

# RECLAMATION

*Managing Water in the West*

## Categorical Exclusion Checklist (CEC)

### Orland Unit Water Users' Association – Approval of Amendments to “Bylaws of Orland Unit Water Users' Association” (Bylaws) – Orland Project, CA

NCAO-CEC-16-11

Prepared by: *Jake Berens* Date: *July 8, 2016*  
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Water Conservation Specialist  
Northern California Area Office (Willows)

Concurrence by: Attachment 2 Date: July 5, 2016  
Megan Simon  
Northern California Area Office Designee for  
Tribal Trust Assets

Concurrence by: Attachment 3 Date: July 6, 2016  
Joanne Goodsell  
Archaeologist  
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Concurrence by: *Paul Zedonis* Date: *7/8/2016*  
Paul Zedonis  
Environmental and Natural Resources  
Supervisory Natural Resource Specialist/  
Division Manager  
Northern California Area Office

Approved by: *Donald Bader* Date: *7/8/2016*  
Donald Bader  
Acting Area Manager  
Northern California Area Office



U.S. Department of the Interior  
Bureau of Reclamation  
Mid Pacific Region

July 2016

## **Orland Project Background**

As title holder to the Orland Project, Reclamation will approve amendments to Article 1, Section 3.3 of the “Bylaws of Orland Unit Water Users’ Association” (Bylaws), consistent with Article 1, Section 15 of the Bylaws, which states: *"No provision of any By-Law embraced in Article 1 of these By-Laws shall be amended or modified except with the approval of the Secretary of the Interior"*.

The Orland Project was authorized by the Secretary of the Interior on October 5, 1907, for irrigation purposes. Two main storage dams (East Park and Stony Gorge), two diversion dams, almost 17 miles of canals, and 139 miles of laterals provide water service to approximately 20,500 acres of land in Glenn County, California under the project.

The Bureau of Reclamation provides irrigation water service within the Orland Project pursuant to the Angle Decree<sup>1</sup>, as amended by Order of the U.S. District Court for the Eastern District of California, dated May 4, 2009, and Stony Creek water right license No. 2652. Article VIII of the Angle Decree states that Reclamation’s right to divert and use water from Stony Creek and its tributaries for the Orland Project is “for the reclamation and irrigation” of irrigable lands in the Orland Project. The irrigation season is defined in Article XV of the Angle Decree as the time during which water can be applied “with profit and benefit” to the irrigation of lands.

The delivery of irrigation water from the Orland Project must be consistent with the authorized project purposes, Reclamation law, applicable policies, regulations, and guidance, the Angle Decree, Stony Creek water right, and water right applications.

The Orland Unit Water Users’ Association (OUWUA) assumed responsibility for the care, operation and maintenance of the Orland Project in 1954. On August 3, 1995, OUWUA was advised that its financial obligation for the Orland Project was fully repaid and the land receiving irrigation water is thereafter exempt from the ownership and full-cost pricing provisions of Reclamation law.

## **Proposed Amendments to Existing Bylaws**

OUWUA’s proposed amendments to Section 3.3 of Article I of the existing Bylaws are identified below in strikethrough and bold text:

### Article I, Section 3.3

It is agreed and understood that the records of the Association, as well as the certificate of other evidence of ownership of the shares of stock in the Association, when issued, shall contain a description of lands to be irrigated as above described, and to which the aforesaid rights and shares shall be perpetually appurtenant: and all rights, whatever their source or whatever their manner of acquisition, to the use of water for the irrigation of

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<sup>1</sup> U.S. v. H.C. Angle, et al, Civil No. S-80-583-LKK [In Equity No. 30], U.S. District Court for the Eastern District of California. This is an adjudication of the water rights to the flows of Stony Creek and its tributaries initiated by the United States and that culminated in the Angle Decree on January 13, 1930, determining the water rights of all parties.

