

RECLAMATION

Managing Water in the West

Finding of No Significant Impact

Langell Valley Tree Removal Project

Klamath County, Oregon

2016-FONSI-003

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Date: 2-9-16

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Background

In accordance with Section 102(2)(c) of the *National Environmental Policy Act of 1969* (NEPA), as amended, the Bureau of Reclamation has prepared an Environmental Assessment (EA) to evaluate Reclamation authorizing Langell Valley Irrigation District's proposal (LVID) to remove 7.47 miles of mature trees from Klamath Project (Project) canal and lateral banks to prevent any further damage and to satisfy recommendation **2012-2-AL** of the 2012 Review of Operation and Maintenance Report (RO&M). After thorough review and analysis, the attached EA resulted in a Finding of No Significant Impact (FONSI).

Due to years of deferred Operation and Maintenance (O&M), hundreds of mature juniper, willow, and poplar trees are causing the loss of integrity where bank destruction is occurring, breaking away, and loosening large areas of soils causing a widening of Project canals and laterals within LVID. Removal of the trees was identified in Reclamation's 2012 LVID RO&M Report stating that:

“The establishment of mature stands of trees throughout LVID is a matter of concern as their growth threatens the integrity of numerous structures throughout the system. With some trees having been growing for 50 years or more, the cutting of trees, removal of all tree roots, and restoration of all tree root voids is no longer a simple maintenance item. Therefore, Recommendation 2012-2-AL is issued for establishment of a recurring program to cover phased tree removal throughout LVID. LVID will need to submit to KBAO [Klamath Basin Area Office] a list of planned tree removal activities on an annual basis that can then be permitted prior to removal of the trees, the tree roots, and repair of the tree root voids.”

Reclamation would monitor the proposed project locations both pre and post-tree removal and re-construction activities ensuring compliance with the criteria noted within the attached EA. Reclamation's prior approval would be required for all work to be performed by LVID under the Proposed Action Alternative described in the attached EA. In determining whether or not to authorize tree removal activities, Reclamation may require, review and approve engineering designs and specifications, and upon completion of all necessary environmental compliance.

Alternatives Including the Proposed Action

No Action Alternative

Under the No Action Alternative, Reclamation would not authorize LVID's request to remove hundreds of encroaching mature and sapling juniper, willow, and poplar trees from approximately 7.47 miles of Project canals and laterals within LVID. LVID would continue to have impeded access and reduced ability to operate and maintain Project facilities. The channel and lateral banks would continue to erode and further threaten the integrity of the water conveyance facilities. Reclamation's recommendation 2012-2-AL in the 2012 RO&M Report would not be addressed.

Proposed Action Alternative

Under the Proposed Action Alternative Reclamation would authorize LVID's request to remove hundreds of mature and sapling trees encroaching on approximately 7.47 miles of Project facilities within LVID under various ownership rights (*see* in the attached EA: Table 1, Figures 1-4, and Appendix A). Removal of various juniper, willow, and poplar trees by LVID would prevent further erosion and widening of the canals and laterals, thereby allowing LVID to operate and maintain Project facilities pursuant to its contracts with Reclamation.

Tasks associated with the Proposed Action Alternative are proposed by, and would be conducted by LVID staff. Tasks associated with the proposal are expected to take place during the off-irrigation season (November-March) potentially beginning in February of 2016 with activities expected to end in the fall of 2018. Additional work may take place during the spring/summer months in 2016, 2017, 2018 if irrigation water, due to limited supply, is not delivered. Tree removal activities would only occur when Reclamation facilities within LVID are dewatered.

As LVID is responsible for all tree removal activities proposed on various land ownerships, the process for approval of tree removal activities would be as follows:

Tree Removal on Reclamation Fee-Ownership Land

1. LVID identifies a maintenance need on a specific reach of a facility and confirms proposed actions with Reclamation.
2. LVID confirms the land rights with Reclamation.
3. Reclamation identifies any necessary cultural resources monitoring through coordination with Reclamation's Mid-Pacific cultural resources staff on the specific reaches deemed potentially sensitive by Reclamation archeologists.
4. LVID coordinates with Reclamation's Klamath Basin Area Office Engineering Division on specific requirements for each reach and may be required to submit engineering designs and specifications for the specific reach of a facility.
5. Reclamation would provide written communication to LVID on when and how tree removal activities would occur.

