



DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS, NORTHWESTERN DIVISION  
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**RECORD OF DECISION**

**WILLAMETTE VALLEY SYSTEM OPERATIONS AND MAINTENANCE FINAL  
ENVIRONMENTAL IMPACT STATEMENT**

**WILLAMETTE VALLEY, OREGON**

**Section 1. Introduction**

The U.S. Army Corps of Engineers (Corps), Portland District prepared this programmatic Environmental Impact Statement (EIS) in compliance with the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321, and Corps NEPA Implementing Regulations, 33 C.F.R. Part 230. The EIS focused on the continued operation and maintenance of the Willamette Valley System (WVS) for its Congressionally authorized purposes and to comply with the Endangered Species Act (ESA). Twelve Cooperating Agencies and other interested Tribes provided information and review throughout the EIS process. The Corps and cooperators' expertise, developed over decades of experience operating the projects, allowed for careful, comprehensive consideration of current, high quality technical and scientific information, as well as expert analysis for thorough evaluation of the actions.

During completion of the Final EIS, Congress passed the Water Resources Development Act (WRDA) of 2024. Section 1326 of the Act directed the Corps to include additional analysis of a no hydropower alternative before completing review of operation and maintenance of the system. (Pub. L. No. 118-272). However, for the Corps to operate the system in the interim in compliance with its authorizing legislation and other federal requirements (e.g., the ESA, NEPA, and its Tribal trust responsibilities), the Corps is executing this Record of Decision (ROD) on a narrow subset of interim actions it will take for ESA listed species while a supplemental EIS is prepared as required by WRDA 2024. These interim actions model the injunction operations in *Northwest Environmental Defense Center, et al. v. United States Army Corps of Engineers, et al.*, No. 3:18-cv-00437-HZ, (D. Or. September 2021), (*NEDC v. USACE*) and other actions in the National Marine Fisheries Services' (NMFS) 2024 Biological Opinion, issued on December 26, 2024.

**Section 2. Background and Statutory Framework**

The Corps operates the WVS in accordance with the project's authorizing documents and prepared this EIS in compliance with the NEPA, ESA, National Historic Preservation Act (NHPA), and all other applicable laws and Treaties. The need for the EIS is to review and update the management of the WVS in the context of new information and changed conditions in the Willamette River Basin after the 1980 EIS *Operations and*

*Maintenance of the Willamette Reservoir System* and ROD, and bring the system into compliance with the ESA.

To address these needs the EIS took a hard look at operational and structural measures to improve upstream and downstream fish passage for ESA listed species while continuing to operate and maintain its projects for authorized purposes. In total, eight alternatives were evaluated in detail in the Final EIS, including the No Action Alternative. The action alternatives were formulated to improve fish passage and water quality for ESA listed species. However, Section 1326 of WRDA 2024 passed shortly after NMFS completed its Biological Opinion for the WVS, limiting the actions the Corps could select in this ROD until it can formally analyze an additional alternative that ceases hydropower operations at its eight hydropower facilities in the WVS.

## **2.1 Litigation History**

In 2008, the Corps received a Biological Opinion from the NMFS on its operation and maintenance of the WVS concluding the operation and maintenance of the WVS would jeopardize the continued existence of certain listed species. Therefore, the Biological Opinion included over 90 measures to implement as part of a Reasonable and Prudent Alternative (RPA) to avoid jeopardy. The Corps implemented many of the requirements in the 2008 NMFS Biological Opinion. However, due to the necessary modifications to the dams to accommodate construction of large-scale juvenile fish passage and temperature control structures, and projected high costs, it was unable to implement several of the key measures. In 2020, the U.S. District Court for the District of Oregon ruled in *NEDC v. USACE* the Corps failed to complete implementation of the 2008 Biological Opinion's RPA and was in violation of Section 7 and 9 of the ESA.

