DRAFT FINDING OF NO SIGNIFICANT IMPACT

Benton Conservation District

Yakima River Delta Refuge Project Amon Creek Wasteway Relocation

McNary Lock and Dam Project, Benton County, Washington

January 2025

The U.S Army Corps of Engineers, Walla Walla District (USACE), proposes to issue the Benton-Conservation District a 5-year construction license to implement their proposed Amon Creek Relocation project. The proposed action incorporates multiple components of work intended to enhance the physical environment (to include aquatic and terrestrial environments) through the creation of new and the improvement of existing thermal refugia within the lower Yakima River. The proposed action would take place partially within the Yakima River Delta Habitat Management Unit (HMU), starting at the mouth of Amon Creek, approximately 2.5 miles upstream of the confluence of the Yakima and Columbia rivers. These lands are owned and managed by the USACE, Walla Walla District, for the purpose of wildlife conservation. Other components of work would occur outside of USACE managed lands, to include the shoreline and mainstem Yakima River. However, it is important to acknowledge that these activities are not authorized by USACE's issuance of a construction license but are considered for analysis because they are interconnected components of the overall proposed project.

The purpose of the proposed action is to enhance the migration and spawning success of salmonids in the Yakima River by creating additional cold-water habitat and thereby providing thermal refuge from increasing annual water temperatures. This is achieved through the relocation of Amon Creek and the other proposed components of work designed to enhance the existing aquatic habitat and improve the existing thermal conditions in the lower Yakima River. The action is needed to address barriers to salmonid migration and spawning success in the Yakima River, which are exacerbated by elevated water temperatures and limited habitat. The relocation of Amon Creek is essential to provide cooler water, reduce physiological stress, and improve reproductive outcomes for salmonid populations.

The Draft EA, incorporated herein by reference, evaluated two alternatives that would be carried forwards for consideration and environmental analysis. Those alternatives would include the No Action (Alternative 1) and the Proposed Action (Amon Creek Relocation) Alternatives. The No Action Alternative sets the baseline from which other alternatives are compared. The Proposed Action Alternative would represent the USACE's decision to issue the Benton-Conservation District a 5-year construction license required to complete their proposed action on USACE managed lands.

Alternative 1: No Action

Under this alternative, the USACE would not issue the Benton Conservation District a license to implement their proposed action. The re-channelization of Amon Creek and associated action components would not take place. As a result, there would be no change in the existing baseline conditions within the Yakima Delta HMU.

Alternative 2: Amon Creek Relocation

Under this alternative, USACE would issue the Benton Conservation District a license to implement their proposed Yakima Delta Coldwater Refuge Project on USACE managed lands. An overview of the major components for the proposed action include:

- The removal of existing non-native vegetation and the planting of native riparian vegetation.
- The excavation of the new Amon Creek Channel, to include additional length and natural sinuosity, and the filling of the old Amon Creek channel.
- Re-grading/ sloping of the shoreline where the new Amon Creek channel enters the Yakima River.
- The placement of coarse rock to create a deflector structure within the mainstem Yakima River and the installation of apex log jams.
- The creation of wetland benches to enhance the existing habitat and mitigate for impacts to existing wetlands channel relocation.

For more detailed breakdown of the components of work for the Alternative 2: Amon Creek Relocation, refer to section 2.4 of the Draft EA.

For the two alternatives, the potential environmental impacts to various resources effects were evaluated, as appropriate. A summary assessment of the potential effects of the proposed action alternative are listed in Table 1:

Table 1. Summary of Impacts of the Proposed Action Alternative.

