

RECLAMATION

Managing Water in the West

Environmental Assessment and Draft Finding of No Significant Impact

Karr Farm, Brantley Project, New Mexico
Upper Colorado Region



U. S. Department of the Interior
Bureau of Reclamation
Albuquerque Area Office
Environment Division
Albuquerque, New Mexico

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Mission Statement

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

Title: Draft Finding of No Significant Impact and Environmental Assessment for the Karr Farm Transfer, Brantley Project, Eddy County, New Mexico

Proposed agency action: Transfer of land and ground water rights from the Bureau of Reclamation to New Mexico Game and Fish Department

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Cooperating agencies: New Mexico Game and Fish Department

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Contents

	Page
Draft Finding of No Significant Impact	1
Background	2
Alternatives	2
Related Documents	2
Decision and Finding of No Significant Impact	2
Context	2
Intensity	3
Part 1 Introduction and Need for Action.....	5
1.1 Introduction.....	5
Figure 1. Location of Karr Farm, Eddy County, New Mexico.....	6
1.2 Purpose and Need for Action	7
Part 2 Description of Alternatives	8
2.1 Proposed Action.....	8
2.2 No Action.....	8
2.3 Past, Present, and Reasonably Foreseeable Future Actions.....	8
Part 3 Affected Environment.....	10
3.1 Project Area, Location	10
Figure 2. William S. Huey Waterfowl Management Area and Karr Farm within Eddy County, New Mexico showing current and proposed management actions.	11
3.2 Air Quality	11
3.3 Hazardous Wastes and Toxic Substances.....	12
3.5 Water Resources, Including Floodplains	13
3.6 Vegetation, Including Weeds.....	14
3.7 Wildlife	14
3.7.1 Birds.....	15
3.7.2 Mammals.....	16
3.8 Threatened and Endangered Species	16
3.9 Cultural Resources	17
3.10 Environmental Justice.....	17
3.11 Land Use	17
Part 4 Environmental Consequences	18
4.1 Air Quality	18
4.1.1 No Action.....	18
4.1.2 Proposed Action.....	18
4.2 Hazardous Wastes and Toxic Substances	18
4.2.1 No Action.....	18
4.2.2 Proposed Action.....	19
4.3 Water Resources	19
4.3.1 No Action.....	19
4.3.2 Proposed Action.....	19
4.4 Vegetation, Including Weeds.....	20
4.4.1 No Action.....	20
4.4.2 Proposed Action.....	20
4.5 Wildlife	20

4.4.1 No Action.....	20
4.4.2 Proposed Action.....	20
4.6 Threatened and Endangered Species	21
4.6.1 No Action.....	21
4.6.2 Proposed Action.....	21
4.7 Cultural Resources	21
4.7.1 No Action.....	21
4.7.2 Proposed Action.....	21
4.8 Environmental Justice.....	21
4.9 Land Use	22
4.9.1 No Action.....	22
4.9.2 Proposed Action.....	22
Part 5 Consultation	22
Part 6 References Cited	24
Appendix A Quit Claim Deed and Federal Property Proposed for Transfer- 1	
-	
Appendix B Asbestos Survey	1
Appendix C Lead-based Paint Survey	1
Appendix D Phase I Environmental Site Assessment.....	1
Appendix E Biological Assessment and Service Concurrence.....	1
Appendix F Agreement Documents for Compliance with Section 106 of the	
National Historic Preservation Act	2

Draft Finding of No Significant Impact

Approved by:

Area Manager, Albuquerque, New Mexico

Date

Recommended by:

Manager, Environment/Land Division

Date

Background

In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), the Bureau of Reclamation, Albuquerque Area Office (Reclamation) has conducted an environmental assessment (EA) of a proposal to transfer the Karr Farm in Eddy County, New Mexico to the New Mexico Department of Game and Fish (NMDGF). Reclamation acquired the land to mitigate for adverse effects to wildlife from the construction and operation of Brantley Dam and Reservoir. Reclamation is the lead Federal agency for the purposes of compliance with the NEPA for this proposed action. The cooperating agency for this NEPA analysis is the NMDGF.

Alternatives

The EA analyzed the no action alternative of keeping the land and continuing to contract with NMDGF to manage the land and resources for wildlife purposes and the proposed action alternative of transferring the Federal land and resources to NMDGF.

Related Documents

This EA is tiered off the Final Supplement to the Brantley Project Environmental Impact Statement (EIS). The action is also in conformance with the original W. S. Huey Waterfowl Management Plan and an updated 2011 Waterfowl Management Plan by the NMDGF.

Decision and Finding of No Significant Impact

Based upon the analysis of potential environmental impacts contained in the attached EA, the proposal would not significantly affect the quality of the human environment, individually or cumulatively with other actions in the area. No environmental effects meet the definition of significance in context or intensity as defined at 40 CFR 1508.27, as summarized below. Therefore, an environmental impact statement is not required.

Context

The proposal is to transfer 2,788.1 acres of land, groundwater rights and farm equipment from the United States to the NMDGF. The land is locally known as the Karr Farm and is located about five miles northeast of Artesia, New Mexico and about 20 miles north of Brantley Reservoir along the Pecos River. The land was originally acquired by Reclamation to mitigate for the loss of wildlife habitat

when Brantley Dam and Reservoir were built. The land has been managed by NMDGF for many years and most members of the public believe the land is part of the state's W.S. Huey Waterfowl Management Area.

Intensity

The following discussion is organized around the 10 significance criteria described in 40 CFR 1508.27. These criteria were incorporated into the resource analysis and issues considered in the EA.

1. Impacts may be both beneficial and adverse. The proposed action of transferring title from the Federal to the state government is an administrative action that would reduce Federal spending on the project, but would otherwise have no effects. After transfer, the state proposes to alter its management strategy by building moist-soil water control units, which would result in a release of particulate matter to the air from construction of moist-soil water control units. No other changes are predicted and none of the environmental effects discussed in detail in the EA are considered significant, nor do any of the effects exceed those described in the Final EIS, Brantley Project, New Mexico. Albuquerque (Reclamation 1972) and the Final Supplement to the Final EIS, Brantley Project, Eddy County, New Mexico (Reclamation 1982), from which this EA is tiered.

2. The degree to which the selected alternative will affect public health or safety or a minority or low-income population. The EA predicts no adverse effects to public health or safety from the transfer because there are no recognized environmental conditions (RECs) present, based on an environmental site assessment. Inventories for asbestos and lead-based paint were also conducted and while these regulated substances are present in an unoccupied house, the documentation is provided to the NMDGF and they would perform any necessary abatements and notifications should they proceed with demolition of the building. No minority or low income community would be disproportionately affected by the proposed action and the action is not subject to the requirements of Executive Order 12898.

3. Unique characteristics of the geographic area. The land proposed for transfer is located along the Pecos River in Eddy County, New Mexico. There are no park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas that would be affected by the transfer. The area is used as a waterfowl and wildlife management area and this use would continue in the future under either alternative.

4. The degree to which the effects on the quality of the human environment are likely to be highly controversial. Reclamation has discussed the proposal with representatives of other Federal agencies and state agencies and based on the responses received, the effects on the proposal on the quality of the human environment are not highly controversial.

