HULT RESERVOIR AND DAM SAFETY RECORD OF DECISION

DOI-BLM-ORWA-N030-2018-0010-EIS

Northwest Oregon District
Bureau of Land Management
1717 Fabry Road SE
Salem, OR 97306

BACKGROUND

Hult Reservoir is a 54-acre reservoir, approximately three-fourths of a mile long and less than a quarter mile wide, with an average depth of 8 feet. The reservoir is located on BLM-administered public lands in Lane County within the Lake Creek watershed (and Siuslaw River drainage), near the community of Horton and within the Siuslaw Field Office of the Northwest Oregon District of the Bureau of Land Management. The primary use of the reservoir and surrounding area is recreation. The BLM's 2016 *Northwestern and Coastal Oregon Resource Management Plan* (USDI 2016a:254) designates the reservoir and surrounding area as part of the 13,000-acre Upper Lake Creek Extensive Recreation Management Area (ERMA) and the 21 acres west and south of the reservoir as the Hult Reservoir Recreation Area Special Recreation Management Area (SRMA).

Little is known about the original design and construction of the dam at Hult Reservoir (Hult Pond Dam) and its associated structures. However, both the embankment dam and spillway dike are earth fill mixed with logs and woody debris sitting atop a foundation of ancient landslide material (e.g., sandstone, siltstone, and mudstone) (USDA 2015). The dam and associated structures have undergone modifications, repairs, inspections, and improvements since they were built in the 1930s or 1940s.

Hult Reservoir has the largest known population of western pond turtles in the northern portion of the Oregon Coast Range. In October 2023, the U.S. Fish and Wildlife Service proposed this species for Federal listing as threatened under the *Endangered Species Act* (USDI 2023b). A decision on this proposal is expected in 2025. The reservoir and Lake Creek upstream are designated as critical habitat for federally listed coho salmon, but the fish ladder on Hult Pond Dam blocks their passage.

THE DECISION - ALTERNATIVE 4

My decision selects the preferred alternative, Alternative 4 (Remove Hult Reservoir), as described in the *Hult Reservoir and Dam Safety Final Environmental Impact Statement* (FEIS:28-30). With my decision, the BLM will decommission[1] the dam and excavate the embankment, drain the reservoir, and return it to a nature like stream channel. The material removed from the dam will be used to fill in the spillway, and a new, approximately 140-foot bridge over Lake Creek will replace the current bridge and road across the dam.

Dam removal will include the removal of the fish ladder as well as the low-level outlet structure and pipe. Crews will perform this work during summer months when the water level is at its lowest. In-water work will occur during the period specified in the *Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources* (ODFW 2022). Construction will be done with bulldozers and heavy equipment. The BLM expects construction to start in 2026 at the earliest, and expects the implementation to take 3 years.

Once established, the rehabilitated stream channel will allow full passage for aquatic organisms, including resident fish, adult and juvenile anadromous fish, Pacific Lamprey, and other migratory fish. Coho will gain access to 4.5 miles of designated critical habitat, 8 miles of suitable spawning and rearing habitat upstream from the present reservoir, and a total of 8.8 miles of new accessible habitat.

The following project design features will be part of this alternative:

Hult Reservoir Restoration Area:

- After the dam is removed, add approximately 100 pieces of instream structure (e.g., logs, trees with root wads) over 10 to 20 sites to assist the natural process of sediment retention and routing (e.g., upstream and downstream of the dam location and in Lake Creek tributaries). Two to 5 years later, add approximately 200 to 300 additional pieces over 30 to 40 sites.

[1] Decommissioning a dam is partially or fully removing the dam or otherwise taking it out of service.

