

RECLAMATION

Managing Water in the West

Proposed Title Transfer of Single – Purpose Municipal Water Supply Assets

**Norman Project, Oklahoma
Great Plains Region**

Draft Environmental Assessment



**U.S. Department of the Interior
Bureau of Reclamation
Great Plains Region Oklahoma
Oklahoma - Texas Area Office**

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Mission Statements

The mission of the Department of the Interior is to protect and provide access to our Nation's natural and cultural heritage and honor our trust responsibilities to Indian Tribes and our commitments to island communities.

The mission of the Bureau of Reclamation is to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public.

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Chapter 1 – Introduction

Project Description

The Central Oklahoma Master Conservancy District (District) is pursuing a transfer of title to the single-purpose municipal water supply assets associated with the Norman Project (Project). Title to these facilities is currently held by the United States and administered through the Bureau of Reclamation (Reclamation). In 1961, the United States entered into Contract No. 14-06-500-590 with the District for the payment of the reimbursable costs of construction and operation, maintenance, and replacement of the Norman Project. The District's repayment obligation for the construction costs was repaid in full to the United States on October 1, 2016. The Contract, as amended, remains in effect. The District has requested title to the District Headquarters/Maintenance Compound, the Reservoir Pumping Plant, the Relift Pumping Plant, and the Del City, Midwest City, and Norman Pipelines, all of which are considered single-purpose assets (Figure 1) and are hereafter referred to as the "assets proposed for transfer". If transferred, the United States would divest its interest in, and responsibility for, these single-purpose municipal water supply assets within the Norman Project. The District would take ownership and manage these assets to meet their current needs in compliance with all Federal, State, and local laws, and in conformance with a forthcoming Title Transfer Agreement and legislation needed to authorize such a transfer.

This Environmental Assessment (EA) has been prepared in compliance with the National Environmental Policy Act (NEPA) to document and disclose any potential effects to the quality of human environment which would result from the proposed change in ownership of these assets. As part of the NEPA process, Reclamation will consult with Native American Tribes affiliated with the Project area and other entities as required by Section 106 of the National Historic Preservation Act of 1966 (NHPA).

Purpose and Need

Reclamation's purpose for the proposed action is to transfer title of facilities that may be efficiently and effectively be managed by non-Federal entities and that are not of national importance, as mandated by the Federal Government's National Performance Review. The District has requested a transfer of all rights and title to, interest in, and responsibility for the above listed single-purpose municipal water supply assets associated with the Norman Project.

Background

On June 27, 1960, Public Law 86-529 authorized Reclamation to construct, operate, and maintain the Norman Federal reclamation project "for the principal purposes of storing, regulating, and furnishing water for municipal, domestic and industrial use, controlling floods, and as incidents to the foregoing for the additional purposes of regulating the flow of the Little River, providing for the conservation and development of fish and wildlife, and enhancement of recreational opportunities." The Bureau of Reclamation began Project construction on August 1, 1962, with water impoundment beginning on September 8, 1964. Project construction was completed in March 1965. The Project provides a supplemental municipal water supply for the cities of Del City, Midwest City, and Norman, Oklahoma; flood protection to lands south and east of the Project area; and significant recreation benefits. Principal features are the Norman Dam on Little River located about 13 miles east of Norman, two pumping plants, and pressure pipelines to serve the three cities mentioned above. No irrigation features or power development are included in the Project. The dam, water delivery systems, and associated facilities are currently owned by the United States under the jurisdiction of Reclamation. In 1961, the United States

entered into Contract No. 14-06-500-590 with the District for payment of the reimbursable costs of construction and operation, maintenance, and replacement of the Norman Project. Under this Contract, the District agreed to pay to the United States an estimated \$11,562,000 with interest over a 50 year period. One stipulation in this Contract is for the District to execute subcontracts with participating municipalities to supply water from the Norman Project to its member cities. The District adhered to this stipulation by executing subcontracts with the City of Del City, City of Midwest City, and City of Norman in 1961. These three subcontracts were recently renewed on January 1, 2017 for a 25 year term. On September 17, 1976, Congress approved 90 Stat. 1274 authorizing an amendment to Contract 14-06-500-590 to provide a credit on the District's annual repayment obligations equal to costs incurred by the District during the year for repair of the Del City Pipeline, which in the opinion of the Secretary of the Interior, were in excess of the costs of normal operation, maintenance, and replacement. This amendment was executed on March 2, 1977. On October 1, 2016, the District met its repayment obligation for the construction costs of the Norman Project.

Public recreation and fish and wildlife benefits at the Norman Project is managed by the Oklahoma Tourism and Recreation Department (OTRD) under Assignment Agreement 10-XX-6H-0051. In 2018, the District proposed to reroute a portion of the Del City pipeline, which conveys water from the Relift Pumping Plant to the Del City Water Treatment Plant. This pipeline has experienced numerous failures, resulting in interrupted water service, loss of water supply, repeated ground disturbance, and potential contamination of source water. The proposed reroute would be constructed almost entirely within the existing pipeline's easement, which is owned by Reclamation. A portion of the pipeline will be rerouted outside of the existing Reclamation easement and new easements will be acquired for this relocated section. The proposed reroute will allow the District to allocate adequate time and resources to other important infrastructure projects besides addressing Del City pipeline failures. The NEPA document for this proposed reroute is being completed separately by an independent consultant contracted by the District. The entire Del City Pipeline, including any reroute sections or new pipeline constructed within the existing Reclamation easements, will be included in this proposed title transfer.

About Title Transfer

Public law 86-529 does not authorize conveyance of title to project land and appurtenances to any portion of the Norman Project. Therefore, Congressional action would be required for Reclamation to transfer the above listed assets to the District.

In general, Reclamation's policy regarding the transfer of its land and facilities requires that the agency conduct any such activities in an open and public manner, and that proposed transfers be evaluated against six broad public interest criteria before a recommendation is made to Congress. In addition to satisfying the requirements of the National Environmental Policy Act, this EA will also compare the proposed title transfer against the following six criteria:

1. The Federal Treasury, and thereby the taxpayer's financial interest, must be protected.
2. There must be compliance with all applicable State and Federal laws.
3. Interstate compacts and agreements must be protected.
4. The Secretary of the Interior's Native American trust responsibilities must be met.
5. Treaty obligations and international agreements must be fulfilled.
6. The public aspects of the project must be protected.

On February 9, 2018, a Memorandum of Agreement (MOA) (Appendix B) was executed between Reclamation and the District to outline respective roles and responsibilities for accomplishing title transfer of the Norman Project single-purpose municipal water supply assets. The MOA was developed in accordance with the September 2004 update to Reclamation's "Framework for the Transfer of Title to Bureau of Reclamation Projects" (Appendix C). In addition to the MOA, Reclamation and the District

will execute a Title Transfer Agreement establishing the terms and conditions for transferring title to the single-purpose municipal water supply assets, contingent upon Congressional authorization.

Scoping

In accordance with the Framework, title transfers must have the consent of all Project beneficiaries, and if any of the Project beneficiaries raise *substantive* objections which cannot be resolved, ownership will remain with the Federal Government. A beneficiary refers to (i) contractors and others who receive direct benefits under the authorized purposes for that Project, and (ii) non-Federal governmental entities in the Project area. Per this definition, the following entities have been identified as Project beneficiaries of the Norman Project:

- Oklahoma Tourism and Recreation Department which operates Lake Thunderbird State Park under contract 10-XX-6H-0051 between OTRD, Reclamation, and the District
- City of Del City, City of Midwest City, and City of Norman which contract with the District for delivery of municipal water supplies
- Oklahoma Department of Wildlife Conservation which manages the Lake Thunderbird Fishery
- Absentee Shawnee Tribe; Muscogee (Creek) Nation; Citizen Potawatomi Nation; and the Seminole Nation of Oklahoma whose historical tribal boundaries encompass all or part of the Project land

Prior to initiating the NEPA process, Reclamation sent the above listed Project beneficiaries a Project Scoping Document outlining the proposed title transfer. Reclamation requested that the Project beneficiaries review the Project Scoping Document and provide a letter of concurrence supporting the proposed transfer of single-purpose municipal water supply assets to the District, or provide written objections if there are substantive reasons why such a transfer should not occur. The Project beneficiaries were given 45-days to review and respond. Non-receipt of a written response indicated that their agency concurs with the proposed title transfer. Reclamation received responses in support of the proposed title transfer from the following:

- Oklahoma Tourism and Recreation Department
- City of Midwest City
- City of Norman
- Muscogee (Creek) Nation

The remaining Project beneficiaries did not respond, and thereby provided tacit concurrence for the proposed title transfer of single-purpose municipal water supply assets.

