

CHAPTER 2: PROPOSED ACTION & ALTERNATIVES

2.0 PROPOSED ACTION AND ALTERNATIVES

This section describes the alternatives that were considered in the development of this EIS. It outlines the scoping process that was used to solicit comments from interested stakeholders and the issues that were identified. The Proposed Action and No Action Alternatives are described along with alternatives that were considered but dismissed from detailed analysis. The environmental effects of the alternatives are also summarized and compared.

2.1. PUBLIC INVOLVEMENT/SCOPING

The scoping process was conducted to provide federal, state, and local agencies; organizations; and interested individuals with the opportunity to provide input on key issues and concerns that they believe should be evaluated in the EIS.

The objectives of scoping for the proposed project included:

- Identification of significant issues related to the proposed title transfer;
- Determination of the range of alternatives to be evaluated;
- Identification of environmental review and consultation requirements;
- Identification of interested and affected public; and
- Providing information to the public regarding the project.

Two notices were published in the Federal Register regarding the proposed title transfer. The first notice was published on February 26, 2003 [68 FR 8924] and indicated Reclamation's intent to prepare an EIS. The second notice, a Notice of Public Scoping, was published in the Federal Register on January 14, 2004 [69 FR 2157] and announced that two scoping meetings would be conducted in February 2004 to receive public input on issues to be addressed in the draft EIS. In addition, a scoping letter was mailed to approximately 250 federal, state, and local agencies; organizations; and interested individuals. Notices were also placed in four local newspapers (Reno-Gazette Journal, February 15-19, 2004; The Humboldt Sun, February 13-16, 2004; The Lovelock Review-Miner, February 12, 2004; and the Elko Daily Free Press, February 9, 2004).

The scoping meetings were held on the dates and locations listed below:

- February 18, 2004, Battle Mountain Civic Center, Battle Mountain, Nevada;
- February 19, 2004, Washoe County Bartley Ranch Park, Reno, Nevada

Approximately 26 people attended the Battle Mountain and Reno meetings. An interagency scoping meeting was also held during the day on February 19, 2004. Sixteen comments were received during the scoping meetings and 23 letters were received by Reclamation during and immediately after the comment period.

2.1.1. Identification of Key Issues

It is Reclamation's intent to address all of the issues brought up during scoping. A summary of comments received are listed in **Appendix J**. A complete set of the written comments are available as part of the public record for the project.

2.2. DESCRIPTION OF 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.

2.2.1. Proposed Action/Preferred Alternative

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. The following section describes Proposed Actions for each title transfer area.

2.2.1.1. Humboldt Sink

The Proposed Action would transfer Reclamation withdrawn lands within the Humboldt Sink from Reclamation 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 land within the Humboldt Sink. NDOW would continue to operate and maintain these lands as part of the Humboldt WMA. Pershing County would receive approximately 990 acres of land adjacent to Derby Airfield for future airport expansion.

2.2.1.2. Rye Patch Dam and Reservoir

The Proposed Action would include transfer of all acquired lands in the Rye Patch Reservoir area to the 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.

PCWCD has agreed to maintain a minimum operational pool of 3,000 acre-feet in Rye Patch Reservoir to sustain the fishery. To maintain this minimum pool, PCWCD would 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.

2.2.1.3. Battle Mountain Community Pasture

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 Battle Mountain Community Pasture to be managed and operated for the continuation of grazing purposes.

The State of Nevada would receive title to approximately 5,850 acres of land in the Community Pasture for purposes of creating a wetland. The land to be transferred is identified as the northern portion of the Community Pasture from the eastern boundary through Rock Creek drainage to the River Road adjacent to the Old Blossom Road Field #15. PCWCD would continue to graze livestock on the land transferred to the State 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 the developed wetland. After title to the facility is transferred to the State and before it is needed for diversion of water to the wetland, PCWCD would continue to operate and maintain the dam and appurtenant structures.