- Use an adaptive management process (i.e., an annual treatment and restoration plan[2]) to maintain a functioning ecosystem in the Hult Reservoir Restoration Area, with ongoing planting and non-native invasive plant control, depending on how the terrain evolves and what will grow well in the area.
    - Create, enhance, and maintain diverse terrain with structural diversity (e.g., trees with root wads) to support species richness.
    - In wetlands (see Figure 2-5 in Chapter 2 of the EIS), including any marshes or ponds: Plant willows, cottonwood, and red alder, including planting for beaver habitat.
    - Upland from the wetland areas, plant red cedar, beaked hazel, yew, and other species as needed and practicable.
    - Plant alder, cottonwood, and willows for shade and bank stability along Lake Creek and the tributary streams that will join Lake Creek in the Hult Reservoir Restoration Area.
    - Monitor planted areas for invasive plant spread and treat invasive plant infestations to protect botany resources and prevent further invasive plant spread.
    - Plant native tree and shrub species to shade out infestations of reed canarygrass and other invasive plants.
- Block vehicular access to the reservoir footprint (including the floodplain, tributaries, and Lake Creek) using restoration structures, plantings, boulders, cables, barricades, etc.

Cultural:

- Complete data recovery via detailed documentation of the site in an *Oregon Inventory of Historic Properties Section 106 Documentation Form for Individual Properties*.
- Create pamphlets that describe the history of Nils Hult and the Hult Lumber Company and the original inhabitants and their traditional uses of the area.
- Install signs at parking lots and in high-traffic areas describing the history of the dam and reservoir on BLM lands.
- Monitor certain actions during their implementation in the vicinity of some known cultural resources when archaeological resources are not identified but their presence is possible. See Appendix D of the EIS (*Cultural Resources Monitoring and Inadvertent Discovery Plan*) for details.

Recreation:

- Build a developed camp host site with partial hookups.
- Add a group camping site.
- Add a day-use area and picnic tables.

Fire:

- Provide a draft site for fire engines off Lake Creek. Improve the roadway to allow engines with limited maneuverability quick access in and out of the site.

These features would be accessible in compliance with the Architectural Barriers Act design requirements.

[2] Invasive plant treatments in the project area will be included in this annual invasive plant treatment and restoration plan. This plan would conform with the Treatment Key, treatment prioritization, and implementation and effectiveness monitoring described in the Northwest Oregon District's *Invasive Plant Management and Habitat Restoration Environmental Assessment* (USDI 2023a). The annual invasive plant treatment and restoration plan for the area will also address specific invasive plant prevention activities (such as native plant restoration). This process of planning and prioritization, treatments and restoration, and monitoring will help determine if management actions are meeting outcomes and, if not, facilitate management changes that will best ensure desired outcomes are met or reevaluated.

ADDITIONAL MITIGATION AND MONITORING INCLUDED IN THE DECISION

Pursuant to 40 C.F.R. 1505.2(c), the BLM is adopting all mitigation measures proposed under Alternative 4 that are associated with wetlands, western pond turtles, native fish, special status aquatic plants, and environmental justice populations by my decision. This includes the following measures:

To reduce adverse impacts to native fish and aquatic resource function in wetlands:

