



United States  
Department of  
Agriculture

Forest  
Service

Lassen National Forest

Spalding Land Exchange Project  
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File Code: 1900

Date: September 9, 2003

Dear Interested Party:

I am pleased to provide you with a copy of the Final Environmental Impact Statement (FSEIS) and Record of Decision (ROD) for the Spalding Land Exchange Special Use Permit Authorization. These documents are also available online at [www.spaldingcsd.org](http://www.spaldingcsd.org). If you have questions about this document, please refer to the contact information provided on the ROD.

Sincerely,

Robert Andrews, Eagle Lake District Ranger  
Attachment



**RECORD OF DECISION**  
**USDA Forest Service**  
**Final Environmental Impact Statement**

**Spalding Special Use Permit**

**Lassen National Forest**  
**Eagle Lake Ranger District**  
**Lassen County, California**

**Introduction**

In 1989, the Lahontan Regional Water Quality Control Board (RWQCB) amended the Water Quality Control Plan (Basin Plan) for the North Lahontan Basin, Eagle Lake Hydrologic Area. The amendments included a prohibition against the discharge of nutrients to any surface water or groundwater in the Eagle Lake Basin from conventional septic systems such as those used by the residents of Spalding and other lakeshore communities. Subsequently, in 1991, the RWQCB issued a cease-and-desist order to Spalding property owners requiring that further septic system discharges be terminated. Property owners responded to this action with an appeal, but the State Water Resources Control Board (SWRCB) upheld both the prohibition and the order. However, the SWRCB granted a deadline extension for compliance with the prohibition. It is on the basis of that extension that residents presently utilize their septic systems.

Subsequently, the Spalding Community Services District (SCSD) was formed with the principal purpose of developing and maintaining a wastewater collection and treatment system that would eliminate the discharge of nutrients into the basin. In the course of this planning effort, numerous sites were considered by the SCSD for locating the evaporation ponds necessary for the disposal of effluent in compliance with the SWRCB mandate. Of the sites considered on National Forest System (NFS) land, SP-13 was found to be most suitable. Use of the site will necessitate transfer of ownership from the NFS to the SCSD. The most feasible means of accomplishing this conversion is through a land exchange.

**Decision and Reasons for the Decision**

Two decisions will be made for this project. The first will be a special use permit for site control to secure funding and allow construction of the three ponds on SP-13 as described in the Spalding Land Exchange Draft Environmental Impact Statement, construct approximately 200 feet of access road and approximately two miles of eight-inch sewer transmission main in the imported fill within 6 feet of the pavement edge along County Road 518 and county road A-1 between the town of Spalding and SP-13. The second decision will be made for the land exchange itself at a later date.

Based on the analysis conducted in the Spalding Land Exchange Draft Environmental Impact Statement (DEIS), Final EIS Errata, and comments contributed by interested and/or potentially affected individuals and organizations, all hereby incorporated by reference, I have decided to select Alternative B, the Proposed Action. This decision would provide the SCSD with a special use permit to secure funding to

construct its wastewater treatment facility, allowing Spalding residents to comply with the RWQCB prohibition against effluent discharge into surface and groundwater in the Eagle Lake Basin.

## Environmental Issues

The primary areas of controversy concerning this site centered on the following resources within the Spalding area:

### Bald Eagle

Seven active bald eagle nests are located on Forest Service lands along the western shores of Eagle Lake, one of which is in close proximity to the proposed location for the wastewater collection ponds.

The SCSD prepared and certified an Environmental Impact Report (EIR) addressing its planned wastewater system project pursuant to the California Environmental Quality Act (CEQA) in 2000. The project definition and mitigations specified in the Final EIR (FEIR) are integral to the proposed action. As noted in the SCSD FEIR (Section 2-8), the collection and treatment system project would have an adverse impact on the bald eagle, a Federally listed Threatened species. The greatest impact involves increased human activity around nest sites and prey habitat resulting from the projected increase in population that the project allows. To mitigate these and other impacts to bald eagles, measures were identified in the FEIR as well as through consultation with the US Fish and Wildlife Service (USFWS). Measures identified by the USFWS in their May 2001 Biological Opinion (BO), as amended, are intended to decrease disturbances to the eagles' nesting areas and prey base. The substance of these measures has been incorporated into the selected Alternative B (Table 1). In addition, all mitigations contained in the FEIR, as noted below in Table 1 are included.

**Table 1: Project Design Features and Monitoring Requirements as Bald Eagle Protection Design Features**

1. The Ice Cave eagle territory to the south of the SP-13 wastewater treatment site shall be protected through incorporation of the following measures developed in coordination with the USFWS: <ul style="list-style-type: none"><li>• The primary sewer pond shall be situated as far back as feasible from the southern boundary of SP-13 or a minimum distance of 0.20 miles from the previously recorded Ice Cave nest.</li><li>• All pumps and other electro-mechanical equipment required to operate the facility shall be located a minimum distance of 0.25 miles from the Ice Cave nest location.</li><li>• All electro-mechanical equipment shall be placed below grade level to the greatest extent feasible to reduce noise levels.</li><li>• Any ponds requiring aeration shall be located a minimum distance of 0.25 miles from the Ice Cave nest location. In addition, aeration equipment shall only be operated in the event the primary ponds approach maximum capacity.</li><li>• The service road and parking area shall be located a minimum distance of 0.25 miles from the previously recorded Ice Cave nest location.</li></ul>
2. Noise levels generated by the operation of mechanized devices at the proposed wastewater treatment site shall not exceed 40 dBA at any point along Eagle Lake Road, between the project site and the Ice Cave bald eagle nesting territory.
3. All powered construction equipment, including compressors, generators and impact tools, shall be located as far as possible from bald eagle nests. The SCSD shall consult with LNF and/or USFWS biologist(s) to establish field criteria for achieving this objective in relation to wastewater system construction and maintenance.
4. All wastewater collection system lift stations shall be located within the Spalding community boundary.

<p>5. All project construction within 0.70 miles of active and inactive bald eagle nests shall be prohibited during the January 1 through August 31 nesting season, unless there is evidence that the nest is abandoned after June 1, or the young have fledged. Construction shall be suspended from November 15 to March 15 if winter eagle roosts are determined to be within 0.70 miles of the construction area. The SCSD shall consult with LNF and/or USFWS biologist(s) to establish field criteria and/or other arrangements for achieving this objective in relation to wastewater system construction and maintenance.</p>
<p>6. Fred's Road shall be closed to public vehicle use. LNF is currently completing a road analysis that will decide if the road shall remain available for administrative uses and be added to the Lassen National Forest road system. Closure would require installing one gate as well as drainage and erosion control features.</p>
<p>7. Non-system spur roads leading west towards the Ice Cave bald eagle nest from Spalding Road just south of the intersection with County Road A-1 shall be obliterated. Total length of spur roads is approximately 0.5 miles.</p>
<p>8. The non-system road loop approximately 0.25 miles in length, which travels adjacent to and encircles the Spalding bald eagle nest would be obliterated.</p>
<p>9. The Osprey Management Area boundary road 32N27Y shall be closed during the bald eagle breeding season, January 15 to three weeks post fledging (average fledge is during first week of July). Closure of this road will require installing six additional gates.</p>
<p>10. The Lassen National Forest shall continue to monitor the status and success of the bald eagle nests on their lands in the Eagle Lake basin. Each nest shall be visited a minimum of three times during the breeding season, once to determine if nest is occupied with one or two adults present during the pre-laying period (using February 1 to April 15 as general guideline dates), once during the incubation period to determine if the nest is active with two adults with egg(s) (using April 16 to May 31 as general guideline dates), and once again during the incubation period to determine if the nest is still active with two adults and chick(s) (using June 1 to June 15 as general guideline dates). During each visit, the Lassen National Forest shall record any disturbances and bald eagle responses to the disturbances. Breeding attempts and nesting success shall be reported to the Service and California Department of Fish and Game (CDFG) in annual reports. If data indicate the bald eagle population is declining, management options shall be explored to ameliorate bald eagle habitat and success.</p>
<p>11. Bald eagle nest abandonment and/or fledged nests shall be verified by a qualified biologist approved by the USFWS and the LNF.</p>
<p>12. Within one year of the completion of the wastewater treatment facility, the LNF shall conduct bald eagle winter roost surveys in the area from the Spalding bald eagle territory south to the Wildcat Point bald eagle territory. Activities resulting in the disturbance of bald eagle winter roosts shall be restricted from November 15 to March 15; actual dates may vary depending when monitoring efforts indicate roosts are occupied. Bald eagle winter roost surveys results shall be submitted to the USFWS upon completion.</p>
<p>13. The LNF shall continue to monitor the winter bald eagle population in the Eagle Lake basin. Wintering population trends shall be reported to the USFWS and DFG annually. If data indicate the bald eagle population is declining, management options shall be explored to ameliorate bald eagle habitat and success.</p>

14. The LNF shall prepare a bald eagle management plan in consultation with the USFWS to provide management guidance for the Eagle Lake bald eagle population on LNF administered lands. The bald eagle management plan shall address effects of Forest Service activities to all bald eagle territories within the Eagle Lake basin. The bald eagle management plan can be a joint management tool developed with the US Bureau of Land Management (BLM). The bald eagle management plan shall incorporate the management recommendations in this biological opinion. The bald eagle management plan shall be completed one year after the EIS is completed.

