

NATIVE THREATENED SP. HABITAT CONSERVATION PLAN  
THREATENED WILDLIFE**Permit Number: TE89773D-0**

Effective: 12/31/2020

Expires: 12/31/2050

## Issuing Office:

Department of the Interior  
U.S. FISH & WILDLIFE SERVICE  
Endangered Species Permit Office  
911 NE 11th Avenue  
Portland, OR 97232-4181  
permitsR1ES@fws.gov

REGIONAL DIRECTOR

## Permittees:

Arnold Irrigation District, Central Oregon Irrigation District,  
Lone Pine Irrigation District, North Unit Irrigation District,  
Ochoco Irrigation District, Swalley Irrigation District,  
Three Sisters Irrigation District, Tumalo Irrigation District,  
City of Prineville

## Name and Title of Principal Officer:

SEE CONDITION E. BELOW

Authority: Statutes and Regulations: 16 USC 1533(d), 50 CFR 17.32, 50 CFR 13.

**Location where authorized activity may be conducted:**

The Permit area of the Deschutes River Basin in Central Oregon covers all waters downstream of the covered activities where covered species could be impacted by altered hydrology or water quality in Klamath, Deschutes, Jefferson, Crook, Wasco, and Sherman Counties. The upstream limits of the covered lands and waters are those locations where the covered activities first influence surface hydrology. On the Deschutes River and Ochoco Creek, the covered lands begin at the full-pool elevations of Crane Prairie and Ochoco reservoirs, respectively. On Crescent Creek, Whychus Creek, Crooked River, McKay Creek and Lytle Creek, the first points of influence are dams or diversion structures operated by the Permittees. On Tumalo Creek the first point of influence is the outfall from TID's Crater Creek diversion, and on Trout Creek the first point of influence is a return flow from NUID. The downstream limit of all covered lands and waters is the mouth of the Deschutes River. Within the covered stream reaches, the covered lands and waters extend only to stream channels and floodplains potentially subjected to surface inundation as described in the DBHCP.

**Reporting requirements:** See the attached Terms and Conditions.

**Authorizations and Conditions:**

- A. General conditions set out in Subpart B of 50 CFR 13, and specific conditions contained in Federal regulations cited above, are hereby made a part of this permit. All activities authorized herein must be carried out in accordance with and for the purposes described in the application submitted. Continued validity, or renewal of this permit is subject to complete and timely compliance with all applicable conditions, including the filing of all required information and reports.
- B. The validity of this permit is also conditioned upon strict observance of all applicable foreign, state, local tribal, or other federal law.
- C. Valid for use by the Permittees named above (AND SEE CONDITION E.).
- D. Further conditions of authorization are contained in the attached Special Terms and Conditions.

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E. This permit is issued to the following Permittees:

Arnold Irrigation District  
19604 Buck Canyon Road  
Bend, OR 97701  
541-382-7664  
Principal Officer: Colin Wills,  
District Manager

Swalley Irrigation District  
64672 Cook Avenue, Suite #1  
Bend, OR 97703  
541-388-0658  
Principal Officer: Jer Camarata,  
District Manager

Central Oregon Irrigation District  
1055 SW Lake Court  
Redmond, OR 97756  
541-548-6047  
Principal Officer: Craig Horrell,  
District Manager

Three Sisters Irrigation District  
68000 Highway 20  
Sisters, OR 97759  
541-549-8815  
Principal Officer: Marc Thalacker,  
District Manager

Lone Pine Irrigation District  
7911 NW Lone Pine Road  
Terrebonne, OR 97760  
541-548-0731  
Principal Officer: Terry Smith,  
District Manager

Tumalo Irrigation District  
64967 Cook Avenue  
Bend, OR 97703  
541-382-3053  
Principal Officer: Ken Rieck,  
District Manager

North Unit Irrigation District  
2024 NW Beech Street  
Madras, OR 97741  
541-475-3625  
Principal Officer: Mike Britton,  
District Manager

City of Prineville  
387 NE Third Street  
Prineville, OR 97754  
541-480-8839  
Principal Officer: Eric Klann, City  
Engineer/Public Works Director

Ochoco Irrigation District  
1001 NW Deer Street  
Prineville, OR 97754  
541-447-6449  
Principal Officer: Bruce Scanlon,  
District Manager

F. A copy of this permit must be on the premises of the Permittees, or in the possession of the Permittees, and authorized officers, employees, contractors, or agents while conducting activities that may result in the incidental take of the Covered Species. The Permittees shall refer to permit number TE89773D-0 in all correspondence and reports concerning permit activities. Any questions regarding this permit should be directed to the Field Supervisor, U.S. Fish and Wildlife Service (the Service), Bend Fish and Wildlife Office, Bend, Oregon (telephone: 541-383-7146), or designated staff.