- Remove, replace, and install three new culverts on Runout Creek (alluvial fan) and up to two new culverts on Broad Creek (currently none) where they cross Lake Creek Road (15-7-35.0).
- Regrade the valley in the Hult Reservoir Restoration Area such that valley and stream grade (longitudinal profile) and valley width (lateral profile) are at the lowest possible angles.
- Cut a pilot channel through Hult Reservoir Restoration Area for Lake Creek to mimic the natural/historic sinuosity index of 1.12 and locate Lake Creek in its historic footprint using bathymetry and site photographs.
- Within the Hult Reservoir Restoration Area, cut pilot channels for tributaries connecting to Lake Creek and install large debris jams of wood and logs at tributary junctions. Design for maximum stream sinuosity and minimum stream grade as appropriate with the valley form.
- Ensure floodplain connectivity by designing and constructing low bank angles and shallow incisions throughout Hult Reservoir Restoration Area.
- Enhance natural topographic depressions in the Hult Reservoir Restoration Area (northwest and southeast corners of the existing reservoir) to sustain the presence of wetlands.
- Cut pilot channels on the Hult Reservoir Restoration Area floodplain for energy dissipation and habitat provisions during winter floods.
- Add up to 1,500 additional pieces of structure (e.g., logs and trees with root wads) in the Hult Reservoir Restoration Area (stream, bank, floodplain, flood channels, and wetlands) to stabilize exposed soils; prevent headcutting, bank slumping, and other runoff and erosion; and provide habitat. These pieces would be arranged in a combination of strategically placed structures and scattered opportunistically across the landscape to provide appropriate habitat and turtle basking structures and to maintain flood flow capacity. Place more pieces than necessary to compensate for firewood theft.
- Construct up to five beaver dam analog and/or post-assisted log structure complexes (multiple structures per complex) (see Figure 2-7 in Chapter 2 of the final EIS) in the Hult Reservoir Restoration Area to reduce stream energy in Lake Creek, tributaries, flood channels, and wetlands. When constructing beaver dam analogs in a sequence such that the structures work in concert with each other, space approximately 100 to 300 feet apart.

To reduce adverse impacts to aquatic special status plants and western pond turtles:

- Maintain warm-water habitat in the large open wetland at the north end of the reservoir (Hult Marsh; see Figure 3-15 in Chapter 3 of the EIS).
    - Utilize deconstructed fill material from the dam to control and contain water for special status plant species and wildlife management (e.g., large beaver dam analog, low embankment). Maintain approximately 3 to 6 feet of permanent water.
- Design and construct up to five artificial ponds that maintain permanent water with deep (greater than 6 feet) and shallow (less than 3 feet) aquatic habitat. Construct the ponds near other aquatic features for connectivity between habitats and for long-term population benefits.
    - Provide approximately 4 acres of ponds within the Hult Reservoir Restoration Area.

To reduce adverse impacts to the Hult Reservoir population of western pond turtles:

- Create warm-water habitat in the reconnected alluvial features, including design of channel and pool morphology (see mitigation measures proposed for wetlands).
    - To promote beaver activity, cut the pilot channel tributaries' stream width within a range of 1 to 8 meters, with a stream gradient of 0.5 to 5 percent (preferred gradient of 3 percent) and a valley width greater than two times the active channel width (USDI 2018b).

