



**US Army Corps
of Engineers®**
Walla Walla District

LYONS FERRY PARK

**NEW LEASE TO WASHINGTON STATE
PARKS AND RECREATION**

LOWER MONUMENTAL LOCK AND DAM

PM-EC-2014-0063

Biological Evaluation

Memorandum for Record

U.S. Army Corps of Engineers
Walla Walla District
Environmental Compliance Section

25 August 2014

CENWW-PM-PD-ECS

MEMORANDUM FOR RECORD

To: John Leier, Environmental Resource Specialist
From: Benjamin Tice, Biologist
Subject: Lyons Ferry Park New Lease to Washington State Parks and Recreation,
Lower Monumental Lock and Dam Project. PM-EC-2014-0063
Date: 25 August 2014

Summary

The U.S. Army Corps of Engineers, Walla Walla District (Corps) proposes to issue a new lease to Washington State Parks and Recreation (WSPR) for Lyons Ferry Park. The lease would be for a 25-year term for public park and recreational purposes. The proposed lease area consists of Federal lands and improvements at Lyon's Ferry Park, located at the confluence of the Palouse and Snake Rivers, in Franklin County, WA.

Endangered Species Act (ESA) listed species within Franklin County include: Snake River sockeye, spring/summer and fall Chinook and steelhead, bull trout, gray wolf, pygmy rabbit, Ute ladies' -tresses, Spalding's catchfly, and White Bluffs bladderpod. Yellow-billed cuckoo is also now proposed as threatened. Critical habitat has been designated for all of the fish species. Critical habitat has been designated for White Bluffs bladderpod and proposed for yellow-billed cuckoo, but there is none near the project area. Greater sage-grouse, northern wormwood, and Washington ground squirrel are listed as candidate species under the ESA.

The Corps has determined there will be no effect to species or critical habitat listed under the ESA. Washington ground squirrel could be affected, should they ever be found to occupy the park. There will be no adverse effects to Essential Fish Habitat, the Fish and Wildlife Coordination Act does not apply to this project, there will be no take under the Migratory Bird Treaty Act, and no disturbance or take under the Bald and Golden Eagle Protection Act.

The following stipulations will help avoid impacts:

1. Any in-water work will be restricted to a work window of July 15 to September 15.
2. Only untreated or ACZA-treated wood will be used and treatment will comply with the Western Wood Preservers Institute Best Management Practices.
3. When decking on the dock is replaced, it will be with open grating meeting Americans with Disabilities Act and National Marine Service criteria.
4. Any removal of trees or shrubs during the migratory bird nesting season of March 15 to August 15 will be monitored for active bird nests by a biologist with training in bird breeding behavior. Any active nests will be avoided until the nest is no longer active.

5. If ground squirrels are ever proposed for listing under the ESA, a survey within the park will be conducted. If ground squirrels are found within the park, activities in the park will be reviewed for potential effects to ground squirrels. ESA consultation would be conducted if warranted.

This project will require further review in order to re-analyze the potential adverse effects on federal resource species or habitats if any significant changes in the action are proposed or occur after the date of this document.

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1. Introduction

The U.S. Army Corps of Engineers, Walla Walla District (Corps) proposes to issue a new lease to Washington State Parks and Recreation (WSPR) for Lyons Ferry Park. The lease would be for a 25-year term for public park and recreational purposes. The proposed lease area consists of Federal lands and improvements at Lyon's Ferry Park, located at the confluence of the Palouse and Snake Rivers, in Franklin County, WA. The purpose of the requested activity is to re-open Lyon's Ferry Park as a Washington State Park, so that it remains open and available for public use.

Lease area improvements include the day use area, campground area, administrative area, swim beach, boat launch, restrooms, bath house, residences, shop, equipment storage yard, pump house, wells, roadways, trails, above-and-below ground utility infrastructure, appurtenant structures, and limited water surface areas necessary for operation and maintenance of the above.