Figure 1: Map of Facilities Proposed for Title Transfer, Norman Project, Oklahoma

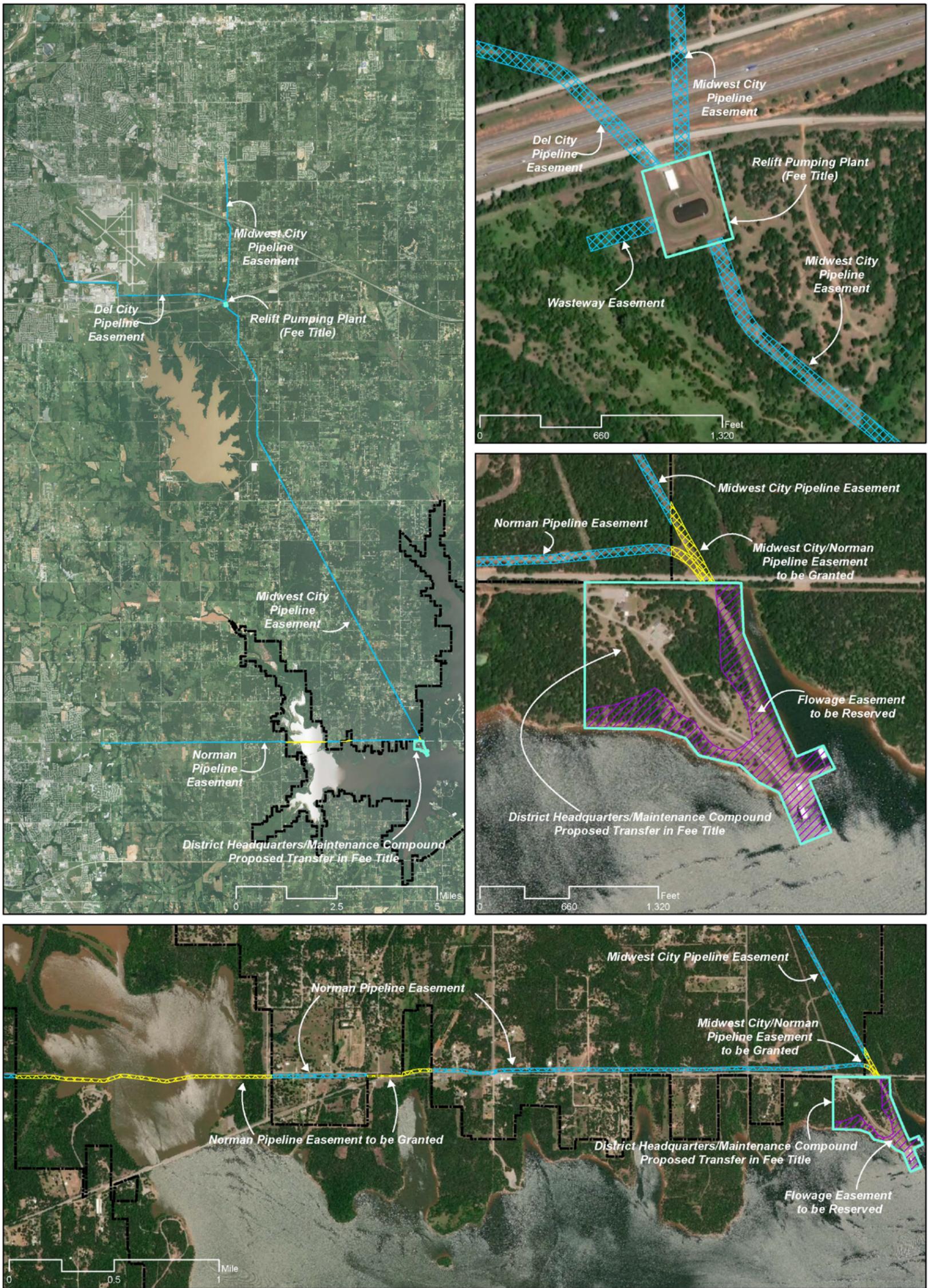


Figure 1 - Map of Facilities Proposed for Title Transfer, Norman Project, Oklahoma

- Proposed Transfer in Fee Title
- Flowage Easement Reserved by U.S.
- Proposed Transfer of Existing Easement
- Proposed Transfer of New Easement
- Reclamation Boundary



Chapter 2 - Alternatives

Two different alternatives are evaluated in this EA: the Preferred Alternative, which is to transfer title to the single-purpose municipal water supply assets associated with the Norman Project to the District, and the No Action Alternative, which serves as a basis for evaluating and comparing the environmental consequences of the Preferred Alternative.

Preferred Alternative:

Under this alternative, Reclamation would divest ownership of the single-purpose municipal water supply assets located within the Norman Project and the District would assume sole ownership. There would be no foreseeable change in current operations.

These single-purpose assets consist of the District Headquarters/Maintenance Compound, the Reservoir Pumping Plant, the Relift Pumping Plant, and the Del City, Midwest City, and Norman Pipelines, as described below.

District Headquarters/Maintenance Compound

The District is requesting fee title in and to approximately 40 acres of land surrounding the District Headquarters/Maintenance Compound that lies above the top of conservation pool elevation 1039.0 ft., plus additional property to encompass the intake area of the Reservoir Pumping Plant, the secure boat dock facility, and the pipeline area. The United States would retain a flowage easement below Maximum Water Surface Elevation 1064.7 feet, which totals approximately 17 acres. The District Headquarters/Maintenance Compound consists of a recently constructed office building, the original office building, several maintenance buildings, the secure boat dock facility, and the Reservoir Pumping Plant.

The secure boat dock facility located within the District Headquarters/Maintenance Compound was constructed under Contributed Funds Act (CFA) Agreement No. R11CF60080 dated July 11, 2011 between the United States and the District. This agreement allowed both parties to cost share the costs associated with the construction and installation of the secure boat dock facility which is to be used to store District boat(s) and the Oklahoma Highway Patrol watercraft used at Lake Thunderbird for the protection and safety of the public. The reserved rights established under CFA No. R11CF60080 for use of the secure boat dock facility by the Oklahoma Highway Patrol shall remain in full force and effect.

Reservoir Pumping Plant

The Reservoir Pumping Plant is the starting point of two pipelines that serve the Cities of Del City, Midwest City, and Norman, Oklahoma. One of the pipelines extends westward 8.4 miles to the city of Norman; the other pipeline extends northwest 12.5 miles to the Relift Pumping Plant which is located within the city limits of Oklahoma City. The Reservoir Pumping Plant has eight vertical shaft, turbine-type pumps. Four pumps, driven by four 200-horsepower motors, each have a capacity to transport water at 5.72 cubic feet per second at 228 of total head. These pumps provide 22.9 cubic feet per second capacity of water in the Norman pipeline. The other four pumps, driven by 350-horsepower motors, each have a capacity to transport water at 7.35 cubic feet per second at 320 feet of total head. These pumps provide the capacity through the Midwest City Pipeline to the Relift Pumping Plant.

Relift Pumping Plant

The District is requesting title transfer of 2.8 acres of land held in fee for the Relift Pumping Plant. The Relift Pumping Plant is where the Del City Pipeline bifurcates from the Midwest City Pipeline. The Relift Pumping Plant has eight horizontal centrifugal pumps. Four of these units, driven by 100-horsepower motors, provide water to Midwest City. Each has a capacity to transport water at 5.27 cubic feet per second at a total head of 138 feet. The four remaining pumps provide water to Del City. Two pumping units, driven by 40-horsepower motors, have a capacity of 2.49 cubic feet per second each, and two units, driven by 25-horsepower motors, have a capacity of 1.66 cubic feet per second each. Total head is 104 feet.

Del City, Midwest City, and Norman Pipelines

The District is requesting easement interest in and to all of the Norman Project Pipelines, totaling approximately 209.8 acres. Easements will also be granted by the United States for those portions of the Norman and Midwest City pipelines that cross fee title property which is not considered single-purpose. Those easements would be 66 feet wide, as is consistent with the adjacent pipeline easements, and would total approximately 11 acres.

The total fee title land to be transferred would be approximately 42.8 acres. The total easement land to be transferred would be 209.8 acres. The total easements to be granted by the United States would be 11 acres. The total flowage easement to be reserved by the United States would be 17 acres. An Oklahoma licensed land surveyor will be contracted to complete surveys as needed to define fee title and/or easement acreage to be transferred.

The proposed title transfer would not include or affect the Norman Dam, the reservoir, nor any other portion of the Norman Project area. Although there are tremendous opportunities for public recreation on several portions of the Norman Project, none of the assets associated with the single purpose municipal water supply are open for public use. Also, the current administration of Lake Thunderbird State Park would continue without change. Finally, as noted earlier, Congressional action would be required to authorize transfer of title to these assets.

No Action Alternative

Under the No Action Alternative, the United States would retain title to all single purpose municipal water supply assets associated with the Norman Project. The District would continue to operate and maintain these assets under the terms and conditions of the existing contract with Reclamation.

Chapter 3 - Affected Environment and Environmental Consequences

Water Resources

The District currently provides most of the municipal water supply for the cities of Del City, Midwest City, and Norman, Oklahoma. The District's service population currently utilizes surface water from Lake Thunderbird and groundwater from wells in the Garber-Wellington Aquifer. These two sources have generally met the water supply demands since the construction of Lake Thunderbird in 1965. Lake Thunderbird has a controlled capacity of 196,200 acre-feet, including a 35,000 acre-foot allowance for 100-year sedimentation between streambed elevation 969.0 feet and the top of the flood control pool at elevation 1049.4 feet.

