



Decision Notice
& Finding of No Significant Impact

Dutton Ditch Special Use Permit

USDA Forest Service
Pagosa Ranger District, San Juan National Forest
Archuleta County, Colorado

Portions of Township 37 North, Range 2 West, Section 35
and Township 36 North, Range 2 West, Sections 3, 9, 10, 16, 20, and 21 N.M.P.M.

Introduction

This Decision Notice documents my decision to approve Alternative 2 for the Dutton Ditch Special Use Permit project. My decision is based on an Environmental Assessment (EA) prepared for the Dutton Ditch Special Use Permit project, dated February 2014. In this notice, I have documented important elements of the management alternative I have selected for implementation and the rationale for my choice. This notice also references the design criteria that will be implemented with my decision.

The EA associated with this Decision Notice was prepared to document the environmental effects of issuing a special use permit to Mr. Thomas Smith for the use, operation, maintenance, and repair of the Dutton Ditch. In accordance with the National Forest Management Act (NFMA) and National Environmental Policy Act (NEPA), an interdisciplinary team of Forest Service specialists (ID team) conducted the analysis and documented the results in an EA. The EA on which I based my decision is available for review at the Pagosa Ranger District office in Pagosa Springs, Colorado (Tel. 970-264-2268) and on the web at: www.fs.usda.gov/goto/sanjuan/projects.

The analysis area includes the area covered by the Dutton Ditch, as well as the land 10 feet on either side of the centerline of the ditch and the identified motorized access routes. The Dutton Ditch is approximately 7.3 miles long, approximately 1.8 feet deep, 5.8 feet wide at the top, and 4.0 feet wide at the bottom. It covers a total area of approximately 15 acres. The elevation of the project area is between approximately 7,880 and 8,600 feet. Appendix B of the Operation and Maintenance Plan attached at the end of this document displays the location of the analysis area.

Purpose and Need

The purpose and need for this project is to issue a special use permit for the continued use, operation, maintenance, and repair of the Dutton Ditch, in order to transmit water from Fourmile Creek for use on the applicant's private property. Mr. Smith has submitted an application for a new special use permit for the existing Dutton Ditch across the Pagosa Ranger District National Forest System lands. Several acts of Congress authorize occupancy and use of National Forest System lands and interests in lands administered by the Forest Service.

Decision

Based upon my review of the analysis documented in the Final EA dated February 2014, I have decided to implement Alternative 2, as described in the EA on page 6. Alternative 2 will authorize the issuance of a special use permit to Mr. Thomas Smith for the use, operation,

maintenance, and repair of the Dutton Ditch. This would include the area covered by the ditch, as well as the land 10 feet on either side of the centerline of the ditch for access, operation, maintenance, and repair. The total area covered by the permit is approximately 15 acres. The special use permit would allow Mr. Smith to use the Dutton Ditch year round, but a majority of the use would be in the irrigation season (April through October). The permit will allow the use of motor vehicles to access, operate, maintain, and repair the ditch. The permit would authorize repair work to be conducted on the ditch in 2014 including replacement of flumes, diversion boxes, and culverts along the ditch, construction of approximately 36 rock step structures to control grade within the ditch, armoring of the scour basin at the culvert outlet where the ditch crosses the Plumtaw Road, rerouting a portion of the ditch, and removal of approximately 13 trees.

My decision to implement Alternative 2 also includes adoption and implementation of the design criteria listed in the Operation and Maintenance Plan (Appendix A) which will be made a part of the special use permit.

Rationale for My Decision

I chose Alternative 2 as the Selected Alternative because it meets the purpose and need of the project. Under the Selected Alternative, the erosion and instability problems identified in the ditch would be corrected as a condition of the permit, reducing both short and long-term erosion and sedimentation along the ditch, increasing the long-term stability of the road fill on FSR 634, and reducing the potential for ditch blowouts and subsequent resource damage as compared to the No Action Alternative (EA, page 8). These impacts would result in an improvement in watershed condition relative to the No Action Alternative (EA, page 8). Impacts to vegetation (EA, pgs 9 and 10), Management Indicator Species (EA, pg. 13), Migratory birds (EA, pg. 14), and federally listed wildlife and fish species (EA, pg. 16 & 17) will be the same whether a special use permit is issued to Mr. Smith or not, but potential impacts to sensitive wildlife species more sensitive to human disturbance such as northern goshawk will be reduced by application of project design criteria (EA, pg. 16).

