RECLAMATION
Managing Water in the West

American Falls Reservoir District #2 Proposed Title Transfer

Finding of No Significant Impact
Final Environmental Assessment

Minidoka Project, Idaho
Pacific Northwest Region

U.S. Department of the Interior
Bureau of Reclamation
Pacific Northwest Region
Boise, Idaho

September 2005

Mission Statements

The mission of the Department of the Interior is to protect and provide access to our Nation's natural and cultural heritage and honor our trust responsibilities to Indian tribes and our commitments to island communities.

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

FINDING OF NO SIGNIFICANT IMPACT

American Falls Reservoir District #2 Proposed Title Transfer
Gooding Division, Minidoka Project, Idaho

U.S. Department of the Interior
Bureau of Reclamation
Pacific Northwest Region
Snake River Area

PN-FONSI 05-06
September 2005

Introduction

The Bureau of Reclamation (Reclamation) prepared this Finding of No Significant Impact (FONSI) to comply with the Council on Environmental Quality's regulations for implementing the procedural provisions of the National Environmental Policy Act (NEPA). This document briefly describes the proposed title transfer, the alternatives considered, the scoping process, Reclamation's consultation and coordination activities, and Reclamation's finding. The final environmental assessment (EA) fully documents the analyses.

Background

As directed and authorized by Congress, Reclamation has conducted a program of transferring ownership of certain Federal irrigation facilities to project beneficiaries who are capable of managing the facilities and where the Federal investment in the facilities has been repaid.

At the request of American Falls Reservoir District No. 2 (AFRD#2 or District), Reclamation analyzed the effects of transferring to the District, the United States' title, rights, and interests to the facilities and certain lands associated with the Gooding Division of the Minidoka Project, which consists primarily of the Milner-Gooding Canal. The District proposed the transfer of the title, rights, and interests to eliminate duplicative administrative actions performed by Reclamation and the District relative to the operation and maintenance of the facilities. The District has fully met its repayment obligation to the United States Treasury for the costs associated with the construction of the canals, roads, and facilities, including all fees associated with the acquisition of land.

Reclamation issued a draft EA in May 2005, to document the analysis of the potential effects of title transfer on the human environment.

Purpose and Need

The purpose of the Proposed Action is to transfer title of Reclamation lands, facilities, and rights to AFRD#2. Additionally, Reclamation would transfer title of relatively smaller tracts of land to the city of Gooding, the Idaho Department of Fish and Game (IDFG), and the National Park Service (NPS) for future management and administration. All other Reclamation withdrawn lands associated with the Gooding Division, as identified in the EA, would be returned to the Bureau of Land Management (BLM) for management and continued administration under Federal ownership.

Reclamation's title transfer initiative implements the National Performance Review goal of a Federal Government that works better and costs less. The proposed transfer would allow AFRD#2 to be more efficient in its operation and maintenance of the transferred facilities consistent with its legal and fiduciary responsibilities. The transfer of Reclamation's title, rights, and interests to AFRD#2 would also streamline administrative processes for both Reclamation and AFRD#2 and allow Reclamation to use its resources more effectively in other areas of water resource management.

The transfer of title for specific properties to the city of Gooding, IDFG, and NPS would also streamline administrative processes by placing those properties more directly under the administrative control of the appropriate governmental entities. The public interest in management of those properties would be maintained since the lands would remain under governmental administration.

Alternatives Considered

The EA addressed two alternatives: Alternative A, No Action; and Alternative B, Title Transfer (Proposed Action). The NEPA regulations require the action agency to consider a No Action alternative for comparative analysis purposes.

Alternative A – No Action

Under the No Action alternative, Reclamation would not transfer title as requested by AFRD#2. The United States would retain title to all facilities of the Gooding Division of the Minidoka Project. District operations, their relationship with Reclamation, and Reclamation's oversight of the District would remain the same in the future as in the past. The No Action alternative would not require congressional action.

The No Action alternative would also include unchanged status for the IDFG Dog Creek Reservoir parcel (40 acres), the city of Gooding airport beacon parcel (5 acres), and the NPS parcel adjacent to the Minidoka Internment National Monument (10 acres). The current ownership status of these properties by the United States would not be modified and no further action would be taken at this time.

Alternative B – Title Transfer

The Proposed Action, Title Transfer, would allow the Secretary of the Interior to convey to AFRD#2 and the three identified governmental entities all title, rights, and interests of the United States in the relevant facilities and lands as described in the final EA. This transfer would only occur after Congress passes legislation directing that the action be implemented. No natural flow water rights, reserved power rights, or storage rights held by the United States and affiliated with the Minidoka Project would be transferred under the Proposed Action.

The Preferred Alternative

Reclamation intends to transfer title as described in Alternative B. This alternative is consistent with the Federal Government's initiative to work better and cost less.

Environmental Commitments

As part of the EA, Reclamation analyzed the potential effects of title transfer on the human environment. By regulation (36 CFR 800), title transfer is considered to adversely affect cultural resources. This section summarizes mitigation measures for these adverse effects. Implementation of these mitigation activities will be required prior to or as part of the proposed title transfer.

Alternative B includes the transfer of title to some facilities that are designated or may be eligible for designation as historic properties. Federal law and regulation define "historic properties" to include prehistoric and historic sites, buildings, structures, districts, and objects that are included in or eligible for inclusion in the National Register of Historic Places. When a historic property is in Federal ownership, the agency must seek alternatives that would avoid or minimize adverse effects. Thus, Federal title provides a measure of protection to historic properties, and when title leaves Federal control, the loss of protection constitutes an adverse effect.

A Reclamation-sponsored Class III cultural resources survey identified 18 cultural resource properties that will be affected by the proposed title transfer, of which three were considered eligible for the National Register. Reclamation and the State Historic

Preservation Office (SHPO) have agreed that Reclamation would mitigate the adverse effect on three eligible historic properties in order to meet Reclamation's responsibilities under Section 106 of the National Historic Preservation Act (NHPA). Reclamation and the SHPO have entered into a Memorandum of Agreement (MOA) that defines Reclamation's mitigation responsibilities for the title transfer action with AFRD#2 providing funding. The MOA was signed in October 2004. In addition, as required by 36 CFR Part 800 regulations, Reclamation invited Advisory Council on Historic Preservation (Council) participation in the Section 106 consultation proceedings. The Council formally declined the invitation to participate.

Reclamation found no other adverse environmental effects requiring mitigation during the analysis.

Consultation and Coordination

Because the proposed transfer involves changes to the status of Reclamation withdrawn lands and related BLM roles, Reclamation has coordinated with BLM in a series of meetings from April 2004 through January 2005. Additional agency and Tribal consultations are described below.

National Historic Preservation Act

The NHPA (as amended in 1992) requires that Federal agencies consider the effects that their actions have on historic properties. To comply with Section 106 of NHPA, Federal agencies must consult with the SHPO, Native American tribes with a traditional or culturally significant religious interest in the study area, and the interested public to identify and evaluate the significance of historic properties and the project's effect on them. The Federal agency must then mitigate adverse effects the project may have on significant resources.

In February and March 2003, The Environmental Company, Inc., performed a Class III cultural resource survey of areas potentially affected by the proposed title transfer. Reclamation then began consultations with the SHPO. As described above, Reclamation and the SHPO have entered into a MOA that defines Reclamation's mitigation responsibilities for the Proposed Action.

Endangered Species Act Section 7 Consultations

Reclamation determined that the Proposed Action would not affect any species listed as threatened or endangered under Section 7 of the Endangered Species Act. Consultation with the U.S. Fish and Wildlife Service (USFWS) and NOAA Fisheries is not required.

Tribal Coordination and Consultation

Reclamation has sought to keep the Tribes informed regarding proposed title transfers and specifically the proposed AFRD#2 title transfer. Reclamation has met with and corresponded with the Shoshone-Bannock Tribes, the Shoshone-Paiute Tribes of the Duck Valley Reservation, the Northwestern Band of the Shoshoni Nation, the Nez Perce Tribe, and the Burns Paiute Tribe regarding various Reclamation initiatives, including title transfer.

The Fort Hall Business Council of the Shoshone-Bannock Tribes wrote to Reclamation in August 2000, stating that they had some concerns regarding the proposed transfer and its impact on water rights and treaty rights. Subsequently, Reclamation provided a field trip for Tribal Commission members and staff to look at the lands and facilities that comprise the proposal. Reclamation discussed the planned EA at meetings with the Fort Hall Business Council in April 2005 and invited the Tribes to contact Reclamation with any remaining comments after receiving the document.

No comments or concerns were received from the Tribes in response to the draft EA.

Public Comments During the Scoping Process and Reclamation's Responses

Reclamation and AFRD#2 have conducted scoping meetings and discussions with interest groups since July 2000. The information Reclamation gathered from public outreach efforts, talking with stakeholders, meetings with appropriate Native American tribes, and ongoing contacts with local, state, and federal agencies helped Reclamation identify those issues to be addressed in the EA. The subsections below highlight the primary concerns identified during the scoping process and summarize Reclamation's findings from the EA.

Tribal Water Rights and Treaty Rights

As noted above, the Fort Hall Business Council of the Shoshone-Bannock Tribes expressed concern regarding the proposed transfer and its impact on water rights and treaty rights.

No water rights exchanges are included in the proposed title transfer, with the exception of a domestic water right at one ditchrider's residence which would be transferred to the District with no change in water use. As a result, Reclamation has determined that the proposed title transfer involves no environmental consequences related to water rights in general or to Tribal water rights specifically.

Indian Trust Assets that may exist on Federal lands would be the right to hunt and the right to fish. Since the United States would transfer certain lands out of Federal ownership under the Proposed Action, the right to hunt or the right to fish that may exist may no longer apply on the affected lands.

Reclamation's analysis indicates that the majority of lands originally withdrawn for the Gooding Division of the Minidoka Project would remain under Federal ownership and administration by the BLM following the proposed title transfer. In the absence of any specific information indicating otherwise, Reclamation determined that the Proposed Action would not significantly affect Indian Trust Assets.

Endangered Species Issues

Some concerns identified during scoping related to potential effects on endangered species. Reclamation's analysis indicates that none of the USFWS listed species occur on District lands nor would they be affected by title transfer. The transferred facilities and lands would continue to be operated and maintained by the District as they have in the past, there would be no transfer of water rights, and there would be no changes in diverted flows. Thus, the Proposed Action alternative would have no effect on USFWS listed species or NOAA Fisheries listed species in the Snake and Columbia Rivers.

Public Access

Some concerns identified during scoping indicated concern that transfer of title could result in reduced public access to lands currently under Federal ownership and administration. In the EA analysis, Reclamation determined that access would not be significantly affected by the proposed title transfer. Under the Proposed Action, recreation access to roadways along the Milner-Gooding Canal would remain open to the public. Withdrawn lands would be subject to BLM regulations and open to public recreation access for almost all of the 70-mile canal length. For acquired land along one mile of canal length to be transferred to AFRD#2, the District has indicated that no new restrictions would affect recreation access. Similarly, no change in public access or management approach is expected for the parcels to be transferred to IDFG, the city of Gooding, or the NPS.

Public Comments to the Draft EA

Reclamation received comments from the NPS, NOAA Fisheries, and Idaho Department of Environmental Quality (Idaho DEQ). The final EA includes these comments in Appendix C.

The NPS's comment letter expressed full support for title transfer. The NOAA Fisheries letter stated that the agency had no comments on the draft EA and would not be further involved in the title transfer process. In its letter, the Idaho DEQ indicated that they did not identify any water quality issues associated with the title transfer. Because no specific questions or negative comments were received, Reclamation has not prepared any further formal responses to public comments on the draft EA.

Changes to the Final EA

Reclamation made some revisions to section 1.2 (Scope of the Proposed Transfer) to reflect the current status of the development of potential legislative language related to implementation of title transfer. There were no other substantive changes made to the draft EA in the development of the final EA. Reclamation did incorporate editorial revisions to clarify aspects of the document and to ensure accuracy.

Finding

Reclamation's EA for the proposed title transfer shows that the Proposed Action will have no significant effect on the human environment. Reclamation, therefore, concludes that preparation of an environmental impact statement is not required.

Recommended

Robert LaVern Boyer — Sept. 1, 2005

Mr. Robert Boyer — Date
Resources Manager

Approved

Jerrold D. Gregg — Sept. 7, 2005

Mr. Jerrold Gregg — Date
Snake River Area Manager

RECLAMATION

Managing Water in the West

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Minidoka Project, Idaho
Pacific Northwest Region

U.S. Department of the Interior
Bureau of Reclamation
Snake River Area Office
Boise, Idaho

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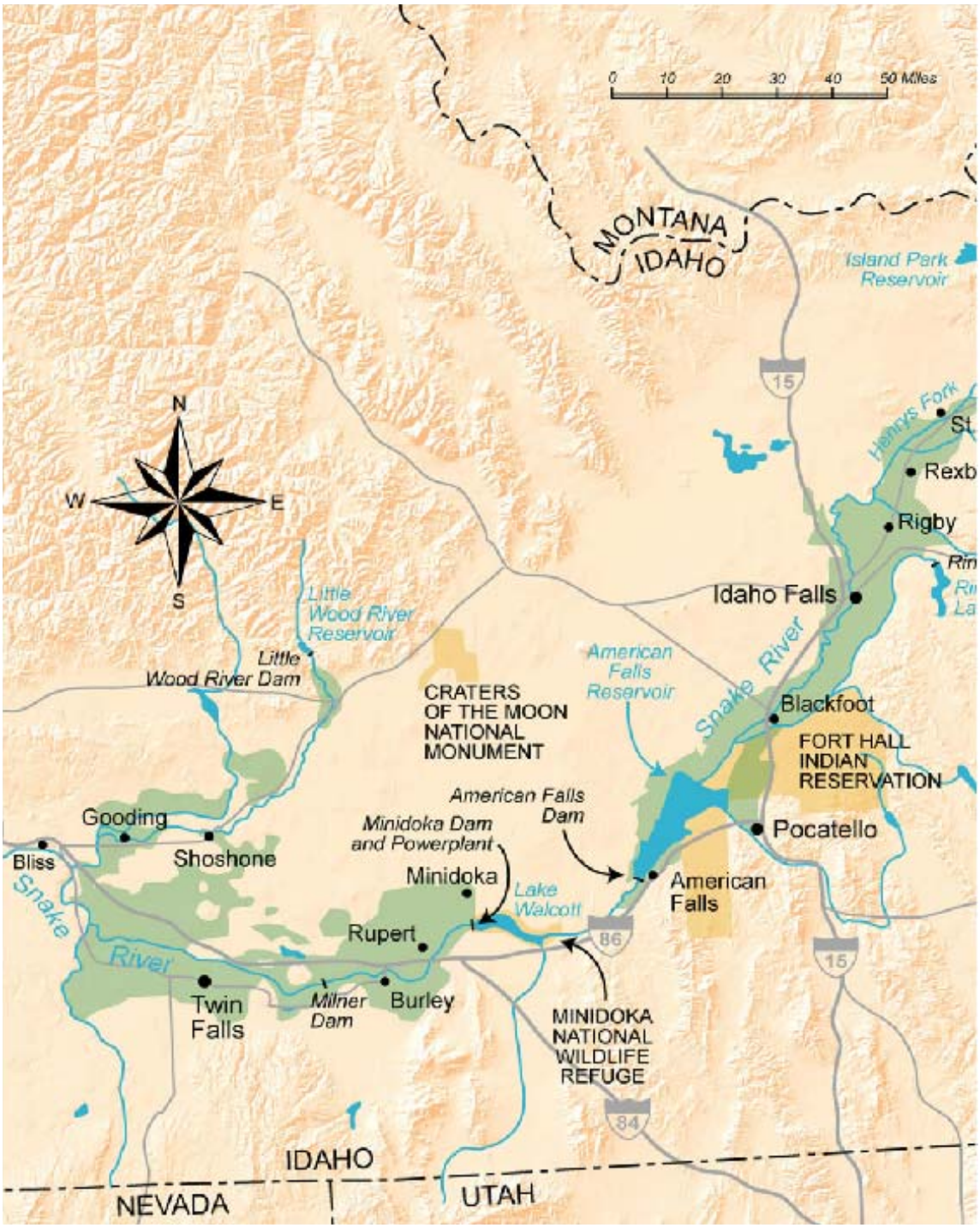

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Appendix A Detailed Maps of Lands Proposed for Transfer

Appendix B Legal Descriptions of Lands Proposed for Transfer

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ACRONYMS AND ABBREVIATIONS

AFRD#2 or District	American Falls Reservoir District No. 2
AUM	Animal Unit per Month
BLM	Bureau of Land Management
cfs	cubic feet per second
EA	Environmental Assessment
EIS	Environmental Impact Statement
ESA	Endangered Species Act
FONSI	Finding of No Significant Impact
GYBEWG	Greater Yellowstone Bald Eagle Working Group
IDEQ	Idaho Department of Environmental Quality
IDFG	Idaho Department of Fish and Game
ITA	Indian Trust Assets
MOA	Memorandum of Agreement
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
NPS	National Park Service
National Register	National Register of Historic Places
NOAA Fisheries	National Marine Fisheries Service
OHV	off-highway-vehicle
O&M	operation and maintenance
PILT	payment in lieu of taxes
Reclamation	Bureau of Reclamation
ROW	right-of-way
SHPO	State Historic Preservation Office
TMDL	total maximum daily load
TCP	traditional cultural properties
TESS	threatened & endangered species system
USFWS	U.S. Fish and Wildlife Service

Chapter 1 INTRODUCTION

As directed and authorized by Congress, the Bureau of Reclamation (Reclamation) has conducted a program of transferring ownership of certain Federal irrigation facilities to project beneficiaries who are capable of managing the facilities and where the Federal investment in the facilities has been repaid.