5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks. There are no predicted effects on the human environment that are considered highly uncertain or that involve unique or unknown risks.

6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration. The action is not precedent setting; in fact, transfer of the wildlife mitigation land to the state agency responsible for managing wildlife resources is consistent with Reclamation's long-term policies.

7. Whether the action is related to other actions which are individually insignificant but cumulatively significant. Past, present, and reasonably foreseeable future actions were described and effects on resources were described in the EA. Significant cumulative effects are not predicted, as described in the EA.

8. The degree to which the action may adversely affect sites, districts, buildings, structures, and objects listed in or eligible for listing in the National Register of Historic Places. The State Historic Preservation Officer has entered into an agreement with Reclamation and NMDGF regarding this transfer, so there will be no adverse effects on historic properties, should such properties be located in the future.

9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973. A biological assessment was prepared in compliance with Section 7 of the Endangered Species Act and Reclamation's finding was "may affect, is not likely to adversely affect" and the U.S. Fish and Wildlife Service has concurred with Reclamation's finding.

10. Whether the action threatens a violation of Federal, state, local, or tribal law, regulation or policy imposed for the protection of the environment. The proposed transfer is in compliance with the Fish and Wildlife Coordination Act, and with other applicable Federal and state laws, policies, and programs.

Part 1 Introduction and Need for Action

1.1 Introduction

The Bureau of Reclamation, Albuquerque Area Office prepared this environmental assessment (EA) in compliance with the National Environmental Policy Act (NEPA) to disclose and analyze the environmental impacts of transferring the Karr Farm to the New Mexico Department of Game and Fish (NMDGF).

In the 1980s, the Karr Farm was purchased by Reclamation to mitigate for loss of wildlife habitat when it built the Brantley Project along the Pecos River in Eddy County, New Mexico. The history of the purchase of Karr Farm is that in 1972 Congress authorized Reclamation to construct, operate and maintain Brantley Dam and Reservoir for irrigation, flood control, fish and wildlife, and recreational purposes, and to eliminate hazards due to the failure of McMillan and Avalon dams (which were part of the Carlsbad Project; P.L. 92-514, Title II, Sect. 201). The conservation and development of the fish and wildlife resources and the enhancement of recreational opportunities in connection with the Brantley Project were in compliance with the Federal Water Project Recreation Act (79 Stat. 213).

The Karr Farm was a privately owned farm. Between 1984 and 1987, Reclamation acquired the 2,148.1 acre Karr Farm adjacent to the State of New Mexico's Artesia Waterfowl Management Area. In 1985, the Bureau of Land Management (BLM) acquired an additional 640 acres of land for wildlife purposes through an exchange with the State of New Mexico. Today, the 2,788.1 acres of federal land is collectively known as Karr Farm.

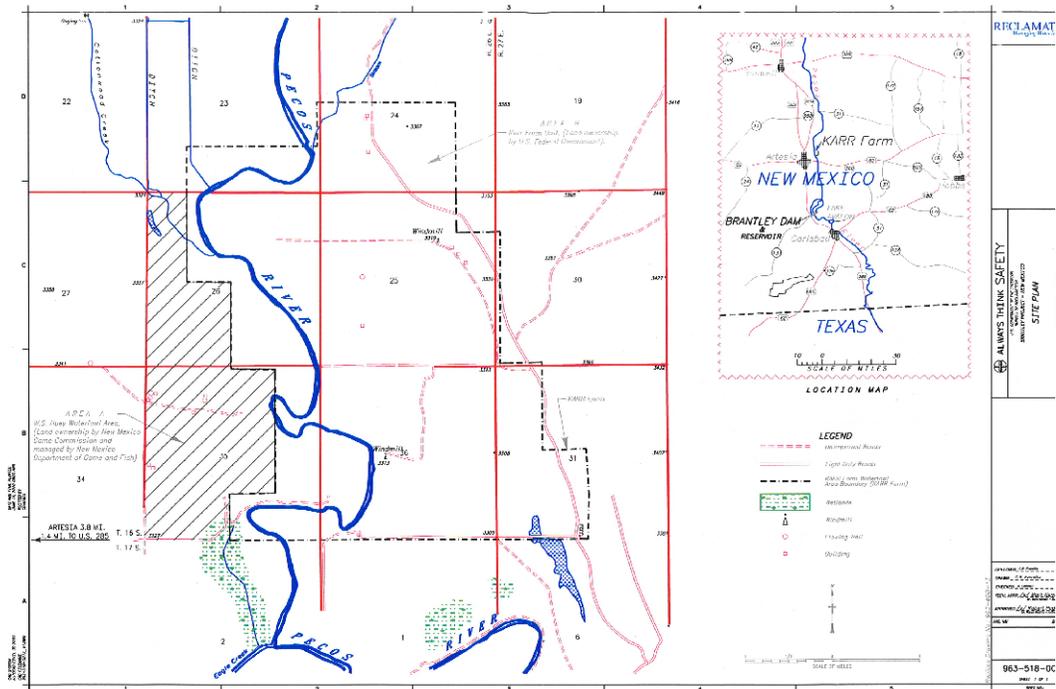


Figure 1. Location of Karr Farm, Eddy County, New Mexico.

In 1983, Reclamation and the NMDGF entered into an agreement that NMDGF would administer, develop, and operate the federal lands at Karr Farm specifically for waterfowl, along with another 28,000 acres around Brantley Reservoir for general wildlife conservation. Reclamation agreed to reimburse the NMDGF for expenses up to \$100,000 annually, subject to funding availability. The NMDGF agreed to operate and maintain the 28,000 acre general wildlife mitigation lands at their own expense, including building and maintaining a boundary fence.

In 1985, Reclamation amended the agreement with NMDGF and created a reserve fund for equipment replacement. In September 1986, Reclamation and the NMDGF developed a plan to jointly manage the Karr Farm land and Artesia Waterfowl Management Area as the W.S. Huey Waterfowl Management Area.

To enhance the waterfowl habitat at Karr Farm, Reclamation prepared 630 acres for crop production, built 166 surface acres of waterfowl resting ponds, and purchased 2,116 acre-feet of water rights, and installed pumps and two circular pivotal irrigations systems to irrigate the crops. With the water and irrigation systems, some 640 acres could be irrigated and crops were raised to attract waterfowl and migratory birds. These original capital expenditures exceeded \$3,900,000. Initial annual operation and maintenance (O&M) costs of Karr Farm were \$15,000, but by the 1980s, O&M costs at Karr Farm increased to over \$100,000 per year.

By the late 1980s, the soils farmed at Karr Farm became increasingly saline from the application of irrigation water and from leakage of the waterfowl ponds onto the land. Some 120 acres of the original 630 acres became unusable due to salinity. The NMDGF asked Reclamation to abandon farming at Karr Farm and relocate the farming effort to other lands. Reclamation agreed to move the farming operation to a more suitable site and eventually Reclamation bought the nearby Seven Rivers Farm for this purpose.

