

DECISION MEMO
Lower Dick Creek Lake Enhancement Project

USDA FOREST SERVICE
Shoshone National Forest
North Zone/Greybull Ranger District
Park County, Wyoming
T46N, R103W, SW1/4 of NE1/4 Section 2

Decision

I have reviewed the scoping notice and comments and decided to implement Alternative 1 of the Lower Dick Creek Enhancement Project, which is to install a spring box in the hillside above the lake and pipe water to the lake to maintain full pool elevation needed to over winter Yellowstone cutthroat trout (YSC).

The proposed action falls into a category of actions that may be excluded from documentation in an EA or EIS. No extraordinary circumstances were identified which may significantly affect the environment; therefore, I plan to document my decision in a Decision Memo under Section 31.2 (7) of the Forest Service Handbook 1909.15-Environmental Policy and Procedures Handbook. This allows for modification or maintenance of stream or lake aquatic habitat improvement structures (or similar projects) using native materials or normal practices. Pursuant to 36 CFR 215, the final Decision is not subject to appeal.

Background and Proposed Action

Proposed Action-Lower Dick Creek Lake Enhancement Project. The purpose of the project is to create an over wintering cutthroat trout fishery by raising the water levels in the lake to historic full pool elevation. In summary, the project benefits include:

- Provide an over wintering recreational fishery
- Fill and maintain the lake at or near full pool
- Increase the range and habitat for Yellowstone cutthroat trout (a Region 2 sensitive fish species)
- Ensure a long-term fishery and sustained production of other aquatic organisms

This project is located in Park County in the Dick Creek Drainage of the Wood River within the boundaries of the Shoshone National Forest (*see* Figure 1). The project site is approximately four miles south of the Timber Creek Ranger Station and 22 miles west of Meeteetse, Wyoming on Forest roads #203 and #202 (Figure 1). The legal description is T46N, R103W, SW ¼ of NE ¼ of Section 2. Project implementation is planned for the summer/fall of 2002.

The Shoshone National Forest (SNF) considered this improvement project to over winter and expand the range of Yellowstone cutthroat trout. An interdisciplinary team, including several Forest and Wyoming Game and Fish Fisheries Biologists, a Forest Hydrologist, Range Conservationist, and Archeologist visited the site during the summer of 2001.

The project design and implementation for the Lower Dick Creek Lake Enhancement Project involves:

1. The trailhead to the lake can be accessed by 4WD vehicle. It is less than a mile from the trailhead to the lake. As a result, no new road or trail construction would be required. All equipment will be hauled to the lake and spring site by horse, mule, or backpack.
2. The project involves installing a spring box in the hillside above and to the north of the lake. About 700 feet of 1.5-inch plastic pipe with a shutoff valve will be run from the spring box to the lake in order to maintain full pool (*see* Figure 2).
3. The pipe will be buried, just under the surface, so not to be visible or trampled by livestock and/or wildlife, nor deteriorated by sunlight. Forest personnel and volunteers will do all excavation work by hand.
4. The excavated fill from the spring box installation will be minimal and redistributed around the front and backside of the spring box to ensure maximum collection capabilities.
5. To decrease the chances of genetic dilution of the native gene pool downstream in Dick Creek, the lake will be restocked with Yellowstone cutthroat trout. The lake will be managed by the Wyoming Game and Fish Department on a Basic Yield concept, meaning periodic stocking of Yellowstone cutthroat trout fingerlings and allowing them to grow to catchable size in the lake. The general daily creel limit would apply (six fish, one over 20 inches). The area will be managed as a backcountry fishery with no recreational developments.
6. The spring box and piping will be checked in the spring and fall for any potential maintenance or adjustment needs.

Purpose of and Need for Action

This action is tied to guidance set forth in the 1986 Shoshone National Forest Plan and Record of Decision. General direction in the Forest Plan (FP-III-7) is “Manage fish and wildlife habitats, including plant diversity, to maintain viable populations of known vertebrate species and meet population objectives of management indicator species.” The project is needed in order to meet Forest Plan direction:

Management Area 9A (Riparian Area Management). The goals of management are to provide healthy, self-perpetuating plant communities, meet water quality standards, provide habitats for viable populations of wildlife and fish, and provide stable stream channels and still water body shorelines. The aquatic ecosystem may contain fisheries habitat improvement and channel stabilization facilities that harmonize with the visual setting and maintain or improve wildlife or fish habitat requirements (FP-III-207). Additional plan direction is:

