

# Categorical Exclusion Determination

Bonneville Power Administration  
Department of Energy



**Proposed Action:** BPT Logan Valley and Malheur River Wildlife Mitigation

**Project No.:** 2000-009-00; 2000-027-00

**Project Manager:** Siena Lopez-Johnston

**Location:** Grant and Malheur counties, Oregon

**Categorical Exclusion Applied (from Subpart D, 10 C.F.R. Part 1021):** B1.3 Routine Maintenance; B1.20 Protection of Cultural Resources, Fish and Wildlife Habitat

**Description of the Proposed Action:** Bonneville Power Administration (BPA) proposes to fund the Burns Paiute Tribe (BPT) (Sponsor) to conduct fish and wildlife habitat restoration throughout 33,541 acres of meadow, wetland, and shrub steppe habitat within the headwaters and along the mainstem of the Malheur River.

Funding the proposed activities fulfills ongoing commitments under the 2020 National Marine Fisheries Service Columbia River System Biological Opinion (2020 NMFS CRS BiOp). These proposed activities also fulfill commitments specified in the 2020 U.S. Fish and Wildlife Service Columbia River System BiOp (2020 FWS CRS BiOp). Additionally, the proposed activities are consistent with the Northwest Power and Conservation Council's Fish and Wildlife Program as authorized by the Pacific Northwest Electric Power Planning and Conservation Act.

Project activities would occur on lands owned and managed by BPT, or on lands managed by US Department of Agriculture Forest Service (USFS) (Malheur National Forest), US Bureau of Land Management (BLM), and Oregon Department of State Lands (DSL), and would include the following:

## Vegetation Management

Vegetation management actions would be conducted annually to maintain and enhance habitat for fish and wildlife. Vegetation removal actions would include physical controls (removal by hand, shovel, weed eater, or controlled burns), chemical controls, (approved herbicide by backpack sprayer), and biocontrols. Vegetation maintenance actions would include mowing, and the installation and maintenance of fabric matting and vexar tree protectors. Planting actions would consist of collection, propagation, and planting of seeds and/or cuttings of native grasses, forbs, and herbaceous and woody plants and trees.

## Maintain and Improve Roads

Annual road maintenance and improvement actions would occur on roads and water crossings within the existing road prism, including ditches, culverts, and bridges, to improve existing road surfaces, contours, and drainage capacity. Cross drain culverts would be installed and/or replaced, streamside shoulders and road surfaces would be regraded to facilitate drainage, and

new aggregate would be imported, placed, and compacted. Water crossing structures would be restored or replaced, and stream banks and natural stream gradients would be restored to the greatest extent practicable.

### Irrigation System Maintenance

Irrigation system maintenance actions would be conducted annually to increase plant biomass availability, maintain favorable species composition, increase subsurface flow, sustain wet meadow habitats, and exercise water rights. These actions would be non-ground disturbing and be conducted with hand tools, and would include all elements of irrigation systems, including culverts, ditches, wells, pumps, water lines, and head gate structures.

### Inspect and Maintain Fencing

Annual maintenance and replacement of perimeter and interior exclusionary fencing would occur to rectify issues from snow load, wild ungulate movement, and domestic livestock trespass. All elements of barbed wire and wood fence systems would be maintained and/or replaced in kind, including barbed wire strands, steel t-posts, wooden stays, rock jacks, crossbars, wood posts, and gates, using hand tools and non-ground disturbing actions.

### Avian Habitat Improvement

The BPT's avian habitat program consists of monitoring nest boxes, banding occupants, and enhancing habitat for native cavity nesting birds. Nest boxes would be maintained and installed by hand on existing steel t-posts and wood posts. Monitoring, data collection, and banding of nestlings and adults would occur throughout the breeding season. Invasive birds, including European starlings and house sparrows, would be trapped in portable v-traps, removed from nest boxes if encountered, and euthanized.

