

MILL LAKE DAM PROJECT 2005

DECISION NOTICE

**Bitterroot National Forest
Stevensville Ranger District
Ravalli County, Montana**

MAY 2005

Lead Agency:

USDA Forest Service

Responsible Official:

David T. Bull
Forest Supervisor

For Further Information, Contact:

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MILL LAKE DAM PROJECT 2005

DECISION NOTICE

I. SUMMARY OF DECISION

After careful review and consideration of the Mill Lake Dam Project Environmental Assessment (EA), Finding of No Significant Impact (FONSI), the public and agency comments¹, and the project record I have decided to select Alternative 2. With this decision I am authorizing Mill Creek Irrigation District sufficient helicopter access to their facilities at Mill Lake Dam to complete the repairs on the dam while limiting effects to wilderness and other resources. I am also prescribing specific conditions be met during the irrigation district's access and repair activities within the wilderness and National Forest boundaries. These conditions will provide reasonable protections of the National Forest. My decision is described in further detail starting on page 7. My rationale for reaching this decision begins on page 10.

II. PROJECT BACKGROUND

Mill Lake Dam is owned and operated by Mill Creek Irrigation District (MCID). MCID has requested authorization to access to their easements at Mill Lake Dam on the Bitterroot National Forest, Stevensville Ranger District. The irrigation district has authorized occupancy to maintain and operate these dams on National Forest Lands under valid pre-Forest easements recognized under the Act of 1866 granted by the Secretary of the General Land Office/ Department of Interior. (Appendix D in EA).

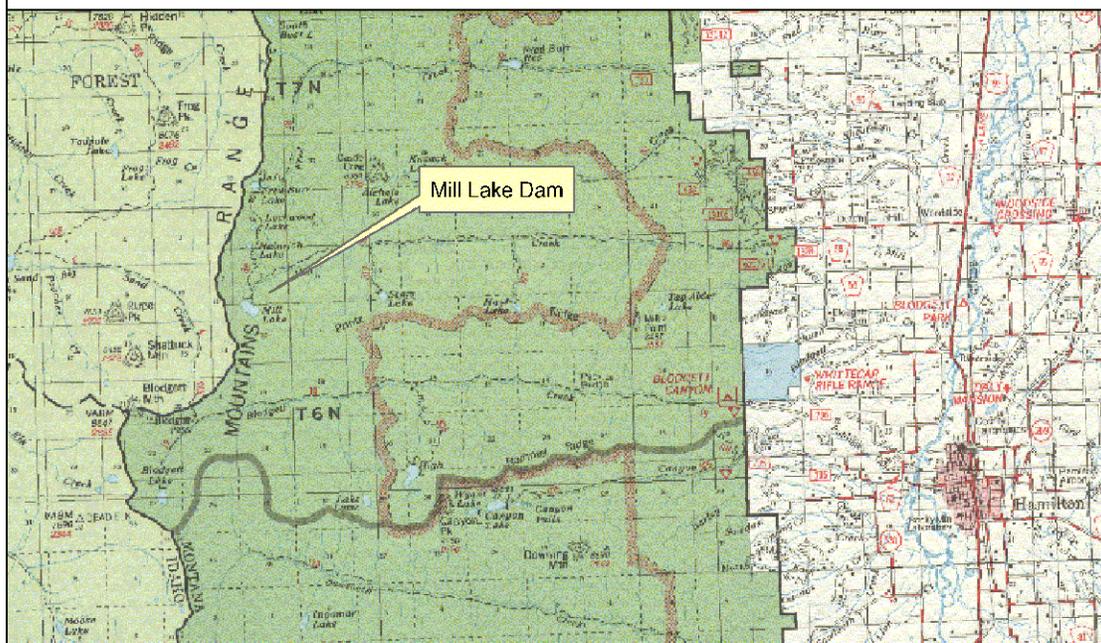
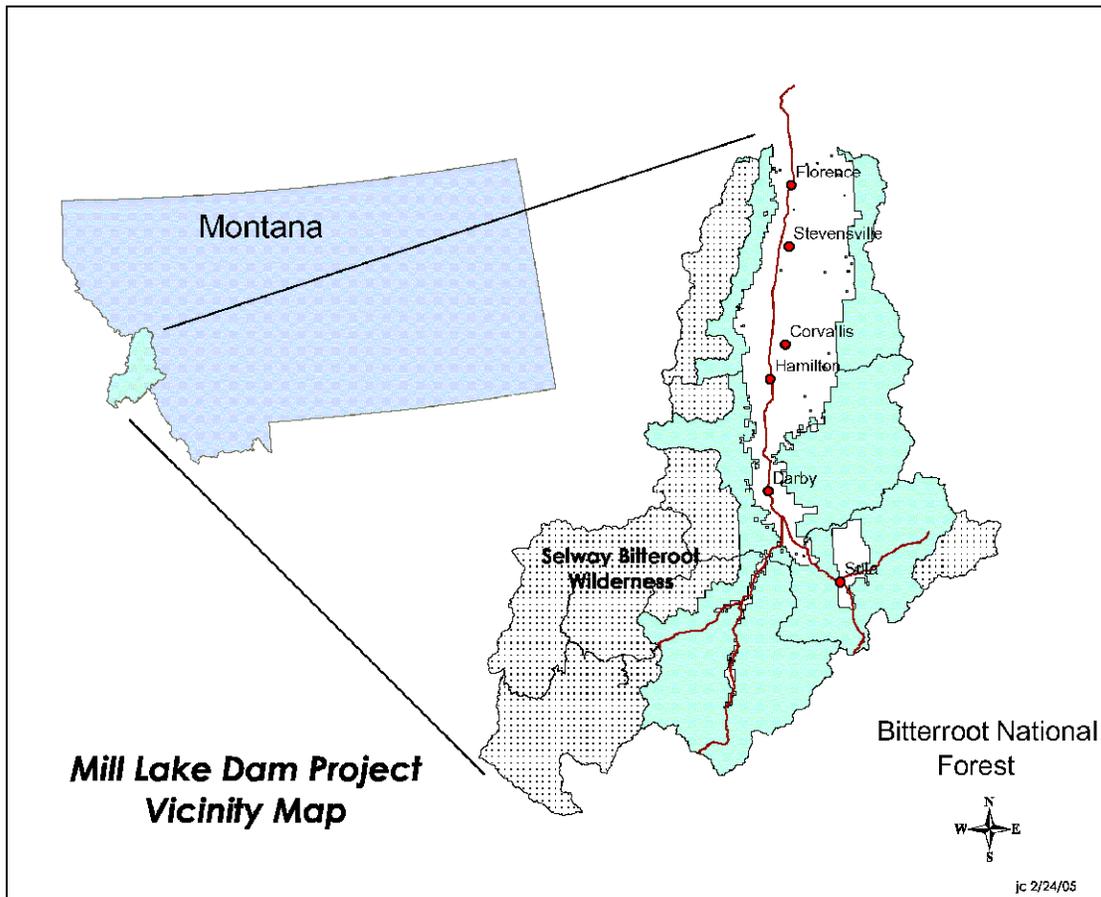
This easement is entirely within the National Forest boundary as well as within the Selway Bitterroot Wilderness.