- Improve habitat capability through direct treatments of vegetation, soils and waters (FP-III-52).
- Provide habitat for viable populations of all native vertebrate species of fish and wildlife (FP-III-210).
- Plan lake and stream habitat improvement projects with the assistance of state wildlife agencies, where aquatic habitats are below productive potential. Plan those improvements that harmonize with the visual setting (FP-III-211).
- Design project construction plans, permits and activities to minimize siltation or pollution of streams and lakes (FP-III-211).
- Require sediment control for any construction activity within the aquatic zone to prevent downstream sedimentation (FP-III-211).
- Maintain proper stocking and livestock distribution to protect riparian ecosystems (FP-III-211).

The purpose of the proposal is to deepen the lake in order to create an over wintering recreational fishery. To decrease the chances of genetic dilution of the native Yellowstone cutthroat trout gene pool downstream in Dick Creek, the lake would be restocked with Yellowstone cutthroat trout rather than

Golden trout that had been stocked in the lake previously. This project would also improve habitat for waterfowl, amphibians and other aquatic organisms, and improve recreational opportunities.

Scoping and Public Involvement

In February 2002, letters were sent to approximately 50 individuals and 28 American Indian Tribal contacts to scope their ideas and identify issues/concerns/opportunities. The scoping was mailed February 14 and closed March 18, 2002.

During scoping, grazing was mentioned as a concern by the public. The Dick Creek Cattle and Horse Allotment encompasses the entire Dick Creek drainage on national forest, a total of 10,221 acres. Of this total, 2,472 acres have been identified as suitable for livestock grazing. The most recent range analysis (1997 EA and Decision Notice) shows that 75 percent of the suitable range is meeting desired condition and the remaining 25 percent is not. Currently, there is one term permit authorizing the grazing of 286 cow/calf pairs from July 1 to October 15 annually for 1,346 Animal Unit Months (AUMs), down from the approximately 2,200 AUMs of livestock use in 1975. The allotment is managed in a four pasture, modified deferred-rotation grazing system. Four water developments and 10.25 miles of riparian fence are in place to facilitate the management of the allotment. Included in the 10.25 miles of fence are approximately two miles of fenced riparian areas to prevent overuse by livestock, while managing the areas for riparian values. Ongoing management for livestock management is in place and grazing is beyond the scope of this site-specific project.

This project was originally proposed by the Wyoming Game and Fish and has been supported by the local Trout Unlimited Chapter. Results from this scoping and public involvement effort are summarized as follows. Issues revolving around regulations, grazing, multiple use, fees, growth and development, tourism, economics, and others could enter the discussion. However, resolution of all issues is beyond the scope of this analysis. To narrow the scope of issues, the decision-making process was focused on these concerns/issues or comments:

- **The percentage of the lake that would be about 10 to 14 foot deep needed for over wintering of fish.** Approximately 6% of the lake would be 14 feet or deeper once full pool is reached. Fish have over wintered in this lake many times in the past when the lake is full or nearly full.
- **The Forest Service will need to file the appropriate paperwork with the surface water section of the Wyoming State Engineer's Office to develop the spring and maintain the lake at full pool elevation.** All appropriate paperwork has been filed and a surface water permit has been obtained from the State Engineer's Office in Cheyenne.
- **Stocking of Yellowstone cutthroat trout that came from the same drainage.** Wyoming Game and Fish plans to plant YSC from the Wyoming Game and Fish Hatchery system, which were originally collected from La Hardy Rapids in Yellowstone National Park.
- **Work with Wyoming Game and Fish to implement STRICT catch-and-release regulations with barbless hooks in this watershed.** What the Forest Service is proposing is to regulate the water flow in the lake. Wyoming Game and Fish Department regulates the actual fish populations and sets the fishing regulations for specific drainages or sites.

This decision is being distributed to interested and potential affected parties, including those who responded during the scoping process.

Issues and Decision-Making Process

The decision rationale for implementing the proposed action is based on the following concerns/issues and opportunities and how the decision would address the issue:

- **What recreational fishing opportunities would the lake provide?** Due to the accessibility, fishing pressure could be high during certain times of the year. As a result, the Wyoming Game and Fish Department currently plans to periodically stock the lake with YSC fingerlings (basic yield).
- **How should the area be managed?** As described above, plans are to stock the lake, as there would be little to no natural reproduction in this lake. The lake would be managed under statewide general creel limits, which are six fish per day with only one fish over 20 inches. The area will be managed as a backcountry fishery with no recreational developments.

