGORICAL EXCLUSION

Within the spirit and intent of the Council of Environmental Quality's regulations for implementing the National Environmental Policy Act (NEPA) (40 CFR§1500-1508), and other statutes, orders, and policies that protect fish and wildlife resources, the following administrative documentation has been established consistent with the requirements of 40 CFR§1508.4 and 516 DM 2.3A.

Project Location

The project is located within city limits of the City of Dayton in Columbia County, Washington (Figure 1). The project area is located within the Upper Walla Walla watershed on the Touchet River (Hydrologic Unit Code 170701020308) at an approximate elevation of 1,610 feet above mean sea level. Specifically, it is located in Section 30, Township 10N, Range 39E; coordinates 46.31185° / -117.97298° (WGS84); and Columbia County parcels 264569, 264768, 264771, 264773, 275544.

Existing Conditions

The Dayton Pond Intake Facility is owned by the U.S. Fish and Wildlife Service (USFWS) and operated by the Washington Department of Fish and Wildlife (WDFW). It is part of the infrastructure authorized under the Lower Snake River Compensation Plan (LSRCP) by the Water Resources Development Act of 1976, Public law 94-587, to offset losses caused by the construction and operation of the four Lower Snake River Dams and navigation lock projects. USFWS is providing funding for the Proposed Action.

The Dayton Pond Intake Facility Weir (Weir) consists of a 120 foot (ft.) by 5 ft. concrete structure. The Weir spans the entire width of the Touchet River, connecting with a fish ladder/intake structure on the left bank, and a U.S. Army Corp of Engineers (USACE) levee on the right bank. The Weir is designed to divert water into an intake collection system that

transports water to the Dayton Acclimation Facility, which is operated by the WDFW. Water from the intake is also diverted into a local irrigation company's canal system. In addition to water intake diversion, the Weir directs most upstream migrating fish into the fish ladder which provides year-round upstream fish passage along with trapping/collection capabilities by WDFW. The Dayton Acclimation Facility is used for the acclimation/release of Wallowa (non-ESA listed) and Touchet stock (ESA listed) summer steelhead, and Carson stock (non-ESA listed) spring Chinook salmon (*Oncorhynchus tshawytscha*). Refer to Figure 2 for details of the existing conditions and Figure 9 for details of the existing easement and parcel boundaries.

The Weir was constructed in 1986, however, modifications were made to the Weir in 2007 to increase its stability by installing additional concrete at the downstream base. Other modifications to the Weir in 2007 included the installation of a fish ladder/trap, acclimation pond intake improvements, and the irrigation company's intake improvements on the left bank of the Touchet River. Before the 2007 improvements, there was no fish ladder/trap and the Weir was not fish passable under low flow conditions. In addition, the irrigation company used to enter the Touchet River and mechanically create push-up berms to divert and/or pump water into their canal system. Since the 2007 improvements, the new fish ladder/trap and intake system eliminated the need to enter the river mechanically to create these push-up berms. If the Weir failed or was not in place, then WDFW would have to modify their current salmon/steelhead released (direct stream release vs acclimation) and the irrigation company would require annual disturbance in the Touchet River to divert water into their intake system to fulfill their water rights.

The Weir has experienced erosion during high flows in the river and is currently undermined causing concerns for the stability of the structure, in addition to safety concerns for the public who utilize the area. Emergency riprap was installed downstream of the Weir in 2021 to temporarily prevent additional erosion until a full repair could be performed. Repairs are required to stabilize the existing structure, stabilize the riverbed both upstream and downstream so that the Weir does not fail under high flow events in the Touchet River, and to ensure continued implementation of the LSRCP legally mandated fish mitigation hatchery production programs.

Proposed Action

In order to repair the Weir and stabilize the riverbed both upstream and downstream, construction activities will require in-water work across the entire width of the Touchet River. Construction would occur during the irrigation season and water would be diverted into the irrigation company's system during repair of the Weir. Water may be diverted through the Dayton Acclimation Pond but only as a method to pass more flows downstream during construction to reduce flow velocities in the fish ladder and not for the acclimation of fish. Weir repair construction activities will be performed by a qualified licensed contractor in the state of Washington and the use of heavy mechanized equipment will be required in the form of excavators, loaders, and dump trucks. Refer to Figures 3 through 8 for details of the Proposed Action.

Weir Concrete and Riprap Repair (Permanent Action)

Repair of the Weir consists of removing the existing material, prepping the foundation, and installing new material to stabilize the Weir. The following describes the construction activities associated with the Weir repair:

- Construct a temporary river diversion upstream of the Weir.
- Install a temporary in-river work pad downstream of the Weir.
- Excavate emergency riprap on the downstream side of the Weir, and temporarily place it in the staging area as a stockpile or material for the work pad.
- Excavate native streambed material down to the bedrock on the downstream side of the Weir.
- Install precast concrete eco blocks on the leveled exposed bedrock surface on the downstream side of the Weir one foot above the weir footing.
- Backfill the downstream side of the eco blocks with riprap.
- Core holes in the Weir at approximate five-foot intervals, and pump concrete in between the eco blocks and the Weir filling open spaces underneath and downstream of the Weir.
- Place riprap on top of the concrete on the downstream side of the Weir.
- Place riprap along the left bank downstream of the weir.
- Repair erosion on the right bank (levee) alongside the existing weir.
- Remove the temporary in-river work pad downstream of the Weir and restore the riverbed channel to preconstruction conditions.
- Install temporary cofferdam around the Obermeyer Weir and divert river flow to the completed portion of the Weir (right side) as well as continue to divert flow through the fish ladder/intake structure.
- Install the new Obermeyer Weir.
- Remove all temporary water diversions.

Concrete and riprap material will be dredged downstream of the Weir below the ordinary high-water mark (OHWM) of the Touchet River to make room for Weir concrete and riprap repair measures. Once the material has been removed, new concrete and new/reused riprap material will be filled inside and downstream of the Weir below the OHWM of the Touchet River. Dredging and filling activities will be performed in the dry, while the river channel is diverted.

Erosion along the right bank (levee) of the Touchet River (~20 feet) will be repaired by excavating and recompacting native material below the OHWM. The material will be recompacted to reduce permeability around the edge of the weir associated with the USACE levee. The native material will be excavated and recompacted with the excavator from the in-water work pad. The purpose of this action is to eliminate erosion and water leakage around the edge of the Weir.

Obermeyer Weir (Permanent Action)

A new Obermeyer Weir (10 feet wide) will be installed on the left side of the existing weir, adjacent to the fish ladder. The raised elevation of the new Obermeyer Weir will be approximately 4 inches lower than the crest of the existing weir concrete structure, while the

lowered elevation will be four feet below the crest. The new Obermeyer Weir will allow WDFW the flexibility to create a higher velocity zone of flow along the face of the existing intake structure during high flow events in an effort to maintain the thalweg on the left side of the river near the fish ladder and intakes. It will be lowered during the leading edge of high flow hydrographs (>3 feet per second [fps]) and raised at the trailing edge (<3 fps) which is estimated to be several days per event. WDFW will manually operate the new Obermeyer weir and normal operating procedures will be in the raised condition. It is anticipated that the water surface elevation immediately upstream of the Weir will decrease by approximately 1.25 feet if the Obermeyer Weir is lowered during a 100-year recurrence interval flood event. Approximately 200 cubic yards of material will be excavated out of the Touchet River immediately upstream of the new Obermeyer weir so that these gravels and cobbles do not wash downstream during the first flood event and potentially deposit in areas that were recently dredged by Columbia County in April 2021.

A new Obermeyer Weir control building will be installed on the left bank of the river in the existing fenced upland area adjacent to the fish ladder/intake structure.

Juvenile Bypass Pipe (Permanent Action)

The existing juvenile bypass pipe outlet leading into the Touchet River is located downstream of the fish ladder/intake structure. The bypass pipe will be extended 115 feet downstream from its existing location to minimize the deposition of river sediment at the entrance of the discharge end of the pipe to ensure safe and effective juvenile transport. The bypass pipe currently plugs with sediment and juvenile fish are unable to be transported through the pipe. Extending it downstream will move it outside of the Weir deposition zone reducing the frequency of plugging.

Bank Repair (Permanent Action)

Existing riprap along the left bank of the Touchet River (~120 feet) downstream of the weir below the OHWM will be repaired/repositioned and augmented to protect against erosion from the increased velocities caused by the operation of the Obermeyer Weir. Existing juvenile vegetation will be removed from this area to allow for the bank repair and no mature vegetation will be removed. After the riprap has been installed on the bank, willow cuttings from a local source will be installed in between the riprap at the OHWM for the ~120-foot disturbed reach of the bank. The willow cuttings will be installed at a rate of ~3 cuttings per 5 square feet and embedded in native soil ~18 inches.

Permanent Impact Summary Table

Component	Area (sf)	Dredge (cy)	Fill (cy)	Fill Type
Weir Repair Concrete	600	175	175	Concrete
Weir Repair New Riprap	1,825	260	260	Riprap
Weir Repair Reused Riprap	900	133	133	Riprap
Obermeyer Weir	100	20	10	Concrete
Upstream Gravel Removal	730	200	0	--
Juvenile Bypass Pipe	160	12	12	Plastic Pipe and Bedding
Bank Repair	1,000	0	75	Riprap
Erosion Repair	150	5	5	Native Earth and Gravel
TOTAL	5,465	805	670	--

Upstream River Diversion (Temporary Action)

To perform work in the Touchet River, the river will be temporarily diverted during construction. A berm will be installed upstream of the Weir, which will divert river water (estimated 90 cfs) into the existing intake facility/fish ladder (estimated180 cfs capacity), and discharge into the Touchet River downstream of the Weir through the existing fish ladder entrance. The anticipated flow splits at the intake facility/fish ladder include ~6 cfs into the irrigation company's system, ~6 cfs into the acclimation pond, and ~78 through the fish ladder. The area between the berm and the Weir will be dewatered during construction activities. In the rare occasion that river flows exceed the fish ladder/intake structure capacity, flows would be directed over the weir. Flow velocities in the fish ladder are anticipated to be high during this 4-week diversion and no upstream fish passage is proposed. Native material in the riverbed will be used to form the berm and it will direct water towards the intake structure.

Fish salvage will be performed in the area downstream of the berm and the Weir. WDFW staff will perform the fish salvage by crowding and netting fish starting from the upstream side until fish have relocated/removed from the dewatered work area. Another fish salvage option is to electroshock the fish and relocated them from the dewatered work area. All fish be collected and placed in buckets temporarily and will be released immediately upstream of the Project.

Additionally, a cofferdam will be constructed near the upstream side of the new Obermeyer Weir preventing water from seeping into the excavation site. The cofferdam will be constructed from polypropylene bags filled with water or bulk bags filled with native sediment. The work area will be dewatered during construction activities.

In-River Work Pad (Temporary Action)

A work pad (12 feet wide by ~135 feet long) will be constructed on the downstream side of the Weir in the river, allowing dry construction access for the repair of the Weir. The work pad will be made of imported riprap and gravel and will be removed when construction is complete. Additionally, the work pad will prevent water from backflowing into the construction area and the area between the work pad and the Weir will be dewatered during construction activities. Two 48-inch culverts (20 feet long) will be installed under the work pad to pass the diversion

flows from the fish ladder entrance. A riprap ramp will be temporarily constructed on the left bank downstream of the fish ladder/intake structure, allowing construction access to the work pad. Fish salvage will be performed in the area between the weir and work pad and will be performed by WDFW staff and any salvaged fish will be released downstream of the Project.