Resource	Less than significant effects	Insignificant effects as a result of mitigation	Resource unaffected by action
Geology and Soils	X	-	-
Wetlands	X	-	-
Noise	X	-	-
Hydrology	X	-	-
Water Quality	X	-	-
Terrestrial Resources	X	-	-

Fish and Aquatic Resources		X	-
Treaty and Cultural Resources	X		
Recreation	X	-	-
Aesthetic/Visual Resources	X		
Socioeconomics and Environmental Justice	X		
Climate Change	X		
Cumulative Impacts		X	

The analysis conducted within the EA determined the proposed action would result in less than significant effects to geology and soils, wetlands, noise, hydrology, water quality, terrestrial resources, fish and aquatic resources, treaty and cultural resources, recreation, aesthetic/visual resources, socioeconomic/environmental justice, climate change. The alternative would have insignificant effects as a result of mitigation to fish and aquatic resources and cumulative impacts. The proposed action alternative would result in unavoidable adverse impacts to wetland resources within the action area. The proposed action is anticipated to result in permanent impacts to 0.072 acres and temporary impact to approximately 0.055 acres (~0.13 acres in total). However, the action incorporates measures intended to mitigate for these un-avoidable adverse impacts, through the creation of wetland benches and riparian plantings (2:1) on either side of the new Amon Creek channel. To maximize the replacement of lost functions, compensatory wetlands would be in a similar hydrogeomorphic position as the effected wetland. Overall, total wetland acreage is expected to increase by 0.67 acres, compared to the 0.13 acres impacted. Refer to Section 3.2 of the Draft EA for more detailed information.

Best management practices (BMPs), as detailed in the EA, would be implemented, if appropriate, to minimize impacts. Those BMPs are outlined within Section 2.5 of the Draft EA, and summarized in the Table 2 below:

Table 2. BMPs Included in the Proposed Action.

BMP	Description
Turbidity and Bubble Curtains (In-Water)	A turbidity curtain is a floating barrier designed to contain sediment and other pollutants in water during construction or dredging activities, preventing the spread of suspended particles to nearby areas, and minimizing water quality impacts. A bubble curtain is a series of bubbles released underwater to form a barrier that reduces underwater noise, particularly during activities like pile driving, to protect marine life from acoustic impacts.
Wood Chip Filter Berms	A wood chip filter berm is a barrier made of wood chips placed at construction sites to filter and trap sediment, preventing its transport into nearby surface waters during runoff or stormwater events, thereby protecting water quality. Wood chips would be generated from the removal of vegetation from the action area and re-utilized for this purpose.

Plugs	Plugs would be established at each end for water isolation. This would prevent turbidity at the mouth of the existing Amon Creek channel during construction.
Fish Salvage Activities	A contractor would be hired to ensure that fish captured through the introduction of flow into the new channel are returned immediately to the Yakima River, outside the work area. The contractor would complete work in accordance with U.S Fish and Wildlife Service (2012) protocol.

Endangered Species Act

The Endangered Species Act (ESA) established a national program for the conservation of threatened and endangered fish, wildlife, and plants and the habitat upon which they depend. Section 7(a)(2) of the ESA requires federal agencies to consult with the USFWS and the NMFS, as appropriate, to ensure that their actions are not likely to jeopardize the continued existence of endangered or threatened species or adversely modify or destroy their critical habitats. Section 7(c) of the ESA and the federal regulations on endangered species coordination (50 CFR §402.12) require that federal agencies prepare biological assessments of the potential effects of major actions on listed species and critical habitat. The applicant produced a *Biological Evaluation (BE) for Informal ESA Consultation* (Corps Reference number: NWS-2022-885) for the proposed action (Appendix A). The BE analyzed the anticipated impacts to USFWS ESA listed species within the area of potential affect (APE). The BE determined there would be No Effect to Gray Wolf (*Canis lupus*) and Yellow-billed Cuckoo (*Coccyzus americanus*) as these species would not be present within the APE. However, the APE is considered designated critical habitat for bull trout (*Salvelinus confluentus*). It was determined that this species would not be within the APE nor would the proposed action result in an adverse modification to bull trout critical habitat. Therefore, the proposed action would result in a No Effect determination for bull trout. For more details, refer to the BE (Appendix A). USACE pulled an updated Information for Planning and Consultation report for the proposed action (Appendix A) (on 06 September 2024) and confirmed that there were no changes to the potential presence of ESA-listed species. The BE was reviewed by USACE biologists, and the information contained therein was determined to be accurate and consistent with existing knowledge of these species. USACE intends to accept the BE and the determinations contained therein. Therefore, there is no need for ESA consultation for USFWS species.

