

## TRIBAL RESPONDENT ANNUAL BURDEN HOUR CHART—Continued

30 CFR Hours Section	Reporting requirement	Burden hours per response	Annual number of responses	Annual burden hours
228.103(a) and (b) .....	The * * * Indian tribe entering into a cooperative agreement * * * must retain all records, reports, working papers, and any backup materials * * * The * * * Indian tribe shall maintain all books and records * * *.	120	8	960
228.105(a)(1) and (2) .....	The Department may * * * reimburse the * * * Indian tribe up to 100 percent of the costs of eligible activities. Eligible activities will be agreed upon annually upon the submission and approval of a workplan and funding requirement. A cooperative agreement may be entered into with * * * Indian tribe, upon request, without a requirement for reimbursement of costs by the Department.	60	8	480
228.105(c) .....	The * * * Indian tribe shall submit a voucher for reimbursement of eligible costs incurred within 30-days of the end of each calendar quarter. The * * * Indian tribe must provide the Department a summary of costs incurred, for which the * * * Indian tribe is seeking reimbursement, with the voucher.	4	48	192
Total .....	.....	.....	66	1,912

*Estimated Annual Reporting and Recordkeeping “Non-hour Cost”*

**Burden:** We have not identified any non-hour cost burdens.

**Comments:** The PRA (44 U.S.C. 3501, *et seq.*) provides an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Before submitting an ICR to OMB, PRA Section 3506(c)(2)(A) requires each agency “\* \* \* to provide notice \* \* \* and otherwise consult with members of the public and affected agencies concerning each proposed collection of information \* \* \*.” Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

The PRA also requires agencies to estimate the total annual reporting “non-hour cost” burden to respondents or recordkeepers resulting from the collection of information. We have not identified any non-hour, start up costs. If you have costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup cost components or annual operation, maintenance, and purchase of service components. You should describe the methods you use to

estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information; monitoring, sampling, testing equipment; and record storage facilities. Generally, your estimates should not include equipment or services purchased: (i) Before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Government; or (iv) as part of customary and usual business or private practices.

We will summarize written responses to this notice and address them in our ICR submission for OMB approval, including appropriate adjustments to the estimated burden. We will provide a copy of the ICR to you without charge upon request, and the ICR will also be posted on our Web site at [http://www.mrm.mms.gov/Laws\\_R\\_D/FRNotices/FRInfColl.htm](http://www.mrm.mms.gov/Laws_R_D/FRNotices/FRInfColl.htm).

**Public Comment Policy:** We will post all comments in response to this notice on our Web site at [http://www.mrm.mms.gov/Laws\\_R\\_D/FRNotices/FRInfColl.htm](http://www.mrm.mms.gov/Laws_R_D/FRNotices/FRInfColl.htm). We will also make copies of the comments available for public review, including names and addresses of respondents, during regular business hours at our offices in Lakewood, Colorado. Individual respondents may request we withhold their home address from the public record, which we will honor to the extent allowable by law. There also may

be circumstances in which we would withhold from the rulemaking record a respondent’s identity, as allowable by law. If you request that we withhold your name and/or address, state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

**MMS Information Collection Clearance Officer:** Jo Ann Lauterbach (202) 208-7744.

Dated: April 30, 2003.

**Lucy Querques Denett,**

*Associate Director for Minerals Revenue Management.*

[FR Doc. 03-11041 Filed 5-2-03; 8:45 am]

BILLING CODE 4310-MR-U

**DEPARTMENT OF THE INTERIOR****Bureau of Reclamation****Draft Environmental Impact Statement on the Klamath Project Operation, Oregon and California**

**AGENCY:** Bureau of Reclamation, Interior.

**ACTION:** Supplemental information related to the notice of intent to prepare a draft environmental impact statement.

**SUMMARY:** The Bureau of Reclamation (Reclamation) is continuing work under the National Environmental Policy Act on an environmental impact statement (EIS) for the Klamath Project (Project)

operation, a Federal reclamation project, located in southern Oregon and northern California. This supplemental NOI is being published to describe the current proposed action, the purpose of and need for that proposal, and the scope of the EIS. Reclamation is proposing substantial changes in the proposed action alternatives that are relevant to environmental concerns, and there are new circumstances or information relevant to environmental concerns bearing on the proposed action or its impacts.

