

**DEPARTMENT OF AGRICULTURE****Natural Resources Conservation Service****Forest Service**

[Docket No. NRCS–2022–0011]

**Notice of Intent To Prepare an Environmental Impact Statement for the Clear Branch Dam Rehabilitation Project, Hood River County, Oregon**

**AGENCY:** Natural Resources Conservation Service and Forest Service, USDA.

**ACTION:** Notice of intent to prepare an environmental impact statement (EIS).

**SUMMARY:** The Natural Resources Conservation Service (NRCS) Oregon State Office, as Lead Federal Agency, in partnership with the Forest Service—Mount Hood National Forest (Forest Service, Cooperating Agency), and the Middle Fork Irrigation District (Project Sponsor, Owner, Operator), announces its intent to prepare an EIS for the Clear Branch Dam Rehabilitation Project (Rehabilitation Project) in the proximity of Parkdale, unincorporated Hood River County, Oregon. The purpose of the Rehabilitation Project is to provide a clean dependable water supply for the Upper Hood River valley in Hood River County, Oregon, as authorized in the 1962 Middle Fork Hood River Watershed Work Plan. There is a need to rehabilitate Clear Branch Dam to meet current dam safety and environmental compliance standards for NRCS, the Forest Service, the Federal Energy Regulatory Commission (FERC), and other regulatory agencies. NRCS is requesting comments to identify significant issues and potential alternatives, information, and analyses relevant to the proposed action from all interested individuals, Tribes, and Federal and State Agencies.

**DATES:** We will consider comments that we receive by October 19, 2022. Comments received after the 30-day comment period will be considered to the extent possible.

**ADDRESSES:** We invite you to submit comments in response to this notice. Please specify the docket ID NRCS–2022–0011. You may submit your comments through the methods below:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and search for Docket ID NRCS–22–0009. Follow the instructions for submitting comments; or
- *Mail or Hand Delivery:* Ed Salminen, Project Manager, Watershed Professionals Network (WPN), P.O. Box 8, Parkdale, OR 97041.

**FOR FURTHER INFORMATION CONTACT:** Molly Dawson; telephone: (503) 414–3234; email: [Molly.Dawson@usda.gov](mailto:Molly.Dawson@usda.gov). In addition, for questions related to submitting comments via WPN: Ed Salminen; telephone: (541) 490–6644; email: [contact@clearbranchdam.com](mailto:contact@clearbranchdam.com); or the project website at: [clearbranchdam.com](http://clearbranchdam.com). Persons with disabilities who require alternative means for communication should contact the U.S. Department of Agriculture (USDA) Target Center at (202) 720–2600 (voice).

**SUPPLEMENTARY INFORMATION:****Purpose and Need**

The Rehabilitation Project would be implemented as agricultural water management, as authorized under sections 3 and 4 of Public Law 83–566. The primary purpose of the Rehabilitation Project is to provide a clean dependable water supply for the Upper Hood River valley in Hood River County, Oregon, as authorized in the 1962 Middle Fork Hood River Watershed Work Plan. An assessment of Clear Branch Dam was performed by NRCS and the Project Sponsor in 2015 to evaluate the condition of the dam. Results of the assessment indicated that modifications to Clear Branch Dam are needed to extend its service life. To meet the purpose of providing a clean dependable water supply, there is a need to rehabilitate Clear Branch Dam to meet current dam safety and environmental compliance standards for NRCS, the Forest Service, FERC, and other regulatory agencies. Action to rehabilitate the dam is necessary because the dam reached the end of its original service life and requires structural modifications to extend its service life another 50 to 100 years. The need for watershed planning is established and implementation of management actions are authorized under Public Law 83–566, the Watershed Protection and Flood Prevention Act of 1954 (16 U.S.C. 1001–1009), as amended, and Public Law 78–534, the Flood Control Act of 1944 (33 U.S.C. 702b–1). Further context for the need for watershed planning is provided below.