2. Project Description

2.1. Project Area and Baseline Conditions

The project is located in Franklin County, Washington at the mouth of the Palouse River (Figure 1), directly on the borders with Whitman, Columbia and Walla Walla counties. Section 19 of Township 13 North, Range 37 East. Approximately 162 acres will be leased to the WSPR.



Figure 1. General location of the Lyons Ferry Park.

Table 1 lists the actions WSPR would take within the first one to five years of the lease period. The focus of initial work would be on the repair and renovation of administration and day use area facilities and grounds and would include the following activities. Figure 3 shows the locations where the primary repair/renovation activities would occur within the Park.

Table 1. Development Plan for Lyons Ferry Park.

PROJECT ACTIVITY	PROJECT DESCRIPTION	WORK YEAR
Renovate Water Pumping System	Remove all existing plumbing, electrical and mechanical inside the current building. Install a new variable speed water pumping system with associated controls, pressure tank, chlorination system, plumbing and access doors. Upgrade work would include the replacement of 160 feet of existing 4-inch domestic water line with 10-inch high density polyethylene pipe to provide contact time.	1
Renovate Day Use Bathhouse	Perform selective demolition necessary to renovate and upgrade the bathhouse with modern fixtures and provide ADA access. Proposed major work items include:	1
a.	Remove & replace roof.	
b.	Remove & replace exterior doors/hardware.	
c.	Demolition of existing toilets, lavatory, partitions, electrical and other restroom accessories.	
d.	new toilets, urinals and lavatories.	
e.	new partitions.	
f.	new mirrors, toilet paper holders, grab bars and other accessories.	
g.	new hand dryers, receptacles and lighting.	
h.	upgrade/replace pipe chase mechanical, plumbing and electrical as necessary.	
i.	renovate shower stalls and fixtures (Ph. 1), one each side.	

j.	Demolition of shower partitions.	
k.	new shower partitions.	
l.	repair building ceilings.	
m.	Repaint interior and exterior of building.	
n.	Selective demolition and replacement of exterior concrete walks for ADA access and elimination of trip hazards.	
Renovate Boat Launch Parking Lot	Remove/clean vegetation from parking lot, seal cracks, hot mix asphalt (HMA) overlay and restripe parking lot.	1
Boat Launch Float Repairs	Repair damaged float boards, railing, flotation and pier/float.	1
Day Use Parking Lot Repairs	Excavate/ remove root heaves in various areas of the lot and repave repairs with HMA, additional HMA paving based on funding, repaint striping and define ADA stalls.	1
Landscaping Management	Perform tree and shrub pruning and selective removal if necessary to provide safe environment for visitors.	1
Park Signage	Erection and placement of signs, pay stations and bulletin boards for operation of the park.	1
Irrigation Maintenance	Upon determination after system testing, perform repairs to lines, valves, couplers and heads to provide a fully functioning system.	1
Demolish Exterior Lighting	Work comprises removal of luminaries, poles and bases throughout the day use area.	1
Administration Area Repairs	This works covers improvements to the exterior and interior elements of the administration area buildings for support of park operation and park staff.	1-5
Boat Launch Ramp Maintenance	Perform work to make ramp free of rocks and sediment, repair/fill-in any drops and/or holes along ramp edges/end using riprap/spalls	2
Replace Boat Launch Ramp Floats	Replace existing floats with new floats which meet ESA light passage	3-5

5. Remove existing area lighting standards (concrete base removal, per light stanchion): ~18" diameter x 48"D.
6. Plant replacement trees (assume 5-gal. pot): ~18" diameter hole x 24" D; locations/numbers yet to be determined.
7. Removal of accumulated sediments and repair of scour holes along boat launch ramp.
8. Repairs to the existing irrigation system (lines, valves, heads, couplers).

Lawn and weeds will be impacted through construction and O&M activities, including trenching for utilities. Some selective pruning and limited tree removal will be required for construction access and for public safety, per the recommendations of a professional arborist. Lawn areas impacted through construction will be restored. Noxious weeds will be controlled by licensed applicators in accordance with lease provisions and label instructions.