On September 1, 2021, the Court issued an injunctive order requiring the Corps to implement interim actions intended to improve conditions for fish passage and water quality in the WVS to avoid irreparable harm to ESA listed salmonids while NMFS developed a new Biological Opinion. These actions included operational changes and three structural modifications to existing dams and reservoirs. The Corps is reviewing the direct and indirect effects of these construction actions under separate site specific NEPA compliance processes; therefore, they are not assessed in this EIS or included in this ROD (Table 1). The NMFS Biological Opinion was issued in late December 2024, but the case is ongoing.

Table 1: Ongoing design and construction efforts for injunction structural improvements.

Location	Court-ordered Structural Improvements	Status
Dexter Fish Facility	Upgrade the Dexter adult fish facility to improve survival and upstream passage.	Construction is ongoing and is scheduled to be complete in 2026.
Big Cliff Dam	Determine whether operational measures are sufficient to maintain acceptable total dissolved gas levels below Big Cliff Dam and, if not, design and construct a structural solution for mitigating excess total dissolved gas levels during spill operations.	The Corps determined operational fixes are not sufficient and developed a schedule for design and construction of rock weirs to further reduce total dissolved gas. Design work is ongoing.
Cougar Dam	Determine whether structural improvements/modifications to regulating outlets need to be made to ensure safer fish passage and to reduce total dissolved gas levels. If so determined, design and construct a structural solution.	The Court established Expert Panel recommended resurfacing the regulating outlet chute which was completed in 2023. Design work for additional modification to the regulating outlets (ROs) are ongoing.

## 2.2 Statutory Background and Environmental Compliance

The Corps must comply with all applicable laws and Treaties such as the NEPA, ESA, NHPA, various WRDAs, Administrative Procedures Act, and the projects' authorizing legislation, in addition to non-statutory legal requirements under its Tribal Trust responsibilities. A more detailed description of compliance with the WVS authorizing legislation, applicable WRDA provisions, NEPA, ESA, and NHPA are provided in subsections 2.2.1-2.2.5 of this ROD and Chapter 7 of the Final EIS. Development of the EIS was accompanied by the development of a robust Adaptive Management Plan that lays out a framework for research, monitoring, and evaluation of actions so the Corps may continue to work with NMFS and the U.S. Fish and Wildlife Service (USFWS) to better understand its actions and how best to meet ESA species needs.

The Corps NEPA implementing regulations require NEPA documents to include a summary of reviews and consultation requirements, analyses, and status of coordination associated with applicable laws, executive orders, and memoranda (33 C.F.R. Part 230.25(a)).

### **2.2.1 Flood Control Acts**

Congress authorized the Corps to construct, operate, and maintain the initial reservoirs in the WVS for flood control and navigation purposes beginning in 1938. Subsequently, the Corps constructed 13 dams and extensive bank protection revetments along the Willamette River and its tributaries, creating the WVS by the 1970s. Congress authorized the various purposes of the WVS in the Flood Control Acts (FCA) between 1938 and 1962, the Water Supply Act of 1958, and the Water Resources Development Act of 1986.

Congress also delegated responsibility for certain aspects of the WVS to two other Federal Agencies, Bonneville Power Administration, which markets and transmits the electrical power generated by the eight hydropower producing dams, and the U.S. Bureau of Reclamation, which markets water for irrigation purposes to users within the Willamette River Basin.

### **2.2.2 Water Resources Development Act of 2024**

On January 4, 2025, the 2024 Water Resources Development Act was signed into law (Pub. L. No. 118-272). Section 1326 of the Act included language directing the Secretary of the Army to not “complete review of, and consultation with other Federal agencies on, the operation and maintenance of the projects for flood control, navigation, and other purposes, Willamette River Basin, Oregon [...], until the Secretary prepares and formally analyses an alternative which ceases hydropower operation at the projects, notwithstanding hydropower being an authorized purpose of such projects.” The Corps is proposing to comply with this directive in a supplement to this EIS, where a no hydropower alternative would be analyzed before a final decision on long term actions is made. Section 1326 limits the Corps discretion to make decisions on long term actions in this ROD, narrowing the focus of this ROD to the interim, near-term actions the Corps will implement while the supplement is completed.