15. Access to the southern side of the Pine Creek estuary shall be rehabilitated and improved to mitigate loss of public vehicle use on Fred's Road as follows:

- Gravel surface and install drainage features to non-system road leading north from the strand (boat docking area) in Spalding, terminating near the southern side of the Pine Creek estuary.
- Create a parking and turnaround facility at the terminus, and add road to the Lassen National Forest road system.
- Obliterate spur road leading west from Spalding to Pine Creek and another leaving the tract on the north side and heading northward to Pine Creek.
- Obliterate all other existing non-system roads in the area between the Spalding tract and Pine Creek.

The FS has completed formal consultation with the USFWS as required under Section 7 of the Endangered Species Act. The USFWS has determined that although project implementation is not likely to threaten the continued existence of this species, it may result in the incidental take of an estimated two individual, adult nesting bald eagles per year. The USFWS does not anticipate incidental take of the eagle to occur in the form of injury or mortality, but rather harassment and harm. Take in this form is not authorized to the extent that would result in nest failure. The USFWS believes that by complying with the above identified reasonable and prudent measures will minimize harm and harassment of additional bald eagles using the Eagle Lake basin.

### **Cultural Resources**

At the time the Draft EIS was published, nine sites had been identified within the project's Area of Potential Effect (APE). Further analysis of the data compiled by the Archaeological Research Program (Department of Anthropology, California State University – Chico) and the engineer's design drawings lead to the delineation of a new, more accurate APE, and a conclusion that only five of these archaeological sites may be adversely affected by proposed construction activities. With the assistance of the SCSD, LNF prepared a Cultural Resource Evaluation Plan that identified the necessary testing procedures to determine if these five sites would be adversely affected by the proposed project. Based on this testing LNF has determined that implementation of the proposed action will not adversely affect the identified cultural resources. LNF has documented these findings and has submitted them to the State Historic Preservation Office for review and concurrence.

### **Visual Resources**

Visual impacts resulting from the proposed project were found to be less than by implementing the following mitigation measures that are part of Alternative B.

1. Chain link perimeter fencing shall be placed within twenty (20) feet of the toe of the exterior pond berms to minimize its horizontal profile. The fencing color shall be similar to native evergreen vegetation to further obscure the berms from public view. No fencing shall be located less than 180 feet from the Eagle Lake Road right-of-way.
2. Trees will be planted alongside the perimeter fencing, as shown in Figure 10. Tree planting will be in accordance with the following criteria:

- a) The SCSD shall use a species mixture representative of the area. Recommended native species include ponderosa pine, incense cedar and western juniper.
  - b) The trees shall be stocked at a rate of 450 stems per acre (i.e., trees on  $\pm 10$ -foot centers) to a distance of thirty feet from the fenced perimeter, as shown in Figure 10.
  - c) Trees planted shall consist of a 70/30 mixture of three-foot tall saplings and one-foot tall seedlings.
  - d) Trees shall be planted between October 15 and December 31, after fall rains have thoroughly moistened the soil. Planting may be conducted earlier if the plants are watered on a regular basis.
  - e) To minimize weed germination and competition for water, redwood bark shall be placed eighteen inches out from the base of each tree to a depth of four inches. If herbivory is expected to be a problem, wire cages or seedling protectors shall be installed to protect the young plants.
  - f) The SCSD shall be responsible for ensuring that mortality of the planted trees does not exceed twenty (20) percent. Trees shall be monitored for at least five years after planting. If excessive mortality necessitates the planting of replacement trees after the initial planting effort, these trees shall be monitored an additional two years to ensure the desired success rate.
3. The SCSD and/or their landscape contractor shall present a landscape/planting plan the Lassen National Forest Landscape Architect for concurrence prior to initiating planting activities to ensure proper compliance with these mitigation measures.
  4. If after successfully establishing the vegetative buffer, the desired visual condition has not been achieved, the SCSD and LNF shall develop addition measures to conceal the facility from public view.

Implementing these measures will ensure the project meets the “Retention” Visual Quality Objective as defined by the Lassen National Forest, Land and Resource Management Plan.

## **Public Participation**

The Forest Service first brought the proposed action to the public’s attention in the winter of 2001. During the subsequent scoping period, the proposed action was presented to the Lassen County Board of Supervisors and Fish and Game Commission. In addition, the PA was also mailed to a list of persons and organizations involved in the SCSD EIR, involved government agencies, and those who had requested notification of projects on the Eagle Lake Ranger District. Information received in response to this scoping effort, as well as discussions with the US Fish and Wildlife Service (USFWS) during the formal consultation process regarding the threatened Bald Eagle, lead to the decision to revise the PA and prepare an Environmental Impact Statement (EIS). Issues identified during the EA scoping period were carried forward during the development of the current PA for the EIS.

## **Schedule of Proposed Actions**

The project was listed in the LNF quarterly “Schedule of Proposed Actions” (SOPA) beginning in March of 1999 and continuing throughout the analysis period. The SOPA was mailed out to a list of interested parties and was also available online at: <http://www.r5.fs.fed.us/lassen/management.html>.

### **Public Meetings**

On July 7, 2002 the PA was discussed at a public meeting held by the SCSD and again on July 9, 2002 at the Eagle Lake Interagency Board of Director's meeting. The later involved a field visit to SP-13 and open discussions regarding facility design and proposed mitigations.

### **Public Bulletin Board Notices**

Bulletins describing the land exchange proposal and soliciting comments were posted on the Eagle Lake Ranger District Office public notices board between 10/29/02 and 12/17/02.

Bulletins were also posted on public notice bulletin boards at the Eagle Lake Ranger District, Mt. Hough Ranger District and the Beckworth Ranger District offices between 04/03/03 and 06/09/03.

### **Newspaper Notices**

Legal notices describing the land exchange proposal and soliciting comments were posted weekly in the Lassen County Times between 11/26/02 and 12/17/02.

Legal notices were also published in the Lassen County Times and Feather River Bulletin between 03/25/03 and 04/15/03.

### **Direct Mailing**

On October 29, 2002, a letter soliciting comments accompanied by a copy of the PA was mailed to all Spalding property owners, state and federal agencies, and individuals and organizations that had expressed interest in the project.

Approximately 75 copies of the DEIS were mailed out to interested individuals, organizations and local, state and federal agencies.

### **Notice of Intent**

On December 11, 2002 a Notice of Intent (NOI) to prepare an EIS for the PA was published in the Federal Register. The NOI remained on the Federal Register for 45 days, at which point the scoping period closed on January 27, 2003.

### **Notice of Availability**

On April 10, 2003 a Notice of Availability (NOA) to prepare an EIS for the PA was published in the Federal Register. The NOA remained on the Federal Register for 45 days, at which point the scoping period closed on January 27, 2003.

### **Other Public Notification Measures**

All public notices, letters of comment and environmental documents pertaining to the development of the Spalding Land Exchange EIS have been posted on the SCSD's website ([www.spaldingcsd.org](http://www.spaldingcsd.org)).