In 1989, under the authority of the Fish and Wildlife Coordination Act, Reclamation consulted with the U.S. Fish and Wildlife Service (Service) regarding the proposal to abandon farming crops for waterfowl on the Karr Farm and moving the operation to the Seven Rivers Farm. The Service opposed the move and asked Reclamation and the NMDGF to try different management and farming practices at Karr Farm. Several different approaches and experiments were conducted, but by November 1991, Reclamation, the NMDGF and the Service concluded that the portion of Karr Farm on the east side of the Pecos River should not be farmed due to the salinity problems, but these and the other mitigation lands should be managed for upland game.

In July 1994, Reclamation and the NMDGF entered into a new lease agreement for Seven Rivers and Karr Farms. Because the farming at Karr Farm had been discontinued, Reclamation transferred the surface water rights from Karr Farm to Brantley Reservoir to establish a pool of water to benefit fish, wildlife, and recreational resources. No groundwater was transferred from Karr Farm to the Seven Rivers Farm.

From 1994 through June 2010, under a 50:50 cost share arrangement, each agency provided \$100,000 to \$120,000 annually for managing the Karr Farm and Seven Rivers Farm. In 2010, with diminished budgets for both Reclamation and NMDGF, the agencies sought alternative, less expensive and more efficient means of managing the wildlife resources around Brantley Reservoir. A series of meetings and negotiations led to today's proposal to transfer the federal land at Karr Farm to the state.

1.2 Purpose and Need for Action

The underlying need for action by Reclamation and the NMDGF is to conserve and manage fish and wildlife resources along the Pecos River. In the 1980s, Reclamation met this need by acquiring the Karr Farm and other lands that could be used by wildlife and waterfowl to replace the surface acres inundated by Brantley Reservoir. Typically, when Reclamation acquires wildlife mitigation lands, it transfers them to either the Service or to the agency responsible for managing fish and game within the state. Such a transfer was not done when Karr Farm was acquired in the 1980s, but transferring the land today would allow the NMDGF greater flexibility in managing the state's wildlife and waterfowl. The

proposed transfer would allow them to obtain and use federal funding on the W.S. Huey Waterfowl Management Area and would streamline operations because they would not need to obtain Reclamation permissions and agreements.

Part 2 Description of Alternatives

Reclamation and the NMDGF formed an interdisciplinary team to explore alternatives to the current management of Karr Farm. The interdisciplinary team reviewed the history of the McMillan and Brantley Projects for alternatives. Over the years, various alternatives had been proposed to enhance wildlife along the Pecos River and to mitigate for the construction and operation of the Brantley Project. The team reviewed the possibility of transferring all 28,340 acres of Brantley Project wildlife mitigation lands and the Seven Rivers Farm to the NMDGF, but these lands are within the full pool of Brantley Reservoir and are needed for project purposes so they could not be transferred. Ultimately, the team came up with only two alternatives, the proposal and the No Action Alternative.

2.1 Proposed Action

Reclamation proposes to transfer the 2,788.1 acre wildlife mitigation area known as Karr Farm to the NMDGF, along with associated groundwater rights and other property appurtenant to the land. The 2,788.1 acres are federal fee-title acquired land. The groundwater rights would be transferred out of federal ownership and added to the state's W.S. Huey Waterfowl Management Area. In addition, two newly rehabilitated wells, paid by federal funding to supply water to the waterfowl resting ponds, would also be provided to NMDGF. Appendix A specifies federal property proposed for transfer to the NMDGF.

2.2 No Action

The No Action Alternative would continue existing management of the Karr Farm, except that federal funds to the NMDGF which have been transferred in the past would no longer be available to pay for O&M of the property. Under the No Action Alternative, no lands, water rights or other property would be transferred from the federal government to NMDGF.

2.3 Past, Present, and Reasonably Foreseeable Future Actions

This EA is tiered to the Brantley Project Final EIS and a supplement to the Final EIS (Reclamation 1972, 1982). Detailed descriptions of each resource are

incorporated by reference from these documents. This EA also incorporates data and analyses from more recent EAs prepared by Reclamation regarding the Brantley Project (Reclamation 2003, 2011).

Past management activities by NMDGF have contributed to the status of resources described in Chapters 3 and 4. In 2011, the NMDGF developed a conceptual management plan for the Karr Farm that would cumulatively affect the same resources in the affected environment as the proposed action and no action alternatives. The NMDGF's past activities and the proposed activities in the conceptual management plan have been or would become part of the incremental change in ecological conditions in the area and would continue to influence conditions in the area (NMDGF 2005, 2011).

A reasonably foreseeable future action is a new management plan prepared by the NMDGF. Under this plan, they intend to develop a combined 3,060 acre Waterfowl Management Area that encompasses both the Karr Farm property and the W.S. Huey Waterfowl Management Area. As part of this comprehensive plan, approximately 300 to 400 acres of moist-soil units would be developed and maintained.

The concept of moist-soil management units was developed in the 1940s. Today, as explained by Seek (2014), the practice manipulates water levels to encourage growth of seed-bearing plants or invertebrates. The practice requires infrastructure such as dikes, levees, water-control structures, wells and pumps, to regulate the timing and amount of water in management units. Well-managed moist-soil wetlands can produce thousands of pounds of seed per acre, which can meet the energy demands of ducks and other birds (Seek 2014).

The NMDGF's plan is to flood new moist soil units in the fall (October to November) and proceed in stages. Initially, one-third of each unit would be flooded to raise native seed-bearing plants. Once waterfowl deplete the food supply, an additional one-third of the units would be flooded. This would proceed until finally all the units would be flooded. The progressive flooding would concentrate feeding waterfowl that use the moist-soil foods. From February through April waterfowl would feed on invertebrates found in the units. Draining would begin in March, and by April, exposed mud flats would attract migrating shorebirds which also feed on the available invertebrates. These areas would be managed by periodic farming, mowing, disking, and water level manipulation.

The NMDGF plans to implement a moist-soil management at the combined Karr Farm/W.S. Huey Waterfowl Management Area and produce seeds that are high energy food for migrating waterfowl.

The NMDGF's plan would also control noxious weeds to maintain upland, irrigated farmland and aquatic habitats for birds. Infrastructure, such as roads,

signs, parking areas, and trails for wildlife-associated recreation (i.e., hiking, birding, and wildlife photography) will also be maintained or further developed.

In addition, the NMDGF plans to develop, operate, and maintain at least 250 acres of irrigated farm habitat on the W.S. Huey Waterfowl Management Area by constructing an irrigation pivot system. The feed produced through this system, plus the moist soil units should help to reduce waterfowl use in other nearby private agricultural fields.

Part 3 Affected Environment

This chapter describes the affected environment and predicted environmental consequences of the Proposed Action and No Action Alternative. Resources of the physical environment are presented first, followed by biological, cultural, and socioeconomic resources.

3.1 Project Area, Location

The area proposed for transfer includes 2,788.1 acres of land owned by the United States. The area is located adjacent to the Pecos River in Eddy County, New Mexico (Fig. 1, 2). The acres are located within Township 16 South, Range 26 East, in portions of Sections 23, 24, 25, 26; and Township 16 South, Range 27 East, Section 31; and in Township 17 South, Range 26 East, Section 1; and Township 16 South, Range 27 East, Section 6. Figure 2 shows the areas proposed for transfer to NMDGF and the land management areas within their planning documents.

