

FINDING OF NO SIGNIFICANT IMPACT

Tyler Creek Wasteway Stabilization Talent Division, Rogue River Basin Project, Oregon

Pacific Northwest Region Lower Columbia Area Office Portland, Oregon

PN FONSI 04-03

INTRODUCTION

In accordance with the Council on Environmental Quality's Regulations for implementing the procedural provisions of the National Environmental Policy Act of 1969, as amended, a draft and final Environmental Assessment (EA) were prepared for Tyler Creek Wasteway Stabilization. This Finding of No Significant Impact provides a brief description of the scoping process and the environmental analyses as fully documented in the EA.

PURPOSES OF AND NEED FOR ACTION

Routine powerplant maintenance, which may require the shut down of Green Springs Powerplant's single turbine, is typically conducted outside the irrigation season. When unforeseen powerplant equipment malfunctions occur during irrigation season, Reclamation has one alternate means of transferring water from Keene Creek Reservoir to Ashland Lateral and Emigrant Lake to meet water delivery obligations – that is to bypass the powerplant by diverting flows through Tyler Creek wasteway. In 1993, a powerplant generator maintenance procedure started prior to irrigation season became problematic. Reclamation notified interested parties that the powerplant would be out of service for extensive repairs and maintenance and that the wasteway would convey irrigation deliveries throughout the entire 1993 irrigation season. This led to the longest continual use of the wasteway. The water volume diverted through the wasteway was limited to meeting downstream water delivery obligations. Even so, the extended use of the wasteway eroded the channel, exceeded its capacity in some locations, and damaged property outside of Reclamation's rights-of-way. Several wasteway areas within and outside of Reclamation's acquired rights-of-way require attention to minimize or prevent further bank degradation.

The need for action is to stabilize localized areas of the wasteway channel for continued wasteway use.

The purposes of action are to:

- correct existing localized streambank damage in the wasteway
- minimize or prevent future streambank erosion and degradation in the wasteway
- provide for future maintenance of the wasteway.

The proposed action is to upgrade access to the wasteway and stabilize localized areas of the wasteway channel between the pipe outlet and the confluence of Tyler Creek on Emigrant Creek.

ALTERNATIVES CONSIDERED

The EA considered four alternatives in detail as follows:

Alternative 1 - No Action: This alternative leaves the wasteway in its current condition with unstable banks and no road access for maintenance equipment. It does not address existing environmental problems associated with use of the wasteway. No work would occur under this alternative to repair or enhance bank stability.

Alternative 2 (Preferred Alternative) – Bioengineering Combined With Standard Engineering: Alternative 2 would use a combination of bioengineering and standard engineering techniques to stabilize localized wasteway areas.

Alternative 3 – Bioengineering Only: Alternative 3 would use only bioengineering techniques to stabilize localized eroded areas of the wasteway banks and upslopes regardless of whether a standard engineering technique would be considerably more effective and reliable.

Alternative 4 – Standard Engineering Only: Alternative 4 would include treating localized eroded portions of the wasteway with liberal use of backfill, lining, and armoring of the slopes using concrete, concrete revetments, and riprap. This alternative would likely exclude the use of vegetation regardless of whether bioengineering techniques would suffice.

RECOMMENDED ALTERNATIVE

The recommended alternative is the preferred alternative (Alternative 2) as identified in the EA. The preferred alternative offers a well-rounded approach to stabilizing the wasteway. It effectively addresses existing environmental problems associated with past wasteway use and applies proactive, environmentally friendly measures to stabilize the wasteway. The preferred alternative is to:

- stabilize localized areas of the wasteway banks and immediate upslope areas using a combination of bioengineering and standard engineering techniques,
- construct an access road to the wasteway within existing Reclamation right-of-way, and
- acquire new right-of-way/flowage easements as needed in the future.

The preferred alternative most likely would be approximately 80 percent bioengineering techniques and 20 percent standard engineering techniques. Bioengineering techniques would be incorporated as much as possible except where a standard engineering method would be considerably more effective and reliable. Access to specific areas of the wasteway affects which type of engineering techniques can be implemented. Stabilization structures, including the types of vegetation, would be designed specifically for site characteristics and conditions based on channel and bank morphology, access, and consultation with the private and Federal landowners. The process of stabilizing the wasteway would likely continue for several years.