**Findings:** In accordance with Section 1021.410(b) of the Department of Energy's (DOE) National Environmental Policy Act (NEPA) Regulations (57 FR 15144, Apr. 24, 1992, as amended at 61 FR 36221-36243, Jul. 9, 1996; 61 FR 64608, Dec. 6, 1996, 76 FR 63764, Nov. 14, 2011), BPA has determined that the proposed action:

- 1) fits within a class of actions listed in Appendix B of 10 CFR 1021, Subpart D (see attached Environmental Checklist);
- 2) does not present any extraordinary circumstances that may affect the significance of the environmental effects of the proposal; and
- 3) has not been segmented to meet the definition of a categorical exclusion.

Based on these determinations, BPA finds that the proposed action is categorically excluded from further NEPA review.

/s/ Zachary Gustafson

Zachary Gustafson

Contract Environmental Protection Specialist

SalientCRGT

Reviewed by:

/s/ Chad Hamel

Chad Hamel  
Supervisory Environmental Protection Specialist

Concur:

/s/ Sarah T. Biegel

October 9, 2020

Sarah T. Biegel  
NEPA Compliance Officer

Date

Attachment(s): Environmental Checklist

# Categorical Exclusion Environmental Checklist

This checklist documents environmental considerations for the proposed project and explains why the project would not have the potential to cause significant impacts on environmentally sensitive resources and would meet other integral elements of the applied categorical exclusion.

**Proposed Action:** BPT Logan Valley and Malheur River Wildlife Mitigation

## **Project Site Description**

The project area is located in Grant and Malheur counties, OR, encompassing 33,541 acres of meadow, wetland, and shrub steppe habitat within the headwaters and along the mainstem of the Malheur River. Project actions would take place on land owned and managed by BPT, land managed by and leased from OR DSL, and land managed by and leased from the BLM.

## **Evaluation of Potential Impacts to Environmental Resources**

### **1. Historic and Cultural Resources**

Potential for Significance: No with Conditions

Explanation: BPA initiated Section 106 consultation on April 19, 2019, with the Burns Paiute Tribe (BPT), Confederated Tribes of the Warm Springs Reservation of Oregon (CTWSRO), Fort McDermitt Paiute-Shoshone Tribe, Shoshone-Paiute Tribes of the Duck Valley Reservation, and the Oregon State Historic Preservation Office (SHPO).

In letters dated August 5 and October 4, 2019, BPA determined the actions described herein would have no effect to historic properties. OR SHPO concurred with BPA's August 5, 2019, determination in letters dating September 3 and 4, 2019. No response was received from SHPO to BPA's October 4, 2019, determination letter. CTWSRO concurred with the BPA's October 4, 2019, determination in a letter received October 17, 2019.

#### Notes:

- In the event of an inadvertent discovery, stop work in the vicinity and immediately notify the BPA environmental lead, a BPA archaeologist, the BPA project manager, interested Tribes, OR SHPO, and the appropriate county, state, and Federal agencies.
- Fences within the historic Jonesboro Ranch district and corrals at the cabin in Logan Valley require additional Section 106 consultation and further analysis under NEPA, and are not cleared for maintenance or repair under this document.
- Sponsor to coordinate with BPA cultural lead to avoid impacts to known sites and resources.

### **2. Geology and Soils**

Potential for Significance: No with Conditions

Explanation: Vegetation management actions would cause minimal or no disturbance to soils. Herbicide impacts to biological components of soils would be minimized by application according to manufacturer's labels.

Compact tracked equipment with low ground pressures would be used to conduct road maintenance and improvement actions. Soil disturbance is anticipated from the moving of

tracked equipment, sculpting/recontouring surface soils, excavation within the existing roadbed, and water crossing restoration.

Notes:

- Implement sediment and erosion control best management practices (BMPs) prior to initiating ground-disturbing activities to prevent erosion and runoff.