An examination of the record shows a thorough review using the best available science. The environmental analyses disclosed in the EA identify the effect analysis methodologies, reference scientific sources which informed the analysis, and disclose limitations of the analysis. The ID Team used information from a broad range of sources as appropriate, including Regional- and National-level research, local research, and recent site-specific field inspections and reviews of the analysis area.

Other Alternatives Considered

In addition to the selected alternative, I considered one other alternative in detail. A comparison of the alternatives can be found in the EA on page 6.

I did not choose Alternative 1-*No Action* because it does not meet the purpose and need for action of issuing a special use permit for the use operation, maintenance, and repair of the Dutton Ditch. This alternative is the existing condition and was used as a basis for comparison of impacts between the alternatives.

Public Involvement

The proposal was listed in the Schedule of Proposed Actions (SOPA) beginning in the January-March 2013 edition, and has been in every subsequent edition. The scoping effort for this project and the Notice and Comment period were combined. This was announced in a letter

mailed to known interested parties, adjacent landowners, and government entities on December 18, 2013. It was also announced in a legal notice published in the Durango Herald on December 19, 2013. The comment period ended on January 21, 2014. No comments were received during the comment period.

Finding of No Significant Impact

After considering the environmental effects described in the EA, I have determined that this action will not have a significant effect on the quality of the human environment considering the context and intensity of impacts (40 CFR 1508.27). Thus, an environmental impact statement will not be prepared. I base my finding on the following:

1. *Consideration of both beneficial and adverse impacts:* Both beneficial and adverse impacts were considered. This analysis indicates that the selected alternative would not result in any significant adverse effects (EA Chapter 3).
2. *Consideration of the effects on public health and safety:* There will be no significant effects on public health and safety.
3. *Consideration of unique characteristics of the geographic area:* The selected alternative does not involve impacts to unique characteristics or ecologically critical areas. There are no park lands, prime farmlands, wilderness, wild or scenic rivers, or ecologically critical areas in the project area. No adverse impacts are anticipated within floodplains. No adverse effects to wetlands or cultural resources are expected.
4. *Consideration of the degree to which the effects are likely to be highly controversial:* The effects of this action on the quality of the human environment are not highly controversial.
5. *Consideration of the degree to which effects are uncertain or unknown:* The effects analysis shows the effects are not uncertain and do not involve unique or unknown risks (EA Chapter 3).
6. *Consideration of the degree to which this action will set a precedent for future actions with significant effects:* The action will not establish a precedent for future actions that may have significant effect on the environment. It does not represent a decision in principle about a future consideration. Future actions will require their own analyses and decisions.
7. *Consideration of the action in relation to other actions with individually insignificant but cumulatively significant impacts:* Cumulative effects of past, present, and reasonably foreseeable projects have been considered and evaluated in addition to the impacts of this project. No cumulative impacts were identified for watershed, soils, geology, vegetation, wildlife, or cultural resources (EA pg. 18). The proposed action does contribute to cumulative effects to fish species. The application of a minimum flow of three cubic-feet per second (or natural inflow, whichever is less) helps to support fish populations, and is intended to provide habitat sufficient to support a viable, self-sustaining trout fishery (EA pg. 18).
8. *Consideration of the degree to which the action may adversely affect district, sites, highways, structures, or objects listed or eligible for listing in the National Register of Historic Places, or cause loss or destruction of significant scientific, cultural, or historic resources:* Class III Cultural Resource Inventory was conducted on 130 acres of Forest Service lands along the Dutton Ditch in 2012 and 2013; no cultural resources were found. A report detailing the findings of this inventory, Dutton Ditch Special Use Permit (SJNF#12-062), Class III Inventory, Archuleta and Mineral Counties, Colorado, was submitted to Colorado SHPO on November 25, 2013. Seven previous surveys had also been conducted within the project area(s). The project will result in no historic properties affected (EA pg. 17).
9. *Consideration of the degree to which the action may affect threatened or endangered species, or critical habitat:* A determination of "may affect but not likely to adversely affect" was made for Canada lynx. Direct and indirect effects to lynx were associated with minor impacts to lynx habitat, and short-term displacement during routine maintenance, repair, and operation. ESA Section 7 Consultation with the FWS has been completed for lynx under the Ditch Bill BA (USDI Fish and Wildlife Service 2006) therefore, no further consultation is required.