A total of three written responses containing specific comments were received in response to the Draft EIS. Please refer to the Responses to Comments and Errata Sheet to see how the comments were addressed and the effective changes resulting in the Final EIS.

### **Alternatives Considered**

Review of comments submitted to the LNF during the public scoping period revealed no issues that would result in the formation of new alternatives. As such, this EIS evaluates the Proposed Action, Modified Proposed Action, and the No Action alternatives.

**Alternative A: No Action**

Lands would not be exchanged between the SCSD and LNF, special use authorizations would not be granted for the facility construction, and the LRMP would not be amended.

**Alternative B: Proposed Action**

Lands would be exchanged between the SCSD and LNF, special use authorization would be granted for the facility construction, and the LRMP would be amended, as described in this decision.

**Alternatives Dismissed from Further Analysis**

Several different alternatives were considered during the planning process as a result of comments received from the public. Each of the following was found to be infeasible and was subsequently dismissed from further analysis.

**Alternative C: Modified Proposed Action**

Under this proposal, SP-13 would be exchanged to the SCSD for parcel 077-303-21. Cash equalization could be used for up to twenty-five percent of the federal value and any excess cash needed would be authorized under the Townsite Act of 1958, (72 Stat. 438, as amended). All design features and monitoring requirements stated in the proposed action would be included. Lassen National Forest would still issue a special use permit for the sewer transmission main and service road.

**Alternative D:** Exclude the Mahogany Way parcel from the exchange to keep it available for locating a new Forest Service fire station. This alternative was determined infeasible for the following reasons:

1. The parcel is located in the middle of the Spalding community. Roads leading to this location are extremely narrow, making equipment access extremely difficult and impeding response time.
2. Shallow and exposed bedrock over much of the parcel would make construction extremely expensive. The remaining buildable ground is insufficient to accommodate the fire station and appurtenant facilities.
3. Acquisition of the six SCSD parcels would give the FS access to NFS lands that are better suited for locating a fire station.

**Alternative E:** Direct Purchase of Nonfederal Properties. A purchase of the nonfederal properties was considered as an alternative for an exchange. This alternative has been dropped from further consideration because the Lassen National Forest has not been competitive for Land and Water Conservation Fund (LWCF) needed to purchase land. Such funds are currently not available.

**Findings Required by Other Laws**

In reviewing the Alternative B of the Spaulding Draft EIS and errata, I have concluded that this decision is consistent with the following laws and requirements.

**Section 7 of the Endangered Species Act, 1973, as amended**

A biological assessment was prepared to document possible effects of the proposed activities on endangered and threatened species in the analysis area. Appropriate coordination, conferencing and

consultation with the USFWS have been completed. All terms and conditions of the USFWS Biological Opinion dated July 29, 2003 will be incorporated into the project.

#### **National Environmental Policy Act, 1969**

NEPA establishes the format and content requirements of the environmental analysis and documentation. The entire process of preparing the EIS was undertaken to comply with this act.

#### **National Forest Management Act, 1976**

All alternatives were developed to be in full compliance with the NFMA.

#### **Section 106 of the National Historic Preservation Act, 1966, as amended**

As stated above, the field evaluation of the archaeological sites potentially affected by the proposed action has been completed pursuant to the Cultural Resources Evaluation Plan prepared by LNF. The findings have been submitted to the SHPO for review.

### **Environmentally Preferable Alternative**

For the Spalding Special Use Permit, I have determined the Proposed Action is the environmentally preferable alternative. This alternative provides the SCSD with a special use permit to secure funding and to develop a wastewater treatment system, which would allow the residents of Spalding to comply with the RWQCB prohibition against the discharge of nutrients to any surface water or groundwater in the Eagle Lake Basin from conventional septic systems. This will result in improved groundwater that will benefit local residents and wildlife.

### **Implementation Date**

If no appeal is received, implementation of this decision may occur on, but not before, five business days from the close of the appeal filing period. If an appeal is received, implementation may not occur for 15 days following the date of appeal disposition.

### **Administrative Review or Appeal Opportunities**

This decision is subject to appeal pursuant to 36 CFR 215.11 (a) (June 2003). A written Notice of Appeal, including attachments, must be filed (regular mail, fax, e-mail, hand-delivery, express delivery, or messenger service within 45 days after the date of the notice of this decision in the Lassen County Times newspaper, Susanville, California. Per 36 CFR 215.7 only those individual or organizations who submitted substantive comments during the comment period (36 CFR 215.6) may appeal. The written Notice of Appeal must be submitted to:

USDA Forest Service, Lassen National Forest  
Attn: Appeals Deciding Officer  
2550 Riverside Dr.  
Susanville, CA 96130

E-mail: [appeals-pacificsouthwest-lassen@fs.fed.us](mailto:appeals-pacificsouthwest-lassen@fs.fed.us), FAX: (530) 252-6428. Office hours are 8 a.m. to 4:30 p.m. Monday through Friday. Acceptable formats for appeals filed electronically include plan text (.txt), Word (.doc) or Rich text (.rtf).

The appeal must meet the requirements of 36 CFR 215 and include:

- list the name, address, and telephone number of the appellant;
- identify the decision document by title and subject, date of decision, and name of the Responsible Official;
- identify the specific change(s) in the decision that the appellant seeks or portion of the decision to which the appellant objects;
- state how the Responsible Official's decision fails to consider comments provided and, if applicable, how the appellant believes the decision violates law regulation, or policy.

### **Responsible Official/Deciding Officer and Contact**

Robert W. Andrews, is the responsible official for the Spalding Special Use Permit. For additional information concerning this decision or the Forest Service appeal process, contact Lois Charlton, Lands Officer Lassen National Forest, 2550 Riverside Drive, Susanville, CA 96130, (530) 257-2151

**Robert W. Andrews**

**ROBERT W. ANDREWS**  
Eagle Lake District Ranger  
Lassen National Forest

**September 9, 2003**

Date

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United States  
Department of  
Agriculture

**Forest Service**

Pacific Southwest  
Region

R5-MB-015

September 2003



# Spalding Land Exchange

## Final Environmental Impact Statement

### Lassen National Forest Eagle Lake Ranger District

**Spalding Land Exchange  
Final Environmental Impact Statement  
Lassen National Forest  
Eagle Lake Ranger District**

**Errata Sheet**

No errors were identified that would cause a significant change to the environmental impacts, nor would they change the conclusions reached in the Final Environmental Impact Statement (FEIS). Therefore this errata sheet, with its attachments is issued in lieu of a FEIS.

The Forest Service has considered each of these errata individually and collectively. This errata sheet has been prepared to disclose known errors to stakeholders and the general public. The errata sheet does not provide corrections to typographical or editing errors unless a correction is necessary for the reader to comprehend the. Text added to the EIS is indicated by a double underline, while text that has been deleted is indicated by a ~~strikethrough~~.

**Item 1:** Page 30, Section II B Alternatives Dismissed from Further Analysis  
Alternative E- Direct Purchase of Nonfederal Properties – A purchase of the nonfederal properties was considered as an alternative to an exchange. This alternative has been dismissed from further consideration because the Lassen National Forest has not been competitive for Land and Water Conservation Funds (LWCF) needed to purchase land. Such funds are currently not available.

**Item 2:** Page 21, Table 3, Number 1- The Ice Cave eagle territory to the south of the SP-13 wastewater treatment site shall be protected through incorporation of the following measures developed in coordination with the USFWS:

- The primary sewer pond shall be situated as far back as feasible from the southern boundary of SP-13 or a minimum distance of 0.20 miles from the ~~previously~~ recorded Ice Cave nest.
- All pumps and other electro-mechanical equipment required to operate the facility shall be located a minimum distance of 0.25 miles from the Ice Cave nest location.
- All electro-mechanical equipment shall be placed below grade level to the greatest extent feasible to reduce noise levels.
- Any ponds requiring aeration shall be located a minimum distance of 0.25 miles from the Ice Cave nest location. In addition, aeration equipment shall only be operated in the event the primary ponds approach maximum capacity.
- The service road and parking area shall be located a minimum distance of 0.25 miles from the ~~previously~~ recorded Ice Cave nest location

**Item 3:** Page 21, Table 3, Number 6- Fred's Road shall be closed to public vehicle use, but shall remain open to pedestrian foot traffic (Figure 6).

