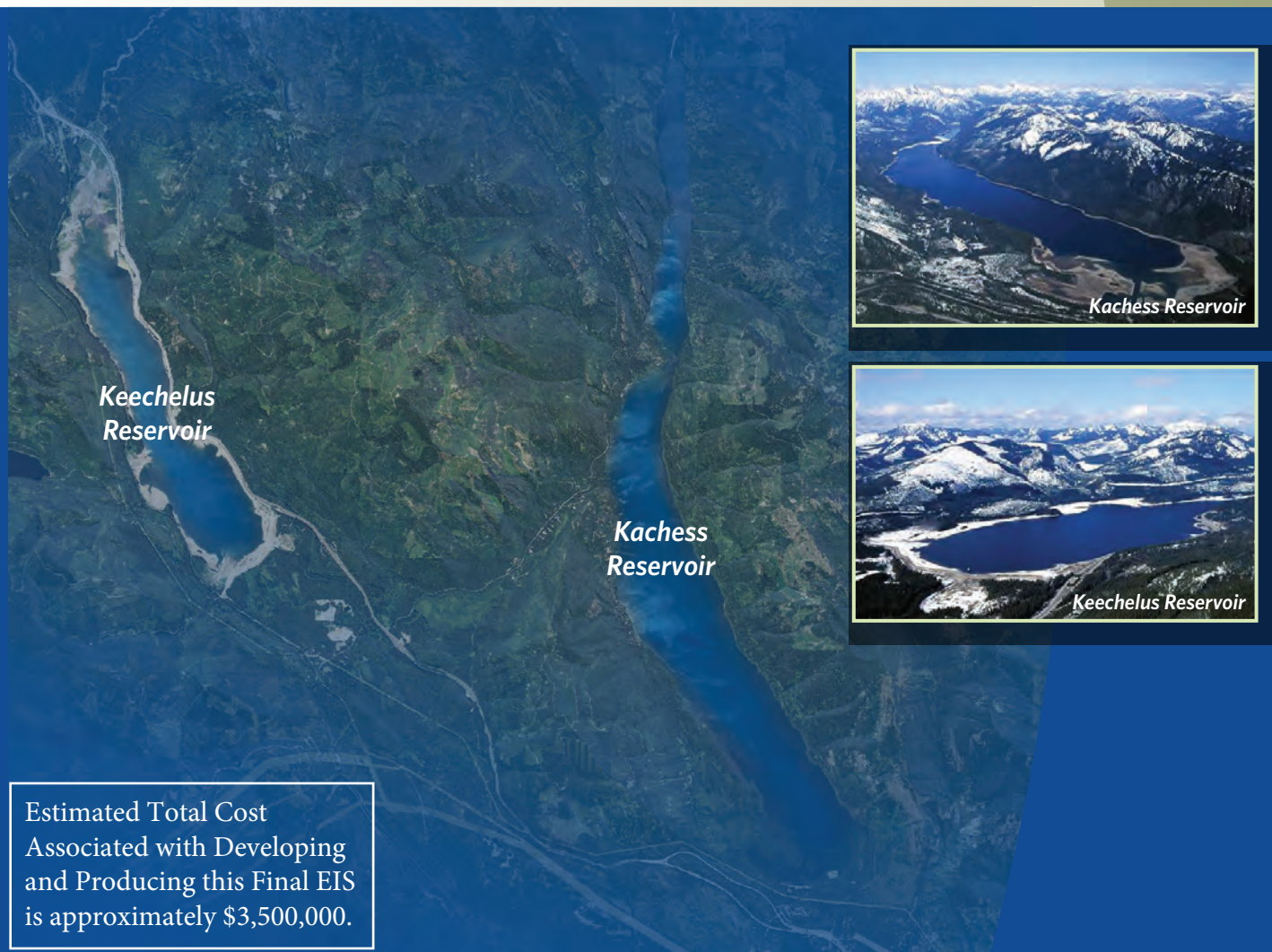


# Kachess Drought Relief Pumping Plant and Keechelus Reservoir-to-Kachess Reservoir Conveyance

## FINAL Environmental Impact Statement

KITTITAS and YAKIMA COUNTIES, WASHINGTON

### ERRATA 1



*Kachess Reservoir*



*Keechelus Reservoir*

Estimated Total Cost  
Associated with Developing  
and Producing this Final EIS  
is approximately \$3,500,000.



