Finding of No Significant Impact

Crow Pump Diversion Reconstruction

Flathead Indian Reservation, Lake County, Montana

This Finding of No Significant Impacts (FONSI) describes the U.S. Bureau of Indian Affairs (BIA) findings regarding the significance of environmental impacts from a proposed Confederated Salish and Kootenai Tribes (CSKT) project to replace the Crow Pump Diversion, implement other irrigation improvements at the Crow Pump Canal, and address degraded habitat in the area through restoration and enhancement strategies. This FONSI also provides the BIA's decision regarding the Proposed Action Alternative. In accordance with the National Environmental Policy Act (NEPA) of 1969, as amended, an environmental assessment (EA) was prepared for the proposed Crow Pump Diversion Reconstruction within the Flathead Indian Reservation. The proposed project area is found in Sections 15, 16, and 21 of Township 20 North, Range 20 West on the Charlo, Montana, U.S. Geological Survey (USGS) 7.5-minute topographic series map.

The current Crow Pump Diversion structure is part of the Flathead Indian Irrigation Project (FIIP), which is owned and operated by the BIA. The structure is not operational; however, when the diversion structure was functioning, the FIIP used it to divert water from Crow Creek into a pumping plant that lifts it into the Crow Pump Canal. Water in the Crow Pump Canal could either be delivered for storage in the Ninepipe Reservoir or used to supplement flows in the Post A Canal. The existing Crow Pump Diversion and pump station have capacity, flexibility, and redundancy limitations. The current facility is not operable, and the entire irrigation system lacks backup features to keep it running. The configuration and location of the existing structure also results in sediment deposition downstream of the diversion and in the Crow Pump Canal. There is currently no accommodation for upstream fish passage at the Crow Pump Diversion, and the existing pump intake is not screened to exclude fish from entering, leaving fish entrained in the wet well and vulnerable to harm or death when the pumps are operational. The Crow Pump Canal is highly inefficient due to seepage into the ground from the canal, and irrigation waters often do not make it to their intended destinations. In addition, construction of the Crow Pump Diversion and adjacent land use practices have substantially changed the topography and habitat communities along the Crow Creek corridor. Grazing and changes in the habitat communities around the diversion are contributing to bank instability and provide an environment where noxious and invasive species can thrive.

The project is needed to address the dual objectives of the CSKT-MT Water Rights Compact, providing both irrigation improvements and restoration. The primary purposes of the project are to reconstruct the Crow Pump Diversion and related irrigation infrastructure to improve operational flexibility, add redundancy, increase the facility's capacity to divert and pump water, improve passage for a wide variety of fish species and life stages in Crow Creek, and to accommodate aquatic and terrestrial habitat restoration and enhancements in the diversion area.

The EA considered two alternatives: the Proposed Action Alternative (removal and replacement of the Crow Pump Diversion, constructing a new pump building, replacing a portion of the Crow Pump Canal with a pipeline, and restoring and enhancing the Crow Creek corridor) and the No Action Alternative (Section 3.1 of the EA). Other alternatives, including (1) Structure Rehabilitation (Two or Three Pumps) and (2) Structure Replacement (Three Pumps), were considered but eliminated from detailed study (Section 3.2 of the EA). The Proposed Action Alternative involves:

- Removal and replacement of the existing Crow Pump Diversion with a new, concrete structure that includes a 35-foot-long spillway, a 6-foot by 3.5-foot sluiceway slide gate, a grouted riprap fishway, and a pump intake protected with a fish screen.
- Construction of a new, approximately 70-foot-long, grouted riprap fishway within the new diversion structure that includes five weirs with pools in between each weir to allow for the passage of a variety of fish species at various life stages.
- Installation of three inclined flat panel fish screens with 1.75-millimeter (maximum) screen openings at the entrance to the new pump intake to prevent fish and debris from entering the pump station wet well.
- Construction of a new 26-foot by 40-foot pump station building and replacement of the pump station with four new vertical pumps, over a wet well, with an increased pumping capacity of 40 cubic feet per second (cfs).
- Construction of a temporary bypass channel and installation of cofferdams to construct the new diversion, intake, and wet well. After construction is complete, the cofferdams would be removed, and the temporary bypass channel would be decommissioned.
- Installation of a new stream gage about 150 feet downstream of the new diversion dam.
- Replacement of the existing pressure pipeline, which spans from the existing pumphouse to the head of the Crow Pump Canal, with four new 638.8 foot long by 24-inch diameter high-density polyethylene (HDPE) pipes. The new pressure pipelines would enter the Crow Pump Canal prism downstream of the existing canal start, and the canal footprint upstream of the new transition structure location would be filled in.
- Construction of a new transition structure at the intersection of the four new pressure pipelines and a proposed gravity pipeline.
- Installation of a new 3,695 foot long by 48-inch diameter HDPE gravity pipe that would primarily follow the canal to the MRL railroad siphon inlet.
- Implementation of habitat and wetland restoration along the floodplain north of Crow Creek at the diversion area, including stripping 2,500 cubic yards (CY) of reed canarygrass (*Phalaris arundinacea*) sod and incorporating microtopography (floodplain roughness) and planting of willow cuttings and brush throughout the area.

- Reconstruction of the creek banks using layers native willow cuttings to create brush banks upstream and downstream of the diversion structure.
- Implementation of habitat and wetland restoration at oxbow features approximately 1,200 feet downstream of the new diversion along the northeast side of the creek. Approximately 1,000 lineal feet of historic oxbow would be reconnected to Crow Creek surface flows by excavating flow paths between Crow Creek and the oxbows. A series of check structures would be constructed withing the excavated channels to allow low flows to move through the site and inundate areas behind the plugs.

Finding of No Significant Impact (FONSI)

Based on the analysis discussed in the May 2025 Final and supporting documents, the BIA Flathead Agency has made the determination that implementation of the Proposed Action Alternative does not constitute a major federal action which would significantly affect the quality of the human environment, individually or cumulatively, with other actions in the general area. None of the environmental effects identified meet the definition of significance in context or intensity as presented in BIA NEPA Guidelines. Therefore, in accordance with NEPA of 1969, as amended, an Environmental Impact Statement (EIS) is not required and will not be prepared.

Finding

This FONSI describes the reasons why an action will not have a significant effect on the human environment and why preparation of an EIS is not required.

The BIA determination, as noted above, is supported by the following findings:

1. The EA describes the Proposed Action Alternative (preferred) and the No Action alternatives (Section 3.0 of the EA), as well as the respective environmental consequences (Section 4.0 of the EA). The EA discusses the reasons for the choice of the two alternatives (Sections 3.0 and 4.0 of the EA).

2. Mitigation measures, as described in Section 5.0 of the EA, will be implemented to mitigate potential impacts of the Proposed Action Alternative, and comply with local, Tribal, and federal regulatory requirements. Potential impacts to resources, mitigation implemented, and the reasons why the impact is not significant are summarized below.

Resource	Impact identified in the EA	Considerations and reason not significant
Topography (4.2.1 of the EA, page 26)	The Proposed Action Alternative would require approximately 4 acres of excavation and fill material placement and approximately 5.5 acres of grading that would affect topography. Excavation within the creek and along the creek bank, as well as excavation to create new drainage ponds, would result in 2.9 acres of permanent topography changes, including burial of the open canal.	While excavation and fill are proposed, these changes to the general topography are anticipated to be minor, permanent, direct impacts, with changes expected to be beneficial over the long-term by restoring some of the natural topography (i.e., burying the canal) and addressing habitat and floodplain impairments.
Soils (4.2.2 of the EA, page 26)	Approximately 4 acres of excavation, 5.5 acres of grading, and 17.5 acres of general ground disturbance would occur due to the proposed diversion and canal improvements and wetland/floodplain restoration efforts. Improved grading/vegetation treatments along the creek floodplain may result in sediment deposition along the creek corridor, replenishing soils and nutrients.	Ground disturbance activities have the potential to cause generalized soil impacts and compaction, and minor erosion may still occur during rain and wind events following construction until disturbed areas have stabilized. To address impacts, soils would be roughened before seeding occurs to encourage infiltration and plant growth. Disturbed areas would be stabilized through erosion control measures, including seeding, after construction activities are completed. Overall, the Proposed Action Alternative would have minor, adverse, direct localized, impacts on soils in the short-term; however, grading improvements and vegetation treatments along the creek floodplain may result in sediment deposition along the corridor, replenishing soils and nutrients. Therefore, the Proposed Action Alternative would have minor, long-term, direct beneficial impact on soils.

