

Decision Record

City of Winnemucca Wastewater Treatment Project Environmental Assessment

DOI-BLM-NV-W010-2014-0031-EA

Introduction

The City of Winnemucca submitted a Recreation and Public Purpose (R&PP) application to the Bureau of Land Management for two sections of public land (approximately 1220 acres) to be used for the construction and operation of a new wastewater treatment facility. The existing facility, which is approximately 50 years old, is located about 500 feet from the Humboldt River within the 100 year flood-plain. The U.S. Environmental Protection Agency (EPA) through the Nevada Division of Environmental Protection (NDEP) has expressed concerns with the location and condition of the existing treatment facility in regards to potential groundwater contamination.

The project consists of the following:

- Wastewater treatment plant
- Rapid Infiltration Basins (RIB)
- Groundwater well
- An Influent Pumping Station (IPS)
- Influent pipeline
- Groundwater monitoring wells
- Irrigation pivots

The existing raw wastewater pipeline is the only existing facility component that will be incorporated into the new facility. Once the new facility is in operation, the existing facility, with the exception of the raw wastewater pipeline, would be decommissioned.

DECISION

On the basis of the information contained in the EA and the associated Finding of No Significant Impact (FONSI), it is my decision to select the Proposed Action alternative for implementation. Authorization of the action is separate from this decision and will be in the form of a patent. Any authorization of this action is subject to 43 CFR §2741.9 (Patent Provisions), “All Patents under the act shall provide that title shall revert upon a finding, after notice and opportunity for a hearing, that, without approval of the authorized officer: (1) The Patentee or its approved successor attempts to transfer title to or control over lands to another.” In short, these lands must be used for the intended purpose that it was conveyed to the City of Winnemucca. If at such a time they decide not to use a designated area for the intended purpose, the city would need to purchase a reverter clause at the fair market value for the land.

The environmental protection measures committed to by the City at EA Section 2.1.9 are integral to the selection of this alternative. Since the land will pass out of BLM stewardship, a concerted effort was taken by the BLM with the City to incorporate environmental measures (attached here for reference) into the design of the Proposed Action.

Rationale

The selection of the Proposed Action is based on factors including, but not limited to:

- The Authority for this action (Refer to sections below)
- The action conforms with the Land Use Plan (Refer to Sections below) and is consistent with other Federal agency, state, and local plans to the maximum extent consistent with Federal law and Federal Land Policy Management Act provisions.
- Consultation, coordination, and public involvement that has occurred. (refer to sections below).
- Based on the EA it is determined that this decision will not result in any unnecessary or undue environmental degradation of public lands and is consistent with other Federal agency, state, and local plans to the maximum extent consistent with Federal law and Federal Land Policy Management Act provisions.
- The selected alternative will not adversely impact any threatened or endangered species or significant scientific, cultural, or historical resources.
- The EA and FONSI support this decision.
- Based on the President's National Energy Policy and Executive Order 13212, the proposed action will not generate any adverse energy impacts or limit energy production and distribution. Therefore, no "Statement of Adverse Energy Impact" is required per WO IM No. 2002-053 and NV IM No. 2002-049.

Land Use Plan Conformance

The Proposed Action is in conformance with the *Winnemucca District Resource Management Plan (RMP) and Final Environmental Impact Statement, May 2015*, as amended by the *Record of Decision and Approved Resource Management Plan Amendments for the Great Basin Region Including the Greater Sage-Grouse Sub-Regions of Idaho and Southwestern Montana, Nevada and Northeastern California, Oregon, and Utah, September 21, 2015*.

The project is in conformance with the Winnemucca District RMP in Objective LR 2 and more specifically in Action LR 2.7.

Objective LR 2: Make available for disposal (through sale or exchange) those public lands where disposal provides for public benefit, public lands that have little or no resource value and that consolidates BLM land patterns to ensure effective

administration, improve resource management and promote community development. Access to other public lands will be reserved to the US, if appropriate.

Action LR 2.7: Those lands that are leased to local and state governmental entities or nonprofit agencies through the R&PP may be disposed of to that governmental or nonprofit entity without meeting all of the criteria set forth in the RMP if the disposal of the R&PP leased lands is in the interest of the public (e.g., if the land is a landfill, shooting range, or other hazmat site).

