

ATTACHMENTS

A- Framework for the Transfer of Title

B- Public Law 107-282 (107th Congress), Humboldt Project Conveyance Act

C- Memorandum of Agreement between Reclamation and PCWCD

D- Conceptual Agreement between PCWCD and the State of Nevada

E- Letter of Agreement between Lander County and PCWCD

F- Letter of Agreement between Pershing County and the State of Nevada

G- H.R. 2754- Energy and Water Development Appropriations Bill

H- Correspondence with U.S. Fish and Wildlife Service

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APPENDIX A – “FRAMEWORK FOR THE TRANSFER OF TITLE BUREAU OF RECLAMATION PROJECTS”

**FRAMEWORK FOR THE TRANSFER OF TITLE
BUREAU OF RECLAMATION PROJECTS
AUGUST 7, 1995**

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 is undertaking a program 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. The transfer of title to a project will, in effect, sever Reclamation's ties with that project¹.

SCOPE OF APPLICATION OF FRAMEWORK

It is the intent of Reclamation 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

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

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 agencies.

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 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 transfers³.

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 up front the estimated transaction costs, such as costs associated with compliance with the National Environmental Policy Act, real estate boundary surveys, and so forth. 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.

³ Reclamation is proceeding to develop a new Categorical Exclusion (CE) for those title transfers which would not significantly impact the environment and thus could be categorically excluded from a detailed NEPA review. Generally, Reclamation would anticipate such a CE would apply on projects involving transfer of title of Reclamation projects or facilities, in whole or in part, to entities who would operate and maintain the facilities or manage the lands so that there would be no significant changes in operations and maintenance or in land and water use in the reasonably foreseeable future. It is Reclamation's expectation that a CE would apply to relatively small number of projects, i.e. some of the small single-purpose projects where no change in use is anticipated after 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 B – PUBLIC LAW 107-282 (107TH CONGRESS),
HUMBOLDT PROJECT CONVEYANCE ACT**

107th Congress, 2^d Session, Report 107-750
TITLE VIII – HUMBOLDT PROJECT CONVEYANCE

SEC. 801. SHORT TITLE.

This title may be cited as the “Humboldt Project Conveyance Act”.

SEC. 802. DEFINITIONS.

For purposes of this title:

- (1) SECRETARY. - The term “Secretary” means the Secretary of the Interior.
- (2) STATE. - The term “State” means the State of Nevada.
- (3) PCWCD. - The term “PCWCD” means the Pershing County Water Conservation District, a public entity organized under the laws of the State of Nevada.
- (4) PERSHING COUNTY. - The term “Pershing County” means the Pershing County government, a political subunit of the State of Nevada.
- (5) LANDER COUNTY. - The term “Lander County” means the Lander County government, a political subunit of the State of Nevada.

SEC. 803. AUTHORITY TO CONVEY TITLE.

(a) IN GENERAL. - As soon as practicable after the date of enactment of this Act and in accordance with all applicable law, the Secretary shall convey all right, title, and interest in and to the lands and features of the Humboldt Project, as generally depicted on the map entitle the “Humboldt Project Conveyance Act”, and dated July 3, 2002, including all water rights for storage and diversion, to PCWCD, the State, Pershing County, and Lander County, consistent with the terms and conditions set forth in the Memorandum of Agreement between PCWCD and Lander County dated January 24, 2000, and the Conceptual Agreement between PCWCD and the State dated October 18, 2001, the Letter of Agreement between Pershing County and the State dated April 16, 2002, and any agreements between the Bureau of Reclamation and PCWCD.

(b) MAP. - As soon as practicable after the date of the enactment of this Act, the Secretary shall submit to Congress a map of the Humboldt Project Conveyance. In case of a conflict between the map referred to in subsection (a) and the map submitted by the Secretary, the map referred to in subsection (b) shall control. The map shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such map and legal description. Copies of the map shall be on file and available for public inspection in the Office of the Commissioner of the Bureau of Reclamation and in the office of the Area Manager of the Bureau of Reclamation in Carson City, Nevada.

(c) COMPLIANCE WITH AGREEMENTS. - All parties to the conveyance under subsection (a) shall comply with the terms and conditions of the agreements cited in subsection (a).

(d) REPORT. - If the conveyance required by this section has not been completed within 18 months after the date of enactment of this Act, the Secretary shall submit a report to the Committee of Energy and Natural Resources of the Senate that describes –

- (1) the status of the conveyance;
- (2) any obstacles to completion of the conveyance; and

(3) the anticipated date for completion of the conveyance.

SEC. 804. PAYMENT.

(a) **IN GENERAL.** – As consideration for any conveyance required by section 803, PCWCD shall pay to the United States the net present value of miscellaneous revenues associated with the lands and facilities to be conveyed.

(b) **WITHDRAWN LANDS.** – As consideration for any conveyance of withdrawn lands required by section 803, the entity receiving title shall pay the United States (in addition to amounts paid under subsection (a)) the fair market value for any such lands conveyed that were withdrawn from the public domain pursuant to the Secretarial Orders dated March 16, 1934, and April 6, 1956.

(c) **ADMINISTRATIVE COSTS.** – Administrative costs for conveyance of any land or facility under this title shall be paid in equal shares by the Secretary and the entity receiving title to the land or facility, except costs identified in subsections (d) and (e).

(d) **REAL ESTATE TRANSFER COSTS.** – As a condition of any conveyance of any land or facility required by section 803, costs of all boundary surveys, title searches, cadastral surveys, appraisals, and other real estate transactions required for the conveyance shall be paid by the entity receiving title to the land or facility.

(e) **NEPA COSTS.** – Costs associated with any review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for conveyance of any land or facility under section 803 shall be paid in equal shares by the Secretary and the entity receiving title to the land or facility.

(f) **STATE OF NEVADA.** – The State shall not be responsible for any payments for land or facilities under this section. Any proposal by the State to reconvey to another entity land conveyed by the Secretary under this title shall be pursuant to an agreement with the Secretary providing for fair market value to the United States for the lands, and for the continued management of the lands for recreation, wildlife habitat, wetlands, or resource conservation.

SEC. 805. COMPLIANCE WITH OTHER LAWS.

Following the conveyance required by section 803, the district, the State, Pershing County, and Lander County shall, with respect to the interests conveyed, comply with all requirements of Federal, State, and local law applicable to non-Federal water distribution systems.

SEC. 806. REVOCATION OF WITHDRAWALS.

Effective on the date of the conveyance required by section 803, the Secretarial Orders dated March 16, 1934, and April 6, 1956, that withdrew lands for the Rye Patch Reservoir and the Humboldt Sink, are hereby revoked.

SEC. 807. LIABILITY.

Effective on the date of the conveyance required by section 803, the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the Humboldt Project, except for damages caused by acts of negligence committed by the United States or by its employees or agents prior to the date of conveyance. Nothing in this section shall be considered to increase the liability of the

United States beyond that currently provided in chapter 171 of title 28, United States Code, popularly known as the Federal Tort Claims Act.

SEC. 808. NATIONAL ENVIRONMENTAL POLICY ACT.

Prior to any conveyance under this title, the Secretary shall complete all actions as may be required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and all other applicable laws.

SEC. 809. FUTURE BENEFITS

Upon conveyance of the lands and facilities by the Secretary under this title, the Humboldt Project shall no longer be a Federal reclamation project and the district shall not be entitled to receive any future reclamation benefits with respect to that project, except those benefits that would be available to other nonreclamation districts.

**APPENDIX C – MEMORANDUM OF AGREEMENT BETWEEN
RECLAMATION AND PCWCD**

**MEMORANDUM OF AGREEMENT
BETWEEN
UNITED STATES OF AMERICA
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION AND
PERSHING COUNTY WATER CONSERVATION DISTRICT**

This Memorandum of Agreement (MOA) 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, the **PERSHING COUNTY WATER CONSERVATION DISTRICT**, a public entity organized under the laws of the State of Nevada, with its principal place of business in Lovelock, Nevada, hereinafter referred to as the District.

WHEREAS, District seeks transfer of title to the Humboldt Project from the United States to the District, State, Lander County, Nevada ("Lander County") and Pershing County, Nevada ("Pershing County");

WHEREAS, On November 6, 2002, the President signed into law Title VIII of Public Law 107-282, hereinafter referred to as the "Humboldt Project Conveyance Act" or "the Act," attached hereto and by this reference made a part hereof;

WHEREAS, the Humboldt Project Conveyance Act directs the Secretary of the Interior, hereinafter the "Secretary" to convey all right, title, and interest in and to the lands and features of Humboldt Project, including all water rights for storage and diversion, to District, State, Lander County and Pershing County consistent with the terms and conditions set forth in the Memorandum of Agreement between District and Lander County, dated January 24, 2000, the Conceptual Agreement between District and State, dated October 18, 2001, the Letter of Agreement between Pershing County and State, dated April 16, 2002, and any agreements between District and Reclamation;

WHEREAS, the District, in executing this Memorandum of Agreement, agrees to represent the counties of Lander and Pershing in accordance with agreements between the District and each of the parties attached hereto and by this reference made a part hereof;

WHEREAS, the Act requires District to pay the United States the net present value of miscellaneous revenues associated with the lands and facilities to be conveyed;

WHEREAS, the Act required each entity, except the State, receiving title to withdrawn lands to pay the United States fair market value for such lands conveyed that were withdrawn from the public domain pursuant to the Secretarial Orders dated March 16, 1934, and April 6, 1956;

WHEREAS, the Act required administrative costs and National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq., compliance ("NEPA") costs for conveyance of any land or facility to be paid in equal shares by the Secretary and the entity receiving title to the land or facility except that the State shall not be responsible for any payment for land or facilities;

WHEREAS, the Act required that costs of all boundary surveys, title searches, cadastral surveys, appraisals, maps, and other real estate transactions required for the conveyance shall be paid by the entity receiving title to the land or facility except that the State shall not be responsible for any payments for land or facilities;

WHEREAS, the Act directs the Secretary to complete, prior to the conveyance of the designated lands and facilities, all actions necessary under the National Environmental Policy Act of 1969 (NEPA), the Endangered Species Act of 1973 (ESA), and all other applicable laws;

WHEREAS, under NEPA Reclamation is the lead agency with primary responsibility for NEPA compliance and compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (NHPA);

WHEREAS, under NEPA the District requested and Reclamation granted cooperating agency status to the District which requires District compliance with 40 CFR 1501.6;

WHEREAS, District intends to contract with a consultant approved by Reclamation to conduct NEPA activities;

WHEREAS, Reclamation has the ultimate responsibility to approve environmental analyses, prepared by the District or its contractors, associated with such a transfer;

WHEREAS, on December 1, 2003, the President signed into law the Energy and Water Development Appropriations Act of 2004 (P.L. 108-137) which superceded certain provisions of the Act and provides that:

In consultation with PCWCD the Commissioner shall expend \$270,000 for the State of Nevada's costs associated with the NEPA review of the Humboldt Title Transfer:
Provided, That notwithstanding Public Law 107-282, section 804(d)-(f), the State of Nevada shall pay any other costs assigned to the State as an entity receiving title in Public Law 107-282, section 804(b)-(c) or due to any reconveyance under Public Law 107-282, section 804(f), including any such National Environmental Policy Act costs that exceed the \$270,000 expended by the Commissioner under this subparagraph.

NOW THEREFORE, pursuant to the statutes identified above, the parties agree as follows:

1. Reclamation will be responsible for the following actions:

- a. Submit to Congress a map of the Humboldt Project Conveyance as required by the Act.

b. Submit a report to Congress if transfer is not completed by April 30, 2004, pursuant to the requirements of the Act.

c. Assure completion of all actions as may be required under NEPA, ESA, NHPA and all applicable laws.

d. Reclamation is the lead agency with primary responsibility for NEPA compliance for the title transfer. Lead agency responsibility includes, but is not limited to, approval of the NEPA contractor selection; approval of scoping meeting format, content and locations; approval of alternatives to be analyzed; approval of response to comments; and approval of all draft and final documents.

e. Recognize and consult with the District as a cooperating agency as outlined in the Council of Environmental Quality Regulations including 40 CFR 1501.6.

f. Review the work of the District and/or any consultants engaged by the District, at appropriate intervals, to assure that the applicable procedural requirements of NEPA, ESA and other applicable State and Federal laws are met as required.

g. Complete consultation and assure compliance as required by Section 7 of the ESA.

h. Reclamation is responsible for coordinating Section 106 compliance including consultation with the State Historic Preservation Office, administering any cultural resource contracts and consulting with affected Tribes.

i. Consult with the District as a cooperating party in the Section 106 process, as outlined in 36 CFR 800. Documents for Section 106 compliance will be provided to the District for a two-week review before they are submitted to SHPO. Reclamation retains responsibility for the content of all Section 106 documents.

j. Identify and/or inventory and consult with Tribes on Indian Trust Assets and ensure the Secretary's Native American Trust Responsibilities are met consistent with applicable legislation.

k. Provide copies, if so requested, of drawings and non-privileged legal documents currently in Reclamation's possession, that are associated with the lands, third-party agreements, rights-of-way, and facilities to be included in this title transfer.

l. Perform other technical or administrative tasks associated with this title transfer as mutually agreed to in advance in writing by the parties. Provisions in these other contemplated agreements will cover funding of tasks specified in those agreements.

m. Determine net present value of miscellaneous revenues associated with lands and facilities to be conveyed.

n. Prepare transfer documents.

o. Complete a Level I contaminant survey checklist. Any necessary further analyses resulting from the checklist (including a Phase I environmental site assessment, or a Phase II environmental site assessment), and any necessary remediation or removal shall be completed at the direction of Reclamation.