The District holds a water right permit from the Oklahoma Water Resources Board for 21,600 acre-feet per year with a priority date of January 1, 1966. Under subcontracts with the City of Norman, Midwest City, and Del City, the District supplies water from the Project to the three cities. Del City is allocated 15.8 percent of the permitted amount which is equivalent to 3,414 acre-feet per year. Midwest City is allocated 40.4 percent of the permitted amount which is equivalent to 8,726 acre-feet per year. Norman is allocated the remaining 43.8 percent of the permitted amount, which is equivalent to 9,460 acre-feet per year.

Reclamation staff used the National Wetland Inventory (NWI) mapper provided by the United States Fish and Wildlife Service (USFWS) to identify any wetlands within the asset acreage proposed for transfer. Reclamation determined that there are Freshwater Emergent wetlands found within the asset acreage proposed for transfer. These Freshwater Emergent wetlands are less than one acre.

Preferred alternative – Title transfer of single-purpose municipal water supply assets to the District would not change the existing water right allocations. The cities of Del City, Midwest City, and Norman would continue to receive their allocated amount of water from the District without involvement from Reclamation. The preferred alternative is only an administrative action and the wetlands found within the asset acreage proposed for transfer would not be impacted by the proposed title transfer.

No Action Alternative – If title to the single-purpose municipal water assets were retained by Reclamation, there would be no change to the existing water right allocations. The cities of Del City, Midwest City, and Norman would continue to receive their allocated amount of water from the District without involvement from Reclamation. The no action alternative is only an administrative action and the wetlands found within the asset acreage proposed for transfer would not be impacted by the proposed title transfer.

Wildlife and Vegetation

The assets proposed for transfer are located in Cleveland County and Oklahoma County in central Oklahoma in EPA Ecoregion 29 (Figure 2). The Cross Timbers Ecoregion is a mix of savanna, prairie, and woodlands and serves as the transitional area between the forested ecoregions to the east and the drier prairie ecoregions to the west. "Post oak-blackjack oak woodland and savanna are native on porous, coarse-textured [sic] soils derived from sandstone; the percentage of blackjack oak increases westward. Tall grasses are native on fine-textured, moisture deficient soils derived from limestone, shale, or marl." (Woods, 2005)

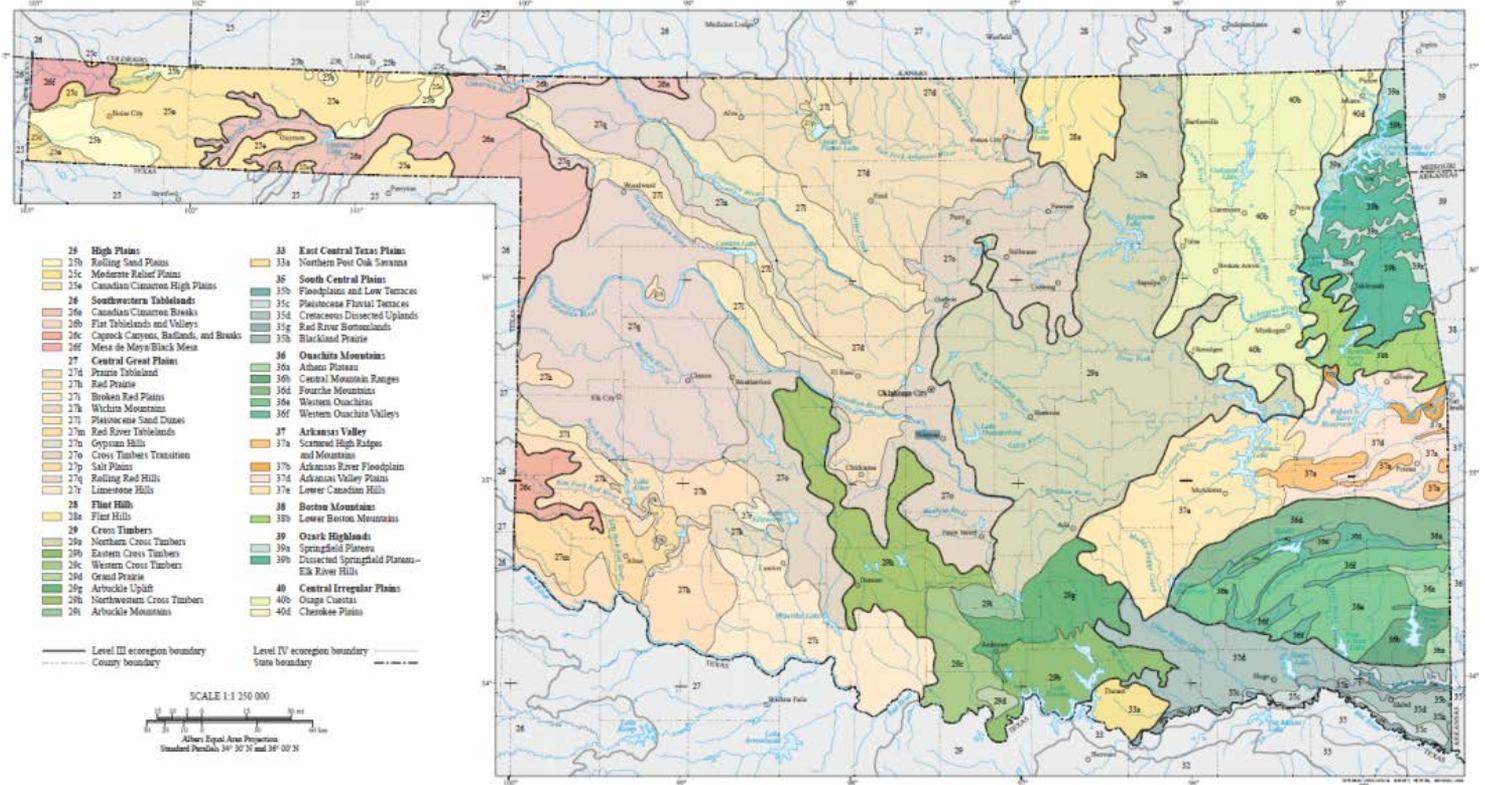
The ecoregion provides habitat for deer, turkey, waterfowl, and small mammals. The Norman Project common aquatic species include largemouth bass, catfish, white bass, crappie, and bluegill.

The specific areas identified for title transfer consist of native and non-native vegetation, which are routinely mowed to maintain the pipeline easements. The District Headquarters/Maintenance Compound is surrounded by sparse tree cover containing post oak-blackjack oak woodlands. These provide limited and fragmented habitat value to native species occurring in the area.

Impacts to All Alternatives - While the single-purpose municipal water supply assets being proposed for title transfer rest within the Cross Timbers ecoregion, the asset acreage proposed for transfer is not ecologically sensitive and is insignificant to the regional ecosystem biodiversity. With no foreseeable change in operations or maintenance, Reclamation has determined that neither alternative would have an effect on wildlife or vegetation.

Figure 2: EPA Ecosystem 29

Ecoregions of Oklahoma



Threatened and Endangered Species

The Endangered Species Act of 1973 gives the U.S. Fish and Wildlife Service (USFWS) Federal legislative authority for the protection of threatened and endangered species. This protection includes a prohibition of direct take (i.e., killing, harassing) and indirect take (i.e., destruction of critical habitat). Section 7 of the Endangered Species Act set forth the guidelines for interagency cooperation to conserve Federally listed species. This EA made use of Reclamation expertise, species collection/location lists provided by the USFWS, and research literature for the various listed species to ensure Section 7 compliance.

An official T&E species list for the Project area has been reviewed for the title transfer of single-purpose municipal water supply assets (Appendix A). Table 1 lists the T&E species in the official species list provided by the USFWS on November 30, 2018.

Whooping Crane

In the United States, the Whooping Crane was listed as threatened with extinction in 1967 and Endangered in 1970 – both listings were “grandfathered” into the Endangered Species Act of 1973. Critical habitat was designated in 1978 in Oklahoma, Kansas, Nebraska, and Texas. USFWS designated the Whooping Crane as experimental, non-essential on June 26, 2001, within several states including New Mexico and Montana (USFWS, 2001).

The only natural wild population of the species nests in Canada and winters on the Gulf coast of Texas (Lewis, 1995). Attempts to establish a population in the Rocky Mountains were abandoned in the early 1990s. The Canadian population migrates through Montana, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas.

Piping Plover

The piping plover was listed as a threatened species in 1985. Historically, piping plovers bred along the Atlantic Coast, in the northern Great Plains, and around the Great Lakes. Piping Plovers winter along the southern Atlantic and Gulf coasts, and in the Bahamas and West Indies. Although drastically reduced, remnant populations occur throughout their historic range. Piping plovers migrate through the eastern two-thirds of Oklahoma each spring and fall, utilizing exposed areas of sand-bottom rivers, reservoir beaches, and mudflats.

Piping plovers breed on sand/gravel shorelines around small lakes, beaches, river islands, and sand pits. Suitable breeding habitat consists of wide beaches with highly clumped vegetation, generally less than 5% overall cover. Vegetation cover on nesting islands is generally less than 25%. Nonbreeding habitat consists of sandy beaches and sand/mudflats, usually in areas with high habitat heterogeneity. Piping plovers forage along open shorelines and flats, alternately running and pausing to search for prey. The diet consists of a variety of invertebrates including worms, fly larvae, beetles, crustaceans, and mollusks.