Native American Consultation

Government to government consultation was conducted with the Fort McDermitt Paiute and Shoshone Tribe on April 20, 2015. Project notification letters were mailed to the Winnemucca Indian Colony, the Battle Mountain Band, and the Lovelock Paiute Tribe on May 8, 2015. A notification letter was sent to the Reno-Sparks Indian Colony on June 8, 2015. These letters included a description of the project; several maps of the project area; and an invitation to ask questions, provide comments, and initiate official government-to-government consultation if desired. As of February 2016, no comments or requests to consult had been received.

The preliminary EA was sent to tribes in February 2016 with another invitation to consult with the BLM on the Proposed Action. To date no issues or concerns have been received from any of the tribes invited to consult on the Proposed Action. Based on the size and nature of this project, no further avenues for consultation are considered necessary.

Cooperating Agencies

Early coordination with the Nevada Department of Wildlife regarding the project indicated that there were no wildlife concerns, including impacts to Greater-sage grouse, requiring their dedicated attention, and therefore a cooperating agency level status was declined. Coordination and consultation with a number of agencies and government occurred throughout the process as identified in the Native American consultation and intergovernmental partners sections of this document.

Intergovernmental Partners

Under the Federal Land Policy and Management Act (FLPMA) of 1976, the BLM's coordination responsibilities include maximizing consistencies with the plans and policies of other government entities. Consultation or coordination occurred throughout the NEPA process with the following agencies:

- National Park Service (NPS), National Trails Intermountain Region - Jill Jensen
- State Historic Preservation Office (SHPO) - Rebecca Palmer, Jessica Axsom, ZoAnn Campana

- USDA, Rural Development - Carson City
- Nevada Department of Wildlife - Kenny Pirkle Humboldt County

Public Involvement

Scoping

A BLM interdisciplinary team performed internal scoping of the project in February 2015. On February 25, 2015, the BLM resource specialists met with City of Winnemucca representatives and the environmental consultant to discuss the proposed project and potential issues and alternatives. Refer to section 1.6 of the EA for details related to scoping.

Preliminary EA

On February 10, 2016, the BLM sent letters announcing the availability of the Preliminary EA to interested parties. In addition to the letter, BLM made the Preliminary EA available for a 30-day public comment period through the BLM ePlanning NEPA Register.

BLM received comments from the State Historic Preservation Office and the Nevada Division of Water Resources through the Nevada State Clearinghouse. Five comment letters were received from individuals, two of these after the comment period closed. Considering that there was still time available, all comment letters from individuals were addressed in finalizing the EA.

A summary of public comments received and how the substantive comments were addressed in finalizing the EA follows. Public comments were first grouped into categories as follows:

1. Water: quality, rights, and usage
2. Odor
3. Visual Resources
4. Property Values
5. Cultural Resources and the California National Historic Trail
6. Alternatives Considered

Water

The BLM has analyzed the development scenario proposed by the City of Winnemucca, should it receive approval of its application under the R&PP and does not anticipate groundwater quality impacts to nearby wells or the Humboldt River. Water quality has been addressed throughout the EA. Refer to Table 2.1-2 in the EA for NDEP effluent discharge requirements and also to Chapter 3 (Affected Environment) and Chapter 4 (Environmental Consequences) of the EA for potential impacts. No changes to the water quality sections of the EA were necessary. Water quality monitoring requirements will be specified by the NDEP in any permit(s) it issues for this project.

A public comment asked why the nearby operation to apply septage to nutrient deficient fields was not mentioned in the EA. Based on this comment, the BLM researched the site and found that it is operating under an NDEP permit, *Authorization to Apply Domestic Septage*, NEV2001519. The EA was reviewed to determine if this site had bearing on the project or potential cumulative impacts analyzed. As a result of the review, no change in the analysis or its conclusions was necessary.

Odor

Modern waste water treatment facilities are built in close proximity to residential areas as current technology abates odor issues. The rapid infiltration basins (RIBs) are earthen basins designed to promote rapid infiltration and dispersal of treated effluent into the subsurface. Because they are designed for rapid infiltration, RIBs only receive treated effluent that complies with the Nevada Ground Water Quality Protection requirements. RIBs are not the same as lagoons or ponds; water reaching the RIBs has already been treated, whereas a lagoon or pond is used to treat wastewater. The proposed facility will not utilize lagoons. Rather the waste water will be treated within the Modified Ludzack-Ettinger Bioreactor System, a closed system, in the Treatment Plant (Section 2.1.2 of the EA). Three similar facilities in close proximity to residential areas include; 1) the East Canyon WWTP in Park City, Utah; 2) the South Truckee Meadows Water Reclamation Facility in south Reno, NV; and 3) the Stead WWTP in north Reno, Nevada. The subject of odor is covered in Section 4.1.2 of the EA. In addition, to further describe what is expected in terms of odor, a sentence was added to Section 2.1.2 (proposed action description) under the Modified Ludzack-Ettinger Bioreactor System.