At the request of American Falls Reservoir District No. 2 (AFRD#2 or District), Reclamation analyzed the effects of transferring to the District, the United States' title, rights, and interests to the facilities and certain lands associated with the Gooding Division of the Minidoka Project, which consists primarily of the Milner-Gooding Canal (). The District proposed the transfer of the title, rights, and interests to eliminate duplicative administrative actions performed by Reclamation and the District relative to the operation and maintenance of the facilities.

The District has fully met its repayment obligation to the United States Treasury for the costs associated with the construction of the canals, roads, and facilities, including all fees associated with the acquisition of land. While Reclamation provides oversight, the facilities' operation, maintenance, management, administration, and liability have been the responsibility of AFRD#2 since construction. Reclamation provides oversight; however, Reclamation normally requests the District's approval on any actions affecting the facilities or related land interests. This is not cost effective and is an unnecessary burden for Reclamation and the District.

On May 3, 2002, the United States and the District entered into a Memorandum of Agreement (MOA) to document the areas of responsibility and cooperative efforts leading to a transfer of title agreement. The United States determined that the title transfer would not interfere with the District's capability to continue to operate and maintain the relevant Gooding Division facilities and that the District's financial obligations under the repayment contract were satisfied.

This environmental assessment (EA) documents Reclamation's analysis of the effects of transferring title of the specific irrigation facilities, appurtenant lands and structures, and associated rights to AFRD#2. The EA also addresses transfers of specific lands and structures to other governmental agencies in order to streamline administrative procedures.

1.1 Background

The Minidoka Project was authorized by the Secretary of the Interior on April 23, 1904, under the 1902 Reclamation Act. Investigation and construction funds for the Gravity

Extension Unit (Gooding Division) were provided by the Interior Department Appropriation Act of 1927, the Act of January 12, 1927 (44 Stat. 934), and the Secretary's finding of feasibility on July 2, 1928, and was approved by the President on July 3, 1928, pursuant to section 4 of the Act of June 25, 1910 (36 Stat. 836), and subsection B of section 4 of the Act of December 5, 1924 (43 Stat. 702).

The District is a political subdivision of the state of Idaho and organized under state law by the landowners served by Reclamation's Minidoka Project, Idaho. The Project's facilities, developed and owned by the United States, provide irrigation water to AFRD#2.

In 1928, construction began on the Gooding Division of the Minidoka Project. The work consisted primarily of building the Milner-Gooding Canal which heads at Milner Dam on the Snake River, 12 miles west of Burley, Idaho. This 70-mile canal extends to the North Gooding Main Canal northwest of Shoshone, Idaho. Figure 2 shows the location of the Milner-Gooding Canal; green shaded areas represent generalized areas receiving Minidoka Project water.

Reclamation has overall responsibility for the regulation of the facilities and lands and oversees the irrigation district's operation, maintenance, management, and administration. Reclamation and AFRD#2 each review and respond to requests from third parties that affect Reclamation-owned facilities or related land interests.

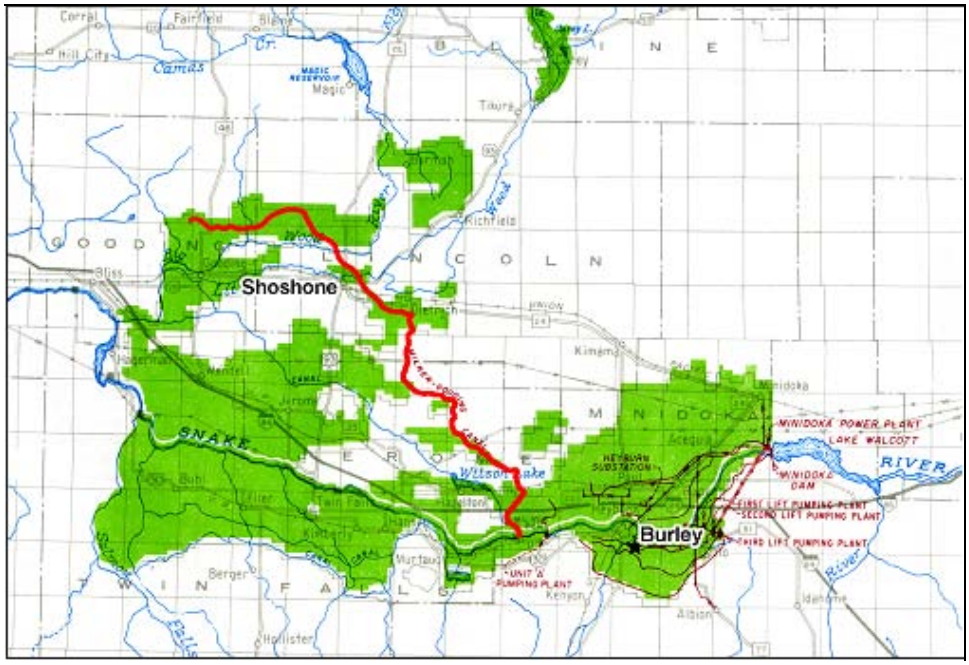

Figure 2. Location map showing the Milner-Gooding Canal (green shaded areas receive Minidoka Project water).

1.2 Scope of the Proposed Transfer

The primary scope of the proposed transfer involves certain facilities and lands identified in the title transfer request from AFRD#2. These facilities and lands are addressed by repayment contracts for which the District has fully met its repayment obligation for construction costs and land acquisition, with the exception of specific withdrawn lands for which the District will be assessed as described below.

As part of the District's requested title transfer of Gooding Division facilities, AFRD#2 selected 380 acres of Reclamation withdrawn lands as a potential purchase; they agreed to pay fair-market value for this land. Because these withdrawn lands were not part of the original Minidoka Project costs and thus were not addressed by repayment contracts, the District would be required to purchase withdrawn land from Reclamation at the assessed market value of $123,000. Except as noted below and in section 2.2, all other Reclamation withdrawn lands associated with the Gooding Division (approximately 6,900 acres) would be returned to the Bureau of Land Management (BLM) in accordance with coordination completed in meetings between Reclamation and BLM. Current land uses, including grazing and agricultural leases, produce approximately $9,970 per year as revenue for Reclamation. This money goes directly into the Federal Reclamation General Fund.

As a result of the transfer requested by AFRD#2, several parcels of Reclamation withdrawn lands, currently managed for non-Reclamation purposes, would be transferred to the Idaho Department of Fish and Game (IDFG) and the city of Gooding. The purpose of these transfers would be to give IDFG ownership of land where state-managed facilities are located and to give the city of Gooding ownership of land where they currently have a BLM right-of-way for an airport beacon site. An opportunity also exists to transfer withdrawn and acquired lands which are within the boundaries of, or adjacent to, the Minidoka Internment National Monument (Monument) to the National Park Service (NPS). The NPS has identified these lands for inclusion into the Monument. These three associated transfers would improve administrative efficiencies following the AFRD#2 transfer by avoiding the need for Reclamation's continued involvement with dispersed properties no longer associated with Reclamation's Project.

Congress would need to enact legislation to implement the proposed transfer. It is anticipated that a title transfer act, if and when drafted for the proposed transfer, would direct the Secretary of the Interior (Secretary) to:

1. Convey title to the specific lands and facilities (as described in this EA) to AFRD#2, the city of Gooding, and IDFG, respectively.
2. Specify that AFRD#2 will pay fair market value for specific withdrawn lands (as described in this EA) identified by the District for their purchase .

3. Transfer the specific lands and facilities (as described in this EA) to the NPS.
4. Revoke withdrawal on approximately 6,900 acres of withdrawn land adjoining or near the Milner-Gooding Canal for return to management by BLM.

The proposed title transfer excludes natural flow water rights, reserved power rights, and storage rights held by the United States that are affiliated with the Minidoka Project. No major facilities would be included in this transfer.

1.3 Purpose of and Need for Action

The purpose of the Proposed Action is to transfer title of requested Reclamation lands (394 acres), facilities, and rights to AFRD#2. Additionally, Reclamation would transfer title of a 5.00-acre tract (5 acres) to the city of Gooding, Idaho, a 39.72-acre tract (40 acres) to IDFG, and 10.18 acres (10 acres) to the NPS.

Reclamation's title transfer initiative is in pursuance of the National Performance Review goal of a Federal Government that works better and costs less. In this case, the need for title transfer (Proposed Action) is to allow AFRD#2 to be more independent and efficient in its operation and maintenance of the transferred facilities consistent with its legal and fiduciary responsibilities. Under the Proposed Action, the District would administer, maintain, and operate facilities and certain lands associated with the Gooding Division of the Minidoka Project. The transfer of Reclamation's title, rights, and interests to AFRD#2 would streamline administrative processes for Reclamation and AFRD#2. In addition, the title transfer would allow Reclamation to use its resources more effectively in other areas of water resource management.

The transfer of title for specific properties to the city of Gooding, IDFG, and NPS, as described above, would also streamline administrative processes by placing those properties more directly under the administrative control of the appropriate governmental entities. The public interest in management of those properties would be maintained since the lands would remain under governmental administration; requirements specific to Federal actions would no longer apply for the properties transferred to the city of Gooding and IDFG.

1.4 Location

Lands proposed for the transfer of title are in Jerome, Gooding, and Lincoln Counties, Idaho. The location of these lands are shown in detail on Maps A, B, and C in Appendix A.

1.5 Description of Facilities and Lands

Facilities and lands proposed for transfer are described below. Legal descriptions are provided in Appendix B. As described in chapter 4, Reclamation has coordinated with BLM and other agencies regarding the facilites and lands.

1.5.1 Milner-Gooding Canal and Appurtenant Lands and Facilities

The District diverts water out of the Snake River upstream from Milner Dam into the Milner-Gooding Canal for delivery to lands in Jerome, Gooding, and Lincoln Counties, Idaho. The canal and associated laterals serve 20,000 acres with a full water supply and 78,667 acres with a supplemental water supply (*i.e.*, supporting water supplies from other sources). The locations of land proposed for transfer are shown in detail on Maps A, B, C in Appendix A. Two photographs of the Milner-Gooding Canal are included at the end of this chapter.

The Milner-Gooding Canal extends 70 miles from the forebay of Milner Dam on the Snake River northward to the North Gooding Canal, northwest of Shoshone, Idaho. The initial capacity of the canal is 2,700 cubic feet per second (cfs). About half of the canal (36 miles) is on Reclamation land which was withdrawn from BLM for project purposes. Approximately 5 miles of the canal are on BLM land. The other 28 miles of canal cross through private lands which have 1890 Canal Act rights-of-way. Only one mile (13.74 acres) of the canal lies along acquired land. For the 36 miles of Reclamation withdrawn lands, ownership of the underlying and adjacent property on BLM and withdrawn lands would remain with the BLM following the proposed transfer of the canal facilites and AFRD#2 would receive a right-of-way as provided under the 1866 Act.

The 1866 Act, as amended (codified at 43 USC 661), granted rights-of-way on public land for reservoirs, canals, and ditches for the conveyance of water necessary for use in mining, agriculture, manufacturing, and other purposes. The authority to use the public lands was contingent upon the holders obtaining a water right under the appropriate state laws.

1.5.2 Lands Associated with Dog Creek Dam and Reservoir

Idaho Department of Fish and Game operates and maintains Dog Creek Reservoir and Dam, spillway, access roads, and parking area on 40 acres of withdrawn lands located 6 miles north of the city of Gooding. The location of the parcel proposed for transfer is shown on Map A in Appendix A. Two photographs of the reservoir are included at the end of this chapter.

Reclamation issued a perpetual easement dated October 17, 1957, to IDFG to construct, operate and maintain a dam and reservoir (Dog Creek Reservoir), spillway, access roads and parking area on the 40-acre parcel located north of Gooding; 5 acres is occupied by the dam and part of the reservoir and the remainder of the parcel is managed for wildlife habitat. Currently, IDFG also has a 25-year contract, dated July 31, 1987, with Reclamation for IDFG's management and administration of this parcel for fish and wildlife habitat. These lands were originally withdrawn for Minidoka Project purposes. Current and past management practices have ruled out the need for continued Reclamation administration of this parcel.

1.5.3 Airport Beacon Land

The city of Gooding manages a 5-acre parcel of Reclamation withdrawn lands for an airport beacon site 2 miles southeast of the city. The location of the parcel proposed for transfer is shown on Map A in Appendix A. A photograph of the parcel is included at the end of this chapter.

The city of Gooding holds a 30-year right-of-way issued by BLM on December 16, 1982, for the airport beacon site. These lands were originally withdrawn for Minidoka Project purposes. Current and past management practices have ruled out the need for continued Reclamation administration of this parcel.

1.5.4 Lands Adjacent to National Park Service Monument

The NPS manages the Monument which surrounds and/or is adjacent to the 10 acres of Reclamation withdrawn and acquired lands located five miles northwest of Eden, Idaho. The locations of the parcels proposed for transfer are shown on Map C in Appendix A. A photograph of one of the parcels is included at the end of this chapter.

These lands were originally withdrawn for Minidoka Project purposes. Current and past management practices have ruled out the need for continued Reclamation administration of these two parcels.

1.6 Regulatory Compliance

A summary of the major laws and executive orders that apply to the Proposed Action follows.

1.6.1 National Environmental Policy Act

Under the National Environmental Policy Act (NEPA), Reclamation is responsible for determining if the proposed action might have significant effects on the natural and

physical environment. If there are no significant impacts, a Finding of No Significant Impact (FONSI) can be signed to complete the NEPA compliance.

1.6.2 Endangered Species Act

The Endangered Species Act (ESA) requires all Federal agencies to ensure their actions do not jeopardize the continued existence of listed species or adversely modify designated critical habitat. As part of the Section 7 process under the ESA, an agency must request a species list from the U.S. Fish and Wildlife Service (USFWS) and the National Oceanic and Atmospheric Administration Fisheries (NOAA Fisheries). From the list, an agency (in this case Reclamation) must evaluate impacts to listed species. Endangered Species Act consultation is required if the proposed action may affect listed species.

1.6.3 National Historic Preservation Act

The National Historic Preservation Act of 1966 (NHPA), requires that prior to authorizing an undertaking, Federal agencies must take into account the effect of the undertaking on any properties eligible for or listed on the National Register of Historic Places. Federal regulations entitled Protection of Historic Properties (36 CFR 800) defines the process for implementing requirements of the NHPA, including consultation with the appropriate State Historic Preservation Office (SHPO) and the Advisory Council on Historic Preservation.

1.6.4 Indian Sacred Sites

Executive Order 13007 (May 24, 1996) instructs Federal agencies to promote accommodation of access to and protect the physical integrity of American Indian sacred sites. A sacred site is a specific, discrete, narrowly delineated location on Federal land. An Indian tribe must identify a site as sacred by virtue of its established religious significance to, or ceremonial use by an Indian religion; such identification can also be made by an Indian individual determined to be an appropriately authoritative representative of an Indian religion. However, the tribe or authoritative representative must inform the agency of the existence of such a site. For the proposed title transfer, Indian Trust Assets (ITAs) are specifically addressed in section 3.14.

