

Chapter 1

PURPOSE AND NEED

Purpose and Need—The [environmental impact] statement shall briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives, including the proposed action (40 CFR 1502.13).

1.1 BACKGROUND

The Emergency Watershed Protection (EWP) Program helps remove threats to life and property that remain in the nation's watersheds in the aftermath of natural disasters such as floods, hurricanes, tornadoes, wildfires, drought, and volcanic activity. The EWP Program is administered by the U.S. Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS), which provides technical and financial assistance to local sponsoring authorities to safeguard life and property threatened by disaster-caused erosion and flooding.

Threats that the EWP Program addresses are termed *watershed impairments*. These include debris-clogged stream channels, undermined and unstable streambanks (Fig.1.1-1), jeopardized water control structures and public infrastructure, and damaged upland sites stripped of protective vegetation by fire or drought. If these watershed impairments are not addressed, they pose a serious threat of injury, loss of life, or devastating property damage should a subsequent storm event occur.



Fig. 1.1-1 Failed streambank threatens nearby homes

1.2 DEVELOPMENT OF NRCS' PREFERRED EWP PROGRAM ALTERNATIVE

NRCS evaluated the environmental and socioeconomic impacts of three alternatives for future administration of the EWP Program in a Draft Programmatic Environmental Impact Statement (Draft EWP PEIS). A No Action alternative (Alternative 1) was used to establish a baseline of impacts assuming the EWP would not be changed in any way from the way it is currently run. NRCS' Draft PEIS Proposed Action (Alternative 2) incorporated 15 specific program improvements and expansions. The third alternative—Prioritized Watershed Planning and Management—was evaluated to consider how EWP decisions might be integrated with decisions on other watershed-based program decisions in particular in flood-prone watersheds. The three Draft EWP PEIS alternatives are described and fully evaluated in this Final EWP PEIS in Chapter 3. This Final EWP PEIS includes a fourth alternative—NRCS' Preferred Alternative—that incorporates

many of the elements of the Draft PEIS Proposed Action, but that leaves some elements unchanged or introduces only minor changes when compared with the No Action. The Preferred Alternative was developed based on comments from other agencies and the public on the Draft EWP PEIS, on comments on the Proposed EWP Rule (7 CFR 624) published in November 2003, and on internal agency considerations concerning management, funding, and implementation feasibility. A Final EWP Rule will be published simultaneously with the Final EWP PEIS Record of Decision a minimum of 30 days after the publication of this PEIS.

1.3 PURPOSE AND NEED FOR THE PREFERRED ALTERNATIVE PROGRAM

The **purpose and need** for the NRCS preferred EWP Program alternative is to improve the delivery and defensibility of the EWP Program and to address concerns about natural disaster-caused threats to life and property that the Program does not now address.

Program delivery improvements are designed to enable NRCS field and state office personnel with EWP Program responsibility to provide EWP assistance more effectively and efficiently when and where it is needed. The improvements would more fully, equitably, and consistently meet the needs of people requiring emergency assistance. Program defensibility improvements are designed to address environmental, economic, and social concerns and values.

Proposed changes were identified, discussed, and refined in an ongoing comprehensive Program review that NRCS initiated. The process identified substantive ways to improve the environmental, economic, social, and technical soundness of Program activities.

The codified EWP regulations (7 CFR 624), National EWP Manual (policy), and Handbook (procedures) will be revised to reflect the changes that NRCS adopts. The specific changes that comprise the agency's Preferred EWP Program are described in Chapter 3, Section 3.2.4, under Alternative 4: the Preferred Alternative. Chapter 3 compares the Preferred EWP Program with the current EWP Program (No Action Alternative), the Draft PEIS Proposed Action, and the Prioritized Watershed Planning and Management Alternative. The current EWP Program is described in Chapter 2. The remaining sections of this chapter briefly describe the EWP Program's legislative authority and the recommendations NRCS would be addressing in making the changes in the Preferred EWP Program. The changes form the basis for the evaluation and comparison of impacts in this Programmatic Environmental Impact Statement (PEIS), which was prepared in accordance with the:

- National Environmental Policy Act (NEPA) of 1969 as codified in U.S. Code Title 42, Section 4321 and following sections (42 U.S.C. § 4321 *et seq.*)
- Council on Environmental Quality (CEQ) Regulations for implementing NEPA, codified in Title 40 of the Code of Federal Regulations, Parts 1500-1508 (40 CFR 1500-1508)
- NRCS NEPA regulations (7 CFR 650)
- EWP Program regulations (7 CFR 624)

1.4 PROGRAM LEGISLATIVE AUTHORITY

The EWP Program was authorized by Section 216 of the Flood Control Act of 1950 (Public Law 81-516) by amending the Flood Control Act of 1944 (Public Law 78-534). This amendment transferred jurisdiction over certain emergency watershed practices from the Department of the Army to the Secretary of Agriculture. A limit of \$300,000 was imposed on the amount of funds that could be spent on the Program during any one fiscal year. In 1975, NRCS prepared a PEIS on the EWP Program, as it was then constituted.

