

RECLAMATION

Managing Water in the West

Categorical Exclusion Checklist

Malone Dam Repair Repayment Contract

KBAO-CEC-2017-010

Prepared by:

Kirk Young Date: 3-14-2017
Kirk Young
Natural Resources Specialist

Concur with Item 6:

Kirk Young Date: 3-14-2017
FOR Lauren Perry
Cultural Resource Specialist

Concur with Item 9:

Kristen Hiatt Date: 3/14/2017
FOR Kristen Hiatt
Indian Trust Assets Coordinator

Recommended by:

Kristen Hiatt Date: 3/14/17
FOR Kristen Hiatt
Environmental Compliance Branch Chief, Klamath Basin Area Office

Reviewed by:

Jennie M. Land Date: 3/14/17
Jennie M. Land
Resource Management Division Chief, Klamath Basin Area Office

Approved by:

Jeff Nettleton Date: 3/14/17
Jeff Nettleton
Area Manager, Klamath Basin Area Office



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DATE: 3/14/2017	PROPOSING AGENCY/APPLICANT: Reclamation - KBAO
PROJECT: Malone Dam Repair Repayment Contract	
EXCLUSION CATEGORY: 516 DM 14.5 B.1 – Approval, renewal, transfer, and execution of an original, amendatory, or supplemental water service or repayment contract where the only result will be to implement an administrative or financial practice or change.	
NATURE OF ACTION: Reclamation is proposing to enter into a repayment contract with Langell Valley Irrigation District (LVID) to address needed maintenance on Malone Dam.	
LOCATION: (See maps in Exhibits A and B) LAT: 42° 0' 22.98" N LONG: 121° 13' 26.40" W PLSS: Southeast ¼ of Southwest ¼ of Section 18 of T41S, R14E of the Willamette Meridian, Klamath County, Oregon	
COST AUTHORITY NO: RX.00124968.0000000 17XR0680A5	7.5 MINUTE QUAD MAP: Langell Valley of Klamath County, Oregon
DESCRIPTION OF PROPOSED ACTION/COMMENTS: <p>This Categorical Exclusion Checklist (CEC) is being prepared to document Reclamation's proposal to enter into a repayment contract with LVID to fund necessary normal operation and maintenance (O&M) activities on Malone Dam. The O&M activities, which would provide an interim fix for Malone Dam seepage issues, is the type of action that is covered under Departmental exclusion category 43 CFR 46.210(f): "routine and continuing government business, including such things as supervision, administration, operations, maintenance, renovations, and replacement activities having limited context and intensity (e.g., limited size and magnitude or short-term effects)." As such, National Environmental Policy Act and National Historic Preservation Act (NHPA) compliance issues need not be addressed for the O&M activities; however, Clean Water Act (CWA) and Endangered Species Act (ESA) issues do require acknowledgement. Therefore, a brief description of the O&M activities, and the CWA and ESA regulatory compliance associated with the activities, is provided in this CEC.</p> <p>The proposed O&M activities would provide an interim fix for Malone Dam seepage issues. A filter berm would be constructed outside of the reservoir which requires concrete repair to the sluiceway. A minor amount of earthwork would be performed in preparation for the sluiceway grouting. After excavation, the layers would be placed in horizontal lifts, meaning that the sand and gravel are placed together and rolled in horizontal lifts at the same time (8' rolled width) and alternate with an earth cover layer (8' rolled width), starting at the bottom and working its way upslope. With the exception of the area at the toe, all other excavation and earthwork would be completed in areas of man-made embankment for maintenance purposes and will not extend below existing grade. All earthwork would be performed within the original footprint of the facility. A more complex repair effort would be performed in the future, and the necessary permitting and compliances involved in that future action would be obtained by Reclamation, LVID, or a contractor.</p> <p><u>Water Resources</u></p> <p>Impacts to waters of the United States have been considered and are not expected as a result of the proposed action. This determination was made as the proposed action is administrative in nature and is in accordance with Reclamation's routine operation for the proper maintenance of facilities within the Klamath Project.</p> <p>CWA compliance for the subsequent O&M activities is covered under the Corps of Engineers Nationwide Permit (NWP) 3 as the action involves normal maintenance to rehabilitate the Dam structure to its normal condition (see Exhibit C). NWP 3(a) covers "the repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure, or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3, provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification." NWP 3(a) actions do not require a pre-construction notification or delineation and are applicable to all waters of the United States.</p>	