Typical equipment needs for this type of work include backhoe, trackhoe including rock breaker and compactor attachments, dump truck, skid steer, power broom, watertruck, paving machine, rollers, boom/bucket truck, debris grinder (vegetative material) and various small hand held equipment.

Phase 1 staging and storage area will be located at existing developed parking lots and roads, except for water pumping system renovation. In addition to the pumphouse access road, approximately 35' to 40' existing ground adjacent to the pumphouse will be utilized for staging this work. Construction of the waterline replacement, will occupy 15' to 20' along the trench line for excavation placement and line installation.

There likely will be fill material brought in from another location for use at the site. Any imported fill would come from approved commercial sources. Excess excavation and demolition materials would be hauled off-site to an approved disposal area.

No impact to wetlands are anticipated. Initial repairs to the existing boat launch facility (replacing damaged float boards, railing, floatation, and pier/float cover plate) will require work within the ordinary high water mark of the Palouse River. A crane or similar piece of equipment operating outside of the wetted perimeter of the river will be used to remove the floats to the adjacent parking lot for repairs. Only untreated or ACZA-treated wood will be used and treatment will comply with the Western Wood Preservers Institute BMPs. The decking will be replaced with open grating meeting ADA and NMFS' criteria.

3. Federal Natural Resources Laws

3.1. Endangered Species Act of 1973

On August 21, 2014 the Corps reviewed the current list of threatened and endangered species that pertain to the area affected by this action under jurisdiction of the National Marine Fisheries Service (NMFS), as well as the list for species under the jurisdiction of the U.S. Fish and Wildlife Service (USFWS) (FWS Ref# 01EWF00-2014-SLI-0648)

for Franklin County, Washington. The compiled species list is shown in Table 2. Critical habitat designations are shown in Table 3.

Table 2. Species that may occur in Franklin County, Washington.

Species	Scientific Name	Status
NMFS		
Snake River Sockeye	<i>Oncorhynchus nerka</i>	Endangered
Snake River Spring/Summer-Run Chinook	<i>Oncorhynchus tshawytscha</i>	Threatened
Snake River Fall-Run Chinook	<i>Oncorhynchus tshawytscha</i>	Threatened
Snake River Basin Steelhead	<i>Oncorhynchus mykiss</i>	Threatened
USFWS		
Bull Trout	<i>Salvelinus confluentus</i>	Threatened
Gray Wolf	<i>Canis lupus</i>	Delisted
Pygmy Rabbit	<i>Brachylagus idahoensis</i>	Endangered
Ute Ladies'-Tresses	<i>Spiranthes diluvialis</i>	Threatened
Spalding's Catchfly	<i>Silene spaldingii</i>	Threatened
White Bluffs Bladderpod	<i>Physaria douglasii ssp. tuplashensis</i>	Threatened
Yellow-billed Cuckoo	<i>Coccyzus americanus</i>	Proposed Threatened
Greater Sage-Grouse	<i>Centrocercus urophasianus</i>	Candidate
Northern Wormwood	<i>Artemisia campestris var. wormskioldii</i>	Candidate
Washington Ground Squirrel	<i>Urocitellus washingtoni</i>	Candidate

Table 3. Designated critical habitat in Franklin County, Washington.

NMFS
Snake River Sockeye Salmon
Snake River Spring/Summer-Run Chinook Salmon
Snake River Fall-Run Chinook Salmon
Snake River Basin Steelhead
USFWS
Bull Trout (None in Action Area)

3.1.1. Anadromous Species

All of the species listed under the jurisdiction of NMFS use the Snake River in Franklin County as a migration corridor to reach upstream spawning grounds throughout the year, depending on the species. The adjacent area of the Snake River may also be used for some rearing of juvenile anadromous salmonids year-round. Critical habitat for each of the ESA listed salmon and steelhead has been designated.