**DATES:** Reclamation is initiating a formal scoping period of 120 days following the publication of this supplemental NOI. Reclamation invites all interested parties to submit written comments or suggestions during the scoping period. Written comments should be sent to the Reclamation Project Manager (see **ADDRESSES** below) by September 2, 2003. Comments postmarked after that date will be considered to the extent practical.

A public mailing that outlines the project timeline and public involvement opportunities is planned for distribution subsequent to publication of this supplemental NOI. Individuals who want to receive this mailing should contact us within 15 days of the publication of this supplemental NOI.

**ADDRESSES:** Please send written comments to Mr. Daniel S. Fritz, Project Manager, Klamath Basin Area Office, Mid-Pacific Region, Bureau of Reclamation, Attention: KO-150, 6600 Washburn Way, Klamath Falls, OR 97603.

**FOR FURTHER INFORMATION CONTACT:** Mr. Daniel S. Fritz at 541-880-2556.

**SUPPLEMENTARY INFORMATION:** The preliminary alternatives developed in January 2001 are being reconsidered because many of the underlying assumptions used to develop alternatives for detailed analysis in the EIS have changed. The purpose of and need for the action should be clarified. This supplemental notice (1) summarizes the activities related to alternative formulation and other events to date, (2) defines and clarifies the proposed action, (3) defines and clarifies the purpose of and need for the proposal, and (4) defines and clarifies the scope of the action and the EIS. The proposed action was the subject of a Notice of Intent (NOI) published in the **Federal Register** (62 FR 61343, Nov 17, 1997) and a supplemental NOI published in the **Federal Register** (64 FR 6911, Feb 11, 1999).

## Background

In the November 1997 notice, Reclamation described the proposed action as “\* \* \* a plan for operations of the Klamath Project (Project) to cover an interim period, pending completion of a water rights adjudication \* \* \*.” The plan will be developed to define project operations in relation to Reclamation’s responsibilities and obligations concerning the Endangered Species Act, senior water rights, tribal trust resources, Project water users’ contractual rights, wildlife refuges and other requirements \* \* \*.” The proposed action was characterized as an “interim” plan for long-term operations.

The February 1999 supplemental notice also stated the proposed action as “an interim plan for long-term operations \* \* \* pending completion of a water rights adjudication” but clarified what the draft EIS would address by stating “several alternative operational scenarios will be developed to define project operations in relation to Reclamation’s legal responsibilities and obligations \* \* \*.” The supplemental notice also stated that it was being published because considerable time had passed without significant activity regarding development of the EIS.

Reclamation proceeded with scoping by circulating a “Summary of Klamath Project Operation Issues” for public review and comment in January 1999. Reclamation received 31 responses to this document. No formal scoping meetings were held. A “Scoping Report for the Long-Term Operations Plan for the Klamath Project” that summarized the concerns and issues raised in the responses was prepared and distributed to the public in May 1999.

A series of public information meetings were held in Klamath Falls, Oregon, Yreka, Orleans, Klamath, and Eureka, California, from May 17 through May 20, 1999. Presentations included, among other topics, an overview of the EIS process, scoping issues, purpose and need, and alternatives. A total of 118 people attended these meetings.