Resource	Impact identified in the EA	Considerations and reason not significant
Surface Waters and Wetlands (4.3.1 of the EA, page 27)	Approximately 1.118 acres of wetlands and 0.146 acre (509 linear feet) of waterways would be permanently impacted due to placement of fill material. Approximately 0.194 acre of wetlands and 0.193 acre (401 linear feet) of waterways would be temporarily impacted.	While placement of fill within wetlands and waterways can be considered a negative impact, these impacts are needed to help reduce capacity constraints and hydraulic inefficiencies associated with the Crow Pump Diversion. These impacts are also needed to help restore and enhance natural functions and processes of Crow Creek and associated wetland systems by establishing, restoring, and enhancing wetlands; re-establishing bank vegetation; providing improved fish passage; and improving floodplain connectivity. Bank stabilization and floodplain and aquatic resource restoration and enhancement activities outlined in the Proposed Action Alternative would be used as compensatory mitigation to offset wetland impacts associated with the diversion infrastructure and canal piping. Overall, the Proposed Action Alternative would have both direct and indirect long-term beneficial impacts on surface waters and wetlands in the area.
Surface Water Quality (4.3.2 of the EA, page 32)	Improvements to the Crow Pump Diversion would not permanently produce or increase potential water quality impairments within Crow Creek. Native brush bank treatments would be installed above and below the new diversion structure to reduce erosion and downstream sediment transfer. Additionally, enhancing existing wetlands and establishing new wetlands would improve nutrient capture and filtering of contaminants before reaching Crow Creek.	Minor temporary impacts to water quality may occur during construction. However, to minimize turbid water within Crow Creek during construction, in-channel work would be accomplished by constructing a bypass channel around the work area using cofferdams. The bypass channel would be appropriately dewatered, and excavated material from the temporary bypass channel would be stockpiled on the floodplain north of the creek and away from surface water, which is consistent with project mitigation activities. The cofferdams would be breached upon completion of in-channel work and flows within Crow Creek would resume. Overall, the Proposed Action Alternative is anticipated to have a minor, long-term, beneficial impact on water quality.

Resource	Impact identified in the EA	Considerations and reason not significant
Water Rights (4.3.3 of the EA, page 33)	As part of the Proposed Action Alternative, the Crow Pump Diversion would be returned to operation, providing improved reliability, resiliency, redundancy, and capacity to better serve irrigators in the Charlo Irrigation Service Area. As the diversion is not currently functional, no interruption to water supply during construction would occur.	Improvements would offset the Charlo Irrigation Service Area's reliance on Post Creek and provide the ability to send water to Ninepipe Reservoir before and while the Kicking Horse Reservoir is out of commission. Overall, the Proposed Action Alternative would have moderate, direct, beneficial impacts on water rights.
Floodplains (4.3.4 of the EA, page 35)	As part of the Proposed Action Alternative, over 1,000 cubic yards of fill material, concrete, and riprap would be placed within and adjacent to the Crow Creek. Improvements would include bank treatments, changes to micro-topography, and enhancements to restore natural vegetation adjacent to Crow Creek.	The Proposed Action Alternative would re-establish floodplain hydrology, enhance existing wetlands, and support growth of woody vegetation. Overall, the Proposed Action Alternative would have a direct, moderate, long-term beneficial impact to floodplains and floodplain functions.