Mill Lake Dam is located in the south half of the southwest quarter of Section 1, Township 6 North, Range 16 East, P.M., which is approximately 15 miles west and one mile south of Corvallis, Montana. The dam is located approximately 10.5 miles inside the Selway-Bitterroot Wilderness boundary at the head of Mill Creek. Public access to Mill Lake is by Trail No. 364. Distance to the lake from the trailhead is approximately 13 miles (Also see Map 1).

This dam is classified as a high hazard dam and stores 780 acre-ft of water at the spillway crest. The dam dimensions are approximately 25 feet high and 450 feet long. It was originally constructed in 1895 with reconstruction in 1907.

As the dam owner, MCID is responsible for repair and maintenance of Mill Lake dam. This dam currently has deficiencies that the MCID must correct to comply with the dam safety laws and regulations. Please refer to the text box on page 3 for a summary of the condition of Mill Lake dam as well as MCID's proposed work on their dam.

¹ See Appendix A (Response to Comments) of this decision for each of the public comments we received.



Map 1

Summary: Condition of Mill Lake Dam and MCID's Plans

Appendix B of the EA provides a more detailed discussion of the current condition of Mill Lake Dam as well as MCID's proposed work on Mill Lake Dam. This information is summarized here as it provides additional context for the federal proposal and decision.

Condition of the dams

Mill Lake Dam is owned and operated by MCID, and MCID is responsible for funding and completing any actual work on the dam. The dam is classified as high hazard. The dam has existing structural deficiencies that could eventually lead to dam failure. Structural deficiencies include severe corrosion and large holes in the bottom of the outlet pipe. Failure of this dam could result in loss of life and property as well as downstream damage to water quality, fish and riparian habitats, and other National Forest and wilderness values.