**Item 4:** Page 22, Table 3, Number 10

~~The LNF shall continue to monitor the status and success of the bald eagle nests on NFS lands in the Eagle Lake basin. Each nest shall be visited a minimum of five times during the breeding season, twice to determine if nest is occupied with one or two adults present during the pre-laying period (use January 1 to March 1 as guideline dates), once during the incubation period to determine if the nest is active with two adults with egg(s) (use March 1 to April 1 as guideline dates), once again during the incubation period to determine if the nest is still active with two adults and chick(s) (use April 1 to June 15 as guideline dates), and one or more times to determine nest success. During each visit, the LNF shall record any disturbances and bald eagle responses to the disturbances. Breeding attempts and nesting success shall be reported to the USFWS and California Department of Fish and Game (DFG) in annual reports. If data indicate the bald eagle population is declining, management options shall be explored to ameliorate bald eagle habitat and success.~~

The Lassen National Forest shall continue to monitor the status and success of the bald eagle nests on their lands in the Eagle Lake basin. Each nest shall be visited a minimum of three times during the breeding season, once to determine if nest is occupied with one or two adults present during the pre-laying period (using February 1 to April 15 as general guideline dates), once during the incubation period to determine if the nest is active with two adults with egg(s) (using April 16 to May 31 as general guideline dates), and once again during the incubation period to determine if the nest is still active with two adults and chick(s) (using June 1 to June 15 as general guideline dates). During each visit, the Lassen National Forest shall record any disturbances and bald eagle responses to the disturbances. Breeding attempts and nesting success shall be reported to the Service and California Department of Fish and Game (CDFG) in annual reports. If data indicate the bald eagle population is declining, management options shall be explored to ameliorate bald eagle habitat and success.

**Item 5:** Page 65, Table 13 Cultural Resource Design Features and Monitoring Requirements-

Number	Design Feature
5	<u>Treatment of all archaeological resources, including further evaluation and testing, identified in the Cultural Resource Inventory conducted for this EIS, shall be in accordance with Section 106 of the National Historic Preservation Act, 36 CFR 800, Native American Graves Protection and Repatriation Act, Archaeological Resource Protection Act and all applicable agency Programmatic Agreements with the State Historic Preservation Officer.</u>
6	<u>All possible design modifications would be made to preclude impacts to archaeological resources, including:</u> <ul style="list-style-type: none"> <li>- <u>Limiting depth of pipeline trench to 36 inches.</u></li> <li>- <u>Placing the pipeline on the east side of Spalding Road where the road fill is deepest.</u></li> </ul>

**Item 6:** Various locations throughout the Draft EIS- the Spear/Foerster parcel is now referred to as Cairney/Foerster.

**Item 7:** Page 28 Section I, add the following subsection

**F. Existing Condition of Offered Parcels**

The following describes the existing condition of the private parcels which may be included in this land exchange.

Alderson – This parcel is located within the flood plain of Pine Creek. Consisting almost entirely of wet meadows and stream channels, it is primarily used cattle grazing. Based on Forest Service observations, the vegetation appears to be healthy and the land does not show signs indicative of over grazing such as compacted soil or trampled vegetation.

Cairney/Foerster and Burkett– These parcels, which are located in Pine Creek Valley consist of a mixture of wet meadow, annual grassland and sagebrush vegetation. Grazing occurs onsite, but does not appear to have had an adverse effect on the vegetation or soils.

Retterer – This property is almost entirely forested; timber stands are classified as mixed conifer. The topography is gentle, with slopes ranging between 10 to 15 percent. This property was severely burned during the Horton II Fire in 1998. The owner estimates nearly 70 of the 120 acres burned. Prior to the fire, the owner harvested the property in 1996 utilizing a commercial thin silviculture. The harvesting operation was the first conducted by the owner since acquiring the property in 1976. Other than timber production the property is used for limited sheep grazing during late spring and early summer.

Bertotti – This property is almost entirely forested; timber stands are classified as mixed conifer and true fir. The ground is relatively steep and rocky, with slopes in excess of 40 percent. According to the current owner, a forest fire burned the property sixty to eighty years ago. It was last harvested in 1992 utilizing singletree selection silviculture. Much of the parcels could not be logged due to the steep slopes and rocky soil conditions. The owner noted that several of these unharvested areas contain sugar pines in excess of 60 inches in diameter.

**Item 8:** Page 67, Section III F Visual Resources, Alternative B and C, *Direct Impacts-* ~~Analysis of visual impacts in the SCS FEIR (3-20) determined construction of the wastewater facility at SP-13 could be mitigated to prevent an offensive or obstructed public view. This conclusion was based on the low profile design of the wastewater ponds along with several mitigation measures including vegetative screening along the perimeter of the facility and decorative fencing to blend with the surrounding natural environment.~~

Analysis of visual impacts in the SCS FEIR (3-20) determined that construction of the wastewater facility at SP-13 could be mitigated and would not obstruct or offend the public view. Mitigation included a low profile design for the wastewater ponds, additional

vegetative screening around the perimeter of the facility and fencing that blends with the surrounding natural environment.

**Item 9:** Page 80, Section III, add the following subsection

### **I. Public Interest Determination**

#### **Federal Parcels:**

This land exchange provides an opportunity for the residents of Spalding to meet the requirements imposed by the Lahontan Regional Water Quality Control Board. Also with a functioning wastewater system in place, the Forest Service would be able to construct a fire station in Spalding, which suits the interests of Spalding residents.

The SP-13 parcel contains 25 acres of land acquired by the Forest Service during a previous exchange. It is in the public interest to exchange this land allowing the SCSD to construct a wastewater treatment facility. In addition to SP-13, eleven other parcels were initially considered as possible locations for the wastewater facility. Further analysis determined that SP-13 was the most suitable for constructing and operating wastewater evaporation ponds. Of the alternative sites considered, only two would not have created an in holding, however their close proximity to the Spalding community made them extremely undesirable due to the odors produced from the wastewater.

The Mahogany Way parcel is currently an in holding and it is in the public interest to dispose of this isolated parcel. Eliminating this parcel would decrease administrative costs associated with maintaining the SCSD's Special Use Permit for their fire hall and maintenance of property boundaries and monuments.

#### **Non-Federal Parcels:**

The SCSD Parcel (077-303-21) would provide the FS access to lands to the north and allow them to build a fire station, which meets the community's need for fire protection.

Acquiring the additional private parcels would consolidate ownership patterns, thereby reducing administrative costs associated with maintaining property boundaries around a private in holding and would also provide the Pine Creek Coordinated Resource Management Program additional opportunities to restore riparian habitat in Pine Creek.

**Item 10:** Page 11

According to Lassen County Zoning Ordinance SP-13 is zoned Open Space District (O-S) and Upland Conservation District (U-C). Since the SCSD would commit the SP-13 site to public use in perpetuity, a more appropriate zoning classification would be Institutional Use District (I-1). Therefore, upon completion of the land exchange the SCSD would request a zone change to I-1 from the Lassen County Board of Supervisors and Planning Commission.

**Item 11:** Page 53

The greatest impact will be to anglers who want vehicular access to the shoreline via Fred's Road. This road is heavily used during the first few weeks of fishing season, and gradually tapers off into the fall. Closure would require anglers to walk in, or use the new an alternate Pine Creek Estuary vehicular access.

**Item 12:** Page 58

The proposed action would directly impact recreational use patterns in the area by implementing permanent and seasonal vehicular access restrictions on Fred's Road and Forest Road 32N27Y respectively. These restrictions would decrease the number of people ~~able~~ unable or ~~willing~~ to enter the areas without vehicle transportation, such as those with physical disabilities.

**Item 13:** Appendix A: Scoping Report, Page 9

**Public Comment Analysis**

Comment/Issue*	Response	Number of Respondents
Recreation One of the [mitigation] measures will eliminate the use of Fred's Road. This road has been in existence and used by the public for many years.	<b>Addressed in the Proposed Action (PA):</b> The PA only <del>eliminates</del> <u>prohibits vehicle use</u> of Fred's Road <del>to vehicles</del> , not pedestrians. Under the PA, vehicle access to the Pine Creek estuary will continue on the improved road leading to its south side, thus mitigating the loss of vehicular use on Fred's Road. This closure is also important in preventing disturbance related nesting failures at the Ice Cave and Fish Trap eagle nest.	1

**Item 14:** Page 28, Section II-A, move Alternative C: Modified Proposed Action to Section II-B, Alternatives Dismissed from Further Analysis.