Indian Trust Assets Compliance

Indian Trust Assets (ITAs) are legal interests in property or rights held in trust by the United States for Indian Tribes or individuals. Reclamation considered impacts to ITAs by consulting with the Mid-Pacific Indian Trust Coordinator, Kristen Hiatt, who made the following determination on March 13, 2017: "Based on the nature of the planned work it does not appear to be in an area that will impact Indian hunting or fishing resources or water rights nor is the proposed activity on actual Indian lands. It is reasonable to assume that the proposed action will not have any impacts on ITAs" (Exhibit D).

Biological Resources

A list of Federally Listed, Proposed, and Candidate species that may occur within Klamath County, Oregon is attached (Exhibit E). The potential impacts to all species included on the list, as a result of the proposed action and the ensuing O&M actions, have been considered. It has been determined that the proposed activity, being administrative in nature, is not expected to have any effect on any of the species or their habitats. 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.

The proposed activity is also not expected to result effects on migratory birds protected under the Migratory Bird Treaty Act (16 U.S.C. 703-711) due to administrative nature of the proposed activity.

Cultural Resources

Reclamation's Mid-Pacific Region Cultural Resources Branch reviewed the proposed project under Section 106 of the NHPA (Public Law 95-515). In electronic correspondence dated March 14, 2017 (Exhibit F), Mid-Pacific Regional Archaeologist, Lauren Perry, stated that the proposed action "is the type of activity that does not have the potential to effect historic properties, pursuant to 36 CFR 800.3(a)(1), [and] Reclamation has no further obligations under Section 106 of the [NHPA]."

EVALUATION OF CRITERIA FOR CATEGORICAL EXCLUSION		No	Yes	Uncertain
1.	This action or group of actions would have a significant effect on the quality of the human environment. (40 CFR 1502.3)	X		
2.	This action or group of actions would have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources. (NEPA Section 102(2)(E))	X		
EVALUATION OF EXCEPTIONS TO ACTIONS WITHIN CATEGORICAL EXCLUSION				
1.	This action would have significant adverse effects on public health and safety.	X		
2.	This action would have significant impacts on such natural resources and unique geographical characteristics such as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers, national natural landmarks; sole or principal drinking aquifers; prime farmlands; wetlands (EO 11990); floodplains (EO 11988); national monuments; migratory birds (EO 13186); and other ecologically significant or critical areas.	X		
3.	This action will have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.	X		
4.	This action will establish a precedent for future action or represent a decision in principle about future actions without potentially significant environmental effects.	X		
5.	This action has a direct relationship to other actions with individually insignificant, but cumulatively significant environmental effects.	X		
6.	This action will have significant impacts on properties listed or eligible for listing in the in the National Register of Historic Places (National Register) as determined by either the bureau or office. (This determination must be made or coordinated with a Reclamation archeologist)	X		
7.	This action will 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.	X		
8.	This action threatens to violate Federal, State, local or Tribal law or requirements imposed for protection of the human environment.	X		

9.	This action will affect ITAs. <i>(This determination must be completed and documented by, or in coordination with, the designated regional ITA coordinator; Policy Memorandum dated 12/15/1993)</i>	X		
10.	This action will 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. <i>(EO 13007)</i>	X		
11.	This action will have a disproportionately high and adverse effect on low income or minority populations. <i>(EO 12898)</i>	X		
12.	This action will 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. <i>(Federal Noxious Weed Control Act and EO 13112)</i>	X		
<p>Mid-Pacific Region Cultural Resource Specialist concurred with Item 6.</p> <p>ITA Coordinator concurred with Item 9.</p>				

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

Exhibit A. Malone Dam site map.