Landowners or those who have an interest in lands adjacent to Reclamation's fee-ownership lands and who are concerned about LVID's proposed tree removal activities should contact LVID using the below contact information:

Address: Langell Valley Irrigation District
9878 E. Langell Valley Road
Bonanza, Oregon 97623

Phone: 541-545-6344

Tree Removal on Other Land Rights (Easements, Reservations, and 1890 Canal Act Reservations)

Reclamation acquired easements and reservations for water conveyance facilities and their boundaries were well defined in the acquisition documents. However, because the 1890 Canal Act reservations for water conveyance facilities are unbounded, uncertainty about the exact scope and extent of Reclamation's rights has the potential to create conflict between LVID management objectives and those of LVID landowners. Reclamation proposes LVID take the

following approach in coordinating with landowners. LVID is responsible for all tree removal activities and Reclamation may become involved if requested by the landowner and or LVID:

1. LVID identifies a maintenance need on a specific reach of a facility and confirms the proposed actions with landowner and Reclamation.
2. LVID confirms the land rights with Reclamation and notifies the landowner of land status.
3. If requested by KBAO, LVID would submit any engineering designs and specifications required for reconstruction of each facility.
4. LVID notifies the landowner in writing (prior to activities taking place) of the maintenance need, the type of maintenance to be performed, and the estimated dates the maintenance activities would take place. The landowner is asked to respond to LVID and Reclamation with any concerns or needs (such as a need to move livestock from area) within 30 days of the notification letter.
5. If the landowner has concerns about the need, type, or dates of the maintenance activity and requires more than a verbal communication, LVID may schedule a date to meet with the landowner to resolve any outstanding issues or concerns. Reclamation staff would be available for this meeting, if needed and requested by LVID and or the landowner.
6. If there is disagreement between LVID and the landowner about a maintenance need that cannot be resolved, Reclamation would review the issue and make the final determination based on Reclamation facility needs.
7. Reclamation would provide the determination using written communication to both LVID and the landowner.

Landowners whose lands are encumbered with the above types of land rights and who are concerned about LVID's proposed tree removal activities should contact LVID using the below contact information:

Address: Langell Valley Irrigation District
9878 E. Langell Valley Road
Bonanza, Oregon 97623

Phone: 541-545-6344

Tasks integrated into the Proposed Action Alternative to mitigate potential impacts to birds protected under the MBTA, BGEPA, and in accordance with the *National Bald Eagle Management Guidelines* (May 2007):

In order to comply with the MTBA, BGEPA, and in accordance with the *National Bald Eagle Management Guidelines* (May 2007), removal of trees in potential bird breeding habitat areas in the project vicinity would occur during times between September and the end of January, when birds are not expected to be nesting. As construction activities must occur during the breeding season for birds protected under the MBTA (February 1 to August 31), Reclamation Natural Resource Specialists would conduct preconstruction field visits within one week prior to initiation of tree removal and reconstruction activities in and adjacent to the project area for nesting migratory birds. If no nests are found during the surveys, tree removal and canal reconstruction may proceed. If nests are found, tree removal and associated activities implantation within the nest are would be coordinated with the USFWS.

As the Proposed Action Alternative includes an area where an active bald eagle nest has been identified (reach No 6. seen in Table 1 and Appendix A-Tree Removal #6). The following measures in accordance with the *National Bald Eagle Management Guidelines* (May 2007) would be followed:

1. During the breeding season of bald eagles (January 1 to August 31), timber harvesting operations including road construction and chainsaw, and yarding operations must be avoided within 660 feet of a nest.
2. The distance of timber harvesting operations may be decreased to a distance of 330 feet around alternate nests within a particular territory, including nests that were attended during the current breeding season but not used to raise young, after eggs laid in another nest within the territory have hatched.
3. Removal of clear cutting or removal of overstory trees within 330 feet of a nest should be avoided at any time.
4. The active bald eagle nest and buffer area would be marked with flagging.