MCID's planned activities

Mill Creek Irrigation District proposes to correct the deficiency and proceed with a permanent repair to the Mill Lake Dam outlet pipe. Slip-lining of the corroded metal pipe is planned after the reservoir level is drawn down, around early to mid August of 2005. A small cofferdam around the outlet may need to be installed, depending on the reservoir level and precipitation prior to and during the project.

The slip-lining project is planned to include the following work:

1. Removing the temporary flexible liner in the existing outlet pipe, removing existing intake structure, removing concrete headwall on the downstream side of the outlet pipe.
2. Slip-lining the old 24-inch diameter corrugated metal pipe with a new 20-inch (o.d.) high-density polyethylene pipe.
3. Grouting the annulus between the old and new pipe, and grouting the voids around the old gate chamber located in the mid-section of the dam. Approximately 14 yards of grout would be used (Minimum Requirements Worksheet, Appendix F).
4. Removing the existing 24-inch square slide gate.
5. Installing a new 20-inch gate valve and housing, gate stem and operator on the downstream side of the embankment.
6. Installing a 4-foot diameter corrugated HDPE tee and pipe downstream of the new gate for improved access and ability to maintain the gate.

III. PURPOSE AND NEED

The purpose of this proposal is to authorize MCID adequate access² to their facilities and to prescribe terms and conditions related to this access and their subsequent work on the facilities as necessary to protect the National Forest.

The Forest Service is required by both the Wilderness Act³ and the Alaska National Interest Lands Conservation Act⁴ (ANILCA) to authorize access to valid occupancies such as these easements held by the MCID. Therefore, the authorization of adequate

access to MCID for the valid use of its easements is non-discretionary.

In this case, the Wilderness Act also requires the Forest Service to "prescribe the routes of travel to and from the surrounded occupancies, the mode of travel, and other conditions reasonably necessary to preserve the National Forest Wilderness". As such, the Forest Service has the responsibility to set reasonable terms and conditions on that access as necessary for protection of the National Forest.⁵

These acts prescribe a narrow scope to the Agency's discretion, balanced between requirements to allow for the proponent's rights and responsibilities pertaining to the use of their easement and the Agency's

² Defined at FSM 2320.5.15 as "The combination of routes and modes of travel that the Forest Service has determined will have the least-lasting impact on the wilderness resource and, at the same time, will serve the reasonable purposes for which State or private land or right is held or used."

³ Wilderness Act, Sec. 5(b); codified at 16 U.S.C § 1134; and the implementing regulations at 36 CFR 293.13 Access to Valid Occupancies.

⁴ ANILCA, Pub. L. 96-487, title XIII, Sec. 1323; codified at U.S.C. § 3210

⁵ Concomitantly, the Forest Service also has authority under its general grant from Congress to protect the National Forests (16 U.S.C. § 551) to regulate reasonably the easement in order to achieve the purposes for which the national forests were reserved, and the Selway-Bitterroot Wilderness was designated.

responsibility to provide protections for National Forest and Wilderness values.

A number of factors help define and narrow the Agency's discretion in this case, and therefore they also define the scope and purpose of this proposal and are discussed further below.

Mill Lake Dam has structural deficiencies of the outlet works pipe that MCID must correct. The nature of known deficiencies, the downstream risks, and uncertainties associated with the internal structure and integrity of these older dams increase the urgency that known deficiencies be corrected as soon as possible. See the summary box on the previous page or Appendix B of the EA for a discussion of known deficiencies in Mill Lake Dam.

At the end of each field season, it is important that any corrective measures, including erosion control and armoring of the embankment, be completed to the extent that the dam can withstand the following winter conditions and spring runoff or precipitation events.

MCID has requested access to their Mill Lake facility so they may perform work necessary to repair the deteriorated outlet pipe and correct the deficiency before it develops into an emergency condition. This course of action is for the purpose of meeting MCID's responsibilities under dam safety laws and regulations.

The Forest Service has reviewed the MCID's preliminary technical proposal and request for access and has determined that:

1. The MCID's proposed use is consistent with the purpose, terms and limits of the easement. Act of 1866, Section 9 states: "And be it further enacted, that whenever, by priority of possession, rights to use of water for mining, agricultural, manufacturing, or other purposes, have vested and accrued, and the same are recognized and acknowledged by the local

customs, laws, and decisions of the courts, the possessors and owners of such vested rights shall be maintained and protected in the same; and the right of way for the construction of ditches and canals for the purposes aforesaid is hereby acknowledged and confirmed.