A determination of "may affect and likely to adversely affect" was made for Colorado pikeminnow and razorback sucker" in the BA which analyzed the depletion of 1,687 acre feet annually from Fourmile Creek for the Dutton Ditch Diversion. ESA Section 7 Consultation with the FWS has been completed for Colorado pikeminnow and razorback sucker under the Ditch Bill BA. The U.S. Fish and Wildlife Service issued a Biological Opinion (March 28, 2006; ES/GJ-6-CO-05-F-005, MS 65412 GJ) which concurred with this finding and also concluded that the proposed action "is not likely to jeopardize the continued existence of the Colorado pikeminnow and razorback sucker, and the proposed action is not likely to destroy or adversely modify designated critical habitat.". There would be no adverse affects to the other threatened and endangered species analyzed. No further consultation is required.

10. *Consideration of whether the action violates or threatens to violate federal, state, local laws or requirements imposed for protection of the environment:* The action complies with Federal, State, and local laws or requirements for the protection of the environment.

Findings of Compliance

The selected alternative complies with requirements of the National Environmental Policy Act, the Endangered Species Act, the National Historic Preservation Act, and the National Forest Management Act. The ID Team reviewed the direction in the 2013 San Juan National Forest Land and Resource Management Plan (the Forest Plan) and determined that the alternative analyzed in detail complies with the Forest Plan (EA pgs. 4 & 5). The Forest Plan provides the framework for the action proposed here, and we are undertaking this action as one step in implementing the Forest Plan, as required by the Forest and Rangeland Renewable Resources Planning Act of 1974 (RPA, P.L. 93-378) and the National Forest Management Act of 1976 (NFMA, P.L. 94-588).

Objection Process

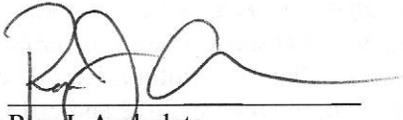
This decision is not subject to objection in accordance with 36 CFR 218.4 because no comments were received during the comment period.

Implementation Date

This project may be implemented on or after March 2014.

Contact

For additional information concerning this decision, for project information, or to obtain a copy of the EA, contact Becca Smith at the Pagosa Ranger District, POB 310, Pagosa Springs, CO 81147, (970) 264-2268. An electronic version can also be download from www.fs.usda.gov/goto/sanjuan/projects.


Ron J. Archuleta
Acting Forest Supervisor

3/5/14
Date

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Appendix A

San Juan National Forest Service Operation and Maintenance Plan PAG486

Water Conveyance Facility: **Dutton Ditch**
Permit Holder: **Thomas Smith**

Routine Operation and Maintenance

The Special Use Permit for the above facility incorporates this Operation and Maintenance Plan (O&M Plan) and any attachments thereto. The Holder agrees to operate and maintain the authorized facility and use the occupied National Forest System lands in accordance with the following stipulations:

