

RECLAMATION

Managing Water in the West

Humboldt Project Conveyance **Draft Environmental Impact Statement**



U. S. Department of the Interior
Bureau of Reclamation
Lahontan Basin Area Office
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Humboldt Project Conveyance

Environmental Impact Statement Draft (X) Final ()

Lead Agency: United States Department of Interior
Bureau of Reclamation, Lahontan Basin Area Office
Carson City, Nevada

Cooperating Agency: Pershing County Water Conservation District
Lovelock, Nevada

1. Abstract:

The United States Department of the Interior, Bureau of Reclamation has prepared this Environmental Impact Statement to evaluate the potential impacts of the proposed Humboldt Project Conveyance. The proposed title conveyance is authorized under Title VIII of Public Law 107-282, Humboldt Project Conveyance Act. The Act directs the Secretary of the Interior to convey the right, title, and interest in and to the lands and features of the Humboldt Project, including all water rights for storage and diversion, to the Pershing County Water Conservation District, the State of Nevada, Pershing County and Lander County.

2. For further information, contact:

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3. Comments must be received by: April 1, 2005

EXECUTIVE SUMMARY

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The United States Department of the Interior, Bureau of Reclamation (Reclamation) has prepared this Environmental Impact Statement (EIS) to evaluate the potential impacts of the proposed Humboldt Project Conveyance, commonly known as the "Humboldt Project Title Transfer." The Secretary of the Interior (Secretary) is directed under Title VIII of Public Law 107-282, Humboldt Project Conveyance Act to convey all right, title, and interest in and to the lands and features of the Humboldt Project (Project), including all water rights for storage and diversion, to the Pershing County Water Conservation District (PCWCD or District), the State of Nevada (State), Pershing County and Lander County.

The proposed title transfer is also subject to the terms and conditions set forth in the Memorandum of Agreement between PCWCD and Reclamation dated May 6, 2004; H. R. 2754, Energy and Water Development Appropriations Bill dated December 1, 2003; the Memorandum of Agreement between PCWCD and Lander County dated January 24, 2000; the Conceptual Agreement between PCWCD and the State of Nevada dated October 18, 2001; and the Letter of Agreement between Pershing County and the State of Nevada dated April 16, 2002.

The Project, which is located in north central Nevada, is a Reclamation storage project. Authorized in 1933; the Project includes federal lands that were withdrawn from the public domain and dedicated to the Project (withdrawn lands), and lands that were purchased by the federal government for dedication to the Project (acquired lands). The Project includes three primary features – Humboldt Sink, Rye Patch Reservoir, and the Battle Mountain Community Pasture (Community Pasture). The Humboldt Sink is comprised of approximately 32,650 acres of withdrawn lands in Pershing and Churchill counties and is located approximately 10 miles south of the City of Lovelock. The Rye Patch Reservoir, also in Pershing County, includes approximately 8,460 acres of withdrawn lands and approximately 12,340 acres of acquired lands along the Humboldt River approximately 26 miles upstream of Lovelock. The Community Pasture, located in Lander County, encompasses approximately 30,000 acres of acquired pasture lands located in or near the unincorporated town of Battle Mountain.

PURPOSE AND NEED

The purpose of this action is to transfer the Project from federal ownership to the PCWCD, the State of Nevada, Lander County and Pershing County. The action is needed to comply with Title VIII of Public Law 107-282, which directs the Secretary to transfer title of the Humboldt Project to the above named entities.

DESCRIPTION OF THE ALTERNATIVES

Two alternatives are evaluated in this EIS: (1) the No Action Alternative, under which all interests the United States holds in the Humboldt Project would remain in federal ownership; and (2) the Proposed Action under which Reclamation would transfer title to all interests the United States holds in the Humboldt Project to the PCWCD, the State of Nevada, Lander County and Pershing County.

PROPOSED ACTION

The Proposed Action would transfer approximately 83,530 acres of federal lands associated with the Humboldt Project to PCWCD, the State of Nevada, Pershing County and Lander County. Reclamation withdrawn lands within the Humboldt Sink would transfer to the State of Nevada and Pershing County. In accordance with the Humboldt Project Conveyance Act and related agreements, the State of Nevada

would receive title to approximately 31,660 acres of withdrawn land in the Humboldt Sink. The Nevada Department of Wildlife (NDOW) would continue to operate and maintain these lands as part of the Humboldt Wildlife Management Area (WMA). Pershing County would receive approximately 990 acres of land for future expansion of the Derby Airfield.