Major threats to piping plovers include destruction and degradation of summer and winter habitat through changes in lake levels, shoreline erosion, human disturbance of nesting and foraging birds, and predation. Human disturbance during the nesting season is the major threat in many areas through inhibiting courtship, incubation, and brooding, and nest trampling.

Least Tern

The least tern was Federally listed as an endangered species on May 28, 1985. Historically, least terns used major river systems in the Midwestern United States such as the Mississippi, Missouri, and Rio Grande. In Oklahoma, least terns nest along the large rivers and the Salt Plains Wildlife Refuge. Terns typically arrive in Oklahoma between April to June where they spend four to five months. The terns

would nest in small colonies on exposed flats, sandbars, and beaches. The terns have been known to travel up to four or more miles from the nest to find small fish that make up a bulk of their diet.

Least terns have declined due to habitat loss from permanent flooding by reservoirs and channelization projects, unpredictable water discharge patterns, and overgrowth of brush and trees. The recreational use of sandbars by humans is a major threat to the tern’s reproductive success.

Red Knot

The red knot was federally listed as threatened on January 12, 2015. The red knot migrates annually between its breeding grounds in the Canadian Arctic and several wintering regions, including the Southwest United States, the Northeast Gulf of Mexico, northern Brazil, and Tierra del Fuego at the southern tip of South America. During both the northbound (spring) and southbound (fall) migrations, red knots use key staging and stopover areas to rest and feed.

Habitats used by red knots in migration and wintering areas are similar in character, generally coastal marine and estuarine habitats with large areas of exposed intertidal sediments. In North America, red knots are commonly found along sandy, gravel, or cobble beaches, tidal mudflats, salt marshes, shallow coastal impoundments and lagoons, and peat banks.

Table 1: Federally threatened and endangered species identified as occurring in Cleveland and Oklahoma Counties, OK.

Common Name	Status	Potential Impact
Whooping Crane	E,EXPN	None
Piping Plover	T	None
Least Tern	E	None
Red Knot	T	None

E=Endangered; T=Threatened; EXPN=Experimental Population, Nonessential

Impacts to All Alternatives – All of the listed species are shorebirds with very specific habitat requirements. While there is shoreline available in the District Headquarters/Maintenance Area portion of the proposed transfer, it is a very narrow band with trees on the land side, and doesn’t allow for the wide field of view the listed species prefer to avoid predators. Because operation and maintenance of the area would remain the same in both the Preferred Action and No Action alternatives, Reclamation has determined there would be no effect to any listed species or critical habitat.

Migratory Birds

The Migratory Bird Treaty Act of 1918 in conjunction with Executive Order (EO) 13186: "Responsibilities of Federal Agencies to Protect Migratory Birds" requires agencies to ensure that NEPA analyses include an evaluation of potential effects on migratory birds.

Impacts to All Alternatives – There is no disturbance proposed for either the Preferred Alternative or No Action Alternative, therefore, Reclamation has determined that neither alternative would have an effect on migratory birds.

Aesthetics/Visual

The proposed facilities identified for title transfer were constructed over 50 years ago and are regularly maintained. The District compound/maintenance area is gated and the public does not have access to this area. Any future infrastructure development is subject to all Federal, State, and local laws and regulations, local zoning, development ordinances, and other local procedures.

Impacts to All Alternatives – There are no foreseeable aesthetic changes involved in either alternative. Reclamation has determined that neither alternative would have an effect on the quality of the human perceptual experience.

Socioeconomics

On October 1, 2016, the District fulfilled its repayment obligation to the United States for construction of the single-purpose municipal water supply assets proposed for transfer. The District has efficiently and effectively operated and maintained the single-purpose municipal water supply assets since construction of the Project was completed in March 1965, and funds 100% of the cost of operation and maintenance for these assets. The District has also entered into a Memorandum of Agreement with Reclamation to identify responsibilities and provide funding for its share of the costs associated with the title transfer.

Impacts to All Alternatives – There would be no effect to the U.S. Treasury associated with the proposed title transfer or the No Action Alternative because the District has satisfied their repayment contract and already funds 100% of the operating costs for the assets proposed for transfer. Decisions regarding the sale and use of water from the Project, including water rates, are independently determined by the District without Federal involvement.

Cultural/Indian Trust Assets

A literature and files search indicates that there were archeological surveys within the area to be transferred. Archeological surveys were conducted by Reclamation archeologists for activities within the area from 2001 to 2011. Blasing surveyed 1.07 acres for the new district storage building and no cultural resources were found. Blasing surveyed .29 acres for security enhancements and no cultural materials were found. Dougherty surveyed 1.58 acres for the demolition of the caretaker's house and no cultural resources were found. Blasing surveyed 2.65 acres for a dike and patrol dock and no cultural resources were found. Blasing surveyed 2.63 acres along the shoreline for a riprap project and no cultural materials were found. In 2018, a survey was conducted on 24 acres by Mustardseed Cultural and Environmental Services, Inc., and no cultural resources were found. No foundations, no standing structures, and no form of cultural or building material evidence of any kind was encountered during the investigation.

Four buildings within the area are 45 years old and older. These buildings are the chlorination building, the former district office, the Relift Pumping Plant, and the Reservoir Pumping Plant. All of these buildings were built in 1956. None of the buildings are eligible for listing in the National Register of Historic Places because they do not meet the criteria for eligibility. No archeological sites are located within the area to be transferred. In the letter dated December 11, 2018, the Oklahoma State Historic Preservation Officer concurred with Reclamation's findings that there are no known historic properties affected within the assets and acreage proposed for transfer, or any potential effects.

Reclamation has coordinated with the Absentee Shawnee Tribe, the Muscogee (Creek) Nation, the

Citizen Potawatomi Nation, and the Seminole Nation of Oklahoma whose historical tribal boundaries encompass all or part of the Project land. The Muscogee (Creek) Nation has no objections to the proposed transfer; however, they have requested to be notified if any work takes place on these properties after the transfer is made (Appendix D). Reclamation received no response from the Absentee Shawnee, Citizen Potawatomi Nation and Seminole Nation of Oklahoma.

Impacts to All Alternatives –The facilities/areas proposed for transfer were surveyed for prehistoric sites and archeological sites, and none were found to be within the area of potential affect.

Environmental Justice

In February of 1994, the Administration issued Executive Order 12898: "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations", which provides that “each Federal agency make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health and environmental effects of its programs, policies and activities on minority populations and low-income populations.”

According to the US Census, the estimated population for Cleveland County, OK in 2017 is approximately 279,641 people, with 12.4% below the poverty level (Table 2).

Table 2: 2010 Census Demographic Cleveland Co., OK

White alone	78.9%
Black or African American alone	5.2%
American Indian and Alaska Native alone	5.2%
Asian alone	4.8%
Native Hawaiian and Other Pacific Islander alone	0.1%
Two or More Races	5.7%
Hispanic or Latino	8.7%

According to the US Census, the estimated population for Oklahoma County, OK in 2017 is approximately 787,958 people, with 15.9% below the poverty level (Table 3).

Table 3: 2010 Census Demographic Oklahoma Co., OK

White alone	70.8%
Black or African American alone	15.8%
American Indian and Alaska Native alone	4.3%
Asian alone	3.7%
Native Hawaiian and Other Pacific Islander alone	0.1%
Two or More Races	5.4%
Hispanic or Latino	17.5%

Impacts to All Alternatives – Reclamation has determined that, since there are no current adverse effects on minority and low-income populations, and operation of the single-purpose municipal water supply assets would not change, there are no disproportionately high or adverse human health or environmental effects from either of the identified alternatives and that these alternatives would have no effect on any minority or low-income populations.

Summary of Environmental Consequences

Preferred Alternative

Since the Preferred Alternative would entail only a change of ownership of the single-purpose municipal water supply facilities, there would be no direct, indirect, and/or cumulative effects on wildlife, vegetation, threatened or endangered species, migratory birds, aesthetics, socioeconomics, cultural resources/Indian Trust Assets, environmental justice, or climate change (Table 4). Under this alternative, the District would continue to use these assets as they have been used in the past and continue to operate in compliance with all applicable Federal, state, and local laws.

Any potential resource impacts from operation and maintenance of these assets would be anticipated to occur regardless of ownership and cannot be attributed to a change in ownership. Anticipated future actions include continued operations and maintenance, and potential replacement of aging facilities.

No Action Alternative

Since the United States would retain ownership of the single-purpose municipal water supply assets and operation and maintenance would continue to be the responsibility of the District, there would be no direct, indirect, and/or cumulative effects on wildlife, vegetation, threatened or endangered species, migratory birds, aesthetics, socioeconomics, cultural resources/Indian Trust Assets, environmental justice, or climate change (Table 4). Operation of the single-purpose assets would continue to be the responsibility of the District under contract with Reclamation, and all Federal, state, and local laws would apply.