Further implementation of project activities within the nest area would depend on the level of noise or construction disturbance, line of site between the nest/roost and the disturbance, ambient levels of noise and other disturbances, and other topographical or artificial barriers. These factors would be analyzed and used to assist Reclamation and the USFWS in making an appropriate decision on buffer distances and avoidance timeframes, as necessary.

Tasks integrated into the Proposed Action Alternative to mitigate potential air quality impacts from fugitive dust emissions:

LVID is required to comply with the following reasonable precautions to reduce fugitive dust emissions as prescribed in the State of Oregon Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040. LVID may contact ODEQ for any questions or concerns regarding the below listed precautions.

- Use, where possible, of water for control of dust during construction operations, the grading of roads or the clearing of land such as removal of trees.
- Application of water on unpaved roads, materials stockpiles, and other surfaces which can create airborne dusts.
- Full or partial enclosure of materials stockpiles in cases where application of water is not sufficient to prevent particulate matter from becoming airborne.
- Covering, at all times when in motion, open bodied trucks transporting materials likely to become airborne.

KBAO engineering and environmental compliance staff would perform periodic onsite inspections to ensure that all fugitive dust control measures are in place during tree removal activities and work completed by LVID is consistent with authorized designs, specifications, and environmental commitments outlined in the attached EA.

Public Comment

Reclamation prepared the attached EA to evaluate the effects of the Proposed Action Alternative. The EA was available for public review on November 24, 2015, to December 8, 2015. Two comments were received and are summarized below:

On November December 3, 2015, a representative from The Klamath Tribes commented, via electronic mail that: “a cultural resource survey must be completed for the project by a qualified archaeologist ... and a certified cultural monitor would need to be present while all ground disturbing activities are taking place.” This comment is addressed in item 8 below.

The second comment was from a LVID patron who on December 8, 2015, delivered a letter to KBAO which stated: this “project must be of very high priority,” that the existing condition of the canal and lateral reaches in this project “are not in a condition that can serve the water users,” and that “if this project is not mandated by the Klamath Basin Office ... it will not be implemented immediately to relieve the change of sever failures of the project facilities.”

Findings

Based on the attached EA (including the environmental commitments listed in item 10 below), Reclamation finds that the Proposed Action Alternative is not a major Federal action that will significantly affect the quality of the human environment. The attached EA describes the existing environmental resources in the Proposed Action area and evaluates the effects of the No Action and Proposed Action alternatives on the specified resources. Effects on several environmental resources were examined and found to be absent or minor. That analysis is provided in the attached EA, and the analysis in the EA is hereby incorporated by reference.

This FONSI is based on the following:

1. Indian Trust Assets

There are no Indian reservations, Rancherias or allotments in the project area.

The Proposed Action Alternative does not have a potential to affect Indian Trust Assets. The nearest Indian Trust Asset is a Public Domain Allotment in excess of 25 miles from the Proposed Action area.

2. Indian Sacred Sites

There are no identified Indian Sacred Sites within the action area of the proposed project and therefore this project would not inhibit use or access to any Indian Sacred Sites.

3. Environmental Justice

No significant changes in agricultural communities or practices would result from the Proposed Action Alternative. Accordingly, the Proposed Action would not have any significant or disproportionately negative impact on low-income or minority individuals within the project area.

4. Climate Change and Green House Gases

Implementation of the Proposed Action Alternative would result in insignificant impacts to climate change or increases in greenhouse gases due to the size and scope of the project, the small change from current conditions, and the duration of the project that is limited to the project construction period.

5. Noise

Implementation of the Proposed Action Alternative would result in construction activities that would temporarily dominate the rural environment in the project area. Construction noise would be temporary and would be minimized by limiting the construction work hours between 7:00 am and 6:00 pm Monday through Friday. Noise impacts resulting from the Proposed Action Alternative would be temporary and insignificant.