- Maintain and promote soft, muddy areas in ponds, wetlands, and other waterbodies known to support turtles (ODFW 2015:30) by planting shrubs and deciduous trees along aquatic habitat that will provide ample leaf litter and cool, moist spots for turtles during prolonged periods of heat. Maintain approximately 30 meters of vegetated buffer[3] (e.g., aquatic vegetation, shrubs, grasses, reeds, deciduous trees) around and adjacent to ponds, wetlands, and other waterbodies (USDI 2018b).
    - Promote beaver habitat in restoration activities by planting at least 225 shrubs and deciduous trees per acre within 30 meters of the aquatic habitat. Preferred species include willow, cottonwood, maple, alder, red osier dogwood, sedges, grasses, and aquatic vegetation (USDI 2018b).
- Maintain and protect turtle nesting habitat and movement corridors from actions that would otherwise make the habitat unsuitable or subject nesting females, developing eggs, or emerging young to increased predation, human-caused mortality, and illegal collection (ODFW 2015:22). Do not disrupt or destroy western pond turtle nesting habitat. Avoid disruption during the nesting season[4] when working within movement corridors and when working within 100 meters of nesting habitat. Exceptions include actions that are linked to habitat restoration efforts that would benefit or improve turtle habitat and actions that are directly related to meeting the purpose and need (e.g., reservoir construction, deconstruction, maintenance, or enhancement).
    - Maintain open areas (i.e., areas without overstory) within 100 to 200 meters of ponds and pool areas for nesting in the Hult Reservoir Restoration Area.
    - Buffer western pond turtle nesting habitat by 100 meters from all recreational development to reduce disruption.
    - Utilize deconstructed fill material to create and maintain up to five nesting mounds for western pond turtles measuring at least 20 feet by 20 feet (6 meters by 6 meters) and ranging from 12 inches to 36 inches deep that receive full solar exposure, preferably south facing (ODFW 2015:25).
    - Maintain clear visual and travel paths between waterbodies and occupied or potential nesting sites and remove obstructions to movement in aquatic corridors including the removal of vegetation that can obstruct turtle movement.
- Strategically place instream structures (see mitigation measures proposed for aquatics) of various-sized downed wood to provide needed habitat features for turtles, other wildlife, and fish. Instream wood structures would provide habitat and basking structures and maintain flood flow capacity (ODFW 2015:31).
- To minimize sight and sound disruption around new and existing recreational trails, create and maintain buffers of at least 500 feet (150 meters) between turtle habitats and trails by planting native vegetation around key turtle areas[5] (ODFW 2015:55).
- When dewatering a waterbody known or suspected to harbor turtles, leave the drained waterbody undisturbed and free of any wildlife exclusion fencing for at least 5 days (120 hours) before continuing project activities to allow any turtles present to leave on their own when human presence/activity is low. During these 5 days, a wildlife biologist would be on-site as needed during regular work hours to locate and move any turtles away from the construction zone.
- Post signs for anglers with instructions on what to do if they hook a turtle or instructions to immediately transport the turtle to the closest ODFW-licensed wildlife rehabilitation facility that can accept turtles (ODFW 2015:65).
- To avoid and minimize adverse impacts to turtles during the construction, operation, and maintenance phases of the project, refer to the best management practices in Appendix B of the EIS (*Oregon Department of Fish and Wildlife's Native Turtle Best Management Practices*).

[3] A buffer is a protective zone or area adjacent to or surrounding an important habitat feature such as a stream, wetland, or known wildlife breeding/nest site (ODFW 2015:19)

[4] Early May to mid-September.

[5] Key turtle areas include nesting habitat; basking sites; wildlife managed ponds, pools, and wetlands.

To maintain genetic diversity of Hult Reservoir western pond turtles:

- Capture pond turtles before and during the reservoir dewatering and move them to another site with suitable habitat (such as Hult Marsh).

To reduce adverse impacts to western brook lamprey juveniles:

- Lower the reservoir level at a rate that allows western brook lamprey juveniles to move into saturated sediment as the water level drops; utilize sprinkler systems where possible to retain wet substrate; and conduct an intensive salvage operation to capture and move as many juveniles as possible.

To reduce adverse impacts to environmental justice populations:

- Explore the development of non-water-based recreational opportunities in or near the project area by working with the BLM Office of Collaborative Action and Dispute Resolution (CADR) to conduct a follow-up to the 2017 Upper Lake Creek Management Plan Update EIS Stakeholder Assessment (Langdon Group 2017) to engage with the local public.

MITIGATION NOT ADOPTED

Mitigation measures proposed under Alternative 4 that are associated with recreation were not adopted by my decision. This includes the following:

To reduce adverse impacts to recreation:

- Extend and improve the existing multi-use trail system and build a connector trail to a viewpoint and day-use area.
- Build a one-way, downhill-emphasis mountain bike trail with bike-specific trail features accessible from both the Hult Reservoir recreation complex and the proposed day-use area viewpoint.

As described in Issue 6 (Quality of Life) of the EIS, many area residents have an attachment to Hult Reservoir based on years, and sometimes generations, of recreating there. These new proposed types of recreation opportunities would differ greatly from those available today, but the BLM considered the possibility that some residents and recreators may be drawn to the new setting even with the reduction in water-based recreation. However, public comments on the draft EIS revealed little evidence of public demand for trail-based recreation in the Hult Reservoir vicinity at this time. Therefore, I did not adopt these mitigation measures. Nonetheless, a mitigation measure adopted to reduce impacts to environmental justice populations by seeking public input into the development of recreation in or near the project area is expected to reduce adverse impacts to recreation in or near the project area.