- 1) Regulate flows so that adequate freeboard is maintained above the high water line of the Ditch. Flow measuring device(s) shall be installed and maintained. Maintain diversion, headgate, partitioning, and conveyance structures in good functioning condition and clear of sediment and other debris to ensure proper operation (see Appendix A). The Holder shall close the headgate at the end of each irrigating season.
- 2) Routine maintenance includes the following practices and tools:
 - i. Any hand tools (eg. shovel, pick, maddox, pulaski, etc.),
 - ii. Chain saw, axe etc. for removal of dead down or dead standing trees that interfere with the ditch operation. Wood cannot be removed from National Forest System land without additional authorization.
 - iii. Removal of debris from the ditch with nonmotorized equipment.
 - iv. Reinforcement of the ditch berm with nonmotorized equipment.
 - v. Removal of beaver dams, downed trees, and brush that interferes with proper function of the ditch.
 - vi. Placement of rock for reinforcement as needed to control erosion.
 - vii. Increase height of ditch bank so that freeboard is maintained above the high water line.
 - viii. Upon removal of excess sediment, deposit sediment only in upland locations, not into the ditch or natural drainage. Break down dirt clods and revegetate or otherwise stabilize spoil piles according to number 6 below.
- 3) Motorized Access Routes and Motorized Equipment: Use only maintenance routes in accordance with the Motor Vehicle Use Map or depicted on the attached map in Appendix B, and only the equipment listed below is permitted. Repair all damage resulting from said use. Unless otherwise approved, motorized vehicles and equipment will not be allowed to operate on or off Forest Service roads when soils are saturated such that ruts 4 or more inches deep are created on un-graveled surfaces, or ruts 1 or more inch deep are created on gravelled roads. In the event that larger ruts are created, the Holder will rehabilitate ruts by filling them in, providing drainage and seeding as necessary. For those routes outside of public travel routes, use is approved for water facility operation and maintenance needs only. Holders must have this O&M Plan with them at all times while using routes outside of public traveled routes. No snow removal or damage to the snowmobile trail is authorized. Road

closure gates will be kept closed and locked during the closure periods. Holder will open gates and drive through, then close and lock the gates, rather than driving around the gates.

- Motorized access of ditch channel and headgate by ATV or dirt bike is allowed.
- Motorized access of ditch channel and headgate on Fourmile Road, Plumtaw Road, 634.H Road, and 645.K road by full-sized, passenger vehicle, ATV, or dirt bike is allowed.
- Maintenance may be conducted using a tractor/backhoe/caterpillar, not to exceed 16,000 pounds.

4) Immediate operation and maintenance needs:

- Per number 6 below, Canada thistle currently growing along ditch needs to be treated with herbicide.
- See below for non-routine repair work to be conducted in 2014.

5) The Holder shall be responsible for prevention and control of soil erosion and gullying resulting from operations and maintenance of the granted use. This includes lands identified by the permit, and lands adjacent thereto. Maintain ditch channel to prevent down-cutting and bank failure, remove obstructions from the channel that may cause erosion, and promptly repair pipeline breaks and ditch failures. In the event of an uncontrolled breach of the ditch channel, the holder will contact the Forest Officer. The addition of foreign or hazardous materials to the ditch structure is not permitted (e.g. carpet, appliances, etc.).

6) The Holder shall revegetate or otherwise stabilize all ground where the soil has been exposed, and be responsible for control of and spread of noxious weeds as identified by the USDA Forest Service and the local county weed list. Prior to seeding, dirt clods should be broken up. Areas of disturbance must be seeded with weed free seed of the mix detailed in the chart below. The purpose of seeding is to prevent the introduction of noxious weeds that thrive in disturbed areas. Holder may use non-restricted chemical herbicides for weed control along access route and water facility within the confines of the permit. Strictly follow label instructions in the application of herbicides and the disposal of excess materials and containers.

Species	PLS lbs/acre	Seeds/sq.ft.
Mountain Brome - <i>Bromus marginatus</i> **	6	12.4
Slender Wheatgrass (Wild Rye) - <i>Elymus trachycaulus</i>	4	14.6
Western Wheatgrass - <i>Pascopyrum smithii</i>	4	10.1
Nodding Brome - <i>Bromus porteri (anomalus)**</i>	2	4.1
Arizona Fescue - <i>Festuca arizonica</i> *	0.5	6.3
Spring Wheatgrass (annual) - <i>Triticum aestivium</i> *	5	2.25
Annual Ryegrass - <i>Lolium multiflorum</i>	5	1.6
Totals	24.5 lbs/acre	64.7

*Omit in those elevations above ponderosa pine.

**Omit if in ponderosa pine

7) The Holder shall inspect the facility prior to use each year and after all major storm events and make necessary repairs. Work other than routine maintenance and/or minor repairs shall be approved in advance with the Forest Officer. All repairs shall be completed by the date agreed to by the Holder and the Forest Officer.