1.6.5 Environmental Justice

Executive Order 12898 (February 11, 1994) provides that each Federal agency, to the greatest extent practicable and permitted by law, make achieving environmental justice part of its mission by addressing, as appropriate, disproportionately high and adverse human health or environmental effects on minority populations and low income populations. Environmental justice refers to the fair treatment of people of all races,

income, and cultures with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Fair treatment implies that no person or group of people should shoulder a disproportionate share of negative environmental impacts resulting from the execution of environmental programs.

1.7 Similar or Related Actions

Three transfer of title actions have occurred within Reclamation's Snake River Area Office administrative boundaries. The process being followed for each potential transfer is similar to that of the District's title transfer action. However, the legal basis for each of these other actions is based on language in their respective project authorizations.

- The Nampa & Meridian Irrigation District (Boise Project) has received title to distribution, conveyance, and drainage facilities, and rights-of-way; the district did not seek water rights.
- The Burley Irrigation District (Minidoka Project) received title to all district facilities, lands, rights-of-way, and water rights on February 24, 2000. Transferred facilities included pumping plants, canals, drains, laterals, roads, pumps, checks, headgates, transformers, pumping plant substations, and buildings. Also transferred were other improvements, appurtenances to the land, and those used for the delivery of water from the headworks (but not the headworks themselves) of the Southside Canal at the Minidoka Dam.
- The Fremont-Madison Irrigation District requested transfer of certain facilities including the Cross Cut Diversion Dam and Canal, all related conveyance facilities, the Teton Exchange Wells, and State of Idaho Water Right 22-7022. This transfer was completed on September 10, 2004, in accordance with Public Law 108-85.

In addition, Reclamation and NPS entered into an August 2002 agreement to replace facilities and property for which AFRD#2's use would be affected by designation of the Minidoka Internment National Monument (Monument) as part of the National Park System. This replacement was addressed by a Categorical Exclusion to address NEPA compliance.

Photograph 1. Headworks of the Milner-Gooding Canal.

Photograph 2. Milner-Gooding Canal and access road.

Photograph 3. Dog Creek Reservoir showing accessible fishing pier and footpath.

Photograph 4. Dog Creek Reservoir showing dam, boat ramp, accessible dock, and restroom facilities.

Photograph 5. City of Gooding airport beacon site.

Photograph 6. Ditch-riders' houses and shop to be transferred to NPS.

Chapter 2 DESCRIPTION OF THE ALTERNATIVES

This environmental assessment addresses two alternatives: the No Action alternative and the Proposed Action alternative, Title Transfer. The No Action alternative forms the basis for analyzing the effects of the Proposed Action; regulations require the action agency to consider a No Action alternative for comparative analysis purposes.

Reclamation recognizes that there are numerous conceivable alternatives that would transfer varying lengths of the canal, various combinations of facilities, or various land areas. Alternative combinations other than the Proposed Action are not relevant to understanding the impacts potentially caused by the implementation of the proposed project itself. Analysis of additional alternatives would not meet AFRD#2's request and would not provide additional benefit to the public.

2.1 No Action Alternative

Under the No Action alternative, the United States would retain title to all facilities. District operations, their relationship with Reclamation, and Reclamation's oversight of the District would remain the same in the future as in the past. The District would continue to be subject to all Reclamation regulations, but would also be eligible for Reclamation administered assistance programs. The No Action alternative would not require congressional action.

The No Action alternative includes unchanged status for the IDFG Dog Creek Reservoir parcel (40 acres), the city of Gooding airport beacon parcel (5 acres), and the NPS parcel adjacent to the Monument (10 acres). The current ownership status of these properties by the United States would not be modified and no further action would be taken at this time.

2.2 Proposed Action–Title Transfer

The Proposed Action, Title Transfer, would allow the Secretary to convey to AFRD#2 and the three identified governmental entities all title, rights, and interests of the United States in the relevant facilities and lands as outlined in section 1.5 and described in further detail below. This transfer would only occur after Congress passes legislation directing that the action be implemented. No natural flow water rights, reserved power rights, or storage rights held by the United States and affiliated with the Minidoka Project would be transferred under the Proposed Action.

2.2.1 Facilities and Lands

The facilities and properties to be transferred to AFRD#2 include:

1. Conveyance facilities, headworks facilities, and associated features (approximately 70 miles)
2. Rights-of-way for the conveyance facilities (approximately 70 miles)
3. Acquired lands located along and under one mile of the Milner-Gooding Canal (13.74 acres)
4. Specific Reclamation withdrawn lands needed for the benefit of the District (380 acres)
5. A warehouse, shop, and five ditch-rider houses (one with an associated groundwater right of 0.07 cfs for domestic use) that are in the name of the United States

Additional facilities and properties to be transferred to IDFG, the city of Gooding, and NPS are described below (see maps in Appendix A):

1. Approximately 40 acres of withdrawn land containing a spillway, access roads, a parking area, and portions of a reservoir (Dog Creek Reservoir) having a perpetual easement granted to IDFG
2. A 5-acre parcel with a 30-year right-of-way granted to the city of Gooding for an airport beacon
3. Approximately 10 acres of withdrawn and acquired land, two ditch-rider houses, and one shop within the boundaries of or adjacent to the Monument, to NPS for inclusion in the Monument

2.2.2 Withdrawn Lands

The District intends to exercise perpetual rights-of-way for those portions of the Milner-Gooding Canal located on BLM lands (former Reclamation withdrawn lands) in accordance with the “Act Granting the Right of Way to Ditch and Canal Owners Over the Public Lands” of July 26, 1866, 14 statute 253.

There are several tracts of currently withdrawn land that the Milner-Gooding Canal does not run through and which are not needed for the benefit of the District. These tracts would be returned to BLM and, depending on the District’s operational needs, special use permits could be issued by BLM.

Reclamation also has three agricultural leases, six grazing leases, and one agricultural and grazing lease on withdrawn land. While most of the grazing land would be returned to BLM, the BLM has indicated they have no interest in the agricultural lease lands. The

agricultural leased lands (276.5 acres) would remain with Reclamation for management or future disposal.

United States lands leaving Federal ownership total 438.46 acres; 393.74 acres of withdrawn and acquired lands would go to AFRD#2 and 44.72 acres of withdrawn lands would go to the city of Gooding and IDFG.

2.2.3 Costs

Reclamation and AFRD#2 will share equally the cost of environmental compliance. All other costs related to the requested title transfer will be the responsibility of the District. The District will also be required to make a payment of $123,000 for 380 acres of selected withdrawn lands as described in section 1.2.

2.2.4 Limitations and Liability

Effective on the date of conveyance of the relevant facilities and lands, the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the conveyed facilities. An exception to this would be any damages caused by acts of negligence committed by the United States or by its employees or agents prior to the date of conveyance.

Nothing in the Proposed Action shall be deemed to increase the liability of the United States beyond that currently provided in the Federal Tort Claims Act (28 U.S.C. 2671 et seq.).

Chapter 3 AFFECTED ENVIRONMENT AND ENVIRONMENTAL CONSEQUENCES

Geology, hydrology, climate, soils, and air quality are not addressed in this EA because the Proposed Action has no effect on these resources.

3.1 Water Rights

3.1.1 Affected Environment

American Falls Reservoir District #2 receives Minidoka Project water from Reclamation under repayment contract 14-06-W-73, dated October 14, 1954. The repayment contract provides 393,550 acre-feet of storage space in American Falls Reservoir and a 1,700 cfs natural flow water right with the criteria as outlined in Article 20 (d) of the repayment contract.

As stated in Article 20 (d) of the repayment contract:

> "The United States will continue to hold Idaho water license 15134, a direct diversion permit having a priority date of March 30, 1921, with the District to have rights thereunder as follows:
>
> "The right to divert as natural flow thereunder from May 1 of each irrigation season continuing during that season so long as there is natural flow available for that priority one-half of the first 1,700 cubic feet per second of flow, except that in any year in which American Falls Reservoir is full to capacity on April 30, or fills after that date, taking into account any water that may be temporarily stored to its credit in upstream reservoirs, all water diverted by the District within the maximum 1,700 cubic feet per second during the year prior to the initial storage draft on American Falls Reservoir after the reservoir finally fills in that year shall be considered as natural flow under that license. Nothing herein shall prevent the District from diverting water under said license prior to May 1 of a given irrigation season but all such diversions shall be charged as storage in the event the reservoir is not full on April 30 of that season or does not fill after April 30 of that season, unless diversions so made are of amounts that, but for the diversions, would have spilled past Milner Dam and have been in excess of amounts required to be so spilled to satisfy third-party rights."

> "Water available at American Falls Reservoir for the March 30, 1921, priority under water license 15134, other than that to be available to the District as above provided, shall be available for storage in American Falls Reservoir."

Reclamation holds a groundwater right for .07 cfs for domestic use of one residence and 1.5 acres of irrigation. This right is no longer used for irrigation. The domestic right provides use to the ditchrider's residence included in facilities for transfer of title. This water right would be transferred to the District for use at the facilities being transferred.

3.1.2 Environmental Consequences

No Action Alternative

No environmental consequences are projected for water rights under the No Action alternative since the current water right framework would remain unchanged.

Proposed Action–Title Transfer

The domestic water right that provides for water use at one ditchrider's residence is included in facilities for transfer of title. This water right would be transferred to the District for use at the facilities being transferred. Because no change in water use would be involved, and because no other water rights are exchanged in the proposed title transfer, there will be no environmental consequences related to water rights.

3.2 Power Generation

3.2.1 Affected Environment

Two hydroelectric plants are located along the Milner-Gooding Canal on lands proposed for title transfer. One of the plants is now owned, maintained, and operated by AFRD#2. The remaining plant is privately owned and pays a percentage of net revenue to AFRD#2. This privately owned plant (the Dietrich Drop) was scheduled to become property of the District in 2023 (Harmon 2003). Reclamation holds no interest in any of the hydroelectric plants; they are not part of the Proposed Action.

3.2.2 Environmental Consequences

No Action Alternative

No environmental consequences are projected for power generation facilities under the No Action alternative since the District retains control of ownership, operation, and maintenance. The power generation facilities are not part of the title transfer process.

Proposed Action–Title Transfer

No environmental consequences are projected for power generation facilities under the Proposed Action, since the District retains control of ownership, operation, and maintenance. The power generation facilities are not part of the title transfer process.

3.3 Land Use

District lands are located in Gooding, Lincoln, and Jerome Counties (Table 1). Livestock ranching and agricultural crops are the largest and most important land uses within these counties. Cattle ranching is the dominant industry in the area providing almost 25 percent of the agricultural income and using about 65 percent of the land (NRCS 1991). Dry rangeland coverage has decreased to about 30 percent of the land area with development of irrigation district lands for crops and irrigated pastures (NRCS 1991). Remaining lands are small and scattered urban areas with the largest populations located in Gooding, Wendell, Shoshone, and Jerome.

3.3.1 Affected Environment

The District's assessed acreage totals 20,000 acres. The Proposed Action involves approximately 394 acres requested for transfer (Table 1). These lands include the conveyance facilities, buildings, maintenance areas, material sites, and canal rights-of-way. About 380 acres are on withdrawn lands, with the remaining acres located along one mile of canal alignment on acquired lands.

Table 1. Lands to be transferred to AFRD#2 per county.

County	Acres
Lincoln	93.74
Jerome	60.00
Gooding	240.00
Total	393.74

Current land uses within District boundaries on lands proposed for transfer include: access for canal O&M, grazing leases, O&M of material sites, and ditchrider houses. Land uses on other properties involve maintenance of a 5-acre parcel used for an airport

beacon by the city of Gooding, management of a 40-acre parcel for fish and wildlife management and recreation access by IDFG, and approximately 10 acres near the NPS Monument currently used for ditchrider houses and a shop (Table 2).

The majority of the remaining estimated 6,900 acres are located on areas adjoining the canal and were originally withdrawn from the BLM. These lands will be returned to BLM management. Approximately 1,485 acres are in existing Reclamation grazing leases. The majority of the remaining withdrawn lands are included in BLM grazing leases. These lands are also used as rights-of-way and canal buffers. The majority of the nonspecified-use lands are indistinguishable from and used in conjunction with adjacent BLM lands. These areas provide grazing and public access for waterfowl and upland game hunters (Table 2).

Table 2. Current land use status.

Proposed Transfer to:	Acres	Current Status	Current Land Use	Proposed Land Use
AFRD#2	394	Withdrawn Federal lands, and acquired lands	Milner-Gooding Canal O&M, material sites, canal ROW, 5 ditchrider houses, shop, warehouse	Unchanged
IDFG	40	Withdrawn Federal lands	Dam and overflow maintenance, fish and wildlife management and recreation access	Unchanged
City of Gooding	5	Withdrawn Federal lands	ROW for airport beacon	Unchanged
BLM	6,900	Withdrawn Federal lands	Grazing, nonspecified use	Unchanged
NPS	10	Acquired and withdrawn Federal lands	2 ditchrider houses, shop	Minidoka Internment National Monument

Rights-of-Way

Reclamation and the District access the canal across private lands to do O&M work under an 1890 Canal Act ROW. Rights-of-way across private lands are open to public access only if the underlying fee owner gives permission. Federal lands and rights-of-way are open for recreation and Federal land access provided this access does not hinder or jeopardize the use, operation, and maintenance of the facilities.

3.3.2 Environmental Consequences

No Action Alternative

Under the No Action alternative, there would be no change in land use or management practices. Therefore, there would be no impact to land use within the service area.

Proposed Action–Title Transfer

Under the Proposed Action there would be no change in land use or management practices, except as noted below. Use of all areas for conveyance facilities, buildings, maintenance areas, material sites and canal rights-of-way would remain unchanged. The District has no current plans to alter present use of facilities or rights-of-way (AFRD#2 indicates that access on canal roads crossing private lands would be unchanged; no adverse impact is anticipated).

It is anticipated that all grazing leases will go to BLM and fall under their rules. Grazing permits transferred to BLM may or may not remain grazed under new BLM-issued permits. Management practices may remain similar to existing practices.

The 6,900 acres of withdrawn land returned to BLM will be subject to BLM regulations. No adverse impact is anticipated from a change in management.

Agricultural leases would remain with Reclamation for management or future disposal.

Management and access to the Dog Creek Reservoir is currently under IDFG management and would remain unchanged under the Proposed Action. Therefore, no change in access or management is anticipated and no adverse impact is anticipated.

The city of Gooding currently manages the 5-acre airport beacon site. No change in current management conditions would be expected to occur under the Proposed Action.

Lands transferred to NPS would be managed as part of the Monument. This change would shift the current District use of those ditchrider houses to NPS management. Absent the Proposed Action, it is likely that NPS would obtain title to these lands through legislation. Therefore, no adverse impact is anticipated due to the proposed change in administration.

3.4 Socioeconomics

This section describes and analyzes the general features of the economy, including population, employment, and income that could be affected by the Proposed Action. The primary measures by which socioeconomic impacts were identified was change to population, employment, and income associated with the Proposed Action. Other factors

related to socioeconomics were identified during public meetings. Concern was also expressed about the continuation of current grazing and agricultural leases.

3.4.1 Affected Environment

Table 3 summarizes lands under Federal ownership for which payments in lieu of taxes (PILT) are currently received by the three counties.

Lincoln County is the least populated county within the study area with 4,132 people spread over 1,206 square miles (U.S. Census 2000). The majority of residents (approximately 66 percent) live in rural areas, with the remaining population located in the small rural towns of Shoshone, Dietrich, and Richfield (IDOC 2003). Shoshone, the county seat, has the largest population. Total employment within the county is 1,934, with 489 people employed in the government sector. Farm employment was the second largest employment sector with 322 people (IDOC 2003). Average income within the county is $19,843 per capita or 82 percent of the state average of $24,180 (IDOC 2003). Approximately $2.98 million are billed each year for property taxes (Lincoln County Treasury Office 2003).

Jerome County has a population of approximately 18,449 people, spread over 600 square miles (U.S. Census 2000). About 58 percent of the population is rural, with the remaining 42 percent located in the urban communities of Jerome, Eden, and Hazelton (IDOC 2003). Jerome is by far the largest city, with a population of 4,813 (IDOC 2003). Total county employment is 9,005 people, with the largest employment sectors being farm employment (1,879 people) and wholesale and retail trade (1,547 people). The largest single employer is the Jerome School District with 400 employees (IDOC 2003). Per capita income for Jerome County is $23,468, just slightly below state average (IDOC 2003). Assessed property taxes are approximately $12.5 million for Jerome County (Jerome County Treasury Office 2003).

