

04/30/2010  
18:31:39

# FEDERAL EMERGENCY MANAGEMENT AGENCY

EHP-04

## RECORD OF ENVIRONMENTAL CONSIDERATION REPORT(REC)

Project ID: PDMC-PJ-08-MT-2009-006 (0)

Title: Park County Freshman Creek Flood Mitigation Project

### NEPA DETERMINATION

Non Compliant Flag: No  
EA Draft Date: 04/02/2010  
EA Final Date: 04/22/2010  
EA Public Notice Date: 04/02/2010  
EA Fomsl Date: 04/30/2010  
Level: EA  
EIS Notice of Intent Date:  
EIS ROD Date:  
Comments: No public comments were received during the public comment period advertised - Jhuston - 04/30/2010 18:24:58 GMT

### EXTRAORDINARY CIRCUMSTANCES

Extraordinary Circumstance Code	Description	Selected ?
	No Extraordinary Circumstances were selected	

### ENVIRONMENTAL LAW / EXECUTIVE ORDER

Environmental Law/ Executive Order	Status	Description	Comments
Clean Air Act (CAA)	Completed	Project is located in an attainment area - Review concluded	Park County is considered an Attainment Area for all air quality parameters. The project sponsor must implement dust abatement procedures if fugitive dust becomes an issue for local residents. - Jhuston - 04/30/2010 17:50:59 GMT
Coastal Barrier Resources Act (CBRA)	Not Applicable	Project is not on or connected to CBRA Unit or otherwise protected area - Review concluded	
Clean Water Act (CWA)	Completed	Project would affect waters, including wetlands, of the U.S.	Per USACE in a letter dated October 14, 2009, the applicant must apply to the Army Corps for permitting requirements and include site specific information such as wetland crossing/impact; anticipated footprint in linear feet for strams and acres for wetlands; amount and type of fill; a stream and welland mitigation and revegetation plan. - Jhuston - 04/30/2010 17:41:18 GMT
	Completed	Project may require Section 404/401 or Section 9/10 (Rivers and Harbors Act) permit, including qualification under Nationwide Permits - Review concluded	
Coastal Zone Management Act (CZMA)	Not Applicable	Project is not located in a coastal zone area and does not affect a coastal zone area - Review concluded	
Executive Order 11988 - Floodplains	Completed	Located in floodplain or effects on floodplain/flood levels	Per EO 11988, FEMA applied the 8-step process and determined that no practical alternative exists and the proposed action would not adversely affect the floodplain. The public was notified of an action to occur in the floodplain in "The Livingston Enterprise", a daily large circulation newspaper on April 2, 2010 - Jhuston - 04/30/2010 18:16:08 GMT

NOTE: All times are GMT using a 24-hour clock.

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## RECORD OF ENVIRONMENTAL CONSIDERATION REPORT(REC)

Project ID: PDMC-PJ-08-MT-2009-006 (0)

Title: Park County Fleshman Creek Flood Mitigation Project

Environmental Law/ Executive Order	Status	Description	Comments
	Completed	No adverse effect on floodplain and not adversely affected by the floodplain - Review concluded	
Executive Order 11990 - Wetlands	Completed	Located in wetlands or effects on wetlands	A wetlands mitigation plan will be developed as part of the USACE section 404 permitting process. - Jhuston - 04/30/2010 18:21:34 GMT
	Completed	Possible adverse effect associated with constructing in or near wetland	
	Completed	Review completed as part of floodplain review - Review concluded	
Executive Order 12898 - Environmental Justice for Low Income and Minority Populations	Completed	Low income or minority population in or near project area	
	Completed	No disproportionately high and adverse impact on low income or minority population - Review concluded	
<del>Endangered Species Act (ESA)</del>	<del>Completed</del>	<del>Listed species and/or designated critical habitat present in areas affected directly or indirectly by the federal action</del>	<del>USEWS concurred with FEMA's determination that the project is unlikely to cause significant adverse effects to fish, wildlife, or habitat resources in a letter dated October 15, 2009. - Jhuston - 04/30/2010 17:35:16 GMT</del>
	Completed	No effect to species or designated critical habitat (See comments for justification) - Review concluded	
Farm and Protection Policy Act (FPPA)	Completed	Project does not affect designated prime or unique farmland - Review concluded	In consultation with NRCS, no additional coordination or permits would be required. - Jhuston - 04/30/2010 17:52:30 GMT
Fish and Wildlife Coordination Act (FWCA)	Completed	Project does not affect, control, or modify a waterway/body of water - Review concluded	
Migratory Bird Treaty Act (MBTA)	Completed	Project located within a flyway zone	In consultation with USFWS for the MBTA in a letter dated October 2, 2009, it was determined that the proposed project is not expected to have significant impact as most of the work is along the banks of Fleshman Creek and tree removal would be minimized. USFWS concurred with our determination in a letter dated October 15, 2009. - Jhuston - 04/30/2010 18:01:10 GMT
	Completed	Project does not have potential to take migratory birds - Review concluded	
Magnuson-Stevens Fishery Conservation and Management Act (MSA)	Completed	Project not located in or near Essential Fish Habitat - Review concluded	