2. The District will be responsible, subject to Reclamation's review and approval as appropriate, for the following:

a. Complete those activities required of a NEPA cooperating agency as set forth in 40 CFR 1501.6.

b. Complete NEPA documentation including cultural resource effects, endangered species effects or other documentation required by federal, state or local laws protecting the environment and submit to Reclamation for review and approval.

c. Based upon the map submitted to Congress, the District shall obtain any necessary boundary surveys, title searches, cadastral surveys, appraisals, maps and any other real estate work, including obtaining a dam permit from the Nevada Department of Water Resources required, for the conveyance of land or facilities to the District. Title searches and appraisals must be completed in accordance with Reclamation standards and policy. Any contracts for title searches and/or appraisals must be reviewed and approved by Reclamation prior to requests for proposals to insure those standards and policies are reflected in the scope of work. The final product must be approved by Reclamation.

d. Enter into any necessary agreements with the counties and the State.

e. Perform other technical or administrative tasks associated with the title transfer process as mutually agreed to in writing by both parties. Provisions in other agreements will cover funding of tasks specified in those agreements.

3. Areas of mutual responsibility – Reclamation and District will:

a. Appoint representatives to coordinate activities necessary to complete the authorized transfer. All requests to Reclamation relating to the transfer will go through Terri Edwards, Repayment Specialist, Lahontan Basin Area Office, Carson City, Nevada. All requests to District relating to this MOA will go through Bennie Hodges, District Manager, Pershing County Water Conservation District. Changes of appointed representatives may be made by notifying all parties in writing.

b. Cooperate to conduct the process in a manner that includes appropriate public and stakeholder participation as required by 40 CFR 1506.6(a).

c. Work cooperatively to determine the net present value of the of any revenue streams from the lands and facilities to be conveyed.

d. Responsibilities for any party may become the responsibility of another party if agreed to by all parties in writing, unless prohibited by law or regulation.

e. Any party may contract with another person or entity subject to the approval of the others for any of its obligations described herein.

f. Ensure that all contracts or obligations entered into relating to this MOA be revocable or contain provisions for cancellation, whereby the contracts or obligations may be terminated at any time upon request, so that the party will only be responsible for costs and expenditures incurred to the date of termination.

g. Provide copies, if so requested, to the other parties of all contracts, documents, invoices and other writings that evidence the party's obligations pursuant to this MOA.

4. Costs - The provisions below relating to costs shall be subject to terms consistent with and subordinate to the Act:

a. **Miscellaneous Revenues:** The Act at Section 804(a) requires the District to pay to the United States the net present value of miscellaneous revenues associated with the lands and facilities to be conveyed. Reclamation shall provide District its accounting of such miscellaneous revenues within 6 months of this agreement.

b. **NEPA, ESA, NHPA, and Administrative Costs:** The District and Reclamation agree to split all necessary and reasonable costs associated with the Humboldt Project Conveyance Act, Section 804(c) and (e) as follows.

i. Reclamation will pay half the costs;

ii. The entities receiving title shall pay the remaining half of the costs as follows:

(a) All NEPA costs, all ESA costs, all administrative costs and all general cultural resources costs (those that cannot be directly assigned to a specific property) will be split by the entities to receive title based on the percentage of land to be received. The District is receiving title to approximately 42% of the property to be transferred; Lander County approximately 1.3% of the property to be transferred; and Pershing County approximately 1.2% of the property to be transferred. The Counties' shares will be paid to the District by those Counties in advance pursuant to a separate agreement with the District. Approximately 55.5% of the property is to be transferred to the State. Congress authorized an appropriation of \$270,000 under the Energy and Water Development Appropriations Act of 2004 (P.L. 108-137) for the State's 55.5% share of NEPA related expenses payable through Reclamation. The State shall pay any other costs assigned to the State as an entity receiving title in section 804(b)-(e) of the Act including any such NEPA costs that exceed the \$270,000 expended by the Commissioner.

(b) Any land-specific cultural resource evaluation and mitigation measures that are undertaken for those lands to which the entity receives title shall be paid by that entity.

c. **REAL ESTATE TRANSFER COSTS:** Pursuant to Section 804 (d) of the Act, as a condition of any conveyance of any land or facility, costs of all boundary surveys, title searches, cadastral surveys, appraisals, and other real estate transactions required for the conveyance shall be paid by the entity receiving title to the land or facility. It is expected that each entity will pay for these services.

d. **WITHDRAWN LANDS:** Section 804 (b) of the Act and the Energy and Water Development Appropriations Act of 2004 provide that as a consideration for any conveyance of withdrawn lands, the entity receiving title shall pay the United States the fair market value for any such lands conveyed that were withdrawn from the public domain pursuant to the Secretarial Orders dated March 16, 1934 and April 6, 1956.

e. All costs of completing a Level 1 contaminant survey checklist shall be paid by Reclamation. Any necessary further analyses resulting from the checklist (including a Phase I environmental site assessment, or a Phase II environmental site assessment), and any necessary remediation or removal shall be completed at Reclamation's expense.

f. Ensure that the costs billed to title transfer and invoiced by the District and Reclamation pursuant to this MOA, shall be actual and reasonably necessary costs incurred to complete the proposed transfer activities.

g. Provide a cost report to the other party on a quarterly basis until this title transfer is complete. Each cost report shall itemize costs for all work performed and materials used in performing the obligations under this MOA.

h. Upon request, each party will provide to the other projections of expenses to be incurred by that party in connection with this title transfer.

i. District and Reclamation agree to take the necessary steps to equalize and minimize costs for activities associated with this title transfer;

j. Administrative Costs for the authorized title transfer will include but are not limited to the following:

- i. District and Reclamation salary, overhead, and contractor costs accrued for activities associated with this MOA;
- ii. Travel by District and Reclamation staff, including per diem and transportation costs, as required including development and negotiation of the terms for the authorized title transfer;
- iii. Photocopying and mailing by District and Reclamation of documents related to the authorized title transfer (e.g., documents needing public review and/or comment); and

k. Reclamation agrees to allocate authorized and appropriated funds as may become available for the performance of tasks described herein.

l. The parties may by subsequent written agreement documented as an amendment to this agreement pay other expenses including those that are the responsibility of the other.

5. Payment:

a. Reclamation and District will establish unique cost accounts to track and account for the cost and expenses incurred pursuant to this MOA.

b. If Reclamation and the District determine that a binding contract with the District including the payment terms outlined in this MOA is necessary in order to provide a mechanism for Reclamation to obligate funding and pay the District for costs incurred by the District on Reclamation's behalf, Reclamation shall execute such a contract.

c. Monies shall be allocated under this agreement beginning November 17, 2002. Additional payments made pursuant to this MOA to Reclamation shall be submitted to Lahontan Basin Area Office, Attn: Terri Edwards, or her successor, 705 N. Plaza St., Rm 320, Carson City, NV 89701. Additional payments made pursuant to this MOA to District shall be submitted to Pershing County Water Conservation District in care of Bennie Hodges, or his successor, in Lovelock, NV.

d. Pursuant to the Act, each party shall pay the shares of administrative and NEPA costs as provided in Paragraph 4.b. above. District and Reclamation shall present invoices covering a 6 month period to the other within 60 days of the closing of the 6 month period. Equalizing payments shall be paid within 30 days thereafter. District will be responsible for invoicing Lander County and Pershing County for their respective payment in accordance with their agreements.

e. Pursuant to the Act, costs of all boundary surveys, title searches, cadastral surveys, appraisals, and other real estate transactions required for the conveyance shall be paid by the entity receiving title to the land or facility. Reclamation shall present invoices covering a 6 month period to the District within 60 days of the closing of the 6 month period. Equalizing payments shall be paid within 30 days thereafter. District will be responsible for paying the costs incurred for Lander County and Pershing County and invoicing them for their respective payment in accordance with their agreements.

f. At the time of execution of this MOA, the District and Reclamation will each present their accounting to that point and make any necessary equalizing payments. From the date of execution, accounting and equalizing payments will be made in accordance with paragraph 5.c. above.

g. The Energy and Water Development Appropriations Act of 2004 (P.L. 108-137) provided \$270,000 to Reclamation for the State's costs associated with the NEPA review. Accordingly, the District will invoice Reclamation for District costs attributable to the State for NEPA related activities. These invoices will be presented in accordance with section 5.d. above.

h. Within sixty (60) days after completion of title transfer or termination (for whatever reason) of the title transfer activities, the payments for NEPA, Administrative Costs and lands/realty costs between District and Reclamation will be equalized and paid pursuant to the Act.

6. General Provisions:

a. The parties pledge their individual good faith to seek a prompt and fair agreement on all issues relating to this title transfer.

b. This MOA shall become effective on the date of the last signature hereto. This MOA may be modified, amended or terminated upon mutual written agreement of the parties hereto, but in any event will terminate two (2) years from the date of the MOA is signed or upon full execution of a quit claim deed transferring title, whichever occurs first, unless renegotiated and or renewed by mutual consent of both parties. Either party may terminate its obligations and duties under this MOA at any time upon thirty (30) days written notice to the other party. All duties and obligations of both parties under this MOA will cease at that time except as the MOA provisions relate to outstanding accounting and reimbursement of the parties' expenses.

c. Nothing herein shall be construed to obligate Reclamation to expend funds or obligate the United States of America in any contract or other obligation for the future payment of money in excess of appropriations authorized by law and administratively allocated for the purposes and projects contemplated hereunder. In case funds are not appropriated or allocated Reclamation shall incur no liability.

d. No Member or delegate to Congress, or resident Commissioner, shall be admitted to any share or to be part of this MOA or to receive any benefit that may arise out of it other than as a water user or landowner in the same manner as any other water user or landowner.

IN WITNESS WHEREOF, the parties hereto have executed this MOA as of the last date and signature below.

UNITED STATES OF AMERICA

Elizabeth Ann Rieke

Bureau of Reclamation
Elizabeth Ann Rieke, Area Manager
Lahontan Basin Area Office

5/6/04

Date

PERSHING COUNTY WATER CONSERVATION DISTRICT

Bennie B. Hodges

Pershing County Water Conservation District
Bennie B. Hodges, Manager

5/4/04

Date

**APPENDIX D – CONCEPTUAL AGREEMENT BETWEEN
PCWCD AND THE STATE OF NEVADA**

PERSHING COUNTY WATER CONSERVATION DISTRICT OF NEVADA

PHONE 775-273-2293
FAX# 775-273-2424
E-MAIL: pcwcd@irrigation.lovelock.nv.us

POST OFFICE BOX 218
LOVELOCK, NEVADA 89419

October 18, 2001

Mr. Michael Turnipseed
Director
Department of Conservation and Natural Resources
123 West Nye Lane, Room 230
Carson City, Nevada 89706-0818

LETTER OF CONCEPTUAL AGREEMENT

Dear Mr. Turnipseed:

Over the past several years, discussions and negotiations have taken place between representatives of the State of Nevada (State), the Pershing County Water Conservation District (District), the United States Bureau of Reclamation (Reclamation), Lander County and other parties for the purpose of reaching an agreement providing for transfer of title to lands near Battle Mountain and Lovelock, Nevada from the Federal Government to the District, Lander County and the State.

It is the intent of this letter to set forth concepts of agreement reached between the State and the District whereby both entities will pursue and support the transfer of title. It is recognized that the details of any agreement will be set forth in an agreement negotiated between the State and the District and signed by both parties.

To that end, the parties have agreed in principle to the following:

RYE PATCH RESERVOIR AND HUMBOLDT SINK

1. The State will continue to construct, operate and maintain the recreation facilities at Rye Patch Reservoir in a manner that does not affect the operation of the Reservoir or the Humboldt Project. Such construction, operation and maintenance shall be in accordance with the Rye Patch State Recreation Area Master Plan. It is recognized that the master plan may be revised as necessary in the future to meet future recreational demands and that such revisions will be made through a public process in which the District can participate.
2. The PCWCD and the State recognize that as a result of transferring the Humboldt Project title to PCWCD the State will lose the Reclamation Act funding that the Bureau of Reclamation has granted over the past decade. PCWCD will support the State in its efforts to replace these funds.

