



Quinault Indian Nation

POST OFFICE BOX 189 • TAHOLAH, WASHINGTON 98587 • TELEPHONE (360) 276-8211

Critical Review of Cultural Resources Considerations in Proposed Chehalis River Basin Flood Damage Reduction Project

Executive Summary

The Quinault Indian Nation’s cultural resources team¹ reviewed the Draft Environmental Impact Statement (DEIS), along with related documents prepared to support the Flood Retention Expandable (FRE) and airport levee improvements Project (proposed Project) that is being considered for permitting by the U.S. Army Corps of Engineers (“Corps”) under the National Environmental Policy Act (NEPA)..

This team reviewed the NEPA DEIS paying special attention to Sections 5.6 Cultural Resources; 6.5.1.2 Cultural Resources (Cumulative Impacts); 7.3.2 Cultural resources (Minimization and Mitigation); and 8.4.3 (Consultation and Compliance).

Introduction

The NEPA DEIS is required to assess impacts to the Cultural Resources within the Study Area which includes three areas: The Chehalis River Floodplain Area, The Flood Retention Facility Area, and the Airport Levee Improvements. The DEIS also indicates that any “differences in the study area are noted in the individual sections” (p. 34). Our review found that the DEIS is not transparent about the deviations for this study area in Chapter 5. The area that was assessed for the National Historic Preservation Act Section 106 (“Section 106”) compliance was guided by what is referred to as “Appendix C” This alternate guidance derives from Department of Defense Corps of Engineers, Department of the Army, 33 CFR Part 325 for ‘Processing of Department of the Army Permits; Procedures for the Protection of Historic Properties’ and has a much smaller area of study. The Corps follows this alternate guidance, which not only differs from the Study Area for this DEIS, but also differs from the requirements in 36 CFR 800.16(d). This has resulted in an unstudied and overgeneralized assessment to impacts in the DEIS Study Area that lie outside of the more restricted Area of Potential Effect (APE).

The DEIS has further simplified and overgeneralized the assessment by failing to recognize the differences in categories of Cultural Resources in their analysis. This has resulted in generalized statements to the potential affects to cultural resources from flooding. The DEIS fails to recognize that flood events may be beneficial for conservation for some cultural resources, and

¹ Naomi Brandenfels, M.A., Archaeologist, Anthropologist, Architectural Historian, and Historian. Justine James, Jr., B.A. Quinault Indian Nation tribal member and elder, Cultural Resources Specialist and expert ethnohistorian, reviewed Section 5.6.2.4 (Ethnographic Context).

possibly even necessary for some to maintain their integrity. It lumps the generalized analysis for the effects to subsurface archaeological deposits and above-ground built environment resources, as ‘Cultural Resources’. The lack of analytical specificity to the various categories of cultural resources has created a flattened and insufficient analysis of the effects of flooding to Cultural Resources and implies that reduced flooding will be beneficial. This disingenuously serves to advocate for the FRE as a benefit to Cultural Resources.

The discussion around Archaeological Sites contains several fundamental misunderstandings about the archaeological record and the science behind it and also the process of determining eligibility for the NRHP. This is surprising because Appendix B of this document attests that Senior Archaeologist of ICF, Tait Elder, M.A., was the technical lead for this section. It is unlikely that any professional archaeologist would not understand the role and significance of glacial activity and how it relates to the possibility of archaeological deposits in the Chehalis Basin. Although there may have been substantial contributions from this professional archaeologist, this infers that other authors that did not have these fundamental understandings of the discipline made contributions. The content of the Cultural Resources section is not completely drafted by the technical expert, but has had insertions of information by non-experts. This is a misrepresentation of the genesis of this information and further reduces the overall credibility of the analysis of the effects on Cultural Resources.

Findings

Area of Study for Cultural Resources

The NEPA EIS is not transparent that the Study Area for Cultural Resources did not include the 100-year floodplain and is isolated to the -proposed dam footprint, the maximum pool level, quarry sites, and the Airport Levee Improvements only. The Corps’ Regulatory Office is using alternate guidance to establish an Area of Proposed Effect (“APE”). The one exception to this has been an acknowledgement of the possibility of Traditional Cultural Properties that may lie outside of the APE, however, no systematic study that includes the 100-year floodplain has occurred.

