

EXHIBIT IV-C (NON-Local Government)
Categorical Exclusion for Projects/Activities Subject to 24 C.F.R. Part 58.5
and Other Requirements found at 24 C.F.R. Part 58.6

1 Project/Activity Information:

Project Name: Lower Latham Diversion Reconstruction Project, Weld County, Colorado

Project/Contract #: None

Grantee: Middle South Platte River Alliance

Project Description: The project would implement a ditch reconstruction project south of the town of Evans in unincorporated Weld County, CO. The project extends approximately 1 mile along the South Platte River in Sections 29, 30, and 31 of Township 5 North, Range 65 West of the 6th Principal Meridian, in Weld County, CO (Attachment A). The project area encompasses about 108 acres.

The proposed project occurs along a reach of the river that experienced some of the most extensive flooding during the 2013 event. The Lower Latham Ditch project would focus on reconstructing the Latham Ditch diversion facilities and improving flow/sediment conveyance from just upstream of the diversion facilities, downstream through the Union Pacific Bridge in hopes of enhancing the overall function of this reach of river. Work would include channel modifications, riffles and pools, regrading and revegetation, and bioengineered bank protection. Specific projects in this section include (a) implementation of bank protection (e.g., toe boulders with integrated root wads) to limit lateral migration and to reinforce the composite channel banks; (b) installation of an overshot gate at the upstream end of the Latham Ditch Inlet Canal to only allow irrigation/augmentation flows to pass; (c) replacement of the existing rock dams with a concrete spillway/gate structure to assist with flow separation, sediment transport and flood reduction; (d) removal of the island and associated vegetation between the two existing rock dams, downstream of the proposed concrete spillway/gate structure to increase flow and sediment conveyance; and (e) implementation of a fish passage feature. The proposed project is in compliance with the Middle South Platte River Restoration Master Plan. Benefits of the project would include reducing backwater from the existing structure; diverting a full decree of water to the ditch; reducing flooding; decreasing maintenance associated with sedimentation issues; mitigating potential for channel instability and bank erosion; and eliminating existing impediments to fish passage.

The following components would be included: bank stabilization, revegetation, sediment removal, channel realignment, habitat improvement, headgate repair, and reconnection of the floodplain.

*(24 C.F.R. Part 58.32 discusses that a responsible entity must group together and evaluate **as a single project** all individual activities which are related either on a geographical or functional basis, or are logical parts of a composite of contemplated actions. This is termed, "project aggregation", and its purpose is to address adequately and analyze, in a single environmental review, the separate and combined impacts of activities that are similar, connected, and closely related, or that are dependent upon other activities and actions.)*

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2 Classification of Project/Activity:

- X 24 CFR Part 58.35(a)(1): Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are in place and will be retained in the same use without change in size or capacity of more than 20 percent (e.g., replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving of streets)
- 24 CFR Part 58.35(a)(2): Special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and handicapped persons
- 24 CFR Part 58.35(a)(3): Rehabilitation of buildings and improvements when the following conditions are met:
- 1 to 4 unit building for residential use, when density is not increased beyond 4 units; land use is not changed; and the footprint of the building is not increased in a floodplain or in a wetland area
 - Multifamily residential buildings, when unit density is not changed more than 20 percent; project does not involve changes in land use from residential to non-residential; and the estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation
 - Non-residential structures, including commercial, industrial, and public buildings, when facilities and improvement are in place and will not be changed in size or capacity by more than 20 percent; and the activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another
- 24 CFR Part 58.35(a)(4): An individual action (non-rehabilitation) on:
- Up to 4 dwelling units where there are maximum 4 units on any one site. The units can be 4 one-unit buildings or 1 four-unit building or any combination in between
 - A project of 5 or more housing units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than 4 housing units on any one site
- 24 CFR Part 58.35(a)(5): Acquisition (including leasing):
- Or disposition of, or equity loans on, an existing structure
 - Of vacant land provided the structure or land acquired, financed, or disposed of will be retained for the same use
- 24 CFR Part 58.35(a)(6): Combinations of the above activities

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3 Statutory Checklist (ref.: 24 C.F.R. Part 58.5 – Related Federal laws and authorities)

24 CFR PART 58.5 STATUTES, EXECUTIVE ORDERS, AND REGULATIONS

DIRECTIONS: Refer to Exhibit IV-C.1, Instructions and Information on Completion of the Statutory Checklist, to assist you in completing this form.

Write **“A”** in the Status Column when the project, by its nature, does not affect the resources under consideration, OR write **“B”** if the project triggers formal compliance consultation procedures with the oversight agency, requires mitigation, or is unknown at the time of review (i.e. the properties where the project activities will occur have not yet been identified). **Compliance documentation must contain verifiable source documents and relevant base data.** Attach reviews, consultations, and special studies as needed.

