

Curry County, New Mexico

Land & Resource Management

Plan & Policies



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1. Introduction

The Curry County commissioners have voted to develop a Land & Natural Resource Use Plan and Policy (Plan) to translate their statutory mandate to “provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort, and convenience of any county or its inhabitants.” (NM Stat. § 4-37-1). Pursuant to state statute, this Plan is effective on both private lands where federal funds are used and on “land owned by the United States.” (NM Stat. § 4-37-2). The New Mexico Courts have held that local ordinances may impact federal lands and federal decisions so long as they do not encroach on sovereign rights or powers. *Bonito Land and Livestock Inc. v. Valencia County Bd. Of Com’rs*, 125 N.M. 638, 640 (N.M. Ct. App. 1998). In this case, not only does this Plan NOT encroach on the sovereignty of the United States’ decision-making authority, this type of land use plan is authorized by federal law.

Thus, based on the federal statutory authorities described below, the policies and powers of Curry County encompass the obligation to protect the customs and culture of the local citizens, to provide for community stability, and to protect the natural environment and resources. The purpose of this land use plan is to be a guide to efficiently and effectively use the resources while protecting the environment.

As required by the National Environmental Policy Act (NEPA), the Federal Land Policy and Management Act (FLPMA), the National Forest Management Act (NFMA), and other federal statutes, this Plan will be applied to federal regulatory frameworks that govern the management of public land in regards to the rangeland, soil, water, wildlife, air, energy, and other resources. Federal law requires federal agencies to give meaningful consideration to policies asserted in plans developed by local governments, including counties and conservation districts. Adoption of this plan will allow Curry County to achieve Cooperating Agency status, coordinate with federal land management agencies, and will provide direction and policies for “consistency review purposes.” Cooperating agencies assist the lead federal agency in development of all NEPA compliant documents.



2. Land Use Planning Process and Legal Framework

Locally elected governments and elected officials have far ranging and important responsibilities to their constituents, described by state statutes as protecting their “health, safety and welfare.” That responsibility includes specifically interacting with federal agencies on all federal issues impacting the local community, county, or conservation district(s). To give the locally elected government the strongest voice it can have during this “government-to-government” interaction, federal law specifies that local governments can adopt “local land use plans” or “resource plans” to set local policy regarding the use and management of federal lands and the adoption of federal policies, programs, and other types of federal decision-making. These local land use policies are not zoning and do not regulate the use of private lands unless federal funds are used. This plan is intended to protect the local citizens’ use of and access to federal and public lands and resources.

Federal agencies and departments are mandated by various federal statutes to engage local governments in federal decision-making processes related to federal plans, policies, and programs that will impact the local land use, management of natural resources, the citizens, and the local tax base. The adoption of a local land use or resource plan by a local government is a critical tool allowing a local government to have a substantive impact on federal decisions, plans, policies, and programs. In fact, federal agency consideration of a local land use plan, resource plan, or “officially adopted policy” plays a key role in the success of a local government engaging as a cooperating agency or with consistency review under NEPA, coordination under FLPMA, or NFMA, and in assisting in the Governor’s consistency review process.

2.1 Local “Land Use Plan” Defined

When people think of local “land use plans,” they typically have in mind the general planning document that counties use to determine zoning, public services and facilities, transportation, and the like. But these plans apply to land that is largely within the county’s jurisdiction and are based upon specific state authorization. By contrast, many rural counties and conservation districts have also officially adopted a separate land use plan or natural resources management plan that contains policies relating to the surrounding federal land and reflects the local government’s position on federal decisions. These local plans also describe the local economic or tax base as well as local “custom and culture” which the federal agencies are required to consider. It is this second type of planning that is being undertaken by this process.

For those unfamiliar with local land use planning participation for federal decisions, the very idea may seem odd. Local governments do not have jurisdiction over the federal government, and local land use plans cannot require federal land managers to take specific actions. For example, a county cannot dictate in its land use plan how many grazing animal unit months (AUMs) will be allocated for a given grazing allotment, or that wild horse populations shall be managed below



appropriate management levels (AML) to provide more forage for livestock grazing. These decisions are within the authority of the federal agency. However, rural counties' socioeconomic well-being, health, safety, and culture can be strongly impacted by the management of the surrounding federal or public lands. Moreover, in New Mexico, the courts have clearly recognized that county governments are generally required by state law to use their authority to protect the economic, social, and general well-being of the people and resources that are within their jurisdictions (NM Stat. § 4-37-1). The reason a local government would go through a process to develop a land use plan is to ensure the local socioeconomic wellbeing, the culture and custom of the constituents, and natural resource health are considered in federal decisions.

2.2 Statutory Requirements for Local Government-to-Federal Interaction and Influence

2.2.1 The National Environmental Policy Act (NEPA)

NEPA applies to “every major Federal action significantly affecting the quality of the human environment” (42 U.S.C. § 4332(2)(C)). The courts have interpreted this to mean that every time the federal government spends any amount of money for almost any action, NEPA compliance is required. There are several ways local governments can participate in the NEPA process, depending on the type of federal decision, the level of commitment of the local government, and the goal of the local government.

First, the local government can use its local land use or resource plan as part of the federal agency's “consistency review” process. Under this provision, if the federal agency, in the course of writing an EIS, receives a local land use or resource plan, NEPA commands the federal agency to “discuss any inconsistency of a proposed action with any approved State or local plan and laws (whether or not federally sanctioned). Where an inconsistency exists, the [environmental impact] statement should describe the extent to which the [federal] agency would reconcile its proposed action with the [local government] plan or law.” (40 C.F.R. §§ 1506.2, 1506.2(d)).

NEPA also requires that copies of comments by State or local governments must accompany the EIS or EA throughout the review process (42 U.S.C. § 4332(c)).

Second, local governments can separately participate in the NEPA process as a “cooperating agency” (40 C.F.R. § 1508.5). Pursuant to NEPA, an applicant for cooperating agency status must both (1) be a locally elected body such as a conservation district board of supervisors or a county commission; and (2) possess “special expertise.” A local government's special expertise is defined as the authority granted to a local governing body by state statute. New Mexico statutes allow County Commissions to serve as both administrative and policy-making bodies for their counties. While, generally, boards have only those powers specifically conferred by the state statutes and the New Mexico constitution, courts have held that they have such implied powers as may be necessary to carry out their specified powers. *AA Oilfield Service, Inc. v. New Mexico State Corp.*



Com'n, 881 P.2d 18 (NM 1994). Additionally, pursuant to NM Stat. § 4-37-1 et seq, Curry County is charged with protecting the health, safety, and welfare of its citizens, specifically including flood control, water conservation and drought management, county roads, protection of the local tax base, fire-fighting, county economic protection and health, etc. These statutes clearly define the local government's "special expertise" required to be a cooperating agency pursuant to NEPA.

2.2.2 Governor's Consistency Review Process

State Governors are entitled to a separate consistency review of federal land use plans, revisions, and amendments. Title 43 C.F.R. § 1610.3-2 provides an opportunity for the Governor to review all proposed plans to identify any inconsistencies with State or local plans. If the Governor's comments result in changes to the plan, the public should be re-engaged in the process.

2.3 County Expectations from Land Use Planning Process and Land Use Plan

While the statutes and regulations outlined above spell out the legal requirements of the federal agencies in their duties in dealing with local governments, the County recognizes that part of this land use planning process is to develop a solid working relationship with the federal agencies doing business in Curry County. The County recognizes that "coordination," "cooperating agency status" and "consistency review" is required actions on behalf of both the federal agencies and the local governments. To that end, the County commits to the following actions:

1. Within 30 days of the date of adoption of this plan, the County will inform the federal agencies of the date, time, and location of their regularly scheduled meetings with an open invitation that federal agency personnel should attend such meetings if there are issues to discuss.
2. Within 30 days of the date of adoption of this plan, the County will transmit a copy of this local land use plan to the state, regional, and local federal agency offices doing business within Curry County for their consideration as part of any consistency review that is required pursuant to federal statute.
3. Within 30 days of the adoption of this plan, the County will contact the Cannon Air Force Base and the US Fish and Wildlife Service (regarding the Playa Lakes Joint Venture) with regard to protocols related to informal communication that should occur so that each is apprised of issues and concerns as early as possible.
4. In a timely manner, the County will review NEPA documents to determine if they will request "cooperating agency status" and will consider entering into Memorandums of Understanding (MOU) or Memorandums of Agreement (MOA) as appropriate. The County reserves the right to negotiate a MOU or MOA on a case-by-case basis, although a MOU or MOA may not be appropriate or necessary in all cases.
5. The County supports the establishment of a multi-agency stakeholder group, hosted by the County Commissioners, to review and discuss ongoing issues on public lands, and propose



regular meetings on a schedule to be determined, but not less than bi-monthly. The County expects that the federal agencies will provide a record of compliance with the “standards of quality” and its peer review as discussed in section 2.4 of this plan.

2.4 The Need for Credible Data

To the greatest extent possible, data should drive all land use planning decisions. Unfortunately, sufficient data, data at an appropriate scale, or timely data to use in analysis are not always available. For all references to “data” in this plan, we refer to information that meets, at a minimum, the Federal Data Quality Act (FDQA).

The FDQA directs the Office of Management and Budget (OMB) to issue government-wide guidelines that “provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility and integrity of information (including statistical information) disseminated by Federal agencies” (Sec. 552(a) Pub. Law. 106-554; HR 5658; 114 Stat. 2763 (2000)).

The OMB guidelines apply to all federal agencies and require that information disseminated by the Federal government will meet basic informational quality standards 66 Fed. Reg. 49718, Sept. 28, 2001; see also 67 Fed. Reg. 8452, Feb. 22, 2002).

This “standard of quality” essentially requires that data used and published by all Federal agencies meet four elements. These elements include (66 Fed. Reg. at 49718):

- (a) quality
- (b) utility (i.e., referring to the usefulness of the data for its intended purpose)
- (c) objectivity (i.e., the data must be accurate, reliable, and unbiased)
- (d) integrity

In addition to following the OMB guidelines, all federal agencies were also to issue data quality guidelines by October 1, 2002. 67 Fed. Reg. 8452.

In 2004, the OMB issued a memorandum requiring that, after June 15, 2005, influential scientific information representing the views of the department or agency cannot be disseminated by the federal government until it has been “peer reviewed” by qualified specialists (Office of Management and Budget 2004). This requirement does not specifically require outside peer review, but internal review.

2.4.1 Policy Statements

1. Require the inclusion of quantitative data that meets credible data criteria, even if the data were not produced by a federal agency.



2. Support the use of credible scientific data. Credible scientific data is defined as rigorously reviewed, scientifically valid chemical, physical and/or biological monitoring data, timely collected under an accepted sampling and analysis plan; including quality control and assurance procedures and available historical data.
3. Require the use of data that meets at least the minimum standards of U.S. Fish and Wildlife Service (FWS) Manual Chapter 274 FW2 – Establishing Service Data Standards (Service n.d.).

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3. Land Management Policies

3.1 County History, Custom and Culture

This county was created out of a portion of Chaves county, at one time a portion of the vast domain of the County of Lincoln. It is in the heart of the country described by the early Spanish explorer as being as far as the eye could reach a land of "buffalo and sky."

The Leading Facts of New Mexican History, Vol. 3



Curry County is a small, rural county on the eastern New Mexico border that is approximately 1,406 square miles and approximately 900,284 acres (Figure 1). Curry County was established in 1909 by taking portions of Roosevelt and Quay counties and named after George Curry, Territorial Governor of New Mexico from 1907-1910 (Commerce n.d.).

In 1906, the Santa Fe Railway established a town site in eastern New Mexico. The town site, originally known as Riley's Switch, became the city of Clovis. The county seat since 1909, Clovis had an estimated population in 2015 of 50,398 (U.S. Census Bureau n.d.). The towns of Texico, Grady, and Melrose are rural communities in the county with approximately 1,500 total inhabitants.

Land ownership is predominately private (836,700, 93%) (Figure 2). The State of New Mexico owns 60,116 acres (7%), and the Department of Defense owns Cannon Air Force Base (AFB) (3,468 acres). All State lands are currently in active agricultural leases.