Once construction is complete, the river channel will be restored to pre-construction conditions (excluding the dredged area immediately upstream of the new Obermeyer weir), both upstream and downstream of the Weir.

Construction Access and Staging Area (Temporary Action)

Construction access for the Project will be on the west side of the Touchet River, on an existing gravel access road maintained by WDFW (Figure 2). There will be no new construction access roads required for the Project. Construction staging areas will be located in previously disturbed areas on the west side of the Touchet River which are maintained by WDFW. No vegetation is proposed for clearing. The staging area is approximately three acres and is not located in waters of the US or wetlands. Best Management Practices will be installed in the construction access and staging areas immediately adjacent to the river, to reduce erosion and capture surface runoff.

Temporary Impact Summary Table

Component	Area (sf)	Dredge (cy)	Fill (cy)	Fill Type
Upstream River Diversion	2,425	125	125	Native Gravels/Cobbles
Upstream River Diversion Dewatered Area	5,125	--	--	--
Obermeyer Weir Cofferdam	115	0	20	Native Gravels/Cobbles Fill Propylene Bags
Obermeyer Weir Cofferdam Dewatered Area	185	--	--	--
In-River Work Pad	2,400	0	310	Riprap
In-River Work Pad Dewatered Area	1,000	--	--	--
TOTAL	11,250	125	460	--

No Action Alternative

A No Action alternative was considered but not selected for the project. Not repairing the Weir would put the USFWS Dayton Pond Intake Facility at risk of failure during elevated flows in the Touchet River which ultimately could result in no water being diverted to the acclimation pond or the irrigation company's canal system. During elevated flow events that could cause the Weir to fail, it would also pose a health and human safety risk to any staff operating the facility, members of the public who utilize this area, and lead to potential flooding downstream in the City of Dayton associated with river bedload deposition near the Highway 12 bridge.

Public Involvement/Interagency Coordination

Public involvement was not performed for the Proposed Action.

USFWS initiated formal consultation with the USFWS Ecological Services on August 2, 2022, for impacts to Endangered Species Act listed bull trout (*Salvelinus confluentus*) and bull trout designated critical habitat with an effect determination of "May Affect, Likely to Adversely Affect" for both. USFWS Ecological Services issued a Biological Opinion on September 14, 2022.

USFWS initiated formal consultation with the National Marine Fisheries Service (NMFS) on August 2, 2022 for impacts to Endangered Species Act listed steelhead (*Oncorhynchus mykiss*) and steelhead designated critical habitat. NMFS issued a Biological Opinion on December 13, 2022.

USFWS consulted with The Confederated Tribes of the Colville Reservation, Nez Perce Tribe, and the Confederated Tribes of the Umatilla Indian Reservation on December 7, 2021 regarding the Proposed Action. The Umatilla Tribe requested a survey of the project area and the survey was conducted on February 10, 2022. No cultural resources were identified during the survey. USFWS issued a Notification of Compliance Letter with Section 106 of the National Historic Preservation Act for the Proposed Action on February 14, 2022 and concluded that "The project may proceed as planned".

USFWS is currently coordinating to obtain the following additional permits/approvals for the Proposed Action: U.S. Army Corps of Engineers Section 404 and 408; Washington State Department of Ecology 401 Water Quality Certification; Washington Department of Fish and Wildlife Hydraulic Project Approval; and City of Dayton Critical Areas Permit, Shoreline Substantial Development Permit, State Environmental Policy Act compliance, and Floodplain Development Permit.

Mitigation

There is no mitigation required to offset impacts from the Proposed Action. However, willow cuttings will be installed on the left bank downstream of the new Obermeyer Weir in between the riprap at the OHWM for the ~120-foot disturbed reach of the bank.

Extraordinary Circumstances

The following extraordinary circumstances (43 CFR§46.215) listed below have been evaluated, and it has been determined that none are applicable to the Proposed Action.

Will the Proposed Action:

Yes	No	Extraordinary Circumstance
	X	**(a) Have significant impacts on public health or safety.** The Project will have a beneficial impact over the long term to public health and safety by repairing the weir. Construction impacts will be short term and not significant from the installation of Best Management Practices to keep the public out of the active construction work area.
	X	**(b) Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.** There are no significant adverse affects anticipated over the short and long term for the Project as the weir is being repaired to function in the same manner as existing conditions.
	X	**(c) Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102 (2) (E)].** There are no controversial environmental effects or unresolved conflicts anticipated for the Project. The weir is being repaired to function in the same manner as existing conditions.
	X	**(d) Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.** There are no uncertain or significant environmental effects, or unknown environmental risks anticipated for the Project. The weir is being repaired to function in the same manner as existing conditions.
	X	**(e) Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.** There are no future actions anticipated for this weir once the Project is complete. Nor does this action represent a decision that could affect future actions since the weir is being repaired to function in the same manner as existing conditions.
	X	**(f) Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.** The repair of the weir is related to legally mandated fishery mitigation obligations and/or the recovery of Wallowa (non-ESA listed) and Touchet stock (ESA listed) summer steelhead, and Carson stock (non-ESA listed) spring Chinook salmon. However, the environmental effects are considered beneficial when analyzed on a cumulative basis as the repair of the weir will ensure continued operation of the Dayton Acclimation Facility.
	X	**(g) Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by the bureau.** There are no cultural resources or historic properties associated with the Project as described in the Public Involvement/Interagency Coordination section.

Yes	No	Extraordinary Circumstance
	X	**(h) Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.** The Touchet River contains ESA listed bull trout and steelhead along with designated critical habitat for both species. USFWS initiated formal consultation with USFWS Ecological Services and NMFS with effect determinations of "May Affect, Likely to Adversely Affect". Biological Opinions were issued for the Project as described in the Public Involvement/Interagency Coordination section. Even though the Project is likely to adversely affect both species, the construction actions are considered minor for both weir repair and the installation of the Obermeyer weir and impacts are not considered significant over the short and long term as the weir is being repaired to function in the same manner as existing condition which has a fish ladder allowing upstream/downstream fish passage. There is minimal vegetation removal associated with the Project along the left bank and there is no mitigation proposed to replace this vegetation as the USACE regularly removes vegetation on both sides of the river channel associated with maintenance of their levee (flood control) along the right bank and property on the left bank downstream of the weir.
	X	**(i) Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.** The Project will comply all Federal, State, Tribal, and local laws and permits (as applicable to the Project) as described in the Public Involvement/Interagency Coordination section.
	X	**(j) Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).** The Project will have no effect to low income or minority populations over the short and long term.
	X	**(k) Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).** There are no Indian sacred sites associated with the Project as described in the Public Involvement/Interagency Coordination section. Therefore, there will be no effect over the short and long term of the Project.
	X	**(l) Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).** The Project will disturb ground and has the potential to introduce and spread noxious weeds and non-native species. Best Management Practices will be implemented to control the introduction and spread of species during construction over the short term and there will be no significant effects. The overall Dayton Acclimation Facility (including the weir) will be maintained by USFWS and WDFW over the long term which includes controlling noxious weeds and non-native species and there will be no significant effects.

Categorical Exclusion

The Categorical Exclusions listed below are excerpted from the Department of the Interior's Departmental Manual for the Fish and Wildlife Service 516 DM 8.5, and are most applicable for projects undertaken by the LSRCP associated with fish hatchery operations and maintenance, including Resource Management, Permitting and Regulatory Functions, and Financial Assistance. The Categorical Exclusion(s) checked below apply*(ies*) to the Proposed Action:

Applicable	Categorical Exclusion
	B(1) Research, inventory, and information collection activities directly related to the conservation of fish and wildlife resources which involve negligible animal mortality or habitat destruction, no introduction of contaminants, or no introduction of organisms not indigenous to the affected ecosystem.
X	B(2) The operation, maintenance, and management of existing facilities and routine recurring management activities and improvements, including renovations and replacements which result in no or only minor changes in the use, and have no or negligible environmental effects on-site or in the vicinity of the site.
X	B(3) The construction of new, or the addition of, small structures or improvements, including structures and improvements for the restoration of wetland, riparian, instream, or native habitats, which result in no or only minor changes in the use of the affected local area. The following are examples of activities that may be included. (a)The installation of fences. (b)The construction of small water control structures. (c)The planting of seeds or seedlings and other minor revegetation actions. (d)The construction of small berms or dikes. (e)The development of limited access for routine maintenance and management purposes.
	B(6) The reintroduction or supplementation (e.g. stocking) of native, formerly native, or established species into suitable habitat within their historic or established range, where no or negligible environmental disturbances are anticipated.
	B(7) Minor changes in the amounts or types of public use on Service or State-managed lands, in accordance with existing regulations, management plans, and procedures.
	B(8) Consultation and technical assistance activities directly related to the conservation of fish and wildlife resources.
	B(9) Minor changes in existing master plans, comprehensive conservation plans, or operations, when no or minor effects are anticipated. Examples could include minor changes in the type and location of compatible public use activities and land management practices.
	B(10) The issuance of new or revised site, unit, or activity-specific management plans for public use, land use, or other management activities when only minor changes are planned. Examples could include an amended public use plan or fire management plan.
	C(1) The issuance, denial, suspension, and revocation of permits for activities involving fish, wildlife, or plants regulated under 50 CFR Chapter 1, Subsection B, when such permits cause no or negligible environmental disturbance. These permits involve endangered and threatened species, species listed under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), marine animals, exotic birds, migratory birds, eagles, and injurious wildlife.
	C(3) The issuance of special regulations for public use of Service-managed land, which maintain essentially the permitted level of use and do not continue a level of use that has resulted in adverse environmental effects.

Applicable	Categorical Exclusion
	C(4) The issuance or reissuance of permits for limited additional use of an existing right-of-way for underground or above ground power, telephone, or pipelines, where no new structures (i.e., facilities) or major improvement to those facilities are required; and for permitting a new right-of-way, where no or negligible environmental disturbances are anticipated.
	C(8) Actions where the Service has concurrence or co-approval with another agency and the action is a categorical exclusion for that agency. This would normally involve one Federal action or connected actions where the Service is a cooperating agency.
	E(1) State, local, or private financial assistance (grants and/or cooperative agreements), including State planning grants and private land restorations, where the environmental effects are minor or negligible.
	E(2) Grants for categorically excluded actions in paragraphs A, B, and C, above; and categorically excluded actions in 43 CFR 46.210.

The LSRCP has determined that the Proposed Action to repair the existing Dayton pond intake facility weir and install a new Obermeyer weir fall under NEPA Categorical Exclusions for Resource Management B(2) and B(3) because this project will have only minor impacts to the human environment when considered both individually and cumulatively. The Proposed Action is categorically excluded from further NEPA analyses.