Gooding County has a population of 14,207 people, with a land area of 731 square miles. Approximately 60 percent of the population is classified as rural, with the remaining 40 percent located in the small urban communities of Gooding, Wendell, Hagerman, and Bliss. Gooding is the county seat and has a population of 3,384 people (IDOC 2003). Total employment within the county is 6,964 people with the largest sector (1,758 people) employed in farming. Government, the second largest employment sector, employs 1,105 people (IDOC 2003). The largest single employers in the county include Glanbia Foods, Inc., the Idaho State School, and the Gooding School District. The per capita income of Gooding County is almost exactly at the state average, of $24,187 (IDOC 2003). Property taxes within Gooding County account for approximately $9 million of billed revenue each year (Gooding County Treasury Office 2003).

Table 3. PILT payments on lands proposed for transfer.

County	Acres to be transferred to District	PILT payments to counties in 2003 ($ per acre)	Tax revenue lost ($)
Lincoln County	94	$0.97	$91.00
Jerome County	60	$2.02	$121.00
Gooding County	240	$2.02	$485.00

3.4.2 Environmental Consequences

No Action Alternative

Under the No Action alternative, there would be no change in the socioeconomic conditions of Jerome, Gooding, or Lincoln Counties. Therefore, there would be no socioeconomic impacts.

Proposed Action–Title Transfer

Under the Proposed Action there would be no significant impact to the local economic factors. The total amount AFRD#2 would pay Reclamation for the withdrawn lands would be $123,000. No other programs or user fees would be impacted from the purchase of the lands.

The privately owned hydroelectric plant pays a percentage of net revenue to the District. The Proposed Action is not anticipated to affect hydroelectric revenues.

There would be no loss or gain in employment within the District or in Reclamation operations. Reclamation will no longer receive revenues generated from grazing leases. BLM would collect grazing fees according to their rates ($1.43/AUM) and carrying capacities, if they continue to graze these lands.

Land transfer between Federal agencies (Reclamation to BLM or NPS) would not impact tax assessment and collection within the counties. However, transfer of Federal land (property tax exempt) into private ownership would add no land to Lincoln, Gooding, or Jerome County tax rolls. Lands used for District purposes such as ditch-rider houses or maintenance sites/buildings are nontaxable. The transfer to the District of lands for which Lincoln, Jerome, and Gooding Counties currently receive PILT payments would result in monetary losses to the counties. The losses are calculated to be less than $500 per year for any one county and are not viewed as significant impacts relative to total property tax revenues.

3.5 Recreation

3.5.1 Affected Environment

Except for the Dog Creek Reservoir parcel, there are no developed recreation areas or facilities on acquired or withdrawn Federal lands. The city of Gooding's 5-acre airport beacon parcel is closed to recreation. Dog Creek Reservoir is managed by IDFG as a recreational fishery; however, only about 5 acres of the reservoir are on Reclamation land. IDFG stocks the reservoir with large mouth bass, bluegill, yellow perch, rainbow trout, channel catfish, and tiger muskie (IDFG 2004). The reservoir has one handicapped accessible restroom on Reclamation land, one boat ramp and one handicapped accessible fishing platform on Reclamation land. There are no other facilities around the reservoir on other lands except for some parking and possible ad hoc camping sites.

The Milner-Gooding Canal maintenance roads are used for public access on Reclamation, BLM, and private lands (some private areas are gated but these are few). Other lands withdrawn for project purposes are open to the public for general recreation such as hunting, hiking, and bird watching. These roads are subject to closure for safety, security, or operational reasons. All Reclamation lands are closed to off-highway-vehicle (OHV) use pursuant to 43 CFR 420, unless specifically opened to such use.

3.5.2 Environmental Consequences

No Action Alternative

Under the No Action alternative, no change in the current recreation management practices by the District would occur; access to canal roadways, and acquired and withdrawn lands would remain open to the public. IDFG would continue managing the Dog Creek Reservoir area for fishing and general recreation and the city of Gooding's airport beacon site would remain closed to recreation.

Proposed Action–Title Transfer

Under the Proposed Action recreation access to canal roadways would remain open to the public. Withdrawn lands would be subject to BLM regulations and open to public recreation access for almost all of the 70-mile canal length. For the one mile (13.74 acres) of acquired land to be transferred to AFRD#2, the District has indicated that no new restrictions would affect recreation access.

Dog Creek Reservoir would continue to offer recreation access and fishing opportunities to the public. There would be no change from management under the No Action alternative.

The city of Gooding's airport beacon site would remain closed to public recreation access, resulting in no change from the No Action alternative.

The National Park Service Monument lands would remain open to public access under NPS management, resulting in no significant change from the No Action alternative.

3.6 Water Quality

3.6.1 Affected Environment

Water passing through the irrigation district originates from the middle Snake River at Milner Dam. Water diverted from the Snake River is carried and distributed through the Milner-Gooding Canal and laterals. About 400 cfs of irrigation water is conveyed to the city of Gooding by way of the Little Wood River from a bifurcation point just east of Shoshone. Water quality concerns within the region include suspended sediments, excess nutrients (primarily phosphorus) and pathogens such as *E. coli* (Buhidar 2003).

The District has reported no known water quality issues within the canals, or with return flows into the river (Harmon 2003). It is anticipated the majority of the water quality within the canals would be similar to the water quality of the Snake River at Milner Dam, where the water is diverted into the system. This area of the Snake River meets requirements of the Clean Water Act and all state regulations (IDEQ 2000).

In addition to the Snake River water quality data, Idaho Department of Environmental Quality (IDEQ) has historically taken water quality samples above and below the Little Wood River and Milner-Gooding Canal junction. The most recent water quality data available for this site was taken in 1988. Water quality samples were similar above and below the bifurcation point, with the exception of total suspended sediment and turbidity, which were greater below the junction, after the canal water was introduced. The increases were great enough to be considered a water quality problem (IDEQ 2003). The District initiated a program to construct sediment retention ponds on waste ways and lateral returns to the river to help ensure water quality and meet the standard for total maximum daily load (TMDL) of suspended sediment.

3.6.2 Environmental Consequences

No Action Alternative

The existing water quality management would continue as it has in the past, with periodic modifications, as necessary, to maintain compliance with state and Federal regulations.

Proposed Action–Title Transfer

The District is working to improve water quality within the system and maintains compliance with all state and Federal laws. Under the Proposed Action, the District would continue this practice and all water quality issues and concerns would still be addressed as needed. There are no foreseeable plans to alter operations or otherwise cause changes that would degrade water quality. Therefore, adverse impacts to water quality are unlikely.

3.7 Vegetation

The lands proposed for transfer are in the Snake River basin within the Intermountain Sagebrush Province (Baily 1980). Agriculture has already disturbed and altered much of the land. The predominant crops in the area are grain, alfalfa, sugar beets, and potatoes. In undisturbed areas, dominant plant species include big sagebrush, annual and perennial grasses, and forbs.

3.7.1 Affected Environment

The lands adjacent to the District's canals and rights-of-way are primarily used as agricultural and range lands. The majority of the land is classified as sagebrush–grassland habitat, much of which has been heavily disturbed by grazing or wildfire. Burned areas have been reseeded to nonnative forage species such as crested wheatgrass (Harmon 2003).

Vegetation in the project area includes native species, introduced species, and invasive species. Native flora includes common species found within the sagebrush-grassland ecosystem, including a natural riparian area in the Dog Creek parcel. However, much of the native sagebrush-grassland area has been disturbed and is dominated by invasive species such as tumble mustard, Russian thistle, and bur buttercup. Table 4 lists common native species, introduced species, and invasive species which likely occur on or adjacent to irrigation district lands.

Introduced species include agricultural crops, seeded rangeland forage, and invasive species. In addition, several noxious weeds, as defined by the state of Idaho, occur within the area. According to the Jerome and Lincoln County Noxious Weed Office, both Russian knapweed and Scotch thistle are common noxious weed problems on District lands (Ruby 2003).

Vegetation Management

The District currently manages all vegetation within its rights-of-way and waterways. Weed control is the primary vegetation management concern. The District uses both

chemical and mechanical methods to control terrestrial and aquatic weeds. Herbicides are the primary means of weed control. The District uses 2, 4-D amine and glyphosate; both are approved for use near waterways. Acrolein is used in the small laterals to control aquatic macrophytes and algae growth. No herbicides are used in the main canals (Harmon 2003). No brush control is necessary along the canals.

The state of Idaho requires all landowners and managers to control noxious weeds on their property. Individual lessees are responsible for weed control within their parcels. Reclamation manages grazing leases according to individual leases which specify timing, length, and number of animals for each parcel. The city of Gooding manages weed control at the the airport beacon parcel and IDFG manages weed control at the Dog Creek Reservoir parcel.

3.7.2 Environmental Consequences

No Action Alternative

Under the No Action alternative, there would be no change in the current vegetation quality, distribution, or management practices on city of Gooding and IDFG parcels or District lands. Therefore, there would be no affect on vegetation.

Proposed Action–Title Transfer

Under the Proposed Action, there would be no change in current vegetation quality distribution, or management practices for parcels going to the city of Gooding, IDFG, NPS, or BLM. However, grazing management would be governed by BLM regulations. It is anticipated that BLM would reissue grazing permits to lessees for those areas with current permits. It is not anticipated that a change in grazing management would adversely impact vegetation.

Table 4. Common vegetation potentially occurring on District lands.

Common Name	Scientific Name
Native species	
Indian ricegrass	*Oryzopsis hymenoides*
Squirreltail	*Sitanion hystrix*
Bluebunch wheatgrass	*Agropyron spicatum*
Sandberg's bluegrass	*Poa secunda*
Sagebrush	*Artemisia tridentate*
Rabbitbrush	*Chrysothamnus sp.*
Various forbs	
Introduced species–agricultural	
Sugar beets	*Beta sp.*
Wheat	*Triticum sp.*
Barley	*Horduem sp.*
Potatoes	*Solanum sp.*

Common Name	Scientific Name
Corn	*Maize sp.*
Dry beans	*Phaseolus sp.*
Alfalfa hay	*Medicago sp.*
Introduced species–weedy invasive	
Cheatgrass	*Bromus tectorum*
Bur buttercup	*Ranunculus testiculatus*
Kochia	*Kochia scoparia*
Tumble mustard	*Sisymbrium altissimum*
Russian thistle	*Salsola kali*
Smooth brome	*Bromus inermis*
Clasping leaf peppergrass	*Lepidium perfoliatum*
Introduced species–rangeland	
Siberian wheatgrass	*Agropyron sibericum*
Crested wheatgrass	*Agropyron cristatum*
Snake River bluebunch wheatgrass	*Agropyron spicatum*
Tall wheatgrass	*Agropyron elongatum*
Introduced species–aquatic	
Various pond weed	
Terrestrial weeds–invasive	
Scotch thistle	*Onopordum acanthium*
Canada thistle	*Cirsium arvense*
Musk thistle	*Carduus nutans*
Russian knapweed	*Centaurea repens*
Hoary cress or whitetop	*Candia draba*
Perennial peppered or tall whitetop	*Lepidium latifolium*
Kochia	*Kochia scoparia*

3.8 Fisheries

3.8.1 Affected Environment

A species list of potentially occurring fish was compiled from a literature search; no field surveys were conducted. The fisheries are managed by IDFG.

The seasonal flow of the irrigation system prevents establishment of a permanent fishery in the canal. Fish found in the canal come from the Snake River at Milner Dam, which does not have fish screens at the diversion.

Native and introduced fisheries are present in the Little Wood River, which is used to convey about 400 cfs of water to the city of Gooding. Channel catfish, carp, rainbow trout, brown trout, brook trout, mountain whitefish, sculpin, redside shiner, smallmouth bass, specked dace, Utah chub, Utah sucker, and yellow perch species may potentially occur in this section of the Little Wood River (Warren 2003).

3.8.2 Environmental Consequences

No Action Alternative

Under the No Action alternative, no change in the current water flows or management practices by the District would occur. Therefore, there would be no effect on fish habitats or the distribution of fish.

Proposed Action–Title Transfer

Under the Proposed Action, there would be no change in water flows or management; therefore, there would be no impact on the fishery.

3.9 Wildlife

3.9.1 Affected Environment

Potential wildlife habitat consists of canal banks, rights-of-way, and the undeveloped parcels of land included in the transfers and generally found within ¼ to ½-mile of the main Milner-Gooding Canal. Habitats vary from developed agricultural land and seeded rangeland to riparian and native sagebrush-grassland habitat. A literature search was conducted and from this a species list was compiled of the birds, mammals, reptiles, and amphibians which may potentially occur on District lands; no field survey work was done. All wildlife and wildlife hunting regulations are managed by IDFG.

Birds

Birds known to inhabit District lands include waterfowl, shorebirds, upland game birds, raptors, and passerine (perching or songbirds). Waterfowl habitat is limited to the Snake River intake at Milner Dam and in the vicinity of Dog Creek Dam. Primary waterfowl species include Canada goose, mallard, blue-winged teal, and western grebe (IDFG 1997). Upland game birds are distributed throughout District agricultural lands and undeveloped rangelands. Common upland species include ring-necked pheasants, mourning doves, gray partridge, and quail. Raptors which may occur on District lands include the northern harrier, Swainson's hawk, red-tailed hawk, Ferruginous hawk, prairie falcon, golden eagle, turkey vulture, burrowing owl, and American kestrel (IDFG 1997).

Mammals

Mammals which may occur on District lands are common in agricultural areas and undeveloped sagebrush-grassland habitats. Small mammals include the western harvest mouse, vole, pocket gopher, deer mouse, and Townsend's ground squirrel. Larger

mammal species which may be found on District lands include the striped skunk, coyote, red fox, badger, cottontail rabbit, jackrabbit, Pronghorn, and mule deer (IDFG 1997).

Reptiles and Amphibians

Reptile and amphibian species which may occur on District lands include the western toad, Pacific tree frog, northern leopard frog, racer snake, gopher snake, garter snake, desert-horned lizard, short-horned lizard, western-fence lizard, sagebrush lizard, and western rattlesnake (IDFG 1997).

3.9.2 Environmental Consequences

No Action Alternative

Under the No Action alternative, no change in the current management of properties by IDFG, city of Gooding, BLM, or the District would occur. Therefore, there would be no effect on wildlife habitats or the distribution of wildlife.

Proposed Action–Title Transfer

Under the Proposed Action alternative, no change in the current management of properties by IDFG, city of Gooding, BLM, or the District would occur; and no significant changes would be expected for management of lands by the NPS. Therefore, no other impacts on wildlife habitats or the distribution of wildlife are anticipated.

3.10 Threatened and Endangered Species

Table 5 displays the federally listed threatened and endangered species that the USFWS has identified as potentially occurring in the area of the facilities and lands proposed for transfer (Jerome, Gooding, and Milner Counties). These eight species are identified in the threatened and endangered species system (TESS) list as of April 5, 2005.

No listed anadromous fish exist in the AFRD#2 service area. The title transfers included in the Proposed Action do not involve any change in current or future water management and, therefore, will not result in any streamflow impacts or other effects that could affect federally listed anadromous fish occurring downstream in the lower Snake River and Columbia River.

Table 5. USFWS listed species which may occur in the action area.

Gray wolf (*Canis lupus*)	Experimental/ nonessential population
Bald eagle (*Haliaeetus leucocephalus*)	Threatened
Bull trout (*Salvelinus confluentus*)	Threatened
Utah valvata snail (*Valvata utahensis*)	Endangered
Snake River physa snail (*Physa natricina*)	Endangered
Idaho springsnail (*Pyrgulopsis idahoensis*)	Endangered
Banbury Springs lanx (*Lanx sp*.)	Endangered
Bliss Rapids snail (*Taylorconcha serpenticola*)	Threatened
Source: USFWS April 5, 2005	

3.10.1 Affected Environment

Gray Wolf

The gray wolf (*Canis lupus*), currently listed as endangered, was historically present throughout much of the region. This animal was extirpated from the western states about 1930. An experimental population of gray wolves was introduced into Yellowstone National Park and into central Idaho in 1995 and 1996. There is no known record of a gray wolf sighting or designated critical habitat along the canal or in the area of the lands proposed for transfer.