### **2.2.3 National Environmental Policy Act**

The information presented in this ROD summarizes the agency’s compliance with the NEPA including the development of the purpose and need statement, alternatives, and the public review processes required by 33 C.F.R. Part 230 and 42 U.S.C. §§ 4321. The WVS EIS provided information that allowed the Corps, cooperating agencies, and stakeholders to evaluate the costs, benefits, and tradeoffs of various actions. The public then provided critical input for the decision maker on the Draft EIS, prior to the ROD.

#### **2.2.3.1 Purpose and Need**

The purpose and need for the continued operations and maintenance of the WVS is to operate the system in accordance with the eight Congressionally authorized purposes and in compliance with the ESA and all other applicable Treaties, laws, and regulations. The Corps must operate and maintain the WVS for specific purposes but cannot jeopardize the continued existence of a species listed as threatened or endangered or

take action which will result in the destruction or adverse modification of designated critical habitat under the ESA.

#### **2.2.3.2 Alternatives**

Using public comments, internal cross disciplinary working groups, and input from cooperating agencies, the Corps EIS team and cooperators identified and compiled a list of operational and structural measures, or actions, which meet seven objectives the Corps developed for the Proposed Action. These objectives are defined in Section 2.6 of the Final EIS. A measure is the action an agency would take to achieve a given objective. It describes either a physical (structural) change requiring construction or an operational change, usually in a precise location, which meets an objective, in whole or in part.

The team screened out potential measures based on criteria for meeting purpose and need for the project, achieving stated objectives, and technical considerations. The team then fashioned alternatives using combinations of the remaining measures around unifying themes or strategies. An alternative is a combination of one or more measures which together, would address one or more of the objectives. Building alternatives was an iterative process that increased the level of detail at each step to inform decisions concerning which alternatives to carry forward for analysis and consideration.

Following initial modeling and evaluation of preliminary alternatives, new refined alternatives were developed to assess modified combinations of measures, and to distinguish the tradeoffs associated with key measures. Each alternative has a strategy which emphasizes project objectives differently. Table 2 lists the alternative and associated objective. After screening, the measures which had the best outcomes for project objectives were compiled into Alternative 5 that represents a hybrid of the other six alternatives.

Table 2: Alternative Plans that were evaluated in detail in the Final EIS.

Alternative	Strategy
No Action	O&M practices as of the Notice of Intent to prepare the EIS in 2019
Alternative 1	Improve Fish Passage Through Storage-Focused Measures-Increase the probability of refilling WVS reservoirs and supplemental water delivery for authorized purposes.
Alternative 2A & 2B	Integrated Water Management Flexibility and ESA Listed Fish Alternative
Alternative 3A & 3B	Operations Focused: Improve passage of ESA listed fish through existing structures by modifying water control operations
Alternative 4	Structures Focused: Improve passage of ESA listed fish by constructing new fish passage and temperature control structures
Alternative 5	Refined Integrated Water Management Flexibility and ESA Listed Fish Alternative - Preferred Alternative

A detailed descriptions of the alternatives and the alternative development process can be found in Chapter 2 and Appendix A of the Final EIS.

#### **2.2.3.2.1 No Action Alternative**

The No Action Alternative (NAA) is consistent with 2019 operations and maintenance during the 30-year implementation timeframe. Modeling for the EIS analyses began in April 2019, which is the date establishing benchmark operations for alternative analyses comparisons. This benchmark was necessary given the length of time needed to complete the EIS and several temporary operational changes which were shifting throughout EIS development due to temporary dam safety operations and ongoing litigation. Therefore, the NAA does not include operations implemented as a result of the ongoing litigation and August 2021 court ordered injunction because those operations were not in place as of April 2019. No large-scale construction is contemplated under the NAA.