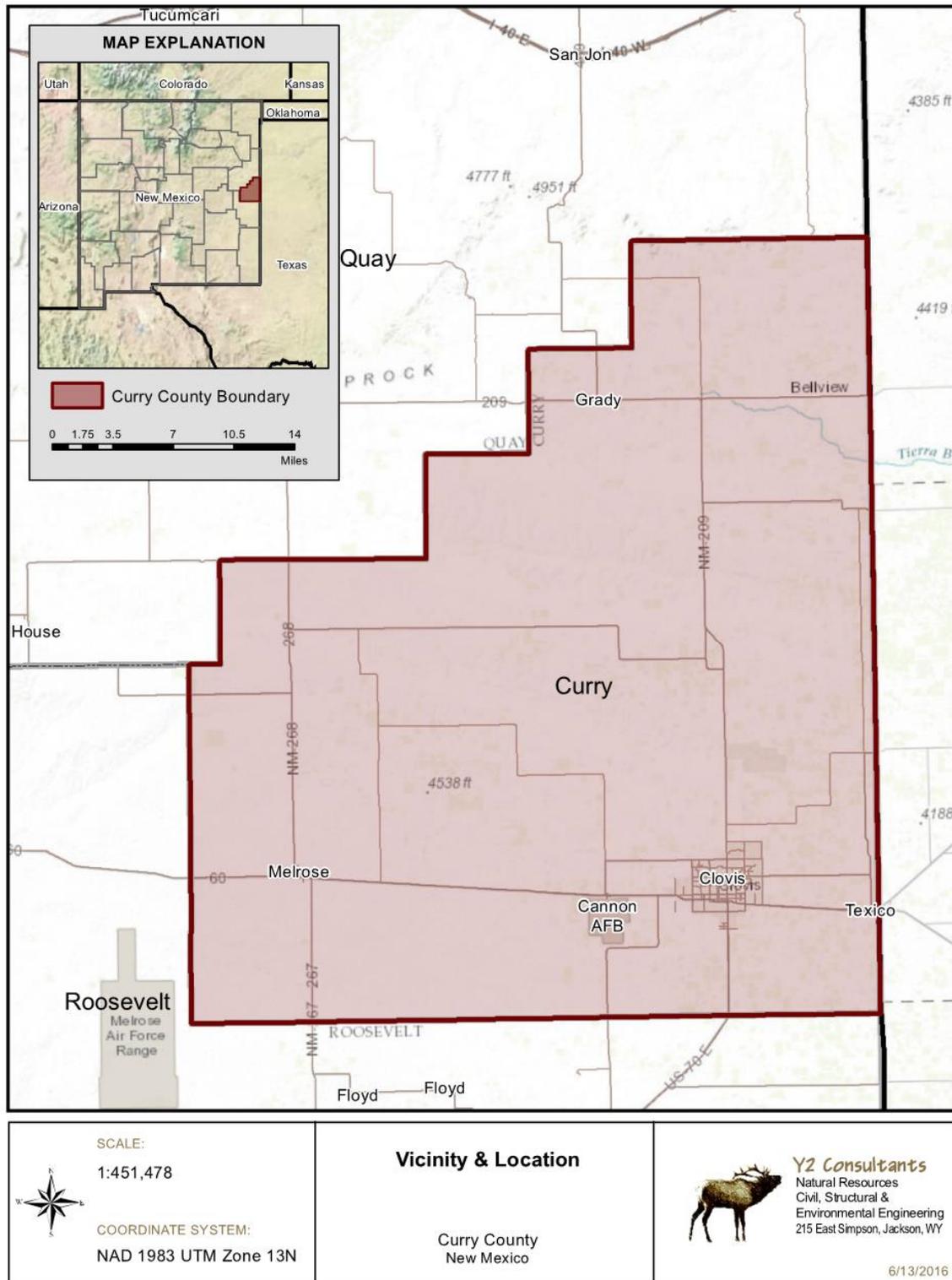
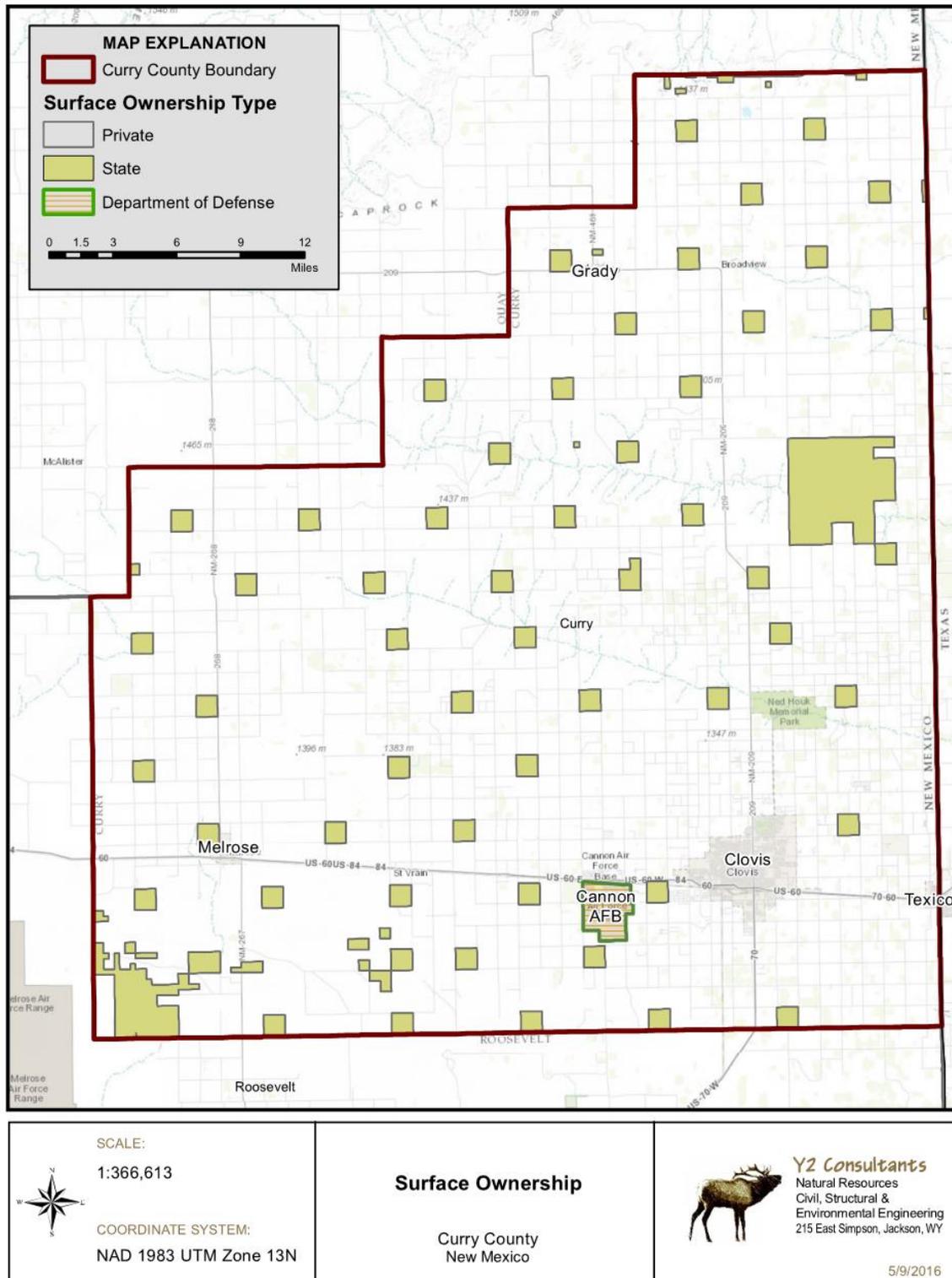


Figure 1. Vicinity and Location, Curry County New Mexico.



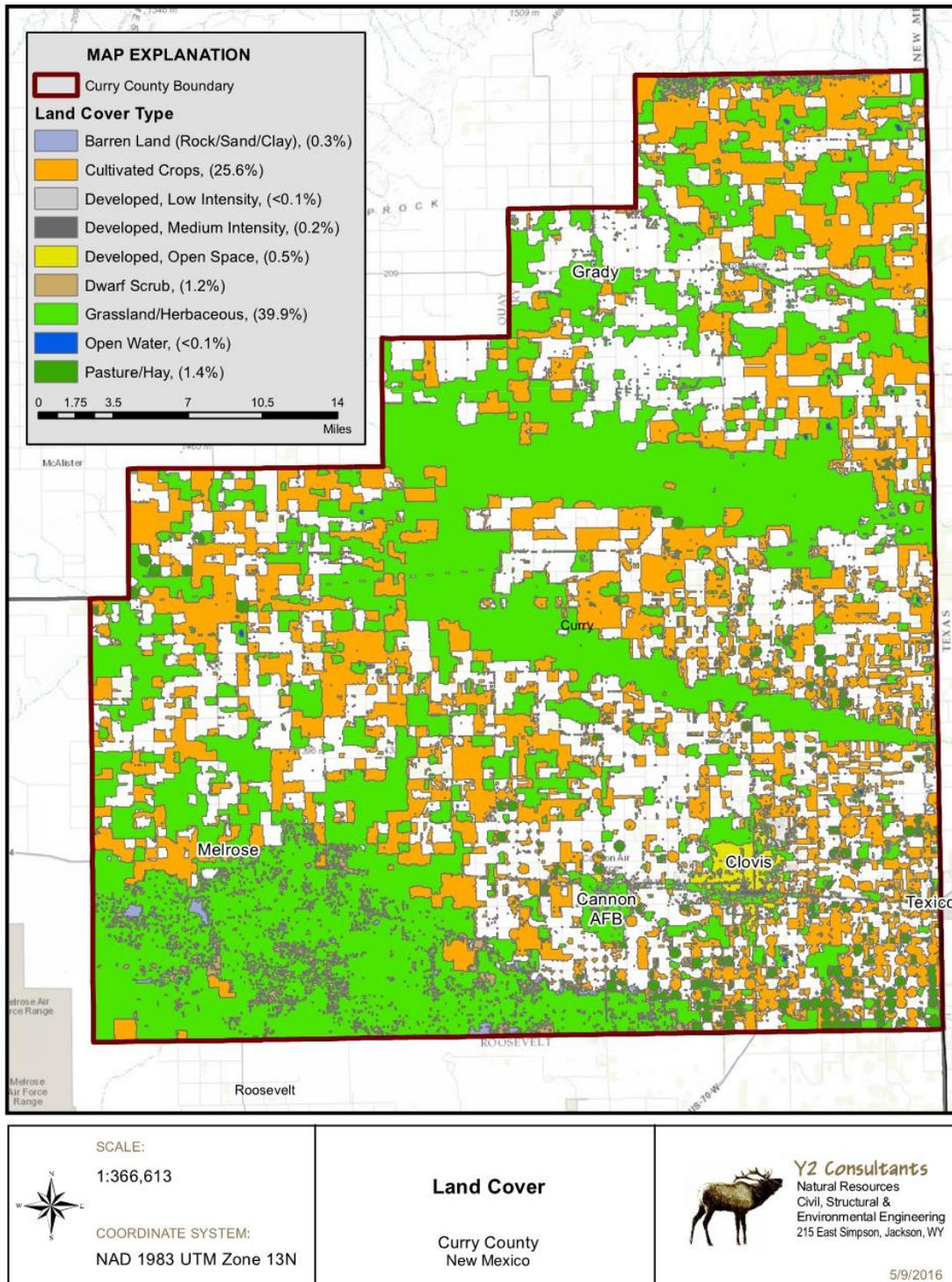


Ownership Data: Bureau of Land Management - New Mexico State Office, Santa Fe, NM. Accessed from: <http://rgis.unm.edu/getdata> on 5/9/2016

Figure 2. Surface ownership.



The county is dominated by grassland and cultivated crops (Figure 3).



Land Cover Data: USGS USEPA EDAC, Clifton, AZ 1:250,000 Quad West Half USGS Land Use/Land Cover, 2000, Retrieved: 3/10/16

Figure 3. Land Cover, Curry County.



Curry County's natural resources and vast amount of open land have been the bedrock of its farming and ranching economy, culture, and history. Natural resources – especially water – will continue to exert a strong influence on its future as the County addresses water supply issues, renewable energy producers look for open areas of land on which to collect and transmit wind and solar power, and new residents continue to move to the County.

***Curry County Comprehensive Plan Update,
2015***

3.1.1 Background

The terms custom and culture describe the character of the citizens of Curry County through history and current practices.

Custom is a usage or practice of the people, which by long and unvarying habit, has become compulsory and has acquired the force of law with

respect to the place or subject-matter to which it relates (Bouvier 1867). Culture is defined as the customary beliefs, social forms, and material traits of a group; an integrated pattern of human behavior passed to succeeding generations (Webster's New Collegiate Dictionary 1975).

The County has a significant cultural and archeological history of human occupation, dating back to the ancient Paleo-Indian culture commonly known as "Clovis Man". Clovis Man inhabited the region 11,000 years ago and is generally accepted as a benchmark for the oldest culture to inhabit the New World.

Spanish explorer Francisco Vasquez de Coronado and his band of Conquistadors trekked through the area in the mid-1500's and named it the "Llano Estacado", or "Staked Plains" after the many tall yucca plants. The Comanche Indian Tribe lived and hunted in the area in the 1700's and subsisted primarily on the vast herds of buffalo that roamed the Great Plains. The last members of the Comanche tribe were captured in 1875 (Eastern Plains Council of Governments 2012).