The Section 106 ‘Area of Proposed Effect’ (APE), as defined with the U.S. Army Corps of Engineers ‘Appendix C’ Guidance, is considerably smaller than the NEPA DEIS defined ‘Project Area’. 36 CFR Part 800.4(a) requires federal agencies to determine the scope of identification effort in consultation with state and tribal historic preservation offices. Further, § 800.4(1) indicates that the APE will be determined and documented as defined in 800.16(d). The requirements for determining an APE in § 800.16(d) diverges from the internal guidance in Appendix C that has been used by the Corps for this Project.

The DEIS Section 5.6.2 (p. 190) describes the Area of Study as, “This section describes the natural and cultural settings as they relate to cultural resources in the study area, which is defined in Section 3.6.” The Study Area as defined in Section 3.6.1 (Page 34) includes: “The Chehalis River 100-year floodplain area (Figure 3.6-1); the flood retention facility project area (Figure

3.6-2); and the Airport Levee Improvements project area (Figure 3.6-3). Further Study Area nuances are described in this same section:

The study area is the same for most environmental resources addressed in Chapters 4 and 5. However, some natural resources would not be affected by Airport Levee Improvements. Therefore, that project area is not part of the study area for those environmental resources. For some built resources, the study area was expanded to account for impacts that would be farther reaching. Any differences in study area are noted in the individual sections of Chapters 4 and 5. (p. 34)

In Section 5.6.2.5. ‘Historical Context — Flood Retention Facility Project Area and Chehalis River 100-year old Floodplain Area’ the EIS includes only the vicinity around Pe Ell, and the upland area surrounding the proposed flood retention facility and not the Study Area as defined in Section 3.6.1.

In Section 5.6.2.6.1 ‘Historic Built Resources’ (p. 194) the DEIS states, “Historic built resources are buildings, structures, and infrastructure that are eligible for or listed in the NRHP. No historic built resources have been documented in the study area” and again in Section 6.5.12, “There are no historic built resources in the study area.” (p. 259) This may be true for the APE, since the Airport Levee was determined to be ‘Not Eligible’ for the NRHP, however, no review and quantification of NRHP eligible historic built resources was done in the Study Area 100-year floodplain acreage. Furthermore, no assessment of the Airport Levee as part of a greater Chehalis Airport Historic District has occurred.

In Section 5.6.2.6.2 ‘Archaeological Resources’ (p. 194), the NEPA DEIS acknowledges that archaeological surveys for this project were conducted only in the proposed flood retention and Airport Levee improvement footprints. This alludes to the limited area of study but offers no explanation as to why the scope was limited. There is no explanation of why a desktop background review was not executed in the study area, in lieu of the more intensive research approach conducted within the APE. As a professional archaeologist, the technical expert listed as responsible for this section has access to the Washington Department of Archaeology and Historic Preservation restricted database. This database contains known archaeological sites, recorded historic properties, cemeteries, and traditional cultural properties. This database also includes a predictive model on probability for archeological resources. This desktop study in the Study Area would enable one to quantify the percentage of area in the Study Area that has, and has not been, previously surveyed and number of archaeological resources recorded. With this one can make informed generalizations on potential for unknown resources in unsurveyed areas in the Study Area. The DEIS is not transparent about the cause of the difference between the APE and the Study Area, and makes no efforts to ameliorate this disconnect with researching the available resources.

Additionally, in Section 5.6.2.6.2 ‘Archaeological Resources’ (Page 194) the DEIS states, “In addition to the known archaeological sites located in the *study area*, much of the *study area* retains the potential to contain buried and as-yet undocumented archaeological sites. The floodplains and terraces that border the Chehalis River in the study area include landforms

suitable for habitation, resource collection, and resource processing activities.” The Study Area and the APE, both have a high potential to contain buried, undocumented sites.

In Section 5.6.3.3.1 ‘Construction’ states, “TCPs have been identified in the *study area* through consultation between the Corps and Native American tribes. Consultation is ongoing to determine whether additional TCPs are present in the *study area* and to determine the nature and extent of project-related impacts. As currently proposed, construction activities would result in a high impact to one of the three TCPs in the *study area*.” There have been no Corps-sponsored studies for TCPs in the Study Area that lie outside of the APE for this Project. The Corps has specifically isolated the TCP study to the APE, and places the burden of research, with ethnographic resources and tribal members, and proof on the consulting tribes. One well known TCP has been identified outside of the APE, but it is certain that there are many more in the Study Area. The impact to these unknown sites —positive, negative or neutral —will be unknown until identification of the TCPs has occurred.