This alternative would not meet the purpose of and need for the Proposed Action because the current operating conditions of the WVS do not adequately protect ESA listed fish species, specifically UWR Spring Chinook salmon and UWR Winter Steelhead or designated critical habitat for these species.

#### **2.2.3.2.2 Alternative 1. Improve Fish Passage Through Storage-Focused Measures**

Alternative 1, also referred to as the Storage Alternative, maximizes the refill volumes of conservation pools by using a greater portion of the conservation pool and the inactive and power pools at WVS reservoirs to meet authorized purposes which depend on full reservoirs, including municipal and industrial and irrigation water supply, recreation, and

water quality, as well as to improve fish passage through the WVS dams to increase the survival of ESA listed fish species.

The main operational features of Alternative 1 are to reduce minimum flows to the Congressionally authorized minimum flow requirements as well as to augment instream flows by using the power and inactive pools. Alternative 1 proposes only structural measures for downstream fish passage and water quality, such as the Floating Screen Structure (FSS).

#### **2.2.3.2.3 Alternative 2A. Integrated Water Management Flexibility and ESA-Listed Fish Alternative (Includes Structural Downstream Passage at Cougar Dam)**

Alternative 2A, also referred to as the Hybrid Alternative with Cougar FSS, was developed after initial modeling of the other action alternatives. It focuses on improvements for fish passage using a combination of modified operations and structural improvements and measures which balance water management flexibility to meet ESA listed fish obligations. In Alternative 2A, the “Integrated Temperature and Habitat Flow Regime” operation replaces the 2008 Biological Opinion flows in the NAA. This would shift the release of stored water from the Spring to the Summer and Fall, most prominently in dry years. Alternatives 2B, 3A, 3B, and 4 also include this flow measure.

The other main operational feature of Alternative 2A is the augmentation of instream flows by using water reserved for the power and inactive pools. Alternative 2A does not include the structural improvements for total dissolved gas (TDG) abatement found in Alternatives 1 and 4 or the fish passage and temperature structures at Hills Creek Dam found in Alternative 4. Like all alternatives except Alternative 1, Alternative 2A proposes operational measures using the spillway and regulating outlets (ROs) for temperature management at Green Peter. Alternative 2A also includes a deep fall drawdown and spring spillway operations for fish passage at Green Peter, like Alternatives 2B, 3A, 3B, and 5. The only difference between Alternative 2A and 2B is in the downstream passage measure at Cougar Dam. Alternative 2A proposes structural downstream fish passage at Cougar Dam whereas Alternative 2B proposes operational fish passage at Cougar Dam via the diversion tunnel.

#### **2.2.3.2.4 Alternative 2B. Integrated Water Management Flexibility and ESA-Listed Fish Alternative (Includes Operational Downstream Passage at Cougar – Drawdown to Diversion Tunnel)**

Alternative 2B, also referred to as the Hybrid Alternative with Cougar Diversion Tunnel Modification, improves fish passage through the WVS dams using a combination of modified operations and structural improvements, along with other measures to balance water management flexibility and to meet ESA listed fish obligations. Alternative 2B is like Alternative 5 except for the flow measure.

#### **2.2.3.2.5 Alternative 3A. Improve Fish Passage Through Operations-Focused Measures (Includes Operational Downstream Passage at Cougar – Drawdown to Regulating Outlet)**

Alternative 3A, also referred to as the Operations Focused Fish Passage Alternative, would use WVS dam operations for water quality and fish passage. Alternative 3A does not include structural measures for temperature control, TDG abatement, or downstream fish passage like Alternatives 1, 2A, 2B, 4 and 5. Like Alternatives 2A, 2B, 3B, and 4, the “Integrated Temperature and Habitat Flow Regime” operation replaces the 2008 Biological Opinion flows in the NAA under Alternative 3A.

