



— BUREAU OF —
RECLAMATION

Final Environmental Assessment

Kennewick Irrigation District Title Transfer

**Kennewick Division, Yakima Project, Benton County,
Washington
Columbia-Pacific Northwest Region**

PN-EA-21-02

Mission Statements

The Department of the Interior (DOI) conserves and manages the Nation's natural resources and cultural heritage for the benefit and enjoyment of the American people, provides scientific and other information about natural resources and natural hazards to address societal challenges and create opportunities for the American people, and honors the Nation's trust responsibilities or special commitments to American Indians, Alaska Natives, and affiliated island communities to help them prosper.

The mission of the Bureau of Reclamation is to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public.

Acronyms and Abbreviations

Acronym or Abbreviation	Description
CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
CTUIR	Confederated Tribes of the Umatilla Indian Reservation
EA	Environmental Assessment
EIS	Environmental Impact Statement
EO	Executive Order
ESA	Endangered Species Act
FONSI	Finding of No Significant Impacts
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
NMFS	National Marine Fisheries Service
OM&R	Operation, maintenance, and repair
Reclamation	Bureau of Reclamation
SHPO	State Historic Preservation Office
USFWS	United States Fish and Wildlife Service
Yakama Nation	Confederated Tribes and Bands of the Yakama Nation

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Chapter 1 Purpose and Need

1.1 Introduction

The Kennewick Irrigation District (KID or District) has requested that the U.S. Department of the Interior, Bureau of Reclamation (Reclamation) transfer title of the transferred works¹ of the Kennewick Division (or Division) of the Yakima Project to KID 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 District has requested title to:

- All constructed facilities in the Kennewick Division, including:
 - The Amon Pumping Plant.
 - Over 100 miles of canals and laterals, pipelines.
 - Various wasteways, drains, culverts, checks, crossings, and fencing.
- 971 acres of associated land required for the operation of the facilities identified above and including:
 - Rights-of-way for facilities exercised under the 1890 Canal Act (original construction).
 - All easements located within the Kennewick Division’s distribution system; and,
 - Acquired land (1 parcel totaling approximately 46 acres).

Reclamation prepared this Environmental Assessment (EA) in accordance with the National Environmental Policy Act (NEPA) and the Council on Environmental Quality’s (CEQ) final rule (Federal Register 2020) to document and disclose any potential effects to the quality of the human environment which would result from the proposed change in ownership of these assets.³ Should a determination be made that title transfer will not result in significant environmental impacts, a Finding of No Significant Impact (FONSI) will be prepared to document that determination and provide a rationale for approving the selected alternative. If not, then a decision will be made to either select the No Action alternative or issue a notice of intent to prepare an Environmental Impact Statement (EIS).

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.

³ Reclamation has developed a CE that may be used under certain circumstances for Dingell Act transfers. However, this title transfer does not meet the criteria for processing NEPA compliance using the CE.

1.2 Background

The Yakima Project is located in south-central Washington State, where it developed the water resources of the Yakima River basin. The Project is comprised of divisions. The storage division is comprised of 6 reservoirs in the headwaters of the Yakima, Bumping, and Naches river basins with an active capacity of 1.07 million-acre feet. The Yakima Project provides water to five irrigation divisions: Kittitas, Tieton, Sunnyside, Roza, and Kennewick. The first two divisions, Tieton and Sunnyside, were authorized in 1906, with the remaining divisions authorized under subsequent authorizations. For in-depth historic context history of the Yakima Project, see *Harvests of Plenty*.⁴ Although initially authorized for irrigation, the Yakima Project now serves multiple uses, including fish and wildlife, power production, and municipal and industrial water supply.

The Kennewick Division is the downstream-most division of the Yakima Project. The Kennewick Division is located between the Yakima and Columbia Rivers, near the cities of Richland and Kennewick, where it irrigates 20,201 acres of land. There are two types of facilities in the Kennewick Division: reserved works,⁵ those facilities for which Reclamation has retained the O&M responsibility; and transferred works, those facilities which Reclamation has transferred O&M responsibility to KID.