An amendment stating that all EWP work carried out would be “in cooperation with landowners and land users” and adding drought as an eligible impairment was legislated under Section 403 of the Agricultural Credit Act of 1978 (Public Law 95-334).

The EWP Program was amended further to include the purchase of floodplain easements (see text box) by Section 382 of the Federal Agricultural Improvement and Reform Act of 1996 (Public Law 104-127, also known as the 1996 Farm Bill). Public Law 81-516 (as amended) now reads as follows:

Floodplain Easements—A new option on agricultural land, authorized in the 1996 Farm Bill, gives producers the opportunity to offer their land for floodplain easements. To be eligible, flooding must have damaged the land to the extent that the cost of restoring it and associated structures would be greater than the value of the land after restoration or the frequency of flooding is such that it is no longer profitable to farm without government subsidies. The easements permanently restore the natural floodplain hydrology as an alternative to traditional attempts to restore damaged levees, lands, and structures. The easement lands are ineligible for future federal disaster assistance (Public Law 104-127)

The Secretary of Agriculture is authorized to undertake emergency measures, including the purchase of floodplain easements, for runoff retardation and soil-erosion prevention, in cooperation with landowners and land users, as the Secretary deems necessary to safeguard lives and property from floods, drought, and the products of erosion on any watershed whenever fire, flood, or any other natural occurrence is causing or has caused a sudden impairment of that watershed.

1.5 RECOMMENDATIONS FOR EWP PROGRAM CHANGES

NRCS broad program reviews are carried out by agency Oversight and Evaluation (O&E) teams, which periodically evaluate programs for efficiency and effectiveness in delivery. In 1997, at the direction of NRCS leadership, an O&E team of NRCS staff was formed to examine the EWP Program and to review questions and concerns voiced by people involved in important aspects of the Program. One aspect of the O&E team’s mission was to determine if these questions and concerns were valid, particularly those concerns about potential adverse environmental impacts of installed EWP practices.

The O&E team identified three major Program review objectives. The team then evaluated EWP activities in 29 randomly selected counties in 10 states, reviewed project documentation for 17 disaster events and 98 project contracts, made 86 site visits, and interviewed 119 NRCS employees, partners, and sponsors as to their impressions of the Program, its outreach, and ways

to improve them. Within the broad Program review objectives, the O&E team identified specific goals for improvement and recommendations to meet those goals.

1.5.1 Objective 1: Review Site Eligibility & Exigency Determinations

The first objective was to determine if the EWP projects and sites met EWP Program eligibility criteria and if sites were properly classified as exigent or non-exigent. The O&E team focused on the apparent lack of consistency in how the Program was administered from state to state. For example, some states were interpreting the policy on exigency loosely, applying it to situations that were not truly urgent simply to obtain funding and commence work quickly. Interpretations of agency policy on EWP appeared to vary widely across the country and thus, more direction on interpreting agency policy appeared necessary.

The O&E Team developed the following specific goals and recommendations under Objective 1:

Goal: Ensure more accurate site eligibility determinations

- Provide training to NRCS employees and partners

Goal: Reduce overuse of the exigent classification

- Clarify the exigent and non-exigent classifications. Limit use of the exigent classification to situations where funding is immediately available, near-term probability of damage to life and property is high enough to warrant immediate NRCS action, funds can be obligated within 10 days, and construction can be completed in 30 days

Goal: Reduce the incidence of ineligible road repair work

- Limit assistance at road crossings to instances where the facility is not covered by an Operation and Maintenance (O&M) Agreement with a division of state government or is not under other agency jurisdiction.

1.5.2 Objective 2: Review Regulatory and Defensibility Evaluations

The second review objective was to determine if the EWP threat-reduction practices complied with laws, regulations, and policy, and if economically and environmentally defensible alternatives were considered and evaluated. The O&E team focused on whether or not environmental regulations and alternative practices that might reduce environmental effects received due consideration in EWP decisionmaking. NRCS leadership recognized that the Program is administered inconsistently not just because of differences in natural resource conditions across the country. Differing interpretations of policy, field staff familiarity with certain repair techniques, and a lack of knowledge and understanding of bioengineering principles and green restoration practices in general, also lead to inconsistent Program administration. For example, debris removal and channel reconstruction in one state may involve using a bulldozer in-stream. However, in another state, use of heavy equipment in-stream may be severely restricted and restoration design using the principles of natural stream dynamics and natural materials such as brush mattresses, fascines, and willow stakes may be emphasized.

Specific O&E team goals and recommendations developed under Objective 2 were:

Goal: Recognize the full value of habitat restoration

- Revise policy to emphasize restoration of the ecological functions of a system at an eligible site. Emphasize use of bioengineering, natural stream dynamics, and similar techniques. Require an interdisciplinary team approach for site assessments, alternative selection, and design

Goal: Take advantage of the expertise and financial resources of partner organizations

- Develop new and strengthen existing national, regional, and state partnerships by entering into EWP-specific agreements with agencies and organizations to address coordination, permit issuance, training, outreach, responsibilities, and follow-up to completed work

Goal: Begin limiting EWP funding of recurrently damaged sites

- Record EWP sites geospatially; use these data to locate recurrent EWP activity; then, fund studies to identify more permanent solutions in the watershed

Goal: Institute a program-wide performance review of installed practices

- Provide national guidance to evaluate an appropriate sample of EWP repairs in state quality-assurance plans

1.5.3 Objective 3: Review Equitability and Efficiency of EWP Administration

The third objective was to determine if the Program was being administered equitably and efficiently. The O&E team focused on how the Program could be managed more efficiently and effectively, specifically in funding, sponsorship, and documentation.

