EVALUATION AND ACCEPTANCE OF APPLICANT PREPARED ENVIRONMENTAL ASSESSMENT AND FINDING OF NO SIGNIFICANT IMPACT

Wastewater Treatment System Improvements Project
Water Resources Development Act of 1999, Section 595

Malad City
Oneida County, Idaho

October 2023

The U.S. Army Corps of Engineers, Walla Walla District (USACE) proposes to assist Malad City (or the City), Idaho with its Wastewater Treatment System Improvements Project under the authority of Section 595 of the Water Resources Development Act (WRDA) of 1999 (PL 106-53), as amended by PL 108-7, Section 126 to include rural Idaho. Malad City is a small community with a population of approximately 2,100 people. The City is located in southeastern Idaho, approximately 13 miles from the Utah/Idaho border. Malad City's wastewater treatment system (WWTS) is comprised of gravity collection lines throughout the City, two lift stations, and the wastewater treatment plant. Currently, the WWTS is experiencing lagoon seepage which exceeds allowable rates under Idaho Code (IDAPA 58.06.16 Wastewater Rule 493.03.b). In 2013, the City received a notice of violation letter from Idaho Department of Environmental Quality (IDEQ) regarding the excessive ground seepage rate of Lagoons #1 and #4. Malad City subsequently entered into a compliance agreement schedule (last modified in August 2016) with IDEQ to correct the deficiencies.

In October 2014, Malad City hired J-U-B Engineers, Inc. to complete a Wastewater Treatment Plant System Facilities Plan (Plan) to analyze the current state of the WWTS and to develop possible alternatives for the City to improve the system so that it addresses compliance violations and meets forth-coming regulatory requirements. Per the recommendation of the Plan, the City concluded that the lagoons would need to be replaced and a land application process be constructed to resolve the wastewater system problems. Specifically, the Malad City Wastewater Treatment Improvement Project (Malad project) calls for: (1) influent lift station upgrades, (2) new sewage conveyance lines to the new site for treatment, (3) new treatment/storage lagoons located south east of the ones existing, (4) new disinfection system, (5) new reuse (e.g., farmland irrigation) system infrastructure, (6) electrical system upgrades, (7) land acquisition, (8) decommissioning of the existing lagoon site, and (9) collection system replacement.

Section 595 of WRDA 1999 [Public Law (PL) 106-53], authorizes USACE to participate in water-related environmental infrastructure, resource protection, and development projects. Section 595 funding was originally slated to complete design of the entire project, produce engineering drawings and specifications, and provide technical assistance during the construction phase. The anticipated design is now

complete. The City now wishes to expand the scope of the Section 595 project funds to include construction assistance for the following components of the overall project: (1) The Precast Building (i.e. the Operations Building which contains an electrical room, a disinfection room, work room, and a restroom), (2) Removal of existing fence and installation of new chain-link fencing and gates around the lagoons, (3) Engineering services (i.e. AE firm technical assistance) during construction, (4) Davis-Bacon wage interviews and grant administration. The USACE contribution to the Malad project is outlined below, after the description of the City's Preferred Alternative (5B – Reuse on New Site and Construct System on New Site).

In accordance with 40 Code of Federal Regulations (CFR) 1506.5(b), USACE is authorized to allow applicants to prepare environmental assessment documents, so long as USACE performs its own environmental analysis and makes its own findings on potential impacts. In May 2018, the City submitted to USACE the *City of Malad, Idaho, Environmental Assessment* (EA), prepared by J-U-B Engineers, Inc. USACE had no role in the preparation of the EA, but did undertake an independent review of the document and determined the information contained therein is accurate and satisfies the requirements of the National Environmental Policy Act (NEPA) regulations, except as supplemented or explained below. The EA is, therefore, incorporated (in its entirety) herein by reference and made a part hereof (Attachment A).