The decision and actions implemented need to be the most expeditious and cost-efficient available to address concerns. A decision-making process was followed, where 1) the problem was defined with the help and input of the public, local government, and staff expertise, 2) possible alternative solutions were identified and evaluated, 3) the solution thought to be the best to solve the problem was selected, 4) project design measures were developed to implement the solution and provide an adequate level of resource protection, and 5) established a procedure to evaluate progress, compliance, and need for adaptive changes.

Alternatives

Based on the interdisciplinary site visit, field survey, and scoping, the interdisciplinary team developed several alternatives:

No Action Alternative. The current situation would continue with the water levels drastically fluctuating with the winter snow pack and periodic fish kills occurring during low water drought years. Given this situation, no fish would be planted by Wyoming Game and Fish.

Alternative 1. The Proposed Action would be implemented with the described actions and project design. The project involves installing a spring box in the hillside to the north of the lake and transporting the water by a buried 1.5 inch pipe about 750 feet to the lake.

Alternative 2. The Proposed Action would be implemented with the described actions described in Alternative 1. In addition, the two outlets would be raised to increase water storage and lake depth. Substantial dirt work would have to be done by hand (due to machine inaccessibility) to raise the elevation of the two outlets. Due to machine inaccessibility and costs, this is not practical. Since the cost to benefit ratio would be extremely high and significant land disturbance would result, this alternative was considered but not analyzed in detail.

No other alternatives or methods were identified from issues and concerns raised through scoping and public involvement.

Resource Protection /Project Design Measures

Project design for compliance with laws, state requirements, resource protection and methods for implementation to minimize any environmental effects or site enhancement would include:

- Project design included a cultural clearance. A cultural resource survey has been completed and no change to the historic nature of the area would result.
- A surface water permit has been obtained from the State of Wyoming.
- Biologists were consulted for their expertise on bear/human interactions and how to best implement this action. Guidelines for reducing bear/human conflicts would be incorporated into the project, to include compliance with the requirements of the Grizzly Bear Management and Protection Plan:
 - Garbage and refuse handling and disposal procedures would be implemented.

- Human safety awareness training, human/bear conflict prevention procedures, and encounter procedures would be conducted.
- Enforce human activity restrictions by area, season, etc.

Reasons for Categorically Excluding the Proposed Action

The proposed action falls under Section 31.2(7) of the Forest Service Handbook 1909.15 – Environmental Policy and Procedures Handbook. Based on internal and external scoping, field reviews, specialist’s input and past experience, the effects of implementing this action will be of limited context and intensity and will result in little or no environmental effects to either the physical or biological components of the environment. The primary justification for this determination is that it involves the use of the land that does not involve significant changes in the physical environment.

Forest Plan Direction/Findings Required by Other Laws

This proposal is consistent with laws, regulations, and policy, as well as direction and standards and guidelines in the Shoshone National Forest Land and Resource Management Plan, as required by the National Forest Management Act (FSM 1922.41 and FSH 1909.12). This decision is in accordance with other applicable federal laws and regulations.

A cultural resource inventory and the required coordination with the Wyoming State Historic Preservation Office (SHPO) was completed, as well as the cultural resource documentation called for in 36 CFR Part 800. A cultural survey was completed and no sites were found. Per the May 24, 2002 SHPO letter, concurrence can be assumed for the purpose of Section 106 compliance and the project can proceed since no sites were found.

Per State of Wyoming statutes, a surface water permit has been obtained.

Finding of No Extraordinary Circumstances

Under the Forest Service Handbook definition, extraordinary circumstances exist, only when *conditions* associated with the proposed action are identified by the line officer making the decision “as potentially having effects which may significantly affect the environment.” Interim policy direction for extraordinary circumstances was used in making a finding of no extraordinary circumstances (FSH 1909.15 – Environmental Policy and Procedures Handbook Interim Directive No.: 1099.15-2002-2, August 23, 2002).

Scoping was conducted to identify any conditions associated with a normally excluded action as potentially having effects, which may significantly affect the environment.