Some anadromous salmonids could venture into the Palouse River for short periods, but they are more likely to pass by the river and Lyons Ferry Park. In-water work around the boat ramp and dock is limited to July 15 to September 15. Water temperatures during this period will preclude salmonids from occupying the area. On August 2, 2014 at 3:40 p.m. the water temperature at the boat ramp was 78.2° F. Air temperature at the time was 101.5°F. These temperatures are normal for this time of year.

Most of the maintenance and park improvement work will not affect the river in any way. A minor amount of work is proposed to upgrade the boat dock and repair and maintain

the boat ramp. This in-water work will be performed when no salmonids would be using the area. In a future year, the dock decking will be replaced with grated material to meet NMFS light penetration criteria. ***Because of the in-water work timing restriction, there will be no effect on any of the anadromous fish species. There will also be no effect on critical habitat.***

3.1.2. Bull Trout

Bull trout were listed as threatened in 1998. A revised critical habitat designation became effective in 2010. Critical habitat does not include the Palouse River. Bull trout could venture into the Palouse River during the colder months, but would not be found there during summer.

Bull trout exhibit four distinct life history patterns: anadromous, adfluvial, fluvial, and resident. Anadromous populations spend the early portion of their life in streams, grow to adulthood in the ocean, and eventually return to the tributaries in which they were born to spawn. Adfluvial populations spend between one and four years growing in their natal stream and then migrate to lakes, then return to their natal streams to spawn. Likewise, fluvial populations migrate to larger streams or rivers after a few years in their natal stream. Resident bull trout spend their entire lives in or near the stream where they hatched.

Fluvial bull trout are most likely to occupy the Snake River during winter months and in very low numbers (Anglin et al. 2010; Faler et al. 2008). Bull trout from the Tucannon River are known to overwinter in the Snake River within a few miles (and possibly closer) to the Lyons Ferry Park. However, none would be present in the Palouse River during the in-water work period as the water temperature would be too high for their survival. On August 2, 2014 at 3:40 p.m. the water temperature at the boat ramp was 78.2° F. Air temperature at the time was 101.5°F. These temperatures are normal for this time of year.

The Snake River is used mainly for foraging, migration, and overwintering. Most of the maintenance and park improvement work will not affect the river in any way. A minor amount of work is proposed to upgrade the boat dock and repair and maintain the boat ramp. This in-water work will be performed when no salmonids would be using the area. ***There will be no effect on bull trout or their designated critical habitat.***

3.1.3. Gray Wolf

On May 5, 2011, the USFWS announced they were proposing to delist the Northern Rocky Mountain (NRM) Distinct Population Segment (DPS) of the gray wolf, in accordance with the April 15, 2011 legislation, reinstating the Service's 2009 decision to delist biologically recovered gray wolf populations in the NRM DPS. In Washington, gray wolves that occur within the boundaries of this DPS (which includes Franklin County, WA, east of highway 395) are protected by state law, but not the ESA.

Gray wolves were once common in Washington. Records exist of wolves near the Walla Walla Valley and in southern Grant County. Currently, wolf packs and individuals have been confirmed in the Selkirk Mountains of northeastern Washington and in the northern Cascade Mountains (WDFW 2009). Wolves have also recently been reported to be seen in the Blue Mountains of southeast Washington.

The area surrounding Lyons Ferry Park is part of the delisted gray wolf DPS. Gray wolves are highly unlikely to wander into the area surrounding the park. ***There will be no effect on gray wolves.***

3.1.4. Pygmy Rabbit

Columbia Basin pygmy rabbits were listed as endangered under an emergency rule in 2001. Pygmy rabbits occur in the semiarid shrub steppe biome of the Columbia Basin, Great Basin, and adjacent intermountain regions of the western United States. Within this broad biome, pygmy rabbits are typically found in habitat types that include tall, dense stands of sagebrush, upon which they are highly dependent on for food and shelter throughout the year. The pygmy rabbit is one of only two rabbit species in North America that digs its own burrows and therefore is most often found in areas that also include relatively deep, loose soils that allow burrowing (USFWS 2007).