Alternative 3A would implement spring and fall drawdowns at some WVS reservoirs for volitional downstream fish passage. Additionally, Alternative 3A proposes new adult fish facilities at Hills Creek and Blue River. Under Alternative 3A, the Spring and Fall drawdowns would target the Cougar RO, whereas the Alternative 3B drawdowns would target the much lower diversion tunnel (like Alternatives 2B and 5). By distinguishing between Alternatives 3A and 3B cooperators could compare the impacts and tradeoffs associated with each operation for downstream passage at Cougar.

#### **2.2.3.2.6 Alternative 3B. Improve Fish Passage Through Operations-Focused Measures (Includes Operational Downstream Passage at Cougar – Drawdown to Diversion Tunnel)**

Alternatives 3B, also referred to as the Operations Focused Fish Passage Alternative, would use WVS dam operations for water quality and fish passage. Alternative 3B is like Alternative 3A but differs on downstream fish passage operations in the Spring and drawdowns for fish passage operations at Cougar Dam. Under Alternative 3B, the Spring and Fall drawdowns at Cougar Dam would target the diversion tunnel resulting in a much lower drawdown.

#### **2.2.3.2.7 Alternative 4. Improve Fish Passage with Structures-Based Approach.**

Alternative 4 uses structures to improve fish passage to increase the survival of ESA listed fish. Like Alternative 1, Alternative 4 proposes only structures for water quality and downstream fish passage, shifting the release of stored water from the Spring to the Summer and Fall, and augmenting instream flows with water in the power and inactive pools. Alternative 4 proposes the “Integrated Temperature and Habitat Flow Regime” operation, the targets of which are generally higher and more variable than those in the congressionally authorized minimum flow requirements proposed under Alternative 1. Alternative 4 also proposes the most structural measures for fish passage and water quality of any alternative. In contrast to Alternative 1, Alternative 4 includes a fish passage structure and water temperature control tower at Hills Creek Dam and a fish passage structure at Cougar Dam but uses operational measures to utilize the spillway and ROs for temperature management at Green Peter Dam.



#### **2.2.3.2.8 Alternative 5. Refined Integrated Water Management Flexibility and ESA-Listed Fish Alternative (Includes Operational Downstream Passage at Cougar – Drawdown to Diversion Tunnel) - Preferred Alternative in Draft EIS**

Alternative 5 was identified as the Corps Preferred Alternative in the Draft EIS. Alternative 5 improves fish passage through the WVS dams using a combination of modified operations and structural improvements, along with measures to balance water management flexibility and meet ESA listed fish obligations. Following the review of the alternatives' modeling results, the Corps initially identified Alternative 2B as the Preferred Alternative. However, after engaging with cooperators the Corps determined the integrated temperature and habitat flow regime proposed in Alternative 2A and 2B should be refined to improve outcomes for ESA species. Alternative 5 is the same as Alternative 2B except the refined integrated temperature and habitat flow regime have replaced the integrated temperature and habitat flow regime.

#### **2.2.3.2.9 Interim Operations Measure and construction of the Foster Warm Water Supply Pipe – Selected Federal Action**

Alternatives 2A-5 included the Interim Operations Measure which combined several operations for interim implementation into a singular measure (Table 3). These operations provide improved fish passage and water quality until the Corps can implement the structural or long-term operational measures at a particular project. The Corps analyzed the effects of the Interim Operations over the 30-year implementation timeframe, ensuring analysis of a full range of potential impacts because the duration of operations at a particular location is uncertain as structural modifications to a project requires design, environmental compliance, and ultimately construction of the modification.

These operations were based on the injunction operations ordered by the District Court. These operations were refined to incorporate the final NMFS Biological Opinion issued on December 26, 2024.

Table 3: Interim Operations in the Selected Federal Action<sup>1</sup>.