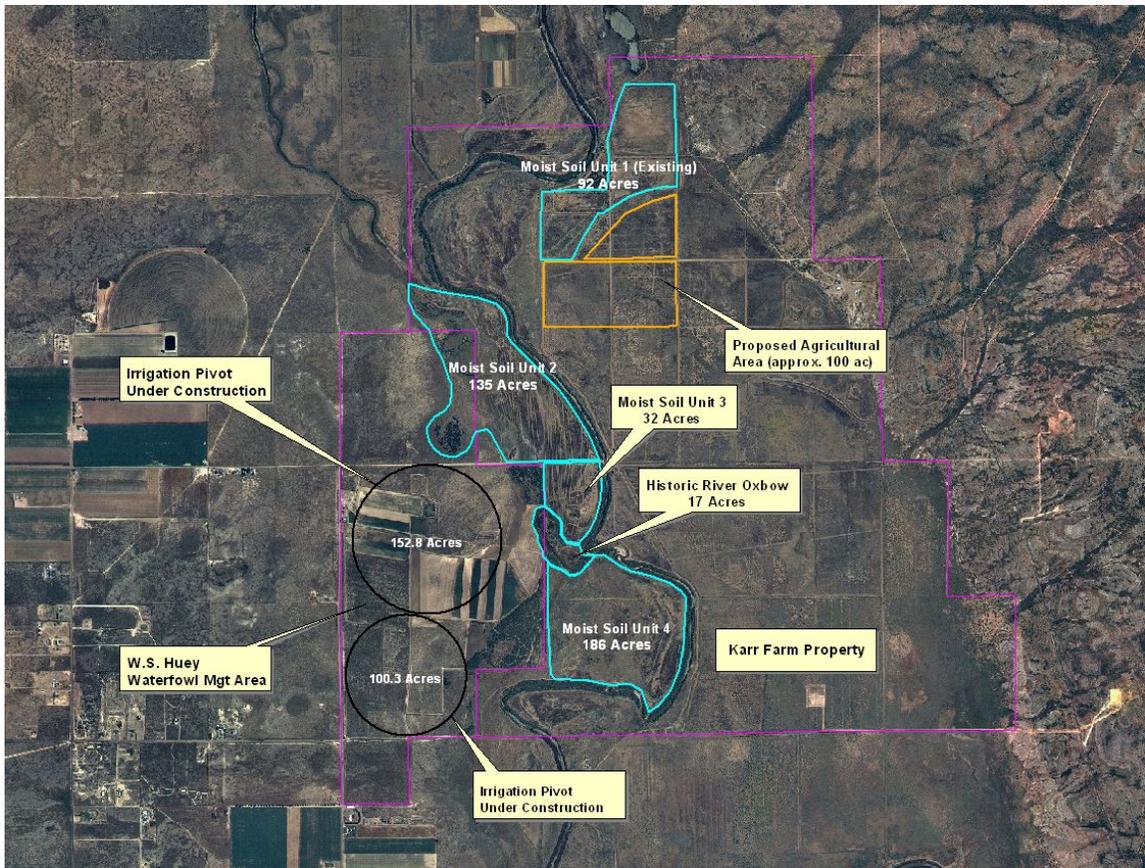


Figure 2. William S. Huey Waterfowl Management Area and Karr Farm within Eddy County, New Mexico showing current and proposed management actions.

3.2 Air Quality

The federal Clean Air Act, as amended in 1990, is the federal law that governs air quality. This law and regulations by the Environmental Protection Agency (EPA) set standards for the quantity of pollutants that can be in the air. These standards include the National Ambient Air Quality Standards (NAAQS) (40 Code of Federal Regulations [CFR] Part 50, 2006). The NAAQS established six criteria pollutants that have been linked to potential health concerns. These criteria pollutants are: carbon monoxide, nitrogen dioxide, ozone, particulate matter, lead, and sulfur dioxide. The New Mexico Air Quality Bureau monitors the NAAQS for the counties in New Mexico. Eddy County is in Air Quality Control Region (AQCR) 155, also known as the Pecos-Permian Basin AQCR. The air quality surrounding the area is “good” based on the NAAQS: AQCR 155 is an attainment area for all criteria air pollutants identified in the NAAQS.

The EPA established Prevention of Significant Deterioration (PSD) provisions for use in protecting air quality. The PSD provisions classify air sheds into three

classes, with the Pecos River classified as a Class II Air Quality Area. The area is in attainment status (i.e., it is below the significance thresholds for all the criteria pollutants and moderate increases in the criteria pollutants are allowed).

The primary causes of air pollution in the area are from motorized equipment and dust storms caused by strong winds in spring. Particulates from nearby oil and gas production, agricultural burning, recreational and industrial vehicular traffic and ambient dust can also affect air quality. Emissions from the oil and gas industry are a concern in the area because these can contribute to the formation of O₃, but as mentioned above, air quality in the area is relatively good. The proposed action is not located in any of the areas designated by the EPA as “non-attainment areas” for any listed pollutants regulated by the Clean Air Act.

The Clean Air Act also established the National Emission Standards for Hazardous Air Pollutants (NESHAP), which regulates asbestos, among other substances. The asbestos NESHAP is designed to protect the public and the environment by minimizing the release of asbestos fibers during renovation and demolition activities. Advanced notification is required to ensure all precautions are being taken to minimize asbestos emissions. The survey report for asbestos is attached as Appendix B.

3.3 Hazardous Wastes and Toxic Substances

Asbestos is also regulated under the Toxic Substances Control Act (TSCA). For NESHAP and TSCA compliance, an unoccupied house on the Karr Farm lands proposed for transfer was tested for the presence of asbestos and lead-based paint. Given the age of the house (1960s) and potential for these substances to be present, Reclamation contracted with the Lovington, NM office of Asbestos Consulting, Inc. to identify whether asbestos containing materials were present. The inspection for asbestos was in compliance with the NESHAP (40 CFR 61, Subpart M). The asbestos inventory report is located in Appendix B.

Reclamation also contracted for an inventory of lead-based paint at the unoccupied house at Karr Farm. The inspection and sampling for lead-based paint by Asbestos Consulting, Inc. is found in Appendix C. As indicated, it followed the procedures of the U.S. Housing Development Guidelines for the Evaluation and Control of Lead-Based Paint in Housing of 1997. Lead-based paint is present in the house at levels equal to or greater than the regulatory limit of 1.0 mg/cm² of lead.

Under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), specifically Section 120 of P.L. 99-499, before the United States enters into any contract for the sale of other transfer of real property, it must verify which hazardous substances were stored for one year or more, were known to have been released, or disposed of, and the head of the

agency is required to include in a contract for disposal a notice of the time at which such storage, release, or disposal of hazardous substances took place.

Reclamation searched its files and found no reference to hazardous substances on Karr Farm land. However, to meet this requirement, it contracted with Bio-West, Inc., an independent environmental professional, to prepare a Phase I environmental site assessment. The assessment was in conformance with the scope and limitations of the ASTM E 1527-05 standards and no recognized environmental conditions were present. The assessment is provided in Appendix D.