ENVIRONMENTAL COMMITMENTS

The EA identifies mitigation measures to minimize environmental impacts. Reclamation is committed to their implementation using best management practices and considers them to be part of the Federal action. Environmental commitments relative to soil, water, vegetation, fish

and wildlife, historic properties, sacred sites, and Cascade Siskiyou National Monument are described in chapter 5 of the Final EA.

COORDINATION

Endangered Species Act of 1973

Reclamation has concluded the alternatives discussed in this EA would have no effects on listed species (Gentner's Mission-Bells, bald eagle, northern spotted owl, and Southern Oregon/Northern California Coasts ESU coho salmon); therefore, no further consultation is needed. If, during the course of the stabilization efforts, NOAA Fisheries or USFWS lists new species which may occupy the work area, Reclamation would begin consultation on those species.

National Historic Preservation Act of 1966, as Amended

Reclamation notified the Confederated Tribes of the Siletz Indians, the Klamath Tribes, and the Cow Creek Band of the Umpqua Tribe of Indians prior to archeological surveys and asked whether they were aware of archeological sites or traditional cultural properties in or near the proposed work area. None of the tribes responded. Archeological investigations and consultations fulfilling the requirements of Section 106 of the National Historic Preservation Act revealed three archeological sites along the access road right-of-way. In 2002, the above tribes and the Confederated Tribes of the Grand Ronde Community of Oregon were notified of the intent to test these sites. The Grand Ronde expressed an interest in monitoring test excavations, but were unable to participate. Testing indicated prior land use had disturbed the archeological deposits and they had little potential to yield new information. A September 2002 letter from the SHPO concurred with Reclamation that the segments of all three sites lying within the right-of-way were "not eligible" to the National Register of Historic Places. In October 2002, the Grand Ronde Tribes responded that "the Tribe considers these sites culturally significant, with a high possibility of an inadvertent discovery during any ground-disturbance." They requested to be involved in future consultations if any discoveries are made. No other tribe responded.

Reclamation later completed additional archeological surveys and identified three isolated finds along the lower reach of the wasteway. The streambanks are not eroding in the vicinity of these sites; therefore, no stabilizing modifications are proposed. Reclamation assessed that continued use of the wasteway would have no impact on these sites. In August 2003, Reclamation forwarded an assessment of impact and the survey report to the SHPO. No response was received within the 30-day comment period. Under Section 106 of the NHPA, no comment indicates concurrence.

Bureau of Land Management Coordination

Reclamation included three BLM employees on the initial wasteway stabilization mailing list and has since added two more. BLM provided comments on the initial scoping document. They attended Reclamation's May 21, 2001, wasteway tour and the December 6, 2001, public workshop and provided information concerning the location of BLM property along the wasteway. BLM also provided comments on the Draft EA. Reclamation will continue cooperating with BLM to ensure its actions are in agreement with BLM land resource management practices.

Tribal Consultation and Coordination

No Indian sacred sites or Indian trust assets were identified within the work area. Reclamation notified the Coquille Indian Tribe; the Cow Creek Band of the Umpqua Tribe; and the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Tribes about the initial scoping letter and the public workshop. None of the tribes responded.

Other Contacts

Other contacts regarding the wasteway include the local offices of Oregon Department of Environmental Quality (ODEQ), Oregon Department of Fish and Wildlife (ODFW), NOAA Fisheries, USFWS, and Talent Irrigation District (TID). Reclamation invited these agencies to the May 21, 2001, public tour, but none attended. All are included on the wasteway stabilization mailing list and were sent copies of the scoping letter and the Draft EA. ODEQ, ODFW, and TID are also on Reclamation's call list for notification prior to diverting water through the wasteway.

SCOPING AND PUBLIC REVIEW

Reclamation began working with local landowners, TID, and other stakeholders in the early 1990s concerning erosion damage in the wasteway. An ongoing and open public and agency scoping process identified the issues to be addressed in the EA. Reclamation gathered information through public outreach efforts, talking with stakeholders, and ongoing contacts with local, State, and Federal agencies. An initial scoping letter, in April 2001, requested public assistance in identifying environmental impacts and concerns or suggestions on the alternatives. Reclamation received eight response letters. Many of the comments were beyond the purposes of and need for action and outside the scope of the EA. Preliminary alternatives were discussed at a May 21, 2001, tour of the wasteway channel attended by BLM, landowners, Friends of the Greensprings (FOG), and two private consultants.