USFWS Signature Approval

NATHANIEL WIESE

Digitally signed by NATHANIEL WIESE
Date: 2023.01.11 12:11:07 -07'00'

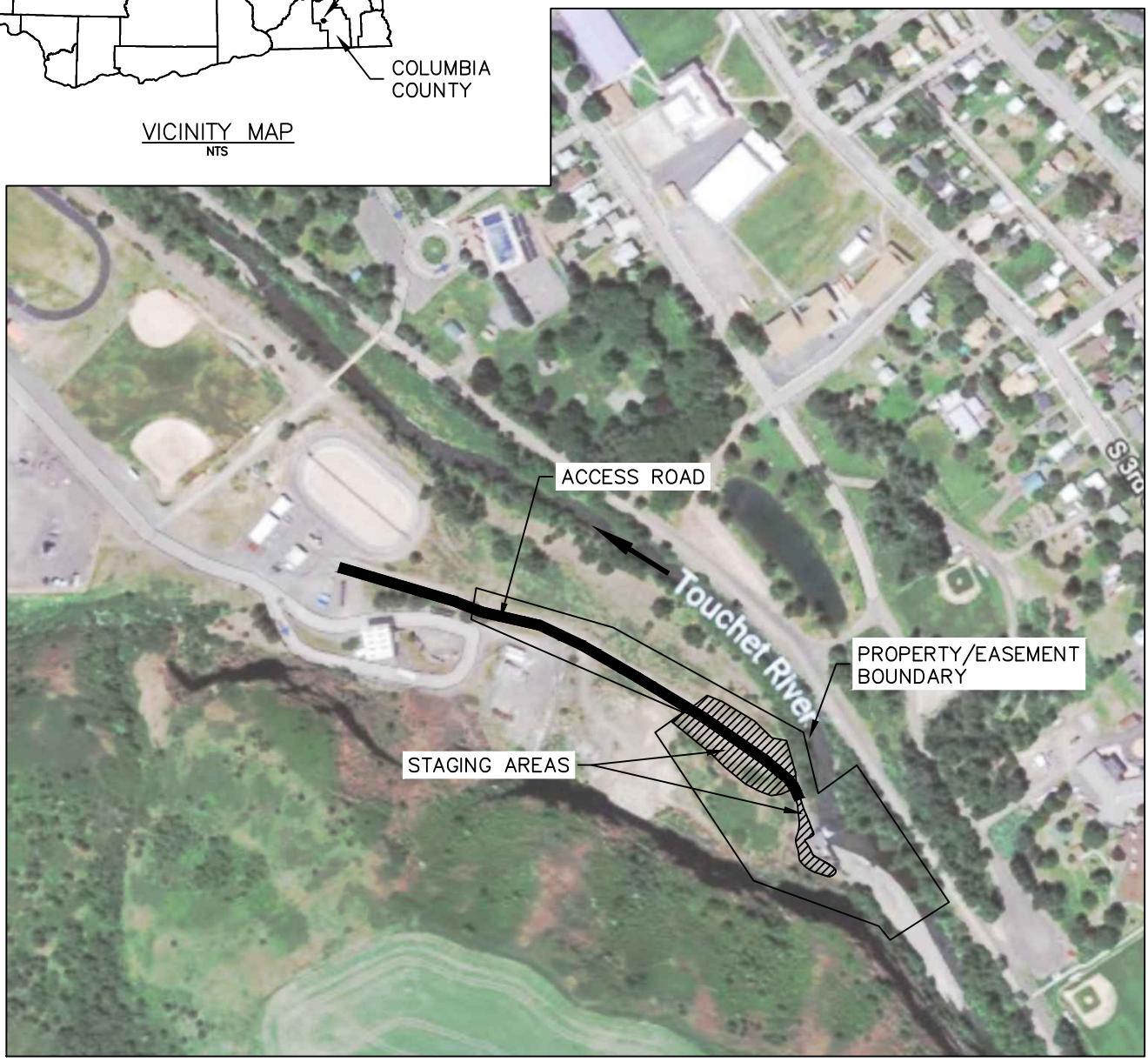
Signature

Date: 1/11/2023

Lower Snake River Compensation Plan Coordinator
Title

Attachments: Proposed Action Figures

VICINITY MAP
NTS



LOCATION MAP
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Prepared By:

WATER, CIVIL, AND ENVIRONMENTAL INC.

3813 W. State Street
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(208) 319-9744

Prepared For:

USFWS
DAYTON WEIR REPAIR
DAYTON, WA
TOUCHET RIVER
46.3118/-117.9729 (WGS84)

FIGURE 1 OF 8
LOCATION MAP
05/02/2022

PRELIMINARY NOT FOR CONSTRUCTION

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FIGURE 2 OF 8
EXISTING WEIR
05/02/2022

PRELIMINARY NOT FOR CONSTRUCTION

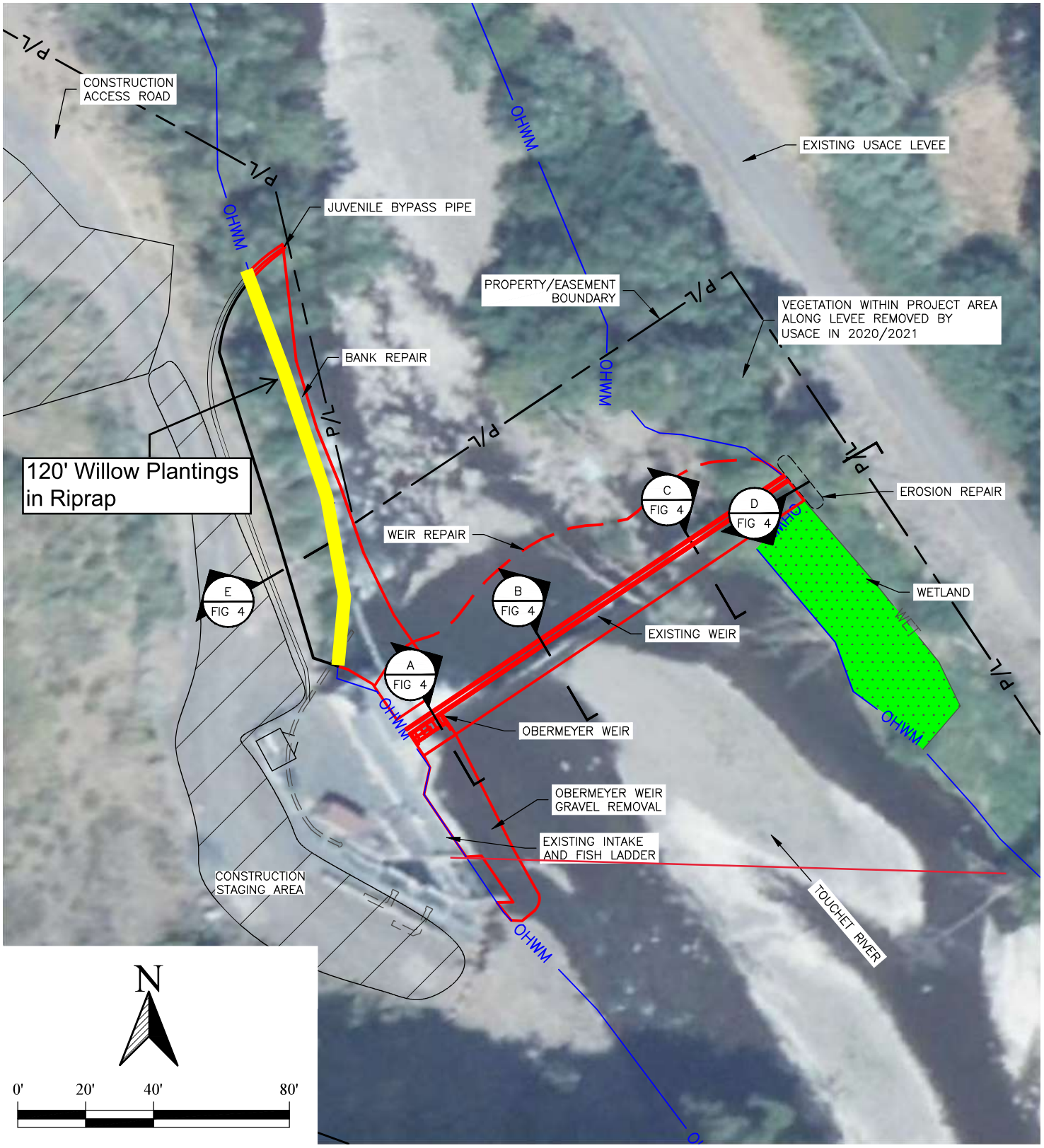

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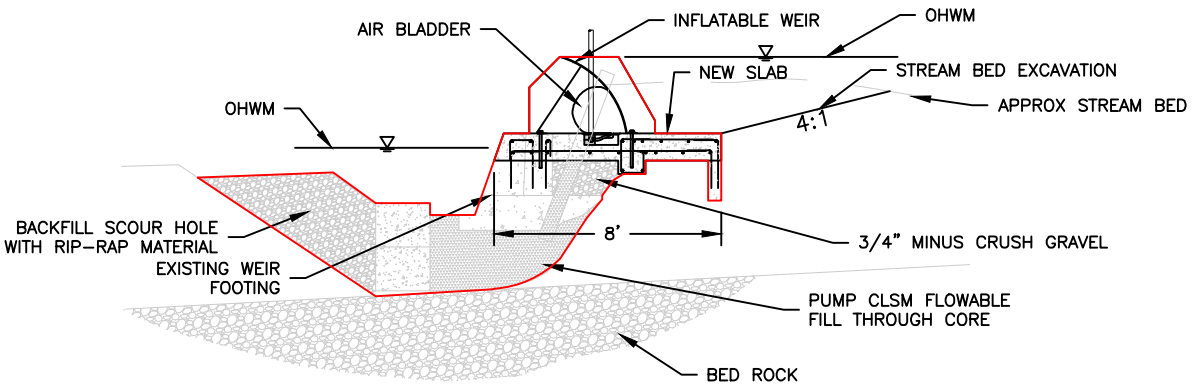
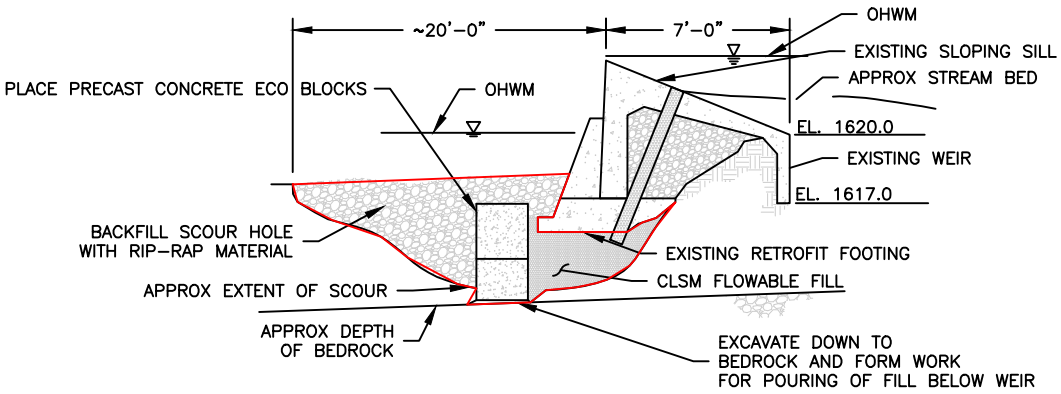
FIGURE 3 OF 8
PROPOSED WEIR REPAIR
05/02/2022