3.5 Water Resources, Including Floodplains

When Reclamation purchased the Karr Farm, it came with 1,289.4 acre-feet (AF) of surface water and 578.7 AF of groundwater rights. In 1995, Reclamation transferred 960 AF of surface water to the Brantley Reservoir recreational pool to provide waterfowl benefits and as part of the wildlife mitigation for the Brantley Project. The current quantity of water appurtenant to Karr Farms and the proposed conveyance of water to NMDGF are shown in Table 1.

Table 1 Karr Farm surface and groundwater rights.

Reclamation's Karr Farm Water Right 0939 & RA-1078-Combined	Surface Right		Groundwater Right		Both Sources Limit	
	FDR1	CIR1	FDR	CIR	FDR	CIR
Quantity in Acre-Feet per Year (AFY)	329.4	230.58	578.7	405.09	687.9	481.53
Quantity to be conveyed to NMDGF	0	0	578.7	405.09		
Quantity to be retained by Reclamation*	102.9	76.44	0	0		
1 FDR – Farm Delivery Requirement and CIR – Consumptive Irrigation Requirement. * The combined quantity of the two water sources, surface and ground, authorized for use at Karr Farm is less than the sum total of the two sources. When Reclamation conveys the water right to NMDGF, the quantity of each source will need to be fixed. Because Reclamation intends to transfer the full quantity of groundwater to NMDGF, the quantity of surface water it retains will be the combined quantity less the full quantity of groundwater.						

Karr Farm is located in the floodplain of the Pecos River. Executive Order 11988 directs federal agencies to refrain from conducting actions in floodplains unless it is the only practicable alternative. There is nothing about the proposed transfer or the future management plans of NMDGF that would affect the floodplain or require compliance with the executive order.

3.6 Vegetation, Including Weeds

The Karr Farm and W.S. Huey Waterfowl Area are located in tamarix-shrubland. The two issues of concern related to vegetation are 1) the proposal by the NMDGF to implement moist soil management and grow seed-bearing native plants to support waterfowl, as described in their conceptual plan (NMDGF 2011); and 2) the concern that the proposed transfer could promote or inhibit the spread of invasive species, particularly noxious weeds.

Under the Federal Noxious Weed Act of 1974, noxious weeds are defined as plants that are:

“of foreign origin, are new to or not widely prevalent in the United States, and can directly or indirectly injure crops, other useful plants, livestock, or poultry or other interests of agriculture, including irrigation, or navigation, or the fish or wildlife resources of the United States or the public health.”

Noxious weeds typically have the capability to successfully reproduce and spread over long distances and in compliance with this Act and Executive Order 13112, agencies are required to try and combat the introduction or spread of invasive species and noxious weeds.

For Eddy County, the Bureau of Land Management (BLM) has mapped noxious weed occurrences and identified patches of Malta star thistle (*Centaurea mlitensis*) and African rue (*Peganum harmala*). Based on the BLM’s county-level mapping and identification of these two noxious weeds, the NMDGF surveyed the land proposed for transfer, but none of these weeds were found. This is likely the result of weed eradication efforts by NMDGF and the lack of suitable precipitation during the survey year.

3.7 Wildlife

The Karr Farm was acquired for its wildlife values, specifically because it could be farmed and the crops raised could sustain migratory birds and waterfowl displaced by the construction of the Brantley Project. Table 2 lists birds that have been observed in the Brantley Project area.

Table 2. Wildlife in Area.

<u>Common Name</u>	<u>Scientific Name</u>
American coot	<i>Fulica americana</i>
American avocet	<i>Recurvirostra americana</i>
American white pelican	<i>Pelecanus erythrorhynchos</i>
bank swallow	<i>Riparia riparia</i>
barn swallow	<i>Hirundo rustica</i>
belted kingfisher	<i>Ceryle alcyon</i>

black-necked stilt	<i>Himantopus mexicanus</i>
brown pelican	<i>Pelecanus occidentalis carolinensis</i>
burrowing owl	<i>Athene cunicularia</i>
canyon wren	<i>Catherpes mexicanus</i>
cliff swallow	<i>Hirundo pyrrhonota</i>
common loon	<i>Gavia immer</i>
common nighthawk	<i>Chordeiles minor</i>
double-crested cormorant	<i>Phalacrocorax auritus</i>
eared grebe	<i>Podiceps nigricollis</i>
greater roadrunner	<i>Geococcyx californianus</i>
great blue heron	<i>Ardea herodias</i>
great-horned owl	<i>Bubo virginianus</i>
green heron	<i>Butorides virescens</i>
herring gull	<i>Larus argentatus</i>
house sparrow	<i>Passer domesticus</i>
interior least tern	<i>Sterna antillarumb</i>
killdeer	<i>Charadrius vociferus</i>
mallard	<i>Anas platyrhynchos</i>
mourning dove	<i>Zenaida macroura</i>
northern harrier	<i>Circus cyaneus</i>
northern shoveler	<i>Anas clypeata</i>
red-winged blackbird	<i>Agelaius phoeniceus</i>
ring-necked pheasant	<i>Phasianus colchicus</i>
scaled quail	<i>Callipepla squamata</i>
snowy egret	<i>Egretta thula</i>
turkey vulture	<i>Cathartes aura</i>
western kingbird	<i>Tyrannus verticalis</i>
western meadowlark	<i>Sturnella neglecta</i>
white-winged dove	<i>Zenaida asiatica</i>
Wilson's phalarope	<i>Phalaropus tricolor</i>

3.7.1 Birds

Throughout the Pecos River Valley, marsh, riparian grassland, and tamarisk-shrubland vegetation communities that are larger than 1.0 acre (0.4 hectare) in size and are within 100 feet (30 m) of the Pecos River and reservoir shores are particularly attractive to birds. A total of 179 bird species were documented in the Brantley Project area (Reclamation 1972), and Table 2 lists some of the more commonly observed birds.

Common waterfowl and shorebird species include mallard (*Anas platyrhynchos*), gadwall (*Anas strepera*), northern pintail (*Anas acuta*), teal, (*Anas spp.*), redhead (*Aythya americana*), lesser scaup (*Aythya affinis*), Canada goose (*Branta canadensis*), sandhill crane (*Grus canadensis*), killdeer (*Charadrius vociferus*), American avocet (*Recurvirostra americana*), and black-necked stilt (*Himantopus mexicanus*) (Reclamation 1972).

In early 2011, two artesian wells were rehabbed by Reclamation at Karr Farms to create a 52 acre moist-soil unit. The moist-soil unit provides roosting and loafing habitat for waterfowl and shorebirds and is filled to a depth of 12 to 18 inches during the winter months. During the 2011 winter, over 6,000 sandhill cranes and several hundred ducks utilized the area. During winter 2012, through mid-March, 2013, there were 11,700 sandhill cranes, approximately 4,500 ducks, and seven tundra swans using the area.

3.7.2 Mammals

Twenty-six mammal species have been documented in the Brantley Project area (Reclamation 1972). An additional 40 species occur in the Pecos River Valley and may be present within the area. Common mammals include deer mouse (*Peromyscus maniculatus*), blacktail jackrabbit (*Lepus californicus*), desert cottontail (*Sylvilagus auduboni*), white-footed mouse (*Peromyscus leucopus*), coyote (*Canis latrans*), striped skunk (*Mephitis mephitis*), and raccoon (*Procyon lotor*).