Table 4: Summary of Environmental Consequences

Resource	Preferred Alternative	No Action Alternative
Wildlife and Vegetation Resources	No effect	No effect
Threatened and Endangered Species	No effect	No effect
Migratory Birds	No effect	No effect
Aesthetics/Visual	No effect	No effect
Socioeconomics	No effect	No effect
Cultural/Indian Trust Assets	No effect	No effect
Environmental Justice	No effect	No effect
Climate Change	No effect	No effect

Chapter 4 - Consultation and Coordination

In pursuit of its requirements under the National Historic Preservation Act, Reclamation submitted a consultation letter dated November 20, 2018 to the Oklahoma Archeological Survey (OAS) and Oklahoma Historical Society (OHS) on the potential impacts of the Preferred Alternative to cultural and historical properties. In a letter dated December 19, 2018, the OAS had several questions and concerns that must be addressed prior to issuance of a concurrence letter (Appendix A). Reclamation transmitted the requested information on January 28, 2019 and is awaiting concurrence from OAS. In a letter dated December 11, 2018 the OHS concurred with Reclamation's determination that no historic properties would be affected by the Preferred Alternative (Appendix A).

Bibliography

- Lewis, J.C., 1995.** Whooping Crane (*Grus Americana*). In *The Birds of North America*, No. 153 (A. Poole and F. Gill, eds.). The Birds of North America, Inc., Philadelphia, PA.
- Woods, A.J., 2005.** Omernik, J.M., Butler, D.R., Ford, J.G., Henley, J.E., Hoagland, B.W., Arndt, D.S., and Moran, B.C., Ecoregions of Oklahoma (color poster with map, descriptive text, summary tables, and photographs): Reston, Virginia, U.S. Geological Survey (map scale 1:1,250,000) <https://www.epa.gov/eco-research/ecoregion-download-files-state-region-6>
- USFWS, 2001.** U.S. Fish and Wildlife Service. 2001. Endangered and Threatened Wildlife and Plants: Establishment of a Nonessential Experimental Population of Whooping Cranes in the Eastern United States. Final Rule. Federal Register 66:33903-33917.
- IPCC, 2014.** “Climate Change 2014. Mitigation of Climate Change” Retrieved November 30, 2018
- USFWS, 2018.** “United States Fish and Wildlife Service”, Retrieved November 30, 2018, <http://ecos.fws.gov/ipac/>

Appendix A

**United States Fish and Wildlife Service
Official Species List**



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Oklahoma Ecological Services Field Office
9014 East 21st Street
Tulsa, OK 74129-1428
Phone: (918) 581-7458 Fax: (918) 581-7467
<http://www.fws.gov/southwest/es/Oklahoma/>

In Reply Refer To:

November 30, 2018

Consultation Code: 02EKOK00-2019-SLI-0470

Event Code: 02EKOK00-2019-E-01088

Project Name: Proposed Title Transfer of Single-Purpose Municipal Water Supply Assets

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

Non-federal entities conducting activities that may result in take of listed species should consider seeking coverage under section 10 of the ESA, either through development of a Habitat Conservation Plan (HCP) or, by becoming a signatory to the General Conservation Plan (GCP) currently under development for the American burying beetle. Each of these mechanisms provides the means for obtaining a permit and coverage for incidental take of listed species during otherwise lawful activities.

Please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), and projects affecting these species may require development of an eagle conservation plan (http://www.fws.gov/windenergy/eagle_guidance.html). Additionally, wind energy projects should follow the wind energy guidelines (<http://www.fws.gov/windenergy/>) for minimizing impacts to migratory birds and bats.

Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g., cellular, digital television, radio, and emergency broadcast) can be found at: <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/towers.htm>; <http://www.towerkill.com>; and <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit through our Project Review step-wise process <http://www.fws.gov/southwest/es/oklahoma/OKESFO%20Permit%20Home.htm>.

Attachment(s):

- Official Species List
- USFWS National Wildlife Refuges and Fish Hatcheries
- Migratory Birds
- Wetlands

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Oklahoma Ecological Services Field Office

9014 East 21st Street

Tulsa, OK 74129-1428

(918) 581-7458

Project Summary

Consultation Code: 02EKOK00-2019-SLI-0470

Event Code: 02EKOK00-2019-E-01088

Project Name: Proposed Title Transfer of Single-Purpose Municipal Water Supply Assets

Project Type: ** OTHER **

Project Description: The Central Oklahoma Master Conservancy District (District) is pursuing a transfer of title to the single-purpose municipal water supply assets associated with the Norman Project. The Norman Project, located in Cleveland County, Oklahoma, is owned by the United States and administered by Reclamation. The District has requested title to the District headquarters/maintenance compound, the Reservoir Pumping Plant, the Relift Pumping Plant, and the Del City, Midwest City, and Norman Aqueducts, all of which are considered single-purpose assets. If transferred, the United States will divest its interest in, responsibility for, these single-purpose municipal water supply assets within the Norman Project. The District will take ownership and manage these assets to meet their current needs in compliance with all Federal, State, and local laws, and in conformance with a forthcoming Title Transfer Agreement and legislation needed to authorize such a transfer.

An Environmental Assessment will be prepared in compliance with the National Environmental Policy Act (NEPA) to document and disclose any potential effects to the quality of the human environment which would result from the proposed change in ownership of these assets. As part of the NEPA process, Reclamation will consult with Native American Tribes affiliated with the project area and other entities as required by Section 106 of the National Historic Preservation Act of 1966 (NHPA).

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/35.232590893783716N97.34430787388482W>



Counties: Cleveland, OK | Oklahoma, OK

Endangered Species Act Species

There is a total of 4 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

-
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

Birds

NAME	STATUS
Least Tern <i>Sterna antillarum</i> Population: interior pop. No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/8505	Endangered
Piping Plover <i>Charadrius melodus</i> Population: [Atlantic Coast and Northern Great Plains populations] - Wherever found, except those areas where listed as endangered. There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/6039	Threatened
Red Knot <i>Calidris canutus rufa</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/1864	Threatened
Whooping Crane <i>Grus americana</i> Population: Wherever found, except where listed as an experimental population There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/758	Endangered

Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

Oklahoma SHPO Consultation



Oklahoma Historical Society

Founded May 27, 1893

State Historic Preservation Office

Oklahoma History Center • 800 Nazih Zuhdi Drive • Oklahoma City, OK 73105-7917
(405) 521-6249 • Fax (405) 522-0816 • www.okhistory.org/shpo/shpom.htm

JM
KE
LR

December 11, 2018

Mr. Jeff Tompkins
Bureau of Reclamation, Oklahoma-Texas Area Office
Oklahoma City Field Office
5924 NW 2nd St., Suite 200
Oklahoma City, OK 73127-6514

RE: File #0411-19; COMCD Proposed Title Transfer of Water Assets at Norman Project

Dear Mr. Tompkins:

We have received and reviewed the documentation submitted on the referenced project in Cleveland County. Additionally, we have examined the information contained in the Oklahoma Landmarks Inventory (OLI) files and other materials on historic resources available in our office. We find that there are no known historic properties affected within the referenced project's area of potential effect.

In addition to our review, you must contact the Oklahoma Archeological Survey (OAS), 111 E. Chesapeake, #102, Norman OK 73019-5111 (#405/325-7211, FAX #405/325-7604), to obtain a determination about the presence of prehistoric resources that may be eligible for the National Register of Historic Places. Should the OAS conclude that there are no prehistoric archaeological sites or other types of "historic properties," as defined in 36 CFR Part 800.16(l), which are eligible for inclusion in the National Register of Historic Places within the project area and that such sites are unlikely to occur, we concur with that opinion.

The OAS may conclude that an additional on-site investigation of all or part of the project impact area is necessary to determine the presence of archaeological resources. In the event that such an investigation reveals the presence of prehistoric archaeological sites, we will defer to the judgment of the OAS concerning whether or not any of the resources should be considered "historic properties" under the Section 106 review process. If sites dating from the historic period are identified during the survey or are encountered during implementation of the project, additional assessments by the State Historic Preservation Office will be necessary.

Should further correspondence pertaining to this project be necessary, please reference the above underlined file number. If you have any questions, please contact me at 405/522-4484. Thank you.

Sincerely,

Lynda Ozan
Deputy State Historic
Preservation Officer

RECEIVED

DEC 12 2018

Bureau of Reclamation
Oklahoma City, OK

LO:jr

FILE # LIST OF PROPERTIES

0411-19 COMCD PROPOSED TITLE TRANSFER OF
WATER ASSETS AT NORMAN PROJECT,
LAKE THUNDERBIRD, NORMAN,
CLEVELAND COUNTY

1. FORMER CHOLORINATION BUILDING,
SEC25 T9N R1W
2. FORMER DISTRICT OFFICE
BUILDING, SEC25 T9N R1W
3. RELIFT PUMPING PLANT,
SEC31 T11N R1W
4. RESERVOIR PUMPING PLANT,
SEC25 T9N R1W

Oklahoma Archeological Survey Consultation



Oklahoma Archeological Survey

THE UNIVERSITY OF OKLAHOMA

December 19, 2018

Jeff Tompkins, Supervisor
Resource Management Division
Bureau of Reclamation
Oklahoma City Field Office
5924 NW 2nd Street, Suite 200
Oklahoma City, Oklahoma 73127-6514

Re: *A Cultural Resources Investigation Report for Proposed 24-Acres Title Transfer Single-Purpose Municipal Water Supply Assets at the Norman Project (Lake Thunderbird), Cleveland County, Oklahoma*
By Ike E. Francis (Mustardseed Cultural & Environmental Services)
Legal Description: Section 29, T9N, R1W

Dear Mr. Tompkins,

This agency received the above-listed survey report in association with the proposed title transfer of single-purpose municipal water supply assets associated with the Norman Project, which is currently held by the US and administered through the Bureau of Reclamation. The proposal is to transfer this title to the Central Oklahoma Master Conservancy District (COMCD). From the information provided, I understand the following:

- The title transfer includes approximately 39.5 acres of land in T9N, R1W, Section 25 and T11N, R1W, Section 31.
- The pipeline easements and pumping plants occur in heavily disturbed areas that did not require an archaeological survey.
- Archaeological surveys were conducted by BOR archaeologists within the APE between 2001 and 2011.
- Another archaeological survey was conducted by Mustardseed Cultural & Environmental Services in 2018; the results of this latest survey are presented in the above-listed survey report.
- Four properties that are 45 years or older were documented in the APE; Historic Preservation Resource Identification Forms were completed for these buildings.
- BOR recommends a determination that no historic properties will be affected by this action.

