Categorical Exclusion Documentation Form (CE Form)

Project: Programmatic Categorical Exclusion (PCE) for Riverbank Stabilization Measures Along the Cuyahoga River 2023-2028
PEPC Project Number: 116064
Description of Action (Project Description):

The National Park Service (NPS), Cuyahoga Valley National Park (CUVA, the Park) proposes to implement a five-year Programmatic Categorical Exclusion (PCE) for pre-approved riverbank stabilization measures along the Cuyahoga River within the Park from 2023-2028.

Background:

Cuyahoga Valley National Park was established in 1974 to preserve the scenic, natural and historic setting of the Cuyahoga Valley while providing for the recreational and educational needs of the public. CUVA consists of 33,000 acres located between the cities of Cleveland and Akron, Ohio. The park is among the most visited national parks with over 2.2 million visitors annually. The primary natural feature of the park is 22 miles of the Cuyahoga River; a designated American Heritage River.

Cuyahoga River is subject to high water events of and increasing frequency and magnitude, stormwater runoff exacerbated by development of its tributary headwaters, and a steadily increasing rate of precipitation. The bank failures at several locations along the river are a result of the drainage flowing from the unmaintained Ohio and Erie Canal prism under trails, and the severity of erosion was exacerbated by previous mitigation measures that were either poorly conceived or did not account for the root causes of the failure. Lastly, the issues along the river are the long result of the modification of the drainage systems during the development and construction of the canal and especially railway, which moved, modified, and amended to reduce initial costs. Any proposal should account for these key factors. Stabilization measures are essential preservation maintenance actions needed to protect historic, cultural, and natural resources, human health and safety as well as Park and local assets.

In 2004 the Park produced an EA which identified a robust Riverbank Management System (Alternative 2) as way to address the effects of the river on Park assets through a "proactive and holistic" approach. Several years later, in 2016 the Park also wrote a Strategic Action Plan (SAP, 2016) focused on restoring the health the Cuyahoga River and its communities as international symbols of human, urban, and ecosystem renewal. The SAP includes focus using methods of bank stabilization that will also improve the water quality, enhance the adjacent riparian habitat, and protect threatened cultural resources.

Compliance Criteria for use:

National Historic Preservation Act (NHPA):

Projects must fall under streamlined activities in section IIIC of the 2008 Servicewide Programmatic Agreement among the National Park Service (U.S. Department of the Interior), the Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers for Compliance with Section 106 of the NHPA. These streamlined activities are listed within the NHPA section in PEPC (Tab 4).

National Environmental Policy Act (NEPA):

Projects must fall under the stipulations under CE citation 3.3 C.4 Routine maintenance and repairs to cultural resource sites, structures, utilities and grounds under an approved Historic Structures Preservation Guide or Cyclic Maintenance Guide; or if the action would not adversely affect the cultural resource and those stipulations and mitigations outlined in this PCE. Consultation with Federal, State and local entities may be necessary for specific site information and permitting. The proposed actions should be in line with the recommendations of the Alternative 2, the selected alternative of the 2004 Programmatic Environmental Assessment (EA) for Riverbank Management of the Cuyahoga River (NPS 2004). This programmatic EA identified a robust Riverbank Management System (Alternative 2) as way to address the effects of the river on Park assets through a "proactive and holistic" approach. The success of this approach was predicated on an equally robust Riverbank Erosion Monitoring Program and a thorough environmental review of each action proposed under this programmatic environmental document. The action must also strive to meet the objectives and goals of the 2016 SAP.

Accepted Actions:

Riverbank stabilization under this PCE may utilize a combination of natural rock rip rap below the high-water levels and, for natural resource benefits, bioengineering techniques above the high-water line. Stabilization is accomplished through clearing the banks at the identified locations, placing rip rap, rebuilding banks, planting native vegetation to stabilize the soil and remediation of the construction site as well as access to the site, as necessary. Repair of eroded riverbank areas will directly reduce annual operation and maintenance costs by reducing temporary repairs after major rain events. The eroded areas would be repaired using the sustainable guidelines developed in a reevaluation of the Park's 2004 Programmatic Environmental Assessment for Riverbank Management Plan by using a combination of natural rock riprap below the high-water levels and, for natural resource benefits, bioengineering techniques above. Experience has shown if these areas are repaired while relatively small, repair costs at resource impacts will be lower.