The Comprehensive Economic Development Strategy (Eastern Plains Council of Governments 2012) provided the following history of the area:

Sheep and cattlemen settled in the area to take advantage of the vast open-range with its wild grass, belly-high to a horse, and ample water from the few springs and playa lakes. Open-range grazing continued for the next seventy years as shepherds and cattlemen witnessed the gradual decline of the formerly vast herds of bison. During this time Kiowa 28 inhabited a vast region of the great southwest plains area including Texas, Oklahoma, Kansas, and New Mexico. These tribes fought among themselves and sometimes joined forces to fight the Spanish and later the settlers. They continued to hunt on the open plains, as they had nomadic Native American tribes like the Comanche, Kwahadi Comanche, Apache, and done for the previous several hundred years but eventually succumbed to the rifles of



the soldiers and the white man's incursion. Most of these Native Americans were killed, taken prisoner, or forced onto reservations far from their native lands.

Despite many hardships, the open-range remained a land dominated by cattlemen until the early 1900s. The open-range era began to wane with the settlement of homesteaders during the period 1901-1903. In Curry County, the open range gradually receded with the advent of barbed-wire fences placed around homesteaders' land. Farmers began planting crops, towns were platted and in 1906 Santa Fe Railroad engineers were ordered to locate a town-site in the newly developing ranch/farm land area of Eastern New Mexico. They chose Clovis and by 1908 Clovis had become a major hub for the railroad. The expansion of the Santa Fe Railroad radically enhanced communications, cattle shipment, and passenger service between the area and the outside world. It was this time of transition and rapid growth that led to the formation of Curry County in February of 1909. Named after George Curry, Territorial Governor of New Mexico (1907- 1910), Curry County was created from parts of Quay and Roosevelt Counties.

The rich agricultural history in Curry County has remained a critical component of the custom and culture of the County. Over time, however, other industries have grown in the community. The County is in a region with moderate wind energy resources and other renewable energy options such as solar or biomass power.

Cannon Air Force Base (CAFB) is home to the 27th Special Operations Wing and located 8 miles west of Clovis. In the late 1920s, a civilian passenger facility was established and named Portair Field. In the 1930s, it was renamed the Clovis Municipal Airport. In September 1942, it became the Clovis Army Airfield and was used for heavy bomber training. The Army Air Field was closed until 1951 when an Air National Guard Unit was activated and stationed at the base. The base was officially named "Cannon" – in honor of the late General John K. Cannon – on June 8, 1957. In 1959, the 27th Fighter Wing began operations at CAFB. In 2007, the 27th Fighter Wing was re-designated the 27th Special Operations Wing (United States Air Force n.d.).



Economic diversification has been a focus in the County. A strategic plan was created that led to the development and implementation of the Local Economic Development Act. The combined governments of Clovis and Curry County were one of the first local governments to implement the Local Economic Development Act in a joint regional effort to recruit industry. The Economic Development Act allows the city and county to develop incentive packages of land, buildings, or infrastructure for recruitment. The governments of Clovis and Curry County created a non-profit organization, The Clovis Industrial Development Corporation, to work with qualified businesses on an individual basis to foster industrial business development. Local business owners have formed a collaborative corporation to foster economic development.

Curry County's first wheat crop was grown in 1909, according to a 1935 report in the Clovis Evening News-Journal newspaper. The paper quoted pioneer land agent Cash Ramey, who said J.R. Smalley produced about 100 acres of wheat near the Ideal school, "four miles north and two west" of Clovis. But Ramey said the man who convinced others that wheat could be a successful crop for area farmers was Cyclone Jones, who harvested more than 300 acres of wheat about 12 miles north of Clovis in 1910. Cyclone was so named "because he was a big, blustery man with a voice like a foghorn," the newspaper reported. "...His lowest conversational voice could be heard half a block and...although a heavy-set man, he always came and went like a cyclone."

*The Centennial History of Curry County,
2009*

3.2 Candidate, Threatened and Endangered Species; Critical Habitat Designations and Species of Concern; Wildlife

3.2.1 Background

Congress passed the Endangered Species Preservation Act in 1966 which provided limited protection for species listed as endangered. The Departments of Interior, Agriculture, and Defense were to seek to protect listed species and to the extent possible preserve the habitats of listed species. In 1969, Congress amended the Act to provide additional protection for species at risk of "worldwide extinction" by prohibiting the import and sale in the United States. This amendment called for an international meeting to discuss conservation of endangered species and changed the title of the act to the Endangered Species Conservation Act. In 1973, 80 nations met to sign the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). As a follow-up, Congress passed the Endangered Species Act (ESA) of 1973. The ESA (FWS.gov accessed 10/31/2015):

- Defined "endangered" and "threatened"
- Made plants and all invertebrates eligible for protection



- Applied “take” prohibitions to all endangered animal species, and allowed the prohibitions to apply to threatened animal species by special regulation; such “take” prohibitions also include “adverse modification” of critical habitat
- Required federal agencies to use their authorities to conserve listed species and consult on “may affect” actions
- Prohibited federal agencies from authorizing, funding, or carrying out any action that would jeopardize a listed species or destroy or modify its “critical habitat”
- Made matching funds available to States with cooperative agreements
- Provided funding authority for land acquisition for foreign species
- Implemented CITES protection in the United States

The ESA was amended in 1978, 1982, and 1988. Funds are annually appropriated for the implementation of the ESA and have been since 1993. The ESA is administered by the U.S. Fish and Wildlife Service (FWS) and National Marine Fisheries Service.

Candidate species are “any species being considered...for listed as an endangered or threatened species, but not yet the subject of a proposed rule” (50 C.F.R. § 424.02(b)). The listing process is illustrated in Figure 4.

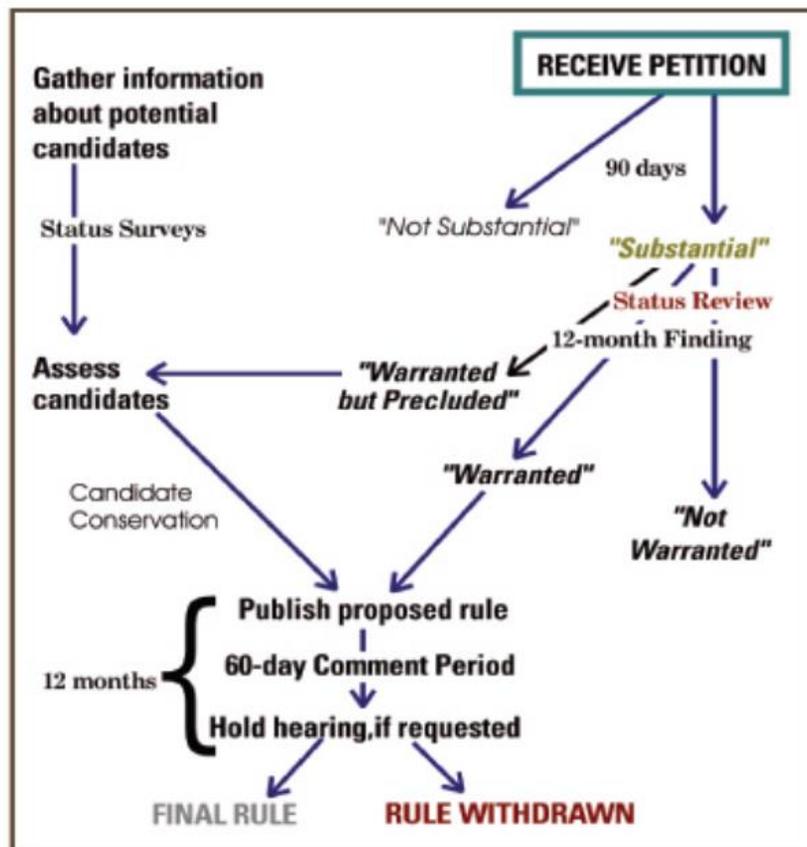


Figure 4. Listing process illustration taken from www.fws.gov/Endangered January 2015.

Critical habitat is a specific geographic area that contains features (or may develop features) essential to the conservation and recovery of a listed species and may require special management or protection. Critical habitat can include areas that are not currently occupied by a listed species but may be needed for its recovery. According to the ESA regulations issued on February 11, 2016, such habitat includes temporary habitat, ephemeral habitat, potential habitat, and migratory habitat. Although economic impacts are not considered during the species listing process, the economic impacts of a critical habitat designation must be analyzed in the designation process. Once a species is listed as threatened or endangered, and then once critical habitat is designated, “take” of the species is prohibited. “Take” includes adverse modification of critical habitat, including slowing the progression of potential habitat that may not have all necessary primary constituent elements, but may develop such elements in the future. The ESA also created several additional planning tools, including:

- Recovery plans (population and viability goals; define when delisting may be possible; what is required for delisting to begin)
- Reintroduction plans
- Habitat conservation plans (define when “take” may occur, defines mitigation options)
- Conservation plans or agreements
- Candidate Conservation Agreements (CCA) and CCAs with Assurances (private landowner arrangements for the protection of Candidate species that provides the landowner with protection if the species is listed)

According to the FWS website, there is one currently listed threatened or endangered species in Curry County, New Mexico – the Interior Least Tern. The least tern was originally listed as endangered in 1985. Critical habitat has not been designated. A recovery plan for the least tern was issued in 1990. The last 5-year status review was completed in 2013.

The Lesser Prairie Chicken (LPC) was listed as a threatened species in 2014. Critical habitat for the LPC was not designated at that time. At least five Candidate Conservation Agreements and Candidate Conservation Agreements with Assurances were developed for the LPC between 2008 and 2014. No recovery plan has been developed for the LPC. In February 2016, the Federal District Court for the Western District of Texas vacated the LPC listing. The FWS has withdrawn its appeal of the district court decision meaning that the LPC listing decision is fully vacated and the FWS will have to start any listing process anew. However, in 2008, the Roswell BLM issued its Special Status Species Record of Decision and Approved Resource Management Plan Amendment specifically including the LPC and the sand dune lizard. That document contains numerous stipulations on BLM mineral leasing such as “no surface occupancy” requirements that may impact mineral lease sales in Curry County.



The Southern Great Plains Crucial Habitat Assessment Tool (SGP CHAT) is a spatial model created to designate and prioritize areas for LPC conservation activities and industry development. The SGP CHAT classifies crucial habitat and important corridors into five “actionable” categories following the guidelines of the Western Governors’ Association (Kansas Applied Remote Sensing 2016). Historic lekking grounds, current leks, and proposed crucial habitat for the LPC are illustrated in Figure 5. The habitat designation of “crucial” by the SGP CHAT has no relationship to critical habitat designations that are completed by the FWS.

LPC habitat overlaps with potential wind development sites. A 2013 research report stated “no impacts on nest site selection, female reproductive effort or nesting success, or population numbers. Negative impacts included a trend for reduction in lek site persistence near turbines. Positive impacts of wind power development included an increase in female survival rates” (National Wind Coordinating Collaborative 2013).

In 2011, WildEarth Guardians and the Center for Biological Diversity sued to compel FWS to make findings regarding a petition to list 878 species under the ESA. The parties ultimately reached a settlement that FWS would make decisions on whether to list the species and designate critical habitat under the ESA by 2018. The species from the settlement agreement that may exist in Curry County is the Dunes Sage Brush Lizard. The revision to the Mexican wolf 10(j) experimental nonessential rule also includes Curry County in zone 3 wolf recovery. Under the current 10(j) rule, Mexican wolves will not be released into zone 3, but if a wolf is found within that zone, it will be treated as an endangered species.