**Item 15:** Page 67, Section III-F

~~The SCSD shall implement following measures to ensure the wastewater ponds and associated facilities are adequately screened from public view.~~

- ~~• Tree species native to the area will be planted using a species mix representative of the area. Recommended species are ponderosa pine, incense cedar and western juniper. The trees shall be stocked at a rate of 450 stems per acre (i.e., trees on ±10-foot centers) to a distance of thirty feet from the fenced perimeter, as shown in Figure 10.~~
- ~~• Tree planted shall be no less than three feet in height and shall be planted between October 15 and December 31, after fall rains have thoroughly moistened the soil. Planting may be conducted earlier if the plants are watered on a regular basis. To minimize weed problems and competition for water, redwood bark shall be placed~~

eighteen inches out from the base of each tree to a depth of four inches. If herbivory is expected to be a problem, wire cages or seedling protectors will be installed to protect the young plants.

- ~~The SCSD shall be responsible for ensuring that mortality of the planted trees does not exceed twenty percent. Trees shall be monitored for at least five years after planting. If excessive mortality necessitates the planting of additional trees after the initial planting effort, these trees shall be monitored an additional two years to ensure the desired success rate.~~
- ~~Chain link fencing shall be a similar color as the pond berms to obscure them from public view.~~
- ~~The SCSD and their landscape contractor shall consult with the Lassen National Forest Landscape Architect prior to initiating planting activities.~~

The SCSD shall implement the following measures to ensure the wastewater ponds and associated facilities are adequately screened from public view.

1. Chain link perimeter fencing shall be placed within twenty (20) feet of the toe of the exterior pond berms to minimize its horizontal profile. The fencing color shall be similar to native evergreen vegetation to further obscure the berms from public view. No fencing shall be located less than 180 feet from the Eagle Lake Road right-of-way.
2. Trees will be planted alongside the perimeter fencing, as shown in Figure 10. Tree planting will be in accordance with the following criteria:
  - a) The SCSD shall use a species mixture representative of the area. Recommended native species include ponderosa pine, incense cedar and western juniper.
  - b) The trees shall be stocked at a rate of 450 stems per acre (i.e., trees on ±10-foot centers) to a distance of thirty feet from the fenced perimeter, as shown in Figure 10.
  - c) Trees planted shall consist of a 70/30 mixture of three-foot tall saplings and one-foot tall seedlings.
  - d) Trees shall be planted between October 15 and December 31, after fall rains have thoroughly moistened the soil. Planting may be conducted earlier if the plants are watered on a regular basis.
  - e) To minimize weed germination and competition for water, redwood bark shall be placed eighteen inches out from the base of each tree to a depth of four inches. If herbivory is expected to be a problem, wire cages or seedling protectors shall be installed to protect the young plants.
  - f) The SCSD shall be responsible for ensuring that mortality of the planted trees does not exceed twenty (20) percent. Trees shall be monitored for at least five years after planting. If excessive mortality necessitates the planting of replacement trees after the initial planting effort, these trees shall be monitored an additional two years to ensure the desired success rate.

3. The SCSD and/or their landscape contractor shall present a landscape/planting plan the Lassen National Forest Landscape Architect for concurrence prior to initiating planting activities to ensure proper compliance with these mitigation measures.
4. If after successfully establishing the vegetative buffer, the desired visual condition has not been achieved, the SCSD and LNF shall develop addition measures to conceal the facility from public view.

**Item 16:** Page 77, Section III-F

As Figures 12 and 15 show, the earth berms and perimeter fencing, which would be more than 180 feet from Eagle Lake Road, would be difficult to see although still visible through the remaining vegetation upon completion of construction. However, once the vegetation becomes established as shown in Figures 13 and 16, the facilities are extremely difficult to see if not entirely obscured from public view. The figures above clearly demonstrate how the visual impacts from construction of the evaporation ponds can be reduced to less than significant levels within five years of project completion and achieve "Retention" parameters defined in Lassen National Forest's VQO. Therefore, visual impacts resulting from this alternative would be adverse, but less than significant.

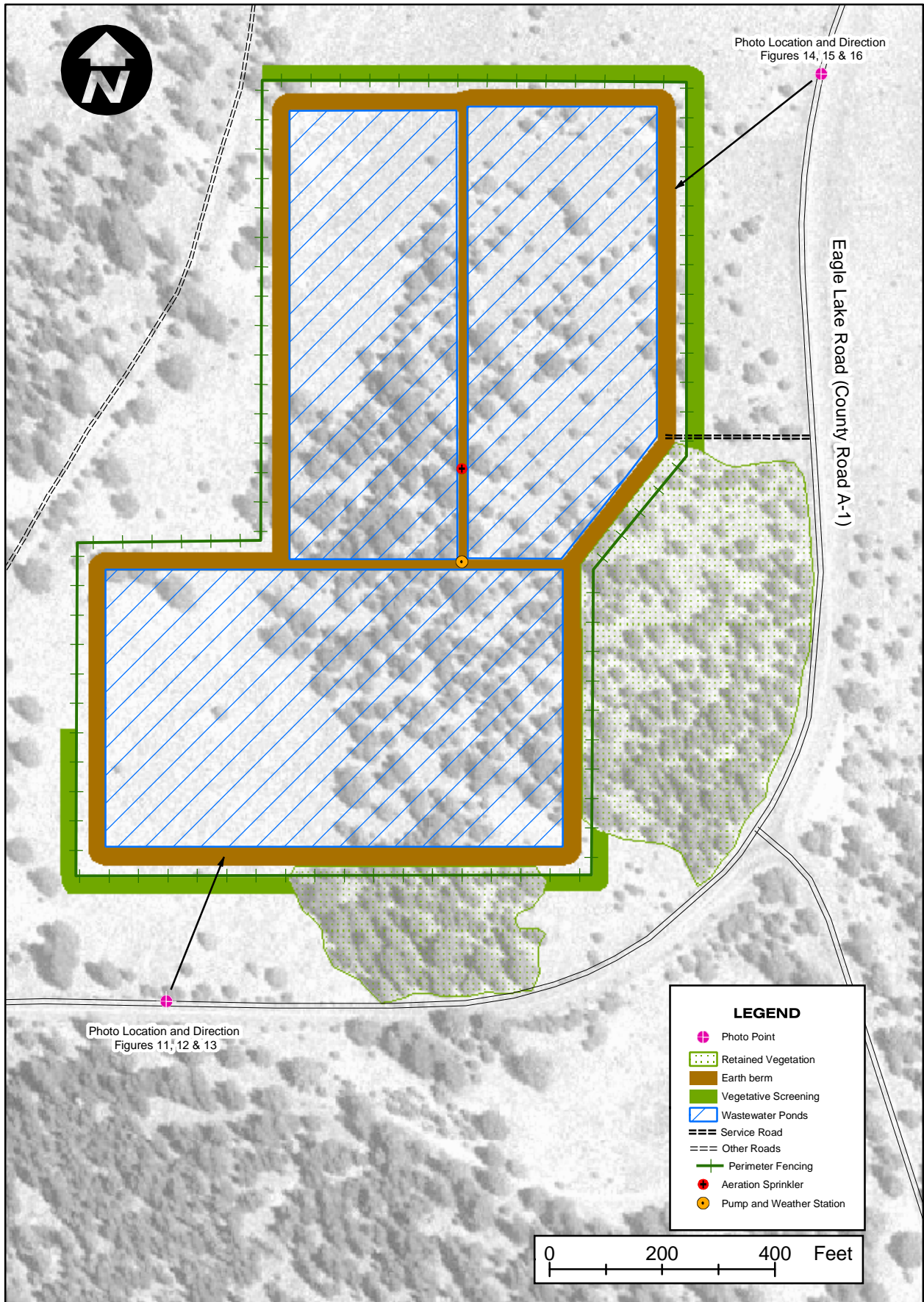


Figure 10  
 Wastewater Facility Configuration  
 and Vegetative Screening

**ATTACHMENT A  
RESPONSES TO COMMENTS:  
Final Environmental Impact Statement**

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**Spalding Land Exchange  
Lassen National Forest  
Eagle Lake Ranger District**

The Spalding Land Exchange Draft Environmental Impact Statement DEIS was circulated for a 90-day public and agency review period. The review period extended from April 22, 2003 through July 19, 2003. Comments were received from one public agency and three private parties.