The EA evaluated a total of eight potential alternatives for the City's WWTS:

- **Alternative 1-No Action**
- **Alternative-2: Optimize Operation of Existing WWTP**
- **Alternative-3: Regionalization**
- **Alternative-4: Total Containment Only**
    - 4A – Raise and Reline Cells 1 and 4 Only
    - 4B – Raise and Reline Cells 1 and 4 Only and Add Cell 5
    - 4C – Raise and Reline All Cells and Add Cell 5
- **Alternative-5: Lagoons with Reuse via Land Application**
    - 5A – Reuse on New Site and Raise and Reline Cells 1, 2, and 3
    - 5B – Reuse on New Site and Construct System on New Site
    - 5C – Reuse on New Site and Mechanical Treatment on Existing Site
- **Alternative 6: Rapid Infiltration**
- **Alternative 7: Mechanical Treatment with Ground Water Discharge**
- **Alternative 8: Surface Water Discharge**

All eight alternatives were screened based on present worth of life cycle costs, environmental impacts, reliability, practicality, water supply system impacts, and the ability to meet forthcoming regulations. Based on this evaluation, the City selected Alternative 5B – Reuse on New Site and Construct System on New Site as the Preferred Action Alternative for the Malad project. The four (4) items/functional elements of the USACE contribution to the overall Malad project are identified below, after the description of the Alternative 5B.

Alternative 5B – Reuse on New Site and Construct System on New Site

This alternative would require the acquisition of land for the relocation of the lagoon treatment system and land application site. In 2018, the City purchased 132 acres adjacent to the current WWTS for this purpose. The alternative would also include the installation of irrigation systems (pivots, wheel lines, and/ or handlines), an upgraded influent lift station, new lagoons, and a new disinfection system. The previous WWTS and reuse site would be decommissioned, which would entail drying the existing biosolids in-place.

The USACE contribution to the Malad project would be the removal of existing fences around the old facility and installation of new chain-link fencing and gates around the newly constructed lagoons. In addition, USACE would assist in constructing the Precast (Operations) Building which would be located within the area purchased by the City (132 acres adjacent to the current WWTS). USACE would provide funding for engineering technical assistance during construction, and for Davis-Bacon wage interviews and grant administration. The work items described above comprise the "USACE Project" and the environmental impacts associated therein were evaluated by this FONSI.

Separate from the USACE Project, an agreement was made between the City and the owner of adjacent farmland to allow the City to utilize excess reuse water to irrigate crops on the owner's land. The agreement represents a mutually beneficial partnership between the City and the farmland owner as the City would be able to apply excess reuse water during particularly wet seasons and the landowner's crops would benefit from the supplemental irrigation water during dry seasons. Application of the reuse water would be in accordance with an IDEQ reuse permit. An amendment explaining this change to the 2018 EA was prepared by J-U-B Engineers in April 2020 and circulated to interested agencies (State and Federal), municipalities, and Tribes for a 30-day review and comment period. The amendment and associated agency responses are attached to this FONSI (Attachment B).

The EA evaluated the potential effects of the "USACE Project" on the environmental resources shown in Table 1.

Table 1: Summary of Potential Effects

	Insignificant effects	Insignificant effects as a result of mitigation	Resource unaffected by action
Climate/Physical Aspects (topography/geology and soils)	X	-	-
Population, Economic, and Social Profile	X	-	-
Land Use	X	-	-
Floodplain Development	X	-	-

Water Quality	X	-	-
Wetlands	X	-	-
Wild and Scenic Rivers	-	-	X
Cultural Resources	-	-	X
Flora and Fauna	X	-	-
Recreation/Open Space	X	-	-
Agricultural Lands	X	-	-
Air Quality	X	-	-
Energy	X	-	-
Public Health	X	-	-

The USACE Project would have insignificant effects to Climate/Physical Aspects (topography/ geology and soils), Land Use, Floodplain Development, Water Quality, Wetlands, Flora and Fauna, Recreation/Open Space, Agricultural Lands, Air Quality, Energy, and Public Health. The USACE Project would have no effect to Wild and Scenic Rivers and Cultural Resources. Supplemental Environmental Justice analysis for the USACE Project is included below.

Environmental Justice (EJ): EJ analysis is conducted to consider the potential impacts of a federal action (i.e., the development, implementation, and enforcement of environmental laws and regulations, projects, and policies) on disadvantaged communities to ensure that no one group of people bear a disproportionate burden of environmental harms or risks. The Climate and Economic Justice Screening Tool (CEJST) was utilized to analyze the area of potential effect (APE) for the USACE Project. The CEJST identified the APE, located within tract # 16071960100, as a disadvantaged community because it meets more than burden and socioeconomic thresholds. Two categories of burden were identified as either climate change or energy. The associated socioeconomic burden included Low Income (65^{th} above 65^{th} percentile) for both categories of burden (Table 2).