Compliance Factors (Statutes, Executive Orders, and regulations listed at 24 C.F.R. Part 58.5)	Status (A or B)	Compliance Finding and Documentation <u>DO NOT LEAVE ANY SECTIONS BLANK.</u> Document how you arrived at the “A” or “B” status for each factor.
Historic Properties <ul style="list-style-type: none"> ▪ 36 CFR Part 800 regulations ▪ National Historic Preservation Act of 1966 ▪ Executive Order 11593, Protection and Enhancement of the Cultural Environment 	A	<p>There are no historic properties on or adjacent to the project area. (Attachments B and C)</p> <p>Consultation with the State Historic Preservation Officer (SHPO) was conducted on January 23, 2018. The SHPO concurred with the determination of No Historic Properties Affected and No Adverse Effect on February 12, 2018. (Attachment B)</p> <p>Tribal consultation was initiated on December 8, 2017 and completed January 8, 2018. Letters were sent to the following tribes: the Fort Belknap Indian Community of the Fort Belknap Indian Reservation of Montana; the Apache Tribe of Oklahoma; the Northern Arapaho Tribe; the Cheyenne and Arapaho Tribes of Oklahoma; the Northern Cheyenne Tribe; and The Comanche Nation. The Comanche Nation responded “no properties identified.” The Northern Cheyenne Tribe responded “no effect.” The Cheyenne and Arapaho Tribes of Oklahoma responded “no properties.” No responses were received from the other three tribes. (Attachment B)</p>
Floodplain Management <ul style="list-style-type: none"> ▪ Executive Order 11988 ▪ 24 CFR Part 55 regulations 	B	<p>The project would occur in a Federal Emergency Management Agency (FEMA) designated Special Flood Hazard Area (SFHA). The flood insurance rate map panel 01823C1727E, effective 1/20/2016 shows the project would be in the 100-year flood zone and the Regulatory Floodway. Data from the Colorado Water Conservation Board also indicate the project would be located in a 100-year flood zone. (Attachment C)</p> <p>Since the project is located in a 100-year floodplain, the 8-Step Process described in 24 CFR Part 55.20 has been completed. The Early Public Notice for public comment was published in the <i>Greeley Tribune</i> on October 5, 2017, while the Final Public Notice was published concurrent with the notice for this environmental review. No other practicable alternatives are available for this project. Grantees must adhere to all of the requirements outlined in the 2014 Colorado Action Plan for Disaster Recovery. Documentation of the 8-step process is included in Attachment D.</p> <p>This project involves work in the South Platte River, considered waters of the U.S. (Attachment C). Accordingly, the Grantee will be required to obtain appropriate permits from the U.S. Army Corps of</p>

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		Engineers (USACE) prior to project implementation.
Wetland Protection <ul style="list-style-type: none"> ▪ Executive Order 11990 	B	This project would impact riverine and freshwater forested/shrub and riverine wetlands per the National Wetland Inventory Map (Attachment C). The 8-Step Process as pursuant to 24 CFR Part 55.20 was completed, which documented there are no practicable alternatives to the proposal and described mitigation measures that will be implemented to decrease adverse impacts of the project on wetland areas (Attachment D). The early public notice was published in the <i>Greeley Tribune</i> on October 5, 2017, while the Final Public Notice was published concurrent with the notice for this environmental review. USACE permits under Section 404 of the Clean Water Act (CWA) will be required for dredging and filling in wetland areas protected by the CWA. A wetlands delineation was conducted by Wildland Consultants, Inc. during May 2017 to verify the location of the wetlands for the permit. Wetlands were delineated along both shorelines of the South Platte River and within swales within the South Platte River floodplain. Open water areas were delineated within the ordinary high water mark of the South Platte River, the Latham Ditch and side-channels of the South Platte River. (Attachment C)
Coastal Zone Management <ul style="list-style-type: none"> ▪ Coastal Zone Management Act of 1972 	A	Pre-determined by HUD - Not applicable for the States of CO, MT, ND, NE, SD, UT, & WY
Sole Source Aquifers <ul style="list-style-type: none"> ▪ Safe Drinking Water Act of 1974 ▪ 40 CFR Part 149 regulations 	A	Pre-determined by HUD - There are currently NO sole source aquifers designated in Colorado.
Endangered Species <ul style="list-style-type: none"> ▪ Endangered Species Act of 1973 	A	The project area has the potential to support habitat for listed species. Effects from the Proposed Action would be minor and temporary, and in the long term there would be substantial habitat improvements, as well as protection of downstream habitats from siltation. The Colorado Department of Local Affairs (DOLA), as the Responsible Entity (RE), has determined that the proposed project “ <i>may affect but is not likely to adversely affect</i> ” federally protected Threatened or Endangered Species, nor adversely modify their critical habitats. The U.S. Fish and Wildlife Service (USFWS) was consulted on January 11, 2018 and concurred with the findings on February 16, 2018. (Attachment E)
Wild and Scenic Rivers <ul style="list-style-type: none"> ▪ Wild and Scenic Rivers Act of 1968 ▪ Presidential Directive of August 1979 	A	The project is not located within 1,000 feet of the Cache la Poudre, North Fork, the only listed wild and scenic river in Colorado. The property is not located within 1,000 feet of any river on the Nationwide Rivers Inventory, as designated by the U.S. Department of the Interior. No impacts would result and further assessment is not required. (Attachment C)
Air Quality <ul style="list-style-type: none"> ▪ Clean Air Act of 1970 ▪ 40 CFR Parts 6, 51, & 93 regulations 	A	The proposed project is located within an attainment maintenance area for carbon monoxide and a marginal nonattainment area for ozone. The project would have no effect on ozone levels and requires no individual National Emission Standards for Hazardous Air Pollutants permit or notification. (Attachment C)
Farmland Protection Policy Act	A	The project site includes “Prime Farmland if Irrigated”