THE ALTERNATIVES

The EIS addressed three action alternatives, all of which analyzed decommissioning the aging Hult Pond Dam in response to the Purpose and Need. For the purpose of the analysis in the EIS, the BLM made the assumption (based on the life span and condition of Hult Pond Dam) that, if no action were taken apart from continuing current management (No Action - Alternative 1), at some point either the dam will fail or the reservoir will need to be drained to prevent imminent dam failure. To address the potential range of effects, the analysis considered two sub-alternatives of Alternative 1 that represent the least controlled and most controlled of the scenarios, respectively:

- Alternative 1.1 addressed the assumption that the dam would completely fail.[6]
- Alternative 1.2 addressed the assumption that the reservoir would be drained in a controlled manner to prevent imminent dam failure.

[6] It should be noted that in order to meet Federal dam safety guidelines, in the event that failure of a high hazard dam seems imminent, the BLM would be required to decommission the dam (with or without building a replacement) and drain the reservoir so the dam does not fail.

Under Alternative 2 (Remove the Existing Dam and Build a New Dam to Maintain Hult Reservoir), the BLM would build a new dam in the place of the existing dam, thus keeping the 54-acre Hult Reservoir available for recreation. The new dam would have improved fish passage and include a spillway designed to pass a 500-year flood. Because of the dam's location and the size of the reservoir, the new dam would be classified as high hazard, and there would still be the potential for loss of life in the unlikely event that the dam was to fail.

Under Alternatives 3 (Remove Hult Reservoir; Build Little Log Pond) and 4 (Remove Hult Reservoir), the Hult Reservoir area would be restored to wetlands and forest after the dam was removed. Under Alternative 3, a new smaller dam would be built downstream to create "Little Log Pond," a 5-acre waterbody which would occupy the area formerly used as Hult Lumber Company's mill pond. Because of the smaller amount of water impounded, this dam would be classified as low or significant hazard. This pond would allow fish passage and would be used for recreation.

All action alternatives would add a camp host site and include signage and pamphlets that describe the history the Hult Lumber Company and the original inhabitants and their traditional uses of the area.

ENVIRONMENTALLY PREFERABLE ALTERNATIVE

As required by 40 CFR 1505.2(b) and 43 CFR 46.450, a record of decision must identify an environmentally preferred alternative. The Council of Environmental Quality's 40 Most Asked [NEPA] Questions, question number 6a, defines the environmentally preferable alternative as the one "that will promote the national environmental policy as expressed in NEPA's Section 101[7]. Ordinarily, this means the alternative that causes the least damage to the biological and physical environment; it also means the alternative which best protects, preserves, and enhances historic, cultural, and natural resources." The Council goes on to note that "[t]hrough the identification of the environmentally preferable alternative, the decision-maker is clearly faced with a choice between that alternative and others and must consider whether the decision accords with the Congressionally declared policies of the Act."

NEPA's Section 101 [42 USC 4331], referenced above, includes in part: "…it is the continuing policy of the Federal Government…to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans."

Out of the three action alternatives, Alternative 2 (Remove the Existing Dam and Build a New Dam to Maintain Hult Reservoir) provides the best habitat for western pond turtles (FEIS:134) and two rare aquatic plant species, the humped bladderwort and the northern bog clubmoss (FEIS:118). It also has the lowest likelihood of spreading invasive plants (FEIS:126-127). However, BLM has identified the Alternative 4 (Remove Hult Reservoir) with the included mitigation as the environmentally preferable alternative because its implementation will begin to restore the area to its historic ecological baseline. Under this alternative, wetlands will increase (FEIS:105-108) and native fish (including the federally listed coho salmon) will have an additional 8.8 miles of habitat (FEIS:147-148). Alternative 4 will improve water quality (dissolved oxygen and temperature, although not significantly) (FEIS:213-216) and improve northern spotted owl and marbled murrelet habitat (also not significantly)(FEIS:195-208). In addition, the adopted mitigation will provide habitat for the western pond turtle (FEIS:135-136) and the two special status aquatic plants (FEIS:118-119).