The CEQ NEPA regulations as described in Section 1508.27(b)(7) states, “Significance cannot be avoided by terming an action temporary, or breaking it down into component parts.” The U.S. Army Corps of Engineers Section 106 Process using Appendix C guidance reduces the Study Area into multiple smaller footprints, thus breaking it into parts to avoid analysis of the whole and to reduce the potential perceived impact from the project.

Cultural Resources

The DEIS generalizes impacts to cultural resources. Section 5.6.1 states, “Cultural resources include prehistoric or historic sites or districts, sacred sites, traditional cultural properties (TCPs), buildings, structures, or objects that are eligible for listing, or are listed in, the National Register of Historic Places.” Although the DEIS acknowledges the variety of types resources that can fall under this category, it proceeds to analyze the potential affect as though culture resources were of a single resource type. For example, in Section 5.6.3.2, ‘No Action Alternative’, the DEIS states, “Depending on the extent and location of floods, there is a chance that cultural resources could be adversely affected through flood-related damage, resulting in low to high impacts, depending on the circumstance.” First, this is so vague to be nearly meaningless. Second, not all cultural resources are negatively impacted by flooding. Above ground historic buildings and structures may be negatively impacted. Subsurface archaeological resources may not be impacted at all by seasonal inundation with low energy flows. Burial by small amounts of alluvial sediment is a protection to some sites. Wet sites benefit from staying moist, although sites along stream banks with erosion may be negatively impacted. Traditional Cultural Properties may have resources that require the annual inundation of seasonal flood events to maintain a healthy ecosystem such as a camas prairie, or sweetgrass patches. Another example of this is in Section 5.6.3.3.2 ‘Operation’ the DEIS states, “Operation of Alternative 1 would reduce flood damage in the Chehalis River 100-year floodplain. Reduction in the frequency and intensity of flooding and erosion would benefit archaeological sites and historic buildings, including presently undocumented resources.” The DEIS fails to fully investigate the nuances of types of resources and whether or not they are negatively impacted by flooding, but rather makes assumptions and generalizations to the effect that are unsupported with any research or documentation. This unsupported argument implies that reduced flooding will be a benefit to

cultural resources which consequently poises the proposed FRE as a potential benefit to cultural resources.

Archaeological Sites

In Section 5.6.2.1, ‘Geologic Considerations’, the DEIS misstates the role of glaciers in the potential for the presence of archeological resources. “All portions of the study area are located south of the southernmost extent of any recorded glacial advance in the region (Booth et al. 2003; Schasse 1987). Therefore, they have the potential to contain as-yet undocumented archaeological resources.” This section demonstrates a lack of understanding how the Last Glacial Maximum (LGM) relates to archaeological deposits in this region. An understanding of this is remedial and fundamental to the context of precontact archaeology in the Chehalis basin region. Although the potential of glacial activity to obliterate surface and subsurface archaeological deposits is a reality, the glaciers of the LGM are known begin their retreat by 16,000 years before present. This coincides with the timeframe that the earliest archaeological evidence of human activity is known from the region.² There is a potential for at least 16,000 years of archaeological record to be present in the Chehalis Basin. This known human activity is in Idaho, 500 miles from the Pacific Coast, the leading theory for this known presence centers on the migration inland on rivers entering from the Coast. The Chehalis Basin one of the primary rivers that this event is hypothesized to have occurred in. This misunderstanding of this implies that there are portions of this Section that are not written by the technical expert which reduces the credibility of the whole section. It does not relay the actual critical importance of the Chehalis Basin geographic location within the larger Peopling of the Americas research. Croes and Kucera (2017) have theorized that Chehalis Basin may have critical information for understanding this era of prehistory that occurred at the end of the LGM.³ This coincides with Davis et al (2019) who theorize that the access to the oldest known archaeological site in the region, The Cooper’s Ferry site, (~16,000 Years Before Present), was from the initial human migration into the Americas that occurred via a Pacific coastal route.⁴