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<ul style="list-style-type: none"> ▪ Farmland Protection Policy act of 1981 ▪ 7 CFR Part 658 regulations 		as identified by the U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS). Restoration of the river and associated grading of its banks will not impact farmland designation. The project does not “irreversibly convert farmland to a non-agricultural use.” (Attachment C)
Environmental Justice <ul style="list-style-type: none"> ▪ Executive Order 12898 	A	The proposed project/activity is suitable for its proposed location and use and will not (1) disproportionately be adversely impacted by or (2) disproportionately adversely impact low income or minority populations.
HUD ENVIRONMENTAL STANDARDS		
Noise Abatement and Control <ul style="list-style-type: none"> ▪ 24 CFR Part 51B regulations 	A	The project does not involve the development of noise sensitive uses. Noise during construction activities would be mitigated if applicable.
Explosive and Flammable Operations <ul style="list-style-type: none"> ▪ 24 CFR Part 51B regulations 	A	Acceptable Separation Distance requirements do not apply because the definition for HUD assisted projects in 24 CFR Part 51.201 is predicated on whether the HUD project increases the number of people exposed to hazardous operations. No new habitable structures would be constructed.
Toxic Chemicals and Gases, Hazardous Materials, Contamination, and Radioactive Substances <ul style="list-style-type: none"> ▪ 24 CFR Part 58.5(i)(2)(i) regulation 	A	The subject and adjacent properties are free of toxic chemicals and gases, hazardous materials, contamination, and radioactive substances which could affect the health or safety of occupants or conflict with the intended use of the subject property, as determined by information reviewed from the U.S. Environmental Protection Agency (U.S. EPA) and the Colorado Department of Public Health and Environment. The same sources indicate that the property is not listed on a U.S. EPA Superfund National Priorities or Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) List, or equivalent State list, is not located within 3,000 feet of a toxic or solid waste landfill site, and does not have an underground storage tank that is not a residential fuel tank. (Attachment C)
Airport Clear Zones and Accident Potential Zones <ul style="list-style-type: none"> ▪ 24 CFR Part 51B regulations 	A	The project is not within a Federal Aviation Administration (FAA)-designated civilian airport Runway Clear Zone or Runway Protection Zone, or within a military airfield Clear Zone or Accident Potential Zone or Approach Protection Zone, based on information from the civilian airport or military airfield administrator identifying the boundaries of such zones. (Attachment C)

Attachments

- Attachment A – Project Maps
- Attachment B – SHPO and Tribal Consultation
- Attachment C – Impact Analysis Maps
- Attachment D – 8-Step Decision-making Process
- Attachment E – USFWS Consultation

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DETERMINATION:

- () **This project converts to Exempt** status, per 24 C.F.R. Part 58.34(a)(12), because it does not require any mitigation for compliance with any listed statutes, executive orders, or regulations, nor requires any formal permit or license (Status "A" has been determined in the status column for all authorities). **Submit to DOLA/OEDIT as appropriate for a Release of Funds (ROF) letter for this EXEMPT project;** OR
- (X) **This project cannot convert to Exempt** status because one or more of the listed statutes, executive orders, or regulations require(s) consultation, mitigation, or is unknown at the time of review. Environmental consultation/mitigation requirements, pursuant to 24 C.F.R. Part 58 must be completed/determined to the point of reaching closure. A Notice of Intent to Request a Release of Funds (NOI/RROF - Exhibit IV-C.6) must be published with its associated public comment periods pursuant to 24 C.F.R. Part 58.45 and Subpart H. A Request for Release of Funds and Certification (Exhibit IV-C.7) must be properly executed pursuant to 24 C.F.R. Part 58, Subpart H and forwarded to DOLA/OEDIT as appropriate. A Release of Funds (ROF) letter must be obtained before drawing down funds; OR
- () **The unusual circumstances of this project may result in a significant environmental impact.** This project requires preparation of an Environmental Assessment (EA). An EA should be prepared pursuant to 24 C.F.R. Part 58, Subpart E.