Reclamation developed the Kennewick Division in two phases.⁶ Congress authorized the Kennewick Highlands Unit, referred to as the “old lands,” by the Act of May 14, 1930 (Chapter 273, 46 Stat. 279). In exchange for title to the Prosser Dam and Chandler Power Canal, Reclamation reconstructed the irrigation facilities of the Highlands Unit. In total, old lands comprise 4,367 acres, much of which are currently in urban and suburban areas.

Congress Authorized development of “new lands” of the Kennewick by the Act of June 12, 1948 (Chapter 453, 62 Stat. 382). Reclamation began construction of facilities serving the new lands in 1948 and completed construction in 1959. The facilities constructed to serve the “new lands” include the Kennewick Main Canal, Amon Wasteway, pump laterals and the Amon Relift Pumping Plant. The “new lands” comprise 15,564 acres.

⁴ See Pfaff, Christine. (2002) *Harvests of Plenty: A History of the Yakima Irrigation Project*, Washington. Denver, CO: U. S. Department of the Interior U. S. Bureau of Reclamation Technical Service Center

⁵ The reserved works consist of the 11-mile-long Chandler Canal from the Prosser Diversion Dam to and including the Chandler Pumping and Powerplant.

⁶ Congress authorized the Kennewick Extension in 1969 but did not appropriate funds for construction. These lands were later developed as a private system, pumping their water supply from a station near Kiona on the Yakima River. Although these lands are within the boundaries of the Kennewick Division, the United States does not own the irrigation facilities.

Reclamation and KID entered into Repayment Contract 14-06-W-56 on July 22, 1953. The contract required the District to repay to the United States the cost of construction of the federal facilities. The Repayment Contract also allowed for the transfer of the care, operation, and maintenance responsibility of the federal facilities to the District. Following a comprehensive inventory, Reclamation transferred operations and maintenance responsibility to the District on January 2, 1958. The District has continued to operate, maintain, and replace the Project Facilities of the Division while the facilities have remained in title to the United States.

The diversion into the Chandler Canal at Prosser Dam is permitted for 1,600 cfs for irrigation, domestic, and power for irrigation for the Division. This permit provides for: 600 cfs for irrigation; 1,000 cfs for hydro-electric power water for direct-connected pump for irrigation; and up to 1,600 cfs for power for pumping and commercial use. Time of use is April through October for irrigation and power for pumping; and excess water up to 1,600 cfs the entire year. Water supply in excess of irrigation and hydro power for pumping is used for electric power generation. There are periods in the off-irrigation season when water supply is inadequate for full canal flow, and hydro-electric power production is thereby limited. Of the total diversion right of 109,275 acre-feet, 18,000 acre-feet is natural flow. The storage contract component is 91,275-acre feet consisting of 77,855 acre-feet allotted in the July 22, 1953, repayment contract plus 13,420 acre-feet option exercised by the District in December 1972. Although the District receives most of its water supply through the Chandler Canal diversion at Prosser Dam; about 6 cfs is pumped into the Columbia Canal.

1.3 Authority

The Dingell Act authorizes Reclamation to transfer title of certain project facilities without additional Congressional action if they meet eligibility criteria, under procedures established by Reclamation.

1.4 Proposed Federal Action

The proposed Federal Action is to transfer title to all portions of the irrigation facilities of the water distribution system currently operated by the District, beginning directly downstream of the Kennewick Main Canal headworks structure. The proposed transfer also includes easements and rights of way associated with the water distribution system and about 45.78 acres of fee land necessary for the District to continue to provide irrigation water to their patrons on a permanent basis. The transfer would 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.

1.5 Purpose and Need

The purpose of the Proposed Action is to respond to KID's request to consolidate management responsibility of the transferred works and land interests with the District under the Dingell Act. The transfer of title divests Reclamation of responsibility for the operation, maintenance, replacement, management, regulation of, and liability for federal interests in lands and project facilities and achieves the purposes of the Dingell Act by transferring title to eligible facilities to the District upon determination of the District's qualification to accept such responsibilities under the criteria of the Dingell Act.