The pygmy rabbit's historical range includes portions of California, Oregon, Nevada, Idaho, Montana, Wyoming, Utah, and Washington. Currently in Washington, pygmy rabbits are only known to survive in five isolated fragments of suitable habitat in Douglas County. Pygmy rabbits are known or believed to have once occurred in adjacent Benton County; however, there are no known pygmy rabbit populations near the park.

Pygmy rabbits do not occur near Lyons Ferry Park. There has been one possible sighting about 15 miles north of the park, but most of the occupied habitat is over 80 miles away in Douglass County. ***There will be no effect on pygmy rabbits from the proposed actions.***

3.1.5. Ute Ladies'-tresses

Ute ladies'-tresses was listed as threatened in 1992. Critical habitat has not been designated. In 2004, USFWS prepared a comprehensive status review of this species. A final draft of the status review was completed in October 2005. USFWS determined that a petition to remove Ute ladies'-tresses from Federal protection under the ESA provides substantial biological information to indicate that removal may be warranted. However the USFWS has not acted on a delisting action.

Ute ladies'-tresses was first discovered in Washington at Wannacut Lake in Okanogan County in 1997 (Bjork 1997, as referenced in Fertig et al. 2005). In 2000, the species was also found along a reservoir bordering the Columbia River near Chelan in Chelan County (Chief Joseph watershed) within the Columbia Plateau ecoregion (Fertig et al. 2005). There are at least five known populations of this species within Washington. The

known sites are in Okanogan and Chelan counties and there is possibly another population in Klickitat County¹. There are no known local populations of Ute ladies'-tresses in or near Lyons Ferry Park.

Since 1992, at least 26 new populations of Ute ladies'-tresses have been documented from perennial stream, river, lakeshore, and spring sites directly associated with human-developed dams, levees, reservoirs, irrigation ditches, reclaimed gravel quarries, roadside barrow pits, and irrigated meadows. In all, 33 of 61 documented populations (54%) occur in sites in which natural hydrology has been influenced by dams, reservoirs, or supplemental irrigation. Even sites with undisturbed hydrology have been influenced by human agricultural practices, urban development, or road and dam construction (Fertig et al. 2005).

No Ute ladies'-tresses were found in any of the Habitat Management Units on Corps lands between Lyon's Ferry (RM 59) upstream to Asotin Slough (RM 147) (Bailey 2008a) and downstream to the Columbia River (RM 0) (Bailey 2008b) during a 2008 vascular plant survey on Corps lands in the upper Snake River.

Based on the biological and necessary habitat requirement and the geographic distribution, the proposed action will have no effect on any individual plants or populations of this species.

3.1.6. Spalding's Catchfly

Spalding's catchfly was listed as threatened in 2001. Critical habitat has not been designated. This plant is endemic to the Palouse region of south-east Washington and adjacent Oregon and Idaho, and is disjunct in northwestern Montana and British Columbia, Canada. This species is found predominantly in the Pacific Northwest bunchgrass grasslands and sagebrush-steppe, and occasionally in open-canopy pine stands. Occupied habitat includes five physiographic regions: 1) the Palouse Grasslands in west-central Idaho and southeastern Washington; 2) the Channeled Scablands in east-central Washington; 3) the Blue Mountain Basins in northeastern Oregon; 4) the Canyon Grasslands along major river systems in Idaho, Oregon, and Washington; and 5) the Intermontane Valleys of northwestern Montana and British Columbia, Canada.

There are no known local populations of Spalding's catchfly in or near Lyons Ferry Park. This plant was not found in any of the Habitat Management Units on Corps lands between Lyon's Ferry (RM 59) upstream to Asotin Slough (RM 147) (Bailey 2008a) and downstream to the Columbia River (Bailey 2008b) during a 2008 vascular plant survey on Corps lands along the Snake River. The closest known population is over 30 miles away from Lyons Ferry Park. ***The proposed action will have no effect on Spalding's catchfly.***

¹ <http://www.wanativeorchids.com/Spiranthes/index.html>

3.1.7. White Bluffs Bladderpod

White Bluffs bladderpod was initially listed as threatened on April 23, 2013. Critical habitat was designated at the same time. This plant was redesignated as threatened on December 20, 2013. Critical habitat was also redesignated. Critical habitat is designated in Franklin County, WA, but only in a thin band along the Columbia River.