2. Review of the preliminary technical plans indicates the final plans could meet requirements under dam safety laws and regulations.⁶

3. Based on preliminary environmental review by the interdisciplinary team, it appears the irrigation district's proposed plans are, or could be made consistent with environmental laws.⁷ The interdisciplinary team developed the proposed terms and conditions based on this preliminary environmental review (p. 8 to 9).

4. A minimum requirements process was used to assist with the analysis of MCID's request.⁸ The process indicates the proposal would meet Forest Service Manual 2326.1 conditions under which use of motorized equipment and/or mechanical transport would be allowed within wilderness⁹ (Appendix F).

⁶ The Forest Service is the agency responsible for regulating this dam under the current dam safety laws and regulations. In this role, the agency reviews and approves (or disapproves) the irrigation districts engineering plans. The plans must meet strict dam engineering standards, considering, amongst other things, design, choice of materials, methods of placing materials, and the risks and uncertainties inherent in the existing structure. It is the irrigation district's responsibility to develop the engineering plans.

⁷ These include the Clean Air Act, Clean Water Act, Endangered Species Act, Historic Preservation Act, National Forest Management Act, etc.

⁸ The Minimum Requirement Decision Process was developed by federal agencies to help provide consistency to the way project proposals in wilderness are evaluated. This decision guide is a means to document the analysis process.

⁹ Forest Service Manual, 2326.1 – Conditions Under Which Use May Be Approved. Allow the use of motorized equipment or mechanical transport only for: 1. Emergencies where the situation involves an inescapable urgency and temporary need for speed beyond that available by primitive means. Categories include fire suppression, health and safety, law enforcement involving serious crime or fugitive pursuit, removal of deceased persons, and aircraft accident investigations. 4. Access to surrounded State and private lands and valid occupancies (FSM 2326.13). 5. To meet minimum needs for protection and administration of the area as wilderness, only as follows: a. An essential activity is impossible to

IV. PROPOSED ACTION

The proposed action is to authorize the Mill Creek Irrigation District adequate access to their facilities with the terms and conditions described in further detail as Alternative 2 (EA Appendix B). The Forest Service would authorize sufficient helicopter access to allow the work to be done safely and effectively during the 2005 field season. The remaining access, including access for most camp supplies and personnel, would be via stock or foot travel on Trail 364.

The Forest Service also proposes to require conditions be met during the irrigation district's repair and maintenance activities within the wilderness and National Forest boundaries. These conditions address resource concerns such as sedimentation, safety and wilderness. They are listed, beginning on page 8 and 9 as mitigation measures, terms and conditions and permits required for Alternative 2.

V. PUBLIC INVOLVEMENT AND ISSUE IDENTIFICATION

The Forest met with MCID on February 23, 2005 to discuss their plans to repair the dam. MCID officially provided the Forest with notice of the planned work and need for access authorization the following day. The following is a discussion of how the public responded to the proposed action, which the Forest used to help identify and development potential issues.

A legal notice soliciting comments on the proposed Mill Lake Dam Project was published in the Ravalli Republic on March 21, 2005, marking the beginning of the 30 day comment period pursuant to 36 CFR 215. A similar news release was sent out on March 17. The Ravalli Republic published a news story regarding the project proposal on March 22. The Missoula Independent published a paragraph,

accomplish by non-motorized means because of such factors as time or season limitations, safety, or other material restrictions.

regarding the project and suggesting comment, in their April 7-14 issue.

We also mailed a letter soliciting comment on the proposed action to 143 people potentially interested or affected by the proposal. The Mill Lake Dam Project was placed on the April 1, 2005 edition of the Bitterroot NEPA quarterly.

Additional information concerning this project and similar and more extensive dam repair projects was made available on request and through the Forest's internet site. The information included previous environmental assessments and effects analyses as well as subsequent project monitoring results of these projects (Project File (PF) G-13).

Ten responses were received as the result of the public involvement efforts during the thirty-day scoping period. Three other responses were received after the comment period.

All comments were evaluated and considered, and substantive comments relevant to environmental concerns were incorporated or addressed through project design or mitigation or otherwise in this environmental assessment. Other comments are more appropriately addressed in the decision and other supporting documentation.