[7] The BLM is aware of the November 12, 2024 decision *in Marin Audubon Society v. Federal Aviation Administration,* No. 23-1067 (D.C. Cir. Nov. 12, 2024). To the extent that a court may conclude that the Council on Environmental Quality (CEQ) regulations implementing NEPA are not judicially enforceable or binding on this agency action, the BLM has nonetheless elected to follow those regulations at 40 C.F.R. Parts 1500– 1508, in addition to the DOI's procedures/regulations implementing NEPA at 43 CFR Part 46, to meet the agency's obligations under NEPA, 42 U.S.C. §§ 4321 et seq.

MANAGEMENT CONSIDERATIONS – RATIONALE FOR THE DECISION

My decision to select Alternative 4 is based on the degree to which the selected alternative meets the purpose and need (FEIS:14-15) as well as a consideration of the environmental impacts of the alternatives (FEIS:47-153, 188-229). The *Need for Action* section describes that—given the construction, design, and maintenance of the structure as well as the age—the dam has exceeded its functional lifespan and there is a potential for it to fail. The failure could lead to loss of life as well as property damage. In addition, the BLM needs to manage costs associated with the dam because it does not expect continued costly repairs to extend the dam's overall life. Thus, the purpose of this project is to decommission the existing structure to reduce the potential for failure and associated loss of life and property, as well as to be fiscally responsible with public funds. Alternative 4 will entirely eliminate the potential for any dam failure and avoid potential related loss of life and property damage.

All of the action alternatives decommission the existing Hult Pond Dam structure to reduce the potential for failure of the aging structure. Implementation costs range from $5.6 million (Alternative 4, without mitigation) to $30.2 million (Alternative 3, with adopted mitigation) and annual operations and maintenance costs likewise ranging from $24,000 to $92,000. Annual costs are currently $50,000 (FEIS:65). My selection of Alternative 4 (*Remove Hult Reservoir*) with adopted mitigation at a cost of $13.1 million for implementation and $49,000 annually best balances fiscal responsibility with environmental protections, as described below.

Under Alternative 4 with adopted mitigation, the BLM expects wetlands in the project area to increase (FEIS:105-109), and native fish (including federally listed coho salmon) would have an additional 8.8 miles of habitat (FEIS:147-148). Additionally, BLM will adopt measures to protect western pond turtle habitat (FEIS:135-136) as well as Bureau sensitive aquatic plants (FEIS:119). Alternative 4 includes design features aimed to allow adaptive management throughout restoration, decrease the spread of invasive plants, and increase the quality of camping and day-use activities by adding a camp host site with partial hookups and building a group campground and day-use area with picnic tables (FEIS:30). In addition, with no dam, Alternative 4 would present no threat to public safety or potential for property damage due to dam failure (FEIS:63).

As described above, my selection of Alternative 4 with selected mitigation best meets the purpose and need (dam safety and costs) while also balancing the potential environmental impacts of the alternatives.

OTHER ALTERNATIVES CONSIDERED IN DETAIL AND REASONS THEY WERE NOT SELECTED

Alternative 2 (Remove the Existing Dam and Build a New Dam to Maintain Hult Reservoir) meets the project's purpose of decommissioning the existing Hult Pond Dam, thus removing the potential for the aging dam to fail. In place of that dam, the BLM would build a new dam, which would allow for continued water-based recreation at Hult Reservoir. Because the new dam would preserve the reservoir, this alternative would have fewer effects to recreation (FEIS:75), environmental justice communities (FEIS:85), and quality of life for local residents (FEIS:85-86). However, costs associated with this alternative would be nearly twice those associated with the selected alternative (FEIS:65-66), and the beneficial effects to wetlands and native fish would not be as great (FEIS:104-105, 145-146). In addition, in the unlikely, but not impossible, event that the new Hult Pond Dam were to fail, the potential for loss of life and property would be as described under the No Action Alternative 1.1 (FEIS:62). While continued water-based recreation at Hult Reservoir and the associated minimal impacts to environmental justice communities and quality of life were appealing factors in the consideration of Alternative 2, I decided not to select it because of the increased costs, environmental effects, and minimal but still present potential for dam failure.