Also in May 1999, Reclamation invited several parties to participate as cooperating agencies (see 40 CFR 1501.6) in preparation of the EIS, including the Klamath Tribes, Yurok Tribe, Karuk Tribe, Hoopa Valley Tribe, U.S. Fish and Wildlife Service (Service), National Marine Fisheries Service (NMFS), Bureau of Indian Affairs (BIA), Bureau of Land Management (BLM), U.S. Forest Service, Natural Resources Conservation Service (NRCS), California Department of Fish and Game, Oregon Department of Fish and Wildlife,

Klamath County, Oregon, and Siskiyou and Modoc Counties, California, and the Klamath Water User’s Association. The three counties and the Klamath Water User’s Association entered into written cooperating agency agreements with Reclamation.

Reclamation met with the cooperating agencies in July and September 1999, and in March 2000, to discuss the scope, purpose and need, and alternatives for consideration in the EIS. By June 2000, Reclamation developed 10 preliminary alternatives for consideration and met with cooperating agencies in July 2000 to discuss the preliminary alternatives. In August 2000, Reclamation received the cooperating agencies’ written comments on the preliminary alternatives and Chapter 1 of the draft EIS, “Purpose of and Need for the Action.” In September 2000, Reclamation continued the alternative development process by evaluating the cooperating agencies’ comments regarding the 10 preliminary alternatives and subsequently reduced the number of alternatives from 10 to 5. Reclamation informed the cooperating agencies of the five tentative alternatives in a January 31, 2001 EIS status report, but advised them that further alternative development and analyses were pending completion of certain studies, such as the “Evaluation of Instream Flow Needs in Klamath Basin—Phase II Final Report” (Hardy Report). This study and the forthcoming biological opinions may greatly influence further alternative development. If those studies and the biological opinions had been completed in early 2001, Reclamation had planned to complete alternative development and finalize the alternatives by the end of April 2001.

The Hardy Report has not yet been completed and the biological opinions were not received until early April 2001. Further, the 2001 biological opinions did not address Project operation in all water year types; thus, Reclamation’s ability to develop a long-term plan was delayed.

In late 2000, Congress enacted the Klamath Basin Water Supply Enhancement Act (Pub. L. 106-498) (Enhancement Act). It directed Reclamation to undertake feasibility studies of certain actions that could enhance the water supply in the Upper Klamath Basin. Such studies include increasing the storage capacity and/or yield of Project facilities, development of additional Klamath Basin groundwater supplies, and the potential for further innovations in the use of existing water resources.

The Enhancement Act also influences development of a long-term operations

plan. In March 2001, Reclamation undertook 1-year pilot programs for demand reduction and groundwater acquisition. In addition, Reclamation is proceeding with separate planning and NEPA documents for several Enhancement Act feasibility studies and activities, such as increasing the water storage capacity of Gerber Reservoir, winter irrigation in the Tule Lake area, and developing off-stream storage in the Lower Klamath Lake area.

Concurrent with the EIS activities described above, severe drought during late 2000 and early 2001 in south-central Oregon and northern California resulted in a critically dry situation in the Project area. The resultant severe inflow shortage to Upper Klamath Lake, coupled with the minimum river flow and lake level requirements of the Service and NMFS final biological opinions issued in early April 2001, brought about Reclamation's decision in the 2001 Annual Operations Plan to curtail most Project water deliveries from the lake in 2001 and reduce Project water deliveries for agriculture and refuges from other Project reservoirs. California developed some groundwater wells in 2001 to help offset the water shortages.

The 2001 Annual Operations Plan and related events substantially delayed Reclamation's progress with the EIS. Specifically, the biological opinions nullified most of the tentative alternatives and rendered successful development of a long-term operations plan and EIS dependent upon actions not within the defined scope of the EIS at that time. Reclamation continues to address the challenge of developing a long-term operations plan that meets obligations to Klamath River and Lost River water irrigators, tribes, and refuges and allows for operation of the Klamath Project in compliance with the Endangered Species Act (ESA).