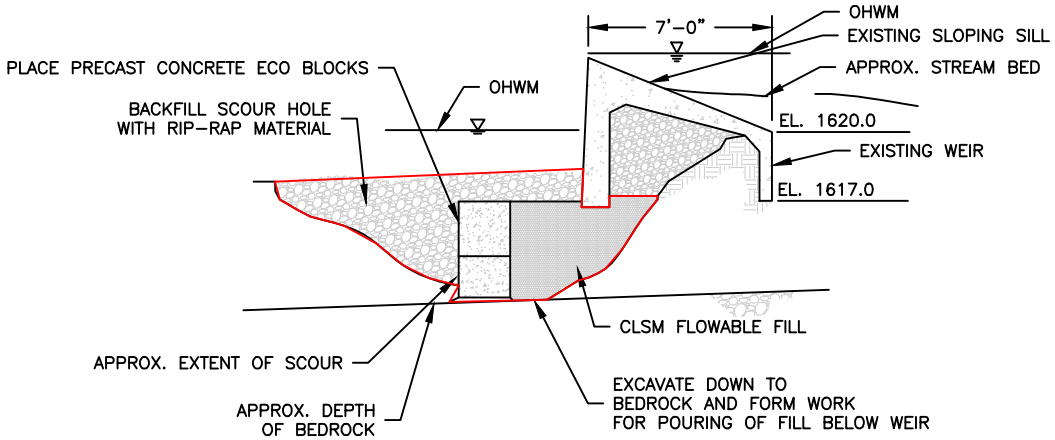
PRELIMINARY NOT FOR CONSTRUCTION



A FIG 3 OBERMEYER WEIR SECTION VIEW



B FIG 3 WEIR REPAIR SECTION VIEW



C FIG 3 WEIR REPAIR SECTION VIEW

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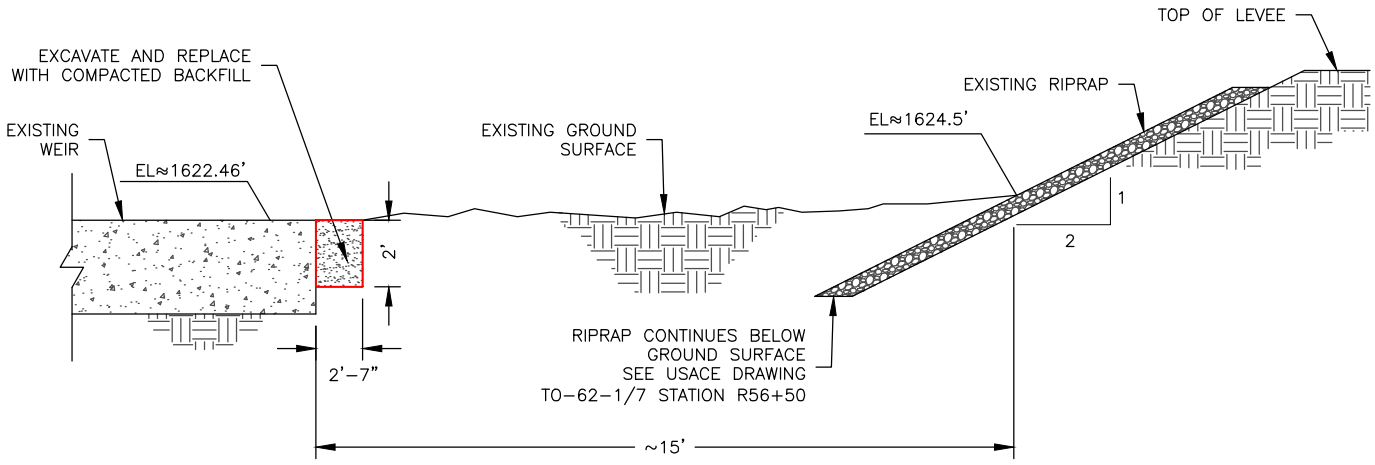
FIGURE 4 OF 8
WEIR REPAIR SECTIONS
05/02/2022

PRELIMINARY NOT FOR CONSTRUCTION

NOTES:

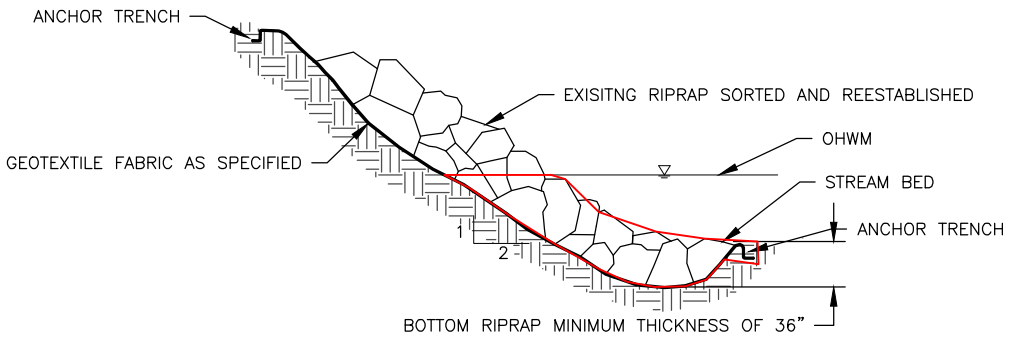
1. EXCAVATE AREA ALONG RIGHT BANK OF WEIR TO REMOVE ERODED SECTION.
2. EXCAVATE APPROXIMATE 5' LONG BY 2'-7" WIDE BY 2' DEEP TRENCH.
3. BACKFILL TRENCH WITH NATIVE MATERIAL AND COMPACT IN 4" LIFTS



D FIG 3 EROSION REPAIR SECTION VIEW

NOTES:

1. RIPRAP SHOULD BE ANGULAR, DENSE, DURABLE AND SOUND RANGING IN DIAMETER FROM 4-24" WITH AT LEAST 50% BEING IN THE 6-18" SIZE RANGE AND FREE OF TOXIC SUBSTANCES. FILTER MATERIAL TO PROTECT AGAINST EROSION OF BANK SOIL MATERIALS BENEATH THE RIPRAP IS REQUIRED. EXCAVATE APPROXIMATE 5' LONG BY 2'-7" WIDE BY 2' DEEP TRENCH.
2. PLACE 8 OZ. UNWOVEN GEOTEXTILE BELOW RIPRAP.



E FIG 3 BANK REPAIR SECTION VIEW

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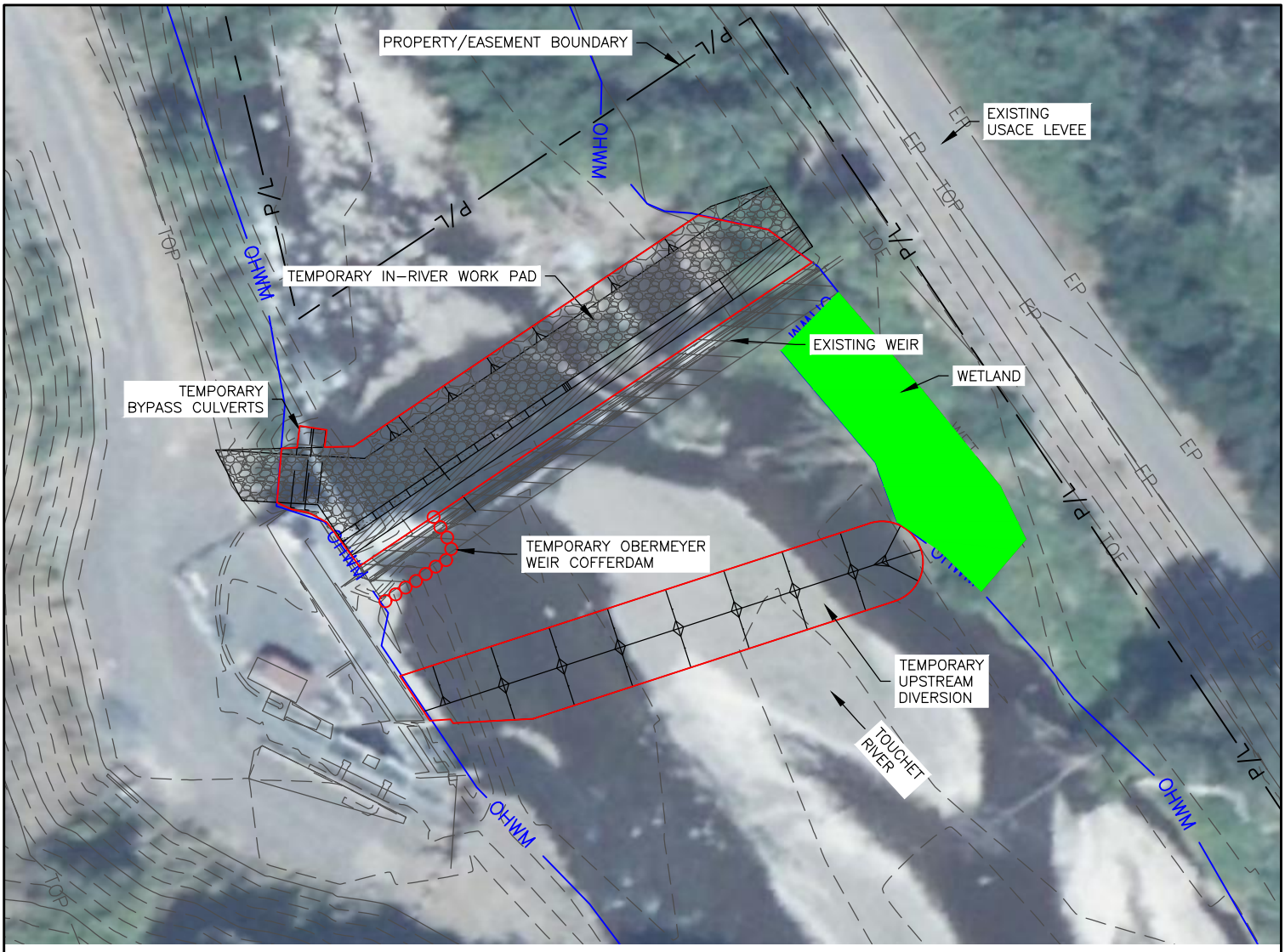
WATER, CIVIL, AND ENVIRONMENTAL INC. 3813 W. State Street Boise, Idaho 83703 (208) 319-9744	USFWS DAYTON WEIR REPAIR DAYTON, WA TOUCHET RIVER 46.3118/-117.9729 (WGS84)	FIGURE 5 OF 8 BANK REPAIR SECTIONS 05/02/2022 PRELIMINARY NOT FOR CONSTRUCTION



NOTES:

1. CONSTRUCT BERM ACROSS RIVER UPSTREAM OF FISH LADDER AND DEVELOP CHANNEL TO BYPASS STREAM FLOW INTO FISH LADDER AND INTAKES.
2. INSTALL 20 FT LONG 4'ø CULVERTS AT FISH LADDER OUTLET.
3. CONSTRUCT RAMP USING RIPRAP INTO RIVER AND DEVELOP WORK PLATFORM DOWNSTREAM OF WEIR.
4. FROM WORK PLATFORM PULL BACK RIPRAP PLACED IN 2021 AND EXCAVATE TO BEDROCK.
5. INSTALL PRECAST CONCRETE BLOCK BULKHEAD TO ELEVATION 6" ABOVE BOTTOM OF FOOTING AND PLACE RIPRAP ON THE DOWNSTREAM SIDE OF BULKHEAD.
6. CORE THROUGH WEIR SILL TO FOOTING. AT 5' INTERVALS PUMP CLSM THROUGH CORE HOLES TO A HEIGHT LEVEL W/ TOP OF BULKHEAD.
7. REMOVE TEMPORARY WORK PAD BY PLACING MATERIAL OVER BULKHEAD AND FOOTING. PULL BACK WORK PAD TO OBERMEYER WEIR SECTION.
8. RETURN PARTIAL FLOW RIGHT HAND SIDE OF RIVER.
9. COMPLETE CONSTRUCTION OF OBERMEYER WEIR.
10. REMOVE TEMPORARY WORKS FROM RIVER.