8) The Holder will acquire approval from the Forest Officer before proceeding with work that deviates from routine operations. Examples of these activities include, but are not limited to:

- a) Use of motorized equipment other than that defined above as routine maintenance and as motorized access to ditch (numbers 2, 3, and 4).
- b) Using other than approved maintenance routes for access.
- c) Changes in construction of the facility including but not limited to the installation of a new head gate or segment of pipe.
- d) Removal of significant amounts of vegetation and silt and deposition of same.
- e) Burning or other means of vegetation control measures.
- f) Removal of live standing trees.

Requests for non-routine maintenance approval should be submitted to the approving Officer as soon as the need is identified. Allow a minimum of sixty days for approval. Exceptions may be made for emergency maintenance situations.

9) If any items of archeological, paleontological, or historic value, including but not limited to historic or prehistoric artifacts, structures, monuments, human remains and funerary objects (grave artifacts) are discovered, the Holder will immediately cease operations in the area so affected. The Holder will notify the Forest Officer and will not resume operations until the authorized officer provides written approval. Failure to comply with this stipulation may result in civil or criminal penalties under the Archaeological Resources Protection Act of 1979.

10) The Pagosa District Wildlife Biologist will be notified immediately if northern goshawks are discovered in the project area. The biologist will evaluate site occupancy and determine a course of action to minimize adverse impacts to the species in compliance with the Forest Plan.

11) Habitat Maintenance Requirements: The Holder's water right for this facility provides for the diversion of up to twelve and 85/100 (12.85) cubic feet per second of water from Fourmile Creek, tributary to the San Juan River. Diversion in excess of this amount is beyond the scope of the permit and may require other forms of land use authorization. Contact the Forest Service Authorized Officer before diverting flows in excess of this amount.

In addition, the diversion of flow from Fourmile Creek into the Dutton Ditch is made through the diversion structure for the Dutton Pipeline. Habitat maintenance flow requirements are established for Fourmile Creek, per the terms and conditions of Special Use authorization for the Pipeline. The diversion of flow into the Dutton Ditch via the Dutton Pipeline are subject to the terms and conditions of the Pipeline authorization.

12) This Operation and Maintenance Plan will be reviewed annually by the Holder and the Forest Officer. The authorized Officer may unilaterally revise or modify this Operation and Maintenance Plan pursuant to those circumstances described in clause I.E. of the permit. This Operation and Maintenance Plan may also be amended by mutual agreement when signed and dated by the Holder and the District Ranger.

Non-Routine Repair Work to be Conducted in 2014

- 1) The flume above where the ditch crosses Plumtaw Road (NFSR 634) will be replaced.
- 2) The diversion box where the ditch splits near the closure gate on National Forest System Road (NFSR) 634.H will be replaced.
- 3) The diversion box where the ditch splits in the southeast portion will be moved to the new ditch alignment (see map in Appendix B).
- 4) The culvert in the ditch under the access route in the southeast portion of the ditch will be replaced (see map). All of the old culvert(s) will be removed from National Forest System land.
- 5) Approximately 36 step structures will be constructed of rock and geotextile fabric in accordance with the drawings attached to this O&M Plan. These will be located above and below where the ditch crosses the Plumtaw Road (NFSR 634) and along the southeast branch of the ditch (see map).
- 6) At the culvert outlet where the ditch crosses the Plumtaw Road, dirt or gravel will be put in the bottom of the scour basin, then geotextile fabric, then about 3 feet of rock. One of the step structures will be installed downstream to control grade.
- 7) A portion of the southeast portion of the ditch will be rerouted (see map). The new ditch alignment will be down a swale roughly along the motorized access route. The motorized access route may be moved slightly to the west to keep it out of the water. No ground disturbance, blading, or excavation will occur along this new alignment. The portion of the old ditch where the ditches split on the flat will be filled in in such a way that water will not continue to flow down it. The fill dirt may come from immediately adjacent to the section of ditch to be filled in.
- 8) Equipment to be used is a trackhoe, track truck, track skidsteer, and a 10 wheeler tandem truck.
- 9) Approximately 13 trees less than 12" diameter at breast height (dbh) will be removed. One tree approximately 36" dbh that is leaning over the ditch and will fall in the ditch will be removed. Trees will be felled, in a practicably safe manner, to avoid concentrating tree boles and slash vertically above the ground. Stumps will not exceed 12" in height as measured from the ground on the uphill side. Trees will not be felled in such a way as to obstruct roads, ditches, culverts, or stream courses. Debris resulting from felling operations will be removed from roads, ditches, culverts and streamcourses. Live trees over 4 feet in height damaged from felling of hazard trees will also be felled and treated as slash if one or more of the following types of damage has occurred: a) tree is now leaning over 15 degrees or more, b) tree has been stripped of 50 percent or more of its crown, c) the top 15 percent of the crown has been knocked out, or d) 50 percent or more of the bark around the circumference of the bole has been stripped to the cambium.