6. Water Resources

Under the Proposed Action Alternative, impacts to surface water quality would not occur as the Proposed Action Alternative activities would take place during the off irrigation season, and/or when no water is present in the canals and laterals proposed for tree removal. As a result, the Proposed Action Alternative would not result in impacts to surface water quality

Implementation of this project has the potential to conserve some unquantifiable amount of Project water that is currently being lost during irrigation season due to the lowered bank elevations and overall existing facility conditions. As a result, the Proposed Action Alternative may increase the quantity of Project water in Project facilities as a result of conservation through facility repairs.

7. Biological Resources

Endangered Species Action Listed Species

On October 8, 2015, a species list of federally listed, proposed and candidate species potentially occurring within the area of potential effect was obtained from the U.S. Fish and Wildlife Service's (USFWS) website (Section 3.2.2 of the attached EA). The potential impacts to all species included on this list as a result of the Proposed Action Alternative, have been considered and it has been determined that the proposed activities would have no effect on these species or their habitats as the project is occurring in the previously disturbed context of facility embankments and during the non-irrigation season and /or when the canals are dry. This decision is based on analysis of current information on the potential effects of the action, known existing populations, and habitat requirements for the species.

Bald and Golden Eagles

During a site visit on June 26, 2015, Reclamation Natural Resources Specialists, the LVID District Manager, and a representative from the Klamath Falls USFWS Klamath Office confirmed an active bald eagle nest located in the proposed action area. The location of the nest is identified in the attached EA as Reach No. 6 (*see* Table 1 and Appendix A—*LVID Tree Removal #6*). Due to the mitigation measures integrated into to the Proposed Action Alternative (Section 2.2 and within Chapter 4 of the attached EA, as well as the environmental commitments identified in item 10 below), no impact to bald and golden eagles are anticipated to occur during implementation of the Proposed Action Alternative.

Bird Species Protected under the Migratory Bird Treaty Act (MBTA)

Impacts to bird species protected under the MBTA are not anticipated as mitigation measures have been incorporated into the Proposed Action Alternative that includes avoidance measures during the breeding season (February 1 – August 31) (see section 2.2 and Chapter 4 of the Attached EA including mitigation measures outlined in items 10 below).

8. Cultural Resources

As Reclamation only has authority for cultural resources on Reclamation land for this proposed action, the undertaking for Section 106 of the NHPA is limited to those tree removal locations where Reclamation's approval is required. The Area of Potential Effects (APE) for cultural resources for the Proposed Action Alternative is defined as the areas on Reclamation land around and beneath each tree needed to remove the tree and its roots. The actual APE is smaller than the approximate 7.47 miles of canals and laterals and is restricted only to the area needed to remove individual trees based on the size and ground disturbing impacts from removal methods. Efforts to identify historic properties in the APE included a record search at the Oregon State Historic Preservation (Oregon Archaeological Records Remote Access); searches of Reclamation cultural resources records, consultation records, project histories, and Geographic Imaging System maps; and a reconnaissance-level survey. The only identified historic properties in the APE include the Klamath Project water conveyances along which the trees would be removed.

The canals and laterals identified in the Proposed Action Alternative are part of the Klamath Project which is eligible for listing on the National Register for its association with the development and promotion of irrigation agriculture and economic development in the Klamath Basin. For the purposes of this project, Reclamation is assuming that the water conveyances identified in the APE are contributing components to the larger Klamath Project which is treated as a historic property, eligible for listing on the National Register of Historic Places.

After review, Reclamation determined that the Proposed Action Alternative would have no significant impact on historic properties as damages from tree growth and tree removal would be repaired to restore the channels to previous functional forms. These conveyance features are earthen channels that have varied in width, depth, and slightly in course through years of use and routine maintenance. They generally remain in their original locations, retaining their original purposes within the larger Klamath Project system. Any prehistoric or archaeological sites that might be present beneath the surface in tree root systems would be heavily disturbed from those roots. An archaeological monitor would be present during tree removal to watch for significant cultural resources that could not be identified prior to approval during project implementation. Reclamation would consult on any discovered historic properties or Native American burial under Federal cultural resources laws as needed and as applicable.