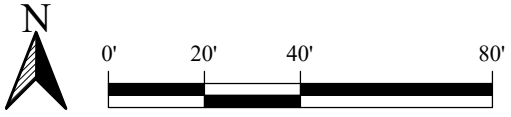


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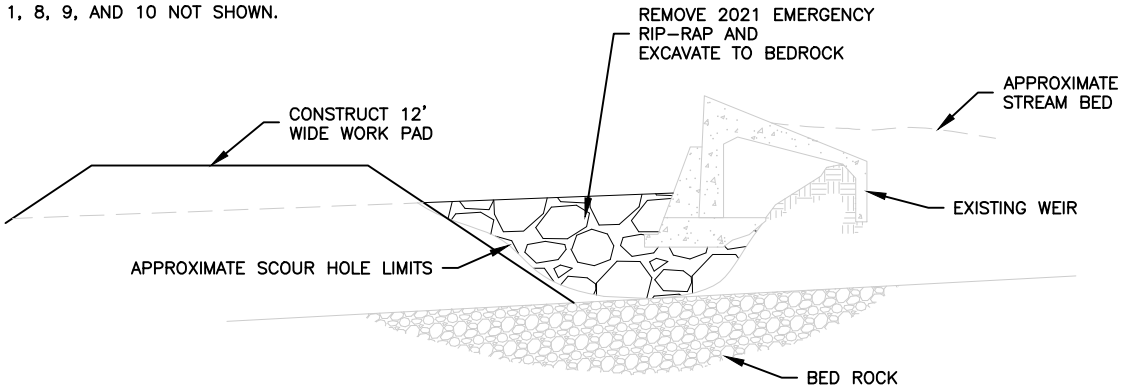
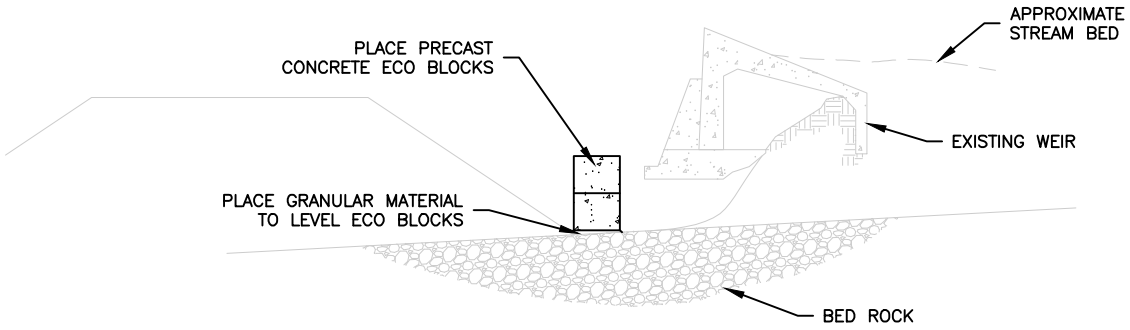
FIGURE 6 OF 8
DEWATERING PLAN
05/02/2022

PRELIMINARY NOT FOR CONSTRUCTION

NOTE:
1. STEPS 1, 8, 9, AND 10 NOT SHOWN.



STEP 2
NTS



STEP 3
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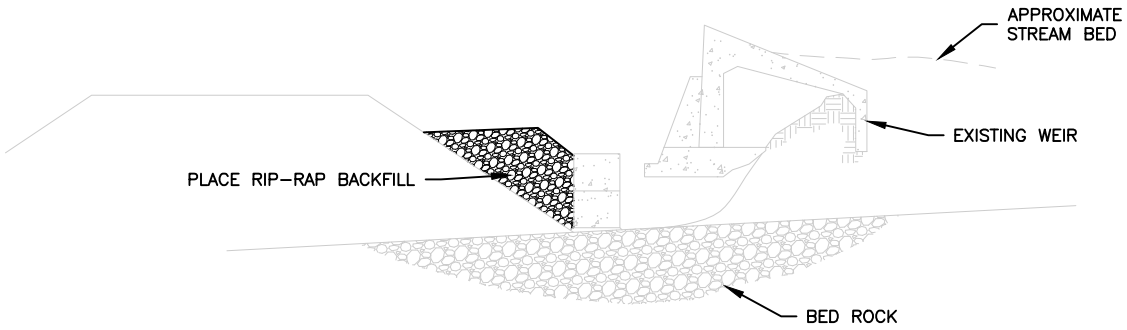

STEP 4
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Prepared For:

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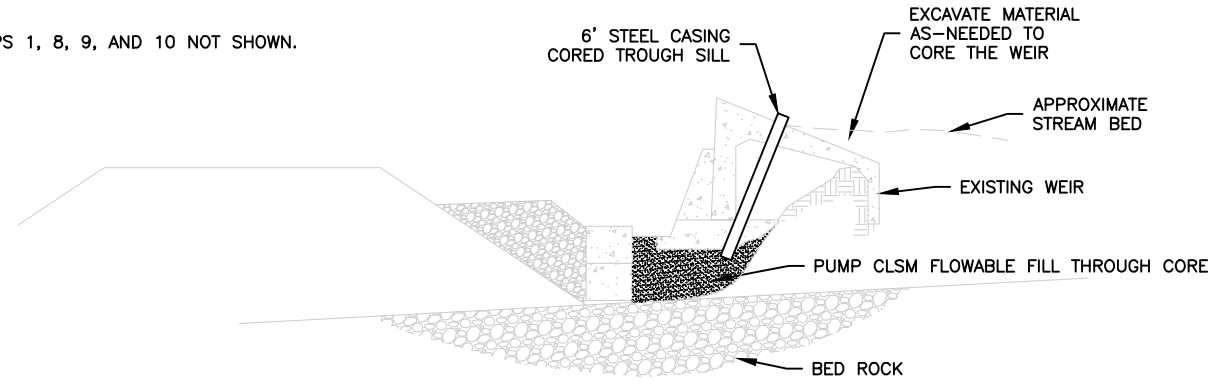
FIGURE 7 OF 8
CONSTRUCTION SEQUENCE ONE
05/02/2022

PRELIMARY NOT FOR CONSTRUCTION

NOTE:
1. STEPS 1, 8, 9, AND 10 NOT SHOWN.



STEP 5
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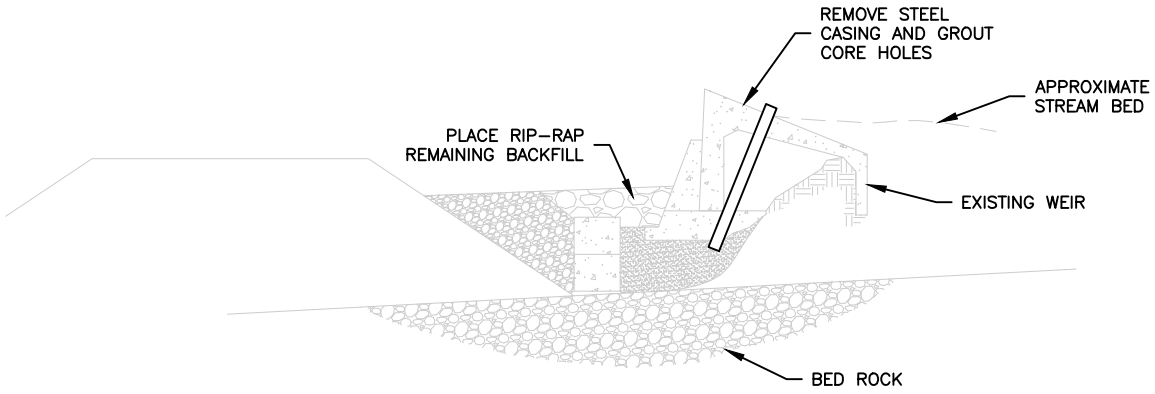
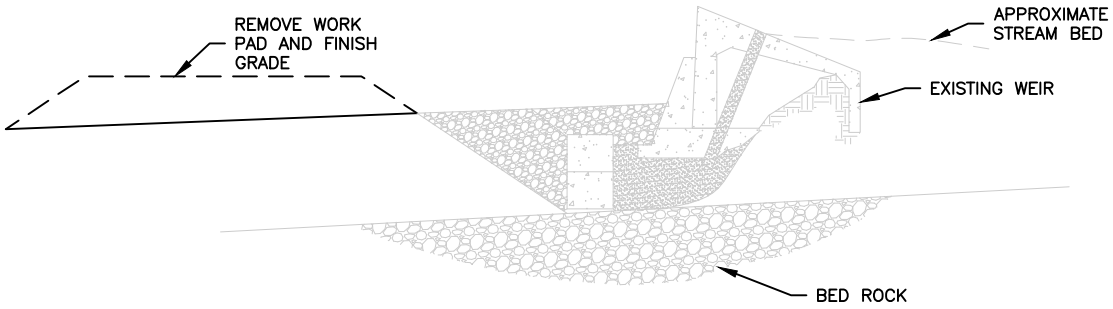


STEP 6
NTS



STEP 7
NTS

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WATER, CIVIL, AND ENVIRONMENTAL INC. 3813 W. State Street Boise, Idaho 83703 (208) 319-9744	USFWS DAYTON WEIR REPAIR DAYTON, WA TOUCHET RIVER 46.3118/-117.9729 (WGS84)	FIGURE 8 OF 8 CONSTRUCTION SEQUENCE TWO 05/02/2022 PRELIMARY NOT FOR CONSTRUCTION

Dayton Pond Intake Facility Weir Repair Shoreline Conditional Use Permit and SEPA Environmental Review

ENDANGERED SPECIES ACT 7(a)(2) BIOLOGICAL OPINION

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
West Coast Region
1201 NE Lloyd Boulevard, Suite 1100
Portland, Oregon 97232-1274

Refer to NMFS No: WCRO-2022-01851

https://doi.org/10.25923/pteb-6h49

December 13, 2022

Nathan Wiese
Program Administrator
Lower Snake River Compensation Plan Office
U.S. Fish and Wildlife Service
1387 S. Vinnell Way, Suite 343
Boise, Idaho 83709-1657

Re: Endangered Species Act Section 7(a)(2) Biological Opinion for the Dayton Dam Repairs, Touchet River (HUC 170701020308), City of Dayton, Washington.

Dear Mr. Wiese:

This letter responds to your August 2, 2022, request for initiation of consultation with the National Marine Fisheries Service (NMFS) pursuant to Section 7 of the Endangered Species Act (ESA) for the subject action. Your request, including information submitted subsequent to that request, qualified for our expedited review and analysis because it met our screening criteria and contained all required information on, and analysis of, your proposed action and its potential effects to listed species and designated critical habitat.

On July 5, 2022, the U.S. District Court for the Northern District of California issued an order vacating the 2019 regulations that were revised or added to 50 CFR part 402 in 2019 (2019 Regulations 84 FR 44976, August 27, 2019) without making a finding on the merits. On September 21, 2022, the U.S. Court of Appeals for the Ninth Circuit granted a temporary stay of the district court's July 5 order. As a result, the 2019 regulations are once again in effect, and we are applying the 2019 regulations here. For purposes of this consultation, we considered whether the substantive analysis and conclusions articulated in the biological opinion and incidental take statement (ITS) would be any different under the pre-2019 regulations. We have determined that our analysis and conclusions would not be any different.

We reviewed the U.S. Fish and Wildlife Service's (USFWS) consultation request and related initiation package. Where relevant, we have adopted the information and analyses you have provided and/or referenced but only after our independent, science-based evaluation confirmed they meet our regulatory and scientific standards. We adopt by reference here the following sections of the biological assessment (BA) (USFWS 2022): Section 1.1, Project Location; Section 2, Proposed Action & Action Area; Section 3, Listed Species & Critical Habitat in Action Area; Section 4, Effects of the Action; Section 5, Cumulative Effects; Section 6, Essential Fish Habitat; and Section 7, Conclusion.