Table 2. Intersections Between Disadvantaged Communities and Environmental Justice Indicators in the Area of Potential Effect.

Category	Burden	Associated Socioeconomic Burden
Climate Change	Expected Agriculture Loss Rate, Expected Building Loss Rate, Expected Population Loss, Projected Flood Risk, Projected Wildfire Risk.	Low Income (65th above 65th percentile)
Energy	Energy Costs, Particulate Matter 2.5 micrograms per cubic meter of Air	Low Income (65th above 65th percentile)

Although the USACE Project APE is located within a disadvantaged community, the intent of the action is to correct deficiencies in the City's WWTS and to comply with forthcoming compliance violations. It is expected the residents of Malad City would benefit from an improvement to the WWTS and that no specific population segment would unfairly benefit or suffer. Therefore, implementation of the USACE Project would not disproportionally positively or negatively impact disadvantaged communities.

In compliance with the Endangered Species Act, USACE determined there would be no effect to threatened and endangered species through implementation of the USACE Project. J-U-B Engineers accessed an Information for Planning and Consultation (IPAC) species report from the U.S. Fish and Wildlife Service on May 7, 2018 (Consultation Code: 01EIFW00-2018-SLI-1152). An updated IPAC species report was pulled by USACE on April 25, 2023 (Consultation Code: 2023-0073803). The updated species report identified one threatened species of flowering plant, Ute Ladies'-tresses, as possibly being present within the APE. Ute Ladies' – tresses are a perennial herb that occurs in Colorado, Idaho, Montana, Nebraska, Nevada, Utah, Washington, and Wyoming. The plant's desired habitat requirements consist of moist meadows associated with perennial stream terraces, floodplains, and oxbows at elevations between 4,300-6,850 feet. Surveys since 1992 have expanded the plant's potential habitat requirements to include seasonally flooded river terraces, sub irrigated or spring-fed abandoned stream channels and valleys, and lakeshores. In addition, 26 populations have been discovered along irrigation canals, berms, levees, irrigated meadows, excavated gravel pits, roadside borrow pits, reservoirs, and other human-modified wetlands. USACE biologists analyzed the APE and determined that it does not support the habitat requirements necessary for Ute Ladies' – tresses to exist. Therefore, USACE determined that there would be no effect to this species and that consultation with the U.S Fish and Wildlife Service is not required.

Pursuant to Section 106 of the National Historic Preservation Act (NHPA), the USACE Project was reviewed in accordance with the processes established in Section 106 of the NHPA and its implementing regulations, 36 CFR Part 800 including consultation with the Idaho State Historic Preservation Office (SHPO) and regional Tribal Governments - the Northwestern Band of the Shoshone Nation, the Shoshone-

Paiute Tribe, and the Shoshone Bannock Tribes. The actions taken by J-U-B Engineers, at the direction of the United States Department of Agriculture – Rural Development, were evaluated by USACE to ensure compliance with Section 106 of NHPA. Correspondence documents between J-U-B Engineers, the SHPO, and the Tribes are imbedded within Appendix 5-B of J-U-B's Environmental Assessment (Attachment A to this FONSI). Malad City enlisted Sundance Consulting, Inc. to conduct a cultural resources survey of the original Area of Potential Effect (APE) and documented the results of fieldwork and archival research in a report distributed to the SHPO and the regional Tribes for review and comment in 2018. The results of the survey determined that the proposed action/undertaking would have no adverse effect to historic properties. Additional consultation occurred between the SHPO and Tribes to address a proposed supplement to the APE of an adjacent 61 acres in July of 2020 (Attachment B). A July 10, 2020, letter from the SHPO to J-U-B Engineers noted that additional consultation with the Shoshone Bannock Tribes resulted in concurrence with a "No Adverse Effect to Historic Properties" determination and no additional cultural resources survey was needed for the amended APE in lieu of preparation of an Inadvertent Discovery Plan (Plan). As requested, J-U-B Engineers provided the Plan to the Tribes and the Idaho SHPO via email on May 29, 2020.