In Section 5.6.2.3, ‘Precontact Context’ the NEPA EIS uses out of date information to make a false generalization. Section 5.6.2.3 cites two studies from the 1990s and asserts, “The precontact archaeological record of this region has not been studied in depth. Existing studies focused on the Washington coastlines and interior Puget Sound region. They do not provide any detail on the Chehalis River region (Nelson 1990; Wessen 1990).” Since this was written, the last thirty years has seen hundreds, possibly thousands of archaeological investigations and thousands of sites have been identified in the Chehalis Basin. Some of these studies in the Chehalis Basin have made attempts at synthesizing this information. In this same section, the NEPA EIS also cites Hebel and Schalk (2002)⁵ as the most updated Pre-contact Context. This document was

² Loren G. Davis et al., “Late Upper Paleolithic Occupation at Cooper’s Ferry, Idaho, USA, ~16,000 Years Ago,” *Science* 365, no. 6456 (August 30, 2019): 891–97.

³ Dale R. Croes and Vic J. Kucera, “Entering the American Continent: The Chehalis River Hypothesis,” *Journal of Northwest Anthropology* 51, no. 2 (2017): 164–83.

⁴ Davis et al., “Late Upper Paleolithic Occupation at Cooper’s Ferry, Idaho, USA, ~16,000 Years Ago.”

⁵ Brian Hebel and Randall Schalk, “An Archeological Reconnaissance of the Chehalis River Floodplain for the Centralia Flood Reduction Project” (Seattle, Washington: Cascadia Archaeology, October 2002).

drafted for the U.S. Army Corps of Engineers as part of an earlier study for flood reduction in the Chehalis Basin. Although this report is 18-years old, it postdates the 30-year old documents by more than 10 years, and has an excellent 10-page overview of many of the major archaeological investigations in the Chehalis Basin from the 1970s onward. The authors of the DEIS Cultural Resources section chose not to acknowledge this corpus of more recent work in favor of a very generalized, outdated, citation. Furthermore, as part of the Section 106 for this proposed project, as the process to identify and evaluate sites in the APE, Ostrander et al (2018)⁶ completed an even more recent synthesis of the previous work in the Chehalis Basin region. The DEIS does not use the most recent and relevant available information in favor of these older studies.

The EIS demonstrates a fundamental misunderstanding of how the determination of eligibility is made for an archaeological resource. In Section 5.6.3.1.2 ‘Archaeological Resources’ there is a fundamental misunderstanding of the five step process of making a determination of NRHP eligibility under Criterion D. The text reads, “For archaeological sites, resource integrity (a resource’s ability to convey its significance) is most commonly derived from whether the resource contains artifacts or features (such as a fire pit or house pit) that are diagnostic for both a specific activity and a specific time period.” In the ‘National Register Bulletin 36: Guidelines for Evaluating and Registering Archaeological Properties’ the directive is to, “evaluate the data sets in terms of their potential and known ability to answer research questions.”⁷ There is not mention of either the requirement for the resource to contain “artifacts or features” but rather, to, “Identify the important research question(s) that the property’s data sets can be expected to address.”⁸ Furthermore, there are many places that the term ‘potential eligible’ is used. Cultural resources have three categories of eligibility: Eligible, Not-Eligible, and Undetermined. The use of ‘potentially eligible’ is an indication that the authors of the EIS are using a colloquial and not professional understanding of the determination of eligibility process.⁹

Traditional Cultural Properties

The DEIS identification effort for TCP limits the study to the APE and has failed to identify TCPs in the Study Area. There was no research conducted on publically available ethnographic resources that might indicate the presence of traditional places of importance for tribes outside of the APE. Without funding assistance, the burden has been placed on the consulting tribes to conduct this research in the Study Area.

The entire Chehalis River is a traditional cultural landscape for members of the Quinault Indian Nation. It is the main River and drainage in southwestern Washington and is a unique and distinctive geographic feature. There are many important nodes and nexuses within this landscape. The Chehalis River is deeply interwoven into the world view of Quinault members.

⁶ Tom Ostrander et al., “Chehalis River Basin Flood Damage Reduction Project Archaeological Survey and Built Environment Assessment” (Seattle, Washington: Environmental Science Associates, December 21, 2018).

⁷ National Park Service, “National Register Bulletin 36: Evaluating and Registering Archaeological Properties” (Department of the Interior, 2000), 29.