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G. All sections and provisions of Title 50 Code of Federal Regulations, part 13 and section 17.32, are conditions of this permit.

H. COVERED SPECIES:

The Oregon spotted frog (*Rana pretiosa*) and the bull trout (*Salvelinus confluentus*).

I. AMOUNT OR EXTENT OF INCIDENTAL TAKE AUTHORIZATION:

If, during the term of this permit, the project design or extent of the Covered Activities is altered in a manner that increases take of the Covered Species above authorized levels, the Permittees shall contact the Service's Bend Field Office (telephone: 541-383-7146). The Permittees must obtain an amendment to this permit before commencing any construction, operations, maintenance, or other activities that are likely to result in the incidental take of listed species beyond that authorized by this permit.

If actions associated with implementation of the Deschutes Basin Habitat Conservation Plan (DBHCP) are shown to result in the incidental take of listed species not covered by this permit, those activities must immediately cease and any take that has occurred shall be reported to the Service's Bend Field Office within 48 hours.

If the following amount or extent of take authorized under this permit is exceeded, all activities causing such take must immediately cease and any take above that authorized under this permit shall be reported to the Service's Bend Field Office and Law Enforcement Office, Resident Agent in Charge, Wilsonville, Oregon (telephone: 503-682-6131) within 48 hours.

a. Oregon spotted frog

The requested permit action is expected to result in incidental take of the Oregon spotted frog in the form of harm as a result of altered habitat conditions (including increased exposure of spotted frog life stages to desiccation and predation by birds, snakes, small terrestrial mammals such as mink or raccoons, and fish) that significantly disrupts feeding, breeding, and sheltering. Take is quantified by using various surrogates, which were a combination of affected wetland acres, storage volumes, and gauge flow rates in specific geographic areas. The quantified take is listed in Table 1 and described in detail in the Service's 2020 Biological Opinion for the Deschutes Basin Habitat Conservation Plan.

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Table 1. Annual Take Quantification for the Oregon Spotted Frog

<b>Location</b>	<b>Surrogate Quantification of Exempted Take</b>	<b>Conditions that reflect take exceedance</b>
<i>Upper Deschutes River Sub basin Above Wickiup Dam</i>		
Crane Prairie Reservoir	583 acres of dewatered wetlands between July 16 and October 31 (drawdown period); Entire reservoir pool where storage volumes are between 37,870 and 46,800 acre-feet between October 15 and March 15.	Storage volumes below 46,800 acre-feet between March 15 and July 15; Drawdown initiation before July 15; Storage volumes below 37,870 acre-feet at any time of the year, for OSF conservation.
Wickiup Reservoir, including Deschutes River wetlands between reservoirs	2,961 acres of dewatered wetland acres between April 1 and October 15 as storage volumes are reduced below 200,000 acre feet (i.e., maximum storage volume); All remaining frogs in the Wickiup Reservoir pool over winter.	Since all Oregon spotted frogs within the reservoir, including the Deschutes River between Crane Prairie and Wickiup reservoirs, are anticipated to be taken annually, take in Wickiup reservoir cannot be exceeded.
<i>Upper Deschutes River Sub basin Below Wickiup Dam</i>		
1: Wickiup Dam to Fall River (includes monitored Oregon spotted frog sites at Bull Bend, Dead Slough and La Pine SP SW Slough) 2: Fall River to Little Deschutes (includes monitored spotted frog sites on private land at RM 202 and 195)	633 acres of dewatered wetlands when flows at the WICO gauge are <900 cfs between September 15 and June 29.	Flows at WICO gauge <900 cfs between June 30 and September 14.
3: Little Deschutes to Benham Falls (includes Sunriver)	115 acres breeding and rearing habitat within wetlands in Sunriver when flows at WICO gauge are <1,580 cfs year round; 171 acres of dewatered riverine wetlands (not including Sunriver) when flows at BENO are <1,300 cfs between September 16 and June 30.	N/A  Flows <1,300 cfs at the BENO gauge between July 1 and September 15.

