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The following executive orders and legislative acts have been reviewed as they apply to the implementation of the Comprehensive Conservation Plan (CCP) for Malheur National Wildlife Refuge, located in the State of Oregon.

National Environmental Policy Act (1969). (42 U.S.C. 4321 et seq.). The planning process has been conducted in accordance with National Environmental Policy Act (NEPA) Implementing Procedures, with Department of Interior and Fish and Wildlife Service procedures, and in coordination with the affected public. The requirements of NEPA (42 U.S.C. 4321 et seq.) and its implementing regulations in 40 C.F.R. 1500-1508 have been satisfied in the procedures used to reach this decision. These procedures included the development of a range of alternatives for the Malheur Refuge CCP; analysis of the likely effects of each alternative; and public involvement throughout the planning process. The draft CCP/EIS is being released for a minimum 45-day public comment period. The affected public was notified of the availability of these documents through a Federal Register notice, news releases to local newspapers, the Service's refuge planning website, and a planning update. Copies of the draft CCP/EIS and/or planning updates have been distributed to an extensive mailing list. In addition, the Service hosted a variety of public scoping events in 2009 (see Appendix J). The draft CCP may be revised based on public comment received on the draft documents.

National Historic Preservation Act (1966). (16 U.S.C. 470 et seq.). The management of the archaeological and cultural resources of Malheur Refuge will comply with the regulations of Section 106 of the National Historic Preservation Act (NHPA). No historic properties are known to be affected by the proposed action based on the criteria of an effect or adverse effect as an undertaking defined in 36 C.F.R. 800.9 and Service Manual [614 FW 2](#); however, determining whether a particular action has the potential to affect cultural resources is an ongoing process that occurs as step-down and site-specific project plans are developed. Should historic properties be identified or acquired in the future, the Service will comply with the NHPA if any management actions have the potential to affect any of these properties.

Endangered Species Act. (16 U.S.C. 1531-1544). This Act provides for the conservation of threatened and endangered species of fish, wildlife, and plants by Federal action and by encouraging the establishment of state programs. Documentation is required under Section 7 of the Act. Refuge policy requires the Refuge Manager to document issues that affect or may affect endangered species before initiating projects. At this time there are no species listed as endangered or threatened inhabiting the Refuge. Effects to candidate species have been considered and are described in Chapter 6 of the CCP/EIS and in the Compatibility Determinations (Appendix B). Consultation on specific projects will be conducted prior to implementation to avoid any adverse impacts to these species and their habitat.

Executive Order 12372. Intergovernmental Review. Coordination and consultation with affected tribal, local, and state governments, other Federal agencies, and local interested persons has been completed through personal contact by Refuge staff and Refuge supervisors.

Executive Order 11988. Floodplain Management. Under this order, Federal agencies "shall take action to reduce the risk of flood loss, to minimize the impact of floods on human safety, health and welfare, and to restore and preserve the natural and beneficial values served by floodplains." The CCP is consistent with Executive Order 11988 because CCP implementation would maintain a number of dams and diversions on the Blitzen River system, which would minimize the impact of

floods on human safety, health, and welfare. The proposed action would restore floodplain connectivity along the Blitzen River system when and where feasible. In the interim, managed wetlands, marshes, and meadows located in the historical floodplain will continue to contribute to the natural and beneficial fish and wildlife resource values unique to the area.

Wilderness Preservation Act of 1964. The Service has evaluated the suitability of the Refuge for wilderness designation (Appendix D) through the “Inventory” phase according to the guidelines of the Wilderness Review process as described in [610 FW 4](#). In this inventory (Phase I), the Harney Lake Unit was found to meet the minimum wilderness criteria for size, naturalness, and outstanding opportunities for solitude and primitive/unconfined recreation. A total of 31,157 acres were found to have wilderness characteristics. Based on the findings in this inventory, Harney Lake will be further evaluated in the “Study” phase as a step-down process to the CCP.

Executive Order 11990. Protection of Wetlands. The CCP is consistent with Executive Order 11990 because CCP implementation would potentially enhance and restore wetland resources on the Refuge.

National Wildlife Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd-668ee). The National Wildlife Refuge System Improvement Act (Public Law 105-57, Improvement Act) requires the Service to develop and implement a CCP for each refuge. The CCP identifies and describes Refuge purposes; Refuge vision and goals; fish, wildlife, and plant populations and related habitats in the Refuge; archaeological and cultural values of the Refuge; issues that may affect populations and habitats of fish, wildlife, and plants; actions necessary to restore and improve biological diversity on the Refuge; and opportunities for wildlife-dependent recreation, as required by the Act.

During the CCP planning process, the Refuge Manager evaluated all existing and proposed Refuge uses at Malheur Refuge. Priority wildlife-dependent uses (hunting, fishing, wildlife observation and photography, environmental education and interpretation) are considered automatically appropriate under Service policy and are thus exempt from appropriate uses review. The following other uses were found to be appropriate: commercial tours and photography, grazing and haying, plant gathering of culturally important plants, research, and farming.

Compatibility determinations have been prepared for these uses as well as the following wildlife-dependent uses: wildlife observation, interpretation, and photography; environmental education; waterfowl hunting; upland game hunting; and fishing.

Executive Order 12898. Federal Actions to Address Environmental Justice in Minority and Low-Income Populations. All Federal actions must address and identify, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations, low-income populations, and Indian tribes in the United States. The CCP was evaluated, and no adverse human health or environmental effects were identified for minority or low-income populations, Indian tribes, or anyone else.

Executive Order 13186. Responsibilities of Federal Agencies to Protect Migratory Birds. This Order directs agencies to take certain actions to further implement the Migratory Bird Treaty Act. A provision of the Order directs Federal agencies to consider the impacts of their activities, especially in reference to birds on the Fish and Wildlife Service’s list of Birds of Conservation Concern. It also directs agencies to incorporate conservation recommendations and objectives in the North American

Waterbird Conservation Plan and bird conservation plans developed by Partners in Flight into agency planning as described in Chapter 1. The effects of all alternatives to Refuge habitats used by migratory birds were assessed within the CCP/EIS.

Executive Order 13175. Consultation and Coordination with Indian Tribal Governments. As required under the Secretary of the Interior’s Secretarial Order 3206—American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act—the Project Leader notified and consulted interested tribes. The Service consulted with the Burns Paiute Tribe throughout the Service’s planning process.

Americans with Disabilities Act of 1990. This Act requires access to Federal facilities for people with disabilities. Access for persons with disabilities has been considered during the planning process and decisions related to access are found in Chapter 2 of the CCP/EIS.

Integrated Pest Management. This plan conforms to Department of the Interior Pesticide Use Policy as described in 517 DM 1.1 and the new Service Manual chapter on Integrated Pest Management ([569 FW 1](#)). An integrated pest management (IPM) approach has been adopted to eradicate, control, or contain pest and invasive species on the Refuge. In accordance with 517 DM 1, only pesticides registered with the U.S. Environmental Protection Agency (USEPA) in full compliance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and as provided in regulations, orders, or permits issued by USEPA may be applied on lands and waters under Refuge jurisdiction.

Chief, Division of Planning
Visitor Services and Transportation

Date