Chapter 2 Description of Alternatives

Two different alternatives are evaluated in the EA: the Proposed Action, which is also Reclamation's Preferred Alternative involving the transfer title of the transferred works associated with the Kennewick Division of the Yakima Project, and the No Action Alternative, which serves as a basis for evaluating and comparing the environmental consequences of the Proposed Action.

2.1 Proposed Action: Title Transfer of Facilities to KID

Under this alternative, Reclamation would transfer the ownership of KID's water pumping, conveyance and distribution system to the District in accordance with the provisions of the Dingell Act (43 USC 2901, *et. seq.*). Following transfer, the District would continue to manage the transferred lands and facilities for the same purposes for which the property has been managed under the reclamation laws in the past. 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 become responsible 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 part of a Reclamation's Yakima 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.

2.2 No Action Alternative

Under the No Action Alternative, the United States would retain ownership of project facilities within KID's water pumping, conveyance, and distribution system. The District would continue to operate, maintain, and replace these assets under the terms and condition of the existing contract with Reclamation.

Chapter 3 Affected Environment and Environmental Consequences

3.1 Introduction

The following sections discuss the existing conditions by resource and the potential effects of the Proposed Action on the resources. For each topic or resource category, the impact analysis follows the same general approach. First, the existing conditions are established for the affected areas, and then impacts of the Proposed Action and the No Action alternatives are disclosed. The degree of impact intensity is based on quantifiable impacts, review of relevant scientific literature, previously prepared environmental documents, and the best professional judgment of the EA team resource specialists.

Resources evaluated in this document and analyzed in Chapter 3 were selected based on Reclamation requirements, compliance with laws, statutes, executive orders, public and internal scoping, and on their potential to be affected by the proposed action. The Proposed Action, consistent with the Dingell Act, requires the District to continue to perform OM&R for substantially the same purpose. Thus, impacts from the Proposed Action are closely similar to those of the No Action Alternative. Generally, the Districts existing OM&R responsibilities would be foreseeable under both the Proposed Action and No Action alternatives. To the extent these future activities would involve a federal nexus following title transfer, Reclamation (or other federal agencies taking action) would be responsible to perform the required environmental analysis prior to taking these actions. Several resources that were determined to be unaffected by the Proposed Action Alternative are presented in Table 1. Section 3.2 discusses the following resources in more detail: Cultural Resources, Water Resources, Indian Trust Assts, Indian Sacred Sites, Environmental Justice and Socioeconomics. A cumulative impacts discussion is included in Section 3.7.

Table 1. 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 Yakima River or the irrigation deliveries.
Threatened and Endangered Species	The Proposed Action would have “no effect” to Endangered Species Act (ESA) threatened or endangered species or their designated critical habitat. Reclamation determined that no impacts would occur to the ESA-listed Middle Columbia River (MCR) steelhead trout (<i>Oncorhynchus mykiss</i>) Distinct Population Segment (DPS) or to the Columbia River bull trout (<i>Salvelinus confluentus</i>) DPS from the title transfer action. This action will have “no effect” to species or designated critical habitats for either of these ESA threatened listed DPSs. The “no effect” determination is justified based on the fact that these species have no physical access to those portions of the

Resource	Rationale for Elimination from Further Analysis
	<p>facilities that are being transferred to KID from Reclamation as part of the Proposed Action, so no impacts can occur as a result of upland activities related to canal operation or maintenance actions in transferred facilities.</p> <p>A “no effect” determination has been made for Yakima River MCR Spring Chinook (<i>Oncorhynchus tshawytscha</i>) and Coho (<i>Oncorhynchus kisutch</i>) Salmon populations that are protected under provisions of the Magnuson-Stevens Fishery Conservation and Management Act. Reclamation arrived at this “no effect” determination for these anadromous species based on the same reasoning that was applied above.</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 Kennewick Division of the Yakima Project.
Public Health and Safety	The Proposed Action would not modify or impact public safety, access, and transportation.
Hazardous Materials	<p>Reclamation completed a Real Property Disposal Questionnaire Checklist Limited Environmental Due Diligence: Transaction Screen Process⁷ on the 45.78 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 profession 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

⁷ 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 or 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
	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.
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 Washington. 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.