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4: Benham to Dillon Falls (includes monitored Oregon spotted frog sites at East Slough Camp and S. Ryan Ranch)	198 acres of dewatered wetlands when flows at BENO drop below 1,600 cfs and are above 1,300 cfs between July 1 and September 15, and when flows drop below 1,600 cfs between September 16 and June 30.	Flows <1,300 cfs at the BENO gauge between July 1 and September 15.
5: Dillon Falls to Lava Island Falls	If and when occupied, 95 acres of dewatered wetlands when flows at BENO drop below 1,500 cfs year round.	N/A
6: Lava Island Falls to COID diversion (includes monitored spotted frog site on private land at RM 172)	7 acres of dewatered wetland from September 15 to April 30.	N/D
7: COID Diversion to Colorado Street Bridge (includes LSA Marsh in Old Mill)	8 acres of wetland from September 15 to April 30 (due to reduced water levels).	N/D
Deschutes River Channel	988 acres of riverine wetland from September 16 to March 31 at flows of $\geq 100$ cfs at in Phase 1; $\geq 300$ in Phase 2; $\geq 400$ cfs in Phase 3.	As measured at the WICO gauge (September 16 to March 31), <100 cfs at in Phase 1; <300 in Phase 2; <400 cfs in Phase 3
<i>Little Deschutes River Sub basin</i>		
Crescent Creek	1,182 acres when flows at CREO gauge are <90 cfs year round.	N/D
Little Deschutes River from Crescent Creek confluence to mouth at the Deschutes River	3,322 acres of wetlands between September 1 and June 30.	N/D

N/D = Not defined: Based on best available information take exceedance thresholds for these reaches could not be defined due to a lack of river gauges and associated river stage-floodplain inundation information; N/A = Not Applicable as take is exempted for the entire year; WICO, BENO, CREO = flow measurement gauges on the Upper Deschutes River; COID = Central Oregon Irrigation District; RM = river mile; Cfs = cubic feet per second.

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b. Bull trout

Based on the analysis and results presented in the Biological Opinion, the requested permit action is expected to result in incidental take of the bull trout in the form of harm as a result of altered habitat conditions (including temperature exceedances, suitable habitat alteration due to low flows and total dissolved gas exposure) that significantly disrupts breeding, feeding, and sheltering. Take is quantified by using various surrogates, which were a combination of affected river miles over a period of days. The quantified take is listed in Table 2 and described in detail in the Service's 2020 Biological Opinion for the Deschutes Basin Habitat Conservation Plan.

Table 2. Annual Take Quantification for Bull Trout

Affected Reach	Project Element/Activity resulting in temperatures >16°C (sublethal) or >23°C (lethal)	Waterbody		Activity Season/dates	Operators	Incidental Take (river miles affected)	
						Sublethal	Lethal
Crooked River subbasin	Release of contracted storage from Prineville Reservoir/ Diversion as instream flow	Crooked River	OID diversion to CAPO gauge	Irrigation season April 1 - October 15 (197 days)	BOR, OID, NUID	9.2 miles for 197 days	
			CAPO to NUID pumps			24.3 miles for 197 days	
			NUID pumps to Osborne Canyon			15.1 miles for 197 days	
Whychus Creek	Diversion	Whychus Creek		April 12 - October 12 (121 days sublethal, 33 days lethal)	TSID	20 miles for 121 days	4.5 miles for 33 days

BOR = Bureau of Reclamation; NUID = North Unit Irrigation District; OID = Ochoco Irrigation District; TSID = Three Sisters Irrigation District; CAPO = flow monitoring gauge on the Crooked River.