Furthermore, the Benton Conservation District intends to use the Limit 8 programmatic agreement to cover the ESA compliance for NMFS species within the APE. The Limit 8 programmatic agreement refers to a framework developed under the Endangered Species Act (ESA) to streamline consultations and compliance for specific activities that may affect listed species or their critical habitats. Specifically, the Limit 8 exemption is tied to Section 4(d) of the ESA, which allows the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS) to establish regulations limiting the application of the ESA's "take" prohibitions for threatened species when such limits contribute to their conservation. Aquatic ESA-listed species potentially present within the APE include mid-Columbia River steelhead (*Oncorhynchus mykiss*). The Limit 8 coverage for the action, consistent with the State of Washington's Habitat Restoration Program (HRP), would extend to habitat protection and restoration projects funded by the Salmon Recovery

Funding Board (SRFB) that meet the following criteria:

- Are part of a habitat portion of a salmon recovery plan approved by a Regional Salmon Recovery Organization and the State of Washington and published in the Federal Register.
- Are part of an adopted Implementation Schedule developed by a Regional Organization to implement the habitat portion of a Salmon Recovery Plan.
- Are funded in part or wholly with Washington State and/or Pacific Coastal Salmon Recovery Fund (PCSRF) monies managed by the SRFB and are consistent with the technical and procedural criteria outlined by SRFB.
- Are projects that fit within a specific list of eligible actions (In-stream Passage, In-Stream Diversion Screening, In-Stream Habitat, Riparian Habitat Restoration, Upland Habitat Restoration or Protection, or Estuarine and Marine Nearshore Habitat Restoration, Monitoring).

The proposed action is classified by the State's Regional Conservation Office as an "In-stream Habitat Project" and a "Riparian Habitat Restoration Project" and is funded in part by the Salmon Recovery Funding Board (SRFB). Therefore, the proposed action meets the criteria for the Limit 8 programmatic agreement and the action falls within the action types covered under restoration (as outlined by Appendix A of the Limit 8 Biological Opinion). The applicability of the Limit 8 Self-Certification process was evaluated and determined to be a valid by USACE biologists. USACE intends to accept the usage of the Limit 8 Programmatic Agreement for NMFS ESA-listed species. The Benton Conservation District submitted self-certification form on 05 October 2024 (Appendix A). Therefore, no individual ESA consultation for NMFS species is required as the action would be covered by the Limit 8 programmatic agreement.

Clean Water Act

Section 404 of the CWA established a program to regulate the discharge of dredged or fill material into WOTUS and Section 401 requires that any federal activity that may result in a discharge to WOTUS must first receive a water quality certification from the appropriate state certifying. The Washington Department of Ecology (Ecology) is the certifying authority for this action and has determined that the proposed action would not require 401 water quality certification (WQC) because the action meets the programmatic decision for Nationwide Permit (NWP) 27. This NWP 27 is specifically designed for the "Aquatic Habitat Restoration, Establishment, and enhancement Activities" and allows actions that restore or enhance aquatic habitats in a manner that does not significantly impact water quality or the surrounding ecosystem. Therefore, 401 Certification is not required. However, the placement of coarse rock (deflector structure) and apex log jams within the mainstem Yakima River would constitute the placement of fill material within WOTUS, which would trigger the CWA Section 404 compliance. The Benton Conservation District would be required to obtain a Section 404 permit from USACE Seattle District, Regulatory Branch before the implementation of the proposed action.