The Forest Service identified 3 key topics or issue themes raised during scoping and the 30 day comment period. Two of these issues are elements or extensions of the purpose and need which concern "Dam and Public Safety" and questions, concerns, and support surrounding adequate "Access". The remaining environmental issue concerned potential for adverse effects on "Wilderness Character."

Public and agency comments are attached as Appendix A (Response to Comments) of this decision notice.

The Forest Service found no significant issues or significant unresolved conflicts that warranted detailed consideration of additional alternatives (also see "Other Alternatives Not Given Detailed Study" later in this document).

VI. ALTERNATIVES, INCLUDING THE PROPOSED ACTION

This section describes the proposed action and alternatives. This section also discusses mitigation measures proposed to lessen the project's impacts.

ALTERNATIVE 1 - NO ACTION

The No Action alternative is required by the National Environmental Protection Act (NEPA) and will serve as a baseline condition with which to compare other alternatives.

Under this alternative, the Mill Creek Irrigation District would not be authorized helicopter access for the purpose of repairing their facilities. No additional terms or conditions would be placed on their use of this easement. Routine maintenance would continue under the existing easement. This alternative would result in Mill Lake Dam remaining in its present condition, which is not acceptable in regards to the deteriorated condition of the outlet works pipe. The corroded pipe would continue to deteriorate and potentially collapse or cause a piping failure, which would threaten downstream forest resources and public safety.

ALTERNATIVE 2 - PROPOSED ACTION

This alternative was developed to address the purpose and need for action.

This alternative was developed to authorize adequate access to Mill Lake Dam to perform the repairs on the dam while

limiting effects to wilderness and other resources.

The Bitterroot National Forest proposes to authorize Mill Creek Irrigation District helicopter access to repair their facilities at Mill Lake Dam. The Forest Service would authorize sufficient helicopter access to allow for the work to be done safely and effectively during the 2005 field season. The remaining access, including access for most camp supplies and personnel, would be via stock or foot travel on Trail 364.

In addition, to protect national forest values and resources, the terms, conditions, and mitigation measures specified in the EA on pages 8 through 10 and in this decision on pages 8 and 9 would be required during access and work periods authorized under this alternative.

VII. OTHER ALTERNATIVES NOT GIVEN DETAILED STUDY

Mill Lake Irrigation District investigated a number of alternative repair and access scenarios prior to submitting their final repair plans and request for access to the Forest [PF G-11- Montana Renewable Resources Grant and Loan Program Application for the Mill Lake Dam Rehabilitation, May 2002, also Oelrich Letter PF B-13]. In the course of evaluating MCID's request and prior to scoping, the Forest explored additional access scenarios in the minimum requirements process (initial draft made available to the public at the time of scoping - PF H-1). These concepts were evaluated and helped lead to the design of the proposed action. Public comments on the proposal subsequently included a number of additional alternative repair/access scenario suggestions (PF B-6 and B-7).

In all, these scenarios ranged from consideration of abandonment and breach of the dam to consideration of whether the site could be accessed and the work accomplished solely through non-mechanized means to other scenarios which, if viable, might have reduced helicopter flights by as little as one trip. Six of these scenarios are described in further detail in the EA Appendix C and further considerations are provided in the EA Appendices B, D, E, and F.

In all cases, alternatives to the proposed action would have necessitated alterations to MCID's planned engineering designs,

materials, and/or methods. In most cases these changes would simply not meet state of practice engineering techniques for design and construction of earthen dams such as this. Others, upon further evaluation, provided little or no additional advantage for wilderness protection and/or added additional environmental or safety risks or otherwise were not deemed consistent with the purpose and need for this proposal.

VIII. DECISION

As the Responsible Official for this project, I have selected Alternative 2 as described here and in the EA. With this decision I am authorizing Mill Creek Irrigation District sufficient helicopter access to allow for the work to be done safely and effectively during the 2005 field season. The remaining access, including access for most camp supplies and personnel, will be via stock or foot travel on Trail 364.

My decision incorporates the following features designed to reduce impacts on resources or to enhance resource values. These management practices, mitigation measures, and monitoring items will be incorporated into the project design, included as permit or contract requirements, or implemented as normal agency requirements.