Plant and animal species that have been petitioned for listing but for which a final decision has not been issued include:

1. False-foxglove, Leoncita
2. Least Bell's vireo
3. Western Bumble Bee
4. Monarch Butterfly
5. Rio Grande Cooter

State of New Mexico

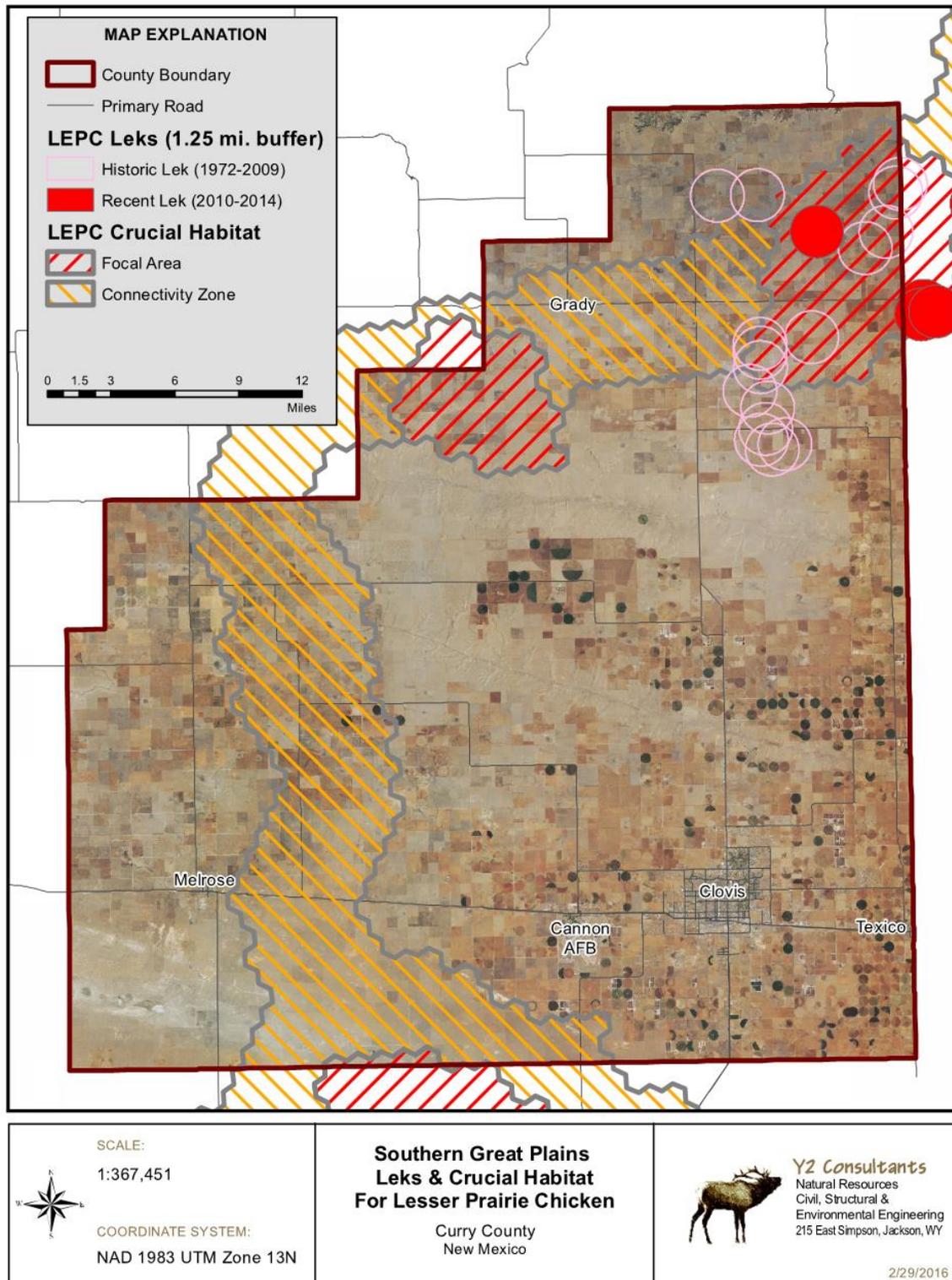
Currently, the State of New Mexico is between wildlife planning documents. The Comprehensive Wildlife Conservation Strategy for New Mexico (Strategy) (New Mexico Department of Game and Fish 2006) was scheduled to be in effect through 2015, which a State Wildlife Action Plan would be implemented. At this time, the State Wildlife Action Plan is incomplete. The Strategy focuses on Species of Greatest Conservation Need (SGCN) and key wildlife habitats with the desired outcome of sustaining viable and resilient populations of resident SCGN, including their habitat. In 2006, New Mexico had 452 vertebrate, mollusk, and arthropod SCGN. According to the BIOTA-



M Information System of New Mexico, Curry County had 229 species, including 6 amphibians, 19 reptiles, 64 birds, 36 mammals, 2 mollusks, 2 crustaceans, 1 dragonfly, 37 grasshoppers and crickets, 5 beetles, and 57 moths and butterflies. The most significant factors affecting the persistence of SGCN are those that cause habitat conversion, loss, and degradation. The Strategy further states that the conversion of habitat to other uses (mineral or water extraction, removal of biological resources) and pollution present the highest probability of altering New Mexico's key habitats (New Mexico Department of Game and Fish 2006).

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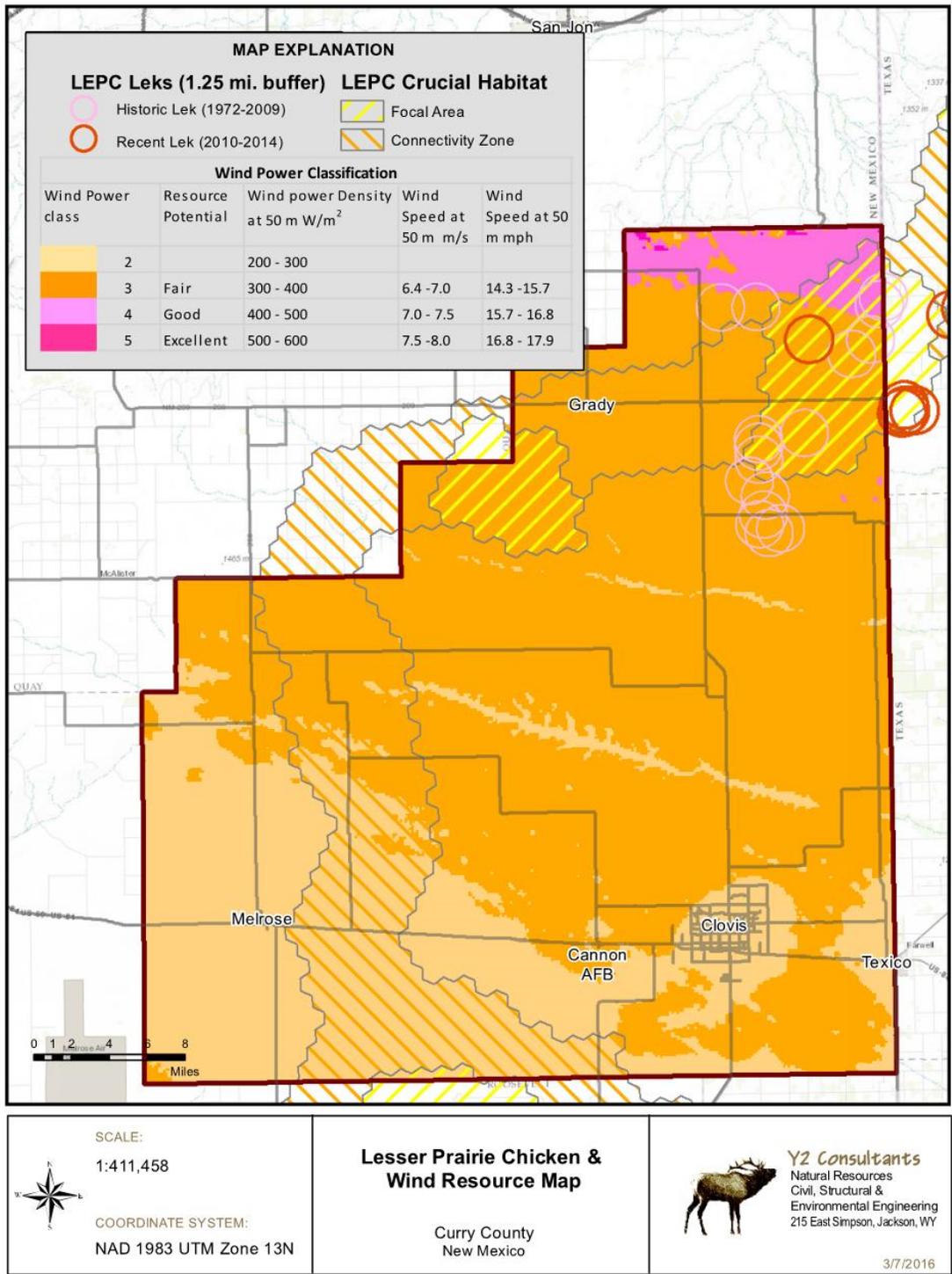




LPC Habitat Data: Kansas Biological Survey, 2014. Retrieved 03/31/15 from <http://kars.ku.edu/geonetwork/srv/en/main.home>

Figure 5. Leks and crucial habitat for the lesser prairie chicken.





50 m Resolution Wind Power Data: U.S. Department of Energy National Renewable Energy Laboratory. Retrieved 3/7/16 at http://www.nrel.gov/gis/data_analysis_background.html

Figure 6. Lesser prairie chicken and wind resources map.



3.2.2 Policy Statements

1. Sensitive Species/Species of Concern

- a. Support creating a unified (cross-agency) definition for “species of concern” or special status species.
- b. Support delisting of any species with insufficient, unsupported, or questionable data not meeting the minimum criteria for its listing or protection level.
- c. Management plans should not be created for single species and should be consistent with multiple use mandates.
- d. The County should be involved in the species of concern and sensitive species review process, including in the determination of what should be included as a species of concern or sensitive species.
- e. The County should be involved in the establishment of recovery objectives for species of concern, and the development of management actions to move species off the list of concern. Once recovery objectives have been reached, support moving species off of the list of concern.

2. Threatened or Endangered Species

- a. Support the participation of the County as a cooperating agency and/or in coordination in federal rulemaking, including any NEPA analysis related to the designation of critical habitat and development of recovery plans.
- b. Require the full analysis of the economic impacts on all proposed critical habitat designations or species management plans, and the inclusion of the County in this analysis.
- c. Oppose the management of non-ESA listed species (i.e., species of concern, species of special concern, or any other non-ESA designation) as though they are protected by the rules of the ESA.
- d. Support cooperation between private landowners and federal agencies to reduce the risk of listing under ESA.
- e. Support participation as cooperating agencies in all decisions and proposed actions which affect the County regarding sensitive, threatened, or endangered species; the reintroduction or introduction of listed species; habitat conservation plans; conservation agreements or plans; and candidate conservation agreements.
- f. Support the development of recovery plans within 18 months of listing that includes clear objectives to reach for delisting to occur; for species already listed support the development of a recovery plan within 18 months of this document.
- g. Require the petition of the immediate delisting of a species when population or recovery plan objectives have been met.
- h. Support the development of local solutions (i.e., habitat management plans, conservation plans or conservation plans with assurances) to keep a species from being listed under ESA or as species of concern/species of special concern.



- i. Require the avoidance of single-species management in all planning efforts.
 - j. Support control of predators and zoonotic and vector borne diseases negatively impacting special status, candidate, or listed species.
 - k. Support involvement of the County in discussions and decisions regarding any proposed introduction of experimental populations.
 - l. Oppose management actions increasing the population of any listed species in the County without an approved recovery plan. Without a recovery plan, management cannot focus on increasing the species population or habitat, and cannot move closer to a potential delisting.
 - m. At a minimum, provide copies of legal descriptions showing the exact boundaries of all designated critical habitat to local governments in Curry County.
 - n. Oppose the designation of potential habitat as critical habitat unless quantifiable data showing when and how features necessary for species recovery will be achieved on the property.
 - o. Require completion of exclusion analysis for all lands within Curry County.
- 3. Wildlife**
- a. Support low altitude training limitations to 1,000 feet AGL for areas of lesser prairie-chicken crucial habitat, as currently identified (Figure 7).

3.3 Climate Change

3.3.1 Background

Climate change means a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods.

Under NEPA, federal agencies must assess the effects of major federal actions that affect the environment. In February 2010, the Council on Environmental Quality (CEQ) released draft NEPA guidance on the consideration of the effects of climate change and greenhouse gas (GHG) emissions. Revised draft guidance was released in December 2014 that describes how agencies should consider the effects of GHG and climate change in NEPA documents pursuant to Section 102 of NEPA and its regulations in 40 C.F.R. §§ 1500-1508. This guidance explains that agencies should consider the potential effects of a proposed action on climate change, as indicated by its estimated GHG emissions, and the implications of climate change for the environmental effects of a proposed action.

To remain consistent with NEPA, federal agencies must consider the extent to which a proposed action and its reasonable alternative(s) contribute to climate change through GHG emissions and take into account the ways in which a changing climate over the life of the proposed project may alter the overall environmental impacts of such actions. The revised guidance states that when addressing climate change, (1) the potential effects of a proposed action on climate change as



indicated by its GHG emissions must be analyzed; and (2) the implications of climate change for the environmental effects of a proposed action must be analyzed. To allow agencies to focus on proposed projects with potentially large emissions, CEQ provides a reference point of 25,000 metric tons of carbon dioxide (CO₂) emissions on an annual basis to meet the need for analysis.

Under NEPA, agencies are required to consider direct, indirect, and cumulative effects when analyzing any proposed federal action and its environmental consequences. When assessing direct and indirect climate change effects, agencies should take account of the proposed action, including “connected” actions, subject to reasonable limits based on feasibility and practicality. In addition, emissions from activities that have a reasonably close causal relationship to the federal action (e.g. cumulative actions), such as those activities that may be required either before or after the proposed action is implemented, must be analyzed.

CEQ recognizes that land management practices such as prescribed burning, timber stand improvements, fuel load reductions, scheduled harvesting, and grazing can result in both carbon emissions and carbon sequestration. Thus, agencies are supposed to include a comparison of net GHG emissions and carbon stock changes that would occur with and without implementation of the proposed action. This analysis should take into account the GHG emissions (biogenic and fossil), carbon sequestration potential, and the change in carbon stocks that are relevant to decision-making in light of the proposed action timeframe. The analysis of impacts on the affected environment should focus on those aspects of the human environment that are impacted by both the proposed action and climate change.