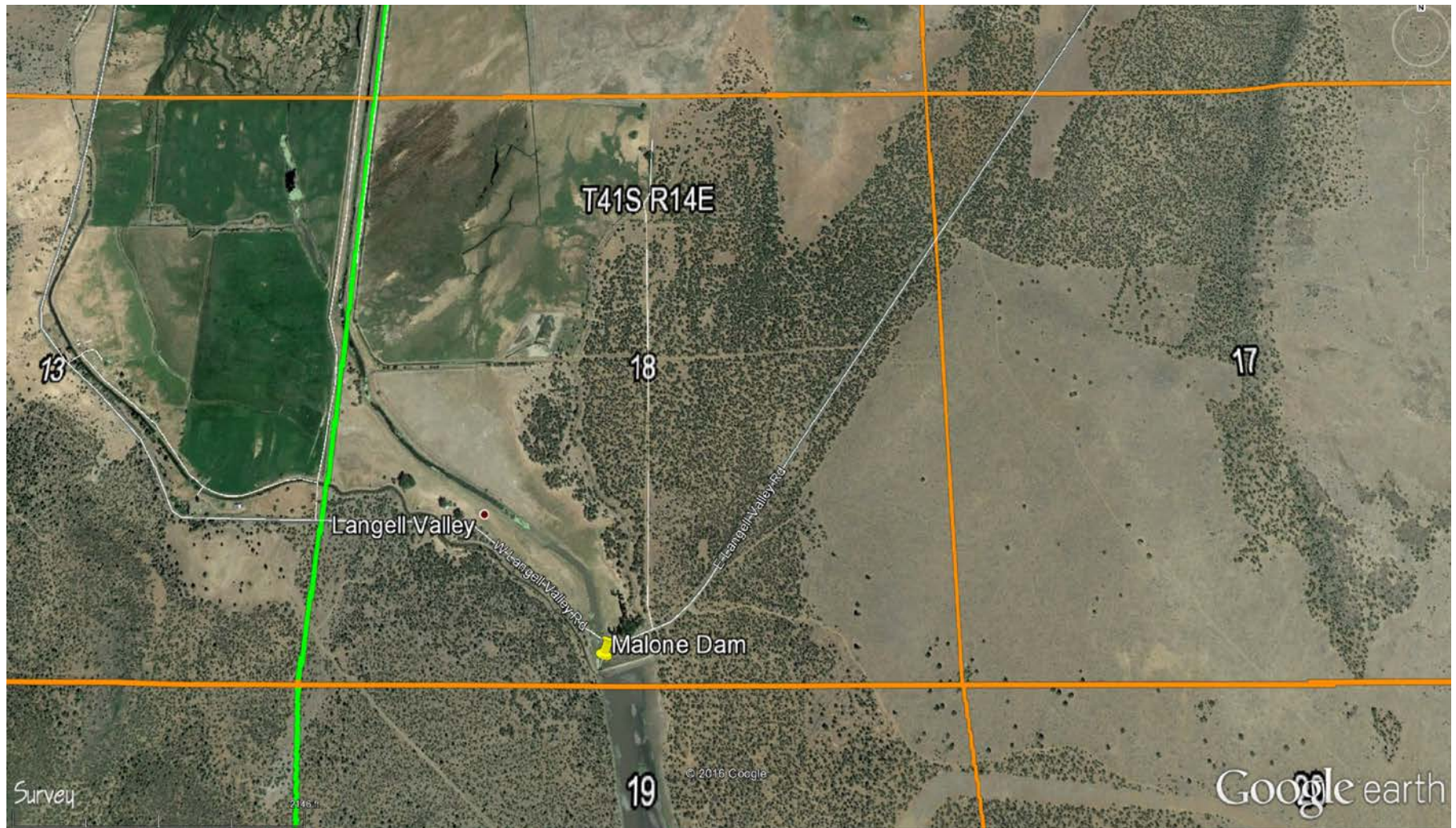




Exhibit C. Army Corps of Engineers Nationwide Permit 3.

**NATIONWIDE PERMIT 3
DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS
FINAL NOTICE OF ISSUANCE AND MODIFICATION OF NATIONWIDE PERMITS
FEDERAL REGISTER
AUTHORIZED MARCH 19, 2012**

Maintenance. (a) The repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure, or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3, provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, requirements of other regulatory agencies, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement are authorized. Any stream channel modification is limited to the minimum necessary for the repair, rehabilitation, or replacement of the structure or fill; such modifications, including the removal of material from the stream channel, must be immediately adjacent to the project or within the boundaries of the structure or fill. This NWP also authorizes the repair, rehabilitation, or replacement of those structures or fills destroyed or damaged by storms, floods, fire or other discrete events, provided the repair, rehabilitation, or replacement is commenced, or is under contract to commence, within two years of the date of their destruction or damage. In cases of catastrophic events, such as hurricanes or tornadoes, this two-year limit may be waived by the district engineer, provided the permittee can demonstrate funding, contract, or other similar delays.