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FEDERAL EMERGENCY MANAGEMENT AGENCY

EHP-04

RECORD OF ENVIRONMENTAL CONSIDERATION REPORT(REC)

Project ID: PDMC-PJ-08-MT-2009-006 (0)

Title: Park County Freshman Creek Flood Mitigation Project

Environmental Law/ Executive Order	Status	Description	Comments
National Historic Preservation Act (NHPA)	Completed	Standard Section 106 review	FEMA conducted a historic evaluation and cultural resources survey in the APE through the contractor URS and published the results in November 2009 as part of the Environmental Assessment. FEMA determined the project can be completed without impact to the site identified as eligible for listing on the National Register of Historic Places (24PA1349-View Vista Village) and SHPO concurred with our determination in a letter dated December 11, 2009. No significant cultural resources were found and the area is located in an urban area that has been previously disturbed. - Jhuston - 04/30/2010 16:51:53 GMT
	Completed	Building or structure 50 years or older or listed on the National Register in the project area and activity not exempt from review	
	Completed	Determination of No Historic Properties Affected (FEMA finding/SHPO/THPO concurrence attached) - Review concluded	
	Completed	Project affects only previously disturbed ground - Review concluded	
OTHER (enter specifics in comments)	Completed	Review concluded	
State Water and Soil Laws	Completed	Review concluded	
Wild and Scenic Rivers Act (WSR)	Completed	Project is not along and does not affect Wild and Scenic River - Review concluded	

CONDITIONS

Special Conditions required on Implementation of Projects:

A floodplain development permit would be required from the Park County Floodplain Administrator. Construction must begin at the downstream end and proceed upstream.

Source of condition: Executive Order 11988 - Floodplains

Monitoring Required: No

The project sponsor would obtain a Section 404 permit from the U.S. Army Corps of Engineers prior to beginning construction.

Applications can be obtained at: <https://nwo.usace.army.mil/html/od.rmt/applications.html>

Minimize tree removal. Vegetation restoration to include trees, shrubs, and grasses. Impacted wetlands would be mitigations as outlined in the Section 404 permit.

Source of condition: Clean Water Act (CWA)

Monitoring Required: No

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RECORD OF ENVIRONMENTAL CONSIDERATION REPORT(REC)

Project ID: PDMC-PJ-08-MT-2009-006 (0)

Title: Park County Fleshman Creek Flood Mitigation Project

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Minimize tree removal. Vegetation restoration to include trees, shrubs, and grasses. Impacted wetlands would be mitigations as outlined in the Section 404 permit.

Source of condition: Endangered Species Act (ESA)

Monitoring Required: No

The project sponsor must use care to avoid site 24PA1249, View Vista Village which is eligible for nomination to the National Register of Historic Places during construction or staging equipment.

Source of condition: National Historic Preservation Act (NHPA)

Monitoring Required: No

\*The project sponsor would need to obtain short-term construction easements along Fleshman Creek.

\*Street/road closures would be phased and access to all properties would be maintained during construction activities. Park County would notify local residents prior to any road closures.

\*The project sponsor would coordinate with the Utilities Underground Location Center regarding the location of utilities within the project area.

\*To assure noise levels remain at acceptable levels, all equipment would be equipped with proper mufflers, construction activities would be limited to daylight hours, and to the extent practicable, construction near the schools would be scheduled to occur during summer vacation.

Source of condition: OTHER (enter specifics in comments)

Monitoring Required: No

\*The project sponsor would obtain a Section 401 Certification and a 318 Water Quality permit from the Montana Department of Environmental Quality prior to beginning construction. These permitted conditions must be adhered to including the fueling of equipment must be at least 50 feet from the stream.

\*The proposed action would require a SPA 124 permit.

\*Per Montana DEQ, the project sponsor would obtain a General Montana Pollutant Discharge Elimination System permit prior to beginning construction activities. As part of the permitting process, a Notice of Intent Package and a Storm Water Pollution Prevention Plan would also be prepared.

\*Excavation and vegetation removal activities would be completed in accordance with Best Management Practices (BMPs) to reduce impacts to soils and water resources.

\*Excess soil would be disposed of at a local licensed landfill or an established city or county stockpile area.

Source of condition: State Water and Soil Laws

Monitoring Required: No

**Standard Conditions:**

Any change to the approved scope of work will require re-evaluation for compliance with NEPA and other Laws and Executive Orders.

This review does not address all federal, state and local requirements. Acceptance of federal funding requires recipient to comply with all federal, state and local laws. Failure to obtain all appropriate federal, state and local environmental permits and clearances may jeopardize federal funding.

If ground disturbing activities occur during construction, applicant will monitor ground disturbance and if any potential archeological resources are discovered, will immediately cease construction in that area and notify the State and FEMA.