

Finding of No Significant Impact

Ochoco Irrigation District Partial Title Transfer

**Crooked River Project,
Crook County, Oregon**

**U.S. Department of the Interior
Bureau of Reclamation
Pacific Northwest Region
Columbia-Cascades Area Office
Yakima, Washington**

PN-FONSI-22-02

PN-EA-22-02

Introduction

The Bureau of Reclamation (Reclamation) has prepared the *Ochoco Irrigation District (District) Partial Title Transfer Environmental Assessment (EA)* in compliance with the National Environmental Policy Act (NEPA) and other relevant Federal and state laws and regulations. The EA evaluated a request from the District to transfer title of the transferred works¹ of the District within the Crooked River Project to the District under the John D. Dingell, Jr. Conservation, Management and Recreation Act of 2019 (Public Law 116-9, Title VIII, Subtitle A; 133 Stat. 804; 43 U.S.C. 2901 et seq.) (hereinafter referred to as “Dingell Act”).²

The Federal Action is to transfer title of agreed upon eligible transferred works of the Ochoco Division (or Division) of the Crooked River project currently operated by the District. The transfer also includes easements and rights of way associated with the water distribution system and about 37.32 acres of fee land necessary for the District to continue to provide irrigation water to their patrons on a permanent basis. The partial title transfer will include all improvements and appurtenances to the federally owned facilities and lands such as diversion and control structures, the distribution system, pumps, and other fixtures and improvements.

¹ Transferred works are those facilities owned by Reclamation, but with contractual responsibility of the operation and maintenance (O&M) transferred to local irrigation districts.

² The Dingell Act defines the entities who may receive facilities from Reclamation under this authority and sets minimum eligibility and procedural requirements to govern title transfer. Reclamation has further defined these eligibility requirements and procedures in Reclamation Manual Directives and Standards CMP 11-01.

Background

The Crooked River Project (Project) is located in central Oregon. The Project was created to develop the water resources of the Crooked River Basin for irrigation. The Project was originally authorized for construction under the Crooked River Project Act, P.L. 84-992, dated August 6, 1956, as supplemented and amended. The main body of the Crooked River Project lies north and west of Prineville, Oregon. The water resources of Ochoco Creek and Crooked River are used by the District to furnish irrigation water for approximately 20,000 acres. The District has been responsible for the operation and maintenance of the project facilities since 1962.

Project features include the storage facilities of Arthur R. Bowman Dam on the Crooked River and Ochoco Dam on Ochoco Creek. The project also includes a diversion canal and headworks on the Crooked River, Lytle Creek diversion and wasteway, two major pumping plants, 9 small pumping plants, and the Ochoco Main and distribution canals.³

By congressional approval in 1964, the 3,450-acre Crooked River Extension was added to the project. This additional acreage was made possible by using the extra capacity included in the canal and pumping plants when the Crooked Project was constructed by constructing six small pumping plants and using a portion of the unassigned storage capacity within Prineville Reservoir.

For more history of the Crooked River Project see Reclamation's project history.⁴

Alternatives

The EA analyzed the No Action Alternative and the Proposed Action Alternative. These alternatives are briefly described in this FONSI below.

Proposed Action / Selected Alternative

Under this alternative, Reclamation would transfer the ownership of the Project's water pumping, conveyance and distribution system considered federal assets to the District in accordance with the provisions of the Dingell Act (43 USC 2901, *et. seq.*). This would include operating, maintaining, and replacing (OM&R) the transferred facilities in a manner consistent with their past OM&R of the transferred works. In addition to these responsibilities, the District would assume responsibility for all aspects of ownership of the transferred lands and facilities, including management of crossings of canals and ditches, managing encroachments within easements and rights of way associated with the transferred facilities. The transferred lands and facilities would no longer be a component of Reclamation's Crooked River project and the United States would not retain any ownership interest, or liability, in the transferred property.

Under this alternative, the District's water supply, purpose and place of use would remain subject to the terms of the District's existing contracts with the United States and any conditions contained within the federally held water rights for the Project. Reclamation is not proposing to transfer any water rights or interests in water as part of this Proposed Action.

³ <https://www.usbr.gov/projects/index.php?id=441>

⁴ <https://www.usbr.gov/projects/pdf.php?id=99>

No Action Alternative

Under the No Action Alternative, the United States would retain ownership of all Crooked River Project facilities that are currently federally owned. The District would continue to operate, maintain, and replace these assets under the terms and conditions of the existing contracts with Reclamation. Reclamation would continue to be liable and responsible for oversight activities associated with transferred works.