3.2 Cultural Resources

The National Historic Preservation Act of 1996, as amended (NHPA; 54 U.S.C. 300101 et seq.) was passed to direct the actions of federal agencies in regard to their responsibilities towards the Nation’s heritage. Section 106 (§306108) requires that, before authorizing any undertaking, a federal agency must take into account the effects of the undertaking on historic properties, i.e., cultural resources listed or eligible for listing in the National Register of Historic Places (National Register).

3.2.1 Affected Environment

All facilities/areas proposed for transfer were surveyed to determine the effects of the undertakings on historic properties.

3.2.2 Environmental Consequences

Proposed Action

In accordance with the NHPA, Reclamation worked with the District, the Washington State Historic Preservation Officer (SHPO), and affected tribes to complete consultation under Section 106 for the proposed title transfer. This effort included recording all transferred work facilities and completing an archaeological survey of the block land parcel proposed for transfer from federal jurisdiction. An associated report, 2019-05-03767, documents this process and was

transmitted to SHPO, the Confederated Tribes of the Umatilla Indian Reservation (CTUIR), and the Confederated Tribes and Bands of the Yakama Nation (Yakama Nation) on June 18, 2020. Additional parties invited to participate in the process include the City of Kennewick Historic Preservation Commission, East Benton County Historical Society, and Benton County Museum and Historical Society.

The report found that eight of the canals and the Amon Pumping Plant were eligible for listing in the National Register and that the proposed action will have an adverse effect to historic properties. The SHPO concurred with Reclamation's determinations of eligibility and finding of effect on June 24, 2020.

Mitigation

Reclamation, the District, and the SHPO entered into a Memorandum of Agreement (MOA) to resolve the adverse effects defined in the report and letter of concurrence. *MOA R21MA13701 Among Bureau of Reclamation, Columbia-Pacific Northwest Region, Columbia Cascades Area Office, and Washington State Historic Preservation Officer and Kennewick Irrigation District Regarding KID Title Transfer, Benton County, Washington* was executed on April 7, 2021. As defined in Stipulation II, to resolve the adverse effects, public interpretation deliverables will be developed and a sum of \$10,000 will be paid to the SHPO to improve functionality of the Washington Information System of Architectural and Archaeological Records Data (WISAARD). Additionally, as defined in Stipulation III, the District will complete an archaeological survey of the facility easements. The stipulations must be completed within the duration of the agreement.

If the Proposed Action is implemented, KID will still be responsible for complying with the State Environmental Policy Act (SEPA). The SEPA process identifies and analyzes environmental impacts associated with governmental decisions related to constructing public facilities and other actions that may require the issuance of permits. The CTUIR want and expect to be consulted during SEPA processes after title transfer.

While Reclamation would be divesting of interest in the transferred works, if KID seeks federal funding from Reclamation for future projects, including capital improvements, this creates a federal nexus that would require Reclamation to conduct environmental compliance reviews, including evaluating potential impacts to cultural resources. This would include project-specific coordination and consultation with the SHPO, the CTUIR, and the Yakama Nation under Section 106 of the NHPA.

No Action

Under No Action, Reclamation would continue to conduct activity specific cultural resources compliance as required by law.

3.3 Water Resources

3.3.1 Affected Environment

The 214-mile Yakima River and its tributaries drain a 6,150 square mile watershed that runs from the crest of the Cascade Mountains (over 8000 feet in elevation) to the Columbia River 333 miles upstream of the Pacific Ocean (340 feet in elevation). The Yakima River basin is comprised of several major tributaries: Satus Creek, Toppenish Creek, the Naches River, and the upper Yakima River. The basin includes parts of four counties (Kittitas, Yakima, Klickitat, and Benton) and has a population of about 300,000 people. The largest towns in the basin are Ellensburg, Yakima, and parts of Richland and Kennewick. The Kennewick Division of the Yakima Project is located in Benton County.

Reclamation operates and maintains the reserved works (See footnote 5) and holds the water right for diverting water from the Yakima River. All transferred work facilities deliver water exclusively to the District under existing contracts (Repayment Contract 14-06-W-56, dated July 22, 1953, as amended by Amendatory Repayment Contract 14-06-100-1710, dated April 7, 1959, as further amended by Amendatory Repayment Contract 14-06-100-6686, dated February 20, 1970) and water rights.