The comments are summarized below and our responses follow. Copies of all comment letters submitted to the US Forest Service are available upon request. The comments and responses are incorporated as part of the public record regarding the project, and will be considered by the Forest Service during its review of the environmental documentation for the project.

**Commenter #1: WESTERN LAND EXCHANGE PROJECT**

Comment letter received from Christopher J. Krupp, on May 27, 2003.

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**Comment 1a:** *The Forest Service (FS) should not use a land exchange to acquire lands for administrative facilities. Expenditures for a fire station should come from the part of Lassen National Forest's budget devoted to administrative facilities.*

**Response:** The Lassen National Forest (LNF) budget does not include funds for purchasing lands for administrative uses. To obtain such funds would require a congressional appropriation.

**Comment 1b:** *The DEIS does not describe the current conditions of the offered parcels.*

**Response:** Please see Item 7 in the Errata Sheet.

**Comment 1c:** *The Final Environmental Impact Statement (FEIS) must consider prohibiting grazing on the parcels it would acquire via the land exchange. A grazing prohibition that would only apply to the offered parcels could easily be implemented through a non-significant amendment to the Lassen National Forest Land and Resource Management Plan.*

**Response:** The Land and Resource Management Plan (LRMP) could be amended to prohibit grazing on the offered parcel(s). However, in order to exclude the cattle, which presently have unrestricted access to these lands, a fence would have to be constructed around the entire perimeter of each parcel(s). The FS feels this is not an effective management strategy considering that the Alderson parcel, which is the parcel most likely to be exchanged, is only 40 acres in size. The Alderson property is located within a ±6,000-acre management unit of the Lower Pine Creek Grazing Allotment that is only grazed two weeks out of the summer. In 1995, LNF developed a grazing schedule for the three grazing allotments in the Pine Creek watershed, in cooperation with the Pine Creek Coordinated Resource Management Group. Under this grazing schedule, which is referred to as high-intensity, short-duration grazing, the cattle are

routinely moved from one area to another. In the eight years since the implementation of this grazing strategy, the LNF has documented noticeable improvements to the vegetation and soil in many of the riparian and grassland habitats in the Pine Creek allotments (J. Wood, 2003). In addition, the FS has made several other efforts to improve riparian habitat that have been impacted by past management activities in watersheds such as Pine Creek. Changes in range management practices include excluding grazing from sensitive areas, varying the grazing schedules to reduce overuse, and installing water troughs to encourage cattle to congregate away from stream channels and lake shores (J. Wood, 2003). Acquiring these parcels would help consolidate ownership in watersheds and provide additional opportunities to improve riparian habitat.

**Commenter #2: CALIFORNIA DEPARTMENT OF FISH AND GAME**

Comment letter received from Donald Koch, Regional Manager, on June 9, 2003.

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**Comment 2a:** *There are conflicting statements regarding disturbance to nesting bald eagles. The document states that pedestrian foot traffic poses a greater disturbance to nesting bald eagles, however the FS is proposing to leave Fred's Road and Forest Road 32N27Y open to pedestrians. During a meeting attended by FS, US Fish and Wildlife Service (USFWS), Lassen County and the Department of Fish and Game held on January 9, 2002 to discuss the status of the eagles and the proposed road closures, there was no mention of allowing pedestrian traffic on either of these roads.*

**Response:** While it is true that pedestrians can impact nesting bald eagles even more than vehicles, the object of the proposed action is never-the-less to reduce the net impact. The alternate road access to be provided is expected to bear the bulk of the existing vehicle traffic accessing the Pine Creek Estuary. The number of people choosing to walk the Fred's Road corridor instead of drive, as they might have previously, is expected to be minimal. Therefore, the net effect of the proposed action is expected to be a reduction of existing impact.

Also, enforcement of a prohibition on pedestrian access along the Fred's Road or Forest Road 32N27Y would necessitate closure enforcement over a much larger area to keep pedestrians from using alternate routes adjacent to these roads. This action on its face was deemed impractical and consequently was not considered in the Draft EIS.

**Comment 2b:** *We question the need to visit the nests a "minimum" of five times during the breeding season as we are concerned the proposed monitoring protocols could be a disturbance in and of themselves.*

**Response:** The FS has discussed this issue with USFWS biologist Peter Epanchin, who has concurred that a minimum of three visits will be sufficient. Please see Item 4 in the Errata Sheet.

**Comment 2c:** *Please provide scientific literature citations or other written documentation, which support the allegations made in the Draft EIS claiming that increased population and boating traffic will produce an adverse effect on nesting grebe colonies and the bald eagle that prey upon them. To our knowledge there is no data that would lead to such an expectation.*

**Response:** In the Biological Assessment prepared for the Spalding Land Exchange, District Wildlife Biologist Tom Rickman cites three separate studies which support statements made in the DEIS regarding adverse effects to nesting grebes resulting from increased boating activity, these include:

1. Gould, G. 1974. *Breeding Success of Piscivorous Birds at Eagle Lake, California*. M.S. thesis, Humboldt State University, Arcata California.
2. Lederer, R.J. 1976 *Breeding of Piscivorous Birds at Eagle Lake*. *American Birds* 30: 771-772.
3. Shaw, D. 1998. *Changes in Population Size and Colony Location of Breeding Water Birds at Eagle Lake, California, between 1970 and 1997*. M.S. thesis, Chico State University , Chico, CA.

These studies concluded that increased boating activity in the Spalding area has inundated and destroyed grebe nests and caused nest abandonment. The studies also suggest that grebes may begin to nest further away from the bald eagle's primary foraging area near Spalding. Based on these findings, the FS feels there is sufficient evidence to conclude that increased boating may have an adverse effect on nesting grebes, which in turn, may adversely affect the bald eagles.

**Comment 2d:** *Since the potential effect of the increased population upon the bald eagles at Spalding was addressed in the original biological opinion, we do not believe formal consultation should be reinitiated for this issue.*

**Response:** The FS originally initiated formal consultation with the USFWS in February 2001 during preparation of an Environmental Assessment (EA) addressing the potential effects of a federal land exchange between the Spalding Community Services District (SCSD) and the LNF for the purpose of providing the SCSD land to construct a wastewater treatment facility. However, after the USFWS issued its Biological Opinion in May 2001, the FS halted preparation of the EA due to the level of public concern generated during the Scoping Process. In response to the public's reaction, the FS significantly revised the proposed action and decided to prepare an Environmental Impact Statement instead. Based on this development and the fact that the original consultation did not address the cumulative effects related to the SCSD's new marina facility, the FS and USFWS felt that reinitiation of formal consultation was warranted.

**Commenter #3: ROBERT J. WOODWARD**

Comment letter received from Robert J. Woodward, Spalding landowner, on July 11, 2003.

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**Comment 3a:** *On page 53 of the DEIS, you state that Fred's Road is heavily used during fishing season. If this is true how can you claim that closing Fred's Road would result in a less than significant impact on recreational use?*

**Response:** The new road leading to the south side of the Pine Creek Estuary will provide anglers access to essentially the same area as Fred's Road once did. Therefore, restricting vehicle use on Fred's Road has been determined to have a less than significant impact on local recreational use.

**Comment 3b:** *How can you claim that pedestrian traffic causes more disturbance to bald eagles than vehicular traffic, yet still allow pedestrians to use the road?*

**Response:** Please see response to comment 2a.

**Comment 3c:** *If Fred's Road poses an erosion problem, why not pave it and equip it with proper drainage structures*

**Response:** In addition to reducing erosion, the main purpose for closing Fred's Road and creating the new road leading to the Pine Creek Estuary is to concentrate human disturbances away from nesting bald eagles. The alternate access road depicted in Figure 7 of the Draft EIS will be paved and proper drainage features incorporated as suggested.