The NMDGF has been working to maintain or enhance upland habitats for ring-necked pheasants (*Phasianus colchicus*), quail (*Callipepla* spp.), wild turkey (*Meleagris gallopavo*), mule deer (*Odocoileus hemionus*), and other terrestrial species.

3.8 Threatened and Endangered Species

The primary federal law protecting threatened and endangered species is the Endangered Species Act (ESA; 16 USC 1531 *et seq.*, see also 50 CFR Part 402). The ESA provides for the conservation of listed species and their habitat. Under Section 7 of this act, federal agencies such as Reclamation are required to consult with the Service to ensure their actions would not jeopardize the continued existence of listed species or adversely impact designated critical habitat.

There are two ESA-listed species in Eddy County: the threatened Pecos bluntnose shiner (*Notropis simus pecosensis*) and the endangered Interior Least Tern (*Sterna antillarum athalassos*). Neither of these species have critical habitat in the action area for the land and water transfer. There are no Pecos bluntnose shiners in the Karr Farm area, but Least Tern could potentially use the area.

Reclamation prepared a biological assessment of the potential effects of the proposal on these species. The assessment is found in Appendix E. The Service concurred with Reclamation's finding of "may affect, not likely to adversely affect" the two species.

3.9 Cultural Resources

When the Brantley Project was authorized by Congress, Reclamation inventoried the area for historic properties, which are the subset of cultural resources eligible to the National Register of Historic Places. The inventory did not find any historic properties in the Karr Farm area. Reclamation consulted with the New Mexico State Historic Preservation Officer regarding the proposed transfer, and an agreement document has been signed among the parties (see Appendix F).

Both the National Historic Preservation Act and Executive Order 13007 require consultation and coordination with Indian tribes that might know of historic properties or sacred sites that might be affected by a proposed undertaking, such as the proposed land transfer. No tribes have identified such properties or sites within the Brantley Project area in general or the Karr Farm land in particular.

3.10 Environmental Justice

All projects involving a federal action must comply with Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*. This Executive Order directs federal agencies to take the appropriate and necessary steps to identify and address disproportionately high and adverse effects of federal projects on the health or environment of minority and low-income populations to the greatest extent practicable and permitted by law.

Of the 53,693 people living in Eddy County in 2012, the majority (86.6 percent) self-reported their race as white (Census 2012). While the waterfowl area does not keep visitor statistics, there is no evidence that minority or low income persons disproportionately use the area.

3.11 Land Use

For Eddy County as a whole, 58 percent of the land (1,571,209 acres) is owned by the federal government and 18.7 percent (502,683 acres) are acres owned by the state. As described in the Background section, the land proposed for transfer was originally a privately-owned farm. It was purchased by the federal government and continued to be farmed through the 1980s, although the crops were grown to feed and shelter migratory birds, rather than crops for human use. Farming was discontinued due to increasing salinity. Today, the lands are managed by NMDGF under contract with Reclamation for general wildlife purposes. These uses would not change under the proposed action.

Part 4 Environmental Consequences

4.1 Air Quality

4.1.1 No Action

There is no longer farming at Karr Farm which results in an increase in particulate matter; however, the state-owned land at the W.S. Huey Waterfowl Area is farmed and the heavy-duty trucks and farm equipment powered by gasoline and diesel engines would generate carbon monoxide (CO), nitrogen oxides (NO_x), volatile organic compounds (VOCs), and particulate matter (PM₁₀ and PM_{2.5}).

However, the area is in attainment status for air quality parameters. In terms of cumulative effects, at Seven Rivers Farm, up until 2009, approximately 240 acres were farmed which resulted in the generation of dust particles, although neither this farming effort, nor those in the county, resulted in poor air quality of the exceedence of any Clean Air Act standard. In 2010, farming decreased to about 40 acres and with this decrease, emissions decreased. Therefore, under No Action, the release of particles and other potentially regulated substances decreased and was curtailed in 2011.

4.1.2 Proposed Action

The primary pollutants of concern are fugitive dust from the construction of moist soil management units. These fugitive dust emissions would result in short-term impacts, only during construction, but because the air is in attainment status for particulate matter, this would not create an adverse effect or lead to a change in air quality.

The other air pollutants of concern are asbestos fibers should the NMDGF decide to demolish the house on the property. The inventory report is attached (Appendix B), and they would have to notify the New Mexico Department of Air Quality and obtain the requisite permits prior to any demolition. There are no other air quality issues.

4.2 Hazardous Wastes and Toxic Substances

4.2.1 No Action

Under No Action, the unoccupied house at Karr Farm contains asbestos and lead-based paint. The asbestos containing materials and lead-based paint should be managed in place and aside from placing signs on the house indicating the presence of these substances; no further action would be taken under No Action.

4.2.2 Proposed Action

Under the proposal, neither Reclamation nor NMDGF are planning to demolish the house with the asbestos-containing material and lead-based paint; however, should the transfer proceed and the state decide to demolish the house at some time in the future, the demolition, transport and disposal of these TSCA-regulated materials would have to meet state requirements.

Reclamation, as the land owner, and the NMDGF as the operator, completed environmental due diligence by having a Phase I Environmental Site Assessment prepared. There were no recognized environmental conditions (REC); however, it was recommended that soils affected by a past release of diesel from an above ground storage tank (AST) and oil storage/usage be removed and properly disposed of in accordance with state and local regulations. A recommendation is that if an AST is used in the future, secondary containment should be put in place to contain future releases, even if the total capacity is below the regulatory threshold.

The Phase I Environmental Site Assessment indicated that two debris piles were present near the barn area at Karr Farm consisting of tires, scrap metal, animal bones, old farm equipment, wood and concrete debris. Some of this material was illegally dumped and will be removed by the NMDGF. Under either alternative, this solid waste will be temporarily placed in piles near the barn before being taken to the Eddy County Transfer Station.

4.3 Water Resources

4.3.1 No Action

Under either alternative, there would be no encroachment on a floodplain or increase in the base floodplain elevation, so Executive Order 11988 does not apply. Neither alternative would result in a discharge of a pollutant into waters of the United States, and no compliance is needed with Section 404 (or other section) of the Clean Water Act. Under the No Action Alternative, Karr Farm water rights (both surface and groundwater) would not change from those presented in Table 1.

4.3.2 Proposed Action

Reclamation proposes to convey to NMDGF 578.7 AF of groundwater rights to maintain the wildlife values on the transferred land. Surface water rights are not proposed for transfer. If there is excess water not needed by the NMDGF, Reclamation would work cooperatively with the NMDGF to use the excess rights for the benefit of the Pecos bluntnose shiner and other fish species.

The water for Moist Soil Units 2, 3, and 4 would come from the allotted water tied to the land. The NMDGF plans to work with the Office of the State Engineer to reallocate what water is available to new areas to benefit wildlife. Some infrastructure, including dirt work, would be needed for additional piping, berms,

check structures etc. The actual infrastructure needed would be determined when an engineering design is developed for the moist soil units shown in Figure 2. The NMDGF would consider both water conservation and meeting moist soil unit objectives during their future design process.