The draft guidance urges agencies to consider opportunities that reduce the impacts of climate change on federal resources and investments.

3.3.2 Policy Statements

1. Require inclusion of additional scientific data that meets the credible data criteria, even if not produced by a federal agency (See Section 2.4).
2. Support climate change analysis on a regional level; the region should be identified through consultation and coordination with the County.
3. Support environmentally sound practices to reduce impact on the environment. Recognize all actions will impact various aspects of the environment in different ways. (e.g.: pipeline reclamation requires equipment that will emit particulates into the atmosphere. However, quality reclamation can positively impact rangeland health which helps with carbon sequestration, wildlife habitat, soil erosion, livestock forage, etc.).
4. We require an analysis of the impact each “decision” will have upon the global environment and the local economy. If the decision will have insignificant impact on the global environment but will have significant negative impact on the local economy, the alternative/decision is unacceptable.



3.4 Energy Resources

3.4.1 Background

The state of New Mexico offers several renewable energy tax credits including solar market development, renewable energy production, agricultural biomass, and geothermal heat pump tax credit programs. They also have a gross receipts tax exemption for wind and solar systems. Federal tax incentives that exist include the Business Energy Investment tax credit, the Modified Accelerated Cost-Recovery System, Renewable Electricity Production tax credit, Rural Energy for America Program tax credits and loan guarantees, Department of Energy Loan Guarantee Program, High Energy Cost Grant program, and the Biomass Refinery Assistance Program.

In 2015, the Energy Minerals & Natural Resources Department for the State of New Mexico completed a statewide energy policy and implementation plan. The objectives of the policy are (State of New Mexico 2015):

- Promote all sources of energy to advance economic development and general welfare in New Mexico
- Stimulate energy investment in New Mexico through utilization of abundant natural gas reserves via “value-added” sectors such as petrochemicals, natural gas vehicles, and in-state manufacturing
- Identify the feasibility of new energy markets for coal, small modular nuclear reactors for electricity generation, and energy storage technologies for wind and solar
- Provide regulatory clarity for existing and emerging energy industries
- Collaborate with state agencies, federal agencies, and tribes to provide a new framework of inter-governmental harmonization and asset deployment
- Establish the energy foundation of new and improved infrastructure in rail, roads, pipelines, petroleum refining, gas processing, and electric power transmission
- Maximize cost-effective deployment of energy efficiency in public buildings
- Address public concerns regarding energy development and public health, safety, and the environment
- Reduce fresh water consumption for energy production
- Provide science and technology-based information and data about the energy sector to the public and elected officials
- Develop initiatives with state and local colleges and universities to improve workforce training for the energy sector
- Review the energy policy at regular intervals and monitor state energy policy implementation



Wind Energy

Wind energy capacity in the United States continues to expand and was estimated to be approximately 74,000 megawatts (MW) at the end of 2015. Land-based wind turbines provide much of this power output. Power ratings range from 1.5 to 3 MW. Turbine towers range in height from 60 to 80 meters and turbine blades create a rotor swept area of 75 to 130 meters in diameter, resulting in rotor swept areas of 1 to 1.5 acres. The speed of rotor revolution has decreased significantly from 60-80 revolutions per minute (RPM) to 11-28 RPM. Blade speeds range from 14—180 miles per hour under normal operating conditions (American Wind Wildlife Institute 2016).

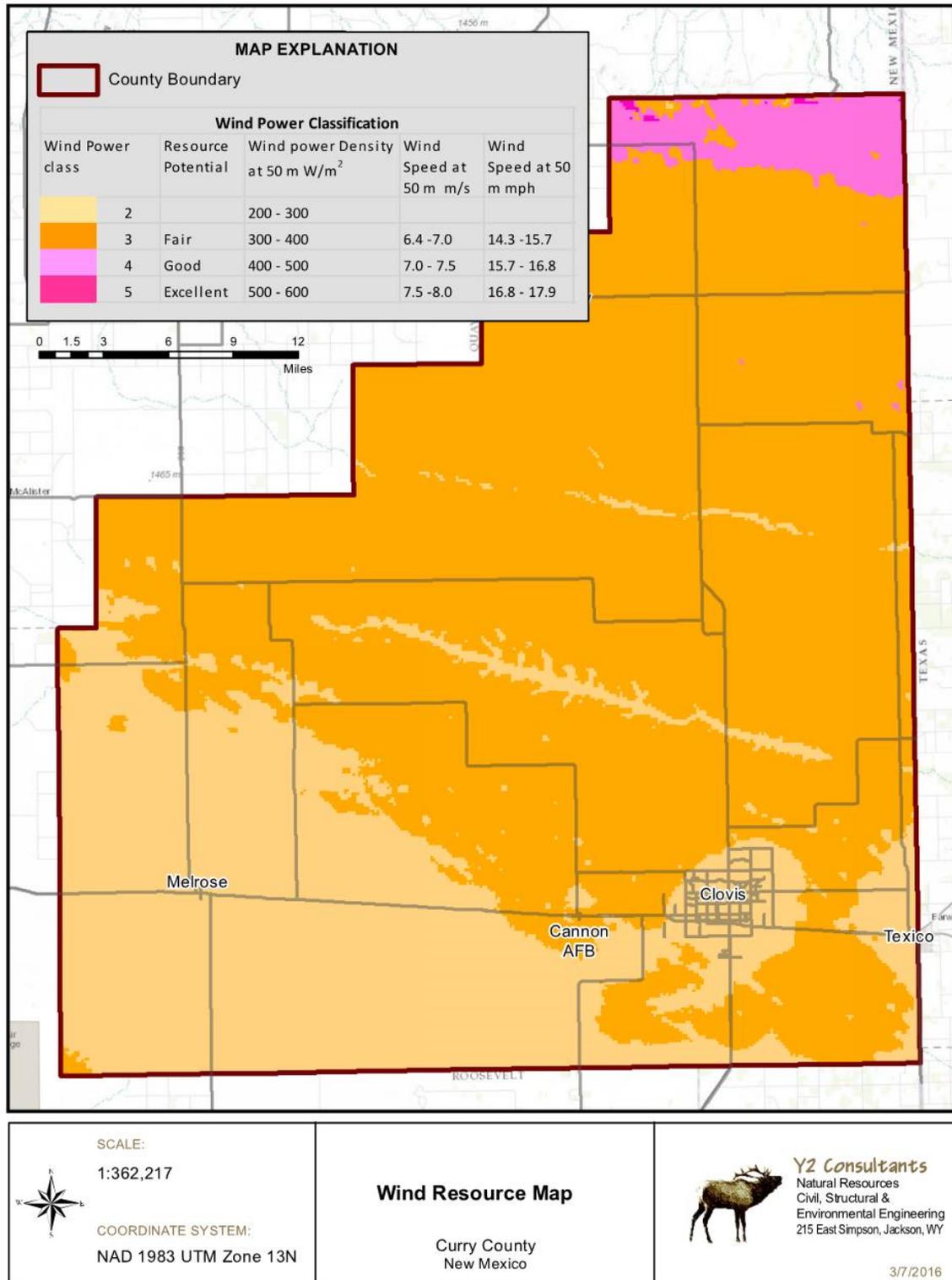
In 2013, New Mexico's wind resources generated 6% of all electricity consumed in the State (State of New Mexico 2015). Curry County is located in a region with moderate wind energy resources that could be developed in the future (Figure 7). A multi-phase wind turbine project is located near Grady. The first phase was a 12 turbine project located 5 miles south of Grady. The second phase, the Broadview Energy project, includes 39,000 acres and is located in Curry County and Deaf Smith County, Texas. It is a utility scale wind development project owned primarily by community members and is intended to supply power through the Tres Amigas transmission network. Additional wind farm projects are also being proposed for other areas of the County, including the Estes Wind Resources site that is partially included in western Curry County.

Concerns about wind energy development come from two fronts. The height of wind turbines is approximately 460 feet. In 2011 Cannon Air Force Base completed a draft Environmental Assessment (EA) that proposed low altitude training - approximately 10% of training missions would be flown between 300 and 500 feet Above Ground Level (AGL). The EA was withdrawn in 2012 because significant impacts were identified in the analysis. Planning was scheduled to renew in 2013 but its status is unknown. There is also potential for negative interaction with large birds such as Lesser Prairie Chicken (see the wildlife section for more information).

Transmission Lines

The major electricity transmission lines in New Mexico were constructed prior to the late 1970's. Transmission lines can be extremely challenging to develop due to land ownership patterns, permitting challenges, and high costs. The Tres Amigas "transmission superstation" is proposed to unite the United States power grid, which is currently split into three independent connections. Tres Amigas LLC has been granted the right to lease 14,400 acres (22.5 square miles) near Clovis by the New Mexico State Land Office for the superstation. While the ground has been leased for the Tres Amigas facility, it is unknown if construction has been initiated. Although the maps are not well developed, Curry County may be impacted by Cleanline Energy's Centennial West transmission line and/or the Western Spirit line.





50 m Resolution Wind Power Data: U.S. Department of Energy National Renewable Energy Laboratory. Retrieved 3/7/16 at http://www.nrel.gov/gis/data_analysis_background.html

Figure 7. Wind resources in Curry County, NM.



There are some concerns about potential overlap of wind energy development and lesser prairie chicken populations (**Error! Reference source not found.**).

Solar Energy

Although not yet a viable energy alternative in Curry County, the Curry County Comprehensive Plan states there is potential for future development on state trust land, residential, or commercial properties. Although development costs are high, it may be worth pursuing to be sold to out of state utilities (Sites Southwest 2015).

Biomass and Biogas

The County's agricultural industries generate waste that can be used for biomass power production. The energy content of crop residues vary, but is comparable to the energy content is wood or low grade lignite coal resource. The dairy and ranching industries also provide an and option for biogas (methane) power production. Captured methane can be used to generate power, produce heat, and power internal combustion engines. Anaerobic digesters can be installed to power farm operations or to be sold. The National Renewable Energy Laboratory estimates 14,300,000 tons of manure available in Curry County could generate approximately 70 MW of energy (Sites Southwest 2015).

Other Energy Sources

Oil and gas development is currently not active in Curry County, although statewide New Mexico is a significant provider of these products. Known leases are shown in Figure 8. The Tucumcari and Sin Nombre basins, which include a portion of Curry County, may provide oil and gas in the future (Sites Southwest 2015). Oil and gas revenues continue to provide an important funding source for the County. According to the New Mexico Tax Research Institute, approximately \$23.3 million in revenue was derived from state general fund education appropriates, capital allocations and severance tax bonds, gross receipts tax that are returned to the county, and ad valorem production and equipment taxes (State of New Mexico 2015).

Split Estate

New Mexico is a split mineral estate. Mineral (subsurface) ownership can be different from the surface ownership. The New Mexico Oil Conservation Division maintains a database of mineral and land ownership. They regulate oil, gas, and geothermal activity in New Mexico. Their database shows that south of Highway 84, a number of parcels have subsurface resources owned all or in part by the U.S. government.