Bald Eagle

The Snake River throughout Idaho supports a large population of nesting and wintering bald eagles. The nesting population in this area has increased steadily since 1970 (GYBEWG 1996). The closest nesting territories in this reach of the Snake River occur near Milner Dam and another nesting terrority is in the vicinity of Blue Lakes Country Club by Twin Falls. However, monitoring of these sites ended in 2002 after 10 consecutive years of not being occupied. There are no known nesting or wintering areas along the Milner-Gooding Canal or on District lands.

Bull Trout

The USFWS issued a final rule listing the Columbia River population of bull trout (*Salvelinus confluentus*) as a threatened species under the ESA on June 10, 1998 (USFWS 2002). Bull trout historically occurred in major river drainages in the Pacific Northwest. There are no known bull trout populations in the area of the lands proposed for transfer, and these lands lie outside designated recovery areas.

Snails

In 1992, the USFWS listed five species of aquatic mollusks in the middle Snake River as endangered or threatened under the ESA (FR 57:59244). The Banbury Springs lanx

(*Lanx sp*.), the Idaho springsnail (*Pyrgulopsis idahoensis*), the Snake River physa (*Physa natricina*), and the Utah valvata (*Valvata utahensis*) were listed as endangered. The Bliss Rapids snail (*Taylorconcha serpenticola*) was listed as threatened. All five species are endemic to certain areas of the middle Snake River or some springs and tributaries. The facilities and lands proposed for transfer do not provide suitable habitat to support any of these species and none have been observed within District boundries.

3.10.2 Environmental Consequences

No Action Alternative

Under the No Action alternative, there would be no change in distribution or abundance of any listed species within or near the lands proposed for transfer. Neither streamflows in the Snake River, downstream springs, or diversion rates would change due to this alternative in the foreseeable future. The District would continue operating and maintaining the transferred facilities and lands without change, and AFRD#2 through Reclamation would continue to comply with ESA requirements. Thus, the No Action alternative would have no effect on any listed species.

Proposed Action–Title Transfer

The effects of the Proposed Action are expected to be the same as the No Action. None of the listed species occur on District lands nor would they be affected by title transfer. The facilities would continue to be operated as they have in the past, there will be no transfer of water rights, and there would be no changes in diverted flows. The District would continue to operate and maintain the transferred facilities and lands as they have in the past. Thus, the Proposed Action alternative would have no effect on USFWS listed species or NOAA Fisheries listed species in the Snake and Columbia Rivers.

Because the associated facilities proposed for transfer to AFRD#2 would leave Federal ownership, Section 7 of the ESA would only apply to new project activities that require Federal approval or that have Federal funding. Section 9 of the ESA would continue to prohibit the taking (affecting) of any listed threatened or endangered species.

3.11 Hazardous Materials and Waste

3.11.1 Affected Environment

Hazardous material surveys of the relevant facilities and lands to be transferred will be completed in accordance with Reclamation policy. No issues of concern have been identified other than potential asbestos and/or lead-based paint issues at the ditchrider houses.

3.11.2 Environmental Consequences

No Action Alternative

Under the No Action alternative, there would be no change in administration of the ditchrider houses having potential asbestos and/or lead-based paint issues. Therefore, no environmental consequences would occur under this scenario.

Proposed Action–Title Transfer

Under title transfer, Reclamation would be required by HUD regulations to address lead-based paint issues in residential housing before transferring title out of Federal ownership. This abatement could be completed by a qualified contractor engaged by either Reclamation or AFRD#2. The approach for addressing these potential hazardous material issues will be detailed in a transfer agreement between Reclamation and AFRD#2. No other environmental consequences related to hazardous materials are anticipated under the title transfer scenario.

3.12 Cultural Resources

Cultural resources are historical, archaeological, architectural, and traditional cultural properties that reflect the national heritage. Significant cultural resources are referred to as “historic properties.” Federal law and regulation define “historic properties” to include prehistoric and historic sites, buildings, structures, districts, and objects that are included in or eligible for inclusion in the National Register. Traditional cultural properties (TCPs) are locations that have special heritage value to contemporary communities (often American Indian groups). This special value is because the TCPs are associated with the historical practices or beliefs needed to maintain a culture’s identity and are eligible to the National Register.

Federal laws and regulations require agencies to identify cultural resources that will be affected by a Federal action and to address the effects of the agency’s actions on properties eligible for or on the National Register. The NHPA is the principal law defining these management responsibilities. Section 106 of the NHPA and related regulations (found at 36 CFR Part 800) define a phased data collection and consultation process to implement the agency’s responsibilities. The process requires an agency to first identify cultural resources in the impact area; then, in consultation with the SHPO, the agency must evaluate their eligibility for listing on the National Register. If eligible sites are present, then further consultation is required to determine how they would be affected by the action and appropriate means to treat adverse effects.

3.12.1 Affected Environment

Archaeological resources in southern Idaho provide evidence of Native American occupation of the area for over 11,000 years. The culture of these early people is generally recognized as a variant of the Clovis/Folsom culture, in which large fluted projectile points were manufactured to hunt big game. However, far more common in the archaeological record of southern and central Idaho is the stemmed spear point, which may have derived from the Clovis cultural tradition or may represent a separate contemporary cultural tradition.

The AFRD#2 title transfer lands and facilities are situated on a high plateau in south central Idaho southeast of the Camas Prairie and north of the Snake River. Recent archaeological data suggests that ancestors of the ethnographic Shoshone entered this area sometime during the Middle Archaic or approximately 4,000 to 3,500 years before present. The people inhabiting southern Idaho became known as the Shoshone and Bannock, although they represented two linguistically distinct groups—the Northern or Snake River Shoshone and the Bannock. These hunters and gatherers lived in small bands of extended families that traveled seasonally to exploit various animal and plant resources. To supplement their diet, they fished for salmon and other fish species in the Snake River.

The fur trade brought the first white men, the Overland Astorians, to southern Idaho via the Snake River in 1811. As early as 1818, when Donald McKenzie of John Jacob Astor's overland group led the first expedition into the Snake Country for the Northwest Fur Company, the Indians of the Snake River Plain were experiencing threats to traditional resources. Trappers and Native Americans became intertwined in complex trade networks. Trade goods, including metal tools, tobacco, cloth, and guns were in much demand by the Indians and the trappers relied on trade for food, horses, and guides. The trade goods came at a high cost to the Shoshone and Bannock—increased exposure to enemy tribes, loss of limited food resources, and disruption of the traditional seasonal rounds. After the Carey Act of 1894, the Indian groups were displaced by white settlers swarming into the area to homestead the cheap and newly irrigated land.

The Carey Act provided for the transfer of federally owned desert lands to any western state willing to undertake reclamation of those lands. State and private investors would have 10 years to complete irrigation projects after initial construction began. Idaho took full advantage of the Carey Act and the state sold lots as small as 40 acres to farmers, while the privately funded construction companies sold the water rights to those farmers. The farmer would then be served by canal companies under arrangements approved by the state reclamation engineer. The state also provided for irrigation districts of interested farmers.

The 1902 Reclamation Act provided for the establishment of the U.S. Reclamation Service (later Bureau of Reclamation) and pledged federal monies to build dams, reservoirs, canals, and associated facilities for large-scale irrigation projects. The Minidoka Project was authorized by the Secretary of the Interior in 1904, under the 1902 Reclamation Act. This project involved construction of the Minidoka Dam and powerplant, Jackson Lake Dam, Island Park Dam, and American Falls Dam. Funding for construction of the Gooding Division was provided under a 1927 DOI Appropriation Act. Eventually, the Minidoka Project, directly or by exchange, provided irrigation water to 700,000 acres from the Wyoming border to the Hagerman Valley. The district was founded in 1928 for the purpose of operating the Gooding Division of the Minidoka Project.

Other irrigation systems, dams, reservoirs, canals, laterals, and drains contributed to the making of the Magic Valley in south-central Idaho. Some of the more important of these are the rubble Milner Dam (1905) which created the Northside and Southside Canals and the earthen Magic Dam and Reservoir which gave rise to the town of Richfield in 1908. Many of the southern Idaho irrigation systems initiated in the early to mid-1900s are still providing valuable water to farmers today. The Milner-Gooding Canal, completed in 1932, is one such success story. That canal runs for 70 miles from Milner Dam at the Snake River to the North Gooding Main Canal northwest of Shoshone, Idaho. Until 1975 the Snake River had seen construction of 25 mainstem dams and over 50 upland water projects.

In February and March 2003, The Environmental Company, Inc., performed an intensive cultural resources survey of the title transfer lands and irrigation facilities comprising the area of potential effect of the proposed title transfer. Most of the survey occurred along portions of the Milner-Gooding and the North Gooding Main Canals maintained jointly by AFRD#2 and Reclamation. In all, 22 cultural resource properties were documented and recorded during the survey (of which four of those properties are privately owned and in which there will be no change in status). Thus, 18 Reclamation cultural properties are, in effect, involved in the title transfer. These properties include primarily historic trash scatters, but also ditch-riders' houses; a warehouse and maintenance shop; and several historic canals.

Using criteria set forth in 36 CFR Part 60.4, recommendations regarding site eligibility to the National Register of Historic Places were made for each site. Of the 18 recorded sites that will be affected by the title transfer, three have been recommended eligible to the National Register.

The three sites are as follows:

1. AF-531–Milner ditch-rider house
2. Milner-Gooding Canal
3. AF-535–Minidoka Warehouse/Big Wood Shop

The Milner-Gooding Canal played a pivotal role in the irrigation history and agricultural development of south-central Idaho; the Milner Ditch Rider House derives its significance from its association with the Milner-Gooding Canal. Documentation of historically important canals such as Milner-Gooding, and sites associated with that canal, can contribute substantially to our understanding of this important historic irrigation system which was an integral part of a larger system that gave the Magic Valley its name. The eligibility of the Minidoka Warehouse/Big Wood Shop is based on its association with the Hunt Relocation Camp (a WWII internment camp), not the Milner-Gooding Canal irrigation system.

Based on current knowledge, no traditional cultural properties are located within the area of the proposed title transfer, and none were observed during the course of the cultural resources survey. Tribal members are reluctant to provide specific information about locations where traditional cultural practices might have been conducted. Certain natural resources within the project area may have traditionally been used by southern Idaho tribes for food, medicine, and other purposes (for example, sagebrush, pine nuts, chokecherries, and various roots); however, current land ownership patterns and longstanding development related to irrigation and agriculture make tribal use of traditional resources in the project area unlikely.

3.12.2 Environmental Consequences

No Action Alternative

Under the No Action alternative, no change in the current management of AFRD#2 would occur. Therefore, there would be no effect on historic properties. Reclamation would continue to consult with the SHPO for Federal undertakings and would work with the SHPO to mitigate any adverse effects on historic properties.

Proposed Action–Title Transfer

Application of the NHPA to future undertakings by AFRD#2 would be limited to only those activities involving funds or support from Federal agencies. In those cases, Section 106 compliance would be the responsibility of the participating Federal agency. For undertakings not involving funds or support from Federal agencies, the District would be under no legal obligation to consider the effects of the undertaking on cultural resources. In addition, protection of archaeological resources under the Archaeological Resources

Protection Act would cease if the title was transferred, since this law is linked with Federal ownership.

Under 36 CFR Part 800, the transfer of an historic property out of Federal ownership without protection is an adverse effect. Facilities and lands proposed for transfer to NPS would remain under Federal ownership; as a result, relevant protections for cultural resources would remain in place and no effects would occur.

The Class III cultural resources survey conducted for the proposed title transfer identified 18 cultural resource properties that will be affected by the proposed title transfer, of which three were considered eligible for the National Register. Reclamation is currently conducting Section 106 consultations with the SHPO over National Register eligibility, effects, and mitigation of adverse effects regarding the identified cultural properties. In addition, as required by 36 CFR Part 800 regulations, Reclamation invited Advisory Council on Historic Preservation (Council) participation in the Section 106 consultation proceedings. The Council formally declined the invitation to participate.

Reclamation and the SHPO have agreed that Reclamation would mitigate the adverse effect on the three eligible historic properties in order to meet Reclamation's responsibilities under Section 106 of the NHPA. Reclamation and the SHPO have entered into an MOA that defines Reclamation's mitigation responsibilities for the title transfer action with AFRD#2 providing funding. The agreement was signed in October 2004.

3.13 Indian Sacred Sites

Federal responsibility for Indian sacred sites is defined in Executive Order 13007. The executive order defines Indian sacred sites as specific, discrete, narrowly-delineated locations on Federal land identified by Indian tribes or knowledgeable practitioners as sacred by virtue of their religious significance to, or ceremonial use by, an Indian religion.

3.13.1 Affected Environment

Reclamation is not aware of any Indian sacred sites on the Federal lands under consideration for the title transfer, and there is no indiction (based on previous correspondence to tribes regarding this project) that these lands are used for tribal religious purposes. Due to surface modifications and modern encroachments, it is unlikely that sacred sites are present in the area of the proposed title transfer.

3.13.2 Environmental Consequences

No Action Alternative

AFRD#2 would continue operating and maintaining the project without change. Reclamation would continue to ensure that its actions do not adversely affect Indian sacred sites, if such sites are present, to the extent practicable, and that access to and ceremonial use of Indian sacred sites is accommodated.

Proposed Action–Title Transfer

If Indian sacred sites were present on any of the fee title lands included in the transfer, then Indian religious practitioners would lose the right of access to those locations for religious purposes unless AFRD#2 granted permission for access.

Since the right of access under Executive Order 13007 is provided only for Federal fee lands, there would be no loss of the right to access for those easement lands or areas where Reclamation simply holds a nonfee interest. The executive order does not authorize mitigation for loss of access to or damage to Indian sacred sites. However, if sacred sites were identified by Tribes to be present on fee title lands included in the transfer, Reclamation would work with the Tribes to determine feasible alternatives that would avoid or lessen impacts to these sites.

3.14 Indian Trust Assets

3.14.1 Affected Environment

Indian Trust Assets are legal interests in property held in trust by the United States for Indian Tribes or individuals. The Secretary, acting as the trustee, holds many assets in trust for Indian Tribes or Indian individuals. Examples of things that may be trust assets are lands, minerals, hunting and fishing rights, and water rights. While most ITAs are on reservation, trust assets may also be off reservation.

The United States has an Indian trust responsibility to protect and maintain rights reserved by or granted to Indian Tribes or Indian individuals by treaties, statutes, and executive orders. These are sometimes further interpreted through court decisions and regulations.

Some tribes in the Pacific Northwest and in the Great Lakes region reserved off-reservation fishing rights by treaty. In a few instances, tribes reserved off-reservation hunting rights. (Getches et al. 1998)

The Shoshone Bannock Tribes, a federally recognized Tribe located at the Fort Hall Indian Reservation in southeastern Idaho, have trust assets both on reservation and off reservation. The Fort Bridger Treaty was signed and agreed to by the Bannock and Shoshone headman on July 3, 1868. The treaty states in article 4, that members of the Shoshone Bannock Tribes "shall have the right to hunt on the unoccupied lands of the United States." The Tribes believe their right extends to the right to fish. The Fort Bridger Treaty for the Shoshone Bannock has been interpreted in the case of *State of Idaho v. Tinno*, an off reservation fishing case in Idaho. The Idaho Supreme Court determined that the Shoshone word for "hunt" also included fishing. Under Tinno, the Court affirmed the Tribal Members right to take fish off reservation pursuant to the Fort Bridger Treaty (Shoshone Bannock Tribes 1994). The Federal lands for this proposal lie within the ceded territory of the Shoshone Bannock Tribes.

The Nez Perce Tribe is a federally recognized Tribe of the Nez Perce Reservation in northern Idaho. The United States and the Tribe entered into three treaties (Treaty of 1855, Treaty of 1863, and Treaty of 1868) and one agreement (Agreement of 1893). The rights of the Nez Perce Tribe include the right to hunt, gather, and graze livestock on open and unclaimed lands, and the right to fish in all usual and accustomed places (Nez Perce Tribe 1995).

The Northwestern Band of the Shoshone Indians, a federally recognized Tribe without a reservation, possess treaty protected hunting and fishing rights that may be exercised on unoccupied lands within the area acquired by the United States pursuant to the Fort Bridger Treaty of 1868, No opinion is expressed as to which areas may be regarded as unoccupied lands.

Other federally recognized Tribes within the area do not have off reservation ITAs but may have cultural and religious interests in the area. These interests may be protected under historic preservation laws and the Native American Graves Protection and Repatriation Act.