Baseline and preliminary studies or surveys will require sperate compliance.

PCE Compliance Process:

All actions performed under this PCE must apply the techniques, protocols, mitigations, best management practices and methodologies described in this PCE and the related memos (within Tab 5). Project lead/team will submit project supportive documents (SOW, Specs, Drawings etc.) to NHPA & NEPA specialist or Park Compliance Lead who will ensure there are no extraordinary circumstances.

No Extraordinary Circumstances:

Compliance lead will enter a project into Tab 5 "Internal Documents" as a memo with all relative project information. This ensures all projects utilizing this PCE are documented. If the proposed project requires a Wetland Statement of Findings (WSOF), they may still utilize the PCE if it fits and is approved by the compliance lead, however it must be entered under Tab 5 "internal documents" as a memo. This will require at least a 15-day public review of the WSOF. See mitigations for more information.

Minor Changes in PCE descriptions:

If there are new techniques or minor changes in the scope of work proposed with little change in impacts, the project leader will consult with the compliance lead to request an amendment to the PCE to cover the proposed changes. CUVA's established interdisciplinary team (IDT) and CRM teams will review any proposed changes or amendments as warranted to assure that such amendments are within the scope and the spirit of this PCE. The standard for determining a significant change is based on the potential for increasing environmental impacts as determined by the NEPA Environmental Screening Form (ESF). Any change/amendment will be entered as a Memos signed by the Superintendent uploaded into Tab 5 "internal documents" associated with the PCE. If IDT & CRM review result in no amendment to the PCE the project requires its own compliance.

Mitigations have been identified that should be followed for every project implemented under this PCE. These mitigations can be found under Tab 4. Additional mitigations specific to a project should be documented with the project memo under Tab 5.

Project Locations:

Location 1

County:	Cuyahoga	**State:**	OH

Location 2

County:	Summit	**State:**	OH

Mitigation(s):

- No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river "for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. If any work would occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, the permittee must submit a preconstruction notification (PCN) to the USACE.
- The Project is within the state scenic segment of the Cuyahoga River for National Wild and Scenic Rivers System designation (including the Towpath Station Road South and Towpath MM 20 South sites). All sites would be restored to preconstruction conditions.
- Closure signage and other notifications would be required for Towpath Trail. Work hours are anticipated to be 8 AM to 5 PM.

  Track access and work hours coordination and safety precautions would be required for the Cuyahoga Valley Scenic Railroad.
- Archaeological monitoring would be conducted during construction at Towpath MM 20 South.
- Consultation on measures to preserve the dam at the Peninsula Connector site and ensure compatibility of the proposed wall with the dam and other historic features would occur with the Ohio State Historic Preservation Office (SHPO) before final design. Coordination on the protective measures would occur with construction contractors before starting construction.
- NPS would consult with SHPO regarding potential temporary impacts to archaeological sites within the Project Area.
- Riverbank restoration would be conducted with materials that would be consistent with the historic setting of the listed sites. NPS would consult with SHPO and complete archaeological surveys as needed within the Area of Potential Effect. NPS would coordinate internally on impacts to the Ohio and Erie Canal National Historic Landmark.
- Any disturbed soil or vegetation or trail segments or railway ballast would be restored to preconstruction conditions.
- A local notice to mariners (LNM) should be coordinated with USCG District 9. If needed, the LNM should provide information pertaining to the safety of the waterways under USCG jurisdiction. Information includes obstructions, hazards to navigation, and dangers.
- If the project disturbs 1 acre or more of ground, a construction storm water permit is needed. A stormwater pollution prevention plan and NOI would be needed. Each project site may be considered single and complete actions, or, if the projects are let together, may be classified as one action. Federal authority is designated to the State (Ohio) for Section 402 compliance.
- The Valley Railway is owned by NPS and operated by a concessionaire. Coordination with all applicable NPS and Surface Transportation Board safety precautions during construction would be required.
- An individual Section 401 Water Quality Certification from Ohio EPA would be needed if an Individual Section 404 permit would be required. An application form per ORC section 6111.30(A) would be submitted for certification, and all requirements of the Clean Water Act Section 401 Certification Rule followed.