9. Air Quality

Under the Proposed Action, construction activities would generate short-term and localized fugitive dust, gas, and diesel emissions, which could affect air quality. Due to the scope of

this project, it is anticipated that machinery, equipment, and overall activities will have an insignificant effect to air quality within the project area.

10. Environmental Commitments

The following environmental commitments would be implemented before, during, and after the action activities to prevent and reduce the impacts of the Proposed Action Alternative.

- *Environmental Permitting* – LVID will be responsible for complying with all environmental requirements identified in the attached EA including any other applicable Federal, State, and local permits that may be required.
- *Water Resources* – LVID will perform all work when the facilities are dewatered.
- *Biological Resources/Migratory Birds* – All necessary vegetation removal will be completed before nesting season begins (February 1) or after nesting season is completed (August 31) to reduce nest losses. If tree removal must occur during the breeding season, the mitigation processes incorporated into the Proposed Action Alternative description (Section 2.2 of the attached EA) will be followed.
- *Biological Resources/Bald and Golden Eagle Protection – The National Bald Eagle Guidelines* (Appendix C of the EA) will be followed when working near the bald eagle nest identified in the Proposed Action project location of Reach No. 6. A buffer zone of 660 feet for all equipment and tree removal practices would be followed during eagle nesting period. When not in the nesting period, a buffer zone of 330 feet would be met. If tree removal must occur during the breeding season (January 1 – August 31), the mitigation processes incorporated into the Proposed Action Alternative description (Section 2.2 of the attached EA) will be followed.
- *Cultural Resources* – A Reclamation Archeologist would be present to monitor tree removal activities within the APE to identify any exposed or discovered cultural resources and to determine whether or not additional consultations under Section 106 of the NHPA would be required. In the case that any cultural resources, either surface or subsurface, are inadvertently discovered during construction, construction in the area of the inadvertent discovery will cease, and either Reclamation's Archaeologist, if on site, or Reclamation's Mid-Pacific Regional Archaeologist would be notified. Reclamation's Archaeologist would make an assessment of the resource and conduct additional consultations as required. Any person who knows or has reason to know that he/she has inadvertently discovered possible human remains on Federal land, must immediately provide telephone notification of the discovery to a Reclamation official and to Reclamation's Mid-Pacific Regional archaeologist. If applicable, Reclamation would consult under NAGPRA for a discovery of Native American human remains or NAPGRA objects. Work will not resume at that location until notified by Reclamation to proceed.
- *Air Quality* – Reasonable precautions for air quality will be implemented by LVID to control fugitive dust during tree removal and re-construction activities. LVID will follow Oregon Department of Environmental Quality's Division 208 Quality Visible Emissions

and Nuisance Requirements to control methods for aggregate storage pile emissions to minimize dust generation, including periodic watering of staging areas, and dirt/gravel roads. All loads that have the potential of leaving the bed of the truck during transportation will be covered or watered to prevent the generation of fugitive dust.

- *Disturbed Areas* – Areas disturbed during construction will be contoured and restored to as near their pre-project condition as practicable.
- *Noise Impacts* – Tree removal activities will be conducted 7:00a.m. to 6:00p.m. Monday through Friday. LVID would contact adjacent landowners approximately one week prior to construction activities commencing, notifying landowners of the potential temporary noise disturbance.
- *Re-Construction Standards* – Minimum compaction standards and monitoring requirements will be established by Reclamation. LVID will be responsible for ensuring adequate compaction standards are followed to prevent future erosion and bank dilapidation. All equipment and machinery used on the site will be operated and maintained in such a manner as to minimize dust, noise, vibration, smoke, hazardous material spill, lights, and odor.
- *Monitoring* – Reclamation will monitor the proposed project locations both pre and post tree removal and re-construction activities ensuring compliance with the criteria noted within the attached EA.