

# Categorical Exclusion Determination

Bonneville Power Administration

Department of Energy



**Proposed Action:** Malheur River Diversion Repair

**Project No.:** 2026-003-00

**Project Manager:** Virginia Preiss, EWM-4

**Location:** Malheur County, Oregon

**Categorical Exclusion Applied (from 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) to replace components of an irrigation diversion structure that were damaged by severe flooding in February 2025. The diversion structure spans the Malheur River on land owned by the U.S. Bureau of Land Management (BLM) and managed by BPT as part of the Malheur River Wildlife Mitigation site. BPT operates the diversion to utilize water rights and irrigate meadows as part of ongoing wildlife mitigation activities that are funded by BPA.

The existing diversion structure was built in 2015, replacing a previous diversion that had been in place since the 1940s. The existing structure consists of a concrete foundation with fixed steel jack structures spaced across it to support removable weir boards that raise the water level on the upstream side. The 2015 replacement project included construction of a pool and weir fishway around the diversion to improve passage conditions at the structure for migratory fish including redband trout (*Oncorhynchus mykiss*).

The proposed project would remove the diversion structure's steel supports and replace them with new steel braces. The braces would be fixed to the existing concrete foundation and have hinges that allow an upright position to hold weir boards when flow diversion is needed and a lay-down position when the diversion is not operating, to reduce risk of damage. Each brace would be approximately six inches wide, and the braces would be spaced approximately 7 feet apart across the length of the foundation, similar to the existing steel supports. The pool and weir fishway around the diversion structure would remain in place.

Sandbags would be temporarily placed by hand on the concrete foundation to divert river flow around sections of the diversion as the braces are installed. Pickup trucks would be used to transport materials to the site using an existing access road on the south side of the river, and crews would remove the existing steel supports and install the new braces on foot using portable tools. No heavy equipment operation within or adjacent to the river would occur.

Funding the proposed activities supports ongoing efforts to mitigate for effects of the Federal Columbia River Power System 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. (USC) 839 et seq.).

**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.<sup>1</sup>

John Vlastelicia  
Environmental Protection Specialist

Concur:

Katey C. Grange  
NEPA Compliance Officer

Attachment(s): Environmental Evaluation

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<sup>1</sup> 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 Evaluation**

This evaluation 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: Malheur River Diversion Repair**

### **Project Site Description**

The project area is part of the Malheur River Wildlife Mitigation site located approximately 11 miles east of Juntura, Oregon. The mitigation site encompasses 31,781 acres managed by BPT to compensate, in part, for the loss of fish and wildlife resources in the Columbia and Snake river basins. The site includes land owned by BPT and lands that BPT leases from the U.S. Bureau of Land Management (BLM) and the Oregon Department of State Lands (DSL). The overall mitigation site is comprised of meadow, wetland, and shrub-steppe habitats and stretches for seven miles along the Malheur River.

The existing irrigation diversion structure spans the Malheur River on BLM-owned property at a point approximately 850 feet south of U.S. Highway 20. Water diverted from this location is used to irrigate grass pasture, alfalfa fields, and wet meadow habitats with native plantings. The existing structure consists of a concrete foundation with fixed steel jack structures spaced across it to support removable weir boards that raise the water level on the upstream side. An irrigation ditch conveys diverted flows on the south side of the river. A pool and weir fishway provides fish passage around the diversion structure on the south bank of the river. Riparian shrub vegetation lines the Malheur River in the project area, transitioning to shrub steppe habitat away from the river. An existing gravel road provides access to the project area on the south side of the river.

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

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

Potential for Significance: No

Explanation: BPA archaeologists and a historian reviewed the proposed project to assess the potential for effects on historic properties (BPA CR Project No. 2025 119). Based on the fact that the diversion repair would not involve ground disturbance or heavy equipment operation, vehicle access would use existing gravel roads, and previous surveys completed prior to the construction of the diversion replacement in 2015 did not identify archaeology sites within the current project footprint, BPA determined that the project does not have the potential to cause effects on historic properties.

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

Potential for Significance: No

Explanation: The removal of the existing steel supports and installation of the new steel bracing would occur on the diversion structure's existing concrete foundation. Vehicle and personnel access to perform the work would be from an existing gravel access road to the diversion dam. No ground disturbance is proposed, and no other impacts to geology or soils are expected.