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4 *Regulatory Checklist (ref.: 24 C.F.R. Part 58.6 – Other requirements):

<input checked="" type="checkbox"/>	<p>24 CFR. Part 58.6(a): Flood Disaster Protection Act of 1973, as amended: <i>(NOTE: Applicable ONLY when project/activity site is located in a community participating in the National Flood Insurance Program, administered by the Federal Emergency Management Agency.)</i></p> <p>Is the project/activity located within a Special Flood Hazard Area (SFHA) as mapped by the Federal Emergency Management Agency (FEMA)? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>FEMA Map Number: <input style="width:200px;" type="text" value="01823C1727E"/></p> <p>If the answer to this question is yes, the project/activity cannot proceed unless flood insurance is obtained through the National Flood Insurance Program.</p> <p>Insurance Policy Number: <input style="width:200px;" type="text" value="N/A"/></p>
<input checked="" type="checkbox"/>	<p>24 CFR. Part 58.6(b): National Flood Insurance Reform Act of 1994, Section 582, (42 U.S.C. 5154a): <i>(NOTE: Applicable ONLY when the project site is located in an area where HUD disaster assistance is being made available.)</i></p> <p>Is the project located within a Special Flood Hazard Area (SFHA) as mapped by the Federal Emergency Management Agency (FEMA)? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>FEMA Map Number: <input style="width:200px;" type="text" value="01823C1727E"/></p> <p>If "Yes", would the HUD disaster assistance be made to a person who had previously received Federal flood disaster assistance conditioned on obtaining and maintaining flood insurance and that person failed to obtain and maintain the flood insurance? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>If "Yes", the HUD disaster assistance cannot be made to that person in the Special Flood Hazard Area to make a payment (including any loan assistance payment) for repair, replacement, or restoration for flood damage to any personal, residential, or commercial property.</p> <p>Insurance Policy Number: <input style="width:200px;" type="text" value="N/A"/></p>
<input type="checkbox"/>	<p>24 CFR. Part 58.6(c): Coastal Barrier Improvement Act of 1990, as amended: Not applicable in HUD Region VIII.</p>
<input type="checkbox"/>	<p>24 CFR. Part 58.6(d): Civilian Airport Runway Clear Zone and/or Military Airport Clear Zone: <i>(NOTE: Applicable ONLY if the project/activity involves HUD assistance, subsidy, or insurance for the purchase or sale of an existing property in a Runway Clear Zone or Clear Zone pursuant to 24 CFR Part 51, Subpart D.)</i></p> <p>Does the project involve HUD assistance, subsidy, or insurance for the purchase or sale of an existing property in a Runway Clear Zone or Clear Zone pursuant to 24 CFR Part 51, Subpart D? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>Source documentation: <input style="width:200px;" type="text" value="See airport map (Appendix C)"/></p> <p>If yes, the responsible entity must advise the buyer that the property is in a runway clear zone or clear zone, what the implications of such a location are, and that there is a possibility that the property may, at a later date, be acquired by the airport operator. The buyer must sign a statement acknowledging receipt of this information.</p>

Environmental Review Preparer's Information -printed or typed:

Name: Melissa Russ Title: NEPA Specialist Phone: 303-956-4171
 Environmental Preparer's organization: AGEISS Inc.
 Environmental Preparer's signature:
 Date: June 11, 2018

Responsible Entity, Representative's Information/Certification (Certifying Officer) - printed or typed:

Name: Stephanie Morey Title: Compliance and Monitoring Specialist Phone: 303-864-7746
 Representative's organization: Colorado Department of Local Affairs
 Affairs Representative's signature:
 Date: 6.13.18

Please forward questions and route completed forms to the appropriate contact person below:

DOLA Grantees (CDBG, HOME, NSP, ESG)	DOLA, DHSEM & Ag Grantees (CDBG-DR)	OEDIT Grantees (CDBG & CDBG-DR)
Bret Hillberry, Environmental Compliance Officer Department of Local Affairs 1313 Sherman Street, Room 521 Denver, CO 80203 303-864-7730 or bret.hillberry@state.co.us	Stephanie Morey, Compliance and Monitoring Specialist Department of Local Affairs 1313 Sherman St., 3 rd Floor Denver, CO 80203 303-864-7746 or stephanie.morey@state.co.us	Bob Todd, CDBG Manager Business Programs Office of Economic Development & Int'l Trade 1625 Broadway 2700 Denver, CO 80202 303-892-3840 or robert.todd@state.co.us