4.4 Vegetation, Including Weeds

4.4.1 No Action

Under No Action, there would be no change in the vegetation community dominant on Karr Farm lands, nor would there be a predicted change in the lands currently farmed by NMDGF to raise crops for waterfowl. No changes in noxious weeds or invasive plants growing in the area are predicted unless federal or state funding were diminished to such an extent that noxious weeds or invasive plants infested the area and could not be controlled.

4.4.2 Proposed Action

The proposed action includes the state implementing a new moist-soil management plan. This would result in changes to vegetation in particular areas across Karr Farm and the W.S. Huey Waterfowl Management Area. One of the goals of moist-soil management is to increase the diversity of vegetation associations to help meet the requirements of ducks and other waterfowl. Native plants are favored by the moist-soil management, with an increase in seed-bearing plants such as cattail, bulrush, spikerush, and various sedges.

4.5 Wildlife

4.4.1 No Action

Under No Action, there are no predicted changes to wildlife, including waterfowl that use the area.

4.4.2 Proposed Action

The goal of the land transfer and the state's proposal to change to moist-soil management is to enhance habitat for ducks and other waterfowl. While these species are present in the area under No Action, the goal is to increase the "duck-use days" by increasing or altering the amount or quality of forage available to waterfowl by varying the microhabitats or vegetation associations, so there could be an increase in or stabilization of the number of ducks or other waterfowl using a given acre of land over time. One of the issues with raising corn or rice to support waterfowl, as done historically at Karr Farm and as continues presently in the waterfowl management area, is that such areas can sustain high numbers of ducks and other waterfowl while the crops are present, but the ability of farmed land to sustain birds and animals drops tremendously, below that of the average moist-soil unit once the crops are consumed by the birds (Nelms et al. 2007). Thus, one predicted change in wildlife would be more sustainable populations of ducks and other waterfowl over a longer time span than under No Action.

4.6 Threatened and Endangered Species

4.6.1 No Action

As described in Part 3 the threatened Pecos bluntnose shiner (*Notropis simus pecosensis*) and the endangered Interior Least Tern (*Sterna antillarum athalassos*) are present in the action area. Neither of these species have critical habitat in the action area for the land and water transfer.

4.6.2 Proposed Action

As shown in the attached biological assessment (Appendix E), Reclamation's finding was that the action "may affect, is not likely to adversely affect" the Pecos bluntnose shiner (*Notropis simus pecosensis*) and the endangered Interior Least Tern (*Sterna antillarum athalassos*). The Service has concurred with this finding.

4.7 Cultural Resources

4.7.1 No Action

No cultural resources are known for the Karr Farm; however, should historic properties be identified in the future, Reclamation would manage them under its responsibilities under Section 110 of the National Historic Preservation Act or following Executive Order 13007 if an Indian tribe identified a sacred site.

4.7.2 Proposed Action

Transfer of lands out of federal control is an adverse effect, should an historic property be present. Given that no historic properties are known within the lands proposed for transfer, there would be no historic properties affected. However, Reclamation consulted with the State Historic Preservation Officer and along with NMDGF entered into a memorandum of agreement for managing possible future effects (Appendix F).

Based on prior planning efforts, Reclamation has not identified an Indian tribe with sacred sites in the area.

4.8 Environmental Justice

No environmental justice communities (minority or low-income populations) have been identified that would be affected, adversely or disproportionately, by the proposed project. Therefore, this project is not subject to the provisions of Executive Order 12898.

4.9 Land Use

4.9.1 No Action

The land would continue to be owned by Reclamation, but under No Action, there would be a question about continued management by NMDGF. As described in the Background and History section, the agreement between Reclamation and NMDGF was for even cost share. In the last few years, the NMDGF has been unable to fund its share of current management costs and Reclamation's budget has been decreasing. Both agencies anticipate funding reductions, which could lead to less intensive land management. Under No Action, it is possible that NMDGF would turn the management of the land back to Reclamation.

4.9.2 Proposed Action

Under the proposal, 2,788.1 acres of land and appurtenant resources would be transferred to the NMDGF. The NMDGF would then be eligible for certain federal grants (from the Service) and this funding, coupled with the state's own budget, should be sufficient for the transition into moist-soil management techniques for food production for waterfowl. This change would require some initial work by NMDGF developing water control infrastructure (dikes, levees, etc.) to regulate the timing and amount of water in the managed units, but the overall purpose of managing the land for the conservation of wildlife would continue under either alternative.

Part 5 Consultation

The NMDGF served as a cooperating agency in this environmental review due to their jurisdiction over the wildlife resources of the state and the proposal to transfer federal lands to them.

The public will be notified of the proposed action by posting the EA and draft finding of no significant effect on the web at: <http://www.usbr.gov/uc/envdocs/index.html>. No decision will be made until 15 days after the public has had the opportunity to review and comment on the EA and draft finding of no significant impact.

The following table lists the agencies and organizations that were consulted during the preparation of this EA.

Table 3. List of Persons, Agencies, and Organizations Consulted.

Title, Name	Purpose & Authorities for Consultation and Coordination	Findings & Conclusions
Advisory Council on Historic Preservation	Consultation on adverse effect as required by the National Historic Preservation Act (16 USC 470)	They chose not to consult directly. See attached letter in Appendix F.
New Mexico State Historic Preservation Office (SHPO)	Consultation on undertaking as required by the National Historic Preservation Act (16 USC 470)	SHPO concurred with finding of “no historic properties affected,” MOA signed (Appendix F)
U.S. Fish & Wildlife Service (Service)	Consultation under Section 7 of the Endangered Species Act (16 US 1531)	The Service has informally concurred with Reclamation’s determination that the proposal “may affect, is not likely to adversely affect listed species”. The BA is attached. Before taking any action Reclamation will have the Service’s concurrence in writing. (Appendix E)
Asbestos Consulting, Inc.	Investigation under the Clean Air Act, NESHAP, asbestos and for lead-based paint under the Occupational Safety and Health and Housing and Urban Development requirements	Asbestos containing materials are present in the house; textured drywall is considered friable ACM (3500 ft. sq.). Lead-based paint is present at levels above the regulatory threshold. (Appendix B, C)
Zia Engineering & Environmental Consultants	Environmental Site Assessment to identify recognized environmental conditions (REC)	No RECs present. (Appendix D)

Part 6 References Cited

Asbestos Consulting, Inc. 2011. Asbestos and Lead-based Paint Inventories. (See Appendices B and C.)

Helms, Kevin D., and Brian Ballinger, and Alyene Boyles, 2007. Wetland Management for Waterfowl Handbook. Mississippi River Trust, Natural Resources Conservation Service, and the U.S. Fish and Wildlife Service. Accessed on line at: www.mdwfp.com/media/8838/wetlandmgtforwaterfowl.pdf.

NMDGF, 2011. Karr Farm Waterfowl Management Conceptual Management Plan. Unpublished plan, Available on file, Albuquerque Area Office.

NMDGF, 2005. Lower Pecos River Waterfowl and Wildlife Areas Management Plan for the Brantley Project Mitigation Lands, 2005-2010. Albuquerque.

Seek, George, 2014. A Primer on Moist-Soil Management. Ducks Unlimited. Accessed on line at: <http://www.ducks.org/conservation/habitat/a-primer-on-moistsoil-management>.

U.S. Department of Commerce, Bureau of the Census, 2013. American Community Survey Office, Washington D.C.