Based only on the information provided, I am unable to complete my review of your findings and recommendations. Please address the following comments and questions, providing additional information to aid in the review process:

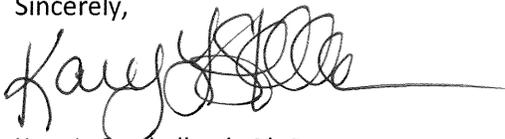
- Were the pipeline easements or pumping plants surveyed previously for archaeological resources? If so, when and what were the results of those investigations?
- Are any previously-identified archaeological sites located in or adjacent to the pipeline easements or pumping plants? If so, please discuss those sites and the extent to which they may constitute Historic Properties and whether they could be impacted by future actions taken by COMCD in these areas.



- Are the pipeline easements limited only to the specific location of the existing pipeline, or do they include a buffer zone on either side? If so, what is the size of that buffer zone and the overall width of the easements?
- To your knowledge, are there any plans to alter or change the pipeline easements or the position of the pipeline within the existing easement?
- Please provide additional details regarding the BOR surveys that were completed between 2001 and 2011. Specifically, I am interested to learn more about the basis for those surveys, the methods employed, the results of those investigations, the adequacy of those efforts to understand the presence or absence of archaeological resources in the surveyed areas, and how those studies informed BOR's recommended determination of effects for the current undertaking. At least some of this information may be presented in table format.
- Regarding the 24-acre survey completed by Mustardseed Cultural & Environmental Services in 2018:
 - Why was only reconnaissance-level survey work completed?
 - Why was no subsurface investigation completed?
 - Our records indicate that prehistoric archaeological resources have been observed in and near this portion of the APE. Barring adequate justification of the current survey methods, I recommend that this area be subjected to an intensive-level survey, including the excavation of shovel tests to identify the presence or absence of significant archaeological sites that may not have surface expression.

This review has been conducted in cooperation with the State Historic Preservation Office, Oklahoma Historical Society. You must also have a letter from that office to document your consultation pursuant to Section 106 of the National Historic Preservation Act.

Sincerely,



Kary L. Stackelbeck, Ph.D.
State Archaeologist

cc: SHPO

Appendix B

Memorandum of Agreement

MEMORANDUM OF AGREEMENT

BETWEEN

**UNITED STATES OF AMERICA
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION**

AND

CENTRAL OKLAHOMA MASTER CONSERVANCY DISTRICT

**FOR THE PURPOSE OF DEFINING ROLES AND RESPONSIBILITIES FOR
ACTIONS REQUIRED TO PREPARE FOR TITLE TRANSFER OF CERTAIN LAND
AND APPURTENANCES AT THE NORMAN PROJECT, OKLAHOMA**

This Memorandum of Agreement (Agreement) made this 9th day of FEB, 2018 is made pursuant to the Reclamation Act of June 17, 1902 (32 Stat. 388) and acts amendatory thereof or supplementary thereto, between the United States of America, acting through the Bureau of Reclamation, Department of the Interior, hereinafter referred to as "Reclamation" and the Central Oklahoma Master Conservancy District, hereinafter referred to as "District", formed under the Conservancy Act, Title 82 of the Oklahoma Statutes, Sections 531 and following, whose principal office is 12500 East Alameda, Norman, Oklahoma, 73026.

WHEREAS, the Norman Project (Project) was authorized under Public Law 86-529 dated June 27, 1960, for storing, regulating and furnishing water for municipal, domestic, and industrial use; controlling floods; regulating the flow of the Little River; providing for conservation and development of fish and wildlife; and enhancing recreational opportunities; and,

WHEREAS, the United States and the District executed Contract 14-06-500-590 for the payment of the reimbursable costs of construction, operation, and maintenance; and for the transfer of care, operation, and maintenance to the District following the completion of the Project construction; and,

WHEREAS, the District is requesting that the United States transfer title to certain Project land and appurtenances used for the purpose of delivering project water as follows:

- All pipelines which deliver water from Lake Thunderbird to the Cities of Norman, Midwest City, and Del City
- Terminal and surge tanks associated with those pipelines
- Reservoir Pumping Plant at Lake Thunderbird
- Relift Pumping Plant near Interstate Highway I-240

- All buildings used by the District
- The property on which the pumping plants, buildings, and support facilities reside
- All easement for the pipelines and appurtenances
- All roads and driveways needed to access the pipelines, pumping plants, appurtenances, and buildings
- The property east of the Lake Thunderbird Plant for future construction of a water treatment plant
- Copies of all records, plans, surveys, and documents associated with these assets

WHEREAS, the District plans to continue to use the described project land and appurtenances for the same authorized Project purposes; and,

WHEREAS, Public Law 86-529 did not authorize conveyance of title to project land and appurtenances upon repayment of the reimbursable costs of project construction by the District; and,

WHEREAS, the District desires to work with Reclamation to complete all actions necessary to jointly seek Congressional authorization for transfer of the described project land and appurtenances;

NOW THEREFORE, the parties agree as follows:

- 1) The District and Reclamation agree to engage in the title transfer process in accordance with the September 2004 update to the *Framework for the Transfer of Title to Bureau of Reclamation Projects* process, as applicable, for the described Project land and appurtenances, and to take actions to prepare for transfer of the described Project land and appurtenances, contingent upon Congressional authorization. All interests in the mineral estate will remain with the United States.
- 2) **Reclamation will be responsible for the following:**
 - a) Appoint an official to represent Reclamation in the transfer process.
 - b) Ensure compliance with National Environmental Policy Act (NEPA), National Historic Preservation Act (NHPA), and other applicable Federal laws as required. The cost of such compliance will be 50% reimbursable and 50% non-reimbursable.
 - c) Complete hazardous material surveys on all lands intended for title transfer in accordance with the Comprehensive Environmental Response Compensation and Liability Act (CERCLA). The cost of the hazardous material survey will be 100% non-reimbursable.
 - d) Prepare the necessary title conveyance documents, including legal descriptions of rights-of-way to be transferred pursuant to future legislation.

- e) Furnish/provide copies of records, specifications, surveys, drawings, legal documents, title or title insurance opinions, and certified copies of abstracts of title associated with the lands, rights and facilities to be included in the title transfer. The certified copies of the abstracts of title shall become the property of the District upon completion of the title transfer.
- f) Require that all contracts or obligations entered into for costs relating to this Memorandum of Agreement be revocable, wherein said contracts or obligations may be terminated at any time upon the request of the District, with the District only being responsible for costs and expenditures incurred to the date of said termination.
- g) Furnish/provide to the District copies of all contracts, documents, invoices and other writings which evidence obligations pursuant to this Memorandum of Agreement.

3) The District will be responsible for the following:

- a) Appoint an official to represent the District in the transfer process.
- b) Provide a Resolution from the District's Board of Directors that approves executing this agreement.
- c) Pay for all District and Reclamation expenses directly attributable to and solely occasioned by the title transfer, including federal employee time, except for costs associated with those activities specifically designated as "non-reimbursable" in paragraph 2 above.
- d) Report progress to the Oklahoma Congressional delegation, if requested.

4) Areas of mutual responsibility:

- a) Develop a "Title Transfer Agreement" between the United States and the District which presents the specific details, terms, and conditions for the transfer.
- b) Develop legislative language needed to accomplish title transfer.
- c) Conduct the process in a manner that ensures reasonable and appropriate public and stakeholder participation.
- d) Arrange public meetings, if necessary, including a meeting place, mailings to all key participants, and notices the public.
- e) It is the intent of this Agreement to accomplish this transfer of title and assignment of interest in the most fiscally responsible manner consistent with good land title practices. To this end, and any above statement to the contrary notwithstanding, this Agreement expressly authorizes the District to perform any necessary transfer activity not restricted to Reclamation or any other Federal agency by law. Any of the other responsibilities specified/listed for either party can become the responsibility of the other party if agreed to by both parties in writing.

5) This Agreement may be modified, in writing, by mutual agreement of both parties.

6) Costs:

The District agrees that it shall be responsible for paying, in advance, all costs incurred by it and/or Reclamation, including federal employee time, associated with the potential title transfer except for costs associated with those activities specifically designated as “non-reimbursable” in paragraph 2 above.