A Watershed Work Plan for Middle Fork Hood River Watershed in Hood River County, Oregon was authorized by the Soil Conservation Service, the predecessor to NRCS, and its partners in 1962, under the authority of the Watershed Protection and Flood Prevention Act. The primary objective of the Rehabilitation Project is to provide a clean dependable water supply and improved water distribution system for the irrigation of 8,000 acres;

this objective was accomplished with the construction of a reservoir on Clear Branch of the Middle Fork Hood River in 1968, named Clear Branch Dam. The dam is owned and operated by the Middle Fork Irrigation District. Today, the reservoir behind Clear Branch Dam provides water to 404 users to irrigate 6,362 acres in the Upper Hood River valley.

In 2016, NRCS, the Forest Service, and the Project Sponsor initiated scoping for an Environmental Assessment for the rehabilitation of Clear Branch Dam. A public scoping meeting was conducted on August 15, 2016, in Parkdale, Oregon.

Since scoping for the Environmental Assessment (EA) was completed in 2016, NRCS, the Forest Service, and the Project Sponsor have completed additional investigations and studies to evaluate the condition of the dam. As a result of the new information obtained during the EA process, the rehabilitation needed is more extensive than anticipated during scoping in 2016. Estimated federal funds required for the construction of the proposed action may exceed \$25 million and the proposed action will therefore require congressional approval per the 2018 Agriculture Appropriations Act amended funding threshold. In accordance with 7 CFR 650.7(a)(2), an EIS is required for projects requiring congressional approval.

**Preliminary Proposed Action and Alternatives**

The 1962 Middle Fork Hood River Watershed Work Plan would be updated to include an EIS that would analyze alternative ways to meet the Rehabilitation Project's purpose and need. At least three Action Alternatives will be evaluated to meet the purpose and need of the Rehabilitation Project. A No Action Alternative will also be considered.

*Alternative 1 (Proposed Action)—Structural Rehabilitation.* This alternative would structurally rehabilitate the dam to meet current dam safety and environmental compliance standards of NRCS, the Forest Service, FERC, and other regulatory agencies. Structural rehabilitation includes measures to address flood conveyance, seepage, seismic hazards, fish passage, and water quality improvements.

*Alternative 2—Decommission.* Decommissioning the dam would consist of breaching the dam to allow for flood conveyance, restoring Clear Branch and Pinnacle Creek within the reservoir footprint, and the constructing

of run-of river irrigation diversions to continue irrigation water supply.

**Alternative 3—Nonstructural Rehabilitation.** This alternative would relocate or floodproof at-risk dwellings in the downstream breach inundation area. The downstream breach inundation area extends from the base of Clear Branch Dam to the mouth of the Hood River confluence with the Columbia River. This zone includes 4 homes, 2 apartments or hotels, 23 commercial buildings, 4 bridges, Highway 30, Interstate 84, the Union Pacific railroad, and the Mount Hood Railroad.

**Alternative 4—No Action.** Taking no action would consist of activities carried out if no federal action or funding were provided. In the absence of federal funding, the Project Sponsor would implement the structural dam rehabilitation alternative (Alternative 3) using alternate funding and likely extended timetable for completion.

#### Summary of Expected Impacts

Initial agency scoping of this federally assisted action indicates that the Rehabilitation Project may cause significant impacts on the environment. Ron Alvarado, NRCS Oregon State Conservationist, has determined that the preparation of an EIS is needed for this Rehabilitation Project. This EIS will be prepared as required by section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA); the Council on Environmental Quality Regulations (40 CFR parts 1500–1508); and NRCS regulations that implement NEPA in 7 CFR part 650.

Species listed under the Endangered Species Act (ESA) may be affected by the proposed action. The reservoir behind the dam is designated as critical habitat for bull trout (*Salvelinus confluentus*). The Middle Fork Hood River sub-basin supports spring Chinook Salmon (*Oncorhynchus tshawytscha*), winter steelhead trout (*Oncorhynchus mykiss*), bull trout, and cutthroat trout (*Oncorhynchus clarkii*). Winter steelhead and bull trout are listed as threatened under ESA and critical habitat for both of these species is designated in the Middle Fork Hood River sub-basin. Critical habitat for the Lower Columbia River Chinook Salmon Evolutionarily Significant Unit is designated in the Middle Fork Hood River sub-basin. Critical habitat for the Northern Spotted Owl (*Strix occidentalis caurina*) is mapped near the confluences of Clear Branch, Pinnacle Creek, Coe Branch, and Eliot

Branch. U.S. Forest Service Road 2840 accesses the dam and the Laurance Lake recreation facilities. Some alternatives may involve excavation, grading, surveying, limited closure, blocking, or detouring traffic in the right of way during construction.