said land, shall hereafter be forever inseparably appurtenant thereto, together with the said shares of stock and all rights and interests represented thereby or existing or accruing by reason thereof, ~~unless such rights shall become forfeited under the provisions of this contract, or of the By Laws of this Association, or by operations of law, or by the voluntary abandonment thereof by deed, grant, or other instrument, or by non-user for the term prescribed by law: but no such abandonment shall be for the benefit of any person designated by the undersigned or his successors, directly or indirectly, or to his use, nor confer any right whatsoever upon the holder of any grant, release, waiver, or declaration of abandonment of any kind, PROVIDED, HOWEVER, that if for any reason it should, at any time, become impracticable to beneficially use water for the irrigation of the lands to which the right to the use of the water is appurtenant, the said right may be severed from said land and simultaneously transferred and attached to other lands to which shares of stock in this Association are or shall thereby to made appurtenant, if a request for leave to transfer, showing the necessity therefore, shall have first been allowed by a two-thirds vote of the Board of Directors at a regular meeting and approved by the Secretary of the Interior.~~ **PROVIDED HOWEVER, any parcels of land, 1.0 acres or smaller, and/or parcels larger than 1.0 acre and at least eighty percent (80%) of which are used for commercial or industrial purposes, may be eligible for detachment from the Orland Unit Project. Detachment of any such land(s) from the Orland Unit Project shall be subject to approval by a two-thirds vote of the Board of Directors at a regular meeting after the submittal of an Application for Detachment and payment of an application fee, as prescribed by the Board of Directors, and confirmation by the Association that the land(s) sought to be detached from the Orland Unit Project meets the criteria from detachment above. Parcels of land located on and/or served by a community ditch shall not be eligible for detachment, and the Board of Directors will not consider a detachment application, unless and until all the owners of the parcels of land respectively served by the community ditch each submit an Application for Detachment and pay the requisite application fees. For purposes of this section, a community ditch is defined as any privately owned (non-Orland Unit Project) ditch and /or pipeline that is maintained and used to supply Orland Unit Project water to two or more landowners. No Applications for Detachment will be accepted by the Association unless and until any and all outstanding and/or unpaid assessments and/or charges on the landowner's account attributable to the land parcel sought to be detached is paid and/or made current. By submitting an Application for Detachment, the landowner seeking detachment understands and agrees that approval by the Board of Directors of the detachment of land(s) from the Orland Unit Project will result in the forfeiture and/or surrender of all the shares of stock in the Association associated with the land(s) to be detached. For purposes of this by-law section, the terms "acre" and/or "acres" refer to and mean water rights acres which are within the Orland Unit Project and are the subject of a water right application made to the United States Department of Interior, Bureau of Reclamation, and which have appurtenant thereto, shares of stock in the Orland Unit Water Users' Association.**

**Bureau of Reclamation Categorical Exclusion:** A (1). Changes in regulations or policy directives and legislative proposals where the impacts are limited to economic and/or social effects.

**Extraordinary Circumstances**

Below is an evaluation of the extraordinary circumstances as required in 43 CFR 46.215.

- 1. This action would have a significant effect on the quality of the human environment (40 CFR 1502.3). No  Uncertain  Yes
- 2. This action would have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources (NEPA Section 102(2)(E) and 43 CFR 46.215(c)). No  Uncertain  Yes
- 3. This action would have significant impacts on public health or safety (43 CFR 46.215(a)). No  Uncertain  Yes
- 4. This action would have significant impacts on such natural resources and unique geographical characteristics as historic or cultural resources; parks, recreation, and refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (EO 11990); flood plains (EO 11988); national monuments; migratory birds; and other ecologically significant or critical areas (43 CFR 46.215 (b)). No  Uncertain  Yes
- 5. This action would have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks (43 CFR 46.215(d)). No  Uncertain  Yes
- 6. This action would establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects (43 CFR 46.215 (e)). No  Uncertain  Yes
- 7. This action would have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects (43 CFR 46.215 (f)). No  Uncertain  Yes
- 8. This action would have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by Reclamation (LND 02-01; and 43 CFR 46.215 (g)). No  Uncertain  Yes

9. This action would 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 (43 CFR 46.215 (h)). No  Uncertain  Yes
10. This action would violate a Federal, Tribal, State, or local law or requirement imposed for protection of the environment (43 CFR 46.215 (i)). No  Uncertain  Yes
11. This action would affect ITAs (512 DM 2, Policy Memorandum dated December 15, 1993). No  Uncertain  Yes
12. This action would have a disproportionately high and adverse effect on low income or minority populations (EO 12898; and 43 CFR 46.215 (j)). No  Uncertain  Yes
13. This action would limit access to, and ceremonial use of, Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (EO 13007; 43 CFR 46.215 (k); and 512 DM 3). No  Uncertain  Yes
14. This action would 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; EO 13112; and 43 CFR 46.215 (l)). No  Uncertain  Yes

Regional Archeologist concurred with Item 8 (email attached).

