

**U.S. ARMY CORPS OF ENGINEERS
DRAFT FINDING OF NO SIGNIFICANT IMPACT (FONSI)**

**COLUMBIA PARK LAND CONVEYANCE
City of Kennewick
Benton County, Washington**

January 2, 2024

I. Introduction and Background Information

The U.S. Army, Corps of Engineers, Walla Walla District (USACE) is proposing to convey two parcels of land (A and B; Figure 1-2 in the Environmental Assessment (EA)) comprising of approximately 72 acres (72 acres) of federal land in Columbia Park to the City of Kennewick (City). The EA is incorporated herein by reference.

The two parcels of land are located in Columbia Park East (CPE) which is part of a larger federally owned and USACE constructed public park, which is leased to the City for operation and maintenance, located in Kennewick, WA, and encompassing about a mile and a half of Columbia River shoreline. CPE comprises approximately 300 acres of parkland east of Edison Street and outside the limits of Columbia Park West. Facilities within CPE include Columbia Park Golf Course and Driving Range (18-hole privately run golf course), the aquatic playground, the Playground of Dreams, the fishing pond, a boat launch, for-rent picnic areas, multi-use play fields, and surface parking.

The Columbia Park lease agreement between the City and USACE allows recreational uses on the leased federal land. On 26 March 2004, the City renewed the lease for a 50-year term. The lease, along with other applicable laws and regulations, govern the uses that can be permitted in CPE. ER 1130-2-550, Recreation Operations and Maintenance Policies includes a chapter that discusses recreation development policy for out-granted USACE lands. The policies define the types of uses that can be permitted within USACE leaseholds such as CPE. USACE also reviews the City's proposed development of the CPE in a master plan and retains the authority to review and (when appropriate) approve certain recreational uses and development at the Park. The transfer of the 72 acres is authorized by the Water Resources Development Act (WRDA) of 1996 (WRDA 1996).

II. Purpose and Need

The purpose of the proposed action is to provide the City with more flexibility in managing the 72 acres and generating revenue to support park and recreation activities, including those in Columbia Park. The action is needed because the current lease between USACE and the City for such federal lands, and associated USACE policies, restricts the City's ability to engage in revenue generating events (for example, commercial car sales), which would not be the case if the City owned the lands outright. Such lands, however, would be subject to a reversionary interest in the federal

government if the lands are not used for park and outdoor recreation purposes in the future, in accordance with Section 501(i)(3)(D)(i) of WRDA 96.

III. Authority

USACE is proposing to convey approximately 72 acres of USACE managed federal land in Columbia Park to the City for public park and recreation purposes, in accordance with Section 501(i) of the Water Resources Development Act of 1996 (P.L. 104-303). Section 501 (i) of the Water Resources Development Act of 1996 (WRDA 96) authorized the Secretary of the Army to convey certain lands in Tri-Cities, Washington, to six local entities. These entities are the cities of Richland, Kennewick, Pasco, the Port of Pasco, and Benton and Franklin Counties. Section 501(i)(3)(D)(i) of WRDA 96 states: "Properties to be conveyed under this subsection that will be retained in public ownership and used for public park and recreation purposes shall be conveyed without consideration. If any such property is no longer used for public park and recreation purposes, title to such property shall revert to the Secretary."

IV. Project Alternatives

Two alternatives are evaluated in this EA; the No Action Alternative and the Proposed Action Alternative – Convey the land to the City. An agency's obligation to consider alternatives under an EA is a lesser one than under an Environmental Impact Statement. Alternatives considered under the National Environmental Protection Act (NEPA) must include, at least, the Proposed Action and the No Action Alternatives, which provides a baseline from which to compare other alternatives. Additionally, the legislative scheme/authority supporting federal action can reasonably limit the range of alternatives considered – in this case the disposal authority under WRDA 1996. It is not within USACE's control to limit/dictate the land disposal dimensions. Consequently, only the No Action and Proposed Action Alternatives were analyzed further.