(b) This NWP also authorizes the removal of accumulated sediments and debris in the vicinity of existing structures (e.g., bridges, culverted road crossings, water intake structures, etc.) and/or the placement of new or additional riprap to protect the structure. The removal of sediment is limited to the minimum necessary to restore the waterway in the vicinity of the structure to the approximate dimensions that existed when the structure was built, but cannot extend farther than 200 feet in any direction from the structure. This 200 foot limit does not apply to maintenance dredging to remove accumulated sediments blocking or restricting outfall and intake structures or to maintenance dredging to remove accumulated sediments from canals associated with outfall and intake structures. All dredged or excavated materials must be deposited and retained in an area that has no waters of the United States unless otherwise specifically approved by the district engineer under separate authorization. The placement of new or additional riprap must be the minimum necessary to protect the structure or to ensure the safety of the structure. Any bank stabilization measures not directly associated with the structure will require a separate authorization from the district engineer.

(c) This NWP also authorizes temporary structures, fills, and work necessary to conduct the maintenance activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in

their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

(d) This NWP does not authorize maintenance dredging for the primary purpose of navigation. This NWP does not authorize beach restoration. This NWP does not authorize new stream channelization or stream relocation projects.

Notification: For activities authorized by paragraph (b) of this NWP, the permittee must submit a pre-construction notification to the district engineer prior to commencing the activity (see general condition 31). The pre-construction notification must include information regarding the original design capacities and configurations of the outfalls, intakes, small impoundments, and canals. (Sections 10 and 404)

Note: This NWP authorizes the repair, rehabilitation, or replacement of any previously authorized structure or fill that does not qualify for the Clean Water Act Section 404(f) exemption for maintenance.

Exhibit D. Coordination and collaboration regarding Indian Trust Assets.

**Indian Trust Assets
Request Form (MP Region)**

Submit your request to your office's ITA designee or to MP-400, attention Deputy Regional Resources Manager.

Date: 3/13/17

Requested by (office/program)	Kirk Young, Natural Resource Specialist, KBAO
Fund	17XR0680A5
WBS	RX.00124968.0000000
Fund Cost Center	25320000
Region # (if other than MP)	
Project Name	Malone Dam Repair Repayment Contract
CEC or EA Number	KBAO-CEC-2017-010
Project Description (attach additional sheets if needed and include photos if appropriate)	Reclamation is proposing to enter into a repayment contract with LVID to fund necessary normal maintenance and repair activities on Malone Dam. This Categorical Exclusion Checklist is being completed for the execution of the repayment contract. The interim maintenance activities that result from the contract are considered as regular operations and maintenance, and compliance issues associated with the action are addressed below. A more complex repair effort would be performed in the future, and the necessary permitting and compliances involved in that future action would be obtained by Reclamation, LVID, or a contractor.
*Project Location (Township, Range, Section, e.g., T12 R5E S10, or Lat/Long cords, DD-MM-SS or decimal degrees). Include map(s)	See map in Exhibit B. PLSS: Southeast ¼ of Southwest ¼ of Section 18 of T41S, R14E of the Willamette Meridian, Klamath County, Oregon Latitude: 42° 0' 22.98" N Longitude: 121° 13' 26.40" W


Signature

KIRK YOUNG
Printed name of preparer

3-13-2017
Date

ITA Determination:

The closest ITA to the proposed **Malone Dam Repair Repayment Contract** activity is the **Klamath Tribal Designated Statistical Area** about **25.48** miles to the west-northwest (see attached image in Exhibit A).

Based on the nature of the planned work it **does not** appear to be in an area that will impact Indian hunting or fishing resources or water rights nor is the proposed activity on actual Indian lands. It is reasonable to assume that the proposed action **will not** have any impacts on ITAs.