### **3. Plants (including Federal/state special-status species and habitats)**

Potential for Significance: No

Explanation: The Whitebark Pine is listed as a Candidate species in Grant County, OR. There are no known occurrences of Whitebark Pine in the project area, and therefore no effect to Whitebark Pine is anticipated from project activities.

All herbicide application is proposed using backpack sprayers with minimal potential for drift or runoff to non-target vegetation.

Temporary, short-term impacts to vegetation from construction activities associated with road maintenance and improvement would be mitigated by post-construction native revegetation efforts.

Overall, the project would result in minor beneficial impacts due to the reduction of invasive species and an increase in native vegetation.

### **4. Wildlife (including Federal/state special-status species and habitats)**

Potential for Significance: No with Conditions

Explanation: The Yellow-billed Cuckoo is listed as Threatened in Grant and Malheur counties, OR. The Yellow-billed Cuckoo has the potential to occur in the project area due to the presence of suitable habitat along riparian areas. There are no documented sightings or history of prior occurrence for this species in the project area, and therefore no effect to Yellow-billed Cuckoo is anticipated from project activities.

The Gray Wolf is listed as Endangered in Grant County, OR. Suitable habitat is present within the Upper Malheur River watershed in Logan Valley and the surrounding Malheur National Forest, and the Gray Wolf has the potential to occur in this portion of the project area. If individuals are present, project actions would cause temporary, short-term disturbance to, or displacement of, these individuals. However, there are no recent documented sightings or known populations of Gray Wolf in the project area, and therefore no effect to Gray Wolf is anticipated from project activities.

Herbicide treatments would be small spot treatments of individuals or clusters of target plants, which would be highly localized and thus not substantially impact any one animal's home range.

No plants identified for herbicide treatment are used preferentially for habitat purposes by native species. Some animals may be exposed to applied herbicides through contact with, or ingestion of, treated vegetation, but application would be conducted in accordance with label restrictions, which would be too low of toxicity to be of harm.

No habitats would be modified to the degree that would have the potential to permanently displace medium to large resident wildlife.

The operation of vehicles and equipment associated with project actions would take place after migratory birds have completed nesting and fledging. All construction and human activity associated with the project actions could cause temporary, short-term disturbance to, and displacement of, nearby wildlife, but long-term displacement resulting in competition for nearby habitats is unlikely.

Trapping and banding of native cavity nesting birds are authorized per Oregon Department of Fish and Wildlife scientific take permit number 022-20, and Federal Bird Banding Permit number 24237 in accordance with the Migratory Bird Treaty Act. Handling of native birds would cause temporary, short-term disturbance to individuals, but would not cause mortality, long-term displacement, or deleterious effects. All non-native birds captured would be handled, euthanized, and disposed of in accordance with permit specifications and procedures.

Overall, the project would result in beneficial impacts to terrestrial wildlife due to the reduction of invasive species and the enhancement and expansion of native plant assemblages in meadow, riparian, and shrub steppe habitat. Native cavity-nesting birds would benefit from an increased supply of nesting and breeding locations, and from the removal of and subsequent decreased competition with invasive cavity-nesting species.

## **5. Water Bodies, Floodplains, and Fish (including Federal/state special-status species, ESUs, and habitats)**

Potential for Significance: No with Conditions

Explanation: Bull Trout (Threatened) and their critical habitat are present in the mainstem and tributaries throughout the Upper Malheur River watershed. Lahontan Cutthroat Trout are listed as Threatened in Malheur County, but are not present in the Malheur River. Water crossing restoration could cause temporary, short-term impacts to fish and fish habitat such as increased downstream turbidity and decreased water quality. Temporary disturbance and displacement of individual fish in downstream tributaries could occur during construction activities, but is not anticipated to result in take, or long-term impacts to fish or fish habitat.

No aquatic habitats would be adversely modified in the long term by project actions. Some aquatic invertebrates or amphibians may be killed or temporarily displaced if water crossing restoration is required as part of road maintenance and improvement, but quick re-occupation following construction by members of the same classes of animals is anticipated.