Decision and Finding of No Significant Impact

Reclamation has determined that the Proposed Action - title transfer of agreed upon eligible facilities of the Ochoco Division (Division) of the Crooked River project - does not constitute a major Federal action significantly affecting the quality of the human environment under CEQ's revised NEPA regulations (40 CFR Parts 1500–1508, 2020). Reclamation arrived at this conclusion based upon a review and evaluation of the information contained in the Environmental Assessment, as well as other documents and action for record affiliated with this proposal.

Potentially Affected Environment

In considering the potentially affected environment (Per 1501.3(b)(1)), Reclamation considered, as appropriate to the Proposed Action, the affected area and its resources (See also Table 1). Those resources eliminated from further analysis are available in Table 2. The project lies within Crook County and predominantly within its largest city, Prineville.

Degree of Effect of the Action

In considering the degree of the effects (Per 1501.3(b)(2)), Reclamation considered the following, as appropriate to the Proposed Action:

Short and Long-Term Effects

Table 1 presents a summary of impacts to resources. the selection of the Proposed Action Alternative shows no short and long-term effects. Following transfer, the District will continue to manage the transferred lands and facilities for the same purposes for which the property has been managed under Reclamation laws in the past.

Beneficial and Adverse Effects

Selection of the Proposed Action Alternative will not result in adverse impacts to National Register of Historic Places (NRHP) properties. Reclamation consulted with the Oregon State Historic Preservation Officer (SHPO), the Confederated Tribes of the Warm Springs and the Burns Paiute Tribe regarding effects of the Proposed Action on cultural resources, including historic properties and Indian sacred sites. The built environment evaluation report found that the irrigation district, including Reclamation-managed assets and district-owned assets, is not eligible for listing in the National Register. The archaeological survey report details a small historic-era archaeological site that Reclamation determined not eligible to the National Register. Therefore, the proposed action will not result in adverse effects to historic properties. The SHPO concurred with Reclamation's determinations of eligibility concerning the built environment in a letter dated Feb. 23, 2022. SHPO did not reply within 30 days concerning agency determinations as discussed in the archaeological report.

Effects on Public Health and Safety

Selection of the Proposed Action Alternative will not modify or impact public safety, access, transportation, or affect minority or low-income populations as a result of title transfer. Additionally, Reclamation found no evidence of recognized environmental conditions in connection with the project facilities proposed for transfer.

Effects that would violate Federal, State, Tribal, or Local Law Protecting the Environment

Selection of the Proposed Action will not violate any Federal, state, local, or tribal law, regulation, or policy imposed for the protection of the environment. The Confederated Tribes of the Warm Springs and the Burns Paiute Tribe were consulted in April 2021, and July 2021. Neither tribe identified any historic properties, Indian Trust Assets or Indian sacred sites that will be affected by Selection of the Proposed Action.

Cumulative Effects

“Cumulative impact” was defined in CEQ’s 1978 NEPA implementing regulations at 40 CFR 1508.7, as the “impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions.” CEQ issued updated NEPA implementing regulations on July 16, 2016, which eliminated the definition of “cumulative” impacts and sought to clarify the meaning of “effects,” consistent with the Supreme Court’s holding in *Public Citizen*, 541 U.S. at 767-68, as “those reasonably foreseeable and having a reasonably close causal relationship to the proposed action or alternatives.” This section provides discussion consistent with both regulations.

Within the affected environment, the District has plans to replace and maintain existing facilities that are within the District. Generally, these activities are consistent with the District’s existing OM&R responsibilities and would be foreseeable under both the action and no action alternatives. To the extent these future activities, following title transfer, would involve a federal nexus under Reclamation’s authority, Reclamation would perform the required environmental analysis prior to taking these actions.

Table 1. Summary of impacts to resources

Resource	Rationale for Elimination from Further Analysis
Cultural Resources	The Proposed Action will not have adverse impacts to NRHP properties.
Water Resources	The Proposed Action will not have adverse effects on public and private interests in water resources conveyed by the eligible facilities. No water rights are proposed for transfer at this time, and no water rights for public purpose are associated with this title transfer.
Indian Trust Assets (ITAs)	The Proposed Action will have no impacts on ITAs. No ITAs were identified within a 15-mile radius of the transferred works.
Indian Sacred Sites	The Proposed Action will have no impacts to or access to any Indian sacred sites. The Tribes have not identified any religious or ceremonial sites within the boundaries of the Ochoco Irrigation District.
Environmental Justice and Socioeconomics	The Proposed Alternative will not disproportionately (unequally) affect any low-income or minority communities at the County level. Further,

Resource	Rationale for Elimination from Further Analysis
	there would be no change to water deliveries with the proposed title transfer. The District would continue to deliver water, as they have historically and per their existing contracts. There would be no adverse human health or environmental effects on minority or low-income populations as a result of title transfer.