The following items are MCID's responsibility:

Table 1 - Terms and Conditions (MCID)

Measure
Dam Safety
1. Plans and specifications will be reviewed in accordance with federal laws and Forest Service standards and criteria for high hazard dams.
2. The dam owners are responsible to provide their own radio or telephone communications.
3. During the construction period, MCID and their engineering representative will have an emergency response plan in place to respond to incidents, such as flooding from a major storm event.
Wilderness Resource, Recreation and Wildlife
4. Airlift flights in the valley will be routed to minimize noise near residences. Where feasible and safe to do so, helicopters will avoid flying over mountain goats. When possible helicopters will avoid flying directly over trails. Helicopter flights during the peregrine nesting season should stay as far south in the canyon as is safely possible to limit disturbance.
5. All solid wastes/refuse will be properly stored.
6. All solid wastes will be removed from National Forest lands, except for burnable kitchen wastes.
7. Latrines will be located at least 200' from water and filled in after completion of project.
8. Latrines will be used for human wastes and kitchen wastewater.
9. All fuel shall be stored in an approved spill containment structure that shall be of sufficient capacity to contain all the fuel stored in the structure. The basic containment structure shall include an HDPE-lined basin and berm to contain spills or leaks. Fuel will be stored more than 100 feet from the surface water. All hazardous material will be removed from the site by the end of the operating season. A hazardous spill kit will be on site.
10. Staging areas, fuel storage and containment area, and camping site for Mill Lake Dam will be identified by MCID prior to initiation of project.
11. Schedule the use of helicopters and other motorized equipment to weekdays whenever possible.
12. Post signs at trailhead, by mid-summer to alert hunters or other potentially affected users.
13. Work with the Forest Service to close the trails in the area (Mill Creek Trail #364, Hauf Lake Trail #309, Sears Lake Trail #312 and Fred Burr Trail #38) when the helicopter is flying loads to the dam site for visitor safety. Also, the area directly around the dam site will be closed the entire duration of the project. Camping and visiting Mill Lake will still be allowed. Public notices of closures will be done by MCID.
Water and Fisheries
14. If possible, all work will be accomplished outside of the standing water. This is to be accomplished by the use of coffer dams around the work area on Mill Lake dams. Pumps will be used to control seepage through cofferdams. Seepage will be pumped into the reservoir so sediments settle.
15. If water needs to be pumped over the dam during construction, to maintain coffer dams or for other reasons, the pumped water should flow into sites that would not erode.
16. Disturbed areas, including soil borrow areas, as much as is practical, shall be confined to within the high water mark of the existing lake.
Heritage Resource
17. If previously unknown sites are discovered during implementation, project activities in the vicinity of the site must be halted and the Forest's Heritage Program Manager notified.
Revegetation and Reclamation
18. All equipment and supplies should be inspected and cleaned of weed-seed prior to entering the wilderness. It will be essential to use weed-seed free feed for stock while at the dam site and for a few days prior to entering the wilderness in case stock ingest weed seed.
Air Quality
19. Dust control for exposed soil areas at the project site and at the sling load drop site could be abated with water as needed.
Permits and Plans
20. MCID will provide plans and specifications for the work to be done at the dam, to the Forest Service prior to work commencing on the dam, for review in accordance with Forest Service dam safety requirements.
21. MCID would be responsible for obtaining the required state or federal permits. This would include: State of Montana, Department of Natural Resources 310 permit and Army Corps of Engineers 404 permit. A 318

Measure
authorization may be required from the Department of Environmental Quality
22. Air Operations, Safety, Camp Management, Materials Handling and Spill Plan, Sediment Monitoring and Communications will be required as a condition for the construction work and will be developed by MCID prior to construction and approved by the Forest Service.
23. A contingency plan and response guide for spill emergencies, including onsite and during transport, shall be submitted and approved by the Forest Service prior to onsite fuel storage.

The following items are Forest Service (FS) Responsibility:

Table 2 - Mitigation Measures (FS)

Measure
24. A Forest Service wilderness ranger will discuss resource protection standards with workers.
25. Wilderness visitor safety will be protected by temporary closures during work and helicopter operations.
26. Where cultural resources or human remains are encountered during project implementation, the Forest has the authority to modify or halt project activities.
27. The Forest Service, prior to commencement of work, will approve all specifications and plans prepared by MCID.
28. The Forest Service engineer is responsible to approve any work from a technical standpoint and assure that the work meets dam safety laws and regulations.
29. Issue closure order to close the area/trails to the public when helicopters are flying loads to the dam site and at the dam site during the duration of the project.