Visual Resources

Public comment was made concerning potential visual impact to nearby residences. Based on public comment a Contrast Rating Worksheet was completed for this project to ensure conclusions reached pertaining to visual resources were accurate. The Contrast Rating Worksheet recommended a change in paint color of the control structure from a gray with white stripe, to a desert tan. The City accepted this recommendation and modified its proposal to reflect this change. This should allow the structure to better blend into the area. The Contrast Rating Worksheet was added to the Figures chapter of this EA and the visual resources sections of the document were updated to include discussion of the Contrast Rating Worksheet. Although information from the Contrast Rating Worksheet did not change the conclusions reached in the EA, it did serve to further inform the analysis, and its recommendations led to a change in paint color proposed for the control structure.

Property Values

Project attributes that could influence property values include the production of odor and the intrusion on visual resources. These factors have been discussed in the analysis and in this section under the categories of Odor and Visual Resources. The current Humboldt County Master Plan identifies this area as mixed use which allows for a variety of developed uses. Any change in property values are expected to be minor and speculative in nature.

In order to ensure that the Jones Lane residential area would not be considered an EJ population on the basis of income, a specific comparison evaluation was conducted of the property values in the immediate and adjacent area and compared to property values in Humboldt County and the City of Winnemucca (Refer to Section 3.4.3 Property Values of Adjacent Properties in the EA). This evaluation concluded that the residential area of Jones Lane was not economically disadvantaged and does not fall under the EJ Executive Order. All EJ requirements for analysis were followed and it was concluded that there are no EJ populations affected by the proposal.

Cultural Resources and the California National Historic Trail

BLM received public comments from SHPO and a concerned resident regarding cultural resources and the CNHT. BLM consulted with SHPO on March 25, 2016, regarding the proposed land transfer as an above threshold undertaking. On May 2, 2016, SHPO concurred with BLM's determination that there would be no adverse effects to Historic Properties as a result of the proposed action.

Visual assessments of California National Historic Trail (CNHT) segments located within 1 mile of the project area were completed by BLM archaeologists in 2016. Observations were made at several Key Observation Points, including Trail Marker C-62A, and concluded that there would be no indirect effects to the trail as a result of the proposed project. In addition, BLM archeologists examined a segment of the CNHT route in the project area. Based on this examination, it was concluded that this portion of the project area was extremely disturbed and that no physical evidence of the trail exists. SHPO and NPS concurred with BLM's determination that there would be no adverse effects to the NRHP or National Trail Act values of the CNHT as a result of the project. Trails West and Oregon California Trails Association were also notified of the proposed project but did not respond with any concerns. Table 3.1 in the EA was modified to include information on the CNHT.

Alternatives Considered

A commenter questioned the rationale provided in the EA for not looking at a private land alternative in detail. Although the rationale had not changed, it was further clarified in Section 2.3.2 of the EA so that the reader may get a clearer understanding of the rationale. The thrust of the private land argument is that property values in the nearby Jones Lane residential area would drop as a result of the implementation of the project in the proposed location. As discussed under

Property Values, above, any change in property values would likely be small and speculative in nature.

Notice of Realty Action

A Notice of Realty Action (NORA) was published in the April 11, 2016 *Federal Register* and had a comment period of 45 days. The public was offered an opportunity to submit comments on the *NORA: Segregation and Classification for Conveyance for Recreation and Public Purposes Patent, in Humboldt County, NV*. One comment letter was received.

The letter contained two interconnecting comments concerning the amount of land to be conveyed for this project and whether or not land once conveyed could be sold by the City for a profit. Refer to the first paragraph of the Decision above for a regulatory response to this comment.

Authority

1. Recreation and Public Purposes Act: Requirements (43 CFR §2741)
2. Patent Provisions (43 CFR §2741.9);
3. Federal Land Policy and Management Act of 1976 (43 U.S.C. § 1701) as amended;

Appeal of the Decision

A person who wishes to appeal to the Interior Board of Land Appeals must do so under 43 CFR 4.411 and must file in the office of the officer who made the decision (not the board), in writing to David Kampwerth, Field Manager, Humboldt River Field Office, Winnemucca District, 5100 East Winnemucca Boulevard, Winnemucca, Nevada 89445. A person served with the decision being appealed must transmit the notice of appeal in time to be filed in the office where it is required to be filed within thirty (30) days after the date of service.