Signature

Kristen L. Hiatt
Printed name of approver

3/13/2017
Date

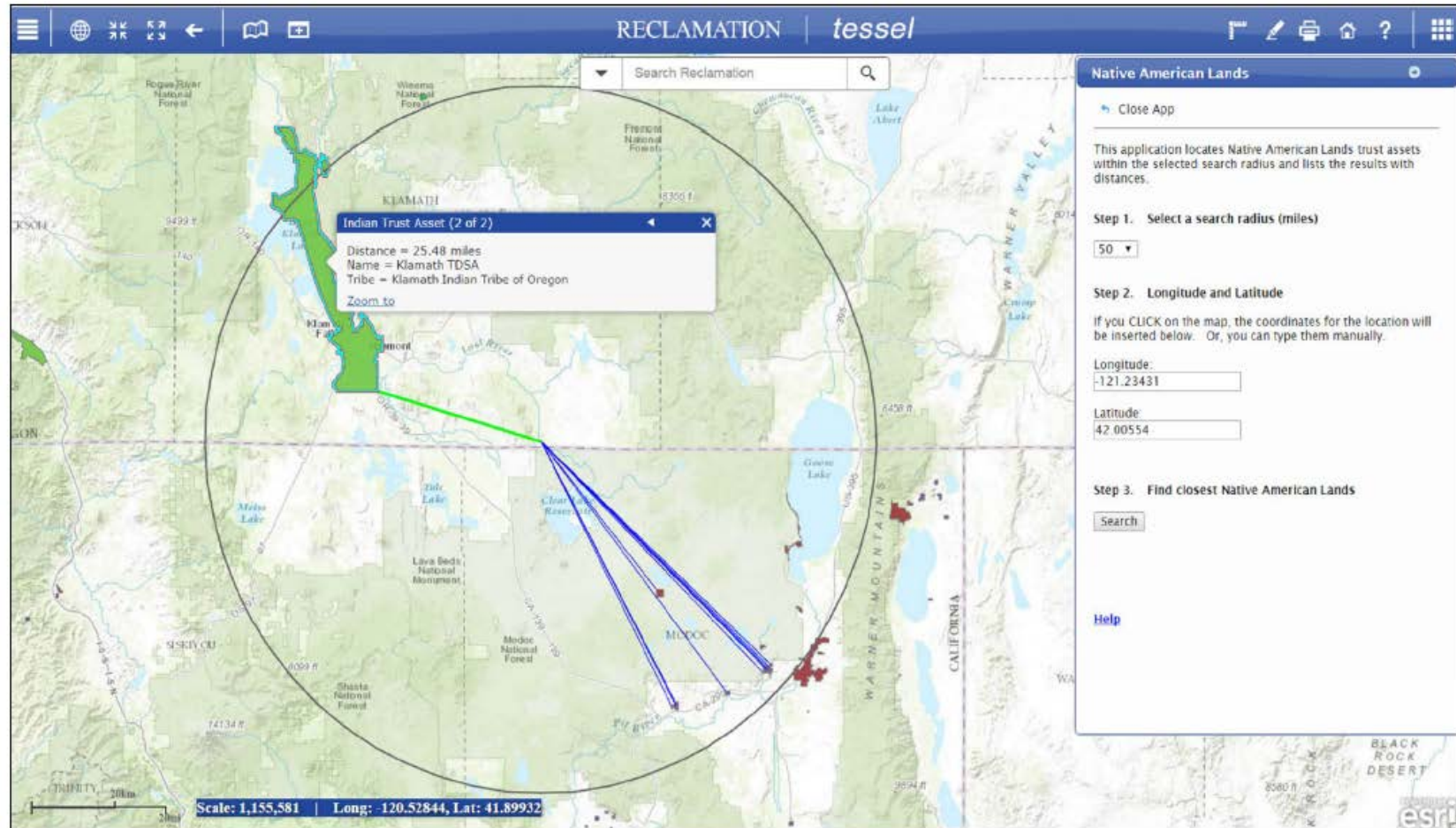
Exhibit A: Map of Nearest ITA to Proposed Project.

Exhibit E. Federally listed endangered, threatened, and candidate species that may occur within Klamath County and the proposed project locations.