Costs associated with mitigation, if any, under NHPA, CERCLA, NEPA and other applicable Federal laws are not covered under this Memorandum of Agreement. If mitigation activities are required, a supplemental Memorandum of Agreement will be negotiated prior to such mitigation activities occurring.

7) Advancement of Funds:

In accordance with the Anti-Deficiency Act (31 U.S.C. 1341 et seq.), funds must be provided to Reclamation in advance of activities performed by Reclamation personnel. The District shall advance to Reclamation its share of the funds necessary to accommodate Reclamation’s expenditures for the work defined in Section 2. Payment by the District can be made in one lump sum, in partial payments prior to work being performed, or other methods as best conforms to the District’s budgetary processes and fiscal year, as long as funds are received in advance of activities performed by Reclamation personnel.

8) Unused Funds:

In the event that any funds advanced to Reclamation by the District are not required to complete the work identified, such excess funds shall be returned by Reclamation to the District without interest, upon completion of the work defined in this Agreement.

9) Payment:

- (a) The District will advance \$75,000 upon execution of this Agreement to fund Reclamation’s anticipated expenditures. Should periodic reviews show that additional amounts would be required or should the balance of said advance become less than \$10,000, Reclamation will notify the District and the District may elect to advance additional funds for continuation of work or may terminate title transfer activities. In the event the District chooses to advance additional funds, such advances will be in \$20,000 increments until this Agreement is completed.
- (b) Following completion of the identified activities, any funds advanced to Reclamation, but not expended, will be refunded to the District.

10) Fulfillment of Responsibilities Defined:

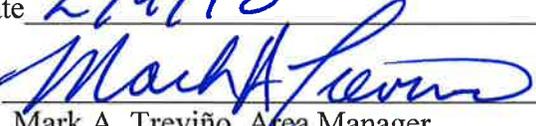
Both parties will have fulfilled their obligations under this Agreement upon completion of the activities described herein and enactment of legislation authorizing the title transfer of certain land and appurtenances currently operated and maintained by the District and described in Exhibit A of this Agreement.

11) Termination:

The term of this Agreement shall be two years from the date of the last signature to this agreement, unless subsequently modified by mutual consent of the parties, but shall not extend beyond the date of completion of the title transfer conveyance documents. This Agreement may also be terminated by either party at any time upon 30 days written advance notice to the other party. All duties and obligations of the parties under this Agreement will cease at that time except for those provisions related to accounting and reimbursement of the parties' expenses.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

THE UNITED STATES OF AMERICA

Date 2/9/18
By 
Mark A. Treviño, Area Manager
Bureau of Reclamation
Great Plains Region

CENTRAL OKLAHOMA MASTER CONSERVANCY DISTRICT

Date 2-7-18
By 
Randy Worden
General Manager

ATTEST:

Date 2/2/18

By Kelley Metcalf
(SEAL)



Appendix C

Framework for the Transfer of Title for Bureau of Reclamation Projects

FRAMEWORK
FOR THE
TRANSFER OF TITLE
BUREAU OF RECLAMATION PROJECTS
AUGUST 7, 1995
(Updated September, 2004)

The criteria and guidance outlined in this document applies to "uncomplicated" projects. "Uncomplicated" projects are generally defined in the Scope of Application section following. This guidance is intended to initiate the Bureau of Reclamation's title transfer process.

This guidance does not apply to the more complicated projects, e.g., large multi-purpose projects where there is no consensus among the project beneficiaries concerning the transfer, where more than one competent beneficiary has expressed an interest in acquiring title, or where the institutional and legal concerns cannot be readily resolved.

BACKGROUND

The Reclamation program was founded in 1902. Its original mission was one of civil works construction to develop the water resources of the arid Western United States to promote the settlement and economic development of that region. The results of that work are well known in the hundreds of projects that were developed to store and deliver water. That substantial infrastructure made Reclamation the largest wholesale supplier of water in the United States, the sixth largest electric power generator, and the manager of 45 percent of the surface water in the Western United States. Many of these projects were constructed at a time when there were no local communities and utilities. Today much of the West is settled and is, in some respects, the most urbanized region of the country. Reclamation owns and operates public utility facilities which, if located in other parts of the country, would likely be owned, operated, and funded by publicly regulated private corporations or local government agencies. While it has been Reclamation's policy for decades to transfer operation and maintenance of projects to local entities where and when appropriate, interest in the actual transfer of title (with its attendant responsibilities) is now growing.

PURPOSE

As part of the second phase of the National Performance Review (REGO II), Reclamation initiated an effort to transfer title of facilities that could be efficiently and effectively managed by non-Federal entities and that are not identified as having national importance. This effort is recognition of Reclamation's commitment to a Federal Government that works better and costs less. The transfer of title will divest Reclamation of the responsibility for the operation, maintenance, management, regulation of, and liability for the project and will provide the non-Federal entity with greater autonomy and flexibility to manage the facilities to meet their current needs in compliance with other Federal, state and local laws and in conformance with contractual obligation. The transfer of title to a project or set of facilities will, in effect, sever Reclamation's ties with that project.¹

SCOPE OF APPLICATION OF FRAMEWORK

¹ Note: Reclamation recognizes that the complete severance of the relationship between Reclamation and the transferee may not be possible in all instances.

It is Reclamation's intent to transfer title and responsibility for certain projects or facilities, when and where appropriate, to qualifying non-Federal interests. Uncomplicated projects are projects or facilities where there are no competing interests, the facilities are not hydrologically integrated with other projects, the financial arrangements are relatively simple and easily defined, and the legal and institutional concerns² associated with a transfer can be readily addressed. In other words, after meeting the requirements set forth in the Criteria section below, projects will be selected for title transfer on the basis of the transfer being achievable and able to move forward quickly.

For purposes of this document and the transfer of title to the projects, the terms "beneficiary" and "stakeholder" are defined as follows: (a) **beneficiary** refers to (i) contractors and others who receive direct benefits under the authorized purposes for that project and (ii) non-Federal governmental entities in the project area; (b) **stakeholder** is a broader term and includes the beneficiaries, as well as those individuals, organizations, or other entities which receive indirect benefits from the project or may be particularly affected by any change from the status quo.

CRITERIA FOR TITLE TRANSFER

Following are the six major criteria that must be met before any project is transferred:

- 1) The Federal Treasury, and thereby the taxpayer's financial interest, must be protected
- 2) There must be compliance with all applicable State and Federal laws
- 3) Interstate compacts and agreements must be protected
- 4) The Secretary's Native American trust responsibilities must be met
- 5) Treaty obligations and international agreements must be fulfilled
- 6) The public aspects of the project must be protected

GENERAL GUIDANCE FOR DETERMINING PROJECTS ELIGIBLE FOR TRANSFER

Reclamation Area offices will review projects nominated by an interested transferee and will pursue negotiations regarding those projects where the issues associated with transfer are relatively easy to resolve. This could include projects with multiple purposes and numerous stakeholders, but only if it is clear that outstanding issues are resolved and that there is consensus among the stakeholders.

Reclamation will not initiate negotiations on those projects where title transfer will involve a protracted process to ensure that the six criteria listed above are met.

Generally, Reclamation will not pursue transfer of powerhouses and generating facilities where power is marketed by the Power Marketing Administrations or where such power is used for purposes not directly associated with project purposes.

GENERAL GUIDELINES APPLYING TO TRANSFERS

All transfers will be voluntary.

Reclamation's intent is to transfer projects to current project beneficiaries, including non-Federal governmental entities, or to entities approved by the current beneficiaries.

All transfers must have the consent of other project beneficiaries. If another beneficiary raises

² Such concerns include, but are not limited to, unresolved Native American claims, endangered species considerations, international or interstate issues, absence of consensus among beneficiaries, significant disagreements raised by the stakeholders, a need to prepare an Environmental Impact Statement, and substantive objections from other governmental entities.

substantive objections which cannot be resolved, the project will remain in Federal ownership.

Reclamation will comply with National Environmental Policy Act and other applicable laws in all transfers.

All transfers must ensure the United States' Native American trust responsibilities are satisfied. In addition, outstanding Native American claims that are directly pending before the Department and that would be directly affected by the proposed transfer will be resolved prior to transfer.

Reclamation officials will meet with representatives from all interested Federal and State agencies to consider their concerns early in the transfer process.

Potential transferees must be competent to manage the project and be willing and able to fulfill all legal obligations associated with taking ownership of that project, including compliance with Federal, State, and tribal laws that apply to facilities in private ownership and assumption of full liability for all matters associated with ownership and operation of the transferred facilities. Potential transferees must be able to demonstrate the technical capability to maintain project safety on a permanent basis and an ability to meet financial obligations associated with the project.

In general, it is Reclamation's expectation that, upon the transfer of title to a project, its jurisdiction over that project will be divested. Reclamation further recognizes that in some cases the complete divestiture of jurisdiction may not be attainable because the transferee still receives water supplied from a Reclamation facility, or only a portion of the project was transferred and the rest of the project remains in Federal ownership, or there are other extenuating circumstances. The degree to which the Reclamation Reform Act of 1982 will apply following transfer will be negotiated on a case-by-case basis.