Location	Description of Interim Operations	Duration of Operation	Priority Outlet	Target Elevation
Detroit	Spring downstream fish passage and operational downstream temperature management	Mid-Mar to Fall	Spillway/ Turbines/ Upper ROs/Lower ROs	n/a
Detroit	Continue fall temperature operations to target elevation 1450 feet.	Fall/Winter	Turbines/ Upper ROs/Lower ROs	1450 feet

Location	Description of Interim Operations	Duration of Operation	Priority Outlet	Target Elevation
Big Cliff	Spread spill across as many spillways as safety protocols allow to reduce downstream TDG exceedances	Year-round	Spillway	Discharges greater than powerhouse capacity
Green Peter	Out planting plan for reintroduction of adult Chinook salmon above Green Peter Dam	Summer	n/a	n/a
Green Peter	Downstream passage for Green Peter using spring spill	Spring	Spillway	Greater than 970 feet
Green Peter	Green Peter deep drawdown for improved downstream fish passage	Fall/Winter	ROs	780 Feet
Foster	Delay refill and utilize spillway in the spring for improved downstream fish passage; use the fish weir in the summer for improved downstream temperature management and upstream fish migration/passage	Feb 1 to June 15; June 16 to approx. late-July	Spillway (spring) Fish Weir (summer)	613 feet (Feb - May); 637 feet (May - Jul)
Foster	Early drawdown and utilization of the spillway for improved downstream fish passage in the fall	October - mid-December	Spillway	613 feet
Cougar	Deep drawdown and RO prioritization for improved downstream fish passage	Early Nov to Dec 15	RO	1,505 feet
Cougar	Delayed reservoir refill and RO prioritization for improved downstream fish passage	Feb to May/Jun	RO	1,520 -1,532 feet

Location	Description of Interim Operations	Duration of Operation	Priority Outlet	Target Elevation
Hills Creek	Nighttime (6PM to 10PM) RO prioritization for improved downstream fish passage when elevation less than 1,460 feet	Approx. Nov to Mar	RO	Less than 1,460 feet
Lookout Point	Utilize spillway for improved downstream fish passage in the spring; RO use in the late summer/fall for downstream temperature management	Mid-Mar to May/Jun (spring); Jul to Oct 15 (RO)	Spillway/ RO	890 to 893 feet spring spill Less than 887.5 feet late summer/ fall RO
Lookout Point	Deep drawdown and RO prioritization for improved downstream fish passage	Nov 15 to Dec 15	RO	750 feet
Fall Creek	Fall Deep Drawdown for improved downstream fall/winter fish passage.	November	ROs	690 feet

<sup>1</sup> In accordance with procedures in the Adaptive Management Plan (Appendix N of the Final EIS), specific dates, durations, and target elevations of interim operations shown here may be refined.

The operations listed in the chart were part of the Action Agencies' Proposed Action and were incorporated into the Reasonable and Prudent Alternative in the NMFS 2024 Biological Opinion. The Corps excluded the RPA's deeper fall drawdown to elevation 1395' at Detroit for downstream fish passage from this ROD because it was not included in the interim operations measure which underwent public review and comment in the Draft EIS. It will be analyzed as part of the interim operations measure in the supplemental EIS.

In addition to the interim operations, the Corps proposes to construct the Foster Warm Water Supply Pipe as required by the NMFS 2024 Biological Opinion's RPA as part of this ROD. Temperature control at Foster Dam currently targets a narrow range of forebay elevations. A smaller intake structure proposed at Foster Dam would pass warm water during the Spring and Summer months. Construction would bore a hole through Foster Dam, attaching the prefabricated intake structure to the face of the dam using barge mounted cranes, and then install the mechanical and electrical systems. This action is common to all action alternatives.

#### **2.2.3.2.10 Environmentally Preferred Alternative**

The environmentally preferred alternative is Alternative 2A. The Corps deemed Alternatives 2A, 2B, and 5 similar in their effects on ESA listed species because they have the highest level of fish persistence. However, 2A does not include the Cougar Diversion Tunnel Operation like alternatives 2B and 5. The operation is likely to result in a large amount of sediment moving downstream from behind the dam during the first few years of implementation. This adverse effect would not occur under 2A. For further comparison of the environmental effects of each alternative see EIS Chapter 3 and Appendix A, Attachment 4.