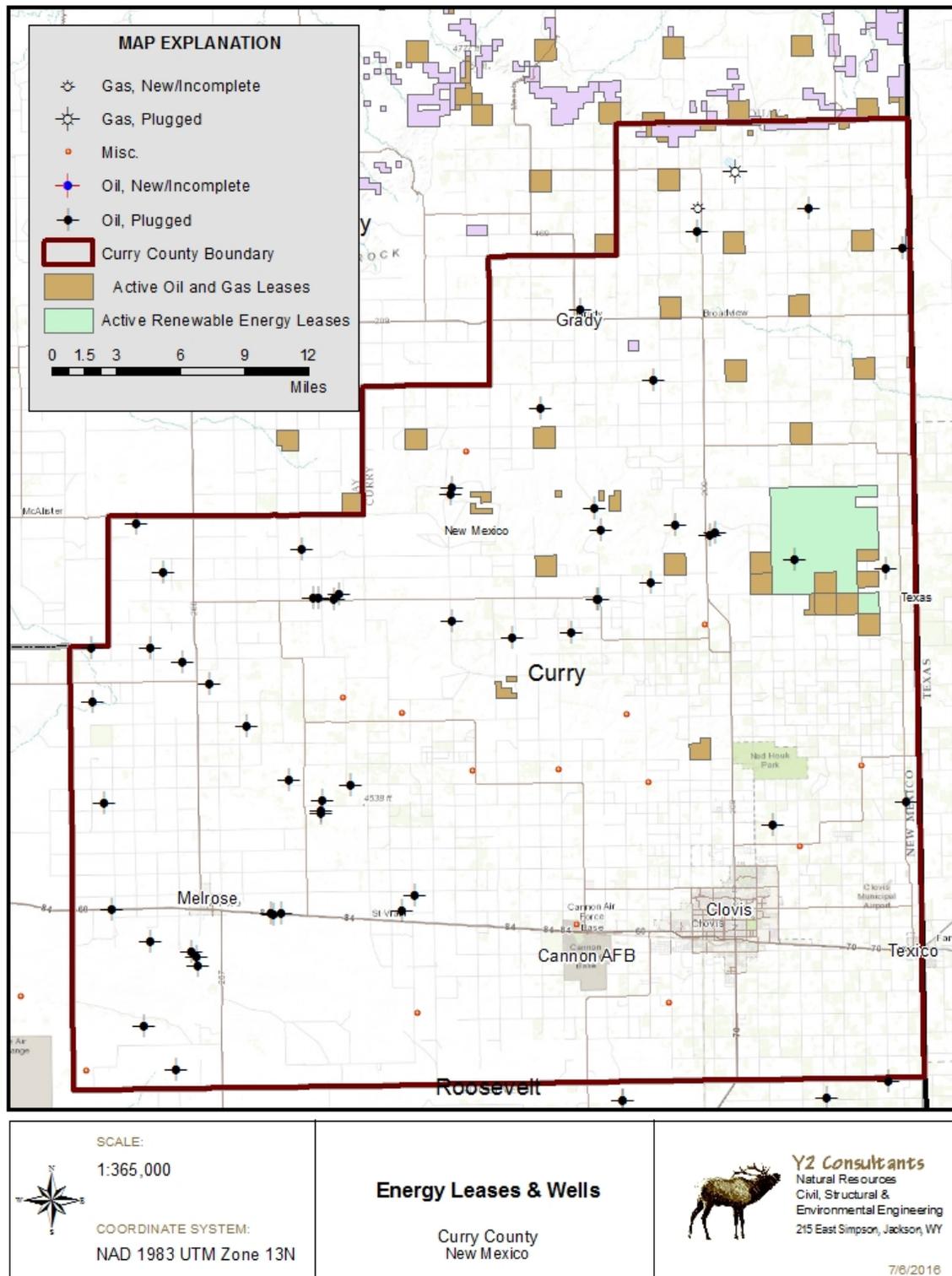


Figure 8. Energy leases and well locations.



Cannon Air Force Base Training Needs

Cannon Air Force Base completed the Draft Environmental Assessment for the Establishment of Low Altitude Training for Cannon AFB, New Mexico in 2011 (Cannon Air Force Base 2011). The proposed action would have aircrews flying an estimated three missions per flying day (688 per year) beginning at dusk. Aircrews would simulate dropping and retrieving personnel and supplies, participate in low altitude refueling, and perform related 27 Special Operations Wing training activities. Approximately 10% of the training missions would be flown between 300 and 500 feet (91-152 meters) Above Ground Level (AGL), 40% between 500 and 999 feet AGL (152-305 meters), and 50% between 1,000 and 3,000 feet AGL (305-915 meters). One element of the proposal was to avoid threatened and endangered or candidate species locations and critical habitats identified by management agencies by a minimum altitude of 1,000 feet (305 meters) AGL (Cannon Air Force Base 2011). All of Curry County was proposed for Low Altitude Training in the EA. The EA was never finalized and its current planning status is unknown.

3.4.2 Policy Statements

1. Promote the installation of transmission lines (whether subsurface or above ground) to increase the value of energy in Curry County.
2. Encourage coordination between the energy developer and relevant local, state, and federal agencies during all phases of the development of an energy project, particularly for transmission line installation.
3. Coordinate with the appropriate agencies and energy developer to avoid locating energy facilities/transmission lines in areas identified as having a demonstrated high risk to wildlife, water resources, historical sites, and agriculture land uses.
4. Create and support mitigation that returns the land to the pre-disturbance condition or in improved condition post-disturbance.
5. Require reclamation actions that ensures site-specific reclamation plans are appropriate for the soils, vegetation, and climate. Ensure the disturbed sites are immediately stabilized to conserve soil. Ensure that interim vegetation is planted to hold soils, including the use of sterile, nonnative seeds, and that the final reclamation is done on disturbed areas by using native species when seeding or planting.
6. Promote finding balance between military training requirements and wind energy development needs.
7. Encourage discussions with Cannon Air Force Base about low altitude training needs.
8. Support military training activities in balance with the customs and culture of Curry County residents.

3.5 Socioeconomics and Economic Viability

3.5.1 Background

Seven economic generators have been identified in Curry County: agriculture, agricultural-value added products, healthcare, light manufacturing, a military installation, retail outlets, and tourism. Curry County has taken an aggressive approach to create and manage economic growth,



beginning with the development of a strategic plan to recruit and retain businesses in the area. The combined governments of Clovis and Curry County used the Local Economic Development Act in a joint effort to recruit industry. The governments created the non-profit Clovis Industrial Development Corporation to work with qualified businesses to foster business development (Eastern Plains Council of Governments 2012).

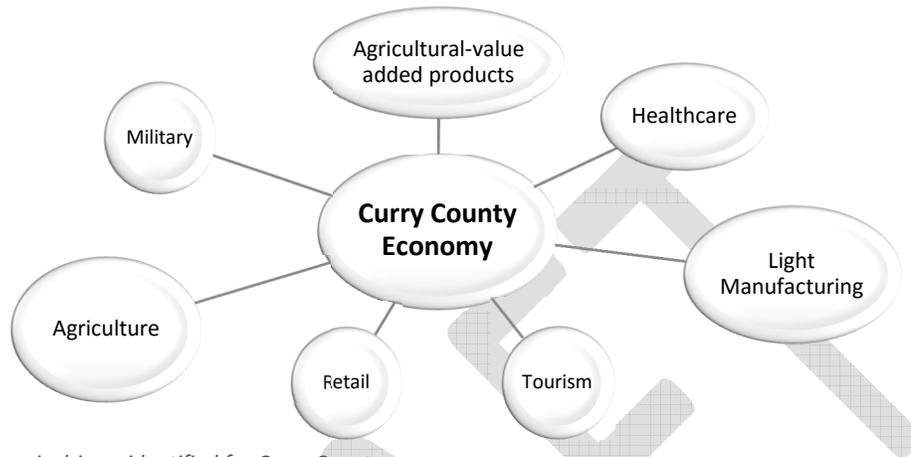


Figure 9. Economic drivers identified for Curry County.

The diverse economic base in Clovis includes Cannon Air Force Base, Clovis Community College, and the Clovis Industrial Development Corporation. Clovis was chosen as the New Mexico Economic Development Departments’ first annual “Entrepreneur City of the Year” in 2007 (Eastern Plains Council of Governments 2012).

The Clovis-Portales has formed partnerships and alliances with local governments, schools, and business leaders to improve the area workforce development/training and market potential.

In 1994, the cities of Portales and Clovis applied together for the USDA Empowerment Zone/Enterprise Community and Champion Community designations. They were awarded as a Champion Community, which give them extra points when applying for state or federal programs (Eastern Plains Council of Governments 2012).

The 2012 Census of Agriculture reported 600 farms in Curry County, down 12% from 681 farms in 2007. Overall market value of products sold increased 29% in the same time period and average value of products sold per farm went increase 46% to \$745,526 from 2007 to 2012. The value of livestock, poultry, and their products totaled almost \$416 million, or 93% of total agricultural products sold in the County. Dairy products made up 68% of commodity sales with total receipts of over \$3 million (U.S. Census Bureau 2012). Each bovine contributed an average of \$1,849 to the economy and contributed 99% of the value of livestock, poultry, and their products.

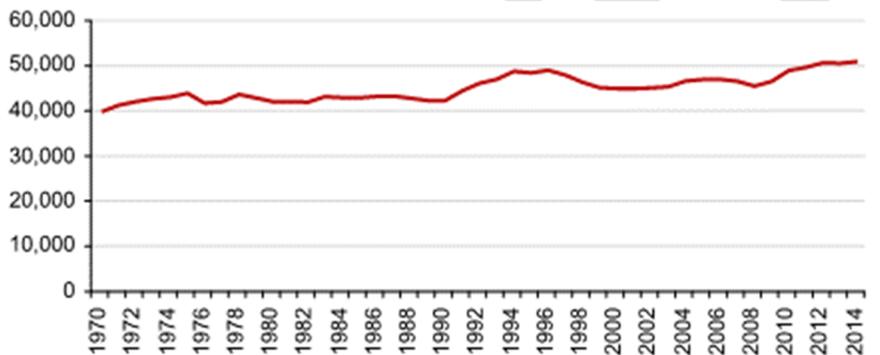


Value-added products are created using one of the primary agricultural products. For example, cheese from the Southwest Cheese Factory is a value-added product. According to their website, “Southwest Cheese processes over 3.8 billion pounds of milk and produces more than 388 million pounds of superior block cheese and 29.1 million pounds of high value-added whey proteins powders each year” (Southwest Cheese Company, LLC 2016).

Curry County is designated as a Micropolitan Statistical Area by the U.S. Census Bureau. Metropolitan and micropolitan statistical areas (metro and micro areas) are geographic entities delineated by the Office of Management and Budget (OMB) for use by Federal statistical agencies in collecting, tabulating, and publishing Federal statistics. A micro area contains an urban core of at least 10,000 (but less than 50,000) population. Each micro area consists of one or more counties and includes the counties containing the core urban area, as well as any adjacent counties that have a high degree of social and economic integration (as measured by commuting to work) with the urban core.

From 1970 to 2014, Curry County’s population increased by 28% to 50,969 (U.S Department of Commerce 2015).

Table 1. Population trends, Curry County (U.S Department of Commerce 2015).



Employment and Wages by Industry

In 2014, private sector jobs made up 80.5% of total annual employment in Curry County. Natural resources made up 9.6% of total annual employment by industry. Government positions totaled 19.5% of total annual employment with local government providing a larger presence (12.9%) than State or Federal employees in the County (U.S. Department of Labor 2015).



Table 2. Employment and wages by industry, 2014 (2015\$) (U.S. Department of Labor 2015).

Employment & Wages by Industry, 2014 (2015 \$s)

	Employment	% of Total Employment	Avg. Annual Wages	% Above or Below Avg.
Total	17,020		\$34,648	
Private	13,706	80.5%	\$33,584	-3.1%
Non-Services Related	3,143	18.5%	\$41,278	19.1%
Natural Resources and Mining	1,634	9.6%	\$41,703	20.4%
Agriculture, forestry, fishing & hunting	na	na	na	na
Mining (incl. fossil fuels)	na	na	na	na
Construction	840	4.9%	\$37,071	7.0%
Manufacturing (Incl. forest products)	669	3.9%	\$45,524	31.4%
Services Related	10,563	62.1%	\$31,294	-9.7%
Trade, Transportation, and Utilities	3,311	19.5%	\$33,580	-3.1%
Information	123	0.7%	\$33,492	-3.3%
Financial Activities	633	3.7%	\$36,663	5.8%
Professional and Business Services	1,341	7.9%	\$39,383	13.7%
Education and Health Services	2,855	16.8%	\$35,968	3.8%
Leisure and Hospitality	1,813	10.7%	\$13,692	-60.5%
Other Services	488	2.9%	\$24,029	-30.6%
Unclassified	0	0.0%	na	na
Government	3,314	19.5%	\$39,051	12.7%
Federal Government	832	4.9%	\$44,554	28.6%
State Government	320	1.9%	\$47,115	36.0%
Local Government	2,162	12.7%	\$35,740	3.2%

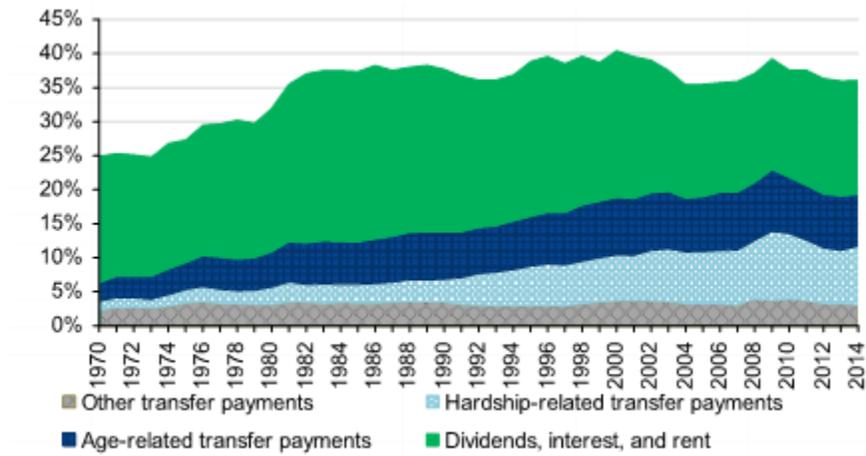
This table shows wage data from the Bureau of Labor Statistics, which does not report data for proprietors or the value of benefits and uses slightly different industry categories than those shown on previous pages of this report.