Trees that are removed along the ditch between the Plumtaw Road and the gate on the 634.H Road will be cut and left whole. The limbs will not be removed from the tree. The trees should not be piled nor placed against other trees. The trees should not be pushed or dragged around so that they become full of dirt. JR Ford will be removing trees in this area and will be able to utilize the trees that are cut along the ditch.

If it is not possible to leave some of the trees whole in the above area or if trees are removed along other areas of the ditch the following will apply. The bole of the felled tree will be bucked

and limbed to lie in contact with the ground. Limbs will be severed from the bole, on the top and side surfaces, from the butt to a point where the stem diameter is 2" or less. At approximately 2.0" stem diameter, the top will be severed from the bole. Slash is to lie as flat on the ground as possible. At no point will slash exceed a height of 18" above ground level.

10) Motorized access routes for this work will be the Fourmile Road, Plumtaw Road, 634.H Road, the existing ATV route along the southeast branch of the ditch, an existing route from Plumtaw Road to the ditch above where the ditch crosses Plumtaw Road, and along the east side of the ditch from Plumtaw Road south along the area where the step structures will be installed.

11) Rocks that are in the ditch (between the ditch banks) that are in the vicinity of the step structures and that can be used without destabilizing the ditch or ditch banks may be utilized in the step structures. No other rocks, gravel, or dirt may be gathered from National Forest System lands (other than what is authorized in #7 above).

12) The holder will provide written notification to the Pagosa Area Water and Sanitation District (PAWSD) prior to crossing or working within 15 feet of either side of the buried Dutton Pipeline. Written notification will be provided to PAWSD, Attn: Gregg Mayo, P.O. Box 4610, Pagosa Springs, CO 81157, gregg@pawsd.org. Please provide a copy of the notification to Becca Smith at the Pagosa Ranger District. The holder must avoid damaging the Dutton Pipeline.

13) The holder will revegetate and stabilize all areas where the soil has been exposed as a result of this repair work (both within and outside of the permit area) in accordance with item 6 on page 2.

14) The repair work will not begin prior to the Fourmile and Plumtaw Roads being open to the public in 2014. The repair work will be completed by September 30, 2014.

Appendices to the Operation and Maintenance Plan:

Appendix A – Acceptable Headgate & Water Measurement Structures

Appendix B – Map of Dutton Ditch and Pipeline

Appendix C – Step-Pool Drawings

Appendix A - Acceptable Headgate & Water Measurement Structures

For most ditches on NFS lands, there are a number of commercially available headgates, splitters, and water measuring devices (flumes, weirs) available by special order from many rural hardware stores. These are acceptable as long as they are properly installed and maintained. These devices have been designed and engineered at the factory. A copy of the manufacturer's installation and maintenance instructions should be part of the permit file.

Custom made gates or splitters made of wood or concrete constructed by the permittee are acceptable. Custom made water measuring devices should be designed by and the construction supervised by an engineer certified for such work to reliably measure the volume of water. Larger ditches, headgates and water measuring devices may have to be custom engineered for a given site. Contact the local NRCS office for assistance.