⁸ Id. at 29.

⁹ National Park Service (NPS), “National Register Bulletin 15- How to Apply the National Register Criteria for Evaluation” (Department of the Interior, 1990), https://www.nps.gov/subjects/nationalregister/upload/NRB-15_web508.pdf.

There are currently three known TCPs in the APE and at least one of these places, Rainbow Falls, has documented importance as a fishing and eel harvesting area and also part of the QIN cosmology and creation stories. Rainbow Falls is a unique place where eels (lamprey) are harvested off the rocks as they are moving upstream. They cluster at the base of the falls where they are easier to harvest. Quinault tribal members are known to have used this place in the past, visit and use it today, and will use it in the future. It is known that the Quinault Indian Nation tribal members have other locations on the in the Chehalis Basin, on the river and in the floodplain, that are important for traditional activities that include fishing, trapping and harvesting eels (lamprey). It is also strongly believed that QIN members also have special areas that are known from the dissemination of family stories and practices for the collection of plants for food, medicine, and weaving. Since no coordinated study of the 100-year floodplain for TCP identification has occurred for this project, the effects on these places from this proposed projects is not considered in this DEIS.

Lamprey have been, and still are, critically important for the Quinault people.¹⁰ Section 5.6.2.2 ‘Flora and Fauna’ fails to include lamprey as one of the important aquatic resources for of the native people in this area.

Mitigation Measures

Section 5.6.3.3.1 ‘Construction’ states, “As part of the Section 106 of the NHPA process, the Corps will resolve adverse effects to historic properties through consultation with the consulting parties.” (p. 198) It is unclear what this resolution might be. The only true resolution to the destruction of a unique archaeological site or traditional cultural property may possibly be avoidance. Mitigation is the language of Section 106 and no mitigation measures to resolve the impact to the two eligible archaeological sites have been offered. TCPs can vary in nature, however, and no mitigation measure has been offered as a ‘resolution’ for the destruction of any of the traditionally important, and sacred sites locations, that the tribes have shared with the Corps in the Section 106 process.

Conclusion

Based on our analysis of the DEIS assessment of the proposed Project’s effects on cultural resources we identified the following issues and inconsistencies:

1. The DEIS does not include an assessment of the whole Study Area for Cultural Resources. This divergence between Study Area and APE is not transparent or explained.

¹⁰ Ronald L. Olsen, *The Quinault Indians*, vol. 6, University of Washington Publications in Anthropology 1 (Seattle, Washington: University of Washington, 1936), 120, 129, 131, 183; “QDNR and ED Newsletter,” *Taholah, WA* IV, no. 5 (July 1981): 1, 5–6; Jay Miller, “Lamprey ‘Eels’ in the Greater Northwest: A Survey of Tribal Sources, Experiences, and Sciences,” *Journal of Northwest Anthropology* 46, no. 1 (Spring 2012): 65–84; Samantha Chisholm Hatfield et al., “Indian Time: Time, Seasonality, and Culture in Traditional Ecological Knowledge of Climate Change,” *Ecological Processes* 7, no. 25 (2018): 1–11.

2. There are most likely many undocumented archaeological sites, above ground built properties, and traditional cultural properties in the unassessed parts of the Study Area, particularly the 100-year floodplain.
3. The Cultural Resources Sections contain misunderstandings of fundamental concepts of precontact history and NRHP determination of eligibility processes. Not only does this compromise the integrity of the section, the DEIS is not transparent about this in Appendix B.
4. The Cultural Resources section has selected for older outdated information when new synthetic information is available.
5. The Cultural Resources Section has failed to use the newest most synthetic background information from the Archaeological and Built Environment Identification Report that was conducted as part of the Section 106 effort for *THIS* project. The authors of this section have failed to acknowledge or consult the available online Washington State Department of Archaeology and Historical Preservation database for known information outside the APE or the predictive model to make informed generalizations in favor of intuitive assumptions.
6. For the No-Action Alternative the assessment for the effects of flooding are generalized as negative for all cultural resources regardless of their attributes. No references are offered to support this statement and it infers that reduced flooding will be beneficial to the cultural resources. Flooding may be beneficial to some archaeological properties, may have a neutral effect on some properties, and have a negative effect on others.
7. More identification efforts are necessary to appropriately identify the TCPs in the 100-year floodplain.

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