3. The District will guarantee a minimum pool of 3,000 acre-feet in Rye Patch Reservoir for maintenance of the fish. To assure this minimum pool, the District will reduce or cease all releases when the reservoir reaches a minimum of 3,000 acre feet of storage to make sure the reservoir does not drop below 3,000 acre feet due to releases.
4. The District and State will support legislation that transfers ownership of all Reclamation acquired land under and adjacent to the Reservoir and all "withdrawn" land below the high water mark of the reservoir to the District.
5. The District and State will support legislation that transfers ownership of all Reclamation "withdrawn" land above the high water mark of the reservoir in the vicinity of the reservoir to the State.
6. The District and the State will support legislation that transfers ownership of "withdrawn" lands in the Humboldt Sink, Toulon and Jessup to the State.
7. The State agrees that drainage water from Humboldt Project lands will continue to flow to the Humboldt sink.
8. The District and the State will enter into a long term agreement concerning the continued use of District land by the State for park office, shop and residence.
9. The District desires that the State continue to manage the recreation at Rye Patch Reservoir without interference from the District. Therefore, the State and the District will enter into a long term cooperative agreement for the State to administer the recreation and to construct, operate and maintain recreation related facilities at Rye Patch Dam and Reservoir similar to the existing Tri-Party agreement. The agreement will provide the State with the necessary authority to administer recreation on the District owned lands above and below the high water mark of the reservoir and the water surface of the reservoir. The District recognizes that the State must have the necessary authority to administer the recreation and control camping facilities, boat docks, launch ramps, buoys, etc. for recreational purposes. To insure long-term recreational use of the reservoir, the District will enter into a binding agreement that provides a long-term recreation easement to the State for those lands above and below the high water mark of the reservoir that will be transferred to the District.

COMMUNITY PASTURE:

1. The District and the State will support legislation to transfer title to approximately 23,000 acres of land in the Community Pasture to the District.
2. The District and the State will support legislation to transfer title to approximately 5,850 acres of land in the Community Pasture to the State for purposes of creating a wetland

The land to be transferred is identified as the northern portion of the Pasture from the eastern boundary through the Rock Creek drainage to the River Road adjacent to the Old Blossom Road Field #15.

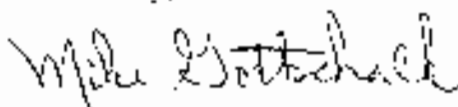
3. The District shall have the privilege to graze the land transferred to the State until such time as development into a wetland begins. Such grazing shall be pursuant to a Grazing Plan developed by a mutually acceptable range consultant.
4. If grazing of the wetland is deemed a viable vegetation control practice by the State, the District shall have the first right of refusal to graze selected lands within the developed wetland.
5. If grazing is deemed a viable vegetation control practice by the State, the District shall have the first right of refusal to graze selected lands which the State may acquire in the future immediately adjacent to the Community Pasture.
6. The land to be transferred to the State will separate the land transferred to the District. In order to assure efficient grazing of the land transferred to the District, the State will provide reasonable access across their land for movement of cattle from one area to another within the Community Pasture.
7. The District will cooperate with the State in obtaining water rights for the proposed wetlands within the Community Pasture area.
8. The State shall assume responsibility for operation and maintenance of Slavin Diversion Dam near the East end of the Community Pasture in conjunction with other beneficial users of the facility when the facility is needed to divert water (purchased at some future date from willing sellers) to the developed land. After title to the facility is transferred to the State and before it is needed for diversion of water to the wetland, the District will continue to operate and maintain the facility. The district will allow access to the dam as needed by the State of Nevada and other beneficial users for the purpose of operating and maintaining the structure after that responsibility is assumed by the State.
9. The State and the District will support legislation to transfer title to approximately 1,100 acres of Community Pasture lands in the vicinity of the town of Battle Mountain to Lander County.
10. The District and the State will seek Federal funding for title transfer costs including but not limited to: NEPA documentation, Cultural Resources, property line surveying, etc.
11. The District and the State will support legislation to provide Federal funding for water rights acquisition and development of the proposed wetlands.

The District and the State shall freely exchange ideas and information in a cooperative manner on a continuing basis and shall use their best efforts to achieve the objectives of this letter in a timely

manner.


If you agree with the principles set forth in this letter, please indicate your concurrence below.

Sincerely,



Mike Gottschalk, President
Board of Directors
Pershing County Water Conservation District

Concurrence:



Michael Turnipseed, Director
Department of Conservation and Natural Resources
State of Nevada

Date

10/25/01

**APPENDIX E – LETTER OF AGREEMENT BETWEEN LANDER
COUNTY AND PCWCD**

MEMORANDUM OF AGREEMENT

This Agreement is made and entered into by and between Pershing County Water Conservation District (hereinafter referred to as "the District") and Lander County, Nevada (hereinafter referred to by name or as "the County").

RECITALS:

1. The District was organized in 1926 under the name of the Lovelock Irrigation District. Its main purpose was to seek additional water storage sites on the Humboldt River. In the early 1900s, the Pitt-Taylor Reservoirs were constructed by the District's predecessor, but the storage capacity of those reservoirs was insufficient to supply all the irrigation needs of the District.
2. In the early 1930s, negotiations began between the District and the Bureau of Reclamation (hereinafter "BOR") in an attempt to create the Humboldt Project to store water. After studying the proposed project, the parties determined that the existing water rights appurtenant to District lands were inadequate to provide the District with a reliable source of dry year irrigation supply.
3. In 1933, in an attempt to acquire additional water rights for storage and use within the Humboldt Project, the District began to solicit willing sellers of both property and water rights upstream of the proposed reservoir. Two such willing sellers were the Filippini family who owned the Argenta Ranch and the Muleshoe Ranch, and the Aldous family who owned the Aldous Ranch. These three ranches comprised 29,450 acres northeast of the City of Battle Mountain, in Lander County, Nevada.
4. On January 27, 1934, the District and the Philippini Ranching Company entered

into a written agreement for the sale and purchase of the Argenta Ranch and the Muleshoe Ranch for the sum of \$181,000.00. Subsequently, on July 15, 1934, the District and Charles and Hortense Aldous entered into a similar written sales agreement for the Aldous Ranch for the sum of \$35,000.00. The future plans for these Lander County ranches and the appurtenant water rights were included in the purchase and sale agreements and the sales were conducted with full disclosure that a majority of the water rights would be transferred to the District lands in Pershing County.

5. Once these agreements were "in hand" between the District and the respective ranch owners in Lander County, the BOR expressed its willingness to assist. Upon these assurances, the District assigned the purchase and sale agreements to the BOR. In exchange, the BOR agreed to advance the money for the sale price of the ranches in Lander County. The District agreed to repay this sum pursuant to a written contract between the BOR and the District. Because the purchase of these Lander County ranches was completed with money authorized by Congress under the Humboldt Project, the lands are considered part of the Humboldt Project facilities.

6. The District has repaid the entire amount advanced by the BOR to acquire the ranch lands on behalf of the District, as well as the entire current cost obligation of Rye Patch dam and other Humboldt Project facilities. Now that this amount is repaid, the District is seeking to have the title to the project transferred to it.

7. After the Lander County ranches were purchased in 1934, the Nevada State Engineer approved a permanent transfer of the water rights that were appurtenant to the ranch lands downstream to the District facilities in Pershing County.

8. At the time of purchase of the Lander County ranches, and within the area of the Argenta Ranch and the Muleshoe Ranch, there existed an area known as the Argenta Marsh. After the transfer of the water rights from the Lander County ranches, and as part of the water rights change approvals, the Nevada State Engineer ordered that the lands be dewatered. In 1955, the marsh area was channelized to improve water conveyance in the Humboldt River adjacent to those lands.

9. Since 1941, the District has managed, operated and maintained the entire Humboldt Project at its own expense. Prior to 1951, grazing privileges for the Lander County ranches, commonly known as the Community Pasture, were held by individuals other than the District. Since 1951, the District has leased the Community Pasture pursuant to BOR guidelines which give the District preference due to the Community Pasture's status as part of the Humboldt Project. Seasonal grazing on the Community Pasture by District constituents continues to the present day.

10. As a result of all of the above, Lander County contends that it has been injured in several particulars.

WHEREAS, the District is now seeking title to the Humboldt Project from the BOR;

WHEREAS, the District desires Lander County to participate with it as an affected stakeholder in the title transfer process;

WHEREAS, Lander County recognizes the short and long-term benefits of its citizens to be derived from participation in the title transfer process;

NOW, THEREFORE, and in consideration of the mutual benefits to be received from this Agreement and the title transfer, and completely contingent on Congressional approval of such

title transfer, it is agreed between the District and Lander County as follows:

AGREEMENT

1. Cooperation. The parties acknowledge that the title transfer of the Humboldt Project between the District and the BOR is a long and involved process. The parties agree to cooperate with each other in all respects in effecting the title transfer. The parties further acknowledge that in the past there have been disagreements and some discord between them, and among and between the residents and patrons of their respective constituencies. The parties agree to expend their best efforts to put this history behind them and to work for the mutual benefit of accomplishing the title transfer. The parties additionally acknowledge that this Agreement is a compromise of past claims each may have against the other and for receipt of the mutual advantages received hereunder, the parties agree to forgo and forgive those claims.

2. Transfer of Property to Lander County. As part of the title transfer process, and concurrent with title transfer to the District, the District and County agree that the federal government should also transfer to Lander County, the following real property:

Parcel A. The parcel located in Section 17, T.32N., R.45E., Mt. Diablo Meridian, underlying the livestock events center and surrounding area, including the Reese River Levy comprising approximately 135 acres. The legal description of Parcel A is contained in Exhibit A hereto and is incorporated herein by this reference. A detailed map depicting the approximate boundaries of Parcel A (labeled as the "Livestock Events Center Area") is attached hereto as Exhibit B and is incorporated herein by this reference.

Parcel B. The parcel located in Section 8, T.32N., R.45E. lying adjacent to the west (left) bank of the Humboldt River, and near White Bridge on Nevada State Route 806, on

which Lander County proposes to develop a low maintenance public recreation area, comprising approximately 30 acres. The legal description of Parcel B is contained in Exhibit A hereto and is incorporated herein by this reference. A detailed map depicting the approximate boundaries of Parcel B (labeled as the "Recreation Area") is attached hereto as Exhibit B and is incorporated herein by this reference.

Parcel C. The parcel located in Section 8, T.32N., R.45E. lying adjacent to the west bank of the Humboldt River, and near White Bridge on Nevada State Route 806, on which Lander County proposes to develop a parking lot for the adjacent low maintenance public recreation area, comprising approximately 1 acre. The legal description of Parcel C is contained in Exhibit A hereto and is incorporated herein by this reference. A detailed map depicting the approximate boundaries of Parcel C (labeled as the "Parking Area") is attached hereto as Exhibit B and is incorporated herein by this reference.

Parcel D. The parcel located northwest of the town of Battle Mountain and adjacent to the Battle Mountain Indian Colony, containing approximately 932 acres. The legal description of Parcel D is contained in Exhibit A hereto and is incorporated herein by this reference. A detailed map depicting the approximate boundaries of Parcel D (labeled as the "West Battle Mountain Area") is attached hereto as Exhibit B and is incorporated herein by this reference.

3. Retained Possession of Shop. For two years following the date upon which Lander County receives legal title to Parcel A, the District shall retain the exclusive right of possession and use of the metal shop building in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 17, T.32N., R.45E. During this period of use, the District shall retain the right of continued access to the

structure across Parcel A. In addition, the District shall have the right to park vehicles in and around the immediate area surrounding the structure. At the expiration of this two year time period, the District shall vacate the premises, removing all District-owned equipment or fixtures, and the County shall accept the premises in an "AS IS" condition. If the District fails to remove any District-owned equipment, fixture, or other miscellaneous items, the County may request in writing that the District remove the property. If the District has not removed the items within thirty (30) days of receiving the County's request, the County may remove and dispose of the items at the District's expense.

4. Humboldt River Access Easement. As part of the title transfer process, and contingent upon successful title transfer to the District, the District agrees to grant to Lander County a permanent easement to a strip of land along either side of the centerline of the Humboldt River ("Access Easement"). The legal description of the easement is contained in Exhibit A hereto and is incorporated herein by this reference. A detailed map depicting the approximate area encumbered by the easement (labeled as the "Humboldt River Access Easement") is attached hereto as Exhibit B and is incorporated herein by this reference.

4.1. Purpose of Easement. The Access Easement is granted with the intent that it shall be used solely for the purpose of providing members of the public with pedestrian access to the Humboldt River and the riparian lands adjacent to the River.

4.2. Scope of Easement. The Access Easement shall begin at the centerline of the Humboldt River where it intersects the northwest edge of Nevada State Route 806 (North Battle Mountain Highway) and shall extend in an northwesterly direction along the length of the Humboldt River a distance of approximately 4 miles to the west boundary of the Community

Pasture. It shall be limited only to that width necessary to create a 5 foot wide strip of dry land immediately adjacent to the river on each bank under non-flood conditions. The Access Easement is described in more detail on Exhibit A hereto.