3.14.2 Environmental Consequences

No Action Alternative

Indian Trust Assets that may exist on these Federal lands would be the right to hunt and the right to fish. Because the United States would retain title, there would be no effect on Indian Trust Assets that may exist.

Proposed Action–Title Transfer

Each of the parcels include some element of land transfer which includes lands that Reclamation withdrew from the public domain and/or lands which Reclamation purchased in fee title. It is unclear whether rights reserved by the Tribes apply to all

federal lands regardless of how they were obtained. There are no environmental consequences related to water rights. (see section 3.1 Water Rights)

Indian Trust Assets that may exist on Federal lands would be the right to hunt and the right to fish. Since the United States would transfer lands out of Federal ownership, the right to hunt or the right to fish that may exist may no longer apply on the affected lands.

Reclamation has communicated with the Shoshone Bannock Tribes of the Fort Hall Indian Reservation about the proposed title transfer. The response of the Fort Hall Business Council and staff members is that any reduction of Federal lands would affect their Indian Trust Assets. Since the right to hunt on unoccupied lands generally refers to Federal lands, land transferred out of Federal ownership would diminish the land base on which the Tribes may have an opportunity to hunt.

3.15 Environmental Justice

Environmental justice analysis examines disproportionately high or adverse impacts to minority and low-income populations resulting from the implementation of the proposed action. These populations are:

- minority populations: persons Hispanic or Latino, African-American, American-Indian and Alaska Native, Asian, Pacific Islander origins.
- low-income populations: persons living below the poverty level, based on a weighted-average total-annual income of $8,501 for a single person.

Information contained in the 2000 Census of Population was used to identify these populations. The 2000 Census broke out people of Hispanic or Latino heritage from the White category; however, prior to 2000 these people were counted as nonminorities. For this analysis they will be counted as a minority status.

3.15.1 Affected Environment

The percentages of minority and low income populations within Lincoln, Jerome, and Gooding Counties are shown in Table 6. Approximately 37.4 percent of the total United States population belongs to minority groups, including the Hispanic and Latino populations. Within the United States, 12.4 percent of individuals were considered to be below the poverty level (U.S. Census 2000).

All three counties contain a larger percentage of people considered below the poverty level than the national average. None of the counties contain a higher minority population than the national average.

Table 6. Minority and low income populations within Lincoln, Jerome, and Gooding Counties.

Area	Minority Populations (%)	Low Income Families (%)
Gooding	19.7	13.8
Jerome	19.4	13.9
Lincoln	16.5	13.1
(U.S. Census 2000)		

3.15.2 Environmental Consequences

No Action Alternative

Under the No Action alternative, there would be no change to existing District operations or management of other facilities and lands proposed for transfer. Therefore, there would be no impact to Environmental Justice factors as identified and defined in executive orders.

Proposed Action–Title Transfer

Under the Proposed Action, there would be no change in operations; therefore, no minority or low-income populations would be adversely impacted through implementation of the action.

3.16 Cumulative Impacts of the Proposed Alternative

NEPA requires cumulative effects analysis of a proposed project in light of that project's interaction with the effects of past, current, and reasonably foreseeable future projects. Based on the overall analyses of effects on social and natural resources, Reclamation has determined that there are no cumulative impacts associated with the implementation of this Proposed Action.

Cumulative effects for potentially related projects are summarized below.

Past Title Transfer Projects

Section 1.7 describes three transfer of title actions that have occurred within Reclamation's Snake River Area Office administrative boundaries. The process followed for each completed transfer was similar to that of the District's proposed title transfer action in this case. However, the legal basis for each of these other actions is based on language in their respective project authorizations.

- The Nampa & Meridian Irrigation District (Boise Project) has received title to distribution, conveyance, and drainage facilities, and rights-of-way; the district did not seek water rights.

- The Burley Irrigation District (Minidoka Project) received title to all district facilities, lands, rights-of-way, and water rights on February 24, 2000. Transferred facilities included pumping plants, canals, drains, laterals, roads, pumps, checks, headgates, transformers, pumping plant substations, and buildings. Also transferred were other improvements, appurtenances to the land, and those used for the delivery of water from the headworks (but not the headworks themselves) of the Southside Canal at the Minidoka Dam.
- The Fremont-Madison Irrigation District requested transfer of certain facilities including the Cross Cut Diversion Dam and Canal, all related conveyance facilities, the Teton Exchange Wells, and State of Idaho Water Right 22-7022. This transfer was completed on September 10, 2004, in accordance with Public Law 108-85.

Each of these past title transfer actions was for specific facilities unrelated to the facilities addressed by the Proposed Action. As a result, there are no discernible interactions between the effects of the Proposed Action and the effects of the previously completed title transfer projects.

Transfer of Federal lands to private ownership reduces the Federal land base on which Indian Tribes may exercise their right to hunt or fish. The AFRD#2 proposal involves transfer of title for 394 acres of land, with potential effects as described in section 3.14. There are no other known local title transfer proposals currently being considered or other proposal for transfer of lands out of Federal ownership.

Future Managed Recharge Projects

A groundwater recharge demonstration project was previously proposed and briefly investigated as a cooperative effort between the Idaho Water Resources Board, Lower Snake River Aquifer Recharge District, and AFRD#2 (collectively referred to as the Sponsors), and Idaho Department of Water Resources, IDEQ, BLM, and Reclamation. The purpose of the recharge project was to determine the feasibility of recharging the Snake River aquifer with flows from the Snake River under existing or new water rights and to determine if groundwater recharge could alleviate declines in groundwater levels and spring flows in the Magic Valley area of the Snake River plain aquifer. The Sponsors of the recharge project had requested that they be permitted to construct an outlet at Mile 31 on the Milner-Gooding Canal. However, without consensus of all parties to avoid the anticipated impacts of the recharge project, no final determinations were made and the project was put on an indefinite hold.

Although there has been recent renewed interest in managed recharge projects in the Snake River plain aquifer in general, Reclamation has not received any information suggesting any new proposal or any linkage to the proposed title transfer. Therefore, previously proposed groundwater recharge demonstration projects are not viewed as a

reasonably forseeable future project relative to cumulative impacts analysis of the Proposed Action. However, if after completion of the Proposed Action, a recharge project involving the Milner-Gooding Canal is proposed, NEPA compliance may still be required if there is any Federal involvement in the project. For example, if the Milner-Gooding Canal were needed to accommodate a recharge project where water would be discharged onto BLM lands, BLM would be required to comply with NEPA prior to implementation of the project.

Chapter 4 COORDINATION AND CONSULTATION

4.1 Agency Consultation

Because the proposed transfer involves changes to the status of Reclamation withdrawn lands and related BLM roles, Reclamation has coordinated with BLM in a series of meetings from April 2004 through January 2005. Additional agency consultations are described below.

4.1.1 Endangered Species Act

Reclamation determined that the Proposed Action would not affect any species listed as threatened or endangered under Section 7 of the Endangered Species Act. Consultation with USFWS and/or NOAA Fisheries is not required.

4.1.2 National Historic Preservation Act

The National Historic Preservation Act of 1966 (NHPA) (as amended in 1992) requires that Federal agencies consider the effects that their projects have on "historic properties," properties eligible for or listed on the National Register of Historic Places. Section 106 of the act and its implementing regulation (36 CR Part 800) provides procedures that Federal agencies must follow to comply with NHPA on specific undertakings.

To comply with Section 106 of NHPA, Federal agencies must consult with the State Historic Preservation Officer (SHPO), Native American tribes with a traditional or culturally-significant religious interest in the study area, and the interested public. Federal agencies must identify any historic properties in the area of potential effect for a project. The significance of historic properties must be evaluated, the effect of the project on the historic properties must be determined, and the Federal agency must mitigate adverse effects the project may cause on historic properties.

An intensive cultural resources survey of title transfer lands and irrigation facilities was performed in February and March 2003 (see section 3.12.1). The survey was along portions of the Milner-Gooding and the North Gooding Main Canals maintained jointly by AFRD#2 and Reclamation. In all, 22 cultural resource properties were documented and recorded during the survey (of which four of those properties are privately owned and in which there will be no change in status). Thus, 18 Reclamation cultural properties are, in effect, involved in the title transfer. These properties include primarily historic

trash scatters, but also ditch-riders' houses; a warehouse and maintenance shop; and several historic canals.

4.2 Consultation and Coordination with Tribal Governments

1998	
April 28	Letter to the Chairman of the Fort Hall Business Council, Shoshone-Bannock Tribes regarding Bureau of Reclamation's transfer of title initiative
1999	
January 28	Letter to the Chairman of the Fort Hall Business Council of the Shoshone-Bannock Tribes Fort Hall–transfer of title activities associated with Bureau of Reclamation facilities within the State of Idaho
September 9	Letter to the Chairman, Shoshone-Paiute Tribal Council, Duck Valley requesting a meeting to discuss Reclamation initiatives that included American Falls Reservoir District # 2 title transfer
2000	
July 10	Letter to the Chairman of the Fort Hall Business Council, Shoshone-Bannock Tribes of the Fort Hall Reservation, regarding scoping of issues–transfer of certain federal irrigation facilities to American Falls Reservoir District # 2, Idaho
July 10	Letter to the Chairperson of the Burns Paiute General Council, Burns Paiute Tribe, Burns, Oregon, regarding scoping of issues–transfer of certain federal irrigation facilities of American Falls Reservoir District #2, Idaho
July 10	Letter to the Acting Chairman of the Northwestern Band of the Shoshone Nation regarding scoping of issues–transfer of certain federal irrigation facilities of the American Falls Reservoir District #2, Idaho

July 10	Letter to the Chairman of the Nez Perce Tribal Executive Committee of the Nez Perce Tribe regarding scoping of issues–transfer of certain federal irrigation facilities to American Falls Reservoir District #2, Idaho
July 10	Letter to the Chairman of the Shoshone-Paiute Business Council (sic) regarding scoping of issues–transfer of certain federal irrigation facilities to American Falls Reservoir District #2, Idaho
August 9	Letter from Chairman of the Fort Hall Business Council, Shoshone–Bannock Tribes of Fort Hall opposing the proposal pending further review with Reclamation
September 15	Tour of American Falls Reservoir District #2 title transfer area with Shoshone-Bannock Commission members, staff, and Bureau of Indian Affairs staff
2001	
August 10	Letter requesting meeting with the Fort Hall Business Council, Shoshone–Bannock Tribes of Fort Hall to discuss Reclamation programs and activities
September 19	Letter confirming postponement of meeting scheduled for September 21, 2001, due to the tragic national incident and associated security and travel issues
November 19	Meeting with the Fort Hall Business Council, Shoshone-Bannock Tribes of Fort Hall to discuss Reclamation programs and activities including title transfer
2002	
January 8	Letter to the Chairman of the Fort Hall Business Council, Shoshone-Bannock Tribes of Fort Hall summarizing the November 19, 2001, meeting
February 1	Meeting with the Shoshone-Paiute Tribal Council, Shoshone-Paiute Tribes of Duck Valley to discuss Reclamation programs and activities
February 25	Meeting with staff of the Shoshone-Bannock Tribes of Fort Hall to discuss resource management plans and title transfer

April 10	Letter to the Chairman of the Shoshone-Paiute Tribal Council of Duck Valley summarizing the meeting of February 1, 2002
December 16	Letter to the Chairman of the Nez Perce Tribal Executive Committee, Nez Perce Tribe–updated proposal to transfer title from the Bureau of Reclamation of certain irrigation facilities and lands to American Falls Reservoir District #2
December 16	Letter to the Chairman of the Northwestern Band of the Shoshone Nation - updated proposal to transfer title from the Bureau of Reclamation of certain irrigation facilities and lands to American Falls Reservoir District #2
December 16	Letter to the Chairman of the Burns Paiute General Council, Paiute Tribes of Burns–updated proposal to transfer title from the Bureau of Reclamation of certain irrigation facilities and lands to American Falls Reservoir District #2
December 16	Letter to the Chairman of the Shoshone-Paiute General Council, Shoshone-Paiute Tribes of Duck Valley–updated proposal to transfer title from the Bureau of Reclamation of certain irrigation facilities and lands to American Falls Reservoir District #2
December 16	Letter to the Chairman of the Fort Hall Business Council, Shoshone-Bannock Tribes of Fort Hall–updated proposal to transfer title from the Bureau of Reclamation of certain irrigation facilities and lands to AFRD #2
2003	
February 21	Letter to the Chairman of the Shoshone-Paiute Tribal Council of the Shoshone-Paiute Tribes of Duck Valley requesting a meeting to discuss Reclamation programs and activities
March 11	Meeting with staff of the Shoshone-Bannock Tribes of Fort Hall at which title transfer was discussed
April 2	Meeting with the Shoshone-Paiute Tribal Council, Shoshone-Paiute Tribes of Duck Valley to discuss Reclamation programs and activities

April 22	Summary of April 2, 2003, meeting with the Tribal Council of the Shoshone-Paiute Tribes of Duck Valley with enclosure, summary of programs and activities, spring 2003
April 22	Letter to the Chairman of the Fort Hall Business Council, Shoshone-Bannock Tribes of Fort Hall confirming April 30, 2003, meeting
April 28	Letter to the Chairman of the Natural Resource Committee of the Nez Perce Tribe requesting a meeting to discuss Reclamation programs and activities including resource management plans
April 30	Meeting with the Fort Hall Business Council of the Shoshone-Bannock Tribes
June 3	Meeting with the Nez Perce Natural Resource Committee to discuss various Reclamation programs and activities
June 19	Letter summarizing April 30, 2003, meeting with the Fort Hall Business Council, Commission members and staff of the Shoshone-Bannock Tribes of Fort Hall
June 19	Letter to the Chairman of the Burns Paiute General Council requesting a meeting to discuss Reclamation programs and activities including title transfer
July 22	Meeting with the Burns Paiute General Council at which the Council members indicated that their primary interest was in eastern Oregon
October 2	Letter to the Burns Paiute General Council summarizing the July 22, 2003, meeting
2005	
January 6	Letter requesting meeting with the Fort Hall Business Council of the Shoshone-Bannock Tribes to discuss Reclamation programs and activities which may be of interest to the Tribes including the AFRD #2 Title Transfer proposal

February 4	Meeting with the Fort Hall Business Council of the Shoshone-Bannock Tribes to discuss Reclamation programs and activities which may be of interest to the Tribes which included a discussion of the AFRD #2 proposal
February 9	Letter to the Fort Hall Business Council of the Shoshone-Bannock Tribes summarizing the February 4, 2005, meeting.
April 15	Meeting with members of the Fort Hall Business Council, Commissioners and staff regarding the "Water Outlook for 2005" where it was announced that the draft EA for AFRD#2 would be released in May/June. Comments were requested.
April 25	Meeting with the Fort Hall Business Council, Commissioners and staff regarding the scoping and the planning process for the Teton Resource River Canyon Management Plan where it was announced the draft EA for AFRD#2 would be released to the tribes. Comments were requested.

4.2.1 Tribal Comments

The Fort Hall Business Council of the Shoshone-Bannock Tribes wrote to Reclamation on August 9, 2000, stating they have some concerns and questions regarding this proposal and its impact on water rights and treaty rights. Subsequently, Reclamation provided a field trip for Tribal Commission members and staff to look at the lands and facilities that comprise the proposal. Recently, Reclamation announced at a meeting to the Fort Hall Business Council on April 15 and April 25, 2005, that the subject EA would be mailed to the Tribes and that we request their comments.

The primary concern raised by the Tribe involved Shoshone-Bannock Tribal water rights and treaty rights.

4.3 Public Involvement

An initial scoping letter was sent out on July 14, 2000, and an updated scoping letter was sent out on December 16, 2002. On February 11, 2003, a public information meeting was held by the District and Reclamation in Shoshone, Idaho. Concerns raised with title transfer during the scoping process included:

1. Tribal water rights and treaty rights
2. Loss of Federal environmental compliance requirements
3. Effects on endangered species

4. Impacts on Winter Water Savings Agreement
5. Which “major facilities” would not be transferred
6. Need description of the emergency floodway and how it is used
7. Would access to public lands via the canal be maintained
8. Loss of Reclamation’s ability to provide salmon flow augmentation water
9. Effects of the proposed ground water recharge project
10. Need for fish screens on the diversion
11. Effects of cattle grazing along the canal on water quality
12. Effects of the transfer on the Hunt Site

Please refer to relevant sections of the Final EA for additional information on these issues.