ENVIRONMENTAL MONITORING

Monitoring Plans

Monitoring is the gathering of information and observation of management activities to provide a basis for periodic evaluation of Forest Plan goals and objectives and includes administration of this project. The purpose is to determine how well objectives have been met and how closely management standards and mitigation measures have been applied.

Monitoring and Inspection that is MCID’s Responsibility:

MCID will provide a qualified engineer for site monitoring and quality control of work.

MCID will develop and implement a sediment monitoring plan and an erosion control plan, in conjunction with the terms and conditions listed above, and the 310 and 404 permits to ensure that

environmental protection and mitigation measures are effective.

Follow-up inspections of the dam after the first filling of water will be required in order to provide monitoring of the effectiveness of the repair work for safety and engineering standards.

Monitoring that is Forest Service Responsibility:

A Forest Service engineer will periodically monitor the work performed at the dams. On-site routine monitoring by USFS engineering personnel will ensure engineering standards are being met.

A Forest Service wilderness ranger will provide additional on-site monitoring during project work to ensure wilderness and resource protection standards are met at dam sites and within the access corridor. The wilderness ranger will provide feedback to ensure access and project work meet mitigation and protection standards.

IX. RATIONALE FOR THE DECISION

My decision is based on how well the alternatives analyzed in the EA address the purpose and need of the project, and consideration of issues that were raised during the scoping process. I considered Forest Plan and Record of Decision standards and guidance for the project area and laws governing access to and safe operations of these private facilities. I also took into account competing interests and values of the public.

A. Meeting the Purpose and Need

The purpose and need for the project stems from Mill Creek Irrigation District's existing rights and obligations to operate Mill Lake Dam and to maintain the dam consistent with federal dam safety standards. It is also built on other pertinent laws and regulations that govern MCID's use of their easements and the protection of National Forest System lands.

I believe Alternative 2 provides MCID with reasonable access for their proposed work on the dams while also providing an effective and reasonable combination of protections, both long and short term, for the National Forest.

Alternative 1, the "no action" alternative, does not authorize adequate access for MCID to complete their necessary work at the dams. The Forest Service is required by both the Wilderness Act and the Alaska National Interest Lands Conservation Act (ANILCA) to authorize access to valid occupancies such as these easements held by the MCID. Therefore, the authorization of adequate access to MCID for the valid use of its easements is non-discretionary. I cannot choose Alternative 1.

B. Consideration of the Issues

The key issue topics raised during scoping, "dam and public safety", "access" and "wilderness character," capture the major cross section of concerns raised by the public¹⁰ and the primary uses I had to consider and balance in reaching this decision.

As illustrated in the EA, I have little or no discretion over much of this decision. MCID's right to reasonable and adequate access and use is inherent in their easement and provided for by both the Wilderness Act and the Alaska National Interest Lands Conservation Act. I understand that motorized and helicopter use in wilderness areas is typically undesirable and contrary to wilderness values. However, in this case Congress knowingly made the dam part of the Selway Bitterroot Wilderness while also reaffirming and making allowance for the pre-existing easement¹¹.

Consideration of the issues raised during scoping led me to explore a number of less mechanized alternatives. In all cases, alternatives to the proposed action would have necessitated alterations to MCID's planned engineering designs, materials, and/or methods. In most cases these changes would simply not meet state of practice engineering techniques for design and construction of earthen dams such as this or added additional environmental or safety risks. Others, upon further evaluation, provided little or no additional advantage for wilderness.¹² These limitations further defined my discretion in this decision.

My discretion in this case lies primarily in determining reasonable terms and conditions necessary to protect the National Forest. I believe my decision accomplishes that.

¹⁰ See Appendix A (Response to Comments).

¹¹ 16 USC § 1134

¹² DN page 7

XI. FINDINGS RELATED TO OTHER LAWS AND REGULATIONS:

I have reviewed this decision for compliance with laws, regulations, and policies. My decision is consistent with all laws, regulations, and policies. Findings required by major environmental laws, the Forest Plan, and the Environmental Justice Executive Order are summarized below. Compliance with other laws, regulations, and policies are listed in the EA, the project file, and the Forest Plan.

Consistency with the Forest Plan (16 U.S.C. 1604(i)): The Bitterroot Forest Land and Resource Management Plan establishes management direction for the Bitterroot National Forest. This direction is described in forest-wide and management area-specific standards. Designing and implementing projects consistent with this direction is the means to move the Forest toward the desired future condition as described in Chapter II of the Forest Plan. Management area and Forest-wide direction in the Forest Plan established sideboards for the development of alternatives to the proposed action while responding to public issues. After reviewing the EA, I find my decision is in full compliance with the Bitterroot National Forest Land and Resource Management Plan standards, guidelines, goals, and objectives, as amended.