4.3. Restrictions on Easement. The Access Easement shall be subject to the following restrictions:

4.3.1. Natural State. The Access Easement shall be maintained and used in its natural state, without any improvements of any kind. Lander County shall not add to or alter in any way nor permit others to add to or alter in any way, the fencing, vegetation, or drainage now present within the Access Easement, except as otherwise indicated by this Agreement. In addition, the County shall be responsible for regularly patrolling the Access Easement to insure that no trash or other refuse is present on the Access Easement.

4.3.2. Hours of Use. The Access Easement shall only be used by members of the public from one-half hour before sunrise to one-half hour after sunset. There shall be no overnight camping or after-hours access to the Access Easement or the adjacent portions of the Community Pasture.

4.3.3. No Improvements. Lander County shall not make nor permit others to make improvements to any portion of the Access Easement, except as follows: 1) Prior to opening the Access Easement to public use, Lander County must construct a fence around the recreation area parking lot with an immovable gate on the west (left) bank of the Humboldt River at the east end of the Access Easement in Section 8, T.32N., R.45E. This gate shall be constructed out of permanent materials, and shall be designed in a manner necessary to restrict the use of the Access Easement to human foot traffic; 2) Lander County may erect a second, identical

immovable gate on the east (right) bank of the Humboldt River at the east end of the Access Easement in Section 8, T.32N., R.45E, provided that all necessary permission is first obtained from the Nevada Department of Transportation; and 3) Lander County may erect one or more signs at the east end of the Access Easement in Section 8, T.32N., R.45E., which identify the easement and which set forth all relevant restrictions on the public's use of the Access Easement.

4.3.4. Foot Traffic Only. The Access Easement shall be used for human foot traffic only. No motorized vehicles, horses or other conveyances are permitted on the Access Easement. Any pets must be kept on a leash at all times.

4.4. Reverter. Failure to enforce and abide by the Access Easement restrictions set forth herein, or express abandonment of the Access Easement shall cause the Access Easement to revert to the District. Upon such reverter, all rights and benefits in and to the Access Easement conferred by this Agreement to Lander County shall terminate.

5. Fencing.

5.1. Existing Fencing. The parties recognize that the District will continue to use the Community Pasture for grazing after the transfer of title. The Community Pasture is currently enclosed by perimeter fencing which is vital to this activity. Therefore, the County agrees that it will not disturb, alter, or remove any portion of the existing perimeter fence without first constructing a new fence along the common boundary between the retained portion of the Community Pasture and the portion of the County property on which the County wishes to alter the existing fence.

5.2. Exclusion of Livestock. Consistent with Nevada law, if the County wishes

to exclude the District's livestock from any portion of the property to be granted to the County as described in this Agreement, it shall be the County's obligation to construct any fencing necessary to accomplish that task.

5.3. New Fence Cost. Any new fence constructed by the County pursuant to the obligations set forth in this Agreement shall be constructed at the sole and exclusive cost of the County; the District shall have no financial responsibility for such fence.

5.4. New Fence Quality. Any new fence constructed by the County pursuant to the obligations set forth in this Agreement shall be constructed to the standards set forth in NRS 569.431 (1997).

6. Liability. Lander County agrees to assume full liability for any and all damages incurred by the District as a result of the use of the Access Easement by the County or the general public. The assumption of liability under this paragraph expressly excludes any damage proximately caused by the District, the District's employees, agents, representatives, invitees, licensees, or guests.

7. Indemnification. Lander County agrees to indemnify the District to the extent allowed by Nevada law and hold the District harmless against any and all damages and expenses (including legal fees), claims, liabilities, causes of action, and demands of any nature whatsoever, arising out of or in any manner connected with the use of the Access Easement by the County or members of the public. This indemnification expressly excludes any action or demand of whatever nature brought by a District employee, agent, representative, invitee, licensee, or guest against the District and shall not include any damages or injury proximately caused by the District, the District's employees, agents, representatives, agents, invitees, licensees or guests. The parties

understand that the Access Easement is located in the annual floodplain of the Humboldt River. It is a dynamic natural area subject to erosion, flooding, and debris accumulation. The servient property is not maintained nor monitored by the District. Therefore, the District expressly disclaims all responsibility for the condition of the Access Easement or the servient property and any hazards--natural or man-made--that may exist now or in the future.

8. Hazardous Materials. The parties recognize that Parcels A, B, C, and D, together with the retained portion of the Community Pasture, are agricultural property. The past owners and occupants of the property have used the property for agricultural purposes in compliance with the applicable laws then in effect. The parties acknowledge that as a result of such activities, there may now be agricultural residues, wastes, or by-products present on the property. Notwithstanding the existence of such agricultural residues, wastes, or by-products, to the best of the District's knowledge, there are no areas of the property where hazardous or toxic materials or substances have either been disposed of, discharged, or found.

9. Payment of Transactional Costs. Except as specifically provided herein, each party shall be solely responsible for the payment of all transactional costs attributable to the portion of the Humboldt Project to which the party is seeking title. Such costs may include, but are not limited to the following: title research, surveys, NEPA compliance, cultural resources surveys, hazardous materials inspection, and document preparation costs.

9.1. Lander County Costs. Except as specifically provided herein, Lander County shall be solely responsible for any and all transactional costs related to the acquisition of Parcels A, B, C, and D; the District shall have no financial responsibility for such costs.

9.2. District Costs. Except as specifically provided herein, the District shall be

solely responsible for any and all transactional costs related to the acquisition of the retained portion of the Community Pasture. The County shall have no financial responsibility for such costs.

9.3. Shared Survey Costs. If required by BOR or Congress, the parties shall equally share the costs of surveying and monumenting any common boundary lines between Parcels B, C, or D and the retained portion of the Community Pasture.

9.4. Federal Funding. To the extent that federal funds are available to defer the transactional costs associated with title transfer, those funds shall be apportioned between the District and Lander County in proportion to the acreage that each party is seeking to acquire. This provision shall not include any funds available to the District because of prior credits owed to the District by the Federal government.

9.5. Transfer Not Contingent on Other Party's Payment. The District and Lander County agree that the title transfer legislation submitted to Congress shall contain a provision that either the District or the County may receive title to their respective portion of the Humboldt Project regardless of whether the other party has completed payment of all transactional costs associated with title transfer. This provision does not otherwise modify the requirement that the District must first receive Congressional approval for title transfer of the retained portions of the Humboldt Project before any of the property described herein may be transferred to Lander County.

10. Agreement to Perform Necessary Acts. Each party to this Agreement agrees to perform any further acts and to execute and deliver any and all instruments and documents that may be necessary or reasonable for the accomplishment of any purpose or performance of any

provision of this Agreement.

11. Lander County Support of Title Transfer. In exchange for the benefits to be conferred upon Lander County under this Agreement, Lander County agrees to support the District's title transfer efforts, contingent upon resolution of concerns relating to the proposed Argenta Marsh to the satisfaction of the Bureau of Reclamation's Lahontan Basin Area Manager. Upon such Bureau approval, the County shall in no event oppose or take any position contrary to the District which could reasonably impede the District's efforts to obtain title to the Humboldt Project.

12. Term. This Agreement shall expire on the last day of the Second Session of the 107th United States Congress, unless Congress has approved title transfer of the Humboldt Project prior to that time, in which case the Agreement shall remain in full force and effect.

13. Notice.

13.1. To Pershing County Water Conservation District. Any notice, demand, or request required or authorized by this Agreement to be provided to the District shall be effective if delivered by mail, postage prepaid to: Manager, Pershing County Water Conservation District, P.O. Box 218, Lovelock, NV 89409.

13.2. To Lander County. Any notice, demand, or request required or authorized by this Agreement to be provided to Lander County shall be effective if delivered by mail, postage prepaid to: Lander County Manager, 315 S. Humboldt, Battle Mountain, NV 89820.

14. Third Parties. Nothing in this Agreement, whether express or implied, is intended to confer any right or remedy under or by reason of any provision of this Agreement upon any person other than a party to this Agreement. Nothing in this Agreement is intended to relieve or

discharge the obligation or liability of any third person to any party to this Agreement. No provision of this Agreement shall give any third party any right of subrogation or right of action over or against any party to this Agreement.

15. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument.

16. Entire Agreement. This Agreement contains the entire agreement of the parties with respect to the matters covered herein, and no other agreement, statement, or promise made by any party, or to any employee or agent of any party, which is not contained in this Agreement shall be binding or valid. Further, there are no representations, agreements, arrangements or understandings, either oral or written, between the parties hereto relating to the subject matters contained in this Agreement which are not fully expressed herein.

17. Time of Essence. Time is expressly declared to be the essence of this Agreement, and of each provision contained herein.

18. Modification. This Agreement is not subject to modification except through an amendment in writing signed by both parties hereto.

19. Severability. If any term, covenant, condition or provision of this Agreement is held by either the BOR or a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and shall in no way be affected, impaired or invalidated.

20. Interpretation of Language. The language of all parts of this Agreement shall in all cases be simply construed according to its fair meaning and not strictly for or against any party

hereto.

21. Captions. Captions of the articles, sections and paragraphs of this Agreement are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

22. Nonassignability. This Agreement shall not be assigned to any other party.

23. Governing Law. All questions with respect to the construction of this Agreement, and the rights and liabilities of the parties hereto, shall be governed by the laws of the State of Nevada.

IN WITNESS WHEREOF, we have signed this Agreement on the dates affixed below.

Dated: Jan 5, 2000

PERSHING COUNTY WATER
CONSERVATION DISTRICT

By: Mike Gottshalk
Mike Gottshalk, President
Board of Directors

Dated: January 25th, 2000
LANDER COUNTY

By: Bill Elquist
~~Christy Lyman~~ Chairperson
Lander County Board of Commissioners
Bill Elquist

Attest:

Andy E. Negro
Clerk

Approved as to Form:

Laura A. Schroeder
Laura A. Schroeder
District Counsel

Approved as to Form:

Leon Aberasturi
Leon Aberasturi
Assistant District Attorney

**EXHIBIT A
TO
MEMORANDUM OF AGREEMENT
BETWEEN PERSHING COUNTY WATER CONSERVATION DISTRICT
AND LANDER COUNTY, NEVADA**

LEGAL DESCRIPTION OF PARCELS TO BE TRANSFERRED TO LANDER COUNTY

Parcel A (Livestock events center and surrounding property):

All that portion of the SE¼ of Sec. 17, T.32N., R.45E., Mt. Diablo Meridian, Lander County, Nevada, that is owned by the United States Bureau of Reclamation (containing 135 acres more or less).

Parcel B (Recreation area):

All those portions of the E¼NW¼ of Sec. 8, T.32N., R.45E., Mt. Diablo Meridian, Lander County, Nevada, lying east of Nevada State Route 806 (North Battle Mountain Highway) and southwest of the centerline of the Humboldt River (containing 30 acres more or less).

Parcel C (Recreation area parking lot):

All those portions of the S¼SW¼NE¼NE¼NW¼ and the N¼NW¼SE¼NE¼NW¼ of Sec. 8, T.32N., R.45E., Mt. Diablo Meridian, Lander County, Nevada lying west of the centerline of the Humboldt River and Nevada State Route 806 (North Battle Mountain Highway) (containing 1 acre more or less).