#### Project Area Activities

Agricultural water users, tribes, local residents, and many other parties affected by or interested in Project operation have undertaken numerous planning efforts since the summer of 2001. These efforts are attempting to develop a framework or structure of a comprehensive solution to water resource development and use in the Klamath Basin. These efforts have not yet come to fruition but are continuing on many levels, both formally and informally. The results of these efforts could be relevant to and may even influence long-term Project operations. Reclamation is cognizant of the interest and actions of these stakeholders and will consider the results of these other

processes during development of the EIS.

The National Academy of Science's Committee on Endangered and Threatened Fishes in the Klamath River Basin published an interim report in February 2002. This report focused on the 2001 biological opinions. The Committee's key conclusions were as follows:

- Regarding Upper Klamath Lake elevations: "The present scientific record is consistent with use of operational principles in effect between 1990 and 2000."
- Regarding Klamath River flows: "On the whole, there is no convincing scientific justification at present for deviating from flows derived from operational practices in place between 1990 and 2000."

Reclamation views these findings as very relevant, and they will influence development of a long-term operations plan. If the NRC's findings in its final report are different, the later findings will be considered and included in the development of this operations plan.

In early 2002, Reclamation completed a biological assessment (BA) of the effects of proposed Klamath Project operations on federally listed threatened and endangered species for a 10-year period (April 1, 2002, through March 31, 2012). An underlying objective of evaluating a 10-year period is to develop an operation that considers all hydrological conditions during a multiple year period—this is "long-term" operation. Reclamation submitted the final BA to the Service and NMFS in conformance with requirements for formal consultation under ESA. Consistent with ESA regulations, 50 CFR 402.14(g)(5), Reclamation worked closely with the Service and NMFS to develop reasonable and prudent alternatives for Project operation to avoid jeopardy to the listed species. The Service and NMFS each issued final biological opinions on the proposed action on May 31, 2002, which included those reasonable and prudent alternatives.

#### The Proposed Action

Reclamation proposes to implement an operations plan through March 2012 that provides for continued operation of the Klamath Project in a way that meets its legal obligations.

#### Operational Elements

Reclamation is presently operating the Project consistent with the May 2002 biological opinions (opinions) on Project operation issued by the Service and the National Oceanic and Atmospheric Administration (NOAA)

Fisheries (formerly National Marine Fisheries Service). The opinions apply to Project operation through March 31, 2012.

Reclamation has undertaken an operational review of historic and ongoing Project operations to identify significant issues and effects related to those operations. The operational review will help Reclamation identify potential new actions that may be implemented to address the effects of operation and help meet its legal obligations related to Project operation. The operational review and development of an operations plan may result in new Federal actions that could lead to changes in Project operation and/or facilities. While no specific modifications are as yet proposed, Reclamation anticipates that such modifications will be identified and proposed as the operational review proceeds and the operations plan is developed. The operations plan would be an adaptive plan that describes management actions for operation of the Project's features and facilities to meet the defined needs through March 31, 2012. It would describe a process for anticipating and adapting demand for Project water annually during a multiple year period and during different hydrological conditions (ranging from very dry to very wet). It would be subject to revision when necessary (adapt) to address new information or circumstances that have bearing on Project operation and/or Project effects.

The following key elements of an operations plan have been tentatively developed during ESA consultations with the Service and NOAA Fisheries.

- The proposed action would be consistent with historic Project operation from water year 1990 (which began October 1, 1989) through water year 1999 (which ended September 30, 1999).
- The proposed action would include development of annual operating criteria developed consistent with the 2002 biological opinion RPA.
- The proposed action would also include development and use of a "water bank" of up to 100,000 acre-feet annually that would be acquired from several sources. (Began in 2002).
- Continued coordination with the Service, NOAA Fisheries, Klamath Basin Tribes, PacifiCorp, and irrigation districts to coordinate ongoing and anticipated Project operation activities and to discuss water supply conditions.
- Entrainment reduction into the A Canal from Upper Klamath Lake (under construction) and fish passage at Link River Dam.

- Development and participation in a basinwide Conservation Implementation Program.
- Additional water supplies resulting from reasonably foreseeable actions that may be implemented during the proposed period of operation.