**Comment 3d:** *Cattle grazing poses a greater threat to water quality in Eagle Lake than the septic tank leach fields. If you eliminate cattle grazing the problem may go away and the land exchange would not be necessary.*

**Response:** As mentioned in response to comment 1b, the Forest Service has implemented several changes to its grazing land use policies intended to reduce adverse effects to riparian habitats. However, the land exchange and subsequent development of the wastewater collection and treatment system is proposed in response to the Lahontan Regional Water Quality Control Board's (RWQCB) prohibition against the discharge of nutrients into surface waters or groundwater in the Eagle Lake basin from individual septic systems. Concerns regarding the prohibition should be directed to the RWQCB. Concerns regarding the effects of grazing should be directed to the LNF, as well as the RWQCB.

**Comment 3e:** *How can you claim that eight foot tall, decorative fencing placed around SP-13 will obscure the facilities from public view.*

**Response:** Please see Items 8 and 15 in the Errata Sheet, your comments were considered in revisions to the Draft EIS regarding the decorative fencing and visual impact mitigations. The chain link fencing will only be placed around the evaporation ponds, which will occupy nearly half of the ±52-acre site, and must be tall enough to prevent animals, such as deer, from entering the pond site. LNF Landscape Architect Dave Reis and Lassen County Community Development Director Robert Sorvaag, have determined that the mitigation measures, as revised in Item 15 of the Errata Sheet, will be adequate to reduce the visual impacts to less than significant levels and achieve "Retention" parameters defined in LNF's Visual Quality Objective.

**Comment 3f:** *The DEIS states there is financial assistance for permanent Spalding residents, however there is no mention of assistance for the occasional vacationer like myself. According to the DEIS I could end up paying \$783 per year in assessments alone for my three parcels not to mention the additional \$66 per month for operation and maintenance. This is a lot of money for land my family only uses occasionally.*

**Response:** In Spring of 2003 Lassen County was awarded a \$500,000 Community Development Block Grant (CDBG) from the California Department of Housing and Community Development. Approximately \$372,000 of this grant will be available to eligible property owners in Spalding to pay assessment fees for construction of the wastewater collection and disposal system planned for the community. To be eligible for assistance under the CDBG Program, the recipient's household income must be less than 80 percent of the county median and they must occupy their Spalding residence for a minimum of six months during the year. Based on a residency and income survey conducted in 2002, 75 households (51% of the full-time residents) will qualify to have their assessments paid and 94 households (64% of the full-time residents) will qualify to have their onsite improvements paid with grant funds. The SCSD has asked the County to apply again next year to receive another grant from the CDBG Program to help low and moderate income residents pay the cost of onsite improvements necessary to hook up to the wastewater system. If you have additional questions regarding costs associated with the wastewater system development please contact the SCSD at 530/825-3258.

**Comment 3g:** *The visual sensitivity levels discussed in Volume 10 of the 1979 Raymond Vail report are being violated by the proposed project; it would be illegal to move forward with the land exchange as presently proposed.*

**Response:** The *Eagle Lake Basin Planning Study* (Study) developed by Raymond Vail and Associates in 1979 only provides general information on various resources in the basin and is to be used by agencies as a planning aide. This report does not establish legal requirements that must be adhered to when planning projects. The FS and the SCSD did refer to the Study in developing the project and considered the resource information provided. The FS does acknowledge that there will be an initial adverse effect to the visual quality of SP-13. However, this impact, which will lessen over time, is relatively minimal when weighed against the benefits

of the project, which include improved water quality and public health, as well as termination of the RWQCB's cease and desist order and the building moratorium.

**Commenter #4: JANET EVANS**

Comment letter received from Janet Evans, Spalding landowner, on July 14, 2003.

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**Comment 4a: *Once the land is exchanged will it then be necessary for the Lassen County Planning Department to approve the use of this land?***

**Response:** The Mahogany Way parcel is currently zoned Institutional Use District (I-1). This zoning designation allows the Spalding Community Services District (SCSD), by right, to utilize the property for "Public uses and buildings, including those owned, or managed by Federal, State, County, City or District". A portion of this site is used for the SCSD Fire Hall. This use is allowed under this designation and does not require County approval.

The SP-13 site is currently zoned Upland Conservation District (U-C) and Open Space District (O-S). Under these zoning designations, construction of wastewater evaporation ponds would be subject to County approval of a Special Use Permit. However, since the SCSD plans to use this land for public use in perpetuity, they plan to change the zoning to I-1 following exchange. Request for the zoning change will be subject to a public hearing and will require the approval of the County Board of Directors.

**Comment 4b: *Will this land then be included on the County Tax rolls and subject to the same rules and regulations as any other business? I seriously doubt that the Lassen County Planning Department would approve of any other private industry doing business on that same piece of land.***

**Response:** The SCSD is a local government agency and not a private business, therefore the land will be in public ownership and will not be included on the public tax roll. Use of the lands acquired from the Forest Service (FS) will be limited to those allowed under the applicable zoning designation.

**Comment 4c: *The DEIS states that the greatest impact to the bald eagles will come from increased human activity around nesting sites and prey habitat resulting from the projected population increase. The document also states that the wastewater ponds and related facilities will only be 0.20-0.25 miles away from the Ice Cave Bald Eagle Nest. If this is not considered an increase in human activity, than what is? The proposed mitigation measures hardly seem adequate to address the anticipated impacts to the bald eagle.***

**Response:** During development of the proposed action, the FS determined that project implementation may adversely affect the northern bald eagle, a species Federally listed as threatened. Therefore the FS was required under Section 7 of the Endangered Species Act to

conduct Formal Consultation with the US Fish and Wildlife Service (USFWS). The USFWS estimated that the project may result in the incidental taking of two adult nesting bald eagles per year, not in the form of injury or mortality, but rather in the form of harassment and harm. Based on the analysis conducted by both agencies during the consultation, the USFWS determined that the project, with its proposed mitigation measures, is not likely to jeopardize the continued existence to the bald eagle.

**Comment 4d:** *The document states that closure of Fred's Road would require anglers to walk in or use an alternate vehicular access. Is there an alternate access and if so where is it?*

**Response:** Please see Item 11 in the Errata Sheet. The location of the proposed alternate access is shown in Figure 7 of the Draft EIS.

**Comment 4e:** *On page 58, the document states that the proposed road closures would limit access to those dependent upon vehicular use, such as those with physical disabilities, and that these impacts would be adverse, but less than significant. How can you say this is less than significant? What about the people that are unable to walk into these areas; are they insignificant? Since when are the disabled, elderly and the very young considered "less than significant"?*

**Response:** The FS does not consider people with physical disabilities insignificant. On the contrary, the FS has initiated several projects to improve handicap access at various locations around the lake including the Christie Day Use area and Gallatin Beach. However, in looking at the entirety of Eagle Lake, including all existing public facilities and recreational opportunities, the FS does not feel that the seasonal closure of Forest Road 32N27Y and the permanent vehicular closure of Fred's Road, which will be substantially mitigated by creating the new Pine Creek Estuary access road, would result in a significant adverse effect to the public.

**Comment 4f:** *The document states that closing Fred's Road is important in preventing disturbance-related nesting failures at the Ice Cave and Fish Trap eagle nests. The document also states that foot traffic presents a greater disturbance to bald eagles than does vehicular traffic. I find these two statements to contradict each other.*

**Response:** See response to comment 2a.

**Comment 4g:** *Again you intend to limit the public's ability to access the lakeshore by closing the Osprey Management Area during the bald eagle breeding season, January 15 to the first week of July. You will allow the equipment, vehicles and the ponds to operate year round, but limit the public's use of the public's lands. You also plan to monitor the eagle's*

***nests and if data indicates that the bald eagle population is declining, management options shall be explored to ameliorate bald eagle habitat and success. How do you intend to restore an area that has been destroyed by sewer ponds, equipment, roads, fences, seven-foot berms and a parking lot?***

**Response:** Equipment used to construct the wastewater collection system would be limited to the operating periods established in Table 3, Item 5 of the Draft EIS. Except for the occasional use of the aeration sprinkler and weekly inspections by the facility manager, very little activity would occur at the pond site once the facility is operational. The facility should be relatively quiet since all pumps and other electro-mechanical equipment will be installed below ground and placed in sound insulating enclosures to the greatest extent feasible to reduce noise levels.