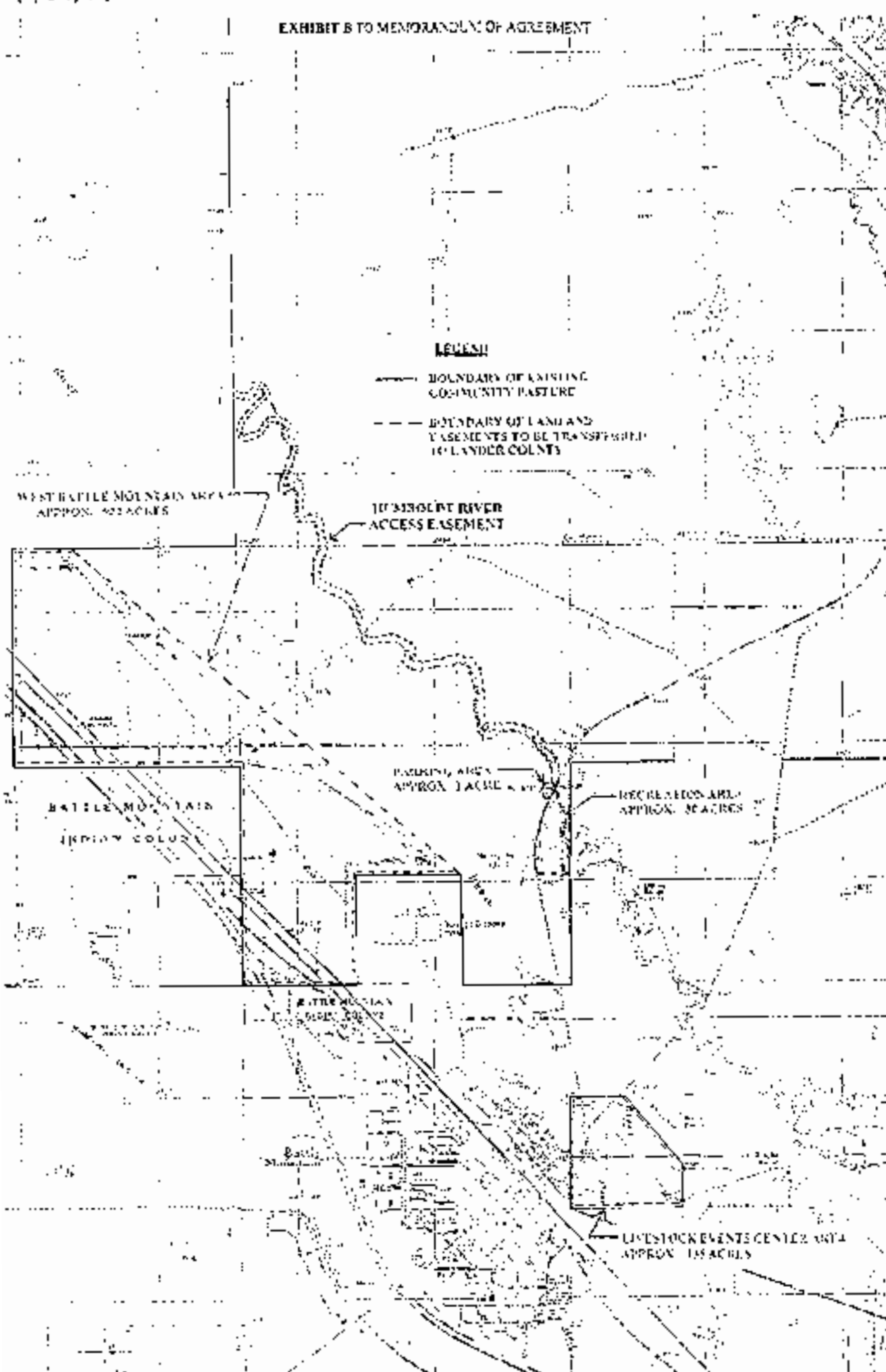
Parcel D (West Battle Mountain property):

All that property located within the area described by a line running from the point of beginning at the East ¼ Cor. of Sec. 7, T.32N., R.45E., Mt. Diablo Meridian, Lander County, Nevada, west approximately 2,640 feet to the center of said Sec. 7; thence south approximately 2,640 feet to the South ¼ Cor. of Sec. 7; thence west approximately 2,640 feet to the SW Cor. of Sec. 7; thence north approximately 5,280 feet to the NW Cor. of Sec. 7; thence west approximately 5,280 feet to the SW Cor. of Sec. 1, T.32N., R.44E.; thence north approximately 5,280 to the NW Cor. of said Sec. 1; thence east along the northerly line of said Sec. 1 approximately 1,320 feet; thence southeasterly approximately 12,170 feet to the point of beginning (containing 932 acres more or less).

Humboldt River Access Easement:

A strip of land extending from either side of the centerline of the Humboldt River only so far as necessary to create a 5 foot wide strip of dry land immediately adjacent to the river on either bank during non-flood conditions. The Access Easement shall begin at a point in Section 8, T.32N., R.45E., Mt. Diablo Meridian, Lander County, Nevada on the northwest side of the "White Bridge" on Nevada State Route 806 (North Battle Mountain Highway) where it is intersected by the Humboldt River, extending along said centerline approximately 4 miles to the point of termination located at the point where the centerline of the Humboldt river first intersects the west boundary line of Section 31, T.32N., R.44E., Mt. Diablo Meridian, Lander County, Nevada.

EXHIBIT B TO MEMORANDUM OF AGREEMENT



**APPENDIX F – LETTER OF AGREEMENT BETWEEN
PERSHING COUNTY AND THE STATE OF NEVADA**

BOARD OF COUNTY COMMISSIONERS

PERSHING COUNTY

P.O. DRAWER E

LOVELOCK, NEVADA 89419

April 16, 2002

Honorable U.S. Senator Harry Reid
528 Hart Senate Office Building
Washington, D.C. 20510

Honorable U.S. Senator John Ensign
364 Russell Senate Office Building
Washington, D.C. 20510-0001

Honorable U.S. Representative Jim Gibbons
100 Cannon House Office Building
Washington, D.C. 20515-001

Re: Humboldt Project Title Transfer

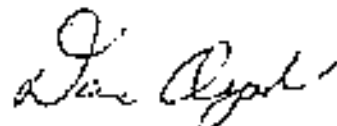
Dear Gentlemen:

Pershing County, Pershing County Water Conservation District and the Nevada Department of Wildlife all agree that as part of the Humboldt Project title transfer, Pershing County will receive 1 ½ sections of Bureau of Reclamation land around Derby Airport. Pershing County presently has these sections leased and Pershing County's airport extends onto these two sections.

We would request that the legislation which will be presented to Congress include the language that all of Section 36, T. 26 N. R. 30 E. and the East ¼ of Section 2, T. 25 N., R. 30 E. go to Pershing County.

Thank you very much for your assistance with this important matter. Please contact Pershing County District Attorney, Belinda Quilici at (775) 273-2613 if you have any questions or require additional information.

Sincerely,



Dave Aycoob, Chairman
Pershing County Commissioners

**APPENDIX G – H. R. 2754 – ENERGY AND WATER
DEVELOPMENT APPROPRIATIONS BILL**

HR 2754 -- ENERGY AND WATER DEVELOPMENT APPROPRIATIONS BILL

The Humboldt Project Conveyance Act provides that title transfer activities will be funded by the Bureau of Reclamation and the public entity receiving title to the land or facility being transferred. One exception this general requirement was that the State of Nevada would not be responsible for payment of administrative costs, real estate costs and real estate transfer costs, and NEPA costs.

On December 1, 2003, the president signed into law HR 2754 -- Conference Report: H Rept 108-357, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS BILL, FY 2004

This legislation provides Funding for Energy Department operations, including defense-related programs, as well as the Army Corps of Engineers, water-related projects of the Interior Department and independent agencies such as the Nuclear Regulatory Commission.

Specifically, Section 217 (a) (3) provides:

In carrying out section 2507 of Public Law 107-171, title II, subtitle F, the Secretary of Interior, acting through the Commissioner of Reclamation, shall—

In consultation with the Pershing County Water Conservation District, the Commissioner shall expend \$270,000 for the State of Nevada's costs associated with the National Environmental Policy Act review of the Humboldt Title Transfer: Provided, That notwithstanding Public Law 107-282, section 804(d)-(f), the State of Nevada shall pay any other costs assigned to the State as an entity receiving title in Public Law 107-282, section 804(b)-(e) or due to any reconveyance under Public Law 107-282, section 804(f), including any such National Environmental Policy Act costs that exceed the \$270,000 expended by the Commissioner under this subparagraph.

APPENDIX H – CORRESPONDENCE WITH U.S. FISH AND WILDLIFE SERVICE



United States Department of the Interior

Fish and Wildlife Service
Nevada Fish and Wildlife Office
1340 Financial Boulevard, Suite 234
Reno, Nevada 89502-7147
Phone: (775) 861-6300, Fax: (775) 861-6301

March 3, 2003
File No. 1-5-03-SP-096

Memorandum

To: Caryn Hunt DeCarlo, Environmental Specialist, Bureau of Reclamation,
Carson City, Nevada

From: Field Supervisor, Nevada Fish and Wildlife Office, Reno, Nevada

Subject: Species List Request for the Proposed Bureau of Reclamation Humboldt Project
Transfer

In response to your memorandum received on February 14, 2003, we have attached a list of threatened species which may occur in the proposed Bureau of Reclamation Humboldt Project Transfer (Attachment A). The project includes three different sites: 1) Humboldt Sink; 2) Rye Patch Dam and Reservoir, and 3) Battle Mountain Community Pasture. We have combined our response into one list which is keyed to each site. This list fulfills the requirement of the Fish and Wildlife Service (Service) to provide information on listed species pursuant to section 7(c) of the Endangered Species Act of 1973, as amended, for projects that are authorized, funded, or carried out by a Federal agency.

For your consideration, Attachment A contains a list of other species of concern to the Service which may occur in the project area. The Service has used information from State and Federal agencies and private sources to assess the conservation needs and status of these species. Further biological research and field study are needed to resolve their conservation status. By considering these species and exploring management alternatives early in the planning process, it may be possible to provide long-term conservation benefits for these species and avoid future conflicts that could otherwise develop. We recommend that you contact the Nevada Natural Heritage Program [1550 East College Parkway, Suite 157, Carson City, Nevada 89710, (775) 687-4245] and the appropriate regional office of the Nevada Division of Wildlife, as well as other local, State, and Federal agencies for distribution data and information on the conservation needs of these and other species of concern.

Caryn Hunt DeCarlo

File No. 1-5-03-SP-096

Please reference File No. 1-5-03-SP-096 in future correspondence concerning this species list. If you have any questions or require additional information, please contact me or Chad Mellison at (775) 861-6300.

Robert D. Williams

For Robert D. Williams

Attachment

RECEIVED

MAR 06 2003

BUREAU OF LAND MANAGEMENT
CHAD MELLISON

CODE	PERSON RESP	INITIAL & DATE
100		
101	<input checked="" type="checkbox"/>	
105	<input checked="" type="checkbox"/>	3/12/03
110		
400		
700		
900		
450	<input checked="" type="checkbox"/>	3/12/03

ATTACHMENT A

THREATENED SPECIES
AND SPECIES OF CONCERN

that may occur in the area of the
**PROPOSED BUREAU OF RECLAMATION
 HUMBOLDT PROJECT TRANSFER**
 Churchill, Lander, and Pershing Counties, Nevada
 File No. 1-5-03-SP-096; March 3, 2003

Threatened Species**Bird**

Bald eagle

Haliaeetus leucocephalus (4)Species of Concern**Mammals**

Pygmy rabbit

Brachylagus idahoensis (4)

Townsend's big-eared bat

Corynorhinus townsendii (4)

Spotted bat

Eudermis maculatum (4)

Small-footed myotis

Myotis californicus (4)

Long-eared myotis

Myotis evotis (4)

Fringed myotis

Myotis thysanodes (4)

Long-legged myotis

Myotis volans (4)

Yuma myotis

Myotis yumanensis (1)**Birds**

Northern goshawk

Accipiter gentilis (4)

Western burrowing owl

Athene cunicularia hypugaea (4)

Ferruginous hawk

Buteo regalis (3)

Sage grouse

Centrocercus urophasianus

Black tern

Chelidonias niger (4)

Least bittern

Ixobrychus exilis hesperis (4)

White-faced ibis

Plegadis chihi (4)**Invertebrate**

Nevada viceroy

Limenitis archippus lahontani (2, 3)**Plants**

Windloving buckwheat

Eriogonum anemophilum (1, 3)

Nevada oryctes

Oryctes nevadensis (1, 2)

Nevada dune beardtongue

Pentstemon annularis (1)KEY

- 1 Humboldt Sink
- 2 Rye Patch
- 3 Battle Mountain Community Pasture
- 4 All Three Areas