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J. COVERED AREA:

This permit only authorizes incidental take of the Covered Species within the Permit Area of the Deschutes River Basin in Central Oregon in Klamath, Deschutes, Jefferson, Crook, Wasco, and Sherman Counties as specified in detail in Chapter 3.2 and depicted in Figure 1 of the DBHCP. The Permit Area addressed under the permit includes all waters downstream of the covered activities where covered species could be impacted by altered hydrology or water quality. The upstream limits of the covered lands and waters are those locations where the covered activities first influence surface hydrology. On the Deschutes River and Ochoco Creek, the covered lands begin at the full-pool elevations of Crane Prairie and Ochoco reservoirs, respectively. On Crescent Creek, Whychus Creek, Crooked River, McKay Creek and Lytle Creek, the first points of influence are dams or diversion structures operated by the Permittees. On Tumalo Creek the first point of influence is the outfall from Tumalo Irrigation District's Crater Creek diversion, and on Trout Creek the first point of influence is a return flow from North Unit Irrigation District. The downstream limit of all covered lands and waters is the mouth of the Deschutes River at the Columbia River. Within the covered stream reaches, the covered lands and waters extend only to stream channels and floodplains potentially subjected to surface inundation as described in the DBHCP.

K. COVERED ACTIVITIES:

The covered activities include the storage and release of water at four irrigation reservoirs, the diversion of water from 47 large and small diversion structures, the return of water at 37 sites, groundwater pumping from 14 wells (12 current and 2 future) and seasonal discharge of treated effluent to the Crooked River, Chapter 3.5 of the DBHCP. The take authorization granted under this permit applies only to take resulting from the covered activities conducted in accordance with the descriptions contained in the DBHCP and the terms of this permit.

L. COLLECTION AND DISPOSITION INSTRUCTIONS:

- a. Upon locating a dead, injured, or sick Oregon spotted frog or bull trout or any other endangered or threatened species, the Permittees must contact the Service's Bend Fish and Wildlife Office, Bend, Oregon (telephone: 541-383-7146) or Law Enforcement Office, Resident Agent in Charge, Wilsonville, Oregon (telephone: 503-682-6131, for care and disposition instructions. Use extreme care when handling sick or injured individuals to ensure effective and proper treatment. Also take care in handling dead specimens to preserve biological materials in the best possible state for an analysis of cause of death. Along with the care of sick or injured endangered/threatened species, or preservation of biological materials from a dead specimen, the Permittees is responsible for ensuring that evidence intrinsic to the specimen is not unnecessarily disturbed.

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- b. Upon locating the carcass of an animal in conjunction with DBHCP monitoring activities that is not a Covered Species, inclusive of any other endangered or threatened species, or any migratory bird species, the Permittees shall contact the Service's Bend Fish and Wildlife Office, Bend, Oregon (telephone: 541-383-7146) for care and disposition instructions.
- c. For additional reporting requirements, see the DBHCP and the REPORTING terms and conditions below for reporting instructions.

M. IMPLEMENTATION AND DURABILITY:

- a. Acceptance of this permit serves as evidence that the Permittees agrees to abide by all conditions stated. The terms and conditions of the permit are inclusive; take resulting from any activity not specifically included in the DBHCP as a covered activity is prohibited. Please read these conditions carefully as violations of permit terms and conditions could result in your permit being suspended or revoked. Violations of your permit terms and conditions that contribute to a violation of the Endangered Species Act of 1973, as amended, could also subject the Permittees to criminal or civil penalties.
- b. The authorization granted by this permit is subject to compliance with, and implementation of, the DBHCP for the Oregon spotted frog and the bull trout in Klamath, Deschutes, Jefferson, Crook, Wasco, and Sherman Counties, Oregon, which is herein incorporated by reference. The DBHCP includes avoidance, minimization, and mitigation measures, along with monitoring, adaptive management, and funding assurances that are all requirements of this permit. The permit terms and conditions, and the DBHCP, including the Inter-district Coordination Agreement by and among the Permittees (see Appendix B-1 of the DBHCP), are binding on the Permittees and any authorized officer, employee, contractor, or agent conducting covered activities. The permit shall supersede and take precedence over any inconsistent provisions in the DBHCP or other related documents. All applicable provisions of this permit must be presented and clearly explained by the Permittees to their authorized officers, employees, contractors, or agents conducting covered activities.
- c. Permit Amendment: The terms and conditions of this permit are binding on, and for the benefit of, the Permittees and any successors and/or assignees. Any new Permittees must meet issuance criteria per the regulations at 50 CFR 13.25. If this permit requires an amendment because of change of ownership, the Service will process that amendment in accordance with regulations in effect at that time (currently, 50 CFR 13.23). During the processing of an amendment request, the Covered Activities under the DBHCP may continue, provided the terms and conditions of this permit are being followed.