Section 402 of the CWA establishes the framework for the National Pollutant Discharge

Elimination System (NPDES). This section regulates the discharge of pollutants into WOTUS. The section is triggered if an action results in greater than one acre of ground disturbance and has the potential for stormwater runoff into WOTUS, or an action results in the discharge (point or non-point source) into WOTUS. The proposed action would result in greater than one acre of ground disturbance and the potential for stormwater discharge. The Benton Conservation District would be required to obtain a Construction General Permit (CGP) from Ecology. This would require the creation of a Storm Water Pollution Prevention Plan (SWPPP) to mitigate potential pollutant runoff, and the submission of a Notice of Intent (NOI) to Ecology to start the application process. Ecology would review the application, make modifications as needed, and issue the NPDES CGP prior to construction. Furthermore, the relocation of a natural channel, even if it does not introduce any new pollutants beyond what is already released by the existing channel, may require a NPDES permit from Ecology because the new channel may constitute a point source discharge of pollutants into WOTUS. The new channel could be considered a point source because it is a discernable, confined, and discrete conveyance. Therefore, the Benton Conservation District would be required to coordinate with Ecology to determine if an NPDES permit is required prior to implementation of the proposed action.

National Historic Preservation Act

Pursuant to section 106 of the National Historic Preservation Act of 1966, as amended, the U.S. Army Corps of Engineers determined that historic properties would not be adversely affected by the recommended plan. The consulting parties for this undertaking included the Washington State Historic Preservation Office (SHPO), the Confederated Tribes of the Umatilla Indian Reservation, Confederated Tribes and Bands of the Yakama nation, the Nez Perce Tribe, and the Confederated Tribes of the Colville Reservation, and the Wanapum Band. USACE archaeologists conducted a review of the proposed action and determined the action would result in No Adverse Effect to Historic Properties. Letter to consulting parties was sent on 22 August 2024, for a 30-day review period. A letter of concurrence was received from the Washington SHPO on 30 September 2024. No comments were received from the Tribal consulting parties during the Cultural Resources review comment period.

Rivers and Harbors Act

The Rivers and Harbors Act of 1899 was the first federal water pollution act in the U.S. It focuses on protecting navigation, protecting waters from pollution, and acted as a precursor to the CWA. Section 10 of the Rivers and Harbors Act (RHA) of 1899, regulates the construction of structures, excavation/deposition of materials, and other work affecting course, location, condition, or capacity of navigable WOTUS. The proposed action would trigger compliance for Section 10 of the RHA because of the alteration of navigable WOTUS through dredging of the Yakima River and removal of sediment/ re-sloping of the Yakima River shoreline. Compliance with Section 10 of the RHA is often handled through a joint permitting process for with USACE Regulatory Division. Typically, the issuance of a Section 10 permit requires the prior compliance with NEPA and associated federal and state environmental laws and regulations. The Benton Conservation District would be required to obtain a Section 10 permit from USACE Seattle District Regulatory prior to

construction of the proposed action.

In compliance with NEPA, the draft version of the EA, FONSI, and all supporting appendices were made available for a 30-day public review and comment period beginning on or around January 20, 2025. Comments submitted during this period would be responded to either as an attachment to or addressed directly within the Final EA.

All applicable laws, regulations, and Executive Orders were considered in the evaluation of alternatives and potential environmental effects. Based on the draft EA, the reviews by other federal, state, and local agencies, Tribes, input of the public, and the review by my staff, it is my determination that implementation of the Benton Conservation District's proposed Amon Creek relocation project, and accompanying project components on USACE managed lands, would not significantly affect the quality of the human environment; therefore, preparation of an Environmental Impact Statement is not required. USACE would issue the Benton Conservation District a 5-year construction license to implement components of the proposed action on lands owned by USACE.

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Date

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KATHRYN A. WERBACK, PE, PMP LIEUTENANT COLONEL, Corps of Engineers, Walla Walla District Commander