These preliminary alternatives were then presented at a public workshop on December 6, 2001, in Ashland. The workshop offered another forum for public input on the alternatives. Reclamation received three letters and comment forms before and eight letters following the meeting attended by fourteen individuals. Those comments that fell within the scope of stabilizing the wasteway and that were not already incorporated into the alternatives were given consideration. Public comments and preferences identified throughout the scoping process helped to refine the alternatives as evaluated in the EA. Public and agency comments generated from the review of the Draft EA that were within the scope were given consideration prior to selecting an alternative.

Reclamation has consulted, and will continue consulting, with individual adjacent landowners regarding the wasteway, its general use, and impacts specific to their property. Reclamation will continue negotiating with adjacent landowners to acquire rights-of-way/flowage easements and accomplish wasteway stabilization. The adjacent landowners are on Reclamation's call list for notification prior to diverting water through the wasteway. One landowner negotiated with Reclamation for a right-of-way for the proposed access road alignment.

SUMMARY OF PUBLIC REVIEW COMMENTS AND RESPONSES

The issues raised throughout the scoping process are categorized and summarized as follows:

Land Ownership and Access

Landowners are concerned about damage to their property caused by Reclamation's use of the wasteway. They want the damage to stop and expect Reclamation to repair their land. They want Reclamation to obtain easements through their property; some prefer permanent easements. They want to be involved in how their land would be repaired. They want to know how Reclamation would involve them to decide which sites need stabilized; where stabilization would occur, and how the work would be done. They want a more thorough understanding of the total impact of the stabilization efforts and state that Reclamation has yet to assess all the private property. They are concerned about losing their right to privacy.

Geologic Features

The public is concerned with the unstable soils present in the wasteway, the loss of those soils, long-term degradation of the landscape, and the effect erosion has on downstream resources. There is concern that using the wasteway could reactivate an ancient landslide. They noted that Reclamation acknowledges that during 1993, the channel wasn't capable of handling the flow. They want to know the soil/geology impacts from accessing sites where standard engineering techniques would be used. They want to know the geology impacts of alternative 4 from more access roads into the wasteway.

The public is concerned with the volume of water and the duration of the flow. They suggested a channel survey and design criteria which Reclamation has incorporated into the preferred alternative. They offered suggestions on detailed studies and developing an alternate bypass, all of which are outside the purposes of and need for action.

Water

The public is concerned about how using the wasteway affects downstream water quality. They are concerned that Ashland Lateral flows are adding pollutants to the city of Ashland's drinking water. They want further information about water quality impacts caused by the alternatives. They took exception to three particular Draft EA statements about water quality.

Vegetation

The public wants the natural vegetated state of the channel returned and maintained with native plantings, increased riparian shade, and protection of wetlands. They want further information about vegetation removal and disposal of that vegetation.

Fish, Wildlife, and Aquatic Resources

The public is concerned about what sedimentation does to the downstream aquatic environment and species. They requested analysis of special status species. They want further information concerning the impacts created by the culverts. They provided the names of fish species present in Tyler Creek.

Social Aspects

Public concerns include quality of human life, health, and safety. Landowners are concerned that the erosion is destroying the value of their investments and causing an unsightly landscape. They are concerned about the possibility of reactivating a major landslide causing the loss of their property, homes, and human life. As a result, their peace of mind is impaired. They want to know how increased population and development in the Tyler Creek drainage have somewhat increased wasteway flow and how it impacts geologic resources.

Alternatives and Study Types

The public wants thorough analysis of current conditions and the impacts using the best science available to develop a broad range of alternatives. They want the scope of work and impacts of that work determined before any action is taken. They state the Draft EA missed the very root of the problem (too much water volume and velocity) without scientific analysis of adverse effects. It also missed the basic concepts to stabilize, restore, and mitigate and that the proposed actions are shortsighted, based on convenience, and focused on least expense and greatest expediency. The analysis falls short of offering a broad range of alternatives and addresses only a short-term fix to a portion of the affected area. Standard engineering practices are vague and fail to adequately disclose the proposed actions on private property and what benefits or harms those practices would cause. The Draft EA fails to state that Sampson Creek and an unnamed tributary were historically used to transfer water from Hyatt Reservoir to Emigrant Lake prior to constructing Keene Creek Reservoir and Tyler Creek wasteway.