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N. MONITORING REQUIREMENTS

- a. The Permittees shall monitor compliance with the DBHCP and provide an Annual Report to the Service on January 31<sup>st</sup> of each year, starting in 2022, with the information listed below and in the DBHCP.
- b. The Permittees shall implement the monitoring program described in Chapter 7 of the DBHCP to document progress toward meeting the biological goals and objectives addressed in Chapter 6 of the DBHCP.
- c. For incidental finds of Covered Species remains, record all relevant data associated with the remains of each Covered Species [whole dead individual, individual part(s), injured individual(s)] discovered or collected, including the information below:
  - i. Discovery date;
  - ii. Collection date;
  - iii. Species;
  - iv. Sex and age (fledgling, juvenile, adult), if known;
  - v. How Covered Species remains were located (i.e., during a standardized search or an incidental find);
  - vi. Condition of Covered Species remains (alive or dead);
  - vii. Description of Covered Species remains: if alive, indicate if sick or injured; if dead, indicate if intact, or other pertinent information;
  - viii. GPS coordinates of the site where the remains were discovered in decimal degrees with the datum clearly identified (i.e., the reference system that the geographic coordinates are associated with, such as WGS 84);
  - ix. Any special notes or additional information; and
  - x. Photos of the Covered Species remains.

O. REPORTING:

- a. The Permittees shall provide Annual Reports to:

Field Supervisor  
U.S. Fish and Wildlife Service  
Bend Fish and Wildlife Office  
63095 Deschutes Market Road  
Bend, Oregon 97701
- b. Injury and Mortality Reporting: Permittees shall report by email any Covered Species found dead or injured to the Service's Bend Field office (see above contact information) within 48 hours of its discovery. The email shall include:

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- i. Discovery date;
  - ii. Location;
  - iii. Suspected cause of death or injury; and
  - iv. Title the email “Deschutes HCP injury or mortality reporting” as appropriate.
- c. Annual Reports are due by January 31<sup>st</sup> of each year, starting in 2022, and shall include a compilation and discussion of the following items along with information listed in Chapter 7 of the DBHCP:
- i. Compliance and Implementation Monitoring: All items listed in Tables 7.1 and 7.2 of the DBHCP.
  - ii. Effectiveness Monitoring: All items listed in Table 7.3 of the DBHCP.
  - iii. Discuss any changed or unforeseen circumstances that occurred, if any, and how they were addressed.
- d. 5-year Check-Ins: The Permittees shall schedule permit review meetings, concurrent with the delivery of the annual report in January, with the Service at years 5, 10, 15, 20, and 25 of the permit term.

P. CHANGED CIRCUMSTANCES:

Chapter 9 of the DBHCP details the events that could trigger implementing the Changed Circumstances provisions. As described in the DBHCP, the Permittees must notify the Service, as described in Chapter 9, for the following circumstances:

- a. Permittee(s) seeking amendment to or exit from the DBHCP.
- b. Inability of North Unit Irrigation District to secure alternate sources of irrigation water.

Q. OTHER:

- a. The Permittees shall retain records as required in 50 CFR 13.46. Acceptance of this permit authorizes the Service to inspect and audit or copy any permits, books or records required to be kept by the permit and governing regulations (50 CFR 13.47).
- b. The Permittees shall allow Service personnel, or other persons designated by the Service, access to the Covered Areas and Facilities with reasonable notice from the Service, for purposes of monitoring Covered Species at the site(s) while the permit is valid and for up to three years after it expires. For non-urgent purposes, reasonable notice shall be a minimum of five business days. The Service has sole discretion in determining whether site access is urgently needed.

\*\*\*\*\* End of Permit\*\*\*\*\*