#### **Section 2.2.3.3 Public Engagement**

Agencies must provide the public an opportunity to engage early in the EIS process during public scoping and make Draft EIS available for the public to review and comment via a Notice of Availability posted to the Federal Register. The decision maker then considers the public's input prior to executing a ROD.

##### **2.2.3.3.1 Scoping**

Public involvement begins with scoping, which is the process of soliciting input from Tribes and stakeholders such as private citizens and non-governmental organizations and other agencies to identify significant issues related to the Proposed Action. Scoping for the EIS began on April 1, 2019, with publication of a Notice of Intent in the Federal Register (Vol. 84, No. 62, pp. 12,237–12,238). The Notice of Intent described the Corps intent to prepare this EIS to address continued operations and maintenance of the WVS in accordance with Congressionally authorized purposes while meeting ESA obligations to avoid jeopardizing the continued existence of ESA listed species. The Corps accepted scoping comments until June 28, 2019. The Notice of Intent notified the public of five scoping meetings held from June 4 to 13, 2019. The Corps advertised the meetings in 15 newspapers, press releases, flyers, the EIS website, email distributions, and social media.

The Corps received 384 comments from private citizens, non-governmental organizations, government agencies, and Tribes. *The Willamette Valley System Operation and Maintenance Programmatic Environmental Impact Statement Public Scoping Report* includes details on the scoping process and comments, a database of comments received, and all scoping materials (See Final EIS Chapter 6 and Appendix P, Public Scoping Report.)

##### **2.2.3.3.2 Virtual Outreach**

In 2021, the Corps released a publicly accessible Virtual Room, an interactive website organized as a three-dimensional public meeting room with clickable boards that provided information on the status of the EIS. The information provided included an overview of the WVS EIS background and process, including the alternatives formulation process. Following release of the Virtual Room, the Corps held an informational public meeting, during which the Corps subject matter experts presented

the alternatives formulation process and resulting alternatives. The Corps fielded questions from attendees during the meeting, but did not record formal comments.

#### **2.2.3.3.3 Public Comments on the Draft EIS**

The Corps published a Notice of Availability for review and comment of the Draft EIS in the Federal Register on November 25, 2022. This marked the start of the 45-day public comment period. The Corps provided notice in the Federal Register extending the public comment period to 90 days. The final 90-day comment period closed on February 23, 2023.

The Draft EIS was available for review on the Corps Portland District website. Eight hard copies were available at local libraries throughout the Willamette Valley. The Corps requested review comments from Cooperating Agencies, Tribes, Federal, state, and local agencies, parties and organizations which may be interested or affected by the Proposed Action, and the public.

Six public meetings had a total attendance of 259 participants including Federal, state, and local agency representatives, representatives from interested stakeholder groups, non-governmental organizations, tribal members, and members of the public. A summary of the public comments and responses is in Appendix V, Draft EIS Public Comments and Responses.

#### **2.2.4 Endangered Species Act**

Congress enacted the Endangered Species Act (16 U.S.C. §§ 1531–1544) to protect and conserve endangered and threatened species and critical habitat. Requirements of the ESA ensure activities authorized, funded, and carried out by Federal agencies are not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of the designated critical habitat of a listed species.

Listed species in the analysis area for the operations and maintenance of the WVS include bull trout (listed as threatened in 1998), Upper Willamette River (UWR) Spring Chinook salmon (listed as threatened in 1999), and UWR Winter Steelhead (also listed as threatened in 1999). Southern Resident killer whales are ESA listed as endangered, but they do not inhabit the analysis area. However, they could be minimally impacted by the quantity of UWR salmon species as a prey source. Upper Willamette River salmon species comprise only a small percentage of Southern Resident killer whale diet, and the hatchery mitigation program would continue to provide salmon available as prey. Northwestern pond turtles were candidates for listing as a Federally threatened species under the ESA as of April 2025.