The public wants clarification of Reclamation's intended future use of the wasteway, its continuing impact on private land, the proposed work schedule, the locations of right-of-way acquisition and stabilization work, exactly where bioengineering structures would be used, and where the high velocity areas are that would need standard engineering techniques. They want to know whether the private bridge and middle culverts are the only locations being considered for standard engineering techniques. They want equal information and equal repairs for all land sections along the wasteway. They want to know what monitoring would be done, where, and who would do it. They want to know how equipment would move around in the work area. There are concerns that backfill and riprap may not adequately prevent further erosion. They question whether the wasteway would be engineered to handle increased flow or just repaired to be destroyed again.

Suggestions include small wasteway maintenance flows throughout summer to stabilize and maintain the channel, reexamine powerplant and wasteway designs previously eliminated, consider surfacing the entire access road or at least the stream approaches and crossings, extend the work area down to Tyler Creek and Tyler Creek Road, and restrict channel stabilization to the dry season and during ODFW's instream work period.

Clarification was requested on the grade of the proposed access road, how the access road route was determined, the rationale for proposing a natural surface road rather than a rock or paved running surface, the location of the abandoned logging road and proposed new sections of the access road, culvert sizes, the number of culverts, Reclamation's use of the road, and whether any already existing roads into the wasteway are on BLM land.

Quality of Analyses

One letter states that using the wasteway for 20-60 cfs was never an environmentally acceptable option. Others state the analysis fails to adequately address issues raised in scoping letters and at the public workshop, the assessment is incomplete and lacks substantive issues, it is not clear that Reclamation considered all the FOG environmental studies, and the public wants more analyses. They state the greatest flaw is lack of acknowledgement of adverse cumulative effects of sustained wasteway use.

Management and Infrastructure

Some of the public wants to see first-hand and discuss the wasteway damage; some offered assistance. Some want the Rogue Valley Technical Pool to review and comment on the proposed plan. Others lack trust in Reclamation's actions and analyses. One letter requested extension of the comment period.

Issues Outside the Purposes of and Need for Action

Several of the public comments and requests pertain to issues unrelated to stabilizing the wasteway. Reclamation acknowledges and has documented these issues, but considers them as being beyond the scope of this EA.

CHANGES TO THE DRAFT ENVIRONMENTAL ASSESSMENT

As a result of public and agency comments, the Final EA contains editorial changes and the following more substantive changes that clarify the stabilization approach:

1. The document is changed to a "Finding of No Significant Impact and Programmatic Final Environmental Assessment." The introduction to chapter 1 and the *Alternative 2, Proposed Work Sequence*, sections state that all necessary environmental clearances and permits will precede stabilization or major surface disturbing activities. Chapter 5 contains an expanded list of Reclamation's environmental commitments.
2. The *Future Diversions Through the Wasteway* section of chapter 2 states Reclamation will continue using the wasteway to bypass the powerplant.
3. The *Early Powerplant/Wasteway Designs* section of chapter 1 states that regardless of whether or not a bypass valve at Green Springs Powerplant may prove to be technically, economically, and environmentally viable, Reclamation will still upgrade access to the wasteway and stabilize localized areas of the wasteway channel.
4. The introductions to chapters 1 and 2 explain the basis of the alternatives and why the alternative descriptions are general in nature.
5. Reorganized text and new sections in chapter 2 clarify the alternative descriptions.
6. Text throughout the Final EA clarifies Reclamation's continuing negotiations with adjacent private and Federal landowners and cooperation with other agencies as stabilization

progresses. Chapters 1 and 2 clarify existing rights-of-way and acquiring additional rights-of-way.