White Bluffs bladderpod is a low-growing, herbaceous, perennial plant with a sturdy tap root and a dense rosette of broad gray-green pubescent leaves. The species produces showy yellow flowers on relatively short stems in May, June and July. The only known population is found primarily on near-vertical exposures of cemented, highly alkaline, calcium carbonate paleosol (a “caliche” soil). This hard calcium carbonate paleosol caps several hundred feet of alkaline, easily eroded, lacustrine sediments of the Ringold Formation.

This plant was recognized as a species in 1996. Approximately 85 percent of the population occurs on the Hanford National Monument, which is jointly managed by the USFWS and the Department of Energy. The rest of the species’ distribution occurs on adjacent private land.

There are no populations of this plant near Lyons Ferry Park. The closest known population is 50 miles away from the park. *Leasing, maintaining, and upgrading the park will have no effect on White Bluffs bladderpod or their critical habitat.*

3.1.8. Yellow-billed Cuckoo

Yellow-billed cuckoo was proposed for listing as threatened in October 2013. Critical habitat was proposed in 2014, but Washington State was not included in the proposal. Some of these birds were once known to have occurred in Washington, but were rare east of the Cascade Mountains. The last confirmed breeding records were in the 1930s in Washington. The bird may now be extirpated from Washington.

There are no known populations or individuals of yellow-billed cuckoo in the project area. The closest possible sighting was 50 miles away in Moscow, Idaho. In Washington, a dead cuckoo was found in Moses Lake, 60 miles from Lyons Ferry Park. *This species is not likely to occur near the project area due to the lack of riparian forest. The project will have no effect on yellow-billed cuckoo.*

3.1.9. Greater Sage-Grouse

Greater sage-grouse is a candidate species under the ESA. The greater sage-grouse is a large, ground-dwelling bird. Measuring as much as 30 inches in length and two feet tall, it weighs from two to seven pounds. It has a long, pointed tail with legs feathered to the base of the toes and fleshy yellow combs over the eyes. Males are larger than females and sport a white ruff around their necks in addition to the typical mottled brown, black

and white plumage. The breeding habitat for the greater sage-grouse is sagebrush in the western United States. They nest on the ground under sagebrush or grass patches.

No greater sage-grouse are found close to Lyons Ferry Park. The closest known occurrences are over 60 miles away. *The proposed action will have no effect on greater sage-grouse.*

3.1.10. Northern Wormwood

Northern wormwood is listed as a candidate species. It is a perennial plant in the aster family. This variety is also commonly known as Pacific sagebrush.

Currently, northern wormwood is known from only two sites along the Columbia River, separated by approximately 200 miles in Klickitat and Grant Counties, Washington. These two populations were discovered in 1983 (Carlson 1997). Both populations are found just downstream of dams where current habitat most resembles historic habitat. There may be little or no suitable habitat between the two known populations because much of the original river bank has been inundated by the construction of dams and the use of riprap along the river banks; however, remnant populations may remain (Carlson 1997).

There are no known populations or individuals of northern wormwood close to Lyons Ferry Park. The closest known populations are in Grant and Klickitat counties, over 80 miles from the park. *The project will have no effect on northern wormwood.*

3.1.11. Washington Ground Squirrel

Washington ground squirrel was designated as a candidate species under the ESA in 2006. This small mammal occupies areas with a greater grass and forb cover than adjacent surrounding areas. They spend much of their time underground. Adults emerge from hibernation between January and early March. Their active time is spent in reproduction and fattening for their six-month or longer dormancy. Adults return to their burrows by late May to early June and juveniles return about a month later.