Specific O&E Team goals and recommendations under Objective 3 included:

Goal: Ensure that citizens are notified of the assistance available from NRCS

- Institute outreach procedures during EWP activation in each state

Goal: Take into account the limited resources of unincorporated and low-income communities

- Restructure Operation and Maintenance agreements to accommodate sponsors with limited resources and reduce their responsibilities to a shorter time frame

Goal: Take advantage of the efficiencies and speed of partnerships in contracting, design, and construction inspection

- Revise Part 509 of the National Watershed Manual to encourage use of sponsors or contracting for these activities, and revise the handbook accordingly

Goal: Reduce program inconsistencies and project start-up delays

- Seek an annual allocation to fund exigent situations, maintain a level of preparedness, and fund interdisciplinary EWP response teams

Goal: Ensure consistency in determinations of eligibility and classification across state lines

- Revise national policy to emphasize inter-state uniformity in the application of EWP; regions should establish collectively a process to ensure such uniformity

Goal: Ensure all required information is reported to NRCS Headquarters to receive funding

- Revise policy to streamline data requirements and develop an electronic process to request funds, document partner activities, submit final reports, and record site damages

In addition to the O&E Team recommendations, NRCS considered substantive recommendations made by other NRCS personnel, other agencies, and the public in defining the component changes of the EWP proposed action. Much of this input came during the *scoping* conducted for the EWP PEIS, during which NRCS met with, and solicited input from, representatives of other Federal, state, and local agencies, and the public. NRCS held public scoping meetings in six major U.S. cities and also sought input through a toll-free phone line, regular mail, and the NRCS website on the Internet. The proposed action and alternatives reflect opinions voiced and recommendations made during that scoping process. The other agency and public opinions and recommendations are described in detail in Appendix A. The correspondence between the recommendations made by the O&E Team and others during scoping and the components of the Preferred EWP Program are outlined in Chapter 3, Section 3.2.

1.6 ORGANIZATION OF THE FINAL EWP PEIS

This PEIS is organized in accordance with CEQ regulations at 40 CFR 1502.10.

- The cover sheet, summary, and table of contents are as specified by CEQ.
- Chapter 1 *Purpose and Need* explains why NRCS is proposing the EWP Program changes evaluated in this PEIS.
- Chapter 2 *The Current EWP Program* describes how NRCS administers the EWP Program now, including the agencies and programs it coordinates with, how it funds and executes EWP projects, the EWP restoration practices it uses to remedy watershed impairments, and its current use of floodplain easements. These details are the basis of the No Action alternative, which would simply be continuation of the current program.
- Chapter 3 *Alternatives including the Preferred Alternative* presents the details of the Program improvements and expansion comprising the NRCS Preferred EWP Program Alternative. Other Program alternatives evaluated in detail include the No Action Alternative, the Proposed Action evaluated in the Draft EWP PEIS (the Draft PEIS Proposed Action), and Prioritized Watershed Planning and Management. Alternatives considered but not evaluated in detail are also included. Chapter 3 then compares the impacts of the EWP alternatives.
- Chapter 4 *Affected Environment* describes the aspects of the environment that would be affected by each EWP Program alternative. It includes a general description of the ecosystems and human communities of watersheds of the U.S. and brief descriptions of a variety of typical recent EWP sites which are used as examples in the PEIS to illustrate how EWP practices and floodplain easements would potentially cause environmental effects.
- Chapter 5 *Environmental Consequences* presents the analysis of impacts on watershed ecosystems and human communities on which the comparison of alternatives is based.
- The *References Cited* lists the scientific, regulatory, and administrative materials used in preparing the PEIS.
- *Comments on the Draft EWP PEIS* reproduces the original comments on the Draft PEIS that NRCS received from Federal, State, and local agencies and organizations, as well as individual members of the public and provides numbered corresponding responses to each substantive comment.
- The *List of Preparers* identifies the members of the NRCS interdisciplinary team and other contributors to the preparation of the PEIS.

- *Consultation and Coordination* provides a list of agencies, organizations, and persons to which copies of the PEIS have been sent.

The PEIS also provides a glossary of EWP terms and other technical terms used in the PEIS and an index.

Five appendices provide:

- A description of the Scoping and Agency Coordination done for the PEIS (Appendix A)
- The impacts analysis methods (Appendix B)
- Relevant EWP documents, including a sample Damage Survey Report (Appendix C)
- Detailed descriptions of the example sites summarized in Chapter 4 (Appendix D)
- Details of the studies in the scientific literature supporting the impacts analysis (Appendix E)

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