Resource	Impact identified in the EA	Considerations and reason not significant
General Terrestrial and Aquatic Species (4.5.2.1 of the EA, page 37)	Approximately 4 acres of excavation, 5.5 acres of grading, and 17.5 acres of general ground disturbance would occur due to the proposed diversion and canal improvements and wetland/floodplain restoration efforts. This would involve temporary or permanent impacts to wetland habitat, upland habitat, and aquatic (creek) habitat. Under the Proposed Action Alternative, over 25 acres would be formally rededicated from agricultural uses to a protective status and managed for habitat purposes under the wildlife management program. Construction-related impacts to terrestrial wildlife would primarily include the temporary or permanent loss of habitat and displacement of resident wildlife from the construction area, possible injury or death to smaller animals, and noise disturbance. Construction-related temporary impacts to aquatic species include increased sediment and potential entrainment during dewatering activities.	To minimize potential construction-related impacts to wildlife habitat, work would be confined to the defined construction limits to the extent practicable, with designed vegetation preservation and salvage areas noted on design plan sheets. Best management practices (BMPs) would be installed during construction to limit impacts to wildlife and habitat, and seeding in temporarily disturbed areas would occur following construction. Vegetation is anticipated to return after completion of the project. In addition, Fish salvage would be performed, as needed, between July and August 2025 in conjunction with the placement of cofferdams and opening of the temporary bypass channel to reduce potential impacts related to take/loss of aquatic species. The Proposed Action Alternative improvements would replace the existing Crow Pump Diversion with a new diversion structure that includes a grouted riprap fishway and intake protected with a fish screen which would allow for improved year-round fish passage of a wide variety of fish species and life stages. Installation of the new fish screen at the intake to the pump station wet well would help reduce or eliminate fish entrainment and mortality. Improvements to adjacent floodplains, wetland enhancement, and improved fish passage would result in long-term, moderate benefits for terrestrial and aquatic wildlife species.

Resource	Impact identified in the EA	Considerations and reason not significant
Avian Species (4.5.2.2 of the EA, page 38)	Active nests are likely to occur within the project limits, and construction has the potential to impact nesting birds protected under the Migratory Bird Treaty Act (MBTA) if tree and shrub removal, ground-clearing activities, and equipment maneuvering occur during the bird-breeding season (April 15 to August 16). Vegetation clearing would be necessary to construct the new diversion structure and pumphouse.	Compliance with MBTA guidance would be required, and disruption to nesting birds and disturbance of active nests would be avoided. Conservation measures to protect any nesting migratory birds, their eggs, hatchlings, or fledglings would be implemented to avoid impact during construction. Vegetation clearing would occur outside of breeding season; however, should work need to occur during breeding season, areas to be disturbed would be cleared for migratory species nesting by a qualified biologist. Overall, the aquatic and terrestrial rehabilitation efforts would improve avian habitat within the project area and result in minor, long-term benefits to migratory birds.
Vegetation (4.5.4 of the EA, page 40)	Approximately 4 acres of excavation, 5.5 acres of grading, and 17.5 acres of general ground disturbance for staging/stockpiling, construction equipment maneuvering, and access would occur during construction of the Proposed Action Alternative. This ground disturbance would involve temporary and permanent impacts to wetland habitat, upland habitat, and aquatic (creek) habitat. Additionally, restoration and enhancement improvements are estimated to gain approximately 3.2 acres of wetlands through removal of invasive reed canarygrass, and installation of backwater channels and check structures at historic oxbows downstream.	While some wetland and riparian vegetation would be lost as a result of the Proposed Action Alternative, the intent of the improvements is to facilitate improvement of existing wetlands, expand the size of existing wetlands, support natural floodplain process, improve bank stability through vegetation efforts, and improve overall habitat quality through the removal of noxious and invasive plant species. To limit the extent of potential impacts to vegetation, work would be confined to the defined construction limits to the extent practicable. Vegetation is anticipated to return after completion of the project. Overall, the Proposed Action Alternative would have moderate, long-term beneficial impacts on vegetation in the area.