#### Anticipated Permits and Authorizations

The following permits and other authorizations are anticipated to be required:

- **CWA Section 404 Permit.** CWA Implementation of the proposed federal action may require a Clean Water Act (CWA) section 404 permit from the U.S. Army Corps of Engineers;
- **CWA Section 401 Permit.** The Rehabilitation Project may also require water quality certification under section 401 of CWA;
- **U.S. Fish and Wildlife Service ESA section 7 Consultation;**
- **National Marine Fisheries Service ESA section 7 Consultation;**
- **Forest Service Special Use Permit;** and
- **County Permit.** Implementation of the proposed federal action may require permit from Hood River County.

#### Schedule of Decision-Making Process

A Draft EIS (DEIS) will be prepared and circulated for review and comment by agencies, Tribes, section 106 consulting parties, and the public for at least 45 days per 40 CFR 1503.1, 1502.20, 1506.11, and 1502.17, and 7 CFR 650.13. The DEIS is anticipated to be published in the **Federal Register** in 2023, approximately 16 months after publication of this NOI. A Final EIS is anticipated to be published within 6 months of completion of the public comment period for the DEIS.

NRCS, in cooperation with the Forest Service, will decide whether to implement one of the alternatives as evaluated in the EIS. Since the Rehabilitation Project is located on National Forest System (NFS) lands, the Forest Service's decision will include whether to authorize construction on NFS lands and whether to issue a new or amended special use permit for continuing to operate Clear Branch Dam on NFS lands. The Forest Service may also issue a decision associated with conformance with the Mt. Hood Land and Resource Management Plan, as amended by the Northwest Forest Plan. An NRCS Record of Decision (ROD) will be completed after the required 30-day waiting period and a Forest Service ROD will be completed after the pre-decisional administrative review process (36 CFR part 218 or 36 CFR part

219) has concluded. The responsible federal official and decision maker for the NRCS is Ron Alvarado, Oregon State Conservationist. The responsible federal official and decision maker for the Forest Service is Meta Loftsgaarden, Mt Hood National Forest Supervisor.

#### Public Scoping Process

Public scoping meetings will be held to present the Rehabilitation Project and develop the scope of the draft EIS. A preliminary public scoping meeting for an EA was conducted on August 15, 2016, in Parkdale, Oregon. The date, time, and location for a public scoping meeting for the Environmental Impact Statement is:

- **Date:** Tuesday, October 4, 2022;
- **Time:** 5 p.m. to 7 p.m. Pacific time;
- **Location:** Zoom (virtual) and Parkdale Rural Fire Protection District Office at 4895 Baseline Dr., Mt Hood, Parkdale, OR 97041;
- **Register at:** [clearbranchdam.com](http://clearbranchdam.com).

Comments received, including the names and addresses of those who comment, will be part of the public record. Scoping meeting presentation materials are available on the project website: [clearbranchdam.com](http://clearbranchdam.com).

#### Identification of Potential Alternatives, Information, and Analyses

NRCS invites agencies, Tribes, section 106 consulting parties, and individuals who have special expertise, legal jurisdiction, or interest in the Rehabilitation Project to provide comments concerning the scope of the analysis and identification of potential alternatives, information, and analyses relevant to the Proposed Action.

NRCS will coordinate the scoping process as provided in 36 CFR 800.2(d)(3) and 800.8 (54 U.S.C. 306108) to help fulfill the National Historic Preservation Act (NHPA), as amended review process. The information about historic and cultural resources within the area potentially affected by the proposed project will assist NRCS in identifying and evaluating impacts to such resources in the context of both NEPA and NHPA.

NRCS will consult with Native American tribes on a government-to-government basis in accordance with 36 CFR 800.2 and 800.3, Executive Order 13175, and other policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources and historic properties, will be given due consideration.

## Authorities

This document is published pursuant to the NEPA regulations regarding publication of a notice of intent to issue an environmental impact statement (40 CFR 1501.9(d)).