Dam Safety and Security Act: My decision is in full compliance with the Dam Safety and Security Act. The Dam Safety and Security Act reauthorizes the National Dam Safety Program. The Dam Safety and Security Act codifies FEMA's ongoing relationship with other federal agencies, the states, and private interests to focus attention and energy on improving the safety and security of America's dams.

Endangered Species Act: This project is in full compliance with the Endangered Species Act. In accordance with Section 7(c) of the Endangered Species Act, as

amended, The Bitterroot Forest prepared Biological Assessments addressing potential impacts to federally listed wildlife and fish (PF D-5 and D-8). The project is not likely to adversely affect any threatened or endangered specie.

Clean Water Act and Montana State Water Quality Standards: Upon review of the project EA, I find that activities associated with my decision will comply with the Clean Water Act, State of Montana water quality standards, Best Management Practices, and associated monitoring requirements (EA, pages 22-28, 61-64).

National Historic Preservation Act: The project is in full compliance with the National Historic Preservation Act. Heritage surveys of the Mill Lake Dam area have not identified any heritage resources requiring protection (EA, page 58). Consultation with the Tribal Preservation Office of the Confederated Salish & Kootenai Tribes was completed in May 12, 2004 (PF D-9).

Environmental Justice Order: Executive Order 12898 requires fair treatment and meaningful involvement of all citizens regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. This decision would not disproportionately impact any minority or low-income population. We have treated all citizens fairly and allowed meaningful involvement to every person regardless of race, color, national origin, or income (PF D-17). I find that this project and its NEPA analysis comply with the Environmental Justice Executive Order.

XII. IMPLEMENTATION DATE

If no appeal is received, implementation of this decision may occur on, but not before, five business days from the close of the appeal filing period. If an appeal is received, implementation may not occur before the 15th day following the date of appeal disposition (36 CFR 215.9).

XIII. ADMINISTRATIVE REVIEW AND APPEAL OPPORTUNITIES

This decision is subject to appeal pursuant to 36 CFR 215.11 by individuals or organizations meeting the requirements of 36 CFR 215.13. A written appeal must be submitted within 45 days following the publication date of the legal notice of this decision in the Ravalli Republic Newspaper of Hamilton, Montana. It is the responsibility of the appellant to ensure their appeal is received in a timely manner. The publication date of the legal notice of the decision in the newspaper of record is the exclusive means for calculating the time to file an appeal. Appellants should not rely on date or timeframe information provided by any other source (36 CFR 215.15).

The appeal must be filed with the Appeal Deciding Officer in writing. It is the appellant's responsibility to provide sufficient project or activity-specific evidence and rationale, focusing on the decision, to show why my decision should be reversed. At a minimum, the appeal must meet the content requirements of 36 CFR 215.14.

Paper appeals must be submitted to:

For Postal Delivery:
 USDA Forest Service, Northern Region
 ATTN: Appeal Deciding Officer
 P.O. Box 7669
 Missoula, MT 59807

For Hand Delivery:
 Northern Region Headquarters
 Federal Building, 200 East Broadway
 Missoula, Montana

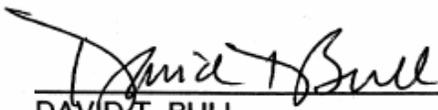
Normal Business Hours are from 8:30 AM to 4:00 PM

Appeals may be FAXed to (406)-329-3411.

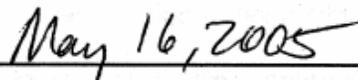
For electronic appeals, the e-mail subject line should contain the name of the project being appealed. An automated response should confirm your electronic appeal has been received. Electronic appeals must be submitted in MS Word, Word Perfect, or Rich Text Format (RTF). Electronic appeals must be submitted to: appeals-northern-regional-office@fs.fed.us.

XIV. CONTACT PERSON

Copies of the Mill Lake Dam Project 2005 EA, FONSI, or Decision Notice, or information from the Project File, may be requested by contacting the Stevensville Ranger District Office at (406) 777-5461. For more information or questions concerning this decision or the appeal process, please contact Dan Ritter, District Ranger, or the North Zone Team Leader, at 88 Main Street, Stevensville, MT 59870 or (406) 777-5461.



 DAVID T. BULL



 Date