Likewise, Alternative 3 (Remove Hult Reservoir; Build Little Log Pond) would also meet the project's purpose of decommissioning the existing Hult Pond Dam. Under this alternative, the BLM would build a new smaller dam downstream to create a 5-acre Little Log Pond. Because this pond would be a new recreation site, people who have a strong sense of place regarding Hult Reservoir may not consider Little Log Pond as an acceptable substitute for the reservoir (FEIS:85-86). In addition, costs to implement this alternative are highest (FEIS:65-66): While a new

smaller dam would have a lower project cost than building a new dam to replace Hult Pond Dam, this alternative would also include the cost of restoring the Hult Reservoir area. This means that total costs would be two to three times the amount as the selected alternative.[8] This alternative was also not appealing to the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians. The Tribe is a cooperating agency on this project, and Tribal land surrounds the project area; this alternative would put the focus of recreation adjacent to the property line (FEIS:25-26,192). For these reasons, I did not select Alternative 3.

CLARIFICATIONS

This Record of Decision selects the Preferred Alternative in the FEIS, published on July 26, 2024, with the exception of a minor clarification as described in this section. The following clarification is neither substantive nor significant and therefore does not require that the BLM provide the public with further opportunity to comment.

The FEIS stated that removal of Hult Dam would result in an adverse effect to the National Register of Historic Places (NRHP)-eligible Hult Lumber Company Mill and Dam Site. FEIS, p. 163. As a result, the BLM proposed and is developing, in consultation with the State Historic Preservation Office (SHPO), a mitigation plan to address the adverse effect. The BLM erroneously stated that adopting the mitigation plan would result in a finding of "no adverse effect". While the consulting parties have developed specific mitigation measures pursuant to the Section 106 process, the finding of effect for the undertaking will not change and remains an adverse effect to the Site. However, the BLM is detailing mitigation measures designed to resolve the adverse effects in a formal Memorandum of Agreement (MOA) to be signed by BLM and SHPO. *See* 36 C.F.R. 800.6(b)(1)(iv). The Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians (CTCLUSI) have been invited as a signatory or concurring party and have expressed interest in participating in this MOA.

The BLM , will execute and implement the MOA pursuant to 36 C.F.R. 800.6(c). Executing the MOA evidences BLM's compliance with section 106 and shall govern the undertaking and all of its parts. The BLM will ensure that this undertaking is carried out in accordance with the MOA.

IMPLEMENTATION OF THE DECISION

Following this decision, the BLM will begin a detailed project design process which may be performed with support from external parties and specialists. Implementation of Alternative 4 will require permits from various State and Federal regulatory agencies. The BLM will obtain the applicable permits, inspections, certifications, and reviews in the implementation phase of the project. Before implementing the decision actions described in this Record of Decision, the BLM will complete a tiered environmental assessment, categorical exclusion review, or determination of NEPA adequacy, as appropriate. The BLM expects construction to start in 2026 at the earliest and implementation is expected to take 3 years.

PUBLIC INVOLVEMENT

Public participation is an integral part of the NEPA process. The following describes the stages of public involvement that occurred during this EIS process:

- In 2017, the BLM conducted a stakeholder assessment that included interviews with local business and property owners, recreation groups, and other community members (Langdon Group 2017). The goal of the assessment was to identify the spectrum of ideas and concerns held by members of the public regarding the management of Hult Reservoir.

[8] It should also be noted that BLM engineering uses cost-per-acre foot of reservoir storage as a determining factor for the feasibility of a project. These costs range from range from $486,000 to $714,000 under Alternative 3, which is approximately 10 times the cost of Alternative 2.