Future management actions addressing potential declines in bald eagle populations would depend upon the cause for the decline. For instance, if the decline were attributed to a lack of suitable nesting trees, then the FS would pursue silvicultural prescriptions to create forest conditions conducive to bald eagle nesting. If the decline is disturbance related, the FS may consider enforcing area closures to minimize disturbance during nesting periods.

**Comment 4h:** ***The Draft EIS mentions that a loan from USDA Rural Utility Service will be used to pay for a portion of the project. I was not aware that the property owners approved this loan.***

**Response:** The SCSD has applied for a loan from the USDA Rural Utility Service on behalf of the property owners in order to fund the actions necessary to lift the cease and desist order imposed by the California Regional Water Quality Control Board on all property owners.

**Comment 4i:** ***I am extremely concerned about the cultural resources in the area of the proposed sewer ponds. I would like to be notified if the potentially impacted sites are eligible for inclusion in the National Register of Historic Places. If the sites should require mitigation I would like to be advised of the proposed mitigation. Once these sites are destroyed they are gone forever, there is no turning back, no restoration, and nothing can make their destruction an acceptable factor.***

**Response:** As stated in the Draft EIS, the SCSD has conducted a cultural resources inventory of the project's Area of Potential Effect (APE). This inventory identified nine archaeological sites within the APE. Further analysis of the data collected in the inventory and the engineer's design drawings lead to the delineation of a new, more accurate APE, and a conclusion that only five of these archaeological sites may be adversely affected by proposed construction activities. With the assistance of the SCSD, LNF prepared a Cultural Resource Evaluation Plan that identified the necessary testing procedures to determine if these five sites would be adversely affected by the proposed project. Based on this testing, which was conducted June 30 through July 3, LNF has determined that the five sites are not eligible for

inclusion in the National Register of Historic Places and that implementation of the proposed action will not adversely affect the identified cultural resources. LNF has documented these findings and submitted them to the State Historic Preservation Officer (SHPO) for review. Upon review, the SHPO will either concur with the findings or require other measures necessary to ensure the project does not adversely affect cultural resources. Any additional mitigation measures required by the SHPO shall be incorporated into the project as a condition of approval.

**Comment 4j:** *The Draft EIS states that one to seven foot berms, three evaporation ponds, eight-foot tall chain link fencing and newly planted trees and vegetation will be placed on SP-13. It also states that all of this will appear to be natural and not visually evident thereby achieving the Visual Quality Objective of "Retention". Are we actually supposed to believe that we will not notice this intrusion on our natural forested lands?*

**Response:** The FS does acknowledge that there will be an initial adverse effect to the visual quality of SP-13 and your comments were considered when revising the Visual Impact Mitigation Measures (Errata Item 15). The FS feels that by implementing the revised measures identified in the Final EIS, the visual impacts can be substantially reduced, thereby achieving the desired Visual Quality Objective within five years of project completion. Also see response to comment 3e and Figures 13 and 16 in the Draft EIS.

**Comment 4k:** *The Draft EIS states that placement of the evaporation ponds on SP-13 would reduce the effects of odors to less than significant levels. Apparently no one cares about the "odor". This (County Road A-1) is the only road leading around the lake and the chosen site is extremely close to the main intersection leading into Spalding. How much of an odor can we expect on a hot or windy day? Do we just plug our noses and go on? Have you ever had the unpleasant experience of driving past open sewer ponds? Numerous sites were available that were located away from the main roads and the "odor" problem might have been eliminated.*

**Response:** Potential odor was a factor in selecting the location for the wastewater evaporation ponds. However, project engineers have stated that similar facilities constructed elsewhere do not produce significant odor levels.

Twelve sites were initially considered for constructing the ponds. The sites were evaluated based on twelve different characteristics including; topography, soil texture, soil depth, distance from Spalding, elevation, accessibility, community acceptability, creation of in-holdings, Pine Creek crossing, wildlife resources, cultural resources and cost. Detailed analysis of the site evaluations can be obtained from the SCSD. One requirement for the ponds was that they be located near a main (paved) road to facilitate access by maintenance and construction equipment. Of the twelve sites, five were located immediately adjacent to Spalding, and thus may have potentially created odor problems for adjacent residents. Four other sites were located more than two miles away from Spalding, three of which were only accessible by dirt road. Creating suitable road access to these sites would have substantially increased project

costs. Also, many of these sites were located at higher elevations, which presented problems with snow accumulation and would have significantly increased costs for pumping the wastewater uphill. SP-13 was found to be close enough to Spalding to facilitate reasonable construction costs, yet far enough away to reduce potential odor related impacts.

**Comment 4I:** *The bibliography lists Volumes 10 and 11 of Eagle Lake Planning Study completed by Raymond Vail in 1979. Did you take these documents into consideration? The chosen location has numerous qualities that should deter you from selection of this site. It is located in a HIGHLY SENSITIVE AREA that has been identified because of the concern for scenic quality as well as diversity of natural features. It is in an area that was rated RETENTION. It is located in an area that is rated CULTURAL RESOURCE SENSITIVITY as well as WILDLIFE HABITAT that includes the Ice Cave Bald Eagle. I find it difficult to understand how you ignored this study. How can you possibly approve the destruction of this area?*

**Response:** The *Eagle Lake Basin Planning Study* (Study) only provides general information on the various resources in the basin and is to be used by agencies as a planning aide. As you pointed out the Study does note that the project is located in an area potentially containing sensitive visual, cultural and biological resources. As such, site-specific analysis of each of these resources has been conducted within the project area. These analyses have resulted in a proposed action and mitigation measures that consider the current condition of these resources and would not result in significant adverse impacts.

**ATTACHMENT B  
DISTRIBUTION LIST:  
Final Environmental Impact Statement**

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**Spalding Land Exchange  
Lassen National Forest  
Eagle Lake Ranger District**

Director, Environmental Coordination (Chief, 1950) Forest Service - USDA	Director, Planning and Review Advisory Council on Historic Preservation	Frank Hall CA Dept. of Fish and Game Honey Lake Wildlife Area
Robert Taylor CA Dept. of Forestry & Fire Protection	Paul Chappell California Dept. of Fish and Game	Donald Koch California Dept. of Fish and Game
HUD Field Environmental Officer California State Office	Bob Pyle Lassen County, Board of Supervisors	Robert Sorvaag Lassen County, Dept. Of Community Development
Bureau of Land Management, EL Region	Don Lampe Lampe Engineering	Joe Bertotti Lassen County Dept. of Community Development
Lassen County Farm Bureau	Lassen Land and Trails Trust	US EPA, Office of Federal Activities EIS Filing Section
Chief, Federal Activities Office (CMD-2) Region IX Environmental Protection Agency	John Short RWQCB - Lahontan Region	James Hockenberry State Water Resources Control Board
Office of Environmental Policy and Compliance US Department of Interior	Head, Acquisitions and Serial Branch USDA- National Agricultural Library	Mike Colbert USDA Rural Development
Karen Miller Chief, Endangered Species Division USFWS	Christopher J. Krupp Western Land Exchange Project	Doug Ames Lassen County Health Department
Office of Environmental Affairs	Lassen County Board of Supervisors	Merle Lay General Manager Spalding Community Service District
Bob Andrews, District Ranger Eagle Lake Ranger District Lassen National Forest	Ed Cole, Forest Supervisor Supervisors Office Lassen National Forest	Janine Blaeloch Western Land Exchange Project
Lonn Payne USCPA	C.G. Spies	Environmental Review Division HUD Building
Justin Moffett ENPLAN	C. Owen Bateson	Ronald and Janet Evans
Theodore Fenner	Harvey Family Trust	Mervin and Wanda Jellison
John and Barbara Korb	Manual and Rose Machado	Lowell and Joyce Smith
Todd Swickard Five Dot Land and Cattle Company	Edwin and Phyllis Tomasini	William Watson
Robert J. Woodward		