- PERMIT- The Cuyahoga River is a listed navigable water. The Section 10 submittal would be made to the USACE Buffalo Regulatory District concurrent with the Section 404 submittal and is reviewed concurrently. USCG coordination would be needed with Bridge Administration to confirm compliance with Section 9. No permit from USCG is anticipated.
- The bank stabilization projects proposed for this action are designed to withstand flood flows and have no or negligible rise in flood stage. In reference to natural and beneficial floodplain values, the designs will incorporate, where practicable, environmentally conscious elements such as live willow staking interspersed within armored banks, brush mattresses, etc.
- PERMIT - Compliance with Section 401 of the Clean Water Act

  An individual Section 401 Water Quality Certification from Ohio EPA would be needed if an individual Section 404 Permit is needed. If individual certification is needed, an application form per ORC section 6111.30(A) would be submitted for certification, and all requirements of the Clean Water Act Section 401 Certification Rule followed. In addition, if discharge of dredged or fill material into isolated wetlands occurs, an Isolated Wetland Permit from Ohio EPA would be required.
- Compliance with NPS Director's Order Procedural Manual 77-1

  Much of the streambank stabilization is within the original construction zone footprint of either the rail line or towpath and can be considered maintenance, repair, or renovation actions that would replace the soil that has been eroded away. The project actions are meant to maintain safety and protect the trail, rail, or cultural assets. The slopes would be vegetated creating wetland/riparian habitat above the fill footprint. Project activities would include clearing the banks, placing riprap, rebuilding banks, and planting native vegetation to stabilize the soil.
- PERMITS- Compliance with Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act

  The project area is within the Buffalo Regulatory District. The Cuyahoga River is a navigable water and therefore would require coordination under Section 404 and Section 10. The type of permit or permits needed is undetermined, but notification would be required due to applicable Section 10 water requirements.

  Mitigation required by Section 404 would be determined following USACE review.
- The construction stipulations require the contractor to replace trees and remove and replace any trees damaged during construction. At the project manager's discretion, the contractor will provide new trees of same size and species as those being replaced for each tree that measures 4 inches or smaller in caliper size and provide two new trees of 4-inch caliper size for each tree being replaced that measures more than 4 inches in caliper size. Trees should be planted to help stabilize the slopes and restore impacted areas. Trees planted in lower areas in the floodplain should be sycamore, box elder, swamp white oak, and/or silver maple.
- Though delisted in 2007, bald eagles remain a federal species of concern and are protected under the Bald and Golden Eagle Protection Act and the Migratory Bird Treaty Act. Bald eagles have nested in the Pinery Narrows area of the Park since 2007. The Park currently closes and limits tree clearing for hazardous conditions within portions of the Towpath Trail within the Bald Eagle nesting zone from February to July. The preferred habitat includes mature forests adjacent to open water for nesting and foraging.
- Birds at Cuyahoga Valley National Park are protected under two major legal authorities; the Endangered Species Act and The Migratory Bird Treaty Act (MBTA). For any project potentially impacting birds and their habitats a qualified NPS biologists will conduct a survey of the afflicted area to determine the presence or absence of protected species, nests and habitat prior to the action or NPS will identify and avoid any active nests of any protected species during the breeding season. Depending on the species of concern this may limit activities during the time March and September. Activities that have the highest potential for impacts to protected bird species include removal of vegetation, mowing, tree removal (live and hazard trees), and removal of structures.
- Prior to implementing any action, the NPS shall assess current mussel information within the proposed section of river. If current information is NOT relevant and valid the NPS or its designee shall complete surveys in accordance with the Ohio Mussel Survey Protocol produced by the Ohio Department of Natural Resources.
- Indiana bats hibernate in caves and roost under loose tree bark on dead or dying trees during the summer. In order to mitigate effects on the species, seasonal restrictions on tree cutting are encouraged. Trees should only be cut when the species is hibernating or concentrated near its hibernacula. For project areas affecting Indiana bat swarming

habitat (near hibernacula), only cut trees between November 15 and March 15. For project areas affecting the species' summer habitat, only cut trees between October 15 and March 31.