- In May 2018, the BLM published a Notice of Intent to prepare an EIS in the Federal Register, beginning a 30-day scoping[9] period. The BLM received six comment letters during this time and held public scoping meetings at the Blachly Grange in March 2018 (with 25 attendees) and at Hult Reservoir in June 2018 (with few attendees). The BLM then put the project on hold to allow for additional information gathering.
- In December 2021, the BLM published a Notice of Intent in the Federal Register, beginning a new 30-day scoping period. The BLM held a pre-scoping open house at Hult Reservoir in September 2021; 48 members of the public signed in. The BLM received 159 comment letters from the public during the scoping and pre-scoping period. During this period, the BLM asked for input on the EIS issues, impacts, and alternatives.
- In early February 2022, the BLM sent a tri-fold mailer to over 300 households in the reservoir inundation zone that shared information about Hult Pond Dam's risk to public safety, emergency readiness, and the EIS.
- The BLM made a preliminary draft of the Hult Reservoir and Dam Safety EIS Chapters 1 and 2 available for public comment between May 2 and June 5, 2022, and held an open house at Triangle Lake Charter School on May 4. The BLM received 51 comment letters during this comment period.
- The draft EIS was available for public review and comment from October 20 to December 7, 2023. The BLM held an online public meeting on November 15 and an open house at Triangle Lake Charter School on November 17. The BLM received 35 comment letters during the comment period.

The BLM established public quarterly email updates for the project and sent the first update on February 14, 2022, to a list of nearly 200 email addresses. Additionally, the BLM posted updates and information about the project on both ePlanning and the BLM's web page for the Hult Pond Dam Project, including PDFs of printed materials and frequently asked questions about Hult Reservoir, the EIS, and dam safety.

[9] Scoping is the process by which the BLM solicits internal and external input on the issues, impacts, and potential alternatives that the EIS will address, as well as the extent to which its NEPA analysis will examine those issues and impacts.

ADMINISTRATIVE APPEAL PROCEDURES

This decision may be appealed to the Interior Board of Land Appeals (IBLA), Office of the Secretary, in accordance with regulations contained in 43 Code of Federal Regulations (CFR), Part 4 and Form 1842-1. If you file an appeal, you should mail it to the Northwest Oregon District Manager, 1717 Fabry Road SE, Salem, OR 97306. It should be postmarked within 30 days of the publication on ePlanning. For example, if the Notice of Availability was published to ePlanning on January 17th 2025 , appeals would need to be postmarked no later than Monday, February 18th 2025 . The appellant has the burden of showing the decision appealed is in error.

You must also send a copy of the appeal, statement of reasons, and all other supporting documents to the Regional Solicitor, Pacific Northwest Region, U.S. Department of the Interior, 601 SW 2nd Ave, Suite 1950, Portland, OR 97204. If the notice of appeal does not include a statement of reasons for the appeal, you must send it to the Interior Board of Land Appeals, Office of Hearings and Appeals, 801 North Quincy Street, Arlington, VA 22203 within 30 days of filing the notice of appeal (43 CFR 4.412). We suggest sending the appeals with certified mail, return receipt requested.

Requests for Stay: Should you wish to file a motion for stay pending the outcome of an appeal of this decision, you must show sufficient justification based on the following standards under 43 CFR 4.21:

- The relative harm to the parties if the stay is granted or denied.
- The likelihood of the appellant's success on the merits.
- The likelihood of immediate and irreparable harm if the stay is not granted.
- Whether or not the public interest favors granting the stay.

As with an appeal, you must file the motion for stay with the Northwest Oregon District Manager and the Regional Solicitor.

SIGNATURE

DENNIS TEITZEL

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1/16/2024

_____ _____

Dennis C. Teitzel,
District Manager
Northwest Oregon District

Date

REFERENCES

Cited as	***Reference***
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