The notice of appeal must give the serial number or other identification of the case and may include a statement of reasons for the appeal, a statement of standing if required by § 4.412(b), and any arguments the appellant wishes to make. Attached Form 1842-1 provides additional information regarding filing an appeal.

No extension of time will be granted for filing a notice of appeal. If a notice of appeal is filed after the grace period provided in §4.401(a), the notice of appeal will not be considered and the case will be closed by the officer from whose decision the appeal is taken. If the appeal is filed during the grace period provided in §4.401(a) and the delay in filing is not waived, as provided in that section, the notice of appeal will not be considered and the appeal will be dismissed by the Board.

The appellant shall serve a copy of the notice of appeal and any statements of reason, written arguments, or briefs under §4.413 on each adverse party named in the decision from which the appeal is taken and on the Office of the Solicitor, Pacific Southwest Regional Solicitor, U.S. Department of the Interior, 2800 Cottage Way, Room E-2753, Sacramento, California 95825-1890.

Service must be accompanied by personally serving a copy to the party or by sending the document by registered or certified mail, return receipt requested, to the address of record in the bureau, no later than 15 days after filing the document.

In addition, within thirty (30) days of receipt of this decision you have the right to file a petition for a stay together with your appeal in accordance with the regulations at 43 CFR 4.21. The petition must be served upon the same parties specified above.

Pursuant to 43 CFR 4.47I(c), a petition for stay, if filed, must show sufficient justification based on the following standards:

- 1) The relative harm to the parties if the stay is granted or denied;
- 2) The likelihood of the appellant's success on the merits;
- 3) The likelihood of immediate and irreparable harm if the stay is not granted; and,
- 4) Whether the public interest favors granting the stay.

43 CFR 4.471 (d) provides that the appellant requesting a stay bears the burden of proof to demonstrate that a stay should be granted.

At the conclusion of any document that a party must serve, the party or its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 CFR 4.422(c)(2)).

/s/ David Kampwerth

6/15/16

David Kampwerth
Field Manager
Humboldt River Field Office

Date

Attachments:
Environmental Protection Measures
Appeal Form 1842-1

Environmental Protection Measures

City of Winnemucca Wastewater Treatment Project Environmental Assessment

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The City of Winnemucca has committed to and will implement the following environmental protection measures to reduce, or eliminate potential impacts of the project.

Environmental Protection Measures

Solid and Hazardous Wastes

- All construction, operation, and maintenance activities will comply with applicable federal, state, and local laws and regulations pertinent to the use of hazardous substances. The construction or maintenance crew foreman will be responsible for maintaining compliance with all applicable laws and regulations.
- The City of Winnemucca and its contractors will exercise standard procedures for refueling heavy equipment that is kept at the project for long periods of time during construction, such as blades, cats, drill rigs, etc. This equipment will be refueled in place at the project. No personal or light duty vehicles will be refueled at the project site.
- Totally enclosed containment would be provided for any trash stored on site. Spill kits will be stored onsite during construction and maintenance activities, and be made readily available to all personnel. Absorbent mats and pads will be immediately placed under any equipment observed to have a fluid leak to prevent possible ground contamination.
- In accordance with state regulations, any spills must be reported to NDEP if the material spilled exceeds the reportable quantity designated for that material. Per NAC 445A.347, the reportable quantity for petroleum products (e.g., gasoline, diesel, motor oil, hydraulic fluid, etc.) is 25 gallons or any quantity if petroleum spills on or in waterways. Notification will be provided to the NDEP within one working day of the spill event via their Spill Reporting Hotline at 888-331-6337.
- Portable sanitary facilities will be available and used by all personnel during construction activities. These facilities will be serviced by a local contractor, and human waste will be disposed of at an approved facility. Sanitary facilities will be removed at the site when construction is completed.
- All construction waste, including trash and litter, garbage or solid waste, biodegradable debris, petroleum products, and other materials will be removed

from the project site to an authorized disposal facility. No wastes or surplus construction materials will be left at the project site.

- No paint or permanent discoloring agents will be applied to rocks or vegetation to indicate limits of survey or construction activity.

Air Quality and Dust Control

- All requirements of those entities having jurisdiction over air quality matter will be adhered to and any permits needed for construction activities will be obtained. Open burning of construction trash and project wastes will not be permissible.
- Access to work areas will be by existing roads whenever possible to minimize temporary disturbance from grading. Overland travel will be used only as necessary to efficiently complete construction activities.
- Prudent speeds will be observed while operating vehicles and equipment on the project site to prevent excessive amounts of fugitive dust emissions.
- The City of Winnemucca will use dust abatement techniques, such as watering unpaved surfaces where vegetation cover is removed, as needed to reduce to fugitive dust emissions.
- The City of Winnemucca will restrict equipment and vehicle idling times to 15 minutes during construction activities.