To comply with obligations under 50 C.F.R. § 402.16, The Corps has consulted with the NMFS and USFWS to address listed species issues analyzed in this EIS. These formal consultations began after the action agencies submitted the final biological assessment on March 13<sup>th</sup>, 2023, to both NMFS and USFWS.

National Marine Fisheries Services executed its Biological Opinion for the WVS on December 26, 2024, prior to the passing of WRDA 2024. The Corps consulted on the preferred alternative which included the interim operations and Foster Warm Water Supply Pipe improvement, and both are in the Biological Opinion.

The consultation with USFWS is ongoing. As part of the formal consultation, the Corps and USFWS have determined the interim operations are consistent with the previous 2008 opinion and received an extension. There are no impacts to Bull Trout or their designated habitats, not previously considered in the prior consultation, that will occur prior to USFWS issuing a final Biological Opinion.

Additionally, the Foster Warm Water Supply Pipe will undergo site specific consultation with NMFS and USFWS for construction impacts.

### **2.2.5 National Historic Preservation Act**

Section 106 of the National Historic Preservation Act of 1966, as amended, requires Federal agencies evaluate and mitigate the adverse effects of Federal undertakings on historic properties eligible for listing in the National Register of Historic Places (54 U.S.C. 300101 et seq.). The Act also requires the Federal agency include the State Historic Preservation Office, Indian Tribes, representatives of local governments, and the public in findings and determinations made as part of the Section 106 process. The Advisory Council on Historic Preservation generally oversees the Section 106 process and retains the right to comment on the proposed undertakings.

The Corps consulted with 20 Federal, state, county, tribal, and heritage preservation organizations, including the Advisory Council on Historic Preservation, the State of Oregon, the Confederated Tribes of the Grand Ronde Community of Oregon, the Confederated Tribes of the Siletz Indians, the Confederated Tribes of the Warm Springs Reservation of Oregon, and the Cow Creek Band of Umpqua Tribe of Indians, under Section 106 of the National Historic Preservation Act and executed a Programmatic Agreement. The Advisory Council on Historic Preservation and State Historic Preservation Office are signatories to the Agreement and the Confederated Tribes of the Grand Ronde Community of Oregon, the Confederated Tribes of the Siletz Indians, the Confederated Tribes of the Warm Springs Reservation of Oregon, and the Cow Creek Band of Umpqua Tribe of Indians were invited signatories.

### **Section 3. Final Agency Finding**

After reviewing the benefits, environmental effects, and unavoidable adverse impacts of the Interim Operations Measure and Foster Warm Water Supply Pipe Measure as detailed in the Final EIS and this ROD, and thorough considerations of the views of Tribes, Federal, state, and local agencies, and public comments, the Corps selects the Interim Operations Measure and Foster Warm Water Supply Pipe Measure for implementation of the ongoing operations and maintenance of the WVS. The Corps considered all applicable laws, regulations and executive orders in evaluation of these

actions and alternatives. Until such time the Corps can comply with the requirements of Section 1326 of WRDA 2024, this Record of Decision completes the National Environmental Policy Act process.

Based on the analysis and findings in this ROD, the Draft and Final EIS, input of the public, and the review by my staff, I select only the federal actions described in this ROD: Interim Operations Measure and construction Foster Warm Water Supply Pipe, and conclude that they comply with applicable laws, including the ESA. I find the selected federal actions best balance the human and natural environment in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which people and nature can exist in productive harmony, and to fulfill the social, economic, and other requirements of present and future generations of Americans while longer-term options are further analyzed consistent with Section 1326 of WRDA 2024. I have also considered tribal treaty rights and the United States' trust responsibilities to the Tribes in selecting these actions. The Corps implemented actions will improve salmon survival, which will benefit tribal fisheries. Therefore, the Corps is deciding to operate its 13 Willamette Valley System projects according to the description of the Interim Operations Measure and the Foster Warm Water Supply Measure.

May 13, 2025

Date

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