A Washington ground squirrel was observed about 7 miles from Lyons Ferry Park near Starbuck. The park lies within an area of suitable habitat. If Washington ground squirrels are ever found in the park, there could be some effect on them due to the high human presence in the area. Should Washington ground squirrels become proposed for listing under the ESA, the park will need to be surveyed for their presence and park activities reviewed to determine potential effects to this species. *The proposed actions may affect Washington ground squirrels if they are ever present.*

3.2. Magnuson-Stevens Fishery Conservation and Management Act

The consultation requirement of section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) directs Federal agencies to consult with

NMFS on all actions, or proposed actions that may adversely affect Essential Fish Habitat (EFH). Adverse effects include the direct or indirect physical, chemical, or biological alterations of the waters or substrate and loss of, or injury to, benthic organisms, prey species and their habitat, and other ecosystem components, if such modifications reduce the quality or quantity of EFH. Adverse effects to EFH may result from actions occurring within EFH or outside EFH, and may include site-specific or EFH-wide impacts, including individual, cumulative, or synergistic consequences of actions (50 CFR 600.810). Section 305(b) also requires NMFS to recommend measures that may be taken by the action agency to conserve EFH.

The Pacific Fishery Management Council (PFMC) designated EFH for Chinook salmon, Coho salmon, and Puget Sound pink salmon (PFMC 1999). The Lower Snake River Hydrologic Unit Code (HUC #17060110) has been identified as current Essential Fish Habitat (EFH) for Chinook and currently accessible, but unutilized habitat for Coho salmon. The proposed project will not have adverse effects to the river or have adverse effects to the watershed. ***There will be no modification or adverse effects to EFH from the proposed actions.***

3.3. Fish and Wildlife Coordination Act

The Fish and Wildlife Coordination Act (FWCA) authorizes the USFWS to evaluate the impacts to fish and wildlife species from proposed Federal water resource development projects that could result in the control or modification of a natural stream or body of water that might have effects on the fish and wildlife resources that depend on that body of water or its associated habitats. ***The proposed action will have no effect on the Snake or Palouse rivers. This action does not involve activities subject to the FWCA.***

3.4. Migratory Bird Treaty Act

The Migratory Bird Treaty Act (MBTA) (16 U.S.C. §§ 703-712, as amended) prohibits the taking of and commerce in migratory birds (live or dead), any parts of migratory birds, their feathers, eggs, or nests. Take is defined in the MBTA to include by any means or in any manner, any attempt at hunting, pursuing, wounding, killing, possessing or transporting any migratory bird, nest, egg, or part thereof.

A wide variety of species listed under the MBTA² occur within the action area. The proposed operation, maintenance and upgrades in the park could affect trees or other suitable migratory bird nesting habitat, which could contain migratory bird nests. Any removal of trees or shrubs during the migratory bird nesting season of March 15 to August 15 will be monitored for active bird nests by a biologist with training in bird breeding behavior. Any active nests will be avoided until the nest is no longer active. ***Therefore, the proposed action will not result in taking migratory birds, their nests, eggs, or parts thereof.***

² <http://www.fws.gov/migratorybirds/RegulationsPolicies/mbta/mbtandx.html>

3.5. Bald and Golden Eagle Protection Act

The Bald and Golden Eagle Protection Act (BGEPA) prohibits the taking or possession of and commerce in bald and golden eagles, with limited exceptions, primarily for Native American Tribes. Take under the BGEPA includes both direct taking of individuals and take due to disturbance. Disturbance is further defined on 50 CFR 22.3.

Some bald eagles are known to nest within Corps managed lands in the Walla Walla District. While all nest sites have not been documented in the District, locations of some are known. There have been unconfirmed reports of up to 2 nests near Illia, just downstream of Lower Granite Dam. A successful nest was also documented at Ridpath Habitat Management Unit (approx. RM 76 on the Snake River) in 2010, approximately 6 river miles upstream of Little Goose Dam and about 17 miles upstream from Lyons Ferry Park. There are no bald eagle nests near the proposed lease area.