The No Action Alternative does not satisfy the project's purpose and need, but NEPA requires analysis of the No Action Alternative to set the baseline from which to compare other alternatives; however, no action does not mean there would be no environmental impacts from this alternative.

Alternative 1: No Action

Under the No Action Alternative, USACE would not convey the 72 acres of land to the City but would continue managing the land and maintain the current lease until its termination.

Alternative 2: Convey Land to the City of Kennewick (Proposed Action)

Under the Proposed Action Alternative, the USACE would convey the 72 acres to the City. The City would own the land and manage the land for recreational purposes and revenue generating events consistent with the terms of the deed of transfer, in accordance with Section 501(i)(3)(D)(i) of WRDA 96 states: "Properties to be conveyed

under this subsection that will be retained in public ownership and used for public park and recreation purposes shall be conveyed without consideration. If any such property is no longer used for public park and recreation purposes, title to such property shall revert to the Secretary.”

V. Environmental Effects

The affected environment and environmental consequences to the resources listed below are evaluated and discussed in more detail in the attached EA (Section 3 Affected Environment and Environmental Effects).

- Recreation
- Aesthetics and Visual Resources
- Vegetation
- Wildlife
- Threatened and Endangered Species
- Historic and Cultural Resources
- Socioeconomics and Environmental Justice
- Climate Change
- Cumulative Impacts

The proposed land conveyance would not significantly impact these resources in the proposed action area.

Endangered Species Act (ESA). An Endangered Species Act (ESA) species list from the U.S. Fish and Wildlife Service (USFWS) for the proposed action encompassing the action area was obtained on 24 October 2023 [USFWS Ref#01EWF00-2019-E-03324] (Appendix B).

The National Marine Fisheries Service (NMFS) has seven species listed in the project area (Table 1). The Columbia River in the proposed action area is critical habitat for Upper Columbia River steelhead, Middle Columbia River steelhead, and Upper Columbia River spring run Chinook.

Table 1. ESA listed species that may occur in the area potentially affected by this action.

Species	Listing Status and Reference	Critical Habitat
USFWS		
Yellow-billed cuckoo (<i>Coccyzus americanus</i>)	T: 10/3/14; 79 FR 59991	No
Bull trout (<i>Salvelinus confluentus</i>)	T: 06/10/98; 63 FR 31647	Yes; 09/02/05; 70 FR 56211
NMFS		
Upper Columbia River steelhead	T:01/05/06; 71 FR 834	Yes: 09/02/2005; 70 FR 52630
Middle Columbia River steelhead	T:01/05/06; 71 FR 834	Yes: 07/10/00; 65 FR 42422
Snake River steelhead	T:01/05/06; 71 FR 834	Yes: 07/10/00; 65 FR 42422

Upper Columbia River spring Chinook salmon	E: 06/28/05; 70 FR 37160	Yes: 09/02/2005; 70 FR 52630
Snake River spring/summer Chinook salmon	T: 6/28/05; 70 FR 37160	Yes: 12/28/93; 58 FR 68543
Snake River fall Chinook salmon	T: 6/28/05; 70 FR 37160	Yes: 12/28/93; 58 FR 68543
Snake River sockeye salmon	E 6/28/05; 70 FR 37160	Yes: 12/28/93; 58 FR 68543

National Historic Preservation Act (NHPA). 36 CFR § 800.5(2)(vii) identifies the “Transfer, lease, or sale of property out of Federal ownership or control...” as an adverse effects. The conveyance of the 72 acres of Columbia Park from USACE to the City is anticipated to have minor to moderate effects to historic/cultural properties. Those lands would (after conveyance) be under the jurisdiction of the state, and subject to state law concerning cultural heritage resources. In accordance with 36 CFR § 800.6 USACE will work with the appropriate consulting parties to resolve any adverse effects. This process will result in the development of a memorandum of agreement amongst the consulting parties containing measures designed to avoid, minimize, or mitigate for these adverse effects.