- Incidental take of northern long-eared bat is prohibited if it occurs as a result of removing a known occupied maternity roost tree or removing trees within 150 feet of a known occupied maternity roost tree during the pup season from June 1 through July 31 or as a result of removing trees from within 0.25 mile of a hibernaculum at any time of the year.
- Project should avoid impacting T&E and rare plants. Selected contractor would be required to follow standard conservation measures for the Indiana and northern long-eared bat, piping plover, rufa red knot, and MBTA species.

CE Citation: 3.3.C.4 Routine maintenance and repairs to cultural resource sites, structures, utilities and grounds under an approved Historic Structures Preservation Guide or Cyclic Maintenance Guide; or if the action would not adversely affect the cultural resource.

CE Justification:

The proposed action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 43 CFR §1508.4. The Park interdisciplinary team reviewed the proposal and found that none of the extraordinary circumstances described in 43 CFR §1508.4 apply to routine maintenance and repairs to the streambank for the protection of historic resources (i.e. Towpath and Railway). This PCE is appropriate to use when no extraordinary circumstances exist nor potentially significant effects on the environment are anticipated for a streambank stabilization project. Approval of project proposals under this PCE are contingent on the project designee receiving all applicable USACE and Ohio EPA permits and approvals.

Decision: I find that the action fits within the categorical exclusion above. Therefore, I am categorically excluding the described project from further NEPA analysis. No extraordinary circumstances apply.

Signature Superintendent: KAREN DORN Digitally signed by KAREN DORN Date: 2023.05.23 11:09:15 -04'00' **Date:** 5/23/2023

Karen Dorn for Lisa Petit

Extraordinary Circumstances:

If implemented, would the proposal...	Yes/No	Explanation
A. Have significant impacts on public health or safety?	No	The proposed action would not have any adverse effects on public health and safety. Park staff and/or their contractors will conduct construction activities using approved best management practices to ensure public health and safety.
B. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation, or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas?	No	There would be no significant impacts to any of the above resources. The approval of this action is conditioned on stipulations and environmental commitments that will ensure there are no adverse impacts to any significant environmental resources.
C. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources (NEPA section 102(2)(E))?	No	This question has been eliminated from consideration by the Council of Environmental Quality as part of a new rule that came into effect September 14, 2020.
D. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks?	No	The Park IDT of resource specialists have reviewed the proposed action and determined there are no high uncertain, potentially significant, unique, or unknown risks.
E. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects?	No	The actions proposed in this CE are in keeping with the intent of the Parks establishing legislation, authorized General Management Plan, Foundation Document, and active Strategic Action Plan. The proposed action is addressed is categorically excluded because it has no potential for significant impacts to the natural or cultural environment; it is not unique and would not set a precedent for future actions with potentially significant environmental effects.
F. Have a direct relationship to other actions with individually insignificant, but cumulatively significant, environmental effects?	No	The issue regarding cumulative impacts has been eliminated from consideration by the Council of Environmental Quality as part of a new rule that came into effect September 14, 2020.
G. Have significant impacts on properties listed or eligible for listing on the National Register of Historic Places, as determined by either the bureau or office?	No	The NPS, has developed the proposed action through the Section 106 process in a manner that ensures the action would have no adverse effect to any historic property.
H. Have significant impacts on species listed or proposed to be listed on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species?	No	The proposed action as conditioned would not have any significant impacts on species listed, or proposed to be listed, on the Federal List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.
I. Violate a federal, state, local or tribal law or requirement imposed for the protection of the environment?	No	Proposed action does not violate any Federal, State, local, or tribal laws or requirements imposed for the protection of the environment. The Proposed action conforms to all NPS policies for management of public lands in areas of jurisdiction and complies with applicable laws, rules, and regulations; and is also in conformance with the Park's enabling legislation and approved GMP.

J. Have a disproportionately high and adverse effect on low income or minority populations (EO 12898)?	No	The proposed action would not have a disproportionately high and adverse effect on low income or minority populations.
K. Limit access to and ceremonial use of Indian sacred sites on federal lands by Indian religious practitioners or adversely affect the physical integrity of such sacred sites (EO 130007)?	No	There are no Indian sacred sites that would be affected by the proposed action.
L. Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112)?	No	The proposed action would not contribute to the introduction, continued existence, or spread of noxious weeds or non-native species known to occur in the area or promote the introduction, growth, or expansion of the range of such species.