APPENDIX I- WILDLIFE SPECIES ASSOCIATED WITH THE HUMBOLDT RIVER AND ITS TRIBUTARIES

Appendix I

Wildlife Species Potentially Occurring on Humboldt Project Transfer Lands

Common Name	Scientific Name	Potential Occurrence		
		Humboldt Sink	Rye Patch Reservoir	Battle Mountain Community Pasture
Birds (A & B)				
Cooper’s Hawk	<i>Accipiter cooperii</i>	●	●	
Northern Goshawk	<i>Accipiter gentilis</i>	●	●	●
Sharp-shinned Hawk	<i>Accipiter striatus</i>	●		
Spotted Sandpiper	<i>Actitis macularia</i>	●		●
Clark’s Grebe	<i>Aechmophorus clarkii</i>	●		
Western Grebe	<i>Aechmophorus occidentalis</i>	●	●	●
Northern Saw-whet Owl	<i>Aegolius acadicus</i>	●		
White-throated Swift	<i>Aeronautes saxatalis</i>	●		●
Red-winged Blackbird	<i>Agelaius phoeniceus</i>	●	●	●
Tricolored Blackbird	<i>Agelaius tricolor</i>	●	●	●
Cassin’s Sparrow	<i>Aimophila cassinii</i>		●	
Wood Duck	<i>Aix sponsa</i>	●	●	
Chukar	<i>Alectoris chukar</i>	●	●	
Grasshopper Sparrow	<i>Ammodramus savannarum</i>			
Sage Sparrow	<i>Amphispiza belli</i>	●		
Blackthroated Sparrow	<i>Amphispiza bilineata</i>	●		
Northern Pintail	<i>Anas acuta</i>	●	●	●
American Widgeon	<i>Anas americana</i>	●	●	●
Northern Shoveler	<i>Anas clypeata</i>	●		●
Green-winged Teal	<i>Anas crecca</i>	●	●	●
Cinnamon Teal	<i>Anas cyanoptera</i>	●	●	●
Blue-winged Teal	<i>Anas discors</i>	●		●
Mallard	<i>Anas platyrhynchos</i>	●	●	●
Gadwall	<i>Anas strepera</i>	●	●	●
White-fronted Goose	<i>Anser albifrons</i>	●	●	●
American Pipit	<i>Anthus rubescens</i>	●		
Western Scrub Jay	<i>Aphelocoma californica</i>	●	●	●
Golden Eagle	<i>Aquila chrysaetos</i>	●	●	●
Black-chinned Hummingbird	<i>Archilochus alexandri</i>	●		
Great Egret	<i>Ardea alba</i>	●	●	●
Great Blue Heron	<i>Ardea herodias</i>	●	●	●
Short-eared Owl	<i>Asio flammeus</i>	●		●
Long-eared Owl	<i>Asio otus</i>	●		
Burrowing Owl	<i>Athene cunicularia</i>	●	●	●
Lesser Scaup	<i>Aythya affinis</i>	●		
Redhead	<i>Aythya americana</i>	●	●	
Ring-necked Duck	<i>Aythya collaris</i>	●		
Greater Scaup	<i>Aythya marila</i>	●		
Canvasback	<i>Aythya valisineria</i>	●	●	●
Juniper Titmouse	<i>Baeolophus griseus</i>	●		
Cedar Waxwing	<i>Bombycilla cedrorum</i>	●	●	●
Bohemian Waxwing	<i>Bombycilla garrulus</i>	●		
American Bittern	<i>Botaurus lentiginosus</i>			●
American Brant	<i>Branta bernicla</i>		●	
Canada Goose	<i>Branta canadensis</i>	●	●	
Great Horned Owl	<i>Bubo virginianus</i>	●	●	●
Cattle Egret	<i>Bubulcus ibis</i>	●	●	●
Bufflehead	<i>Bucephala albeola</i>	●		
Common Goldeneye	<i>Bucephala clangula</i>	●	●	
Barrow’s Goldeneye	<i>Bucephala islandica</i>	●		
Red-tailed Hawk	<i>Buteo jamaicensis</i>	●	●	●
Rough-legged Hawk	<i>Buteo lagopus</i>	●	●	
Ferruginous Hawk	<i>Buteo regalis</i>	●	●	●
Swainson’s Hawk	<i>Buteo swainsoni</i>	●	●	●
Green Heron	<i>Butorides virescens</i>	●	●	●

Appendix I

Wildlife Species Potentially Occurring on Humboldt Project Transfer Lands

Common Name	Scientific Name	Potential Occurrence		
		Humboldt Sink	Rye Patch Reservoir	Battle Mountain Community Pasture
Lark Bunting	<i>Calamospiza melanocorys</i>	●		
Sanderling	<i>Calidris alba</i>	●		
Dunlin	<i>Calidris alpina</i>	●		
Western Sandpiper	<i>Calidris mauri</i>	●	●	●
Least Sandpiper	<i>Calidris minutilla</i>	●		
California Quail	<i>Callipepla californica</i>	●	●	●
Pine Siskin	<i>Carduelis pinus</i>	●		
Lesser Goldfinch	<i>Carduelis psaltria</i>	●	●	●
American Goldfinch	<i>Carduelis tristis</i>	●	●	●
Cassin's Finch	<i>Carpodacus cassinii</i>	●		
House Finch	<i>Carpodacus mexicanus</i>	●	●	●
Turkey Vulture	<i>Cathartes aura</i>	●	●	●
Hermit Thrush	<i>Catharus guttatus</i>	●		
Swainson's Thrush	<i>Catharus ustulatus</i>	●		
Rock Wren	<i>Catherpes mexicanus</i>	●	●	
Willet	<i>Catoptrophorus semipalmatus</i>	●		●
Sage Grouse	<i>Centrocercus urophasianus</i>	●	●	●
Brown Creeper	<i>Certhia americana</i>	●		
Belted Kingfisher	<i>Ceryle alcyon</i>	●	●	●
Vaux's Swift	<i>Chaetura vauxi</i>	●		
Snowy Plover	<i>Charadrius alexandrinus</i>	●		
Mountain Plover	<i>Charadrius montanus</i>	●	●	●
Semipalmated Plover	<i>Charadrius semipalmatus</i>	●		
Killdeer	<i>Charadrius vociferus</i>	●	●	●
Snow Goose	<i>Chen caerulescens</i>	●		
Ross's Goose	<i>Chen rossii</i>	●	●	
Black Tern	<i>Chidonias niger</i>	●	●	●
Lark Sparrow	<i>Chondestes grammacus</i>	●		
Lesser Nighthawk	<i>Chordeiles acutipennis</i>			
Common Nighthawk	<i>Chordeiles minor</i>	●	●	●
American Dipper	<i>Cinclus mexicanus</i>	●	●	●
Northern Harrier	<i>Circus cyaneus</i>	●	●	●
Marsh Wren	<i>Cistothorus palustris</i>	●	●	●
Yellow-billed Cuckoo	<i>Coccyzus americanus</i>	●		
Northern Flicker	<i>Colaptes auratus</i>	●	●	
Rock Dove	<i>Columba livia</i>	●	●	●
Olive-sided Flycatcher	<i>Contopus cooperi</i>	●	●	●
Western Wood-Pewee	<i>Contopus sordidulus</i>	●		
American Crow	<i>Corvus brachyrhynchos</i>	●	●	●
Common Raven	<i>Corvus corax</i>	●	●	●
Trumpeter Swan	<i>Cygnus buccinator</i>	●	●	
Whistling (tundra) Swan	<i>Cygnus columbianus</i>	●	●	
Yellow-rumped Warbler	<i>Dendroica coronata</i>	●	●	●
Townsend's Warbler	<i>Dendroica townsendi</i>			
Black-throated Gray Warbler	<i>Dendroica nigrescens</i>	●		
Yellow Warbler	<i>Dendroica petechia</i>	●	●	●
Bobolink	<i>Dolichonyx oryzivorus</i>	●	●	●
Snowy Egret	<i>Egretta thula</i>	●	●	●
Western Flycatcher	<i>Empidonax difficilis</i>	●	●	●
Hammond's Flycatcher	<i>Empidonax hammondi</i>	●	●	
Cordilleran Flycatcher	<i>Empidonax occidentalis</i>	●	●	
Willow Flycatcher	<i>Empidonax traillii</i>	●	●	●
Gray Flycatcher	<i>Empidonax wrightii</i>	●	●	
Horned Lark	<i>Eremophila alpestris</i>	●	●	●
Brewer's Blackbird	<i>Euphagus cyanocephalus</i>	●	●	●
Merlin	<i>Falco columbarius</i>	●	●	●
Prairie Falcon	<i>Falco mexicanus</i>	●	●	●
Peregrine Falcon	<i>Falco peregrinus</i>	●	●	●
American Kestrel	<i>Falco sparverius</i>	●	●	●

Appendix I

Wildlife Species Potentially Occurring on Humboldt Project Transfer Lands

Common Name	Scientific Name	Potential Occurrence		
		Humboldt Sink	Rye Patch Reservoir	Battle Mountain Community Pasture
American Coot	<i>Fulica americana</i>	●	●	●
Common Snipe	<i>Gallinago gallinago</i>	●	●	●
Common Moorhen	<i>Gallinula chloropus</i>	●	●	
Pacific Loon	<i>Gavia pacifica</i>	●	●	
Common Yellowthroat	<i>Geothlypis trichas</i>	●	●	
Northern Pygmy Owl	<i>Glaucidium gnoma</i>	●	●	●
Sandhill Crane	<i>Grus canadensis</i>	●	●	●
Blue Grosbeak	<i>Guiraca caerulea</i>			
Bald Eagle	<i>Haliaeetus leucocephalus</i>	●	●	●
Black-necked Stilt	<i>Himantopus mexicanus</i>	●	●	●
Barn Swallow	<i>Hirundo rustica</i>	●	●	●
Yellow-breasted Chat	<i>Icteria virens</i>	●	●	●
Bullock's Oriole	<i>Icterus bullockii</i>	●	●	●
Least Bittern	<i>Ixobrychus exilis</i>	●	●	●
Dark-eyed Junco	<i>Junco hyemalis</i>	●	●	●
Northern Shrike	<i>Lanius excubitor</i>	●	●	●
Loggerhead Shrike	<i>Lanius ludovicianus</i>	●	●	●
Herring Gull	<i>Larus argentatus</i>	●	●	
Ring-billed Gull	<i>Larus delawarensis</i>	●	●	●
Bonaparte's Gull	<i>Larus philadelphia</i>	●	●	
Franklin's Gull	<i>Larus pipixan</i>	●	●	
Short-billed Dowitcher	<i>Limnodromus griseus</i>	●	●	
Long-billed Dowitcher	<i>Limnodromus scolopaceus</i>	●	●	
Marbled Godwit	<i>Limosa fedoa</i>	●	●	
Hooded Merganser	<i>Lophodytes cucullatus</i>	●	●	●
Lewis Woodpecker	<i>Melanerpes lewis</i>		●	
Wild Turkey	<i>Meleagris gallopavo</i>	●	●	●
Lincoln's Sparrow	<i>Melospiza lincolnii</i>			
Song Sparrow	<i>Melospiza melodia</i>	●	●	●
Common Merganser	<i>Mergus merganser</i>	●	●	●
Red-breasted Merganser	<i>Mergus serrator</i>	●		
Northern Mockingbird	<i>Mimus polyglottos</i>	●	●	●
Brown-headed Cowbird	<i>Molothrus ater</i>	●	●	●
Townsend's Solitaire	<i>Myadestes townsendi</i>	●		
Ash-throated Flycatcher	<i>Myiarchus cinerascens</i>	●		
Long-billed Curlew	<i>Numenius americanus</i>	●		●
Black-crowned Night Heron	<i>Nycticorax nycticorax</i>	●	●	●
MacGillivray Warbler	<i>Oporonis tolmiei</i>	●	●	
Sage Thrasher	<i>Oreoscoptes montanus</i>	●	●	●
Western Screech Owl	<i>Otus asio</i>	●	●	●
Ruddy Duck	<i>Oxyura jamaicensis</i>	●	●	●
Osprey	<i>Pandion haliaetus</i>	●	●	
House Sparrow	<i>Passer domesticus</i>	●	●	●
Savannah Sparrow	<i>Passerculus sandwichensis</i>	●	●	●
Fox Sparrow	<i>Passerella iliaca</i>	●	●	●
Lazuli Bunting	<i>Passerina amoena</i>	●	●	●
American White Pelican	<i>Pelecanus erythrorhynchos</i>	●	●	●
Gray partridge	<i>Perdix perdix</i>	●	●	●
Cliff Swallow	<i>Petrochelidon pyrrhonota</i>	●	●	●
Phainopepla	<i>Phainopepla nitens</i>	●	●	●
Double-crested Cormorant	<i>Phalacrocorax auritus</i>	●	●	●
Common Poorwill	<i>Phalaenoptilus nuttallii</i>	●	●	●
Ring-neck Phalarope	<i>Phalaropus lobatus</i>			
Wilson's Phalarope	<i>Phalaropus tricolor</i>	●		●
Ring-necked Pheasant	<i>Phasianus colchicus</i>	●	●	●
Black-headed Grosbeak	<i>Pheucticus melanocephalus</i>	●		●
Black-billed Magpie	<i>Pica pica</i>	●	●	●
White-headed Woodpecker	<i>Picoides albolarvatus</i>	●	●	●
Downy Woodpecker	<i>Picoides pubescens</i>	●	●	●

