

## **Finding of No Significant Impact**

### **Kennewick Irrigation District Title Transfer Kennewick Division, Yakima Project, Benton County, Washington**

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

**PN-FONSI-21-02**

**PN-EA-21-02**

#### **Introduction**

The Bureau of Reclamation (Reclamation) has prepared the *Kennewick Irrigation District (KID) 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 KID to transfer title of the transferred works<sup>1</sup> 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”).<sup>2</sup>

The 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 from the Kennewick Main Canal headworks structure. The 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 will include all improvements and appurtenances to the federally owned facilities and

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

<sup>2</sup> 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.

lands such as diversion and control structures, the distribution system, pumps, and other fixtures and improvements.

## **Background**

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,<sup>3</sup> 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.<sup>4</sup> 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.

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.

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<sup>3</sup> The reserved works consist of the 11-mile-long Chandler Canal from the Prosser Diversion Dam to and including the Chandler Pumping and Powerplant.

<sup>4</sup> 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.

## **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 the Proposed Action, Reclamation will 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 will 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 will 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 will no longer be part of a Reclamation's Yakima Project and the United States will not retain any ownership interest, or liability, in the transferred property.

Under the Proposed Action, the District's water supply, purpose and place of use will 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 will not transfer any water rights or interests in water as part of this the Proposed Action.

### **No Action Alternative**

Under the No Action, 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.

### **Decision and Finding of No Significant Impact**

Reclamation, 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, has determined that the Proposed Action - to implement the title transfer of Kennewick Division transferred works - 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 determination after successful mitigation (per an MOU described below and in Section 3.2.2 of the EA) required by Section 106 of the National Historic Preservation Act (NHPA) (54 U.S.C. § 306108).

### **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). The

Yakima River 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 and holds the water right for diverting water from the Yakima River. The Proposed Action is a Kennewick Division site-specific transfer of 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.

### **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. With the exception of Cultural Resources, (discussed under *Beneficial and Adverse Effect below*) 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 have adverse impacts to NRHP properties; however, those adverse impacts will be resolved through execution of MOA R21MA13701. Reclamation consulted with the State Historic Preservation Officer of the Washington Department of Archaeology and Historic Preservation (DAHP), the Confederated Tribes of the Colville Reservation, and the Confederated Tribes and Bands of the Yakama Nation regarding effects of the Proposed Action on cultural resources including historic properties and Indian sacred sites. The report found that the 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. Reclamation, the District, and the SHPO entered into a 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. See Section 3.2.2 of the EA for more information.

### **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 Colville Reservation and the Confederated Tribes and Bands of the Yakama Nation were consulted, and they did not identify 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 within the affected environment.

The District has plans to replace and maintain existing facilities, 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 Proposed 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 the 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 / Selected Alternative as for the No Action Alternative.

**Table 1. Summary of impacts to resources**

Resource	Rationale for Elimination from Further Analysis
Cultural Resources	The Proposed Action will have adverse impacts to NRHP properties; however, those adverse impacts will be resolved through execution of MOA R21MA13701.
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

Resource	Rationale for Elimination from Further Analysis
	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 Indian sacred sites. The Tribes have not identified any religious or ceremonial sites in the Kennewick Division.
Environmental Justice and Socioeconomics	The Proposed Alternative will not disproportionately (unequally) affect any low-income or minority communities at the Benton County level, and the Kennewick Division comprises a small portion of the larger County. Further, there will be no change to water deliveries with the proposed title transfer. KID will continue to deliver water, as they have historically and per their existing contracts. There will be no adverse human health or environmental effects on minority or low-income populations as a result of title transfer.
Farmlands (Prime or Unique)	The Proposed Action will not modify prime and/or unique farmlands.
Floodplains	The Proposed Action will not modify or impact any floodplains.
Water Quality	The Proposed Action will not impact water quality in the Yakima River or the irrigation deliveries.
Threatened and Endangered Species	<p>The Proposed Action will 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 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 Salmon</p>

Resource	Rationale for Elimination from Further Analysis
	<i>(Oncorhynchus kisutch)</i> 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.
Wildlife	The Proposed Action will 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 will 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 will 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 Process<sup>5</sup> 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.

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<sup>5</sup> 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 ensure 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
Land Use	The Proposed Action will 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 will not modify or impact the topography, geology, or soils.
Noise	The Proposed Action will not modify the current noise levels.
Vegetation	The Proposed Action will not modify existing vegetation. The Proposed Action will 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	The Proposed Action will not be constructing, modifying, or adversely affecting wetlands within any lands proposed for transfer.
Air Quality	The Proposed Action will 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 will not result in new weather patterns that would remain in place for an extended period of time.
Migratory Birds	The Proposed Action will have no effect on migratory birds.

**Approved:**

TALMADGE  
OXFORD

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