In addition, Lander County would receive title to four parcels totaling approximately 1,100 acres in the Battle Mountain area. Proposed uses for these lands include development of the industrial area adjacent to the sewage treatment plant, expansion of the Livestock Event Center, a new primitive day-use recreation area and parking lot, 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 access limited to foot traffic only.

2.2.2. 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 and managed by PCWCD according to the purposes for which the project was authorized. The State of Nevada could continue to operate lands and features within the Humboldt Project pursuant 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. The purpose of the RMP is to establish guidelines for the conservation, protection, development, use enhancement, and management of federal lands and associated resources with a goal to maximize overall public and resource benefits (USBR 2003a). Preparation and implementation of an RMP is subject to Congressional funding.

2.2.2.1. Humboldt Sink

Under the No Action Alternative, federal lands within the Humboldt Sink could continue to be managed by PCWCD under the Humboldt Project with the operation and maintenance of the Humboldt WMA provided to NDOW by contract. Proposed transfer of lands to Pershing County for expansion of the Derby Airfield would not occur.

2.2.2.2. Rye Patch Dam and Reservoir

Under the No Action Alternative, PCWCD would continue to operate the Rye Patch Dam and Reservoir in accordance with its contracts with Reclamation. State Parks could continue to manage the Rye Patch State Recreation Area through a tri-party agreement with Reclamation and PCWCD. The proposed transfer of lands to PCWCD and State Parks would not occur. 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.

2.2.2.3. Battle Mountain Community Pasture

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.

2.2.2.4. Alternatives Considered But Eliminated From Detailed Analysis

Several alternatives to the proposed title transfer were suggested during scoping. All alternatives were fully considered but only the Proposed Action and No Action Alternative were included for detailed analysis. Alternatives were evaluated as to whether they met the basic Purpose and Need of the Proposed Action. A summary of comments, including suggested alternatives, received during scoping are provided in **Appendix J**. The section below discusses some of the primary comments/alternatives provided during scoping.

2.2.2.5. Development of a Wetland Marsh in the Battle Mountain Community Pasture

A number of comments and suggested alternatives received advocated the development of a wetland marsh in the Battle Mountain Community Pasture. This alternative would restore some portion of what was historically known as the Argenta Marsh along the historic Humboldt River corridor. Generally the comments suggested a larger size wetland and more wetlands than what is proposed in this EIS, including water rights acquisition for potential wetland development. The size of the proposed wetland in the Proposed Action was outlined in the Conceptual Letter of Agreement between the State of Nevada and the PCWCD dated October 2001. This agreement stated that the State of Nevada would receive title to approximately 5,850 acres of land in the Community Pasture for purposes of establishing a wetland. The land to be transferred is located in the northern portion of the Community Pasture, extending from the eastern boundary through Rock Creek drainage to the River Road adjacent to the Old Blossom Road Field #15.

The purpose of this EIS is to address the environmental and human impacts of transferring title of the Humboldt Project from federal ownership to non-federal entities and to comply with Title VIII of Public Law 107-282, Humboldt Project Conveyance Act. The Humboldt Project Conveyance Act and the *Framework for the Transfer of Title: Bureau of Reclamation Projects* contain language specific to this action. Water rights associated with the Humboldt Project, and their allowable uses, are based on specific legislation and decrees governing the use of Humboldt River water. Therefore, addressing water rights acquisition for potential wetland development is beyond the scope of this EIS. A discussion regarding Humboldt Project water rights is described in **Section 3.2.4**.

2.3. SUMMARY TABLE OF IMPACTS

Table 2.1-1 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 Consequence**.

**TABLE 2.1-1
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 2.1-1
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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SUMMARY OF IMPACTS**

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	<p>No change to existing conditions. The counties would continue to receive payment in-lieu of tax (PILT) payments based on annual calculations.</p>	<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	<p>No change to existing conditions</p>	<p>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.</p>

**TABLE 2.1-1
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.