ITA Designee concurred with Item 11 (email attached).

***NEPA Action Recommended***

CEC – This action is covered by the exclusion category and no extraordinary circumstances exist. The action is excluded from further documentation in an EA or EIS.

Further environmental review is required, and the following document should be prepared.

EA

EIS

**Environmental commitments, explanations, and/or remarks:**

Section 3.3 of Article I of the Bylaws currently provides that, prior to severing the water rights to lands that have become impracticable to beneficially use water for irrigation, it shall have first been allowed by a two-thirds vote of the Board of Directors at a regular meeting and approved by the Secretary of the Interior.

However, the requested amendment to Section 3.3 of Article I of the Bylaws calls for application for detachment only on a landowner voluntary basis, for lands that have become impracticable to beneficially use water for irrigation, and for which there are no outstanding and/or unpaid assessments and charges attributable to the lands being detached. Therefore, this Bylaw amendment is consistent with the water right applications and certificates, the Angle Decree, the judicially approved method for amending the Angle Decree project land schedule, the contract with OUWUA, and Section 8 of the Reclamation Act. Specifically, Reclamation does not feel it conflicts with the Secretary's authority in the applications to remove lands for nonpayment, or with the water right application's description of the lands to be provided water as being irrigable.

#### Approval of Amendments to Existing Bylaws

The proposed changes relating to the minimum parcels size in Section 3.3 of Article I of the existing OUWUA Bylaws do not conflict with the contracts between the OUWUA, or OUWUA members applications for permanent water rights. In fact this amendment will correct an inconsistency between the Angle Decree and the current Bylaw; specifically, where the current Bylaw refers to lands and water rights being severed, that the water rights can be simultaneously transferred to other lands". This is inconsistent with the Angle Decree and the proposed Bylaw amendment will bring it into conformance with that of the Angle Decree.

No development or change in land use or irrigation is facilitated by this action.



