

Categorical Exclusion Determination

Bonneville Power Administration
Department of Energy



Proposed Action: KwáKwal Property Acquisition

Project No.: 2008-207-00; BPA-014284

Project Manager: Matthew Schwartz – EWM-4

Location: Umatilla County, Oregon

Categorical Exclusion Applied (from Appendix B, 10 C.F.R. Part 1021): B1.25 Real property transfers for cultural resources protection, habitat preservation, and wildlife management

Description of the Proposed Action: Bonneville Power Administration (BPA) is proposing to fund Confederated Tribes of Umatilla Indian Reservation (CTUIR) to purchase the KwáKwal property, which is an approximately 99-acre parcel of land located roughly 12 miles south of Pendleton and four miles north of Pilot Rock in Umatilla County, Oregon. As part of the transaction, BPA is also proposing to fund the CTUIR to work with Oregon Water Resources Department (OWRD) in the permanent transfer of a senior 60-acre surface water right instream to Birch Creek, restoring 0.75 cfs annually for fish and wildlife purposes. BPA would hold a conservation easement to permanently protect, mitigate, and enhance fish and wildlife and their habitat.

Funding the proposed acquisition fulfills ongoing commitments under the 2020 National Marine Fisheries Service Columbia River System Biological Opinion (2020 NMFS CRS BiOp). Funding the proposed acquisition fulfills BPA's commitments to the Confederated Tribes of Umatilla Indian Reservation under the 2020 Columbia River Fish Accord Extension agreement, while also supporting ongoing efforts to mitigate for effects of the FCRPS on fish and wildlife in the mainstem Columbia River and its tributaries pursuant to the Pacific Northwest Electric Power Planning and Conservation Act of 1980 (Northwest Power Act) (16 U.S.C. 839 *et seq.*).

The property consists of riparian, wetland, and floodplain habitats which support designated critical habitat for Endangered Species Act (ESA)-listed species Middle Columbia River steelhead (*Oncorhynchus mykiss*), other important fish and other aquatic species, and over 250 wildlife species, including providing winter range for white-tailed deer and mule deer. The Confederated Tribes of Umatilla Indian Reservation would develop a land management plan to guide the protection and enhancement of habitat and other resources on the property. The land management plan would be drafted within 18 months of closing. The management plan would be reviewed by BPA for consistency with the conservation easement and the purpose of the acquisition. If BPA proposes to fund any additional activities on the property, further environmental review may be conducted.

Findings: In accordance with Section 1021.102 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; 89 FR

34074, April 30, 2024; 90 FR 29676, July 3, 2025 [Interim Final Rule]) and *DOE National Environmental Policy Act (NEPA), Implementing Procedures* (dated June 30, 2025), BPA has determined the following:

- 1) The proposed action fits within a class of actions listed in Appendix B of 10 CFR 1021;
- 2) The proposal has not been segmented to meet the definition of a categorical exclusion; and
- 3) There are no extraordinary circumstances related to the proposed action that may affect the significance of the environmental effects of the proposal (see attached Environmental Evaluation).

Based on these determinations, BPA finds that the proposed action is categorically excluded from further NEPA review.¹

Israel Duran
Environmental Protection Specialist

Concur:

Katey C. Grange
NEPA Compliance Officer

Attachment(s): Environmental Checklist

¹ BPA is aware that the Council on Environmental Quality (CEQ), on February 25, 2025, issued an interim final rule to remove its NEPA implementing regulations at 40 C.F.R. Parts 1500–1508. Based on CEQ guidance, and to promote completion of its NEPA review in a timely manner and without delay, in this CX BPA is voluntarily relying on the CEQ regulations, in addition to the interim final rule to revise DOE NEPA regulations implementing NEPA at 10 C.F.R. Part 1021 and NEPA Implementing Procedures (dated June 30, 2025), to meet its obligations under NEPA, 42 U.S.C. §§ 4321 *et seq.*

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: KwáKwal Property Acquisition

Project Site Description

The 99-acre KwáKwal property, located 12 miles south of Pendleton and four miles north of Pilot Rock in Umatilla County, Oregon, is privately owned. The property consists of riparian, wetland, and floodplain habitat, containing approximately 0.8 river miles (RM) of both banks of Birch Creek, approximately 0.5 RM of an ephemeral creek, and two natural spring complexes. Birch Creek is designated critical habitat for juvenile rearing and adult migration of threatened Middle Columbia River steelhead. Historically, the property was used for agricultural and residential purposes. The property also supports other important fish and aquatic species, including but not limited to reintroduced coho salmon and redband trout, long-toed salamander and Columbia spotted frog, and a diverse array of wildlife species, including but not limited to rocky mountain elk, white-tailed deer and mule deer, pronghorn, mountain lion, golden and bald eagles and osprey, turkey, rock chuck, beaver, western rattlesnake and western meadowlark and pileated woodpecker.

Evaluation of Potential Impacts to Environmental Resources

1. Historic and Cultural Resources

Potential for Significance: No

Explanation: There would be no effect due to the land acquisition which includes transfer of title and the creation of a conservation easement. To the extent that future activities on the property may have an effect, it is expected that the Confederated Tribes of Umatilla Indian Reservation would comply with all applicable laws and regulations.

2. Geology and Soils

Potential for Significance: No

Explanation: See explanation for #1 above.

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

Potential for Significance: No

Explanation: See explanation for #1 above.

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

Potential for Significance: No

Explanation: See explanation for #1 above.

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

Potential for Significance: No

Explanation: See explanation for #1 above. The transfer of water rights instream would improve water quantities and quality in Birch Creek for aquatic species, including ESA-listed species, and their habitat.

6. Wetlands

Potential for Significance: No

Explanation: See explanation for #1 above.

7. Groundwater and Aquifers

Potential for Significance: No

Explanation: See explanation for #1 above.

8. Land Use and Specially-Designated Areas

Potential for Significance: No

Explanation: See explanation for #1 above.

9. Visual Quality

Potential for Significance: No

Explanation: See explanation for #1 above.

10. Air Quality

Potential for Significance: No

Explanation: See explanation for #1 above.

11. Noise

Potential for Significance: No

Explanation: See explanation for #1 above.

12. Human Health and Safety

Potential for Significance: No

Explanation: See explanation for #1 above.

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: Notification letters may be sent to adjacent landowners and other interested parties at a minimum of 15 days before the closing date of the sale. Advertisements would also be posted in local newspapers, and information posted on BPA's public website prior to closing.

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

Signed:

Israel Duran, ECF-4
Environmental Protection Specialist