7. The *Proposed Action and Scope of Work* section of chapter 1 identifies the four land Sections within the work area. Figures 1-2 and 1-4 identify existing roads that access the wasteway channel. Figure 1-4 identifies property owners between the pipe outlet and the confluence of Tyler Creek with Emigrant Creek.
8. Chapters 1 (*Purposes of and Need for Action*), 2 (*Vegetation Selection* section for *Alternative 2*), and 6 (*Chapter 1 References*) state that the “Rogue River Basin Project Talent Division – Oregon, Facilities and Operations” report (Vinsonhaler 2002) is incorporated into the EA by reference.
9. The *Geology, Environmental Consequences*, section of chapter 3 includes discussion on impacts of sediment runoff during storm events, accessing standard engineering sites, and how Reclamation will restrict use of the access road. Statements about additional population increasing the wasteway flow and impacting geologic resources are removed from the EA.
10. The entire *Water Quality* section of chapter 3 is revised to reflect the 2002 ODEQ 303(d) listing, to identify the two potentially affected listed water reaches, and to clarify discussion on the city of Ashland’s drinking water sources. The *Water Quality, Environmental Consequences*, section includes additional discussion on impacts.
11. The *Vegetation, Mitigation*, section of chapter 3 adds discussion on landowner negotiations, use of already downed trees, and how Reclamation will avoid cutting live trees.
12. Specific fish species are added to the *Fish and Wildlife, Affected Environment, Fish*, section of chapter 3. The *Environment Consequences* section discusses impacts on passage of aquatic species through culverts to be installed; the *Mitigation* section discusses Reclamation’s consultation with ODFW regarding in-water work periods and performing stabilization work during dry periods and when flow is absent from the channel.
13. The *Coho Salmon* section of chapter 3 discusses essential fish habitat.
14. Comments on the Draft EA are also summarized in the *Scoping Process and Issues Identified* section of chapter 1. *Attachment E – Public Involvement* is incorporated into the Final EA.

FINDINGS

Reclamation analyzed, and the EA documented, the environmental and social impacts of the proposed action on potentially affected natural resources. These analyses showed that under the proposed action:

Geology: Stabilizing the channel banks would reduce erosion, minimize further degradation of the wasteway and its banks, and reduce the likelihood of reactivating an ancient landslide.

Water quality: A combination of standard engineering and bioengineering techniques would reduce erosion along the channel banks, reduce sediment and nutrients released downstream, increase vegetation and riparian shade along the wasteway, and slightly lower water temperatures.

Wetlands: The access road alignment would minimize wetland impacts and preserve the local wetland ecosystem.

Vegetation: Preserving and increasing the overall riparian vegetation along the wasteway would have a positive effect. The removal of some trees and vegetation along some reaches of the access road would be an irretrievable loss.

Fish and wildlife: Improved aquatic conditions (increased riparian vegetation, potentially lower water temperature, and improved water quality) would benefit aquatic, semi-aquatic, and upland species. Building the access road would reduce some existing habitat.

Threatened and endangered species: The preferred alternative would have no effect on Gentner's mission-bells, the bald eagle, the northern spotted owl, Southern Oregon/Northern California Coasts ESU coho salmon, or essential fish habitat because these species do not occur in the action area.

Historic properties: Three isolated finds, located near the wasteway channel on private land, are in an area without erosion and where no ground disturbing actions would take place. Therefore, wasteway bank stabilization and continued use of the wasteway would have no effect on these sites. Three other identified sites within the access road right-of-way are not eligible to the National Register. Therefore under National Historic Preservation Act, even if damage occurred to site deposits within the access corridor, there would be no effect to those sites.

Indian sacred sites: At this time, Reclamation cannot determine if sacred sites would be affected. Should any sacred sites needing stabilization be identified, Reclamation would notify tribes and ask if they have any issues.

Indian trust assets: No ITA's would be impacted.

Cascade Siskiyou National Monument: Reclamation actions would have the same environmental consequences whether within the monument or outside monument boundaries. Reclamation will consult with BLM concerning access and stabilization efforts within BLM managed lands, including the National Monument.

Environmental justice: No disproportionately adverse social, economic, or human health impacts would occur to local minority or low-income populations.

CONCLUSION

On the basis of a thorough review of the comments received, analysis of environmental impacts as presented in the Programmatic Final EA, mitigation measures, and implementation of all environmental commitments identified in the Final EA, Reclamation has concluded that

implementation of the preferred alternative would have no significant impact on the quality of the human environment or the natural and cultural resources of the area. Reclamation commits to all necessary site-specific environmental clearances and permits before stabilization or major surface disturbing activities. Therefore, an environmental impact statement will not be prepared for upgrading access and stabilizing the wasteway. This Finding of No Significant Impact has been prepared to document environmental review and evaluation in compliance with the Council of Environmental Quality's regulations for implementing the National Environmental Policy Act.


Recommended:



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March 8, 2004
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