## Attachment 2. Indian Trust Asset Review



Simon, Megan <msimon@usbr.gov>

### ITA Review - OUWUA Bylaws Ammendments - Orland Project

1 message

Simon, Megan <msimon@usbr.gov>  
To: Paul Zedonis <pzedonis@usbr.gov>

Tue, Jul 5, 2016 at 3:35 PM

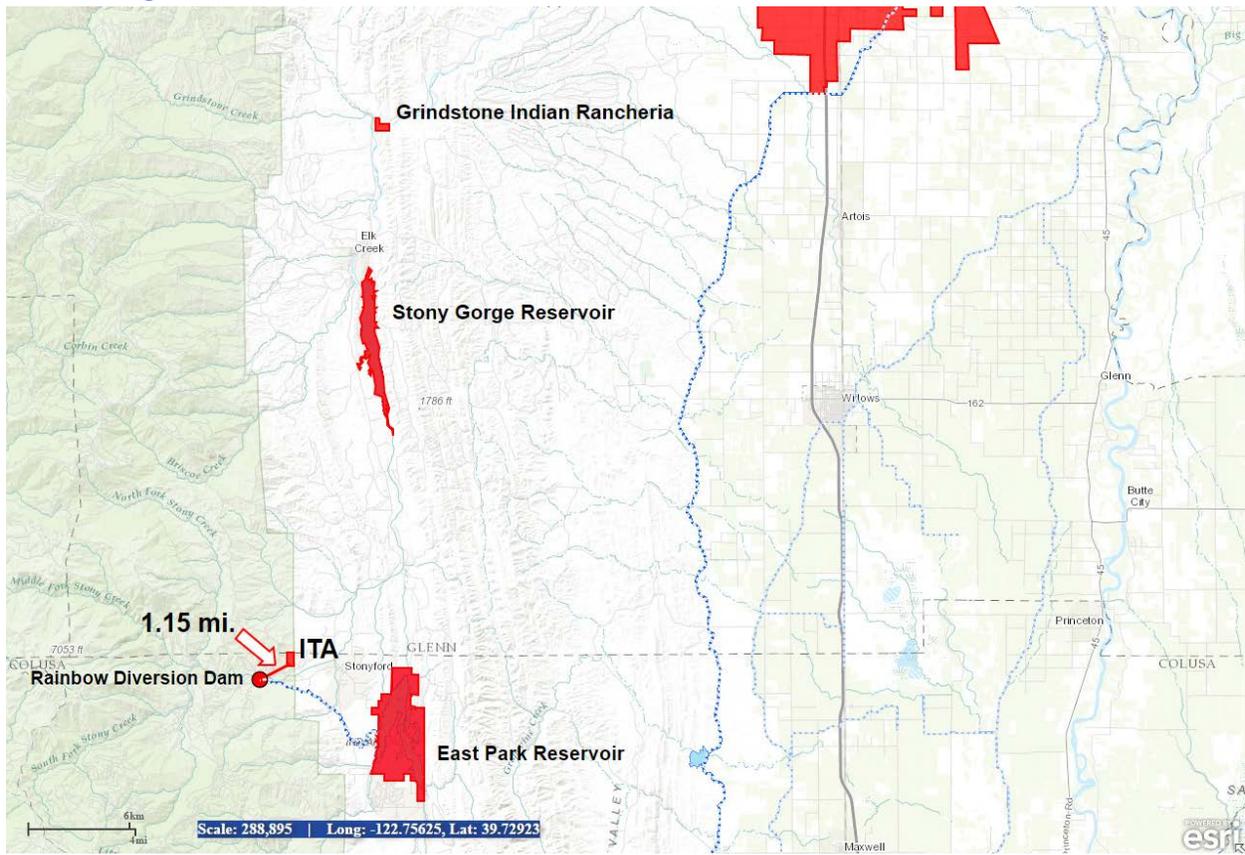
I have examined the referenced proposal and have determined that the facilities are at least one mile from the closest Indian Trust Asset.

I have determined that there is no likelihood that this action will adversely impact Indian Trust Assets.

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*Megan K. Simon*

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**Attachment 3. Cultural Resources Review**

**CULTURAL RESOURCES COMPLIANCE  
Division of Environmental Affairs  
Cultural Resources Branch (MP-153)**

**MP-153 Tracking Number:** 16-NCAO-163

**Project Name:** Orland Unit Water Users' Association (OUWUA) – Approval of Amendments to Bylaws – Orland Project CA

**NEPA Document:** NCAO-CEC- 16-11

**NEPA Contact:** Megan Simon, Natural Resource Specialist

**MP 153 Cultural Resources Reviewer:** Joanne Goodsell, Archaeologist

**Date:** July 6, 2016

**JOANNE GOODSELL**

Digitally signed by JOANNE GOODSELL  
DN: c=US, o=U.S. Government, ou=Department of the Interior,  
ou=Bureau of Reclamation, cn=JOANNE GOODSELL,  
0.9.2342.19200300.100.1.1-14001000645482  
Date: 2016.07.06 13:39:16 -0700

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The OUWUA proposes to amend Article I, Section 3.3 of the *Bylaws of Orland Unit Water Users' Association* (bylaws). Language in Article 1, Section 15 of the bylaws states “*No provision of any By-Law embraced in Article 1 of these By-Laws shall be amended or modified except with the approval of the Secretary of the Interior.*” Reclamation proposes to approve the bylaw changes as proposed by the OUWUA.

The proposed action involves the type of activity that has no potential to cause effects on historic properties, assuming such properties are present. As such, pursuant to 36 CFR § 800.3(a)(1), Reclamation has no further obligations under 54 U.S.C. 306108, commonly known as Section 106 of the National Historic Preservation Act (NHPA). Item 8 on Categorical Exclusion Checklist NCAO-CEC-16-11 is supported by this determination.

This document conveys the completion of the NHPA Section 106 process for this undertaking. Please retain a copy in the administrative record for the proposed action. Should changes to the proposed action be made, additional Section 106 review, possibly including consultation with the State Historic Preservation Officer, may be required.