The Proposed Action would transfer all acquired lands in the Rye Patch Reservoir area to PCWCD. All withdrawn lands below the reservoir high water mark would transfer to the PCWCD. All withdrawn lands above the reservoir high water mark would transfer to the State. State Parks would continue to operate and maintain the recreation facilities at the Rye Patch State Recreation Area.

Under the Proposed Action, PCWCD would maintain a minimum operational pool of 3,000 acre-feet in Rye Patch Reservoir to sustain the fishery. Operations policy as a result of the Proposed Action will require PCWCD to reduce or cease all releases when the reservoir reaches a minimum of 3,000 acre-feet of storage.

PCWCD would be responsible for updates to the Standing Operating Procedure Emergency Action Plan as required by the State of Nevada, Safety of Dams Program.

The Proposed Action would transfer acquired lands within the Battle Mountain Community Pasture from Reclamation to PCWCD, the State of Nevada, and Lander County. PCWCD would receive title to approximately 22,500 acres within the Community Pasture and plans to continue its management and operation as a livestock pasture.

The State of Nevada would receive title to approximately 5,850 acres of land in the Community Pasture for purposes of creating a wetland. PCWCD would continue to maintain and operate the land transferred to the State as a pasture until such time as development of a wetland begins. Wetland development would depend on the acquisition of water rights by NDOW or other entity wishing to pursue such actions.

The State of Nevada would assume responsibility for operation and maintenance of Slaven Diversion Dam near the east end of the Community Pasture in conjunction with other beneficial uses of the facility when it is needed to divert water to develop the proposed wetland. After title to the facility is transferred to the State and before it is needed for diversion of water to the developed wetland, PCWCD would continue to operate and maintain the dam and appurtenant structures.

In addition, Lander County would receive title to approximately 1,100 acres of Community Pasture lands. Proposed uses for these lands include expansion of the county's industrial area, county fairgrounds and maintenance facilities, and a new primitive park and access easements along the Humboldt River. The access easement would be subject to certain restrictions including maintaining the easement area in its natural state, day use only, and activities limited to foot traffic only.

NO ACTION ALTERNATIVE

Under the No Action Alternative, the title transfer would not occur and the lands and associated water rights and improvements associated with the Humboldt Project would continue to be held by the United States under the existing contracts with PCWCD. The lands would continue to be operated by PCWCD, NDOW, and State Parks according to the purposes for which the Project was authorized, subject to existing agreements and contracts.

If the title transfer were not to occur, Reclamation may choose to prepare a Resource Management Plan (RMP) to guide future decisions for Project lands. Preparation and implementation of an RMP is subject to Congressional funding (USBR 2003a).

Under the No Action Alternative, federal lands within the Humboldt Sink would continue to be managed by NDOW for the operation and maintenance of the Humboldt WMA via a tri-party contract between United States and PCWCD. Proposed transfer of lands to Pershing County within the Humboldt Sink would not occur. However, Pershing County could pursue land acquisition or airport expansion through a separate action or enter into a tri-party lease to use the lands with Reclamation and PCWCD.

Under the No Action Alternative, Humboldt Project lands at Rye Patch Dam and Reservoir would not transfer to PCWCD and the State of Nevada. The lands would continue to be operated by PCWCD, according to the purposes for which the Project was authorized, NDOW and State Parks could continue to operate lands subject to the party agreements between Reclamation, PCWCD and the State.

Reclamation would be required to perform safety inspections of Rye Patch Dam and prepare Comprehensive Facility Reviews on a bi-annual basis. In addition, Reclamation would be required to update the Standing Operating Procedure Emergency Action Plan in compliance with the Safety of Dams Program.

Under the No Action Alternative, Project lands within the Community Pasture would continue to be operated by PCWCD for grazing purposes. The proposed transfer of lands within the Community Pasture to PCWCD, the State of Nevada, and Lander County would not occur. The State of Nevada would not receive Project lands for wetlands development. Lander County would not receive title to the four parcels totaling approximately 1,100 acres. However, Lander County could pursue land acquisition through a separate action or enter into a tri-party lease to use the lands with Reclamation and PCWCD.