3.3.2 Environmental Consequences

Proposed Action

The Proposed Action would not have adverse effects on public and private interests in water resources conveyed by the eligible facilities. There are no other contractors affected directly by this title transfer. Further, Reclamation does not anticipate changes in water use or demand that may adversely affect public and private interests in water resources.

No water rights are proposed for transfer at this time, and no water rights for public purpose are associated with this title transfer. The Proposed Action requires the District to continue to operate in accordance with existing water rights. Should the District desire to transfer the Division's water rights held in Reclamation's name, Reclamation would address this transfer in a separate, qualified agreement between Reclamation and the District, subject to applicable state and federal law and public process requirements.

No Action

Under the No Action Alternative, Reclamation would continue to hold the water rights and make water deliveries to KID under the existing Repayment Contracts; therefore, there would be no impacts to water resources.

3.2 Indian Trust Assets

Indian Trust Assets (ITAs) under Secretarial Order 3175 are legal interests in property held in trust by the United States for federally recognized Tribes or individual Indians. Indian trust has three components: (1) the trustee, (2) the beneficiary, and (3) the trust asset. ITAs include land, minerals, federally reserved hunting and fishing rights, federally reserved water rights, and instream flows associated with trust land. Beneficiaries of the Indian trust relationship are federally recognized Tribes with trust lands, with the United States acting as the trustee. ITAs cannot be sold, leased, or otherwise encumbered without approval of the United States. The characterization and application of the United States trust relationship have been defined by case law that interprets Congressional acts, executive Orders, and historic treaty provisions.

The federal government, through treaty, statute, or regulation, may take on specific, enforceable fiduciary obligations that give rise to a trust responsibility to federally recognized Tribes and individual Indians possessing trust assets. Courts have recognized an enforceable federal fiduciary duty with respect to federal supervision of Indian money or natural resources held in trust by the federal government, where specific treaties, statutes or regulations create such a fiduciary duty.

Reclamation assesses the effect of its programs on Tribal trust resources and federally recognized Tribes, which is consistent with President William J. Clinton's 1994 memorandum, *Government-to-Government Relations with Native American Tribal Governments* (FR, 1994). Reclamation is tasked to actively engage federally recognized Tribes and consult with them on a Government-to-Government level when its actions affect ITAs. The *DOI Department Manual*, Part 512.2 (DOI, 1995) ascribes the responsibility for ensuring protection of ITAs to the heads of bureaus and offices. The DOI is required to "protect and preserve ITAs from loss, damage, unlawful alienation, waste, and depletion" (DOI, 2000).

The general policy of the DOI is to perform its activities and programs in a way that protects ITAs and avoids adverse effects whenever possible. Reclamation complies with procedures contained in the *DOI Departmental Manual*, Part 512.2 guidelines that protects ITAs. Reclamation carries out its activities in a manner that protects trust assets and avoids adverse impacts when possible. When Reclamation cannot avoid adverse impacts, it would provide appropriate mitigation or compensation. Reclamation is responsible for assessing whether the proposed action has the potential to affect ITAs.

3.2.1 Affected Environment

The Yakama Nation and the CTUIR have treaty, cultural and historical rights or interest in the area. These may include, but are not limited to, hunting, fishing, gathering, and other traditional activities; however, the areas proposed for title transfer do not lie within these Tribe's reservation boundaries.

3.2.2 Environmental Consequences

Proposed Action

No ITAs were identified within a 25-mile radius of the transferred works proposed for title transfer; therefore, there would be no impacts on ITAs because of the realty actions.

Reclamation used its Tessel mapping database to determine the presence of ITAs in the project area. This database includes known instances of trust land, reservation land, and village and community sites. The database is updated frequently by the Bureau of Indian Affairs. Some Tribes may include other aspects of the environment in their definition of trust assets. These may include water rights, water quality, fishing, hunting, and gathering activities. The Proposed Action would not have impacts to Wildlife, Water Quality, and Threatened and Endangered Species (See Table 1 in Section 3.1 of this EA).

No Action

There would be no effect to ITAs or Indian Sacred Sites under the No Action Alternative since title transfer would not occur.