Extraordinary circumstances include, but are not limited to, steep slopes or highly erosive soils, threatened and endangered species or their critical habitat, wetlands and flood plains, wetlands, or municipal watersheds, inventoried roadless areas, Congressionally designated areas (such as wilderness, wilderness study areas, or National Recreation Areas), Research Natural Areas, or Native American religious or cultural sites, archaeological sites, or historic properties or areas. These are summarized in the table below to describe the situation for extraordinary circumstances and the effects the project would or would not have.

Determinations for extraordinary circumstances were reviewed in the context of the Forest Service Handbook (1909.15 Chapter 30.3-30.5) and definition and the court decision below¹. Extraordinary circumstances exist, or are “present,” only when *conditions* associated with the proposed action are identified “as potentially having effects which may significantly affect the environment.”

Extraordinary Circumstances	Conditions that may lead to a finding of extraordinary circumstances (Yes or No). If needed, discussions of <i>conditions</i> that may lead to a finding of extraordinary circumstances are discussed in detail following the table.
a. Federally listed Threatened and Endangered species or designated critical habitat, species proposed for Federal listing of proposed critical habitat, or Forest Service sensitive species (Attach concurrence from fisheries/wildlife biologist and botanist as needed)	Yes, discussed below. A Biological Evaluation process for Proposed, Listed, and Sensitive Species was completed.
b. Flood plains, wetlands, or municipal watersheds	Yes. Flood plains, wetlands, or municipal watersheds are present; extraordinary circumstances related to the proposed action do not warrant further analysis and documentation in an EA or an EIS.
c. Congressionally designated areas, such as wilderness, wilderness study areas, or National Recreation Areas	No. None present; therefore, no effects from the project on Congressionally designated areas.
d. Inventoried roadless areas	Yes. The project is within an inventoried roadless area. No motorized access would be used and no road construction is involved. Roadless characteristics would be maintained.
e. Research Natural Areas	No. None present; therefore, no effects from the project on research natural areas.
f. American Indians and Alaska Native religious or cultural sites.	No. None present as determined by the Forest Archaeologist and cultural survey.
g. Archaeological sites, or historic properties or areas.	No. None present as determined by the Forest Archaeologist and cultural survey.

Conditions that may lead to a finding of extraordinary circumstances are discussed in greater detail in the following:

Threatened, Endangered and Sensitive Species. I have concluded that the project would have no effect on any endangered or threatened species known or suspected to occur in the project influence zone; therefore no conditions that may lead to a finding of extraordinary circumstances exist. This is based on the biological evaluation process, conclusions, and determinations made by the Forest Wildlife Biologist that concluded:

¹ The United States District Court for the District of Utah recently reviewed the provisions of the FSH related to categorical exclusions in Utah Environmental Congress v. U.S. Forest Service, Case No. 2:01-CV-00390B. In a Memorandum Opinion and Order issued June 19, 2001, the court found the above interpretation of the FSH to be reasonable. Specifically, the court found that the phrase “presence of” referred to *conditions* that may lead to a finding of extraordinary circumstances, not to the phrase “extraordinary circumstances.”

“This project will have no effect on any T&E species. The action may adversely impact individual sensitive species, but this will not be likely to result in a loss of viability on the planning area, nor cause a trend to federal listing or a loss of any species range wide. The action will have a beneficial impact on Yellowstone cutthroat trout.”

The wildlife documentation for the analysis/evaluation of this proposal relative to the following species is located in the Wapiti District project file:

- Proposed, Threatened, and Endangered Species
- Region 2 Designated Sensitive Species
- SNF Forest Plan Management Indicator Species (MIS)

Summary

I have reviewed the proposal and determined that no significant effects would occur from its implementation. The effects of the actions, as determined through internal scoping, are not highly controversial and are similar to other actions that have been implemented in the area. The effects on the human environment are not highly uncertain or involve unique risks. The action is not related to any actions that would result in significant cumulative impacts. The project does not represent a decision in principle about future considerations and does not violate federal, state, or local laws or requirements imposed for protection of the environment.

Implementation and Contacts

This decision can be implemented immediately and is not subject to appeal pursuant to 36 CFR 215.8 (a) (4). In order to ensure safety for employees and the public and protect infrastructure/facilities, this project would be implemented as soon as possible during the summer of 2002. For further information on this decision, contact Joe Neal, Fisheries Biologist, or Marty Sharp, NEPA Coordinator, 203A Yellowstone Ave., Cody, Wyoming 82414 or telephone 307-527-6921.