Watershed planning is authorized under the Watershed Protection and Flood Prevention Act of 1954, as amended, (Pub. L. 83–566) and the Flood Control Act of 1944 (Pub. L. 78–534).

## Federal Assistance Programs

The title and number of the Federal assistance programs as found in the Assistance Listing<sup>1</sup> (formerly referred to as the Catalog of Federal Domestic Assistance) to which this document applies are 10.904 Watershed Protection and Flood Prevention and 10.916 Watershed Rehabilitation.

## Executive Order 12372

Executive Order 12372, “Intergovernmental Review of Federal Programs,” requires consultation with State and local officials that would be directly affected by proposed Federal financial assistance. The objectives of the Executive order are to foster an intergovernmental partnership and a strengthened federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance and direct Federal development. This program is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

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### Ronald Alvarado,

*Oregon State Conservationist, Natural Resources Conservation Service.*

### Meta Loftsgaarden,

*Mt. Hood National Forest Supervisor, U.S. Forest Service.*

[FR Doc. 2022–20164 Filed 9–16–22; 8:45 am]

**BILLING CODE 3410–16–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### For Inspiration and Recognition of Science and Technology (FIRST), et. al; Notice of Decision on Application for Duty-Free Entry of Scientific Instruments

This is a decision pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301). On August 16, 2022, the Department of Commerce published a notice in the **Federal Register** requesting public comment on whether instruments of equivalent scientific value, for the purposes for which the instruments identified in the docket(s) below are intended to be used, are being manufactured in the United States. See *Application(s) for Duty-Free Entry of Scientific Instruments*, 87 FR 50289–90, August 16, 2022 (Notice). We received no public comments.

*Docket Number:* 22–001. Applicant: For Inspiration and Recognition of Science and Technology (FIRST), 200

Bedford Street, Manchester, NH 03101. Instrument: Dual Band 1.17 Gbps Access Point. Manufacturer: Open Mesh Inc., China. Intended Use: According to the applicant, the FIRST Robotics Competition (FRC) (EIN 22–2990908) requires wireless radio communication between student teams’ driver controls and their home-build robots. It is crucial that FRC be able to manage the wireless traffic (for safety and team experience reasons). FRC mandates a specific radio (Datto’s OM5P–AN, obsolete, or OM5P–AC models, both are dual band 1.17 Gbps access points) with custom firmware which optimizes the radio for the competition use case. This transaction is to secure the radios needed for educational robotic kits for the 2020 season (4,400) air-freighted to meet 2020 season deadlines) and the 2021 season (4,336 shipped via ocean). The applicant certifies that there will not be any use of the foreign instrument by or for the primary benefit of any commercial (for-profit) entity with 5 years after entry of the foreign instrument into the United States customs territory.

*Docket Number:* 22–002. Applicant: University of California, Riverside, 900 University Avenue, Riverside, CA 92521. Instrument: Customs Pulsed Laser Deposit & Molecular-Beam Epitaxy (PLD/MBE) deposition system. Manufacturer: BEIJING PERFECT TECHNOLOGY CO., LTD., Beijing, China. Intended Use: According to the applicant, the instrument is intended to be used for research purposes for experimental condenses matter physics, spin transport, quantum transport, and spin-dependent physics, graphene, 2D layers, heterostructures, and nanoscale devices, magnetic insulators, heterostructures and interfaces, energy related materials science research.

*Docket Number:* 22–003. Applicant: University of Chicago Argonne LLC, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Lemont, IL (U.S.A.), 60439–4873. Instrument: High Heat Load Exit Mask Assemblies. Manufacturer: Strumenti Scientifici CINEL S.R.L., Italy. Intended Use: According to the applicant, these components will be used to assemble the new high heat load front ends for the Advanced Photon Source upgrade. The front end consists of a series of components that connect the storage ring to the user beamline to deliver a photon beam that will be used as a three-dimensional X-ray microscope for experimental purposes. The materials/phenomena that are studied vary widely from material properties analysis, protein mapping for pharmaceutical companies, X-ray imaging and chemical

<sup>1</sup> See <https://sam.gov/content/assistance-listings>.