3.3 Indian Sacred Sites

Executive Order 13007, dated May 24, 1996, instructs federal agencies to accommodate access to Indian sacred sites and to protect the physical integrity of such sites. A sacred site is a specific, discrete, and narrowly delineated location on federal land that is identified by an Indian Tribe, or Indian individual determined to be an appropriately authoritative representative of an Indian religion, as sacred by virtue of its established religious significance to, or ceremonial use by, an Indian religion, provided that the Tribe or authoritative representative has informed the agency of the existence of such a site. The Tribes have not identified any religious or ceremonial sites in the Kennewick Division; therefore, under both alternatives, there would be no impacts to Indian sacred sites.

3.4 Environmental Justice and Socioeconomics

Environmental Justice

In August 1994, the Secretary of the Interior established an environmental justice policy based on EO 12898. This policy requires departmental agencies to identify and address any disproportionate environmental impacts of their proposed actions on minority and low-income populations and communities, as well as the equity of the distribution of benefits and risks of those decisions. Environmental Justice addresses the fair treatment of people of all races and incomes with respect to actions affecting the environment. Fair treatment implies that no group should bear a disproportionate share of negative impacts. In February 2021, EO 14008 emphasized the United States commitment to deliver environmental justice in communities all across America.

Socioeconomics

Socioeconomics evaluates how population, employment, housing, and public services might be affected by the Proposed Action and No Action alternatives.

3.4.1 Affected Environment

The Kennewick Division is in Benton County and includes developed and semirural areas of the City of Kennewick. The county was selected as the local study area. Table 2 provides the number and percentage of population for seven racial categories: White, Black or African American, American Indian and Alaska Native, Asian, Native Hawaiian, and Other Pacific Islander, Two or More Races, and Hispanic or Latino (U.S. Census Bureau, 2019).

Table 2. Race and Hispanic origin for Benton County and Washington State

Race and Hispanic Origin	Percent in Benton County	Percent in Washington State
White alone, percent ^a	90	89.9
Black or African American alone, percent ^a	1.8	2.8
American Indian and Alaska Native alone, percent ^a	1.3	1.7
Asian alone, percent ^a	3.3	2.4
Native Hawaiian and Other Pacific Islander alone, percent ^a	0.3	0.4
Two or More Races, percent	3.3	2.7
Hispanic or Latino, percent ^b	22.6	53.6
White alone, not Hispanic or Latino, percent	69.4	39.9

Data from <https://www.census.gov/quickfacts/fact/table/bentoncountywashington,franklincountywashington/PST045219>

^a Includes persons reporting only one race

^b Hispanics may be of any race, so also are included in applicable race categories

Low-income populations are identified by several socioeconomic characteristics. Specific characteristics include income (median family and per capita), percentage population below poverty (families and individuals), unemployment rates, and substandard housing. Table 3 provides median household income, per capita income, and persons below poverty level for Benton County and the State (U.S. Census Bureau 2019).

Table 3. Socioeconomic characteristic for Benton County and Washington State (2015-2019)

Race and Hispanic Origin	Percent in Benton County	Percent in Washington State
Median household income	\$69,023	\$63,584
Per capita income (in 2019 dollars)	\$32,882	\$24,380
Persons in poverty ^a	10.6%	13.5%

Data from <https://www.census.gov/quickfacts/fact/table/bentoncountywashington,franklincountywashington/PST045219>

^a Estimates are not comparable to other geographic levels due to methodology differences that may exist between different data sources

Median household income for Benton County is \$69,023, more than the State’s average of \$63,584. Compared to the State, the study area has a lower percentage of persons below the poverty level. The unemployment rate also characterizes demographic data in relation to environmental justice. Per Benton County data on Washington State’s Employment Security Department’s website, the County’s labor force has expanded every year since 2014. The annual average unemployment rate for 2019 was 5.2 percent, which was 0.2 percent lower than in 2018 (ESD, 2020).

3.4.2 Environmental Consequences

Proposed Action

Implementation of the Proposed Alternative would not disproportionately (unequally) affect any low-income or minority communities at the County level, and the Kennewick Division comprises a small portion of the larger County. Further, there would be no change to water deliveries with the proposed title transfer. KID 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.

