

RECLAMATION

Managing Water in the West

Finding of No Significant Impact

Water Acquisitions for National Wildlife Refuges

California and Oregon

2018-FONSI-010

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Background

In accordance with Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, as amended, the Bureau of Reclamation (Reclamation) prepared an Environmental Assessment (EA), 2018-EA-010, to evaluate the potential environmental effects associated with Reclamation's proposal to acquire up to 37,800 acre-feet (AF) of water from district entities, or their authorized representatives, within the Klamath Project (Project) for use for fish and wildlife purposes in the Upper Klamath Basin, specifically in the following National Wildlife Refuges (NWR) that comprise part of the Klamath Basin NWR Complex administered by the U.S. Fish and Wildlife Service (USFWS).

- Tule Lake NWR
- Clear Lake NWR
- Lower Klamath NWR

The proposed water acquisition is being undertaken pursuant to title I of the Reclamation States Emergency Drought Relief Act of 1991 (DRA; Pub. L. 102-250, 106 Stat. 53, as amended; 43 U.S.C. §§2211-2217). Part (c) of section 101 of the DRA (43 U.S.C. §2211(c)) authorizes Reclamation to “purchase water from willing sellers, including, but not limited to, water made available by Federal Reclamation project contractors through conservation or other means with respect to which the seller has reduced the consumption of water.” Part (d) of section 102 of the DRA (43 U.S.C. §2212(d)) authorizes Reclamation to “make water from Federal Reclamation projects and non-Project water available on a non-reimbursable basis for the purposes of protecting or restoring fish and wildlife resources, including mitigation losses, that occur as a result of drought conditions or the operation of a Federal Reclamation project during drought conditions.”

Alternatives Considered

No Action Alternative

Under the No Action Alternative, Reclamation would not acquire water from district entities, or their authorized representatives, within the Project for use for fish and wildlife purposes within the NWRs. The amount and timing of water available to the NWRs would continue to be limited through the remainder of 2018. As a result, habitat availability and food sources for migratory birds and other wildlife within the NWRs may be reduced in 2018, including the fall and winter waterfowl migration periods. The water would instead be available for irrigation purposes.

Proposed Action Alternative

Under the Proposed Action Alternative, Reclamation would enter into short term contracts (i.e., one year) with willing district entities, or their authorized representatives, within the Project for the acquisition of up to 37,800 AF of available water for use for fish and wildlife purposes.

Reclamation would acquire the contractor's foregone diversion of water originating from Upper Klamath Lake and/or Clear Lake Reservoir based on their reduction in consumptive use by not diverting it and, additionally, would acquire relinquished return flows from Project deliveries. This water is available to, or under the control of, district entities within the Project. District entities within the Project, or their authorized representatives, would agree by contract to make this water available and to deliver it to Reclamation at locations and times in which it can be used for fish and wildlife purposes within the NWRs. The acquired water would then be used for fish and wildlife purposes in coordination with the USFWS and consistent with existing NWR management plans. Reclamation's discretionary action is limited to the contracting action for the acquisition of water for fish and wildlife purposes.

Because the Proposed Action Alternative serves mainly to change the place of use of water within the Project, no additional surface water would be used outside of the water management approach described in the National Marine Fisheries Service and USFWS' *Biological Opinions on the Effects of Proposed Klamath Project Operations from May 31, 2013, through March 31, 2023, on Five Federally-Listed Threatened and Endangered Species*. No new construction or modification of existing facilities would occur in order to complete the Proposed Action Alternative. Reclamation's action is administrative in nature and serves to optimize the use of limited water supplies among existing lands served from Project facilities. Further details regarding the Proposed Action can be found in the attached EA.

Findings

Based on the attached EA, Reclamation finds that the Proposed Action Alternative is not a major Federal action that will significantly affect the quality of the human environment, and preparation of an Environmental Impact Statement is not required. The EA describes the existing environmental resources in the Proposed Action Alternative area and evaluates the effects of both the No Action and the Proposed Action Alternatives on the resources. The EA was prepared in accordance with NEPA, Council on Environmental Quality regulations (40 Code of Federal Regulations (CFR) Parts 1500-1508), and Department of the Interior Regulations (43 CFR Part 46). That analysis is provided in the EA, and a summation of the analysis is hereby incorporated by reference.

This Finding of No Significant Impact document is based on the following:

1. The Proposed Action would not significantly affect public health or safety (40 CFR 1508.27(b)(2)).

2. The Proposed Action would not significantly affect natural resources and unique geographical characteristics such as proximity to historic or cultural resources; parks, recreation, and refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order (EO) 11990); flood plains (EO 11988); national monuments; migratory birds; and other ecologically significant or critical areas (40 CFR 1508.27(b)(3) and 43 CFR 46.215(b)).
3. There is no potential for the effects of the Proposed Action to be considered highly controversial (40 CFR 1508.27(b)(4)).
4. The Proposed Action would not have possible effects on the human environment that are highly uncertain or involve unique or unknown risks (40 CFR 1508.27(b)(5)).
5. The Proposed Action would neither establish a precedent for future actions with significant effects nor represent a decision in principle about a future consideration (40 CFR 1508.27(b)(6)).
6. The Proposed Action would not have cumulatively significant impacts (40 CFR 1508.27(b)(7)).
7. The Proposed Action would not significantly affect historic properties (40 CFR 1508.27(b)(8)).
8. The Proposed Action would not significantly affect listed or proposed threatened or endangered species, or its habitat that has been determined to be critical under the Endangered Species Act of 1973 (40 CFR 1508.27(b)(9)).
9. The Proposed Action would not threaten a violation of Federal, State, tribal or local law or requirements imposed for the protection of the environment (40 CFR 1508.27(b)(10)).
10. The Proposed Action would not affect any Indian Trust Assets (512 Departmental Manual (DM) 2, Policy Memorandum dated December 15, 1993).
11. Implementation of the Proposed Action would not disproportionately affect minorities or low-income populations and communities (EO 12898 and 43 CFR 46.215(j)).
12. The Proposed Action would not limit access to, and ceremonial use of, Indian sacred sites on Federal lands by Indian religious practitioners or adversely affect the physical integrity of such sacred sites (EO 13007, 43 CFR 46.215(k), and 512 DM 3).