On March 1, 2021, NMFS received an email invitation to a March 17, 2021 meeting to discuss the proposed Dayton Pond Intake Facility Weir Repair Project, located on the Touchet River. NMFS participated in the meeting which included identification of issues and alternatives. The USFWS notified NMFS of an impending emergency action to place fill at the base of the Dayton weir (weir) on June 29, 2021. NMFS acknowledged receipt of the USFWS emergency action notice, and encouraged the USFWS to take all actions necessary to minimize impacts to steelhead during and as a result of the emergency action. The USFWS placed riprap along the downstream base of the weir in the summer of 2021 to fill scour holes along the underside of the foundation. On January 27, 2022, NMFS participated in a project coordination meeting to discuss the preferred alternative and permitting. Following this meeting, NMFS requested and received steelhead density information from Joe Bumgarner, Washington Department of Fish and Wildlife (WDFW), for electrofishing surveys which were conducted in 1999–2003, and 2005. NMFS received a draft BA from the USFWS on May 9, 2022. NMFS provided comments to the USFWS on May 26, 2022. NMFS participated in a meeting with the USFWS on June 15, 2022 to review our comments.

The USFWS submitted a request for initiation of consultation and a BA on August 2, 2022. After our review, we requested additional information via email on September 2, 2022. NMFS met with USFWS staff on September 8, 2022 and received requested information via email on September 9, 2022. Information submitted by the USFWS included a clarification of project effects, a figure of their proposed willow planting location, and their proposed fish salvage plan. Consultation was initiated on September 8, 2022.

As described in Section 2.0 of the BA, the USFWS proposes to repair the weir, stabilize the riverbed both upstream and downstream of the weir, extend the juvenile bypass pipe outlet 115 feet downstream, and install an Obermeyer weir on the left side of the existing weir. Project construction will occur June 19–August 28, 2023. The WDFW identified in-water work window is July 15–August 31. However, the USFWS proposes to conduct all work below the ordinary high water mark (OHWM) July 5–September 8, an extension of the WDFW work window, to complete all work in one season.

We examined the status of each species that would be adversely affected by the proposed action to inform the description of the species' "reproduction, numbers, or distribution" as described in 50 CFR 402.02. The status of the species, in this case Middle Columbia River (MCR) steelhead, is described in Sections 3.1.1., 3.1.1.1., 3.1.1.2., and 3.1.1.3. of the BA (USFWS 2022) and adopted here. We also examined the condition of critical habitat throughout the designated area and discuss the function of the physical or biological features essential to the conservation of the species that create the conservation value of that habitat. Middle Columbia River steelhead critical habitat is described in Section 3.1.1.4. of the BA (USFWS 2022), and adopted here.

"Action area" means all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action (50 CFR 402.02). The action area is described in Section 2.2. of the BA (USFWS 2022), and is adopted here with one modification for the downstream extent. The USFWS identifies the action area as extending 0.5 miles downstream from Dayton Dam, for turbidity dissipation. As part of the proposed action, turbidity increases will be monitored 100 feet downstream from in-water activities and will comply with

Washington State water quality standards. To comply with Washington State water quality standards for salmonid spawning, rearing, and migration designated uses, turbidity generated by the project cannot exceed 5 nephelometric turbidity units (NTU) over background when the background is 50 NTU or less; or result in a 10 percent increase in turbidity when the background turbidity is more than 50 NTU. The USFWS expects Touchet River flow in the project area to be 90 cubic feet per second (cfs) or less during project construction. For waters above 10 cfs up to 100 cfs flow at the time of construction, the point of compliance is 200 feet downstream of the activity causing the turbidity exceedance. Therefore, NMFS expects impacts from increased turbidity to extend 200 feet downstream from the work pad; and the action area to extend 200 feet downstream of Dayton Dam.

The "environmental baseline" refers to the condition of the listed species or its designated critical habitat in the action area, without the consequences to the listed species or designated critical habitat caused by the proposed action. The environmental baseline includes the past and present impacts of all Federal, State, or private actions and other human activities in the action area; the anticipated impacts of all proposed Federal projects in the action area that have already undergone formal or early section 7 consultations; and the impact of State or private actions which are contemporaneous with the consultation in process. The consequences to listed species or designated critical habitat from ongoing agency activities or existing agency facilities that are not within the agency's discretion to modify are part of the environmental baseline (50 CFR 402.02).

The Environmental Baseline is described in Sections 1.1., 1.2., 1.2.1., 1.3., and 3.1.1.4. of the BA (USFWS 2022), and adopted here. Overall, the MCR steelhead distinct population segment (DPS) is at "moderate risk" of extinction, with viability unchanged from the 2016 review (Ford 2022; NMFS 2022). The Touchet River population is one of three steelhead populations in the Umatilla/Walla Walla Rivers Major Population Group (MPG). The Umatilla/Walla Walla MPG is not viable. To achieve viability, one population needs to be viable (low risk) and one population needs to be highly viable (very low risk); with the only large population, the Umatilla River population, needing to be at least viable. Therefore, either the Walla Walla River or Touchet River population needs to be viable. Currently, both the Umatilla and Walla Walla populations are considered "maintained" (moderate risk), and the Touchet population is not viable (high risk), but needs to be at least maintained (Ford 2022; NMFS 2022). The recent 10-year (2010–2019) geometric mean of natural spawner abundance for the Touchet River steelhead population is 253, substantially below the threshold target of 1,000 (Ford 2022).

The Touchet River in the action area is designated critical habitat for MCR steelhead. The action area is used for spawning, rearing, and migration. The action area provides physical and biological features (PBF) of critical habitat for spawning, rearing, and migration, though these persist in a largely degraded condition. The weir spans the entire width of the Touchet River. It connects to a fish ladder/intake structure on the left bank and a U.S. Army Corps of Engineers (Corps) levee on the right bank. Annual maintenance of the weir includes dredging approximately 20 cubic yards of gravels and cobbles that accumulate in front of the intake screens and fish ladder exit.

Project Effects

Under the ESA, "effects of the action" are all consequences to listed species or critical habitat that are caused by the proposed action, including the consequences of other activities that are caused by the proposed action. A consequence is caused by the proposed action if it would not occur but for the proposed action and it is reasonably certain to occur. Effects of the action may occur later in time and may include consequences occurring outside the immediate area involved in the action (see 50 CFR 402.17). In our analysis, which describes the effects of the proposed action, we considered 50 CFR 402.17(a) and (b).

An assessment of the effects of the proposed action is provided in Sections 4 and 5 of the BA (USFWS 2022), and adopted here (50 CFR 402.14(h)(3)). Touchet River summer steelhead use the action area for spawning, rearing, and migration. Juvenile migration through the action area primarily occurs October–June. However, some juveniles (age 0 and age 1+) are expected to be migrating through and rearing in this area at all times of the year. Adult steelhead migrate through the action area January through the beginning of May. Spawning occasionally occurs in the action area above the weir in April. Based on spawn timing and water temperatures, fry emerge prior to July.[1] Therefore, the USFWS determined, and NMFS concurs, that only juvenile steelhead will be present in the action area during project construction.

Potential adverse project effects to juvenile MCR steelhead identified by the USFWS include:

- Blocked upstream fish passage for approximately 27 days, July 5–July 31, from high velocities in the fish ladder.
- Handling and translocation of 574 juvenile MCR steelhead during work area isolation and dewatering.
- Fish migration downstream and away from increased turbidity during project construction.
- Loss of forage in the dewatered work area for 6 months.

Potential adverse effects to the PBFs of MCR steelhead critical habitat identified by the USFWS include:

- Temporary loss of 11,250 square feet of benthic habitat, from: (1) installation of 2,540 square feet of berms and cofferdams above the weir; (2) dewatering of 5,310 square feet above the weir; (3) installation of a 2,200 square foot work pad below the weir; (4) dewatering of 1,000 square feet below the weir; and (5) removal of 730 square feet of gravel, of which 200 square feet is located outside of the dewatered area.

[1] Email from Joe Bumgarner, WDFW, November 16, 2022.

- Permanent loss of 260 square feet of critical habitat below the OHWM, including: (1) 160 square feet for the relocated juvenile bypass pipe; and (2) 100 square feet for the Obermeyer weir concrete pad.

- Removal of 200 cubic yards of gravels and cobbles from 730 square feet.

- On-going migration barrier from the weir crossing the Touchet River.

- On-going permanent loss of 4,735 square feet of critical habitat.

Potential beneficial effects to MCR steelhead and critical habitat include:

- Extending the juvenile bypass pipe 115 feet downstream will have a beneficial effect to fish by moving it outside of the weir deposition zone and reducing the frequency of plugging.

- Installation of the Obermeyer weir will increase transport of gravels and cobbles downstream during flood events by about 20 cubic yards annually, decreasing accumulation and the need for annual dredging above the weir.

NMFS has evaluated the effects sections in the BA and after our independent, science-based evaluation, determined the additional information included in the following paragraphs is needed to complete our analysis.

Effects to Juvenile Summer Steelhead

Fish Salvage

All fish salvage will occur July 5–August 31. Fish salvage will consist of herding fish out of the construction area and electrofishing and netting any fish that do not leave of their own volition. We expect most fish to be herded out of the work area using seines, and any remaining fish to be captured by electrofishing and netting, and relocated upstream of the project. Many factors influence the success of fish salvage efforts, including water depth, habitat complexity, temperature, salvage methods, crew experience, and care of fish after capture. At best, all fish are captured without injury and successfully released. However, in many cases some fish are difficult to capture, sustain injuries, and experience high stress after capture. Herding will minimize the risk of injury and mortality to listed fish to the extent possible. However, seining, netting, capture, and handling may injure fish and can increase stress, resulting in harm or death to some individuals; and herded fish may experience increases in predation, increased competition for forage, or reduced feeding when moved out of their established areas. Additionally, a small number of fish, particularly Age 0 steelhead that seek cover in existing substrate, may not be found by the fish capture crew and could end up stranded and die during dewatering.

NMFS estimates up to 11,250 square feet of the Touchet River will be isolated and dewatered. Electrofishing was conducted by the WDFW for summer steelhead in the mainstem Touchet River from 2001–2003 and 2005. The WDFW estimated the maximum steelhead density within

1.25 miles above and below the action area to be 45.2 Age 0 steelhead per 100 square meters (0.042 per square foot) and 9.7 Age 1 steelhead per 100 square meters (0.009 per square foot).[2] Although the collected data is 17–21 years old, NMFS expects similar densities under current conditions since there has been very little change to rearing habitat since the electrofishing surveys were conducted. Therefore, NMFS estimates 574 juvenile steelhead (472 Age 0 and 102 Age 1) will be present during work area isolation and dewatering.

NMFS expects all fish salvaged will be captured and released above the existing weir. NMFS estimates that 95 percent[3] of juveniles (545 fish) in the isolated area will be herded out or captured and released upstream without ill effects. However, we expect the remaining 5 percent (29 juvenile fish) will be injured or killed because they are unable to be captured during fish salvage and succumb to lack of oxygen or desiccation during dewatering, or they will experience external or internal injury, including injurious levels of stress, during holding and handling. We assume that fish that are injured or experience injurious levels of stress will be less likely to survive the challenges of outmigration and will ultimately die as a result. Therefore, NMFS estimates 545 juvenile steelhead will be salvaged and released safely, and 29 juvenile steelhead (24 Age 0 and 5 Age 1) will be injured or killed during fish salvage at the weir.

Using a fry-to-smolt survival rate of 0.135 (Quinn 2005) and a smolt-to-adult survival rate of 0.035 (Mendel et al. 2014), the injury or death of up to 29 juvenile steelhead does not accrue to the loss of one adult steelhead. Therefore, NMFS does not believe the proposed action will influence the abundance or productivity of the Touchet River population.

