

Attachment 11D(1)

Explanatory Note for the Bureau of Indian Affairs

May 3, 2010

Attached is the Bureau of Indian Affairs' (IA) report to the Council on Environmental Quality, fulfilling Section 1609 reporting requirements for the American Recovery and Reinvestment Act of 2009 (ARRA) and compliance with the National Environmental Policy Act (NEPA). The five funded programs are School Replacement (SR), Detention Centers (DC), School Improvement and Repair (MIR), Housing Improvement Program (HIP) and Indian Road Repair and Restoration (IRR). This report documents the progress on currently funded ARRA projects.

Changes in ARRA projects

There are 73 fewer projects than the previous report because one DC, two MIR and 77 road projects were withdrawn this quarter, but seven housing projects were also added. In the previous report IA had completed 37 percent of the environmental reports. This reporting cycle IA has achieved an 84 percent completion rate and expects to complete all NEPA actions in the next reporting period. The total number of NEPA actions has dropped from 840 presented in the last quarter to 742 in this quarter. This is because projects have been withdrawn and some projects have been combined under single NEPA documents. The remaining NEPA actions are summarized in the table below.

Table 1 Summary of ARRA Projects and Remaining NEPA Actions

Category	Total NEPA actions	NEPA Actions Completed	Pending EAs	Pending CEs
SR	5	5	0	0
DC	4	3	0	1
MIR	112	89	6	17
HIP	157	63	82	12
Road Repair	464	464	0	0

SR, DC and MIR Projects (rows 1-34)

The Office of Facilities Management and Construction (OFMC) is responsible for NEPA compliance for 121 ARRA projects under the SR, DC, and MIR programs. Of the initial 125 projects, four have been withdrawn. Only 24 NEPA actions remain pending which include six environmental assessments (EA) and 18 categorical exclusion (CE) reviews. The withdrawn and pending project explanations are provided below.

- **SR** – Five projects were initially proposed. EAs for all of these projects are complete.

- **DC** – Five projects were initially proposed. One detention center has been withdrawn this quarter (row 5a). This detention center will be constructed with funds provided from other sources. CE reviews have been completed on three projects. Rocky Mountain Region CE (row 7) remains pending, but will be completed in the next quarter.
- **MIR** – One hundred fifteen projects were initially proposed. One project, a sewage lagoon was withdrawn in the previous quarter (row 28a). Savings realized in non-ARRA portions of the overall project were used instead of ARRA funds. Two additional projects, a school window replacement (row 34) and a radio tower (row 34) were withdrawn this quarter. The window replacement will be funded from another source, and the radio tower location was determined to be unnecessary; these funds will be redistributed. A correction was also made on the spreadsheet for one project previously listed as an EA, but was actually completed as a CE (row 16).

Of the 112 remaining projects, only 23 NEPA actions are pending, these include six EAs, and 17 CE reviews. These projects are carried over for the following reasons: severe winter weather and compliance with the National Historic Preservation Act (NHPA) have delayed seven projects in the Navajo Region (rows 12, 14, 27a and 29); winter weather has delayed six projects in the Rocky Mountain Region (row 32); compliance with NHPA has delayed three projects in the Southwest (row 22), one project in the Great Plains (row 25), and four projects in the Western Region (row 33); NEPA compliance for one project in the Great Plains (row 25b) and one project in the Southern Plains (row 21) are part of larger contracts, and will be completed as part of the total design contract package. All of these will be completed in the next quarter.

HIP Projects (rows 35-49)

The Bureau of Indian Affairs, HIP manages the NEPA process in coordination with tribes receiving recovery funds for home construction projects. One hundred eighty-eight housing projects were initially planned. Thirteen projects were dropped in previous quarters, and seven (7) additional projects were added this quarter, which brings the current number of projects to 182. The seven new housing projects are at the Hoopa Reservation and we anticipate these projects will be reviewed under the five pending EAs (row 44). Funds have been obligated to tribal housing programs, but are not released until all NEPA compliance is complete. An additional \$500,000 was added to this program from savings in administrative costs. Several adjustments were made in the NEPA reporting from the last quarter. These include:

- In the Eastern Region, previous reports listed nine CEs. Further scoping efforts changed two of these CEs to EAs (rows 38, 38a and 38b).
- In the Midwest Region, eight housing sites on the Red Lake Reservation were combined under one EA (row 42).
- In the Southern Plains Region further scoping of 14 projects originally listed as EAs have been changed to 12 CEs and 2 EAs (rows 47 and 47a). Only the two EAs are pending and these will be completed during the next quarter.
- In the Southwest Region, 15 housing sites on the Zuni Reservation were addressed under two separate CEs and two EAs (rows 48 and 48a).

Currently, 82 EAs and 12 CEs are pending from the previous quarter. Many of the projects listed as EAs or CEs are pending because winter weather has delayed fieldwork, and completing the necessary Section 106 NHPA consultations. The HIP program has a high number of EAs because many of these are new construction projects. As scoping proceeds, we anticipate many of these EAs will be combined under programmatic documents which will be completed in the next quarter.

Road Repair and Restoration Projects (rows 50-60)

The Bureau of Indian Affairs Division of Transportation has responsibility for NEPA compliance for 541 Road Repair and Restoration projects. Seventy-seven projects were withdrawn this quarter: Fifty-five projects in Alaska (row 53) were withdrawn because jurisdictional conflicts on the proposed roads prevented ARRA funds from being used. Approval is currently being sought to transfer these funds to HIP projects. Twenty-two projects were withdrawn because Tribes have chosen not to use the funds for new projects, and have instead requested to use the money to supplement existing road projects within the respective Regions. The withdrawn projects include: two in the Midwest Region (row 54), one in the Western Region (row 55), five in the Pacific Region (row 56) and 14 in the Eastern Region (row 59a). CE reviews are completed on the remaining 464 roads projects, and no further NEPA compliance actions are anticipated. However, if the funds used to supplement existing projects also change the scope of these projects, additional NEPA review will occur.

NEPA Benefits

Example 1: *Facilities Construction at the Hunters Point Community School, Arizona (row 14)*

Proposed construction includes removing an existing, non-historic school building located near the historic buildings, and constructing a new replacement building. Consultation with the Navajo Tribal Historic Preservation Office (THPO) determined that two buildings at the Hunter's Point School qualified for listing on the National Register of Historic Places. A formal agreement was signed with the THPO and minor design changes were made to ensure the exterior visual elements of the proposed new school include appropriate materials and colors that enhance and compliment the visual setting and character of the historic buildings located on the school grounds.

Example 2: *Facilities Improvement and Repair Flandreau School, South Dakota (row 17)*

Proposed improvements and repair include mechanical, electrical, architectural, civil and structural work both in the interior and on the exterior of 24 buildings. Consultation with the South Dakota State Historic Preservation Office (SHPO) determined that eleven buildings at the Flandreau School qualified for listing on the National Register of Historic Places. Nine of these buildings would be affected by the proposed work. Project plans are currently being evaluated in order to ensure that the proposed improvements and repair do not alter the historic characteristics of the school property. Consultation with the SHPO is ensuring the historic characteristics are addressed, either through minor modification in plans or recovery of important historic elements. The school is also now pursuing more formal recognition of their historic structures.

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