Planting and vegetation management and removal actions, including herbicide application, are covered under BPA's ESA Section 7 consultation with the US Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) for BPA's Habitat Improvement Program (HIP). Herbicide use would be reported to BPA within 30 days of project completion for inclusion in annual reporting to USFWS and NMFS.

Overall, habitat conditions for fish and aquatic species are expected to improve in the long term from project actions as riparian areas are revegetated, and sediment inputs are reduced.

### Notes:

- All water-crossing restoration activities would be conducted when conveyances are dry. Should road construction require in-water work, the sponsor is responsible for obtaining necessary permits and ensuring terms and conditions of said permits are followed.
- Do not allow petroleum products, sediment, or other deleterious materials to enter any stream, wetland, water body, or drainage conveyance.

- Ensure spill containment and cleanup materials are readily available at project sites, staging areas, and in construction vehicles and equipment.

## **6. Wetlands**

Potential for Significance: No

Explanation: Removal, fill, or disturbance of wetlands and native vegetation within wetland areas is not anticipated from activities within project areas. Activities within or near wetlands would be limited to vegetation maintenance and removal of invasive weeds and non-natives using methods with little to no ground disturbance. Herbicide treatments are not planned to occur in, or in the vicinity of, wetlands

## **7. Groundwater and Aquifers**

Potential for Significance: No

Explanation: No new wells or withdrawal of groundwater are planned for the project areas.

Potential impacts to groundwater and aquifers from herbicide treatments would be minimized by application in accordance with manufacturer's specifications.

## **8. Land Use and Specially-Designated Areas**

Potential for Significance: No

Explanation: There would be no changes to land use, and no impact to specially-designated areas.

## **9. Visual Quality**

Potential for Significance: No

Explanation: No visually prominent vegetative, landform, or structural changes would be made.

## **10. Air Quality**

Potential for Significance: No

Explanation: Temporary, short-term impacts from small amounts of dust and vehicle emissions would occur during project actions.

## **11. Noise**

Potential for Significance: No

Explanation: Temporary, intermittent noise from construction activities would occur during daylight hours.

## **12. Human Health and Safety**

Potential for Significance: No

Explanation: Project actions are not anticipated to create conditions that would increase the burden on the local health, safety, and emergency-response infrastructure.

## **Evaluation of Other Integral Elements**

The proposed project would also meet conditions that are integral elements of the categorical exclusion. The project would not:

**Threaten a violation of applicable statutory, regulatory, or permit requirements for environment, safety, and health, or similar requirements of DOE or Executive Orders.**

Explanation: N/A

**Require siting and construction or major expansion of waste storage, disposal, recovery, or treatment facilities (including incinerators) that are not otherwise categorically excluded.**

Explanation: N/A

**Disturb hazardous substances, pollutants, contaminants, or CERCLA excluded petroleum and natural gas products that preexist in the environment such that there would be uncontrolled or unpermitted releases.**

Explanation: N/A

**Involve genetically engineered organisms, synthetic biology, governmentally designated noxious weeds, or invasive species, unless the proposed activity would be contained or confined in a manner designed and operated to prevent unauthorized release into the environment and conducted in accordance with applicable requirements, such as those of the Department of Agriculture, the Environmental Protection Agency, and the National Institutes of Health.**

Explanation: N/A

### **Landowner Notification, Involvement, or Coordination**

Description: Project actions proposed by BPT within the Upper Malheur River watershed would be implemented by tribal members, employees, or contractors on properties owned and managed by BPT, or on properties leased from OR DSL and BLM. All landowners and managers are aware of and have been cooperating with BPT on restoration actions at these sites. BPT notifies and coordinates with all relevant landowners annually prior to initiating project activities.

Based on the foregoing, this proposed project does not have the potential to cause significant impacts to any environmentally sensitive resource.

Signed: /s/ Zachary Gustafson

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October 9, 2020

date