USACE undertook an independent review of the associated documentation and correspondence between J-U-B Engineers, SHPO, and Tribes. USACE produced its own Cultural Resources Record of Internal Review (Attachment C to this FONSI) and concurred with the "No Adverse Effect to Historic Properties" determination made by Sundance Consulting, supported by consultation with the Tribes, and concurrence letter from the Idaho SHPO. USACE determined that the associated documentation fulfills the requirements of NHPA (Section 106) and that USACE can adopt the same without any need for further correspondence.

Section 402 of the Clean Water Act (CWA) of 1972 is the National Pollutant Discharge Elimination System (NPDES) section which regulates the point and non-point source discharge of pollutants into Waters of the United States (WOTUS). There is no point or non-point source discharge of pollutants, so no NPDES permit is required. Section 402 also regulates storm water runoff from construction activities that generate more than one acre of ground disturbance along with the potential for storm water runoff into WOTUS. Although there is a nearby creek (Twomile Creek) that is designated as WOTUS, the USACE Project would not have the potential to discharge storm water into Twomile Creek. Therefore, a Construction General Permit is not required.

Section 404 of the CWA requires that applicants must obtain a Department of the Army (DA) Section 404 permit for an activity that involves the discharge of dredged or fill material into WOTUS. However, the APE, including the additional reuse acreage, is located upland and therefore does not require a DA Section 404 permit. Refer to the *City of Malad, Idaho, Environmental Assessment* (Attachment A) for supporting documentation between J-U-B Engineers and the USACE Regulatory Office in Idaho Falls.

Executive Order 11988 Floodplain Management requires federal agencies to avoid, to the extent possible, the long and short-term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct and indirect support of floodplain development wherever there is a practicable alternative. The Malad City WWTS is not located in a mapped floodplain.

Coordination with federal, state, and local agencies, organizations, and Tribes was conducted by the consultant, J-U-B Engineers, Inc. Those included were the Idaho Department of Environmental Quality, Idaho Department of Water Resources, U.S. Army Corps of Engineers-Walla Walla District Regulatory Office in Idaho Falls, Idaho Department of Fish and Game, U.S. Fish and Wildlife Service, Bureau of Land Management, Federal Aviation Administration, Idaho Department of Commerce, Idaho State Historic Preservation Office, Shoshone-Bannock Tribes, Shoshone-Paiute Tribe, Northwestern Band, Shoshone, Malad City, Oneida County, Southeast Idaho Council of Governments, Inc., and U.S. Department of Agriculture-Natural Resources Conservation Service. Each agency, organization, or Tribe was provided information on the proposed improvements to the WWTS and given an opportunity to comment. In compliance with NEPA, the draft version of this FONSI document, and all attachments, were made available for a 30-day public review and comment period starting on August 28, 2023, and ending on September 28, 2023. No comments were received during that public comment period.

USACE has determined the *City of Malad Environmental Assessment* prepared by J-U-B Engineers provides both sufficient evidence and analysis to meet the requirements pursuant to NEPA, except as supplemented or explained above.

I have taken into consideration the technical aspects of the USACE Project, best scientific information available, public comments, and the analysis and content in the EA. Based on this information, I have determined that implementation of the USACE Project would not significantly affect the quality of the human environment, and therefore an Environmental Impact Statement is not required. USACE will proceed to fund the USACE Project under the authority of Section 595 of the Water Resources Development Act of 1999, when funds are made available for that purpose.

Shailin Y. KingSlack

SHAILIN Y. KINGSLACK
Lieutenant Colonel, EN
Commanding

October 27, 2023
Date

Attachment A: *City of Malad, Idaho, Environmental Assessment*, by J-U-B Engineers Inc, dated May 2018.

Attachment B: *Amendment #1 to Malad Wastewater Treatment Upgrades – Environmental Assessment,* by J-U-B Engineers Inc, dated July 22, 2020.

Attachment C: *Cultural Resources Record of Internal Review, Malad, Idaho*, WRDA Section 595, by USACE Walla Walla District, dated August 28, 2020.