Major private employers in the community include Cannon Air Force Base (approximately 900 employees), Plains Regional Medical Center (590 employees), Burlington Northern Santa Fe Railroad (525 employees), Wal-Mart Supercenter (412 employees), Eastern New Mexico Rehabilitation Service (300 employees), Southwest Cheese (220 employees), and Allsup's (200 employees) (Eastern Plains Council of Governments 2012).

Personal income grew significantly for both labor and non-labor sources from 1970 to 2014. Since 1970 labor income has increased by 79% to \$1.404 billion and non-labor income increased to \$790.3 million (a 204% increase). Non-labor income currently represents 36% of total personal income. The Department of Commerce has tracked a steady increase in hardship-related transfer payments (associated with poverty and welfare, including Medicaid and income maintenance) and Age-related transfer payments (including Social Security and Medicare).



Table 3. Non-labor income shares of total personal income, Curry County (U.S Department of Commerce 2015).



In many areas, non-labor income is often the largest and fastest growing source of personal income. This growth can be an indicator that a place is an attractive place to retire. The immigration is associated with a high quality of life, good health care facilities, and affordable housing. Non-labor income is also important to places with struggling economies, either as a source of income maintenance for the poor or as a more stable form of income in areas with declining industries and labor markets.

Hunting and Fishing

The New Mexico Department of Game and Fish (NMDGF) commissioned a study to estimate the county- and statewide impacts of hunting, fishing, and trapping to the state’s economy. More than 160,000 anglers spent more than 2.4 million days fishing annually and spent \$268 million on fishing related activities statewide. Curry County hosted 1,854 fishermen for 14,251 days with a spending total of \$3, 275,143 (Table 4). Hunting statewide had 86,384 participants for 746,134 days spending \$342,368,654. Curry County hosted 791 participants for 55,182 days with a spending total of \$3,643,076 (Southwick Associates 2014).



Table 4. Curry County participation and spending, 2013 (Southwick Associates 2014).

Activity	Participants ¹	Days ¹	Spending ²
Fishing Total	1,854	14,251	\$3,275,143
Trapping Total	36	1,265	\$53,863
Hunting:			
Bear	7	49	\$121,299
Cougar	7	85	\$120,411
Deer	160	624	\$849,912
Elk	6	30	\$748,106
Ibex-Oryx	0	0	\$47,123
Javelina	0	0	\$46,896
Pronghorn Antelope	33	58	\$106,732
Bighorn-Barbary Sheep	0	0	\$35,281
Turkey	14	50	\$257,031
<i>Big Game Subtotal</i>	<i>325</i>	<i>895</i>	<i>\$2,332,792</i>
Dove	363	2,218	*
Duck	46	206	*
Goose	54	375	*
Grouse	0	0	*
Pheasant	62	117	*
Pigeon	31	102	*
Quail	255	1,182	*
Sandhill Crane	0	0	*
Squirrel	8	23	*
Other	15	65	*
<i>Small Game Subtotal</i>	<i>550</i>	<i>4,288</i>	<i>\$1,310,284</i>
Hunting Total	791	5,182	\$3,643,076

¹Total hunter participants do not equal the sums across species due to overlap in participation.

²Spending may also include purchases (e.g., equipment) by people who only participated in other counties.

* Spending was not estimated for individual small game species.

The total economic contributions to Curry County from hunting, fishing, and trapping resulted in 68 jobs with labor incomes of over \$1.1 million and state and local taxes of almost \$252,000 in 2013 (Table 5) (Southwick Associates 2014).



Table 5. Curry County economic contributions (total effect) in 2013 (Southwick Associates 2014).

	Jobs	Labor Income	GDP	Tax Revenues	
				Federal	State & Local
Fishing Total	29	\$952,178	\$1,555,961	\$194,126	\$219,973
Trapping Total	1	\$16,205	\$25,929	\$3,244	\$4,062
Hunting:					
Bear	1	\$38,202	\$62,054	\$7,783	\$8,629
Cougar	1	\$37,859	\$61,429	\$7,721	\$8,379
Deer	8	\$264,585	\$426,454	\$53,626	\$59,769
Elk	7	\$233,917	\$379,683	\$47,621	\$53,210
Ibex-Oryx	0	\$14,581	\$23,486	\$2,949	\$3,388
Javelina	0	\$14,648	\$23,668	\$2,981	\$3,209
Pronghorn Antelope	2	\$36,178	\$64,462	\$7,770	\$9,841
Bighorn-Barbary Sheep	0	\$10,922	\$17,595	\$2,212	\$2,508
Turkey	3	\$79,974	\$129,023	\$16,229	\$18,007
Small Game	14	\$414,833	\$674,289	\$85,119	\$84,993
Hunting Total	38	\$1,145,699	\$1,862,144	\$234,010	\$251,932

3.5.2 Policy Statements

1. Require consultation and coordination with the County at the earliest time possible for any proposed action, change of existing activities, newly permitted activities, or changes in regulations that may affect the economic basis of the County.
2. Support consultation and coordination with the County to determine the full scope of potential social and economic effects of proposed activities using public funds including impacts to circulating dollars.
3. Promote the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act, which provides small entities an expanded opportunity to participate in the development of certain regulations (<http://www2.epa.gov/reg-flex/learn-about-regulatory-flexibility-act>).
4. Support energy development opportunities to maintain economically viable communities in the County.
5. For any proposed project requiring federal authorization, subject experts should complete the appropriate socioeconomic analyses; the experts should be familiar with and focus on the County's unique history, culture, economy, and resources. Analyses will include a description of existing social, demographic and economic conditions; the analytical methodologies used; and the impacts to topics including (but not limited to) population, employment, income levels, industry activity, housing, community services, utility services, schools, fiscal impacts to the County and local jurisdictions, public revenues and expenses, transportation, and quality of life.
6. Support the analysis of social and economic factors at the lowest possible level, such as on a county-wide basis in addition to consideration on a state-wide or national scale.
7. Support "no net loss" in County economic base due to federal agency decisions. Include County in all discussions regarding mitigation if necessary to protect the economic base of the County.



8. Support the goals and actions identified in the Curry County Comprehensive Plan Update (2015).

3.6 Transportation

3.6.1 Background

The Federal Highway Aid program launched in 1916 with a commitment of \$75 million over five years to develop roads across the United States. Although impeded by World War I, the Federal Highway Act of 1921 revolutionized highway development. In the early 1930s, proposal to build a network of superhighways abounded and President Franklin Roosevelt called for a study of a toll network consisting of no more than three east-west and three north-south routes in the Federal-Aid Highway Act of 1938. Based on this study, the Federal-Aid Highway Act of 1944 created the National System of Interstate Highways. The Federal-Aid Highway and the Highway Revenue Act of 1956 brought the vision of interstate connections to fruition, while rural areas continued to receive funding for secondary roads (Weingroff 1993).

In 1957, suspension of all interstate construction was proposed to give communities time to create land use plans to address environmental concerns and concerns about the impact of interstates on urban and rural areas. The Federal-Aid Highway Act of 1962 attempted to address some concerns by requiring the highway planning process to be “continuing, cooperative, and comprehensive”. In 1963 instructions were provided to assess impacts on fish and wildlife areas. NEPA was passed in 1969 and required a formal environmental assessment of all federal-aid highway projects, and the Department of Transportation Act of 1966 applied Section 4(f) restrictions on the construction of roads on public lands or park, recreation area, or wildlife and waterfowl refuge of national, state, or local significance unless there was no reasonable alternative and the program included mitigation to minimize environmental damage (Weingroff 1993).

In 1967, the agency became the Federal Highway Administration (FHWA) and one of three parts of the new federal Department of Transportation (Weingroff 1993).

In 1973, the Federal-Aid Highway Act authorized removal of controversial interstate segments and substitution of mass transportation project in urban areas. This was expanded in 1976 to allow substitute highway projects (Weingroff 1993).

NEPA requires the FHWA to identify and avoid to the greatest extent possible impacts to the social and natural environment when considering transportation projects. The project must also take into account public need. FHWA has a policy that per 23 CFR § 771.105 (Federal Highway Administration n.d.):

- *To the fullest extent possible, all environmental investigations, reviews, and consultations be coordinated as a single process, and compliance with all applicable*



environmental requirements be reflected in the environmental document required by this regulation.

- *Alternative courses of action be evaluated and decisions be made in the best overall public interest based upon a balanced consideration of the need for safe and efficient transportation; of the social, economic, and environmental impacts of the proposed transportation improvement; and of national, state, and local environmental protection goals.*
- *Public involvement and a systematic interdisciplinary approach be essential parts of the development process for proposed actions.*
- *Measures necessary to mitigate adverse impacts be incorporated into the action.*

New Mexico State Highways 60, 70, and 84 run through the County. Former Governor Richardson's Investment Partnership (GRIP) is providing funds for reconstruction of State and County roadways.

The Burlington Northern-Santa Fe (BNSF) railroad has a rail line located on the south side of Clovis running from the east to west coasts. In 2003, BNSF began an expansion of their rail yards in Clovis. On average 90-100 trains travel through Clovis in a 24-hour period. BNSF employed approximately 550 people in Clovis in 2012 (Commerce n.d.).

3.6.2 Policy Statements

1. Require any transportation or right-of-way projects using Federal Highway Administration or other federal funds to follow NEPA and consult with the County at the inception of the planning process.
2. Support transportation planning that focuses on collaboration and minimize the use of eminent domain.

3.7 Water Resources

3.7.1 Background

Groundwater

In New Mexico, water is considered a public resource for the benefit of all: public agencies, private citizens, and entities. According to the New Mexico Constitution, "The unappropriated water of every natural stream, perennial or torrential, within the state of New Mexico is hereby declared to belong to the public and to be subject to appropriations of beneficial use, in accordance with the laws of the state. Priority of appropriation shall give the better right. NM Const. art. XVI § 2. A water right is a private property right to use this public resource.

The Water Resources Allocation Program (WRAP) with the Office of the State Engineer (OSE) processes all water rights applications, conducts research for making those water rights decisions, maintains water rights records, and enforces any conditions or restrictions on water use.

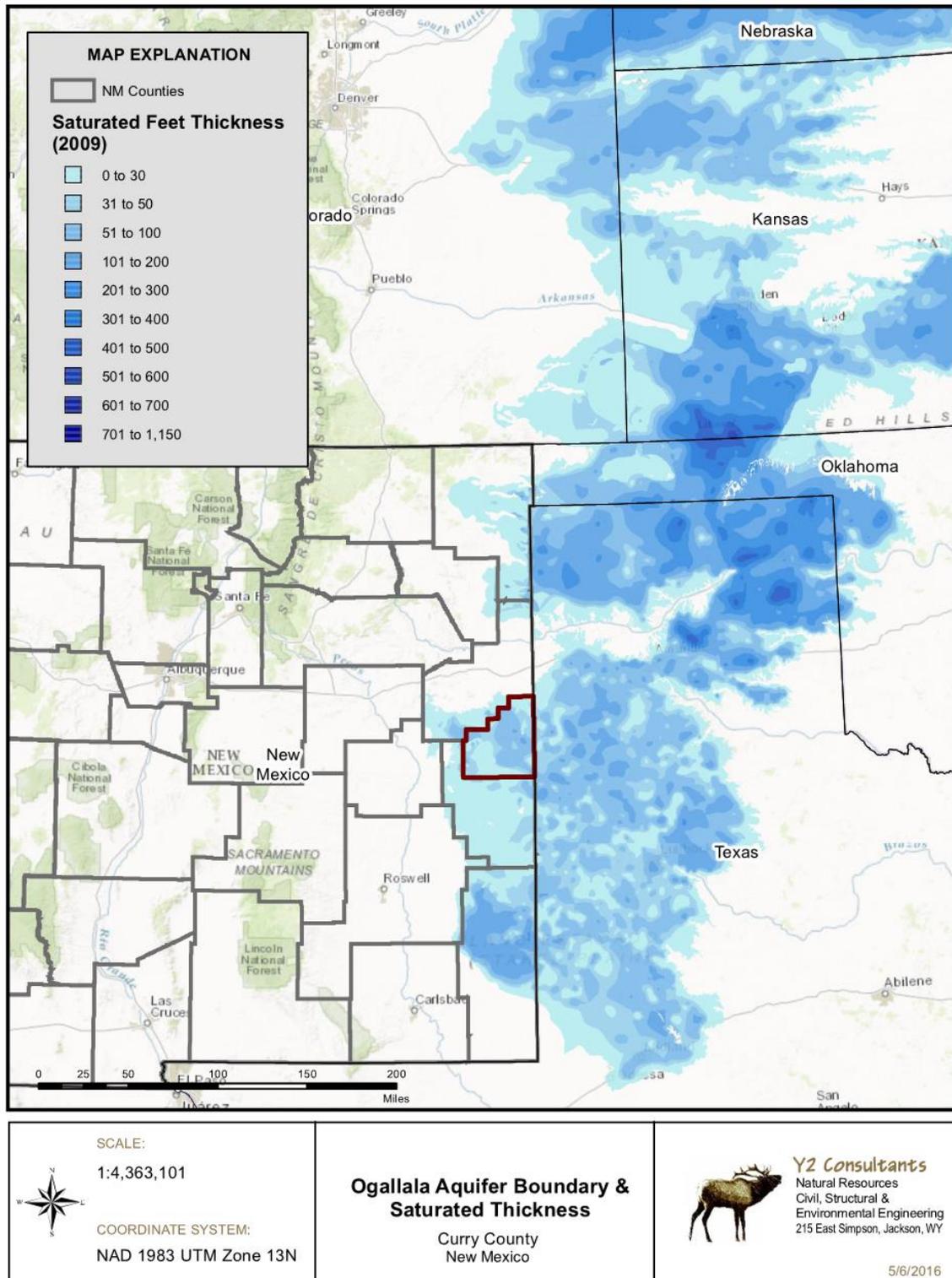


Curry County is located over the High Plains Aquifer and Ogallala Formation and includes the Portales Underground Water Basin. In 1989, the OSE defined the boundaries of the Curry County Underground Water Basin and extended the boundaries in 2005. OSE administers mined aquifers to provide a minimum of 40 years of productivity. In 2009, the OSE closed the High Plains Aquifer, including the Curry County Underground Water Basin, to the filing of applications for water rights. There was concern that due to water level declines there would not be sufficient water in the Aquifer to sustain the current amount of diversions to 2050 (John R. D'Antonio 2009). OSE issued guidelines for the review of water right application to this area in 2010.