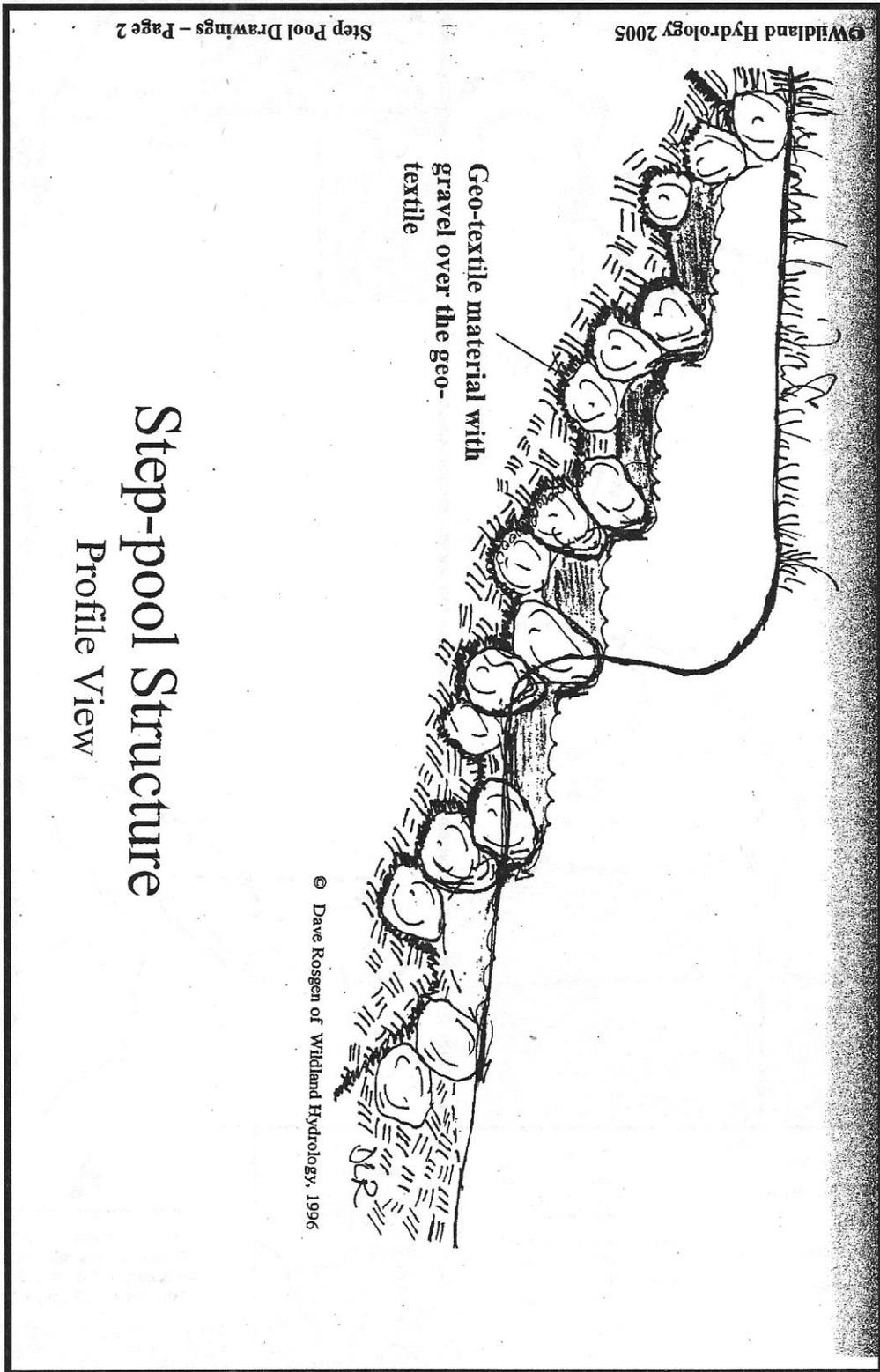
Generally in a gate or measuring device, we are looking for something that