Resource	Impact identified in the EA	Considerations and reason not significant
Employment and Income (4.7.1 of the EA, page 43)	The Proposed Action Alternative would result in beneficial impacts by providing a small number of temporary job opportunities for local residents as part of the labor force necessary to complete the proposed improvements. In the long-term, replacing the Crow Pump Diversion and piping the canal would allow for more reliable operation and distribution of irrigation water for users in the Charlo Service Area, which provides means to sustain the area's farms and grazing lands.	Temporary employment opportunities for Tribal members would be prescribed and coordinated through the Tribal Employment Rights Ordinance office. In addition, construction bid documents may be separated to allow for smaller tribal contractors to bid on portions of construction, and tribal contractors would be given preference over non-tribal contractors during the construction bidding process. The Proposed Action Alternative would have moderate, short-term and long-term, beneficial effects on the local economy and income.
Community Infrastructure (Utilities and Public Infrastructure) (4.7.2 of the EA, page 44)	Potential brief interruptions to electrical service may occur during installation of the new transformer and connection of the new underground electrical line to the existing electrical grid.	Any notification of service interruptions would be the responsibility of the appropriate utility owners. Therefore, the Proposed Action Alternative would have a negligible, short-term, direct impact on utilities.
	Depending on where materials and construction equipment come from, traffic on MT-212 and/or US-93 may be temporarily slowed down as materials and heavy equipment are transported to the project area.	Impacts to the transportation network are anticipated to be short-term and minor. The existing gravel access road would be permanently improved to allow future maintenance of the diversion infrastructure.
Agriculture (4.8.1 of the EA, page 45)	No agricultural land would be impacted within the project area; however, some grazing area may be reduced through fencing adjustments near the creek to protect the downstream wetland mitigation/restoration site. Proposed improvements would eliminate existing operational and capacity limitations, providing the supplemental irrigation water the Charlo Service Area would require when minimum instream flows on Post Creek are enforced.	Minor, long-term beneficial impacts to agricultural lands and operations in the Charlo Irrigation Service Area are anticipated under the Proposed Action Alternative, as improvements would create a reliable and redundant irrigation system, which would provide increased water supply flexibility and a means to sustain the area's farms and grazing lands.

Resource	Impact identified in the EA	Considerations and reason not significant
Visual Resources (4.9.1 of the EA, page 46)	The visual character of the project area would be slightly altered by the proposed irrigation improvements and through proposed restoration/revegetation efforts, which would take one to two growing seasons to reestablish.	The Proposed Action Alternative would have long-term, minor impacts in the immediate area, as the improvements would be visually evident to individuals that visit the area. However, individuals familiar with the area would recognize these improvements as typical within the context of the FIIP, with improved natural habitat enhancing the visual character of the site.
Indian Trust Assets (4.9.2 of the EA, page 46)	Within the project area, the Crow Pump Diversion, Crow Pump Canal, and resources/Tribal land within the project area are considered Indian Trust Assets (ITAs). The Proposed Action Alternative would replace the existing Crow Pump Diversion and associated infrastructure and include restoration activities.	Improvements made by the Proposed Action Alternative would have a moderate, long-term beneficial impact on ITAs and the adjacent Tribal trust lands by improving operational inefficiencies and capacity limitations, providing water delivery redundancy to the Carlo Irrigation Service Area, and enhancing the land through habitat restoration.
Waste and Hazardous Materials Management (4.9.3 of the EA, page 47)	During construction, some hazardous materials, such as oil and gas, would be used by construction equipment near wetlands and waterways. Lead-based paint was noted on the orange valve within the existing pumphouse. During demolition, the valve would be removed and disposed of at an EPA approved disposal facility.	Hazardous materials from construction would be limited in quantities and managed according to standard best practices. Overall, the Proposed Action Alternative would result in short-term, negligible impacts from waste and hazardous materials management.

3. The Biological Assessment Report provided to US Fish and Wildlife Service (USFWS) in December 2024 determined that the Proposed Action Alternative would have the following impacts on Threatened and Endangered Species:

   a. ***No effect*** on Canada lynx (*Lynx canadensis*) and North American Wolverine *(Gulo gulo luscus)*

   b. ***May affect, but is not likely to adversely affect*** the yellow-billed cuckoo (*Coccyzus americanus*) and grizzly bear (*Ursus arctos horribilis*)

   c. ***Not likely to jeopardize the continued existence of*** monarch butterfly *(Danaus plexxipus)*

   Mitigation Measures for grizzly bear were recommended (Chapter 5 of the EA) and additional BMPs would be implemented for wildlife species. The USFWS concurred with the findings of the December 2024 Biological Assessment in a letter dated January 7, 2024 (Appendix B of the EA).