Many studies have been completed to evaluate the recharge to the High Plains Aquifer. The OSE completed a technical report in 2013 describing water use by County (J.W. Longworth 2013). Curry County is included in the Arkansas-White-Red River Basin and Texas Gulf River Basin in this report. The total acre-feet (AF) of water used in Curry County in 2010 was 184,029 AF. Of this use, 167,172 AF (91%) was used for irrigated agriculture. Public water supply accounted for 8,219 AF (4.5%) and livestock accounted for 6,471 AF (3.5%) (J.W. Longworth 2013).

Additional Aquifer studies began as early as 1954 and continue today. Two studies were completed evaluating recharge in Curry and Roosevelt counties. Tillery summarizes the conditions and changes in groundwater levels from predevelopment (1954) to 2007 (Tillery 2008). In 2016, the New Mexico Bureau of Geology and Mineral Resources released "A Hydrogeologic Investigation of Curry and Roosevelt Counties, New Mexico" (Rawling 2016) which summarizes the status of the Aquifer. Almost all of the water used for agricultural, commercial, municipal, and domestic purposes in Curry County is groundwater drawn from the Aquifer within the Miocene to early Pliocene age (approximately 20 to 5 million years old) Ogallala Formation. The importance of the Aquifer has led to extensive research on its character. The geology of the aquifer has been mapped and characterized in detail. Water level measurements taken since the 1930s have documented an ongoing decline in water levels. Groundwater withdrawals continue to greatly exceed recharge. Extensive research has tried to quantify the amount of recharge to





Ogallala Aquifer Data: Texas Tech University, Center for Geospatial Technology, Retrieved: 3/10/16

Figure 10. Ogallala formation boundary and saturated thickness.



the Aquifer and identify where recharge occurs. The only thing these studies seem to agree on is that recharge is highly variable and inherently difficult to measure. There is consensus that the natural recharge that is occurring is dominated by infiltration through playas of accumulated precipitation (Rawling 2016).

Generally speaking, groundwater flows east and southeast, except where the flow is diverted into northwest-southeast trending groundwater troughs. Troughs coincide with paleochannels eroded into bedrock at the base of the Ogallala formation. Based on the depth to water, some of the large playas are assumed to be sites of groundwater discharge. The maximum depth to groundwater occurs north of Clovis and is more than 450 feet. In some areas, the Aquifer has been dewatered down to the underlying bedrock. The estimated loss in water volume from 2004-2007 to 2010-2015 is a loss of 1,943,105 AF (Rawling 2016).

Playas and Wetlands

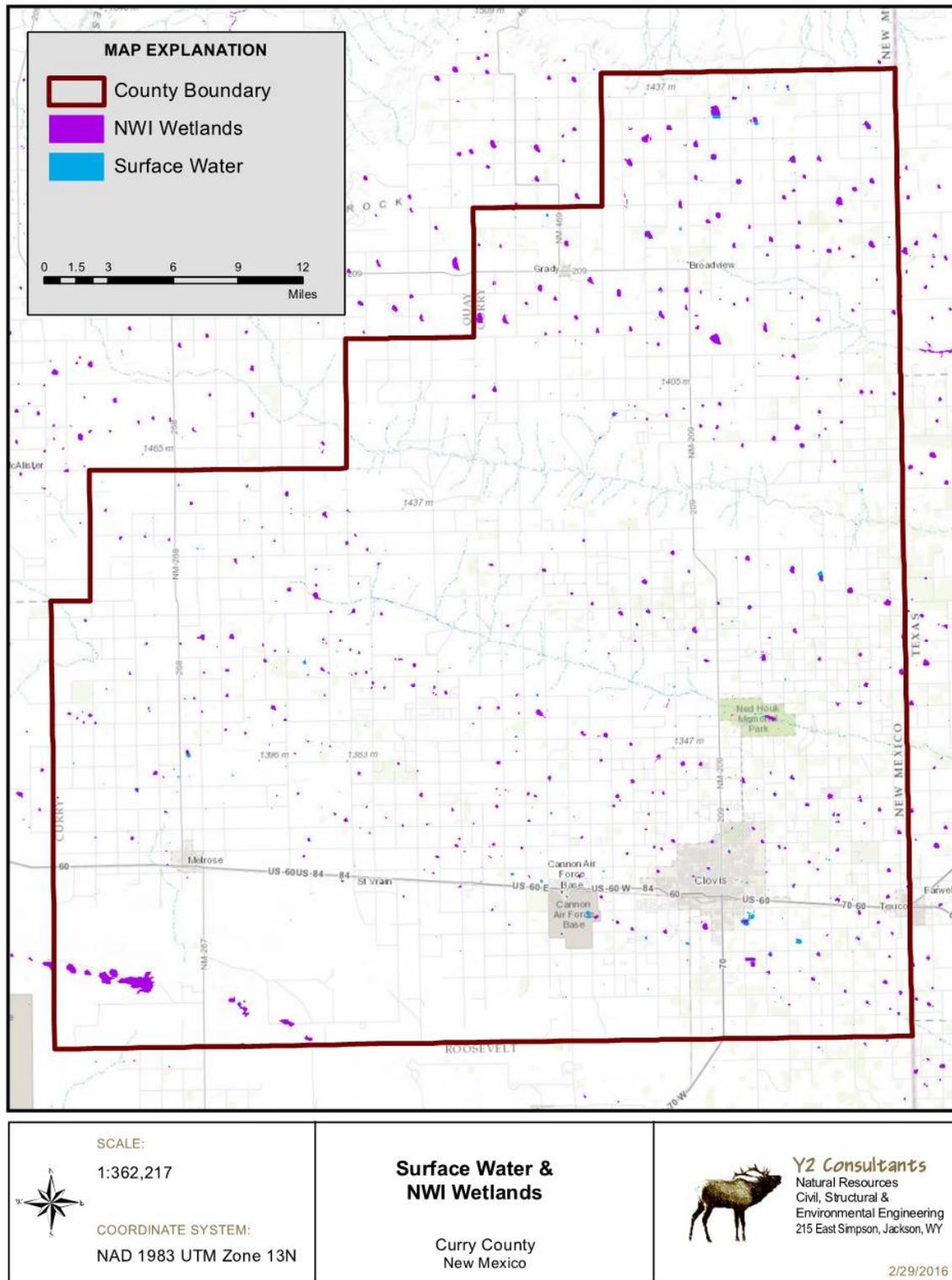
Playa lakes are the principal source of surface water in Curry County. They provide recharge for the Aquifer and habitat for many wildlife species including migratory birds. Playas are included in the definition of Waters of the State.

The Playa Lakes Joint Venture has mapped and prioritized a significant number of playa lakes and playa clusters for restoration within Curry County. The Playa Lakes Joint Venture (PLJV) is a regional partnership of the FWS, state agencies, conservation groups, and private industry whose goal is to target conservation efforts through various Farm Bill programs to protect and enhance bird habitat.

The PLJV has also mapped and prioritized areas for avoidance by wind energy development. Although the development of a wind farm in and of itself does not require a federal permit, if there is some type of federal permitting involved such as the need for a dredge and fill permit when impacting "Waters of the U.S.," or if the development may affect a threatened or endangered species or its critical habitat, the FWS will argue that the mapped playas and playa clusters should be avoided.

Wetlands identified in the National Wetland Inventory (NWI) are shown in Figure 11.





Hydrology Data: U.S. Fish & Wildlife Service. Retrieved 2/29/16

Figure 11. Surface wetlands and National Wetlands Inventory identified wetlands.



Environmental Protection Agency (EPA)

The Office of Water (OW) is a division of the EPA and ensures drinking water is safe, restores and maintains oceans, watersheds, and their aquatic ecosystems to protect human health, support economic and recreational activities, and provide healthy habitat for fish, plants, and wildlife.

OW is responsible for implementing the Clean Water Act and Safe Drinking Water Act and portions of the Resource Conservation and Recovery Act and several other statutes.

Headquartered in Washington, D.C., the Office of Water works with the ten EPA regional offices, other federal agencies, state and local governments, American Indian tribes, the regulated community, organized professional and interest groups, land owners and managers, and the public-at-large. OW provides guidance, specifies scientific methods and data collection requirements, performs oversight, and facilitates communication among those involved. OW helps the states and American Indian tribes to build capacity, and water programs can be delegated to them for implementation.

The Office of Ground Water and Drinking Water (OGWDW) ensures safe drinking water and protects groundwater. They oversee implementation of the Safe Drinking Water Act.

Waters of the United States

The Clean Water Act (CWA) establishes the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters. The basis of the CWA was enacted in 1948 and was called the Federal Water Pollution Control Act, but the Act was significantly reorganized and expanded in 1972. "Clean Water Act" became the Act's common name with amendments in 1972.

Under the CWA, EPA has implemented pollution control programs such as setting wastewater standards for industry. EPA also sets water quality standards for all contaminants in surface waters.

The CWA made it unlawful to discharge any pollutant from a point source into navigable waters, unless a permit was obtained. EPA's National Pollutant Discharge Elimination System (NPDES) permit program controls discharges. Point sources are discrete conveyances such as pipes or man-made ditches. Individual homes that are connected to a municipal system, use a septic system, or do not have a surface discharge do not need an NPDES permit; however, industrial, municipal, and other facilities must obtain permits if their discharges go directly to surface waters.



State of New Mexico

New Mexico Environment Department (NMED) Ground Water Quality Bureau protects the environmental quality of New Mexico's ground water resources as mandated by the Water Quality Act and the Water Quality Control Commission regulations (20.6 NMAC), and to identify, investigate, and clean up contaminated sites with pose significant risks to human health and the environment. Currently NMED is proposing revisions to the WQCC regulation for Ground and Surface Water Protection (30.6.2 NMAC) in the fall of 2016. The proposed changes are available here: <https://www.env.nm.gov/gwb/>.

Surface waters in New Mexico are managed by the Surface Water Quality Bureau Watershed Protection Section (WPS). WPS is responsible for organizing all CWA §319(h) related activities in watersheds with Total Maximum Daily Load (TMDL) or with assessed data. They also coordinate the state's CWA §401 certification and §404 dredge and fill permits with the U.S. Army Corps of Engineers.

3.7.2 Policy Statements

1. Support the involvement of the County in the review of WQCC regulations.
2. Promote the use of water-saving technologies where appropriate to decrease the reliance on the Aquifer, including the use of crops and forage with reduced water requirements.
3. Support projects that promote aquifer recharge and recovery while protecting private property and historic water rights.
4. Support the New Mexico State water planning directives.
5. Support wetlands being defined as "areas that have a predominance of hydric soils and that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions" (as defined in the National Food Security Act manual, 1988).
6. Support the phrase "waters of the US" (aka jurisdictional tributary) as used in the CWA to include only those water bodies with a delineated, direct connection to navigable waters.
7. Oppose any definition of "waters of the U.S." which (1) expands jurisdictional waters to include all waters "adjacent" to a jurisdictional tributary not just wetlands; (2) allows the EPA or Corp. of Engineers to aggregate isolated waters bodies that are within the same watershed to meet the requirements for a jurisdictional tributary; (3) includes water bodies as jurisdictional tributaries simply by their existence within the floodplain or riparian zone of a jurisdictional tributary; or (4) defines tributaries including intermittent or ephemeral streams that "some time" in the future may contribute to a jurisdictional tributary.
8. Support development of water reuse systems in Curry County to the greatest extent possible.



4. Acronyn List

In progress

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