Throughout most of the western United States golden eagles are mostly year-long residents (Polite and Pratt 1999), breeding from late January through August with peak activity in March through July (Polite and Pratt 1999). They may also move down-slope for winter or upslope after the breeding season (Polite and Pratt 1999; Technology Associates 2009). There are rocky cliffs near the park where golden eagles could perch, but this habitat will not be affected by the proposed work. *No disturbance or take of either bald or golden eagles will occur due to the proposed actions.*

4. Environmental Considerations

The lessee will adhere to the following environmental stipulations as part of the action, as proposed and described above, in order to ensure that impacts and effects resulting from the action are minimized or eliminated. The environmental stipulations, identified below, are an integral part of the proposed action, and will not stand alone. These stipulations must be used in conjunction with the proposed action to ensure the Corps can defensibly make a determination that the proposed action will not affect species or habitats protected by the natural resources laws addressed in this document. Recommendations are put forth to further minimize impacts to fish and wildlife species, but implementation of the recommendations is not required to ensure that the Corps can defensibly make a determination of no effect.

4.1. Stipulations

The following stipulations will help avoid impacts:

1. Any in-water work will be restricted to a work window of July 15 to September 15.
2. Only untreated or ACZA-treated wood will be used and treatment will comply with the Western Wood Preservers Institute BMPs.
3. When decking on the dock is replaced, it will be with open grating meeting ADA and NMFS' criteria.

4. Any removal of trees or shrubs during the migratory bird nesting season of March 15 to August 15 will be monitored for active bird nests by a biologist with training in bird breeding behavior. Any active nests will be avoided until the nest is no longer active.
5. If ground squirrels are ever proposed for listing under the ESA, a survey within the park will be conducted. If ground squirrels are found within the park, activities in the park will be reviewed for potential effects to ground squirrels. ESA consultation would be conducted if warranted.

5. Determination

The Corps has determined that this action, as proposed, is a **No Effect** for all listed species and their designated critical habitats. The actions “**may affect**” Washington ground squirrel if they ever become present in the park. However, since Washington ground squirrels are only designated as a candidate species, they are afforded no protection under the ESA. If ground squirrels are ever proposed for listing under the ESA, a survey within the park will be conducted. If ground squirrels are found within the park, activities in the park will be reviewed for potential effects to ground squirrels. Table 4 summarizes these findings.

Table 4. Determinations for the area potentially affected by this action.

ESA		
Common Name	Species Determination	Critical Habitat Determination
NMFS		
Snake River Sockeye	No Effect	No Effect
Snake River Spring/Summer-Run Salmon	No Effect	No Effect
Snake River Fall-Run Salmon	No Effect	No Effect
Snake River Basin Steelhead	No Effect	No Effect
USFWS		
Bull Trout	No Effect	No Effect
Gray Wolf	No Effect	None Designated
Pygmy Rabbit	No Effect	None Designated
Ute Ladies’ -Tresses	No Effect	None Designated
Spalding’s Catchfly	No Effect	None Designated
White Bluffs Bladderpod	No Effect	No Effect
Yellow-billed Cuckoo	No Effect	None in Action Area
Greater Sage-Grouse	No Effect	None Designated
Northern Wormwood	No Effect	None Designated
Washington Ground Squirrel	May Affect (if ever present)	None Designated
MSA		
No Adverse Effects		
FWCA		
Not Applicable		
MBTA		
No Take		
BGEPA		
No Disturbance or Take		

After a review of the species lists and critical habitat lists, a review of the biological requirements of the identified species, and a review of the project description, timing, and nature of the action, the Corps has determined that species and critical habitats will be spatially or temporally separated from this action. The proposed action is not likely to produce potential stressors which would affect the environment because of the distance of the proposed action from the Snake River, the absence of species or specific life history stages of species from the vicinity of the proposed action, and habitat conditions at the site.

This project will require further review in order to re-analyze the potential adverse effects on federal resource species or habitats if any significant changes in the action are proposed or occur after the date of this document.

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