4. While no known cultural or historic properties were identified as part of the 2024 cultural review, there are known resources in the surrounding areas. The CSKT Tribal (Historic) Preservation Department (TPD) has requested that a TPD staff member be present during all ground-disturbing activities. Any archaeological or historical artifacts discovered during construction would be left intact and undisturbed, all work in the area would cease immediately, and the CSKT TPD (406.675.2700 ext. 1075) would be notified immediately pursuant to 36 CFR 800.13. Commencement of operations would be allowed upon notification by the CSKT Tribal Preservation Department. With these mitigation measures in place, ***no cultural or historic properties would be affected*** (4.6 of the EA, page 42). The TPD cultural concurrence letter is found in Appendix C of the EA.

5. When considering the disturbance size and scope of the Proposed Action Alternative, along with other past, present, and reasonably foreseeable future actions, the Proposed Action Alternative would likely result in minor, beneficial cumulative impacts on wetlands, surface waters, water rights, aquatic resources, threatened and endangered species, and vegetation (4.10 of the EA, page 48).

6. The Proposed Action Alternative is in compliance with the Clean Air Act. A general conformity determination is not required because the project is located in an attainment area for all U.S. Environmental Protection Agency's priority pollutants (4.4 of the EA, page 35). Overall, the amount of dust generated by the project would not exceed what is currently generated in the project vicinity.

Agency scoping was conducted during a scoping meeting on August 15, 2024. No comments related to the implementation of the Proposed Action Alternative were received (Appendix A of the EA). The BIA and CSKT have determined that the level of public interest for this project is low, and public scoping on the project is not required. The BIA will notify the public of the availability of the Final EA and this FONSI during the notice of appeal period.

Decision and Rationale

Based on the subject EA, and considering the proposed project plans, cumulative effects, the FONSI above, and other information available, the BIA authorizes the proposed Crow Pump Diversion Reconstruction project. Anticipated environmental impacts from the Proposed Action Alternative, as described in the EA, are negligible to moderate. The Proposed Action Alternative would provide irrigation improvements, irrigation reliability, habitat restoration and enhancement in the project vicinity, and would support the rights of the CSKT to implement habitat restoration and irrigation infrastructure improvements on the Flathead Indian Reservation, per historic treaty rights, and in line with their watershed management plans and the CSKT-Montana Water Compact.

Executive Order 14154, Unleashing American Energy (Jan. 20, 2025), and a Presidential Memorandum, Ending Illegal Discrimination and Restoring Merit-Based Opportunity (Jan. 21, 2025), require the Department to strictly adhere to NEPA, 42 U.S.C. §§ 4321 et seq. Further, such Order and Memorandum repeal Executive Orders 12898 (Feb. 11, 1994) and 14096 (Apr. 21, 2023). Because Executive Orders 12898 and 14096 have been repealed, complying with such Orders is a legal impossibility. The BIA, Northwest Regional Office (BIA NWRO), verifies that

it has complied with the requirements of NEPA, including the Department's regulations and procedures implementing NEPA at 43 C.F.R. Part 46 and Part 516 of the Departmental Manual, consistent with the President's January 2025 Order and Memorandum. The BIA NWRO has also voluntarily considered the Council on Environmental Quality's rescinded regulations implementing NEPA, previously found at 40 C.F.R. Parts 1500–1508, as guidance to the extent appropriate and consistent with the requirements of NEPA and Executive Order 14154.

Approved by: Shane R. Hendrickson Digitally signed by Shane R. Hendrickson Date: 2025.05.15 14:04:53 -06'00' **Date:** _____

Shane Hendrickson, Superintendent
Department of Interior - Bureau of Indian Affairs
Flathead Agency
Pablo, MT