Table EX-1 summarizes and compares the environmental impacts that would result from implementation of the Proposed Action and No Action alternatives. More detailed analysis on the impacts associated with each resource or issue listed in the table is presented in Chapter 3, Affected Environment / Environmental Consequences.

TABLE EX-1

SUMMARY OF IMPACTS		
Resource	No Action Alternative	Proposed Action / Preferred Alternative
Land Resources and Use	<p>The United States would continue to hold title pursuant to its contract(s) with PCWCD. PCWCD would continue to manage the lands according to the purposes for which the Project was authorized, subject to existing agreements and contracts with the State and Reclamation.</p> <p>Reclamation may choose to prepare a Resource Management Plan (RMP) pursuant to its contract(s) with PCWCD to guide future land resources decisions for Project lands. Preparation and implementation of an RMP is subject to Congressional funding (USBR 2003a).</p>	<p>Reclamation lands would be transferred to PCWCD, State of Nevada, and Pershing and Lander Counties. Subsequent to the title transfer, receiving entities could sell or commercially develop the lands they receive under the Proposed Action. However, with the exception of parcels going to Pershing and Lander Counties, such action is unlikely.</p> <p>Land transferred to PCWCD and the State of Nevada are not anticipated to be commercially developed, as this would depart significantly from these entities' basic missions. PCWCD's primary purpose is to provide irrigation water to its constituents. NDOW's primary purpose is the management of wildlife habitat within the State of Nevada, and State Parks' purpose is the management of recreational resources in the State.</p>
Surface Water	<p>No change to existing condition. Lands and associated water rights and improvements would continue to be held by the PCWCD patrons, PCWCD and the United States.</p> <p>Under the No Action Alternative, PCWCD would not be required to maintain the minimum operational pool criteria.</p>	<p>With the exception of the proposed minimum operational pool criteria, impacts to surface water storage and use would not change. PCWCD has agreed to maintain a minimum operational pool of 3,000 acre-feet in Rye Patch Reservoir to sustain the fishery. PCWCD would reduce or cease all releases from Rye Patch when the reservoir reaches a minimum of 3,000 acre-feet of storage. Impacts to surface water use on other Project lands would not change.</p> <p>Under the Proposed Action, the State of Nevada would receive title to approximately 5,850 acres of land in the Community Pasture for wetland development. These lands do not have water rights. Water rights acquisition for wetland development would be the responsibility of the receiving entity.</p>
Groundwater	No change to existing condition	<p>Under the Proposed Action, impacts to groundwater in the Humboldt Sink and Rye Patch Reservoir would be the same as those under the No Action Alternative. Lands within the Battle Mountain Community Pasture, proposed to be transferred to Lander County for industrial development, may require the use of groundwater. The Battle Mountain Water and Sewer Department would be responsible to supply any additional Municipal and Industrial (M&I) water to lands acquired for such purposes. At this time, the Battle Mountain Water and Sewer Department does not anticipate restrictions on acquiring water supplies for additional M&I use.</p>

TABLE EX-1 SUMMARY OF IMPACTS		
Resource	No Action Alternative	Proposed Action / Preferred Alternative
Water Use	No change to existing condition	Same as No Action
Water Quality	No change to existing condition	Same as No Action
Water Rights	No change to existing conditions. Water rights would continue to be held by the United States.	Under the Proposed Action, the nine direct flow water rights and two storage rights held in the name of the United States would be conveyed to PCWCD.
Geologic Resources	No change to existing condition	The title transfer would not affect geological resources on transfer lands. The legislation provides that all right, title, and interest in the lands is being conveyed at the time of transfer; there is no reservation of mineral rights to the United States. The transfer may impact access to mineral and geothermal leases. However, the Bureau of Land Management (BLM) has not yet resolved how they intend to handle these leases.
Soil Resources	No change to existing condition	Increased public access along the Humboldt River in the Battle Mountain area may result in bank erosion or sedimentation in the river. However, given the limited population in the area, the effect is expected to be minor and similar to existing conditions.
Biological Resources	No change to existing condition. If title were retained by the United States, Reclamation would continue to comply with applicable laws/regulations addressing plant, fish, and wildlife resources. All Executive Orders, regulatory requirements for wetlands under Section 404 of the Clean Water Act, and applicable state laws and regulations regarding plant, fish, and wildlife management would continue to apply to the project.	Transferring lands out of federal ownership would mean that the Endangered Species Act (ESA) compliance provisions applicable only to federal agencies would no longer apply. However other protective sections of the ESA such as Section 9 and Section 10 would apply. All regulatory requirements for wetlands under Section 404 of the Clean Water Act and all state laws and regulations regarding fish and wildlife management would continue to apply to the project, regardless of ownership.
Hazardous Materials and Safety	No change to existing conditions	Title to the Rye Patch Dam would transfer to the PCWCD. Reclamation would no longer have the responsibility for activities related to its Safety of Dams Program. The dam safety regulatory responsibility would formally transfer to the State of Nevada, and the dam safety ownership responsibilities would transfer to the PCWCD. Liability for the structure and its operation would become the sole responsibility of the PCWCD.