#### Purpose of the Proposed Action

The purpose of the proposed action is to operate the authorized features and facilities of the Project during varying hydrological conditions through March 2012 to meet Reclamation's legal obligations and responsibilities as described in the need for the proposed action in the following section. Reclamation's goal is to retain Project viability in a manner that not only seeks to avoid jeopardizing federally listed threatened and endangered species, but also to conserve and protect those species and to address Reclamation's tribal trust obligation. The purpose of any new Federal actions stemming from the operations plan development that could result in changes or modification in Project operation or facilities would be to assist Reclamation in meeting its obligations and responsibilities related to annual and long-term Project operations.

#### Need for the Proposed Action

The need for the proposed action stems from an underlying need to reduce uncertainty, to the extent possible, by Reclamation, agricultural water users, tribes, national wildlife refuges, and other interested/affected parties about both short-term and long-term availability of Project water. There is a need to operate the Project consistent with applicable laws and to meet Reclamation's obligations related to operation of the Project. Those needs are:

- To deliver Project water in accordance with the Klamath Project water rights and contracts between Reclamation and agricultural water users;
- To comply with requirements of the ESA;
- To operate the Project in a manner that does not interfere with the Tribes' senior water rights;
- To provide adequate water to Lower Klamath and Tule Lake National Wildlife Refuges to fulfill their Federal reserved water rights, when in priority and when water is available.

#### Scope of the Proposed Action

The scope of the proposed action is developing a multi-year operations plan consistent with the purpose and need above. The scope of the DEIS consists of the range of actions, alternatives, and

potential impacts to be considered by Reclamation. Those actions involve all elements of Project operations that Reclamation can implement that may affect the Project water supply and demand. Such actions include, but are not limited to, Project water (1) storage volume, location, and timing; (2) source (surface and/or groundwater); (3) delivery quantity, timing, and duration, and (4) quality. The potential environmental impacts to be considered in the DEIS are direct, indirect, and cumulative effects that may arise from the proposed action and alternatives.

The geographic scope of the DEIS includes areas and resources affected by water diversion, storage and delivery for Project purposes. This includes, but is not necessarily limited to: (1) The sites of all Project features and facilities (such as dams, reservoirs, canals, drains, pumping plant/stations) and areas adjacent to those sites that are subject to Reclamation's ownership, management or control; (2) lands that receive Project irrigation or drainage water; and (3) areas adjacent to Clear Lake, Gerber Reservoir, Miller Creek, Lost River, Tule Lake, Lower Klamath Lake, Upper Klamath Lake, Link River, Lake Ewauna, and the Klamath River downstream from Link River Dam subject to fluctuating water levels and/or flows that result from Project operation.

#### Summary

Reclamation is redirecting its planning and EIS efforts to address a multiyear operations plan. The scope, magnitude, and intensity of the efforts required to develop alternatives in a different manner will be clarified in the EIS. In so doing, additional time may be necessary to develop and analyze the effects of the actions and to complete the EIS.

Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home address from public disclosure, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity from public disclosure, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment letter. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public disclosure in their entirety.

Dated: April 24, 2003.

**Frank Michny,**

*Regional Environmental Officer, Mid-Pacific Region.*

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#### DEPARTMENT OF LABOR

#### Employee Benefits Security Administration

[Exemption Application No. D-11068] et al.

#### Prohibited Transaction Exemption 2003-07; Grant of Individual Exemptions; Archer Daniels Midland Company (Archer)

**AGENCY:** Employee Benefits Security Administration, Labor.

**ACTION:** Grant of individual exemptions.

**SUMMARY:** This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

A notice was published in the **Federal Register** of the pendency before the Department of a proposal to grant such exemption. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, DC. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicant has represented that it has complied with the requirements of the notification to interested persons. No requests for a hearing were received by the Department. Public comments were received by the Department as described in the granted exemption.

The notice of proposed exemption was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.