Appendix I

Wildlife Species Potentially Occurring on Humboldt Project Transfer Lands

Common Name	Scientific Name	Potential Occurrence		
		Humboldt Sink	Rye Patch Reservoir	Battle Mountain Community Pasture
Hairy Woodpecker	<i>Picoides villosus</i>	●		
Pine Grosbeak	<i>Pinicola enucleator</i>	●		
Rufous-sided Towhee	<i>Pipilo erythrophthalmus</i>	●	●	●
Western Tanager	<i>Piranga ludoviciana</i>	●	●	●
Summer Tanager	<i>Piranga rubra</i>	●	●	●
White-faced Ibis	<i>Plegadis chihi</i>	●	●	●
Black-bellied Plover	<i>Pluvialis squatarola</i>	●	●	
Horned Grebe	<i>Podiceps auritus</i>	●	●	●
Eared Grebe	<i>Podiceps nigricollis</i>	●		
Pied-billed Grebe	<i>Podilymbus podiceps</i>	●	●	●
Mountain chickadee	<i>Poecile gambeli</i>	●	●	●
Blue-gray Gnatcatcher	<i>Polioptila caerulea</i>	●	●	
Vesper Sparrow	<i>Pooecetes gramineus</i>	●	●	●
Sora	<i>Porzana carolina</i>	●	●	●
Purple Martin	<i>Progne subis</i>	●	●	●
Bushtit	<i>Psaltirparus minimus</i>	●	●	●
Common Grackle	<i>Quiscalus quiscula</i>	●	●	●
Virginia Rail	<i>Rallus limicola</i>	●	●	
American Avocet	<i>Recurvirostra americana</i>	●	●	●
Ruby-crowned Kinglet	<i>Regulus calendula</i>	●	●	●
Golden-crowned Kinglet	<i>Regulus satrapa</i>	●	●	●
Bank Swallow	<i>Riparia riparia</i>	●	●	●
Black Phoebe	<i>Sayornis nigricans</i>	●	●	●
Say's Phoebe	<i>Sayornis saya</i>	●	●	●
Broad-tailed Hummingbird	<i>Selasphorus platycercus</i>	●	●	
Rufous Hummingbird	<i>Selasphorus rufus</i>	●	●	●
Mountain Bluebird	<i>Sialia currucoides</i>	●	●	●
Western Bluebird	<i>Sialia mexicana</i>	●	●	●
Red-breasted Nuthatch	<i>Sitta canadensis</i>	●	●	●
White-breasted Nuthatch	<i>Sitta carolinensis</i>	●	●	●
Pygmy Nuthatch	<i>Sitta pygmaea</i>	●	●	●
California Gull	<i>Somateria mollissima</i>	●	●	●
Red-naped Sapsucker	<i>Sphyrapicus nuchalis</i>	●	●	●
Williamson's Sapsucker	<i>Sphyrapicus thyroideus</i>	●	●	●
Yellow-bellied Sapsucker	<i>Sphyrapicus varius</i>	●	●	●
Dickcissel	<i>Spiza americana</i>	●	●	●
Brewer's Sparrow	<i>Spizella breweri</i>	●	●	●
Chipping Sparrow	<i>Spizella passerina</i>	●	●	●
Northern Rough-winged Swallow	<i>Stelgidopteryx serripennis</i>	●	●	●
Calliope Hummingbird	<i>Stellula calliope</i>	●	●	
Caspian Tern	<i>Sterna caspia</i>	●	●	●
Forster's Tern	<i>Sterna forsteri</i>	●		
Western meadowlark	<i>Sturnella neglecta</i>	●	●	●
European Starling	<i>Sturnus vulgaris</i>	●	●	●
Violet-green Swallow	<i>Tachycineta bicolor</i>	●	●	●
Tree Swallow	<i>Tachycineta thalassina</i>	●	●	●
Bewick's Wren	<i>Thryomanes bewickii</i>	●	●	
Lesser Yellowlegs	<i>Tringa flavipes</i>	●	●	
Greater Yellowlegs	<i>Tringa melanoleuca</i>	●	●	
Solitary Sandpiper	<i>Tringa solitaria</i>	●	●	
House Wren	<i>Troglodytes aedon</i>	●	●	●
American Robin	<i>Turdus migratorius</i>	●	●	●
Eastern Kingbird	<i>Tyrannus tyrannus</i>	●	●	●
Western Kingbird	<i>Tyrannus verticalis</i>	●	●	●
Cassin's Kingbird	<i>Tyrannus vociferans</i>	●	●	●
Barn Owl	<i>Tyto alba</i>	●	●	●
Orange-crowned Warbler	<i>Vermivora celata</i>	●	●	●
Nashville Warbler	<i>Vermivora ruficapilla</i>	●	●	●

Appendix I

Wildlife Species Potentially Occurring on Humboldt Project Transfer Lands

Common Name	Scientific Name	Potential Occurrence		
		Humboldt Sink	Rye Patch Reservoir	Battle Mountain Community Pasture
Virginia's Warbler	<i>Vermivora virginiae</i>	●	●	●
Warbling Vireo	<i>Vireo gilvus</i>	●	●	●
Solitary Vireo	<i>Vireo solitarius</i>	●	●	●
Wilson's Warbler	<i>Wilsonia pusilla</i>	●	●	●
Yellow-headed Blackbird	<i>Xanthocephalus xanthocephalus</i>	●	●	●
Mourning Dove	<i>Zenaida macroura</i>	●	●	●
White-throated Sparrow	<i>Zonotrichia albicollis</i>	●	●	●
Golden-crowned Sparrow	<i>Zonotrichia atricapilla</i>	●	●	●
White-crowned Sparrow	<i>Zonotrichia leucophrys</i>	●	●	●
Harris's Sparrow	<i>Zonotrichia querula</i>	●	●	●
Mammals (A&B)				
White-tailed Antelope Squirrel	<i>Ammospermophilus leucurus</i>	●	●	●
Pronghorn	<i>Antilocapra americana</i>	●	●	●
Pallid Bat	<i>Antrozous pallidus</i>	●	●	●
Pygmy rabbit	<i>Brachylagus idahoensis</i>	●	●	●
Coyote	<i>Canis latrans</i>	●	●	●
Beaver	<i>Castor canadensis</i>	●	●	●
Belding Ground Squirrel	<i>Citellus beldingi</i>	●	●	●
Townsend's Ground Squirrel	<i>Citellus townsendi</i>	●	●	●
Chisel-toothed Kangaroo Rat	<i>Dipodomys microps</i>	●	●	●
Ord Kangaroo Rat	<i>Dipodomys ordi</i>	●	●	●
Big Brown Bat	<i>Epstesicus fuscus</i>	●	●	●
Porcupine	<i>Erethizon dorsatum</i>	●	●	●
Spotted Bat	<i>Euderma maculata</i>	●	●	●
Least Chipmunk	<i>Eutamias minimus</i>	●	●	●
Uinta Chipmunk	<i>Eutamias umbrinus</i>	●	●	●
Mountain Lion	<i>Felix concolor</i>	●	●	●
Sagebrush Vole	<i>Lagurus curtatus</i>	●	●	●
Silvery-haired Bat	<i>Lasionycteris noctivagans</i>	●	●	●
Red Bat	<i>Lasiurus borealis</i>	●	●	●
Hoary Bat	<i>Lasiurus cinereus</i>	●	●	●
Black-tailed Jackrabbit	<i>Lepus californicus</i>	●	●	●
White-tailed Jackrabbit	<i>Lepus townsendi</i>	●	●	●
River Otter	<i>Lutra canadensis</i>	●	●	●
Bobcat	<i>Lynx rufus</i>	●	●	●
Yellow-bellied Marmot	<i>Marmota flaviventris</i>	●	●	●
Striped Skunk	<i>Mephitis mephitis</i>	●	●	●
Montane Vole	<i>Microtus longicaudus</i>	●	●	●
House Mouse	<i>Mus musculus</i>	●	●	●
Short-tailed Weasel	<i>Mustela erminea</i>	●	●	●
Long-tailed Weasel	<i>Mustela frenata</i>	●	●	●
Mink	<i>Mustela vison</i>	●	●	●
California Bat	<i>Myotis californicus</i>	●	●	●
California Myotis	<i>Myotis californicus</i>	●	●	●
Long-eared Myotis	<i>Myotis evotis</i>	●	●	●
Little Brown Bat	<i>Myotis lucifugus</i>	●	●	●
Small-footed Myotis	<i>Myotis subulatus</i>	●	●	●
Fringed Myotis	<i>Myotis thysanodes</i>	●	●	●
Long-legged Myotis	<i>Myotis volans</i>	●	●	●
Yuma Myotis	<i>Myotis yumanensis</i>	●	●	●
Bushy-tailed Woodrat	<i>Neotoma cinerea</i>	●	●	●
Desert Woodrat	<i>Neotoma lepida</i>	●	●	●
Mule Deer	<i>Odocoileus hemionus</i>	●	●	●
Muskrat	<i>Ondatra zibethica</i>	●	●	●
Northern Grasshopper Mouse	<i>Onychomys leucogaster</i>	●	●	●
Little Pocket Mouse	<i>Perognathus longimembris</i>	●	●	●
Great Basin Pocket Mouse	<i>Perognathus parvus</i>	●	●	●
Desert Pocket Mouse	<i>Perognathus penicillatus</i>	●	●	●

Appendix I

Wildlife Species Potentially Occurring on Humboldt Project Transfer Lands

Common Name	Scientific Name	Potential Occurrence		
		Humboldt Sink	Rye Patch Reservoir	Battle Mountain Community Pasture
Deer Mouse	<i>Peromyscus maniculatus</i>	●	●	●
Western Pipistrelle	<i>Pipistrellus hesperus</i>	●	●	
Townsend's Big-eared Bat	<i>Plecotus townsendii</i>	●	●	●
Raccoon	<i>Procyon lotor</i>	●	●	●
Norway Rat	<i>Rattus norvegicus</i>	●	●	●
Western Harvest Mouse	<i>Reithrodontomys megalotis</i>	●	●	●
Northern Water Shrew	<i>Sorex palustris</i>			
Preble's Shrew	<i>Sorex preblei</i>			
Vagrant Shrew	<i>Sorex vagrans</i>	●	●	
Spotted Skunk	<i>Spilogale putorius</i>	●	●	●
Cottontail Rabbit	<i>Sylvilagus audubonii</i>	●	●	●
Pygmy Rabbit	<i>Sylvilagus idahoensis</i>		●	
Mountain Cottontail	<i>Sylvilagus nuttallii</i>	●	●	●
Brazilian Free-tailed Bat	<i>Tadarida brasiliensis</i>	●	●	●
Big Free-tailed Bat	<i>Tadarida molossa</i>	●		
Badger	<i>Taxidea taxus</i>	●	●	
Botta Pocket Gopher	<i>Thomomys bottae</i>	●	●	●
Northern Pocket Gopher	<i>Thomomys talpoides</i>	●	●	●
Townsend Pocket Gopher	<i>Thomomys townsendi</i>	●	●	●
Red Fox	<i>Vulpes fulva</i>	●	●	●
Kit Fox	<i>Vulpes macrotis</i>	●	●	●
Western Jumping Mouse	<i>Zapus princeps</i>	●	●	●
Reptiles (A, B, & C)				
Rubber Boa	<i>Charina bottae</i>	●	●	●
Western Whiptail	<i>Cnemidophorus tigris</i>	●	●	●
Racer	<i>Coluber constrictor</i>	●	●	●
Western Rattlesnake	<i>Crotalus viridis</i>	●	●	●
Desert Collared Lizard	<i>Crotaphytus insularis</i>	●	●	●
Ring neck Snake	<i>Diadophis punctatus</i>	●	●	●
Western Skink	<i>Eumeces skiltonianus</i>	●	●	●
Leopard lizard	<i>Gambelia wislizeni</i>	●	●	●
Long-nosed Leopard Lizard	<i>Gambelia wislizenii wislizenii</i>	●	●	●
Night Snake	<i>Hypsiglena torquata</i>	●	●	●
Striped Whipsnake	<i>Masticophis taeniatus</i>	●	●	●
Short-horned Lizard	<i>Phrynosoma douglassii</i>	●	●	●
Desert Horned Lizard	<i>Phrynosoma platyrhinos</i>	●	●	●
Gopher Snake	<i>Pituophis melanoleucus</i>	●	●	●
Long-nosed Snake	<i>Rhinocheilus lecontei</i>	●	●	●
Western Patch-nosed Snake	<i>Salvadora hexalepis</i>	●	●	●
Sagebrush Lizard	<i>Sceloporus graciosus</i>	●	●	●
Desert Spiny Lizard	<i>Sceloporus magister</i>	●	●	●
Western Fence Lizard	<i>Sceloporus occidentalis</i>	●	●	●
Ground Snake	<i>Sonora semiannulata</i>	●	●	●
Western Terrestrial Garter Snake	<i>Thamnophis elegans</i>	●	●	●
Common Garter Snake	<i>Thamnophis sirtalis</i>	●	●	●
Side-Blotched Lizard	<i>Uta stansburiana</i>	●	●	●
Amphibians (A,C)				
Western Toad	<i>Bufo boreas</i>	●	●	●
Woodhouse's Toad	<i>Bufo woodhousii</i>	●	●	●
Pacific Treefrog	<i>Hyla regilla</i>	●	●	●
Bullfrog	<i>Rana catesbeiana</i>	●	●	●
Northern Leopard Frog	<i>Rana pipiens</i>	●	●	●
Spotted Frog	<i>Rana pretiosa</i>	●	●	●
Great Basin Spadefoot	<i>Scaphiopus intermontanus</i>	●	●	●
Fish (C)				
Sacramento perch	<i>Archoplites interruptes</i>	●	●	●
Goldfish	<i>Carassius auratus</i>	●	●	●

Appendix I

Wildlife Species Potentially Occurring on Humboldt Project Transfer Lands

Common Name	Scientific Name	Potential Occurrence		
		Humboldt Sink	Rye Patch Reservoir	Battle Mountain Community Pasture
Tahoe sucker	<i>Catostomus tahoensis</i>	●	●	●
Common carp	<i>Cyprinus carpio</i>	●	●	●
Northern pike	<i>Esox lucius</i>	●	●	●
Gambusia	<i>Gambusia affinis</i>	●	●	●
Lahontan chub	<i>Gila bicolor</i>	●	●	●
Brown bullhead	<i>Ictalurus melas</i>	●	●	●
White catfish	<i>Ictalurus nebulosus</i>	●	●	●
Channel catfish	<i>Ictalurus punctatus</i>	●	●	●
Green sunfish	<i>Lepomis cyanellus</i>	●	●	●
Bluegill	<i>Lepomis macrochirus</i>	●	●	●
Smallmouth black bass	<i>Micropterus dolmieu</i>	●	●	●
Largemouth black bass	<i>Micropterus salmoides</i>	●	●	●
White bass	<i>Morone chrysops</i>	●	●	●
Yellow perch	<i>Perca flavescens</i>	●	●	●
White crappie	<i>Pomoxis annularis</i>	●	●	●
Redside shiner	<i>Richardsonius balteatus</i>	●	●	●
Brown trout	<i>Salmo trutta</i>		●	
Walleye	<i>Stizostedion vitreum</i>	●	●	

(A): Bradley, NDOW 1991

(B): Bull and Richards, NDOW 2003

(C): Eissmann et al. Nevada State Parks 1991

Other Sources: USFWS Nevada Offices, October 30, 2003; Mellison, Chad, USFWS, March 3, 2004

Note: No ● indicates a species that is listed for the Humboldt River and its Major Tributaries (Bradley, NDOW 1991) but not recorded in or near one of the three project areas.