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Resource	No Action Alternative	Proposed Action / Preferred Alternative
Recreation	<p>No change to existing conditions. State Parks would continue to manage the Rye Patch State Recreation Area under a tri-party agreement with Reclamation and PCWCD.</p> <p>Proposed recreational enhancements by Lander County for the development of a primitive day-use and parking area adjacent to the Humboldt River, a dedicated easement along the river, and expansion of the Livestock Events Center would not occur.</p>	<p>Reclamation lands currently operated as part of the Humboldt WMA would transfer from federal ownership to the State of Nevada, with a small portion transferred to Pershing County for airport expansion.</p> <p>State Parks would continue to manage current and future recreational use and development at the reservoir.</p> <p>Lander County would receive title to approximately 1,100 acres of Community Pasture lands for the development of a primitive day-use and parking area adjacent to the Humboldt River, a dedicated easement along the river, and expansion of the Livestock Events Center.</p> <p>Upon conveyance of the lands and facilities, receiving entities shall no longer be eligible to receive any future Reclamation benefits with respect to the Humboldt Project, except those benefits that would be available to other non-Reclamation districts.</p>
Socioeconomic	No change to existing conditions. The counties would continue to receive payment in-lieu of tax (PILT) payments based on annual calculations.	<p>Project lands would be removed from Lander, Pershing and Churchill Counties' PILT payment calculation. For those lands being transferred to PCWCD and the State of Nevada, the land would be exempt from the collection of property tax.</p> <p>Commercial development of lands transferred to Pershing and Lander Counties may be subject to future property taxes and additional sales tax revenues. Local assessment of property for tax purposes is usually higher than the PILT formulation.</p>
Environmental Justice	No change to existing conditions	Lander County may develop an industrial park adjacent to the existing sewage treatment facility. The parcel is located north of lands owned by the Battle Mountain Band of the Te-Moak Tribe. Any development would be subject to county regulations.

**TABLE EX-1
SUMMARY OF IMPACTS**

Resource	No Action Alternative	Proposed Action / Preferred Alternative
Cultural Resources	No change to existing conditions. Cultural Resources on federal lands would remain under federal control and subject to the federal protections provided by the National Historic Preservation Act (NHPA), Archeological Resources Protection Act (ARPA), Native American Graves Protection and Repatriation Act (NAGPRA), and Executive Order 13007	<p>Cultural Resources located on lands proposed to be transferred would lose federal protection provided by the NHPA, ARPA, NAGPRA, and Executive Order 13007. In order to comply with Section 106 of the NHPA, Reclamation would develop a sample strategy to identify cultural resources potentially affected by this undertaking. This process is defined in 36 CFR Part 800.4(b)(1), which states: "The agency official shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey."</p> <p>The means of resolving adverse effects to historic properties recorded within the title transfer areas are difficult to project at this time because the proposed inventory has not yet been completed. The total range and complexity of historic properties remain to be determined. A Programmatic Agreement would be developed among the State Historic Preservation Office (SHPO), Reclamation, and consulting parties to describe responsibilities of recipient entities towards consideration of historic properties.</p> <p>The Record of Decision (ROD) for the EIS will include "conditional" language stating that the title transfer will not occur until full compliance with Section 106 of the NHPA has been completed by Reclamation.</p>
Indian Trust Assets	No change to existing conditions. No Indian Trust Assets are known in the project area.	No Indian Trust Assets are known to exist in the project area.