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

Potential for Significance: No

Explanation: The diversion repairs do not involve vegetation removal or other vegetation disturbance, as the proposed steel braces would replace existing steel supports on the existing concrete foundation and an established gravel road would be used for project access. There are no federal or state ESA-listed plant species or critical habitat, or other special status plant species or habitats, known to be present in the project area.

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

Potential for Significance: No

Explanation: The project would not involve any ground disturbance, habitat modifications, or land use or operational changes at the site that would affect wildlife in the long term. Human activity could temporarily deter wildlife from using the area around the diversion while the repairs are made.

There are no federal or state-listed ESA wildlife species or critical habitats on the project site. The project is within an area identified by the Oregon Department of Fish and Wildlife (ODFW) as core habitat for the greater sage grouse (*Centrocercus urophasianus*), an Oregon sensitive species. By confining work activity to the footprint of the existing diversion structure in the river, and by limiting project-related vehicle access to an existing gravel access road, the proposed project would not affect sage grouse or their habitat.

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

Potential for Significance: No

Explanation: The removal of the diversion structure's existing steel supports and the installation of the new steel braces would involve work on the existing concrete foundation that spans the Malheur River. Sandbags would be temporarily placed by hand on the foundation to divert river flows around sections of active work. The diversion repairs are expected to take less than one week to complete and would be performed during the November 1 to March 31 in-water work window recommended by ODFW for the project reach of the Malheur River. The project involves no excavation, permanent fill placement, or heavy equipment operation in the river or floodplain, and the diversion would continue to be operated in accordance with BPT's water rights. No substantial impacts to water quality, hydrology, habitat, or floodplain functions are expected.

There are no federal ESA-listed fish species or designated critical habitat within the project reach of the Malheur River. The area is well upstream of passage barriers on the Snake River that prevent salmon and steelhead managed by the National Marine Fisheries Service (NMFS) from accessing the Malheur River. Bull trout (*Salvelinus confluentus*), a Threatened species managed by the U.S. Fish and Wildlife Service (USFWS), are thought to have historically used much of the mainstem Malheur River. However, based on USFWS and ODFW fish distribution records, current bull trout use of the basin is limited to an Upper Malheur population above the confluence with Wolf Creek (more than 90 miles upstream of the project) and a North Fork Malheur population above Beulah Reservoir (30 miles upstream of the project). The project would therefore have no effect on bull trout. The existing fishway would continue to provide fish passage around the diversion structure for native migratory fish including redband trout.

#### **6. Wetlands**

Potential for Significance: No

Explanation: The diversion repairs would not involve any work within wetlands outside of the Malheur River. No adverse wetland impacts would occur.

#### **7. Groundwater and Aquifers**

Potential for Significance: No

Explanation: The diversion repairs would not involve any groundwater withdrawals or discharges to groundwater. No adverse effects on groundwater are anticipated.

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

Potential for Significance: No

Explanation: The project is located on BLM-owned land within the Malheur River Wildlife Mitigation Site managed by BPT. There would be no land use changes or impacts to specially designated areas resulting from the diversion repairs.

## **9. Visual Quality**

Potential for Significance: No

Explanation: The diversion repairs would not substantially change the visual character of the diversion structure or the area in general. When the repaired diversion is operating in the lay-up position during the irrigation season, it would look very similar to the existing condition. Outside of the irrigation season in the lay-down position, the diversion would be less visible, without stanchions remaining in a vertical upright position throughout the year.

## **10. Air Quality**

Potential for Significance: No

Explanation: The diversion repairs would not introduce any new operational sources of air emissions to the site. Minor emissions from vehicles used to transport a work crew and materials to the diversion site would occur when the repairs are performed.

## **11. Noise**

Potential for Significance: No

Explanation: The project would not introduce new permanent sources of noise to the project site and would not otherwise change noise levels in the long term.

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

Potential for Significance: No

Explanation: No public health or safety hazards would be created by the diversion repairs. Temporary worker safety hazards typical of performing work around water would be expected during the repairs.

### **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: The BPT has notified the landowner, BLM, of the proposed project. The project occurs within the right-of-way granted by BLM in 2014 for the construction and maintenance of the existing diversion dam.

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

Signed:

John Vlastelicia  
Environmental Protection Specialist