Table 2. Resources eliminated from analysis

Resource	Rationale for Elimination from Further Analysis
Farmlands (Prime or Unique)	The Proposed Action would not modify prime and unique farmlands.
Floodplains	The Proposed Action would not modify or impact any floodplains.
Water Quality	The Proposed Action would not impact water quality in the Crooked River or the irrigation deliveries.
Threatened and Endangered Species	<p>In the “No Effect” determination memo of December 15, 2021, Reclamation determined that no impacts would occur to the Endangered Species Act (ESA) listed Middle Columbia River (MCR) steelhead trout (<i>Oncorhynchus mykiss</i>), Distinct Population Segment (DPS), or the Columbia River bull trout (<i>Salvelinus confluentus</i>) DPS from the Ochoco Irrigation District Title Transfer actions that are proposed by the Bureau of Reclamation. This action will have “no effect” to species or designated critical habitats for either of these ESA threatened DPSs.</p> <p>Reclamation also documented that a “no effect” determination was made for Deschutes River MCR Spring Chinook (<i>O. tshawytscha</i>) and Coho (<i>O. kisutch</i>) Salmon populations that are protected under provisions of the Magnuson-Stevens Fishery Conservation and Management Act (MSA).</p>
Wildlife	The Proposed Action would have no impacts to wildlife. The easements and in-fee land are not ecologically sensitive and are insignificant to the regional ecosystem biodiversity.
Visual Resources	The Proposed Action would not modify or impact visual resources, such as any modification in landforms, water bodies, vegetation, or any introduction of structures or other human-made visual elements that could provide visual contrasts in the basic elements of form, line, color, or texture.
Paleontology	No known paleontological resources exist within the lands and easements of the Crooked River project that are proposed to be transferred.
Public Health and Safety	The Proposed Action would not modify or impact public safety, access, and transportation.

Resource	Rationale for Elimination from Further Analysis
Hazardous Materials	<p>Reclamation completed a Real Property Disposal Questionnaire Checklist Limited Environmental Due Diligence: Transaction Screen Process⁵ on the 37.32 acres of fee land. There was no evidence of recognized environmental conditions in connection with the project facilities proposed for transfer, as well as a professional opinion that the risk of contamination was low.</p> <p>Reclamation does not require a Real Property Disposal Questionnaire Checklist Limited Environmental Due Diligence: Transaction Screen Process for federal easements that would be transferred.</p> <p>An Environmental Compliance Audit was not needed as part of the environmental transaction screening because the District has never stored hazardous materials on Reclamation land.</p>
Recreation	Recreational use is not an authorized use of the lands proposed for transfer.
Land Use	The Proposed Action would not change the existing land use. The lands proposed for transfer would still be encumbered by irrigation conveyance facilities.
Topography, Geology and Soils	The Proposed Action would not modify or impact the topography, geology, or soils.
Noise	The Proposed Action would not modify the current noise levels.
Vegetation	The Proposed Action would not modify existing vegetation. 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 actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).
Wetlands	Executive Order (EO) 11990 requires each agency to “avoid to the extent possible the long- and short-term adverse impacts associated with the destruction or modification of wetlands” and to “take action to minimize the destruction, loss or degradation of wetlands.” The Proposed Action would not be constructing, modifying, or adversely affecting wetlands within any lands proposed for transfer.
Air Quality	The Proposed Action would not result in an alteration of air movement, moisture, temperature patterns, or creation of objectionable odors on a local or regional level.

⁵ The Comprehensive Environmental Response, Compensation, and Liability Act otherwise known as CERCLA or Superfund, provides a federal "Superfund" to clean up uncontrolled or abandoned hazardous-waste sites as well as accidents, spills, and other emergency releases of pollutants and contaminants into the environment. Through CERCLA, the Environmental Protection Agency (EPA) was given power to seek out those parties responsible for any release and assure their cooperation in the cleanup. In accordance with the “Notice” requirements of Section 120(h) of CERCLA [42 United States Code (U.S.C.) 9601 et seq], when land is transferred out of federal ownership the government should consider whether the property has contamination present.

Resource	Rationale for Elimination from Further Analysis
Climate Change	The Proposed Action would not result in new weather patterns that would remain in place for an extended period of time.
Migratory Birds	The Migratory Bird Treaty Act of 1918, in conjunction with EO 13186, requires agencies to ensure that NEPA analyses include an evaluation of potential effects on migratory birds. Many bird species migrate through central Oregon. Some nest in the area using trees or other habitat from March 1 through August 31. The specific locations where title transfer would occur consists primarily of easements for the transferred work facilities, and provide low quality habitat, if any, and is insignificant to the ecological processes of migratory birds. Therefore, Reclamation has determined that the Proposed Action would have no effect on migratory birds.

Approved:

Acting
For

Talmadge Oxford
Columbia-Cascades Area Office Manager
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12 April, 2022

Date