APPENDIX J – SUMMARY OF COMMENTS RECEIVED DURING SCOPING

It is Reclamation's intent to address all of the issues brought up during scoping to the extent practicable. The comments listed below are grouped by issue categories. A complete set of the written comments will be made available as part of the public record for the project.

NEPA Process

- ❖ The drafters of the Environmental Impact Statement should accept the plan which has been developed, with its heavy emphasis on environmental preservation and to totally discount any "new information" as nothing more than obstructionism.
- ❖ Address the No-Action alternative.
- ❖ The effect the channelization of the Argenta Marsh has had and will continue to have on wildlife, fisheries, water quality/quantity, and the functioning condition of the river and wetland systems, and surrounding land. Explain how the existing situation and all proposed actions comply with the Clean Water Act, Endangered Species Act, and other pertinent laws, which protect the loss of wetlands and/or resources.
- ❖ The effects of the proposed action and alternatives on Threatened and Endangered Species, USFWS Species of Concern and State listed species must be analyzed.
- ❖ Increase scoping meetings to include other interested communities in Nevada, including Winnemucca (near Rye Patch) and Lovelock (near Humboldt Sink).
- ❖ Southern Nevada - Las Vegas was missed for open house meeting.
- ❖ Transaction costs should be the responsibility of PCWCD.
- ❖ Why was PCWCD allowed to hire NEPA consultant rather than Bureau of Reclamation?
- ❖ BLM should be a major player in this process.

Water Resources

- ❖ Rye Patch Reservoir should be kept with a minimum pool greater than or equal to 5,000 acre-feet. 3,000 acre-feet is not adequate to keep temperatures and dissolved oxygen at proper levels for fish survival.
- ❖ The minimum pool of water at Rye Patch is far too little to sustain the Rye Patch Reservoir as a quality fishery, wildlife habitat and recreational body of water.
- ❖ Direct and indirect impacts to existing decreed and certificated surface and groundwater rights from all proposed uses of land transferred pursuant to the Humboldt Project Conveyance should be addressed in the EIS.
- ❖ Identify all quantities and sources of ground and surface water to be acquired by any party as needed to develop and use land transferred pursuant to the Humboldt Project Conveyance.
- ❖ Much more water for wildlife is needed.
- ❖ Provide project water for wetlands.

- ❖ Put water back into Argenta Marsh.
- ❖ Public water resources should not be privatized.
- ❖ The restoration alternative and possible mitigation measures for the loss of publicly owned lands and water rights should include sufficient water for wetlands restoration purposes.

Water Quality

- ❖ Reclamation proposes transferring title of the PCWCD owned portion of the Humboldt Sink to the Nevada Department of Wildlife (NDOW). The area would thus remain as a Wetland/Waterfowl Management Area. Water quality downstream of major irrigation projects has been a major problem in other areas of the country and should be analyzed in the EIS and procedures established and implemented.

Wetlands

- ❖ The EIS should address the best locations for wetlands restoration and management techniques for mitigation for mosquitoes and black flies in the Community Pasture area. It should include the best restoration techniques, from minimal to extensive. It should list the best size for a demonstration restored wetland.
- ❖ Identify other wetlands along the Humboldt River for future restoration.
- ❖ The Sierra Club supports a wetlands restoration alternative, with optimal locations for restored wetlands, along the Humboldt River, in seasonally flooded lowlands, and along other natural watercourses. The size should approximate the historic Argenta Marsh, recognizing that the marsh expanded and contracted, depending on annual river flows.

Argenta Marsh

- ❖ Land should be set aside for the possible restoration of Argenta Marsh.
- ❖ Add alternative for Argenta Marsh restoration.
- ❖ Provide an alternative for Argenta Marsh restoration along historic Humboldt River corridor with old oxbows and sloughs.
- ❖ The acreage for the restoration of the Argenta Marsh must be significantly enlarged in order to restore a fraction of the values that were lost decades ago.
- ❖ Reestablish marsh lands in the Battle Mountain Community Pasture.
- ❖ Provide funding for a demonstration Argenta wetlands restoration project on the acquired wetlands which can be most technically and cost-effectively restored.
- ❖ Analyze the continued need for the channelization of the Argenta Marsh/Community Pasture. Is it necessary for the continued function of the Humboldt project? Present science indicates that the potential water storage in the Community Pasture would better benefit the project than “hydraulic efficiency”.

Riparian Habitat

- ❖ Create riparian habitat along Humboldt River to delay flow of water to Rye Patch Reservoir.
- ❖ Riparian areas including overflow channels, springs, and oxbows should be managed for wildlife habitat.

Floodplains

- ❖ Areas associated with floodplains of Humboldt River and Rock Creek should be identified and protected from development as mandated by the Floodplain Management Act.

Vegetation

- ❖ The no action and any other proposed alternatives that stipulates the transfer of the Lander County Community Pasture to PCWCD must specify that PCWCD establish a Resource Management Plan for the Humboldt River and its floodplain within Lander County. At a minimum, the objectives of this plan should include the return of the river and its floodplain to a properly functioning condition and the re-establishment of the natural plant communities for the different components of the systems. See Executive order 11990 Section 4.

Wildlife

- ❖ Waterfowl habitat north and south of Callahan Bridge should be transferred to the State of Nevada.
- ❖ The EIS should support ecosystem restoration, not just duck pond creation.

Socioeconomic

- ❖ Address socio-economic impact of past, present and proposed actions.
- ❖ Quantify environmental, fiscal and economic impacts within Elko, Eureka, Lander, Humboldt and Pershing counties resulting from development and use of land transferred and any water required to use said lands.
- ❖ This is the best thing for the ranchers.
- ❖ Concerned about this Project impact to small acreage operators.
- ❖ The proposed trail system that will belong to Lander County is good. To make the most beneficial use of this trail system and other recreational opportunities, the County should develop an Open Space Plan. The proponent working with the County (Community Development or Economic Development) to develop appropriate mitigation, if needed, is encouraged. The County is eligible to acquire Question 1 funds to create an Open Space Plan. It would be appropriate to incorporate this into the bike plan already approved by the County.

Historic Preservation

- ❖ Protect and manage the historic Emigrant Trail along the Humboldt River by BLM, NDOW, State Parks and private landowners. The EIS should include the best option for protection and management of the Emigrant Trail.
- ❖ Potential impacts of this transfer upon the California Trail and the many other known and potential historic properties are a concern.
- ❖ Provide access to and protection for the historic Immigrant Trail along the Humboldt River.
- ❖ The river corridor and associated marshlands and the meadows around Rye Patch Reservoir were also the traveling routes for early explorers, beaver trappers, pioneers taking the Emigrant Trail routes to California and railroad workers. Each group of visitors left traces of their passage which should be surveyed, inventoried, and preserved as part of our Western heritage.
- ❖ Surveys, inventory, and preservation of paleontological resources in the disposal areas should be conducted before any title transfer takes place. See Studies in Archeology, Geology and Paleontology at Rye Patch Reservoir, Pershing County, Nevada M. Rusco & J. Davis, June 1987.

Cultural Resources/Indian Trust Assets

- ❖ These lands have historic and spiritual significance to the Lovelock Paiutes.
- ❖ The Lovelock Paiute Tribe is protesting this conveyance, since the Bureau of Reclamation has not followed the executive order dated April 29, 1994 signed by President Clinton. (Executive Order 13175 titled "Consultation and Coordination with Indian Tribal Governments, signed by President Clinton on November 6, 2000. The April 29th document is an Executive Memorandum).
- ❖ Archeological and cultural resources in the Community Pasture must be inventoried and effects analyzed.
- ❖ The Humboldt River Corridor and associated marshlands have been inhabited for millennia by native people. Before these public lands are privatized, a full survey and inventory of the rich cultural area should be conducted and significant sites and artifacts carefully recorded and preserved.

Recreation

- ❖ Include present and possible future revenue from recreation opportunities to Lander County, given that the Community Pasture were restored to its pre-fifties condition and managed by NDOW or other resource agency or private resource conservation group. Those opportunities include bird watching, camping, swimming, fishing, hunting, and the improvement in the general aesthetics of the river environment. Several communities in the intermountain west have improved their economic condition by taking advantage of existing or by improving recreational opportunities.
- ❖ The recreational and environmental value of Rye Patch Reservoir must be considered. If the minimum pool was raised to 17,000 acre foot, the Federal government should be able to subsidize irrigation district losses.
- ❖ In addition to the recreational benefits of the Rye Patch Reservoir, the economic value to the

county needs to be realized. If we had a larger minimum pool, the fishery would be utilized year round, thus increasing the business within our County.

Land Ownership/Land Use

- ❖ Provide an alternative that analyzes the transfer of title of the Community Pasture to NDOW, Lander County, or other government agencies or private parties (Nature Conservancy, Ducks Unlimited, Trout Unlimited, etc.) interested in restoring the natural resources of the area.
- ❖ Transfer prime historic wetlands in the community pasture along the Humboldt River corridor to the State of Nevada. These include about 5,000 acres in Township 32 North, Range 45 East.
- ❖ Acquire a conservation easement by the State of Nevada to all other lands to be transferred in the Humboldt Project. The conservation easement will encompass wildlife values, water management and recreational access and will include historical and cultural values, tourism opportunities, water management to minimize future problems, and to protect wildlife.
- ❖ Provide a complete description of all proposed uses of land to be transferred pursuant to the Humboldt Project Conveyance.
- ❖ The location and amount of land above the Rye Patch Dam's high water mark needs to be identified and the affect of its disposition on recreational opportunities and requirements for the existing fishery (minimum pool) needs to be analyzed in the NEPA document. This includes BLM land that may have been included in the dam project, but never properly conveyed to Reclamation and therefore should not be a part of the transfer.
- ❖ A riparian easement should be obtained for a 400 yard corridor along the Humboldt River channel. The corridor should be fenced and managed for a riparian pasture according to Bureau of Land Management of U. S. Fish & Wildlife Service riparian guidelines. The State should acquire all of Rock Creek within the Battle Mountain Community Pasture and restore and manage the area as a riparian wildlife area.
- ❖ The land along Humboldt River and Rock Creek should be transferred to both NDOW and Pershing County.
- ❖ The State should acquire all of Rock Creek within the Battle Mountain Community Pasture and restore and manage the area as a riparian wildlife area.
- ❖ Acquire private wetlands at the Licking Ranch to link these two wetland areas along with the currently leased water rights.
- ❖ No condominiums should be built.
- ❖ The financial ability and commitment of the PCWCD to maintain and/or rehabilitate various hydraulic structures in perpetuity within the Project must be addressed.
- ❖ Need public access to river for recreations (fishing and camping). Water is already scarce in Nevada it must not be blocked off from public access.
- ❖ Protect public access to all transferred lands. Public access would be protected by law and include all of the existing community pasture.

- ❖ Need adequate public access to NDOW land.
- ❖ Ensure adequate public access to NDOW lands and all along the Humboldt River.
- ❖ Correct grazing mismanagement on Community Pasture.
- ❖ There must be a science-based plan in place and action taken to restore the community pasture to health and sustainability.
- ❖ Provide for restoration of historic river channel through fencing and livestock management.
- ❖ The restoration alternative should include land acquisition of significant private parcels in areas of biologically optimal wetlands re-establishment.
- ❖ In other parts of the Community Pasture, grazing management improvements can be made to correct decades of livestock overgrazing.