Water Quality

Turbidity. The proposed action will affect water quality during installation and removal of isolation barriers, the riprap access ramp, and the work pad; and during fish salvage, by temporarily increasing delivery of sediment to the waterway and increasing total suspended sediments and turbidity in the water column. Increased fine sediment can be detrimental to juvenile salmon and steelhead in several ways including avoidance of the area, abandonment of cover, stress, and reduced growth rates (Newcombe & Jensen 1996). Turbidity from increased fine sediment may disrupt steelhead feeding and territorial behavior and may displace fish from preferred feeding and resting areas. However, low to moderate levels of turbidity can provide cover from predation (Gregory & Levings 1998).

Based on the proposed work schedule, turbidity generating activities are expected to occur on nine separate days. Based on the proposed activities, flows and existing substrate conditions, increased turbidity is expected to extend up to 200 feet downstream from the construction limits. Because appropriate best management practices (BMPs) will be in place and the in-water work area will be isolated from the flowing channel, we expect very little sediment will be released from the project site and turbidity to be of low concentration. We also expect that water quality will return to baseline levels within a few hours following completion of installation and removal of work area isolation materials. However, NMFS expects that the turbidity levels generated by

[2] Electrofishing data from Joe Bumgarner, WDFW, January 28, 2022.
[3] This is a conservative estimate based on the professional opinion of NMFS biologists and considers expected fish size, capture methods, and site conditions. The latter include anticipated depth, cover, substrate, turbidity, and flow.

this action will cause temporary behavioral changes to steelhead below the work pad, including changes in feeding behavior, movement of fish within turbidity plumes, and movement of fish short distances downstream, which will increase the risk of predation (Berg & Northcote 1985). We do not have sufficient data to determine how many juveniles may be harmed by increased turbidity.

Chemical contamination. Additional impairment of water quality may result from accidental releases of fuel, oil, and other contaminants that can injure or kill aquatic organisms. Petroleum-based contaminants, such as fuel, oil, and some hydraulic fluids, contain polycyclic aromatic hydrocarbons (PAHs), which can kill salmon at high levels of exposure, and can cause sublethal, adverse effects at lower concentrations (Meador et al. 2006). Therefore, spills that make their way into the Touchet River could harm fish. The operation of equipment will predominantly be in isolated and dewatered areas, except for the in-river use of heavy equipment on two separate days to install the berm and work pad. In addition, excavators and loaders will contain hydraulic fluid certified as non-toxic to aquatic organisms, NMFS anticipates that only very small quantities (ounces) of PAHs are likely with each accidental release or spill, and that a spill is very unlikely to occur. Conservation measures will be implemented to prevent or contain any spill that may occur (e.g., staging and fueling equipment in a protected location, emergency spill response kit available onsite, and daily inspection of equipment and equipment maintenance). The conservation measures and limited use of equipment in-river should minimize the opportunity for contaminants to enter the waterway and affect steelhead. Therefore, NMFS does not expect any fish to be injured or killed by exposure to accidental releases of fuel, oil, and other contaminants caused by this action.

Stormwater. The contractor will develop a Stormwater Pollution Prevention Plan. Soil erosion and sedimentation control measures will be employed during construction of the staging and access areas as well as the weir features, including use of straw wattles and silt fencing. Therefore, stormwater is not expected to cause adverse effects to ESA-listed fish.

Sedimentation and Forage

The proposed action will negatively affect the availability of benthic invertebrates by crushing, covering, dislodging, or dewatering them temporarily in 11,250 square feet and permanently in 260 square feet of streambed; from riparian vegetation removal in 0.06 acres; and from sediment deposition up to 200 feet (10,000 square feet) below the temporary work pad. Installation and removal of the berm, cofferdam, and work pad; fish salvage; dewatering of the in-stream work areas; and weir and riprap repair will temporarily disturb 11,250 square feet of benthic habitat. These disturbances will kill or displace benthic invertebrates, reducing available forage until the area is recolonized. Installation of the juvenile bypass pipe and the concrete pad for the Obermeyer weir will cause a minor, permanent reduction in available forage in 260 square feet of benthic habitat.

Approximately 0.06 acres of immature riparian vegetation will be removed. Removal will cause some loss of allochthonous input, such as leaf litter and terrestrial invertebrates. In addition, elevated turbidity from in-water work to install and remove cofferdams and to conduct fish salvage, and settling of suspended sediment up to 200 feet downstream of the work area (in an

estimated 10,000 square feet), is expected to cause a loss of abundance of benthic organisms. We expect deposited sediment to flush out with the first high flow event.

Aquatic invertebrates could start recolonizing within days to months after completion of construction (Fowler 2004; Korsu 2004; Miller & Golladay 1996; Paltridge et al. 1997). Some aquatic insect life cycles can extend up to 3 years (Hilsenhoff 1981; Pennak 1953), but most aquatic insects in the north temperate zone have an annual life cycle (Merritt & Cummins 1996). Thus, we estimate that recolonization of the disturbed areas will occur within 1 year.

The USFWS will plant willow stakes along 120 feet of left streambank, encompassing 0.06 acres. These plantings will help minimize the loss of allochthonous input in the short-term and provide better riparian function over time as the willows become established and grow.

Together, the benthic habitat disturbance and loss of allochthonous input will slightly decrease potential forage production and availability to juvenile steelhead within the action area for about 1 year. There will also be a minor, permanent loss of benthic forage production. Reducing food availability generally leads to reduced growth and ultimately survival (Spence et al. 1996). However, a source of forage will continue to be provided by invertebrate drift, benthic production in the action area, and allochthonous input from riparian vegetation in and adjacent to the action area. Due to the very small area of permanent benthic loss, the small, temporary habitat disturbance, and the small amount of impacted riparian vegetation, we believe this slight decrease in forage production will be too small to cause competition for forage or a decrease in the growth or survival of individual juvenile steelhead.

Effects to Critical Habitat

Natural Cover and Forage

Riparian vegetation serves important functions in stream ecosystems by providing shade, sediment storage, nutrient inputs, channel and streambank stability, habitat diversity, large wood input, and cover and shelter for fish (Murphy & Meehan 1991). Existing juvenile vegetation will be removed from approximately 120 feet of the left bank (0.06 acres) below the weir to allow for bank repair. No mature vegetation or trees will be removed. Once bank repair is complete, the USFWS will plant willow stakes in the riprap along the 120 feet (0.06 acres) of streambank. The action area will temporarily experience decreased shade and allochthonous and terrestrial invertebrate inputs after vegetation clearing, and while willows grow and mature. Therefore, NMFS expects small, temporary negative effects to the function and conservation value of the riparian vegetation, natural cover, and forage PBFs at the scale of the action area.

The proposed action will negatively affect benthic invertebrate production in 21,510 square feet. The proposed action will negatively affect the availability of benthic invertebrates by crushing, covering, dislodging, or dewatering them temporarily from 11,250 square feet and permanently from 260 square feet of streambed, and from sediment deposition up to 200 feet (10,000 square feet) below the temporary work pad. Accumulated sediment is expected to flush out with the first high flows. Following reconnection of the 11,250 square feet of isolated work areas with the flowing channel, we expect drifting invertebrates from upstream will recolonize the sediment.

Over time, forage will improve and return to pre-project levels. We expect recolonization to occur within a few days to 1 year after project completion (Fowler 2004; Griffith & Andrews 1981). Given the very small area of permanent benthic habitat loss, and the small area and short-term nature of the temporary benthic habitat impacts, NMFS expects this project to have a small, negative effect on the function and conservation value of the forage PBF at the scale of the action area.

Substrate

Approximately 260 square feet of substrate below the OHWM will be permanently altered from installation of the new juvenile bypass pipe and the concrete pad for the Obermeyer weir. Approximately 11,250 square feet of substrate will be altered for up to 10 weeks from installation and removal of isolation barriers and the work pad below the weir, and dewatering. An additional 10,000 square feet of substrate will be affected by minor levels of sediment deposition as the small turbidity plumes settle out within 200 feet downstream of the temporary work pad. Accumulated sediment is expected to flush out with the first high flows. Therefore, NMFS expects small permanent (260 feet) and small temporary (11,250 square feet) impacts to the function and conservation value of the substrate PBF at the scale of the action area.

Water Quality

Water quality will be reduced within the project area periodically for approximately 10 weeks from increased delivery of sediment to the waterway and suspension of fine sediment increasing turbidity in the water column; and from accidental releases of fuel, oil, and other contaminants. Because the in-water work area will be isolated from the flowing channel, and erosion control measures will be implemented during construction, very little sediment is expected to be released from the project site. Resuspension of sediment will be localized and is expected to last for a few hours for each of 9 days, but is not expected to extend more than 200 feet downstream. NMFS also expects minor leaks and spills of petroleum-based fluids (not more than ounces) that will be contained within isolated work areas. Therefore, NMFS expects small, temporary negative effects to the function and conservation value of the water quality PBF at the scale of the action area.

Free of Artificial Obstruction

The in-water work area isolation will temporarily restrict a total 11,250 square feet of channel from fish access during the July 5–September 8 work window, and permanently from 260 square feet. Further, diversion of Touchet River flow into the fish ladder will prevent juvenile steelhead upstream migration for 27 days. Therefore, NMFS expects a very small, permanent impact to the function and conservation value of the free of artificial obstruction PBF at the scale of the action area. NMFS also expects temporary negative effects from artificial obstructions at the scale of the action area.

Cumulative Effects

"Cumulative effects" are those effects of future State or private activities, not involving Federal activities, that are reasonably certain to occur within the action area of the Federal action subject to consultation (50 CFR 402.02 and 402.17(a)). Future Federal actions that are unrelated to the proposed action are not considered in this section because they require separate consultation pursuant to section 7 of the ESA. Cumulative effects are described in Section 5 of the BA (USFWS 2022) and incorporated by reference here. Neither the USFWS nor NMFS are aware of any future non-Federal activities within the action area that could adversely affect MCR steelhead and their critical habitat. The weir is located in Dayton, Washington, which has a decreasing human population. Therefore, for our analysis, NMFS assumes that future State and private actions and land uses will continue within the action area at roughly their current rate.

Integration and Synthesis

The Integration and Synthesis section is the final step in our assessment of the risk posed to species and critical habitat as a result of implementing the proposed action. In this section, we add the effects of the action to the environmental baseline and the cumulative effects, taking into account the status of the species and critical habitat, to formulate the agency's biological opinion as to whether the proposed action is likely to: (1) reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing its numbers, reproduction, or distribution; or (2) appreciably diminish the value of designated or proposed critical habitat as a whole for the conservation of the species.

Middle Columbia River Steelhead

Middle Columbia River steelhead from the Touchet River population inhabit the action area and depend on it to support critical life functions of spawning, rearing, and migration. The MCR steelhead DPS is not currently meeting the viability criteria described in the Mid-Columbia Steelhead Recovery Plan (NMFS 2009). The Touchet River population of MCR steelhead will be affected by the proposed action. Recovery criteria for the Umatilla/Walla Walla MPG requires two populations to meet viability criteria and the third population to be maintained. The Interior Columbia Technical Recovery Team also calls for at least one population to be highly viable. Overall, the Umatilla and Walla Walla River populations are considered maintained, while the Touchet River population is considered to be at high risk, but needs to be at least maintained. Under current conditions, the Umatilla River population is the closest to being highly viable. Of the remaining two populations, the Walla Walla is much closer to reaching viable status than the Touchet River population.