No Action

No impacts would occur since there would be no transfer of title to KID.

3.5 Cumulative Impacts

“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 within the District, including the Kennewick Southeast Regional West Intertie Project. Generally, these activities are consistent with the Districts 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. Given the limited or no impacts to resources described in Sections 3.1 to 3.6 of this EA and the minor nature of reasonably foreseeable future actions described above, Reclamation does not anticipate modifications or additional impacts to resources. The reasonably foreseeable future impacts would be the same for the Proposed Action Alternative as for the No Action Alternative.

Chapter 4 Consultation and Coordination

4.1 Public Involvement

As defined in the Dingell Act, the title transfer process would be carried out in an open and public manner. To fulfill this requirement and ensure the title transfer process was conducted in an open and public manner, Reclamation issued a press release on April 6, 2020, notifying the public of the proposed title transfer. A voluntary 30-day public comment period was open from April 6, 2020 through May 6, 2020. Reclamation accepted oral comments at the open house and electronically on the KID Title Transfer webpage, located on Reclamation's Columbia-Pacific Northwest Region's website at <https://www.usbr.gov/pn/programs/title/kennewick/index.html>. Three comments were received during the public comment period, and all were in support of the Proposed Action.

As part of early communication and coordination efforts, KID communicated with their rate payers and local, city, and state governments about requesting title transfer of the transferred works facilities and appurtenances from Reclamation. Reclamation, in consultation with KID, developed a communication plan. As part of the title transfer process, the following entities were engaged:

- KID rate payers and community
- Yakama Nation
- CTUIR
- City of Kennewick
- City of Richland
- Port of Kennewick
- Tri-Cities Development Council
- Board of County Commissioners
- Congressional Office of Dan Newhouse
- Richland City Council

To continue the open and public manner in which title transfer must be conducted, the following actions are planned:

- Reclamation will provide public notice of the opportunity to review the negotiated draft of the final title transfer agreement for a minimum of 30-days before it is executed. The public review period will take place concurrent with the 90-days in which the report is available to Congress.
- Reclamation will post the Final EA, and anticipated FONSI, on its public website at <https://www.usbr.gov/pn/programs/title/kennewick/index.html>.

4.2 Agency Consultation and Coordination

4.2.1 National Historic Preservation Act

Reclamation initiated consultation with the SHPO, the CTUIR, and the Yakama Nation on June 18, 2020. Additional parties invited to participate in the process include the City of Kennewick Historic Preservation Commission, East Benton County Historical Society, and Benton County Museum and Historical Society. The SHPO concurred with Reclamation’s determinations of eligibility and finding of effect on June 24, 2020. Eight of the canals and the Amon Pumping Plant were determined eligible for listing in the National Register and that the proposed action will have an adverse effect to historic properties. Reclamation, the District, and the SHPO entered into a Memorandum of Agreement (MOA) to resolve the adverse effects defined in the report and letter of concurrence. *MOA R21MA13701 Among Bureau of Reclamation, Columbia-Pacific Northwest Region, Columbia Cascades Area Office, and Washington State Historic Preservation Officer and Kennewick Irrigation District Regarding KID Title Transfer, Benton County, Washington* was executed on April 7, 2021.

4.2.2 Endangered Species Act

Reclamation concluded that a Biological Assessment, under Section 7 of the Endangered Species Act (ESA), is not required for this action. Reclamation determined that this Federal action would have no effect on Threatened or Endangered species.

- No dam or diversion works are included in the project facilities to be transferred through this action. Therefore, this title transfer will keep operations as currently operated under the July 22, 1953 contract and as described and proposed in Reclamation’s 2015 Biological Assessment for the Yakima Project Operations and Maintenance Consultation and in the 2019 Yakima Project Biological Assessment Supplement.
- Reclamation has concluded that a Biological Assessment, under Section 7 of the ESA, is not required for the action of title transfer and prepared an internal “No Effect” memo to the file.