U.S. Department of the Interior, Bureau of Reclamation. 1972. Final Environmental Statement, Brantley Project, New Mexico. Albuquerque. FES 72-30.

----- . 1982. Final Supplement to the Final Environmental Statement, Brantley Project, Eddy County, New Mexico. Albuquerque. FES 82-46.

----- . 2003. Brantley and Avalon Reservoirs Resource Management Plan Final Environmental Assessment and Finding of No Significant Impact. Albuquerque.

**Appendix A Quit Claim Deed and
Federal Property Proposed for Transfer**

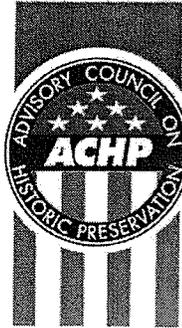
Appendix B Asbestos Survey

Appendix C Lead-based Paint Survey

Appendix D Phase I Environmental Site Assessment

Appendix E Biological Assessment and Service Concurrence

Appendix F Agreement Documents for Compliance with Section 106 of the National Historic Preservation Act



Preserving America's Heritage

August 1, 2011

Mr. Mike A. Hamman
Area Manager
Bureau of Reclamation
Albuquerque Area Office
555 Broadway Boulevard NE, Suite 100
Albuquerque, NM 87102-2352

***Ref: Proposed Land Transfer Project at Karr Farm (Carlsbad Project)
Eddy County, New Mexico***

Dear Mr. Hamman:

On July 29, 2011, the Advisory Council on Historic Preservation (ACHP) received your notification and supporting documentation regarding the adverse effects of the referenced project on properties listed on and eligible for listing in National Register of Historic Places. Based upon the information you provided, we have concluded that Appendix A, *Criteria for Council Involvement in Reviewing Individual Section 106 Cases*, of our regulations, "Protection of Historic Properties" (36 CFR Part 800), does not apply to this undertaking. Accordingly, we do not believe that our participation in the consultation to resolve adverse effects is needed. However, if we receive a request for participation from the State Historic Preservation Officer (SHPO), Tribal Historic Preservation Officer, affected Indian tribe, a consulting party, or other party, we may reconsider this decision. Additionally, should circumstances change, and you determine that our participation is needed to conclude the consultation process, please notify us.

Pursuant to 36 CFR §800.6(b)(1)(iv), you will need to file the final Memorandum of Agreement (MOA), developed in consultation with the New Mexico SHPO and any other consulting parties, and related documentation with the ACHP at the conclusion of the consultation process. The filing of the MOA and supporting documentation with the ACHP is required in order to complete the requirements of Section 106 of the National Historic Preservation Act.

Thank you for providing us with the opportunity to review this undertaking. If you have any questions, please contact Tom McCulloch at 202-606-8554, or via email at tmcculloch@achp.gov.

Sincerely,

Raymond V. Wallace
Historic Preservation Technician
Office of Federal Agency Programs

MEMORANDUM OF AGREEMENT
AMONG THE
BUREAU OF RECLAMATION
NEW MEXICO DEPARTMENT OF GAME AND FISH
AND THE
NEW MEXICO STATE HISTORIC PRESERVATION OFFICER
REGARDING
THE KARR FARM LAND TRANSFER IN EDDY COUNTY, NEW MEXICO

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HISTORIC PRESERVATION DIVISION

WHEREAS, the U.S. Department of the Interior, Bureau of Reclamation (Reclamation) proposes to transfer surface ownership and water rights out of federal ownership, and the transfer is a federal undertaking subject to consultation under Section 106 of the National Historic Preservation Act, U.S.C. 470(f), and its implementing regulations issued by the Advisory Council on Historic Preservation (ACHP) codified at 36 CFR Part 800; and

WHEREAS, Reclamation proposes to transfer the 2,240 acre Karr Farm property located near Artesia, Eddy County, New Mexico, directly to the New Mexico (State) Game Commission (SGC) via a quitclaim deed; and the SGC is authorized to acquire new lands pursuant to Section 17-4-1, N.M. Statutes Annotated (NMSA) 1978; and

WHEREAS, the SGC has the responsibility to enhance the game and fish of the State of New Mexico under Chapter 17 and to manage its land and water holdings through the New Mexico Department of Game and Fish (NMDGF) pursuant to Sections 17-1-1 and 17-1-2 (NMSA 1978); and

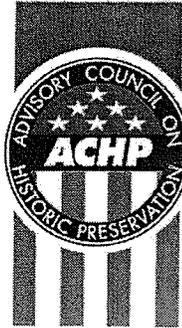
WHEREAS, Reclamation has determined, in consultation with the New Mexico State Historic Preservation Officer (SHPO), that the undertaking may have an adverse effect on properties that are or may be eligible for inclusion in the National Register of Historic Places (historic properties); and

WHEREAS, Reclamation has notified, through letter, the ACHP of its effect determination in accordance with 36 C.F.R. § 800.6(a)(1), and the ACHP has chosen not to participate in the Agreement pursuant to 36 CFR § 800.6(a)(1)(iii); and

WHEREAS, Reclamation has consulted with NMDGF regarding the effects of the undertaking on historic properties and has invited them to be a signatory to this Agreement; and

WHEREAS, Reclamation has consulted with the Ysleta Del Sur Pueblo, Comanche Indian Tribe, Kiowa Tribe of Oklahoma, and the Mescalero Apache Tribe (Indian Tribes) as to the effect of the undertaking on historic properties and has determined through consultation that none of the consulted Indian tribes has identified historic properties of cultural significance to them at the Karr Farms, and Reclamation has invited the Indian tribes to be concurring parties to the Agreement; and

WHEREAS, it is the policy of the State of New Mexico to consider the historical and cultural heritage of the State as one of the State's most valued and important assets and for state agencies and departments to consult with the SHPO to identify, preserve, protect and minimize harm to cultural properties under §§ 18-6-1 et seq. of the *Cultural Properties Act of 1969* (NMSA 1978); §§ 18-6A-1 et seq. of the *Cultural Properties Preservation Act of 1993* (NMSA 1978), §§ 18-8-1 et seq. of the *Prehistoric and Historic Sites Preservation Act of 1987*, as amended (NMSA 1978), and to consult with Indian nations, tribes and pueblos on matters of importance to them under Section 11-18-3 of the *State-Tribe Collaboration Act of 2009* (NMSA 1978); and



Preserving America's Heritage

August 1, 2011

Mr. Mike A. Hamman
Area Manager
Bureau of Reclamation
Albuquerque Area Office
555 Broadway Boulevard NE, Suite 100
Albuquerque, NM 87102-2352

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Pursuant to 36 CFR §800.6(b)(1)(iv), you will need to file the final Memorandum of Agreement (MOA), developed in consultation with the New Mexico SHPO and any other consulting parties, and related documentation with the ACHP at the conclusion of the consultation process. The filing of the MOA and supporting documentation with the ACHP is required in order to complete the requirements of Section 106 of the National Historic Preservation Act.

Thank you for providing us with the opportunity to review this undertaking. If you have any questions, please contact Tom McCulloch at 202-606-8554, or via email at tmcculloch@achp.gov.

Sincerely,

Raymond V. Wallace
Historic Preservation Technician
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