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DISTRIBUTION LIST

Name	Agency / Organization	City	State
Mr. K. Lynn Bennett	BLM State Director, Idaho State Office	Boise	ID
	BLM Burley Field Office	Burley	ID
	BLM Shoshone Field Office	Shoshone	ID
Mr. Joe Kraayenbrink	BLM Idaho Falls Field Office	Idaho Falls	ID
Mr. Neil King	National Park Service	Hagerman	ID
Mr. Eric LaPointe	Superintendent, BIA-Fort Hall Agency	Fort Hall	ID
Mr. Norm Bird	BIA-Fort Hall Agency	Fort Hall	ID
Mr. Virgil Townsend	BIA-Eastern Nevada Agency	Elko	NV
	USFWS Minidoka National Wildlife Refuge	Rupert	ID
Ms. Alison Beck-Haas	USFWS Snake River Basin Office	Boise	ID
	USFWS Snake River Basin Office	Boise	ID
Mr. Robert Lohn	NOAA Fisheries Regional Administrator	Seattle	WA
Mr. David Mabe	NOAA Fisheries, Habitat Branch	Boise	ID
Mr. Rich Domingue	NOAA Fisheries	Portland	OR
Mr. Brian Brown	NOAA Fisheries	Portland	OR
Ms. Ruth Monahan	Sawtooth National Forest	Twin Falls	ID
Mr. Brian Whitlock	Chief of Staff Office of the Governor	Boise	ID
Mr. Clive Strong	Chief, Natural Resources Division, Office of Attorney General	Boise	ID
Ms. Toni Hardestry	Director, Idaho Dept. of Environmental Quality	Boise	ID
	Idaho Department of Fish and Game	Jerome	ID
Mr. Patrick Takasugi	Idaho Department of Agriculture	Boise	ID
Mr. Winston Wiggins	Idaho Department of Lands	Boise	ID
Mr. Karl Dreher	Idaho Department of Water Resources	Boise	ID
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Mr. Jerry R. Rigby	Chairman, Idaho Water Resource Board	Boise	ID
Mr. Terry T. Uhling	Vice Chairman, Idaho Water Resource Board	Boise	ID
Mr. L. Claude Storer	Idaho Water Resource Board	Boise	ID
Mr. Leonard Beck	Idaho Water Resource Board	Boise	ID
Mr. Charles Brockway	University of Idaho	Kimberly	ID
	Jerome County Board of Commissioners	Jerome	ID
	Lincoln County Board of Commissioners	Shoshone	ID
	Gooding County Board of Commissioners	Gooding	ID
	Cassia County Board of Commissioners	Burley	ID
	Twin Falls County Board of Commissioners	Twin Falls	ID

Mayor Richard Andreasen	City of Shoshone	Shoshone	ID
Mr. H. Lynn Harmon	American Falls Reservoir District No. 2	Shoshone	ID
Mr. Randy Bingham	Burley Irrigation District	Burley	ID
Mr. Dale Swensen	Fremont-Madison Irrigation District	St. Anthony	ID
Mr. William Taylor	Owners Mutual Irrigation Company	Idaho Falls	ID
Mr. Dan Temple	A&B Irrigation District	Rupert	ID
Mr. Bill Thompson	Minidoka Irrigation District	Rupert	ID
Mr. John Marshall	North Side Canal Company, Ltd.	Jerome	ID
Mr. Vince Alberti	Twin Falls Canal Company	Twin Falls	ID
Mr. Ron Carlson	Water District No. 01	Idaho Falls	ID
	King Hill Irrigation District	King Hill	ID
Mr. Blair Grover	Palisades Water Users INC	Rigby	ID
Ms. Marlene Caffrey	Truckee-Carson Irrigation District	Fallon	NV
	Idaho Water Users' Association	Boise	ID
	Idaho Assoc. of Soil Conservation Districts	Boise	ID
	Idaho Council of Industry and the Environment	Boise	ID
Mr. Blaine Edmo	Chairman, Shoshone-Bannock Tribes Fort Hall Business Council	Fort Hall	ID
Ms. Elese Teton	Water Resources Shoshone-Bannock Tribes	Fort Hall	ID
Mr. Chad Colter	Director, Fish & Wildlife Shoshone-Bannock Tribes	Fort Hall	ID
Mr. Terry Gibson	Shoshone-Paiute Tribal Council	Owyhee	NV
Mr. Claudio M. Broncho	Policy Representative, Shoshone-Bannock Tribes	Fort Hall	OR
Ms. Yvette Tuell	Environmental Coordinator Shoshone-Bannock Tribes	Fort Hall	ID
Ms. Gail Martin	Shoshone-Bannock Tribes, Paralegal	Fort Hall	ID
Mr. Willie Preacher	HETO Shoshone-Bannock Tribes	Fort Hall	ID
Ms. Carolyn Boyer Smith	Cultural Resources, Shoshone-Bannock Tribes	Fort Hall	ID
Ms. Gwen Davis	Chair, Tribal Council, Northwestern Band of the Shoshone Nation	Pocatello	ID
Mr. Robin Harms	CEO, Shoshone-Paiute Tribes	Owyhee	NV
Mr. Joseph Pavkov		Gooding	ID
Mr. Tim Waters		Jerome	ID
	Idaho Conservation League	Boise	ID
Ms. Susan Steinman	Henry's Fork Watershed Council	Ashton	ID
Mr. Laird Lucas	Land & Water Fund of the Rockies	Boise	ID
Mr. John Marvel	Idaho Watershed Project	Hailey	ID
Mr. Matt Woodard	Trout Unlimited	Idaho Falls	ID
	Henry's Fork Foundation	Ashton	ID
Mr. Geoff Pampush	The Nature Conservancy	Hailey	ID
	Food Producers of Idaho	Meridian	ID
Ms. Wendy Lauchland	Family Farm Alliance	Elk Grove	CA
Honorable Larry E. Craig	United States Senator	Pocatello	ID
Honorable Michael Crapo	United States Senator	Twin Falls	ID
Honorable Butch Otter	US House of Representatives	Boise	ID

Honorable Michael Simpson	US House of Representatives	Pocatello	ID
	Gooding Public Library	Gooding	ID
	Jerome Public Library	Jerome	ID
	Shoshone Public Library	Shoshone	ID
	Burley Public Library	Burley	ID
	Idaho Falls Public Library	Idaho Falls	ID
	Twin Falls Public Library	Twin Falls	ID
	Oakley Free Library	Oakley	ID
	City of Buhl Library	Buhl	ID
	Little Wood River Library	Carey	ID
	Filer City Library	Filer	ID
	Hagerman Public Library	Hagerman	ID
	Hailey Public Library	Hailey	ID
	Community Library	Ketchum	ID
	Hansen Public Library	Hansen	
	City of Kimberly Library	Kimberly	ID
	Wendell Public Library	Wendell	ID
	American Falls Public Library	American Falls	ID
	Marshall Public Library	Pocatello	ID
	Blackfoot Public Library	Blackfoot	ID
	Richfield Public Library	Richfield	ID
	Demary Memorial Library	Rupert	ID

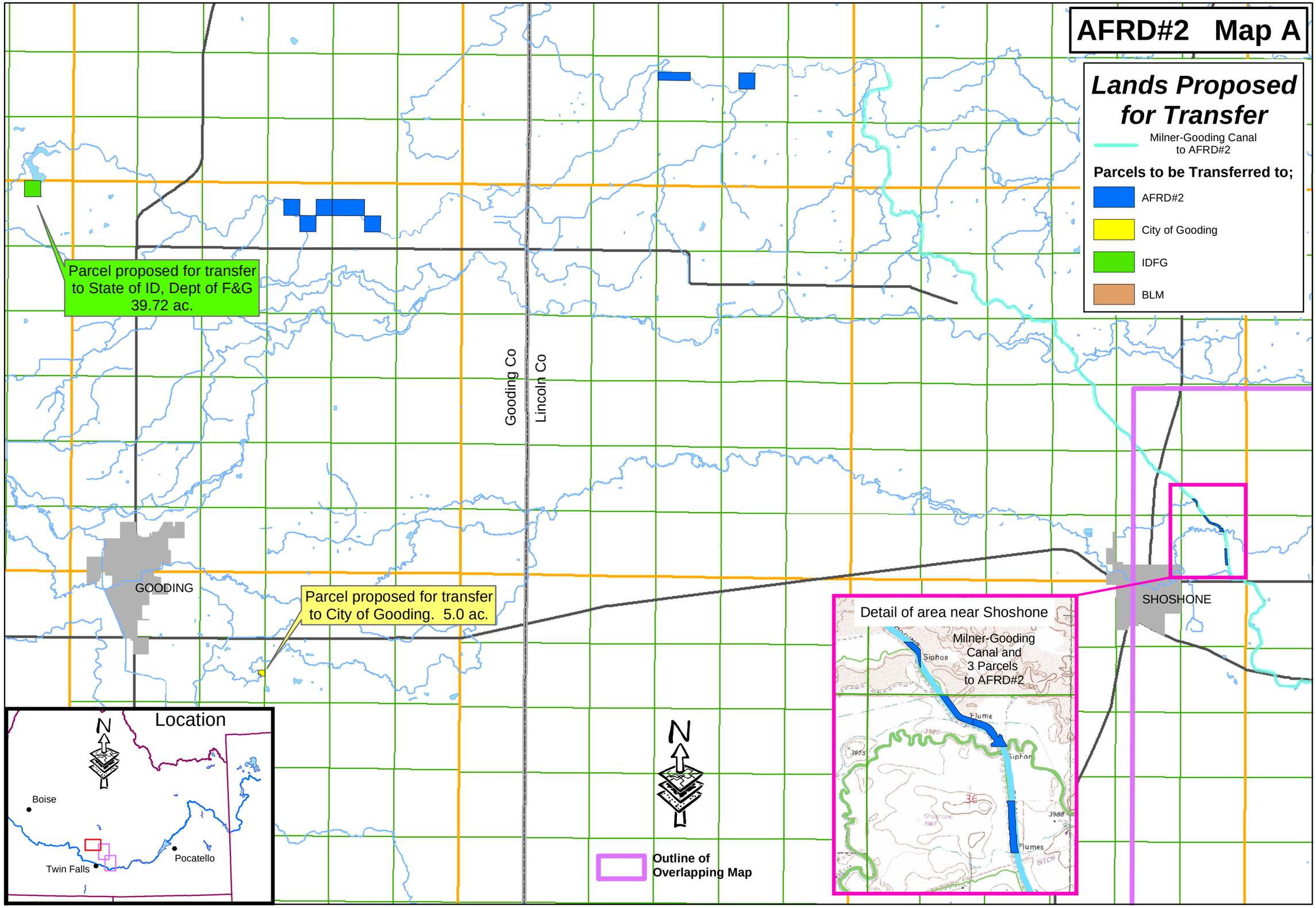
APPENDICES

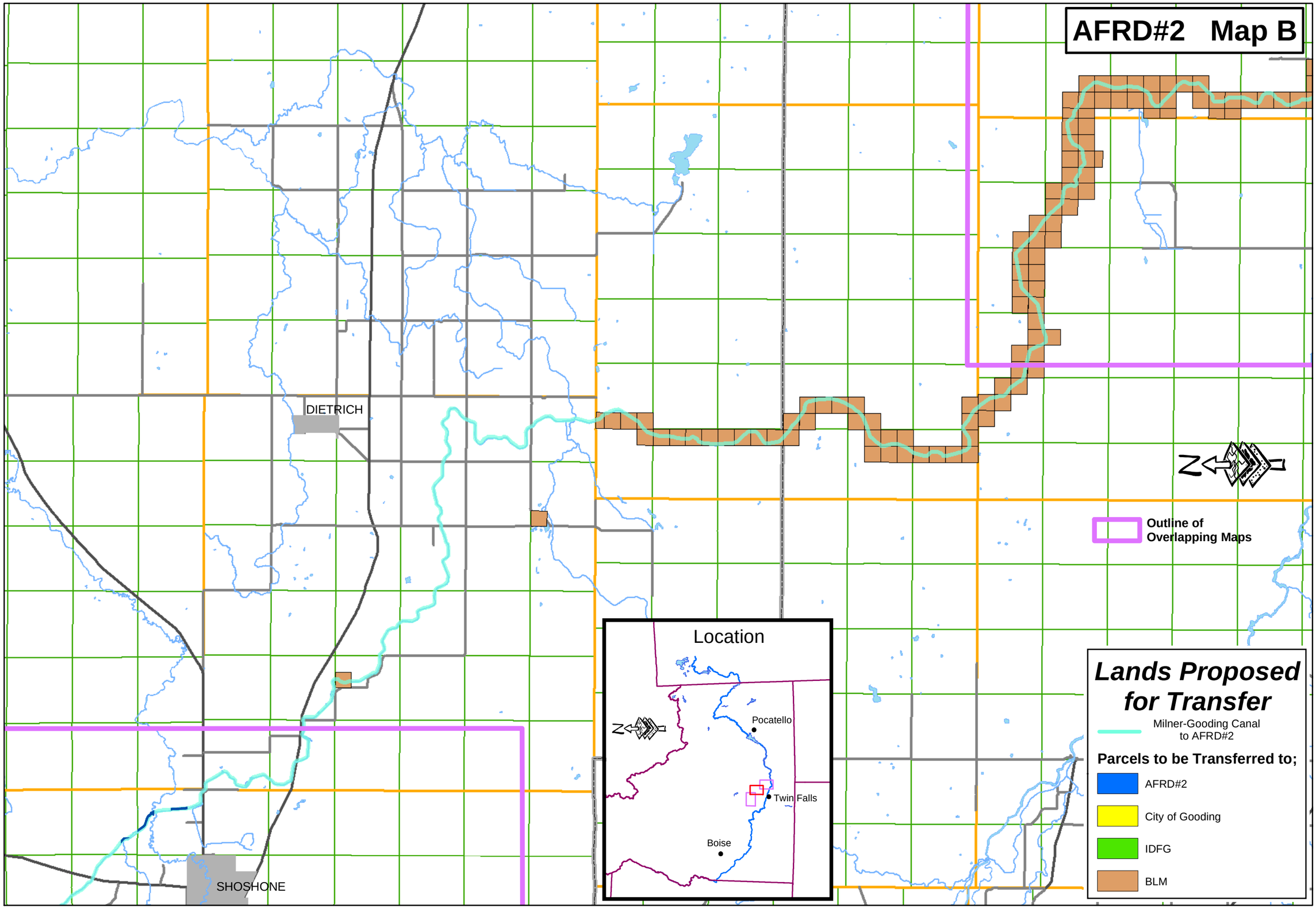
Appendix A Detailed Maps of Lands Proposed for Transfer