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Klamath Falls Fish and Wildlife Office
1936 California Avenue, Klamath Falls, Oregon 97601
(541) 885-8481 FAX (541) 885-7837
kfalls@fws.gov



LISTED, PROPOSED, AND CANDIDATE SPECIES THAT MAY OCCUR IN KLAMATH COUNTY, OREGON

Status: Endangered

Phylum	Common Name	Scientific Name	Critical Habitat
Fish	Lost River sucker	<i>Deltistes luxatus</i>	Designated
Fish	Shortnose sucker	<i>Chasmistes brevirostris</i>	Designated
Mammal	Gray wolf	<i>Canis lupus</i>	
Plant	Applegate's milk-vetch	<i>Astragalus applegatei</i>	
Plant	Green's tuctoria	<i>Tuctoria greenei</i>	Designated

Status: Threatened

Phylum	Common Name	Scientific Name	Critical Habitat
Bird	Northern spotted owl	<i>Strix occidentalis caurina</i>	Designated
Bird	Yellow-billed cuckoo (Western DPS)	<i>Coccyzus americanus occidentalis</i>	Proposed
Fish	Bull trout (Klamath River DPS)	<i>Salvelinus confluentus</i>	Designated
Amphibian	Oregon spotted frog	<i>Rana pretiosa</i>	Designated
Plant	Slender Orcutt grass	<i>Orcuttia tenuis</i>	Designated

Status: Proposed

Phylum	Common Name	Scientific Name	Critical Habitat
Mammal	Wolverine	<i>Gulo gulo luscus</i>	

Status: Candidate

Phylum	Common Name	Scientific Name
Plant	Whitebark Pine	<i>Pinus albicaulis</i>

Updated February 17, 2017

Exhibit F. Correspondence and concurrence regarding consultation on Section 106 of the National Historic Preservation Act.

3/14/2017

DEPARTMENT OF THE INTERIOR Mail - Malone Dam



Young, Brandon (Kirk) <byoung@usbr.gov>

Malone Dam

Hiatt, Kristen <khiatt@usbr.gov>
To: "Perry, Laureen M" <LPerry@usbr.gov>
Cc: "Young, Brandon" <byoung@usbr.gov>

Mon, Mar 13, 2017 at 5:39 PM

Hi Laurie,

Please see below for a short description of the project and also attached for a design (still working on getting most up to date) and photographs for reference. Kirk will be sending a map first thing in the morning.

KBAO is proposing to perform normal operation and maintenance activities to provide an interim fix for Malone Dam seepage issues. A filter berm will be constructed outside of the reservoir which requires concrete repair to the sluiceway. A minor amount of earthwork will be performed in preparation for the sluiceway grouting. After excavation, the layers are placed in horizontal lifts, which means the sand and gravel are placed together and rolled in horizontal lifts at the same time (8' rolled width) and then the earth cover layer (8' rolled width), starting at the bottom and working its way upslope. With the exception of the area at the toe, all other excavation and earthwork will be completed in areas of man-made embankment for maintenance purposes and will not extend below existing grade. All earthwork will be performed within the original footprint of the facility. A permanent fix is forthcoming.

We are hopeful we can complete the CEC by Thursday March 16, 2017, so if you could get your concurrence prior to that it would be greatly appreciated.

Please let me know if you have questions or require additional information at this time.

Best,
Kristen

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Kristen

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Kristen L. Hiatt, MAS | Environmental Compliance Branch Chief |
Bureau of Reclamation Klamath Basin Area Office |
541-880-2577 | khiatt@usbr.gov



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3 attachments

CoverPhoto.JPG
2818K

3/14/2017

DEPARTMENT OF THE INTERIOR Mail - Malone Dam



DJI_0001 (1).JPG
5224K



IMG_0076.JPG
3302K

3/14/2017

DEPARTMENT OF THE INTERIOR Mail - Malone Dam Repairs CR Compliance



Young, Brandon (Kirk) <byoung@usbr.gov>

Malone Dam Repairs CR Compliance

Laureen Perry <lperry@usbr.gov>
To: Kristen Hiatt <khiatt@usbr.gov>
Cc: Brandon Young <byoung@usbr.gov>

Tue, Mar 14, 2017 at 7:01 AM

Kristen,
I've reviewed the proposal to do temporary repairs at Malone Dam. Work included repairs to concrete on the sluice way, to embankments, and related activities. All work will be to existing structures and within the footprint of previous disturbances from construction and operation of the Dam. This is the type of activity that does not have the potential to effect historic properties, pursuant to 36 CFR 800.3(a)(1). Reclamation has no further obligations under Section 106 of the National Historic Preservation Act.

This email closes cultural compliance for this action.
Laureen Perry

Sent from my iPhone