Middle Columbia River steelhead juveniles use the action area for rearing and migration. Adults may spawn within the action area, but primarily use the area for migration. As described earlier, the proposed action will have effects on juvenile steelhead MCR steelhead from the Touchet River population. We estimate that the proposed action will injure or kill a total of 29 (24 Age 0 and 5 Age 1) juvenile MCR steelhead, less than one adult equivalent, during fish salvage and dewatering.

Additional juvenile steelhead will be affected by impacts to water quality. Temporary increases in turbidity during installation and removal of isolation barriers, the riprap access ramp, and the work pad; and during fish salvage; along with turbidity plumes which extend 200 feet downstream of the work pad, are likely to alter the feeding behavior and movement of juvenile MCR steelhead in 21,510 square feet, which will increase risk of predation. In contrast to the fish affected by salvage, NMFS is unable to estimate the number of fish harmed by increased turbidity. In circumstances where NMFS cannot numerically predict the amount of take, we estimate the extent of take by describing the extent of habitat modified by the proposed action (June 3, 1986, 51 FR 19926 at 19954). This surrogate represents an observable metric of the extent of take, which if exceeded, would trigger consultation. The extent of modified habitat is 21,510 square feet. This is equivalent to the maximum area of riverbed that will be isolated, the maximum extent of riverbed that will be permanently lost, and the downstream extent of the temporary turbidity plume in the water column (up to 200 feet downstream from the work pad, 10,000 square feet).

NMFS also expects diversion of Touchet River flow and increased water velocity through the fish ladder will block upstream migration of juvenile steelhead for 27 days, July 5–July 31.

NMFS expects State and private actions and land uses will continue within the action area at roughly their current rate. NMFS also expects that climate change will continue, and the effects to salmon and steelhead will increase. Climate change has the potential to increase summer water temperatures within the Touchet River drainage. Successful establishment of the proposed riparian plantings should ensure more shade in the long term compared to baseline conditions in the action area. However, NMFS believes the small area of increased shade will only minimally help to buffer potential effects of increased temperatures due to climate change.

Even considering the high-risk viability rating of the Touchet River steelhead population, the impaired environmental baseline, and potential climate change effects, the effects and the number of steelhead that will be injured or killed will be too small to appreciably alter the abundance, productivity, spatial structure, or diversity of the Touchet River population, or the Umatilla/Walla Walla MPG. Therefore, it is NMFS' opinion that when the effects of the action and cumulative effects are added to the environmental baseline, and in light of the status of the species, the effects of the action will not cause reductions in reproduction, numbers, or distribution that would reasonably be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of MCR steelhead.

Critical Habitat

The action area is designated critical habitat for MCR steelhead, providing spawning, rearing and migration habitat. Critical habitat in the action area is degraded due to construction, maintenance, and operation of the weir, irrigation diversions, and the Corps levee. NMFS expects small, temporary negative effects to the function and conservation value of water quality, riparian vegetation, natural cover, forage, substrate, and free of artificial obstruction PBFs from installation and removal of isolation barriers for worksite dewatering, the riprap access ramp, and the work pad; weir and riprap repairs; installation of the juvenile bypass pipe and the Obermeyer weir concrete pad; and removal of riparian vegetation.

Based on our analysis, adverse effects from the proposed action will cause a small and localized decline in the function and conservation value of PBFs in the action area. However, because of the scale and extent of the effects to PBFs, we do not expect a reduction in the conservation value of critical habitat in the action area. Therefore, as we scale up from the action area to the designation scale, the proposed action is not expected to appreciably reduce the function and conservation value of critical habitat for MCR steelhead at the designation scale.

Conclusion

After reviewing and analyzing the current status of the listed species and critical habitat, the environmental baseline within the action area, the effects of the proposed action, the effects of other activities caused by the proposed action, and cumulative effects, it is NMFS' biological opinion that the proposed action is not likely to jeopardize the continued existence of MCR steelhead or destroy or adversely modify its designated critical habitat.

INCIDENTAL TAKE STATEMENT

Section 9 of the ESA and Federal regulations pursuant to section 4(d) of the ESA prohibit the take of endangered and threatened species, respectively, without a special exemption. "Take" is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. "Harm" is further defined by regulation to include significant habitat modification or degradation that actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns, including breeding, spawning, rearing, migrating, feeding, or sheltering (50 CFR 222.102). "Harass" is further defined by interim guidance as to "create the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering. "Incidental take" is defined by regulation as takings that result from, but are not the purpose of, carrying out an otherwise lawful activity conducted by the Federal agency or applicant (50 CFR 402.02). Section 7(b)(4) and section 7(o)(2) provide that taking that is incidental to an otherwise lawful agency action is not considered to be prohibited taking under the ESA if that action is performed in compliance with the terms and conditions of this ITS.

Amount or Extent of Take

In this opinion, NMFS determined that incidental take is reasonably certain to occur and will include: (1) harm and harassment of 29 juvenile steelhead caused by injury and mortality during fish salvage, including herding and dewatering; (2) altered feeding behavior and movement of juvenile steelhead in an estimated 21,510 square feet, which will increase risk of predation; and (3) blocked upstream migration of juvenile steelhead for 27 days.

Incidental Take from Work Area Isolation and Fish Salvage

Work area isolation and dewatering of 11,250 square feet will be accomplished by installing a berm to direct flow into the fish ladder, a coffer dam to direct flow into the ladder and over the right side of the weir, and an in-water work pad for machinery use. Fish salvage will include seining (herding), electrofishing, and netting. NMFS estimates that the USFWS will successfully

salvage and relocate up to 545 juvenile steelhead from the in-water work areas, with 29 juvenile steelhead experiencing sufficient harm to result in injury or death. The extent of take will be exceeded if salvage activities result in the death of more than 29 juvenile steelhead, or if more than 11,250 square feet of the Walla Walla River is isolated and dewatered.

Take in the form of harm caused by the temporary increases in turbidity will be manifested in altered behaviors including avoidance of the area, abandonment of cover, and exposure to predators. In contrast to the fish affected by capture, NMFS is unable to estimate the number of fish harmed by increased turbidity. In circumstances where NMFS cannot numerically predict the amount of take, we estimate the extent of take by describing the extent of habitat modified by the proposed action (June 3, 1986, 51 FR 19926 at 19954). This surrogate represents an observable metric of the extent of take, which if exceeded, would trigger consultation. The extent of modified habitat is 21,510 square feet. This is equivalent to the maximum area of riverbed that will be isolated and dewatered (11,250 square feet), the downstream extent of the temporary turbidity plumes in the water column (up to 200 feet downstream from the work pad and encompassing 10,000 square feet), and the extent of permanent impacts from installation of the juvenile bypass pipe and Obermeyer weir concrete pad (260 square feet). This description of the extent of modified habitat is the extent of take exempted from the prohibition against take in this statement.

Take in the form of blocked juvenile upstream fish passage will occur for 27 consecutive days, July 5–31, from increased velocity in the fish ladder. The extent of take will be exceeded if upstream passage of juvenile steelhead is blocked in the fish ladder for more than 27 days.

The amount of take and the extent of take are the thresholds for reinitiating consultation. If any of these limits are exceeded during project activities, the amount of take would increase beyond that examined in this consultation, and thus the reinitiating provisions of this opinion apply.

Effect of the Take

In the biological opinion, NMFS determined that the amount or extent of anticipated take, coupled with other effects of the proposed action, is not likely to result in jeopardy to the species or destruction or adverse modification of critical habitat.

Reasonable and Prudent Measures

“Reasonable and prudent measures” (RPM) are measures that are necessary or appropriate to minimize the impact of the amount or extent of incidental take (50 CFR 402.02).

The USFWS shall:

1. Track, monitor, and report on the proposed action to ensure that the project is implemented as proposed, and the amount and extent of take is not exceeded.

NMFS believes that full application of conservation measures included as part of the proposed action, together with the use of the RPM and terms and conditions described below, are

necessary and appropriate to minimize the likelihood of incidental take of listed species due to completion of the proposed action.

Terms and Conditions

In order to be exempt from the prohibitions of section 9 of the ESA, the Federal action agency must comply (or must ensure that any applicant complies) with the following terms and conditions. The USFWS or any applicant has a continuing duty to monitor the impacts of incidental take and must report the progress of the action and its impact on the species as specified in this ITS (50 CFR 402.14). If the entity to whom a term and condition is directed does not comply with the following terms and conditions, protective coverage for the proposed action would likely lapse.

1. The following terms and conditions implement RPM 1:

    a. Track and monitor construction activities to ensure that the conservation measures are meeting the objective of minimizing take. Monitoring shall be conducted by the USFWS or contractor, and include a daily visual survey for fish in the areas adjacent to construction and inside the in-water work areas.

    b. Submit a completion of project report to NMFS 2 months after project completion. The completion report shall include, at a minimum, the following:

        i. Starting and ending dates for work completed, with in-water work period specified.

        ii. Methods used to isolate the work areas.

        iii. Total area of in-water work, including areas isolated and dewatered.

        iv. Total area of modified habitat.

        v. Dates and number of days of blocked upstream fish passage.

        vi. Duration isolation materials were in place at each work area.

        vii. Any daily observed sediment plume from the in-channel work area to 200 feet downstream during the 10-week in-water construction period.

        viii. A summary of pollution and erosion control inspection results, including results of implementing required BMPs, and including a description of any erosion control failure, contaminant release, and efforts to correct such incidences.

        ix. Number and species of fish observed injured or killed in the Touchet River.

x. Description of all capture and release methods employed including:

1. Supervisory fish biologist name and address.

2. Methods used.

3. Number of fish captured by species.

4. Location and condition of all fish released.

5. Observation of injury and mortality.

xi. Reference to NMFS consultation number WCRO-2022-01851.

c. All reports will be sent to: crbo.consultationrequest.wcr@noaa.gov.

d. If the amount or extent of take is exceeded, stop project activities and notify NMFS immediately.

Conservation Recommendations

Section 7(a)(1) of the ESA directs Federal agencies to use their authorities to further the purposes of the ESA by carrying out conservation programs for the benefit of the threatened and endangered species. Specifically, conservation recommendations are suggestions regarding discretionary measures to minimize or avoid adverse effects of a proposed action on listed species or critical habitat or regarding the development of information (50 CFR 402.02).

NMFS recommends that the USFWS work with Walla Walla Basin stakeholders on implementation of the Walla Walla 2050 plan, particularly strategies and actions that increase flow, improve fish passage, increase floodplain connectivity, increase extent and function of riparian vegetation, and increase habitat complexity. Implementation of these strategies will improve the function and conservation value of PBFs, and the abundance and distribution of MCR steelhead.

Reinitiation of Consultation

Under 50 CFR 402.16(a): "Reinitiation of consultation is required and shall be requested by the USFWS or by NMFS where discretionary Federal involvement or control over the action has been retained or is authorized by law and: (1) If the amount or extent of incidental taking specified in the ITS is exceeded; (2) If new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered; (3) If the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in this biological opinion; or (4) If a new species is listed or critical habitat designated that may be affected by the identified action."

This letter underwent pre-dissemination review using standards for utility, integrity, and objectivity in compliance with applicable guidelines issued under the Data Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001, Public

Law 106-554). The biological opinion will be available through NOAA Institutional Repository at https://repository.library.noaa.gov/welcome. A complete record of this consultation is on file at NMFS' La Grande, Oregon, office.

Please direct questions regarding this letter to Colleen Fagan, Interior Columbia Basin Office, La Grande, Oregon, at (541) 962-8512 or colleen.fagan@noaa.gov.

Sincerely,

Nancy L. Munn, Ph.D.
Acting Assistant Regional Administrator
Interior Columbia Basin Office

cc: Mark Robertson – USFWS
Mike Lambert – CTUIR
Joe Bumgarner – WDFW

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