4.3 Tribal Consultation and Coordination

KID is located within lands covered by the Yakama Nation Treaty of 1855 and the 1855 Treaty of Walla Walla which established the Umatilla Indian Reservation. Reclamation consulted with both the Yakama Nation and the CTUIR. Reclamation met with CTUIR staff on October 24th, 2019 to discuss the overall proposal and the federal process required for a title transfer. The Tribe's main concerns involved compliance with the NHPA and the ESA. Reclamation staff identified its intended process for complying with these laws. A subsequent follow-up letter was sent to the CTUIR identifying those topics discussed during that meeting.

Reclamation consulted with the Yakama Nation and CTUIR under the Section 106 of the NHPA. Letters were sent on June 18, 2020 initiating consultation. The CTUIR expressed concerns with impacts to unknown archaeological resources after title transfer and participated in MOA negotiations resolving adverse effects. The Yakama Nation responded with no concerns.

4.4 Required Permits

No permits are required to implement the Proposed Action.

Chapter 5 References

Parenthetical Reference	Bibliographic Citation
DOI 1995	U.S. Department of the Interior. 1995. <i>Departmental Manual</i> , Part 512.2, Departmental Responsibilities for Indian Trust Assets. Office of the Secretary of the Interior. December 1, 1995.
DOI 2000	U.S. Department of the Interior. 2000. <i>Departmental Manual</i> , Part 202, Indian Trust Responsibilities. Office of the Secretary of the Interior. October 31, 2000.
ESD 2020	Washington State Employment Security Department. 2020. Benton County Profile. December 2020. Website accessed June 3, 2021. https://esd.wa.gov/labormarketinfo/county-profiles/benton
Federal Register 1994	<i>Federal Register</i> . 1994. President William J. Clinton's Memorandum on Government-to-Government Relation with Native American Tribal Government. Vol. 59. No. 85 Published May 4, 1994. https://www.govinfo.gov/content/pkg/WCPD-1994-05-02/pdf/WCPD-1994-05-02-Pg936.pdf
Federal Register 2020	<i>Federal Register</i> . 2020. Update to the Regulations Implementing the Procedural Provision of the National Environmental Policy Act. Vol. 85, No. 137 Published July 16, 2020. https://www.govinfo.gov/content/pkg/FR-2020-07-16/pdf/2020-15179.pdf
U.S. Census Bureau 2019	U.S. Census Bureau 2019. <i>Quickfacts</i> Website accessed June 3, 2021. https://www.census.gov/quickfacts/fact/table/bentoncountywashington,franklincountywashington/PST045219

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Appendices

Appendix A – Environmental Commitments

The following environmental commitments would be implemented as an integral part of the Preferred Alternative.

1. *MOA R21MA13701 Among Bureau of Reclamation, Columbia-Pacific Northwest Region, Columbia Cascades Area Office, and Washington State Historic Preservation Officer and Kennewick Irrigation District Regarding KID Title Transfer, Benton County, Washington* was executed on April 7, 2021. As defined in Stipulation II, to resolve the adverse effects, public interpretation deliverables will be developed and a sum of \$10,000 will be paid to the SHPO to improve functionality of the Washington Information System of Architectural and Archaeological Records Data (WISAARD). Additionally, as defined in Stipulation III, the District will complete an archaeological inventory of the facility easements. The stipulations must be completed within the duration of the agreement.
2. If the Preferred Alternative is implemented, KID will still be responsible for complying with the State Environmental Policy Act (SEPA). The SEPA process identifies and analyzes environmental impacts associated with governmental decisions related to constructing public facilities and other actions that may require the issuance of permits. The CTUIR want and expect to be consulted during SEPA processes after title transfer.
3. While Reclamation would be divesting of interest in the transferred works, if KID seeks federal funding from Reclamation for future projects, including capital improvements, this would create a federal nexus that would require Reclamation to evaluate potential impacts to cultural resources, Endangered Species Act-listed (ESA-listed) species, and complete an evaluation of the potential effects to the quality of the human environment under NEPA. At that point, Reclamation “shall prepare an EA for a proposed action that is not likely to have significant effects or when the significance of the effects is unknown unless the agency finds that a categorical exclusion (§1501.4) is applicable or has decided to prepare an EIS.” [40 CFR 1501.5]