The financial interests of the Government and general taxpayers will be protected. Transferees must agree to fair and equitable terms based upon the factual circumstances associated with each project. (See attachment which describes the valuation of projects.) Transferees will be expected to pay upfront the estimated transaction costs, such as costs associated with compliance with the National Environmental Policy Act, real estate boundary surveys, and so forth. The Federal share of any transaction costs will either be deducted from the "price" paid by the non-Federal entities pursuant to the valuation methodology or paid as an in-kind service for work done by Reclamation staff. Reclamation will not provide new loans to finance transfers.

No transferred Federal asset will be considered for federal assistance for project operation, maintenance, and replacement or capital construction purposes following completion of the transfer.

Prior to the initiation of detailed discussions on title transfer, Reclamation and the potential transferees will execute an agreement covering the responsibilities of all parties during the negotiations.

A base value will be determined for each project as it becomes the subject of serious negotiations for transfer. (See attached guidance on valuation.) The negotiated price for the project may deviate up or down from the base value. It will be necessary for Reclamation and the interested non-Federal entity to document how the factual circumstances and equitable treatment considerations justify such adjustments. In addition, Reclamation may consider future uses on the transferred lands and waters in establishing a price.

Potentially affected State, local, and tribal governments, appropriate Federal agencies, and the public

will be notified of the initiation of discussions to transfer title and will have (1) the opportunity to voice their views and suggest options for remedying any problems and (2) full access to relevant information, including proposals, analyses, and reports related to the proposed transfer. The title transfer process will be carried out in an open and public manner.

Once Reclamation has negotiated an agreement with a transferee, Reclamation will seek legislation specifically authorizing the negotiated terms of the transfer of each project or feature.

Appendix D

Project Beneficiaries Response Letters



November 27, 2018

Mark A. Trevino, Area Manager
US Department of Interior
Bureau of Reclamation
Great Plains Region
5316 HWY 290 West, Suite 110
Austin, TX 78735-8931

Subject: Proposed Title Transfer of Single Purpose Assets at the Norman Project, Oklahoma to the Central Oklahoma Master Conservancy District

Dear Mr. Trevino:

We have reviewed your letter of November 6, 2018 along with the Draft Environmental Assessment and Project Scoping Agreement dated November 1, 2018.

The Oklahoma Tourism and Recreation Department concurs with the proposed transfer of title for the single-purpose municipal water supply assets associated with the Norman Project to the Central Oklahoma Master Conservancy District. We support moving forward with completion of the Environmental Assessment, Project Scoping Document and associated actions needed to complete this transfer.

Please keep us advised of progress on this effort. Thank you for your assistance and consideration.

Sincerely,

A handwritten signature in black ink that reads "Dick Dutton". The signature is written in a cursive style.

Dick Dutton
Executive Director

C: Claudia Conner, Deputy Director and General Counsel
Kris Marek, Director of State Parks

RECEIVED
DEC 03 2018
Oklahoma Tourism and Recreation Department
900 North Stiles, Oklahoma City, OK 73104



United States Department of the Interior

BUREAU OF RECLAMATION
Great Plains Region
Oklahoma-Texas Area Office
5316 HWY 290 West, Suite 110
Austin, TX 78735-8931

IN REPLY REFER TO:
OK-118
2.2.3.19

NOV 06 2018

Mr. J.D. Strong
Director
Oklahoma Department of Wildlife Conservation
P.O. Box 53465
Oklahoma City, OK 73152

Subject: Proposed Title Transfer of Single Purpose Assets at the Norman Project, Oklahoma to the Central Oklahoma Master Conservancy District

Dear Mr. Strong:

The Central Oklahoma Master Conservancy District (District) is pursuing transfer of title to the single-purpose municipal water supply assets associated with the Norman Project. Title to these facilities is currently held by the United States and administered through the Bureau of Reclamation (Reclamation). The District has requested title to the District headquarters/maintenance compound, the Reservoir Pumping Plant, the Relift Pumping Plant, and the Del City, Midwest City, and Norman Aqueducts, all of which are considered single-purpose assets. The District operates these facilities under contract with the United States, and repaid the debt obligation associated with construction of these facilities.

Reclamation has prepared a Project Scoping Document (enclosed) to gather information and input from project beneficiaries about the proposed action. We request that the Oklahoma Department of Wildlife Conservation (ODWC) review the Project Scoping Document and provide a letter of concurrence supporting the proposed transfer of single-purpose municipal water supply assets to the District, or provide written objections if there are substantive reasons why such a transfer should not occur. Please submit a response within 45-days from the date of this letter. Non-receipt of written response will indicate that ODWC concurs with the proposed title transfer.

Please contact Mr. James Allard, Deputy Area Manager, at 405-470-4810 or at jallard@usbr.gov if you have any questions or require additional information in the meantime.

Sincerely,

Mark A. Trevino
Area Manager

Enclosure

cc: Mr. Randy Worden
District Manager
Central Oklahoma Master Conservancy District
12500 Alameda Drive
Norman, OK 73026

Dr. Roger Frech
2914 Trailridge Dr.
Norman, OK 73072
(w/encl to each)



The City of **NORMAN**

201 West Gray • P.O. Box 370
Norman, Oklahoma • 73070

CITY MANAGER'S OFFICE
Phone: 405-366-5402

December 11, 2018

Mr. Mark A. Trevino
Area Manager
Bureau of Reclamation
5316 HWY 290 West
Suite 110
Austin TX 78735-8931

Subject: Proposed Title Transfer of Single Purpose Assets at the Norman Project, Oklahoma to the Central Oklahoma Master Conservancy District (COMCD).

Dear Mr. Trevino:

This is to respond to your letter received November 6, 2018 regarding the above subject. The City of Norman is in full support of single asset title transfer. The City of Norman along with the other member cities of the District have each adopted resolutions expressing support for the transfer of title of Lake Thunderbird to the COMCD. The cities also requested COMCD to undertake a long-term operational analysis and cost of service study to assist the Board and member cities in determining the impact of such a transfer. We have reviewed the Project Scoping Document that was attached in the letter received on November 6 and agree with the intent and terms.

We appreciate the communication and cooperation from the Bureau of Reclamation and look forward to working together.

Sincerely,

Mary Rupp
Interim City Manager

CC: Randy Worden
Roger Frech
Ken Komiske

RECEIVED

DEC 17 2018

Bureau of Reclamation
Austin, TX



City Manager
100 N. Midwest Boulevard
Midwest City, OK 73110
Office: 405.739.1207
ghensen@midwestcityok.org
www.midwestcityok.org

December 12, 2018

Mr. James Allard
Deputy Area Manager
United States Department of the Interior
Bureau of Reclamation
Great Plains Region
Oklahoma – Texas Area Office
5316 HWY 290, Suite 110
Austin, TX 78735-8931

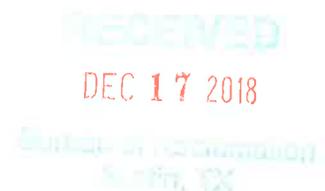
Dear Mr. Allard,

I have received your letter of November 6, 2018 concerning proposed title transfer of single purpose assets at the Norman Project. The Project Scoping document has been reviewed by the City and the City is in support of the proposed transfer of single purpose municipal supply assets to the District.

If you should have any questions, please feel free to contact me at (405) 739-1207 or at ghensen@midwestcityok.org.

Sincerely,


J. Guy Henson, City Manager





Braggs, Precious <pbraggs@usbr.gov>

Fwd: [EXTERNAL] Proposed Title Transfer of Single Purpose Assets at the Norman Project, Oklahoma to the Central Oklahoma Master Conservancy District in Oklahoma

1 message

Allard, James <jallard@usbr.gov>

Mon, Dec 3, 2018 at 11:16 AM

To: Precious Braggs <pbraggs@usbr.gov>, Kate Ellison <kellison@usbr.gov>, Jeffrey Tompkins <jtompkins@usbr.gov>

FYI - and for our files.

----- Forwarded message -----

From: **Section106** <Section106@mcn-nsn.gov>

Date: Mon, Dec 3, 2018 at 11:05 AM

Subject: [EXTERNAL] Proposed Title Transfer of Single Purpose Assets at the Norman Project, Oklahoma to the Central Oklahoma Master Conservancy District in Oklahoma

To: jallard@usbr.gov <jallard@usbr.gov>

Mr. Trevino,

Thank you for contacting the Muscogee (Creek) Nation concerning the Proposed Title Transfer of Single Purpose Assets at the Norman Project, Oklahoma to the Central Oklahoma Master Conservancy District in Oklahoma. This project is located within our area of interest and is of importance to us. After reviewing the material provided, and noting that this only involves the transfer of the title to the Central Oklahoma Master Conservancy District, it has been determined that the Muscogee (Creek) Nation has no objections to the proposed transfer. However, should any work take place on these properties after the transfer is made, we request to be notified. Also, if there are any additional updates, we ask to be informed of these. Should further information or comment be needed, please do not hesitate to contact me at (918) 732-7852 or by email at lwendt@mcn-nsn.gov.

Regards,

LeeAnne Wendt

LeeAnne Wendt, M.A., RPA

Historic and Cultural Preservation Department, Tribal Archaeologist

Muscogee (Creek) Nation

P.O. Box 580 / Okmulgee, OK 74447

T 918.732.7852

F 918.758.0649

lwendt@MCN-nsn.gov

<http://www.muscogeenation-nsn.gov/>

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