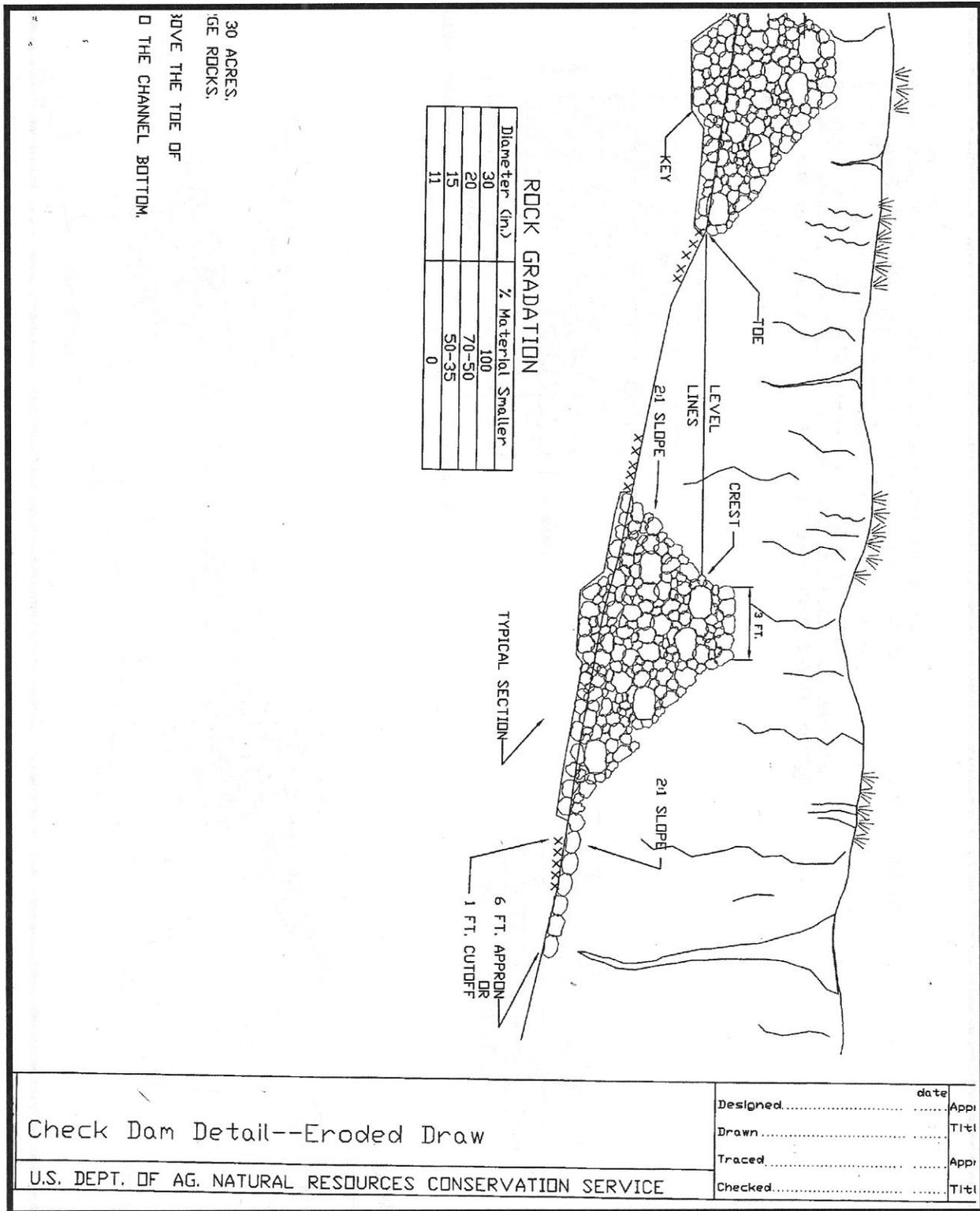
1. Can control and/or reliably measure the amount of water depending on their purpose.
2. Is designed to be relatively permanent (10+ year life).
3. Once stabilized, will not add sediment to natural streams.
4. Does not stop the passage of fish in the natural stream channel, where such passage is currently occurring.

The following are two standard references on headgate and water measurement design for the larger custom facilities

- USDI Bureau of Reclamation - Design of Small Canal Structures
- USDI Bureau of Reclamation - Water Measurement Manual

Appendix C – Step-Pool Drawings





Check Dam Detail--Eroded Draw

U.S. DEPT. OF AG. NATURAL RESOURCES CONSERVATION SERVICE

Designed.....	date	Appr
Drawn.....		TI-tl
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