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



State of Washington  
Department of Ecology  
Office of Columbia River  
Yakima, Washington  
Ecology Publication Number: 18-12-011

## **Errata Sheets**

March 25, 2019

The Kachess Drought Relief Pumping Plant and Keechelus Reservoir to Kachess Reservoir Conveyance Final Environmental Impact Statement has been revised with information that was inadvertently excluded from the final document.

1. Volume II: Comments and Responses, a placement error occurred on Page DEIS-CR-10. This page should be replaced with Errata 1 as a continuance of page DEIS-CR-9.
2. Volume III: Reclamation did not receive a petition with several thousand signatures sent via Change.org, including associated comments by the July 11, 2018, deadline for the Supplemental Draft EIS public comment period. However, the sender did attempt to e-mail the petition via Change.org, so it has been included for full disclosure and is represented as Errata 2.

# Errata 1

# Errata #1

authority granted through the Reclamation Act of 1902 (c. 1093, 32 Stat. 388).<sup>2</sup> Congress granted this authority initially to the Secretary and a few years later required the President to confirm any project as feasible<sup>3</sup> before constructing, diverting and storing water for the irrigation of arid lands, in this case within the Secretarially designated area of the Yakima Project. The first two divisions authorized for the storage and use of irrigation water from the Yakima River and tributaries were the Tieton and Sunnyside Divisions. On January 5, 1911, President Taft authorized three more divisions for the storage and delivery of waters for irrigation purposes, and those were Benton, Kittitas and Wapato Divisions. Germane to the issue at hand, is that Kachess Reservoir was specifically constructed in 1912 under the earlier Sunnyside Division authority for delivery of irrigation water from its storage. Finally, President Franklin Roosevelt authorized the last Presidentially authorized division [which one] for irrigation purposes, on November 6, 1935 under the authority of section 4 of the act of June 25, 1910 (36 Stat. 836). Thereafter, Congress stepped in and authorized the Yakima Project's Kennewick Division for irrigation purposes on June 12, 1948 (62 Stat. 382).

Congress also supplemented the Presidentially authorized authorities with the YRBWEP enacted on December 28, 1979 (93 Stat. 1241, Public Law 96-162, Feasibility Study—Yakima River Basin Water Enhancement Project). It too provides Reclamation the authority for undertaking the ongoing feasibility studies in relation to the SDEIS (YRBWEP Phase I). Moreover, Section 1205 of the YRBWEP Act of 1994 (108 Stat. 4526 Public Law 103-434) added fish, wildlife, and recreation as purposes of the Yakima Project. Section 1207 of the YRBWEP Act of 1994 provides authority for enhancement programs in other Yakima River basin tributaries that would include those proposed for habitat restoration and enhancement as part of the action alternatives considered (YRBWEP Phase II).

Since most of the Yakima Project was Presidentially authorized for irrigation purposes, it provides Reclamation great discretion to use the stored project water as described by the Preferred Alternative (using water from the Kachess Reservoir dead pool for irrigation purposes). Given that Reclamation has this generous legal authority for irrigation uses, Reclamation may use the Contributed Funds Act, 43 U.S.C. § 395 to accept state or non-federal funding for studies and ultimately the construction or modification of its facilities. Reclamation lacks authority to expend federal appropriations without additional authority for construction and other specific functions not covered in the original authorization (anything other than irrigation) or supplemental authorities (other than fish, wildlife and recreation purposes).

**Issue 13:** The DEIS and SDEIS contained insufficient information regarding impacts to threatened and endangered species and Reclamation's Endangered Species Act (ESA) consultation with the National Marine Fisheries Service and the US Fish and Wildlife Service.

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<sup>2</sup> Congress tightened up the delegation of Reclamation authority through the Act of June 25, 1910, § 4, 36 Stat. 835, 836, 43 U.S.C. § 413, providing that no irrigation project contemplated under the Reclamation Act 'shall be begun unless and until the same shall have been recommended by the Secretary of the Interior and approved by the direct order of the President of the United States.' To this was added the requirement that the Secretary 'shall have made a finding in writing that it is feasible, that it is adaptable for actual settlement and farm homes, and that it will probably return the cost thereof to the United States.' Act of Dec. 5, 1924, § 4(B), 43 Stat. 672, 702, 43 U.S.C. § 412.

<sup>3</sup> *United States v. Hanson*, 167 F. 881 (9<sup>th</sup> Cir. 1909)(Government executes the will of Congress when carrying out the Reclamation Act of 1902 in withdrawing lands for reclamation and irrigation, thereby upholding he act as constitutional); reaffirmed *Hanson* as constitutional action in *Burley v. United States*, 179 F. 1 (9<sup>th</sup> Cir. 1910).