Cultural Resources

- The City of Winnemucca will limit vehicle and equipment travel and construction activities to the project area. Prior to construction, project personnel will be instructed on the protection of cultural and archaeological resources.
- Any discovery of cultural resources, items of cultural patrimony, sacred objects, or funerary items will require that all activity in the vicinity of the find ceases, and the Field Manager of the BLM Humboldt River Field Office be notified immediately by phone, with written confirmation to follow. The location of the find will not be publicly disclosed, and any human remains must be secured and preserved in place until a Notice to Proceed is issued by the authorized officer.

Soils, Erosion, and Water Quality

- The City of Winnemucca and its contractors will use existing roads for construction access whenever possible to minimize soil disturbance. Disturbance to vegetation within the project area will be minimized to the extent feasible by performing as much construction as possible within existing roadways. Existing roads will be left in (or restored to) a condition equal to their pre-construction condition. Areas of existing vegetation that are temporarily disturbed during

construction will be reseeded using a BLM-approved, certified weed-free seed mix.

- Topsoil will be salvaged and reused whenever possible and in a timely manner in areas of temporary disturbance during reclamation.
- The City of Winnemucca and its contractors will use dust abatement techniques as needed to minimize wind erosion of soils.
- The City of Winnemucca and its contractors will adhere to best management practices described in the *Wastewater Treatment Facility Improvements Preliminary Storm Water Pollution Prevention Plan* (Stantec, 2015c).

Wildlife

- Trash and other waste products that may attract wildlife will be properly managed and collected in secured bins or containers while at the project site. All trash and other wastes will be removed from the project area and disposed of at an authorized facility.
- Project equipment and vehicles will be operated at prudent speeds to prevent potential collisions with wildlife crossing or standing within existing roadways or the project area. If wildlife is encountered while operating vehicles or equipment, operators will yield to the wildlife.
- Personnel will be strictly prohibited from carrying firearms on the project site to discourage illegal hunting and harassment of wildlife.
- Reclamation of the areas temporarily disturbed from construction activities will be completed in order to return these areas to the pre-construction condition, thereby restoring wildlife habitat provided in these areas prior to construction.
- Project activities disturbing potential migratory bird nesting habitat (i.e., vegetation cover) will be timed to occur outside the bird nesting season (March 1 to August 31). When habitat disturbance during the nesting season is unavoidable, the habitat will be surveyed for nesting birds, no less than 3 days and no more than 10 days prior to any surface disturbance. If nesting birds are found, areas within a 260-foot radius of the nest site will be buffered from disturbance until the young have fledged the nest.

Noxious Weeds and Invasive Species

- Parts of the project area disturbed during construction will be reseeded with a BLM-approved, erosion-control seed mix. Only certified weed-free hay will be used if hay bales are used for erosion control.

- Areas that become infested with invasive species/noxious weeds during construction will be mapped and treated using a BLM-approved herbicide. Areas may also be seeded with a certified weed-free seed mix and mulching materials, in coordination with the BLM Humboldt River Field Office.
- The City of Winnemucca will implement a weed management plan for noxious weeds during construction of the proposed project through successful establishment of reclamation vegetation.

Grazing and Rangelands

- If existing fences and gates are damaged or destroyed by construction activities, they will be repaired or replaced to their original condition prior to construction, as required by the landowner or the land management agency. Temporary gates will be installed only with the permission of the landowner or the land management agency.
- The City of Winnemucca will provide cattle drive easements to the grazing permit holder along the exterior borders of T. 36 N., R. 37 E., sections 28 and 32.

Dark Sky Resources

- Construction lighting, including equipment lights and any temporary auxiliary lights will be limited to those required to safely conduct the construction activities and will be shielded and/or directed in a manner that focuses direct light to the immediate work area.
- Any permanent exterior lighting fixtures at the proposed treatment plant will have screens that do not allow the bulb to shine up or out (i.e., hooded and shielded or located within the soffit). Lighting will be located to avoid light pollution onto adjacent lands as viewed from a distance. Lighting will specifically be directed towards the ground or surface intended to be illuminated.
- A desert tan colored cinder block will be used in the construction of the control structure.

Noise

- All pumps or structures housing pumps will be fitted with sound-attenuating materials.