VI. Compliance with Other Laws/Regulations

Native American Graves Protection and Repatriation Act (NAGPRA). USACE would no longer manage the lands within Columbia Park. The transfer of the lands outside of Federal control would remove the applicability of the NAGPRA to the 72-acre parcel to be transferred. Those lands would then be under the jurisdiction of the state, and subject to state law concerning unmarked burials.

Clean Water Act (CWA). There is no in-water work or discharge into WOTUS under the proposed action. There is no shoreline in the proposed conveyance and no changes to water quality. There would be no effect to WOTUS covered under the CWA.

Treaties. The Treaty Between the Cayuse, Umatilla, and Walla Walla Tribes, in Confederation, and the United States, June 9, 1855, (12 Stat. 945 [1859]) resulted in the ceding of at least 6.4 million acres destined for private, non-Indian land ownership and formation of a 155,000-acre reservation for the CTUIR. Columbia Parks is within the ceded lands.

Conveying the land within Columbia Park to the City would not adversely affect the Tribes treaty rights, as there are no trust resources within the conveyance area. The shoreline is not included in the conveyance and Tribal members would continue to be able to fish along the shoreline. While the Family Fishing Pond is within the proposed action area it is a recent, man-made pond and would not be considered a usual and accustomed place. Fishing would not be restricted at the Family Fishing Pond. The proposed action area is a manicured park and no longer contains first food resources such as roots, berries, or game. As a managed park, the conveyance area is neither open, nor unclaimed; there are no rights to pasture at the proposed action area.

Executive Order (EO)11988: Floodplain Management. This EO requires Federal agencies to avoid to the extent possible the long and short-term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct and indirect support of floodplain development wherever there is a practicable alternative.

VII. Coordination

USACE held a scoping period between 8 July and 8 August 2019. Eleven comments were received during the scoping period. Additionally, USACE held a scoping meeting in Kennewick, Washington on 30 July 2019 from 5:00 to 7:00 pm. All scoping comments were considered in the preparation of this document.

USACE will distribute this FONSI for a 30-day public comment period between 2 January and 2 February 2024.

Project notification letters went to the following agencies, organizations, and tribes: U.S. Fish and Wildlife Service, National Marine Fisheries Service, Environmental Protection Agency, U.S. Bureau of Reclamation, Washington Department of Ecology, Washington Department of Archaeology and Historic Preservation, Washington Department of Transportation, Washington Department of Fish and Wildlife, City of Kennewick, Port of Benton, and the Confederated Tribes of the Umatilla Indian Reservation.

VIII. Finding

Having reviewed the EA, I find that the actions covered by the EA are substantially the same actions that USACE is authorized to convey the land in pursuant to Section 501(i) of the Water Resources Development Act of 1996, with the City. Further, the EA provides sufficient discussions on the need for the proposal, alternatives to the proposal, the environmental impacts of the proposed action and the alternatives, and a listing of agencies and persons consulted. Finally, after an independent review of the EA, the USACE has determined the document provides both sufficient evidence and analysis to meet its requirements pursuant to NEPA.

I have taken into consideration the technical aspects of the project, best scientific information available, and information contained in the EA. Based on this information, I have determined that the USACE proposed conveyance would not significantly affect the quality of the human environment, and therefore an environmental impact statement is not required. USACE will proceed to convey the land under the authority of Section 501(i) of the Water Resources Development Act of 1996.

SHAILIN KINGSLACK
Lieutenant Colonel, EN
Commanding

Date

Appendix A: City of Kennewick Columbia Park Land Conveyance Environmental Assessment

Appendix B: U.S. Fish and Wildlife Service Species List dated 24 October 2023

Appendix C: Memorandum of Agreement Amongst the U.S. Army Corps of Engineers, Walla Walla District, And the Confederated Tribes of the Umatilla Indian Reservation, and the Wanapum Band, and the Washington State Department of Archaeology and Historic Preservation, and the City of Kennewick Regarding the Transfer of 72 Acres of Land within Columbia Park to the City of Kennewick, Washington. 2022.

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