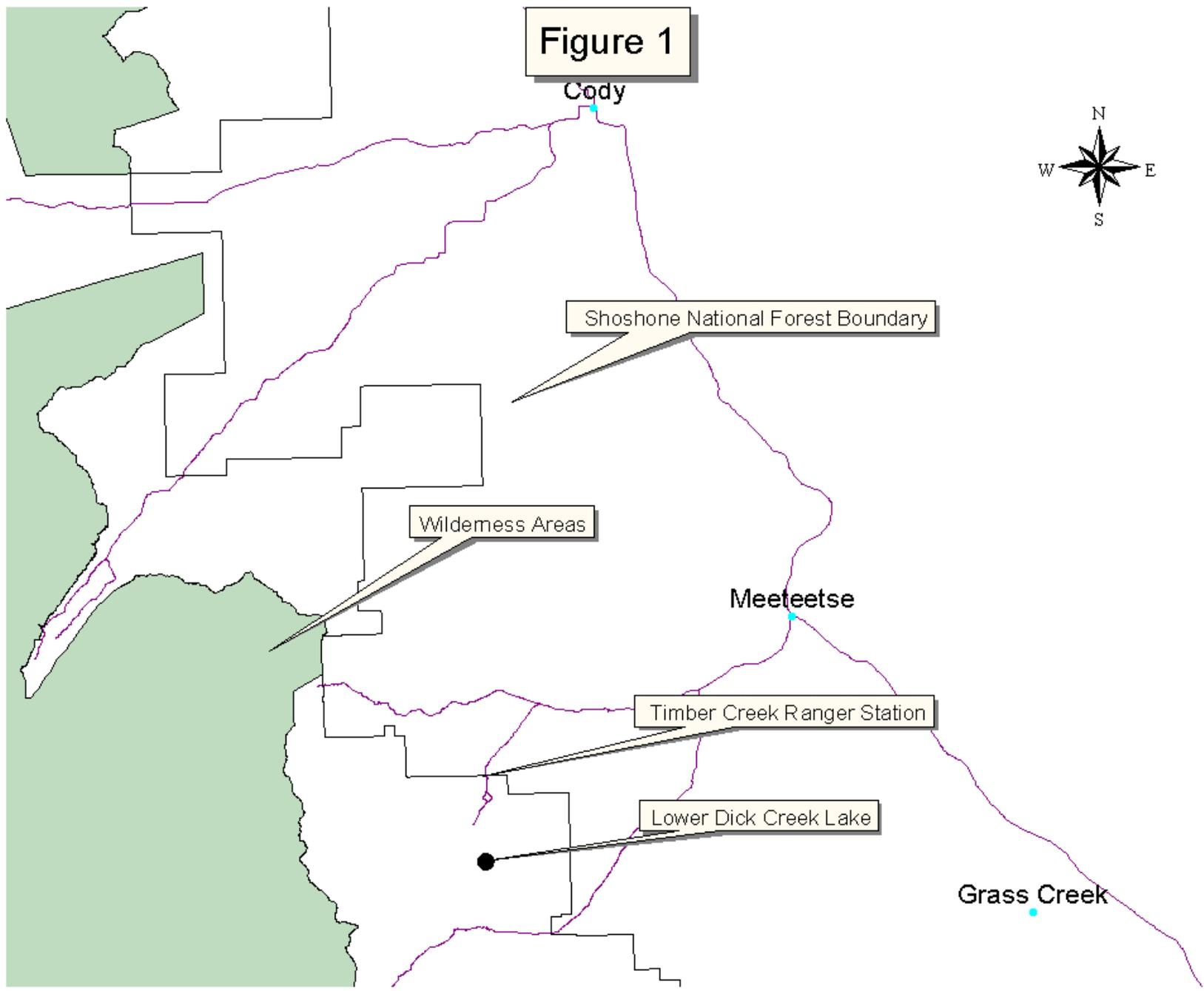
/s/ Brent L. Larson

9/5/02

Brent L. Larson
District Ranger

Date

Figure 1



Cody

Shoshone National Forest Boundary

Wilderness Areas

Meeteetse

Timber Creek Ranger Station

Lower Dick Creek Lake

Grass Creek