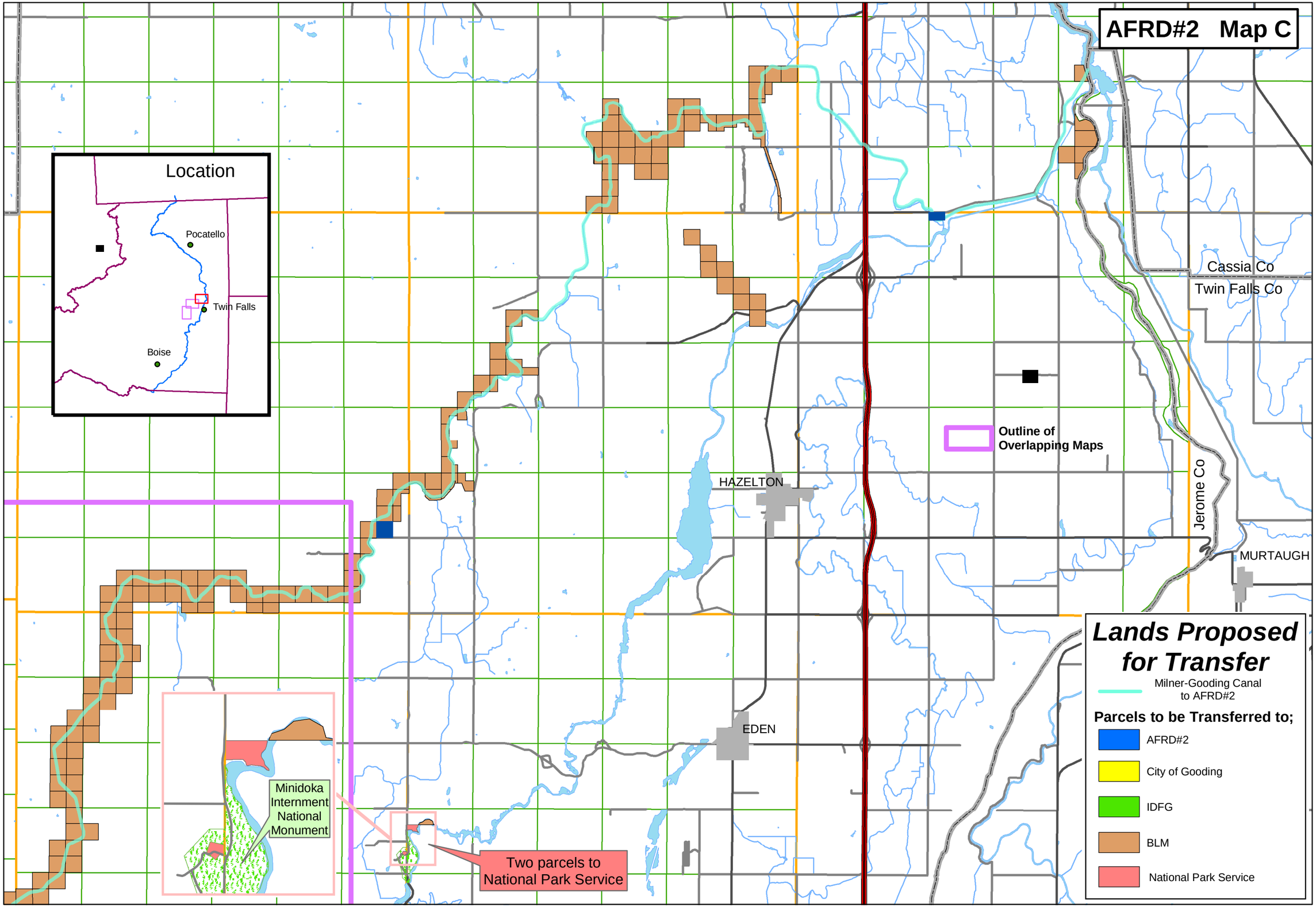
Appendix B Legal Descriptions of Lands Proposed for Transfer

Appendix C Public Comment Letters

Appendix A Detailed Maps of Lands Proposed for Transfer


AFRD#2 Map A
Lands Proposed for Transfer
Milner-Gooding Canal to AFRD#2
Parcels to be Transferred to;
AFRD#2
City of Gooding
IDFG
BLM
Parcel proposed for transfer to State of ID, Dept of F&G 39.72 ac.
Parcel proposed for transfer to City of Gooding. 5.0 ac.
Gooding Co
Lincoln Co
GOODING
SHOSHONE
Detail of area near Shoshone
Milner-Gooding Canal and 3 Parcels to AFRD#2
Siphon
Flume
Flumes
Location
Boise
Twin Falls
Pocatello
N
Outline of Overlapping Map


AFRD#2 Map B
DIETRICH
SHOSHONE
Outline of Overlapping Maps
Location
Pocatello
Twin Falls
Boise
Lands Proposed for Transfer
Milner-Gooding Canal to AFRD#2
Parcels to be Transferred to;
AFRD#2
City of Gooding
IDFG
BLM


AFRD#2 Map C
Location
Pocatello
Twin Falls
Boise
Cassia Co
Twin Falls Co
Jerome Co
Outline of Overlapping Maps
HAZELTON
MURTAUGH
EDEN
Minidoka Internment National Monument
Two parcels to National Park Service
Lands Proposed for Transfer
Milner-Gooding Canal to AFRD#2
Parcels to be Transferred to;
AFRD#2
City of Gooding
IDFG
BLM
National Park Service

Appendix B Legal Descriptions of Lands Proposed for Transfer

Legal Descriptions of Lands to be Conveyed to American Falls Reservoir District #2

Acquired Lands

Parcel 1: Township 5 South, Range 17 East, Boise Meridian, Lincoln County, Idaho
Portions of Section 36
Containing approximately 10 acres

Parcel 2: Township 5 South, Range 17 East, Boise Meridian, Lincoln County, Idaho
Portions of Sections 25 and 36
Containing approximately 7 acres

Withdrawn Lands

Parcel 3: Township 5 South, Range 15 East, Boise Meridian, Gooding County, Idaho
Section 2: S½NW¼, NW¼SE¼ 120 acres
Section 3: SE¼NE¼, SE¼NW¼, NW¼SE¼ 120 acres

Parcel 4: Township 4 South, Range 16 East, Boise Meridian, Lincoln County, Idaho
Section 26: SE¼NW¼ 40 acres
Section 27: N½S½NW¼ 40 acres

Parcel 5: Township 8 South, Range 20 East, Boise Meridian, Jerome County, Idaho
Section 32: NW¼SW¼ 40 acres

Parcel 6: Township 10 South, Range 20 East, Boise Meridian, Jerome County, Idaho
Section 13: E½NE¼NE¼ 20 acres

Rights-of-way Reserved under the Act of Congress of August 30, 1890 (26 Stat. 391) and exercised through construction.

Legal Descriptions of Withdrawn Lands for Withdrawal Revocation

All withdrawals located on portions of the following sections which were withdrawn for the Minidoka Project are to be revoked (exceptions from these revocations will be listed on the last two sections of this document). After withdrawal revocation, the lands in this first section will be managed by BLM, except where noted.

Township 5 South, Range 14 East, Boise Meridian, Idaho
Section 1: Lot 3 (This Lot will be conveyed to the Idaho Department of Fish and Game)
Township 6 South, Range 15 East, Boise Meridian, Idaho
Sec. 9: NE¼SE¼ (5 acres will be conveyed to the city of Gooding)
Township 6 South, Range 18 East, Boise Meridian, Idaho
Sections 17, 35
Township 7 South, Range 19 East, Boise Meridian, Idaho
Sections 5, 6, 7, 18, 19, 20, 29, 30, 31, 32
Township 8 South, Range 19 East, Boise Meridian, Idaho
Sections 2, 3, 4, 5, 9, 11, 12
Section: 33 (2.25 acres will be conveyed to the National Park Service)
Township 9 South, Range 19 East, Boise Meridian, Idaho
Section 4
Township 8 South, Range 20 East, Boise Meridian, Idaho
Section 7, 18, 19, 30, 31, 32
Township 9 South, Range 20 East, Boise Meridian, Idaho
Sections 3, 4, 5, 10, 11, 25, 26, 35
Township 9 South, Range 21 East, Boise Meridian, Idaho
Sections 17, 18, 19, 20, 29, 31, 32, 33
Township 10 South, Range 21 East, Boise Meridian, Idaho
Sections 28, 29, 30

All withdrawals on the following lands to be transferred to AFRD#2 will be revoked:

Township 5 South, Range 15 East, Boise Meridian, Idaho
Section 2: S½NW¼, NW¼SE¼ 120 acres
Section 3: SE¼NE¼, SE¼NW¼, NW¼SE¼ 120 acres
Township 4 South, Range 16 East, Boise Meridian, Idaho
Section 26: SE¼NW¼ 40 acres
Section 27: N½S½NW¼ 40 acres
Township 8 South, Range 20 East, Boise Meridian, Idaho
Section 32: NW¼SW¼ 40 acres
Township 10 South, Range 20 East, Boise Meridian, Idaho
Section 13: E½NE¼NE¼ 20 acres

Excepted from Revocation

Excepted from the above revocations will be the following lands, which will remain withdrawn (currently encumbered with agricultural leases), which will be sold at a later date:

Township 6 South, Range 18 East, Boise Meridian
Section 21: W½NE¼
Township 8 South, Range 20 East, Boise Meridian
Section 31: Lot 17, 18, 21
Township 9 South, Range 20 East, Boise Meridian
Section 14: NW¼NE¼
Township 9 South, Range 21 East, Boise Meridian
Section 17: Lot 1
Section 18: Lot 7
Section 20: Lots 2 and 4

Excepted from Revocation

Also excepted from the above revocations will be the following lands, which will remain withdrawn, as they are part of the North Side Pumping Division:

Township 9 South, Range 21 East, Boise Meridian
Section 17: NW¼NE¼, N½NW¼
Section 18: NE¼NE¼
Section 33: SE¼

Legal Descriptions of Lands to be Conveyed to:
Idaho Department of Fish and Game,
City of Gooding,
and National Park Service

Lands to be conveyed to the Idaho Department of Fish and Game (39.72 acres):

Township 5 South, Range 14 East, Boise Meridian, Gooding County, Idaho
Section 1: Lot 3
Containing 39.72 acres

Lands to be conveyed to the city of Gooding (5 acres):

Township 6 South, Range 15 East, Boise Meridian, Gooding County, Idaho
Section 9: NE¼NE¼NE¼SE¼, E½NW¼NE¼NE¼SE¼,
N½SE¼NE¼NE¼SE¼
Containing 5 acres

Lands (including appurtenant structures) to be conveyed to the National Park Service (10.18 acres):

Township 8 South, Range 19 East, Boise Meridian, Jerome County, Idaho
Section 33: Tract 38
Containing 2.25 acres
Township 9 South, Range 19 East, Boise Meridian, Jerome County, Idaho
Section 4: Tract 38
Containing 7.87 acres
Section 4: Tract 39
Containing .06 acres

Appendix C Public Comment Letters

ENV 600
M.W

United States Department of the Interior

NATIONAL PARK SERVICE
Hagerman Fossil Beds National Monument
Minidoka Internment National Monument
221 North State Street
P.O. Box 570
Hagerman, Idaho 83332-0570

BUREAU OF RECLAMATION
OFFICIAL FILE COPY
JUL 06 '05

TO	INIT	DATE
6303		7/7/05
6519		7/7/05
6312		7/14/05

CONTROL #: 5-2817
FOLDER #: 21166-0

REPLY REFER TO:

D18(MIIN-DGMP)

July 5, 2005

Bureau of Reclamation
Pacific Northwest Regional Office
Mr. Mike Relf
1150 North Curtis Road, Suite 100
Boise, Idaho 83706

Dear Mr. Relf,

Regarding the *Draft Environmental Assessment – American Falls Reservoir District #2 – Proposed Title Transfer* – May 2005, we offer the following comments.

The National Park Service supports the proposed Bureau of Reclamation action and the transfer of lands to the American Falls Reservoir District #2 and the National Park Service, as described in the subject document. We support these actions because it would be in the best interest of the public, achieving efficiencies, and to accomplish National Park Service mission goals for the long term management and development of Minidoka Internment National Monument. We also support proposed legislation to affect the above purposes and offer any assistance that we may provide to carryout the proposed land transfer and subsequent actions.

We would like to take this opportunity to express our appreciation for the cooperation and assistance we have received from the Bureau of Reclamation office in Burley, Idaho. Both Yvonne Daniels and Chris Ketchum have been particularly helpful as they have provided professional assistance in carrying out the establishment of Minidoka Internment National Monument on lands that were formally managed by the Bureau of Reclamation. Their services and assistance are sincerely appreciated.

We look forward to continuing to work with the Bureau of Reclamation to achieve our mutual goals and to serve the public.

Sincerely,

Neil King
Superintendent

STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

601 Pole Line Road, Suite 2 • Twin Falls, Idaho 83301-3035 • (208) 736-2190

Dirk Kempthorne, Governor
Toni Hardesty, Director

RECEIVED
JUL 18 05

July 11, 2005

Jerrold D. Gregg, Area Manager
United States Department of the Interior
Bureau of Reclamation, Snake River Area Office
230 Collins Road
Boise, ID 83702-4520

Re: Comments on Draft Environmental Assessment of Title Transfer on the American Falls Reservoir District #2

Dear Mr. Gregg:

The Idaho Department of Environmental Quality (DEQ), Twin Falls Regional Office, has reviewed the draft environmental assessment of the American Falls Reservoir District #2 proposed title transfer. Under the proposed transfer, specific properties would include the City of Gooding, Idaho Fish and Game, and the National Park Service. As described in the draft document, the transfer of the Bureau of Reclamation's (BOR) title, rights, and interests to District #2 would streamline the administrative processes for the BOR and District #2. In so doing, the title transfer would allow the BOR to use its resources more effectively in other areas of water resource management. Comments from DEQ are as follows.

Water Quality

Based on Section 3.6 of the draft document and DEQ's experience with the BOR, the proposed action (title transfer) would not disrupt the continued improvements to water quality within the system especially maintaining compliance with all state and Federal laws. The BOR has indeed honored its commitments on various water quality issues that are linked to various total maximum daily loads (TMDLs). Effectively, the District #2 will continue this practice and all water quality issues and concerns will still be addressed as needed. There are no foreseeable plans to alter operations or otherwise cause changes that would degrade water quality. Consequently, adverse impacts to water quality are highly unlikely. Therefore, there is a reasonable assurance that the action being taken would comply with the beneficial uses or water quality standards of the affected canalways as described in the Upper Snake Rock TMDL, the Lake Walcott TMDL, the Big Wood River TMDL, and the Little Wood River TMDL.

Fisheries

Based on Section 3.8 of the draft document and DEQ's experience the BOR and Idaho Fish and Game, the seasonal issue on canalways prevents the establishment of a permanent fishery within any of the canals, although it is common in some canalways (not all of them) to find fish within the canal system from the Snake River at Milner Dam (no fish screens present) through the area of interest that involves the title transfer as native or introduced species. Under the

proposed title transfer, there would be no impact on the fisheries since there will be no change in water flows or in the management of those water flows. Therefore, there is a reasonable assurance that the action being taken would comply with the beneficial uses or water quality standards of the affected canalways as described in the Upper Snake Rock TMDL, the Lake Walcott TMDL, the Big Wood River TMDL, and the Little Wood River TMDL.

Threatened and Endangered Species

Based on Section 3.10 of the draft document and DEQ's experience with the BOR and the U. S. Fish and Wildlife Service, and especially with the listed five species of aquatic mollusks in the Middle Snake River, the BOR has indeed honored their commitments to the protection of these threatened and endangered species through the management of their projects relative to water quality. None of the listed snails occur on District lands nor would they be affected by the title transfer. The title transfer would cause no change in diverted flows. Consequently, adverse impacts to water quality are highly unlikely. Therefore, there is a reasonable assurance that the action being taken would comply with the beneficial uses or water quality standards of the affected canalways as described in the Upper Snake Rock TMDL, the Lake Walcott TMDL, the Big Wood River TMDL, and the Little Wood River TMDL.

Hazardous Materials and Waste

Based on Section 3.11 of the draft document and DEQ's experience with the BOR, especially with hazardous materials and wastes on present BOR property, indicates that the BOR will comply with HUC regulations to address lead-based paint and/or asbestos issues in residential housing before transferring the title. A qualified contractor would be engaged by either the BOR or District #2 for complete abatement of the issue. Details would be detailed in a transfer agreement between the BOR and District #2 and DEQ would like to be notified of abatement process when it is undertaken. At this time no other environmental consequences related to hazardous materials are anticipated under the title transfer scenario. Consequently, adverse impacts to water quality are highly unlikely. Therefore, there is a reasonable assurance that the action being taken would comply with the beneficial uses or water quality standards of the affected canalways as described in the Upper Snake Rock TMDL, the Lake Walcott TMDL, the Big Wood River TMDL, and the Little Wood River TMDL.

Future Managed Recharge Projects

Based on Section 3.16 and DEQ's experience with BOR and the Idaho Department of Water Resources (IDWR), Mile Post 31 on the Milner-Gooding Canal is presently being pursued as an active recharge site. In fact, the IDWR in conjunction with DEQ is in the process of finalizing a monitoring plan for this site. Whether recharge will occur or not is beyond DEQ's ability to predict. However, we suggest that BOR contact David Blew at IDWR in Boise and discuss the future potential for recharge to occur at this site. In spite of this activity, DEQ does not see any impacts to water quality that might arise as a result of the title transfer and the future management of Mile Post 31 as a recharge project. Consequently, adverse impacts to

water quality are highly unlikely. Therefore, there is a reasonable assurance that the action being taken would comply with the beneficial uses or water quality standards of the affected canalways as described in the Upper Snake Rock TMDL, the Lake Walcott TMDL, the Big Wood River TMDL, and the Little Wood River TMDL.

This constitutes DEQ's comments on the proposed title transfer. We appreciate the opportunity to comment on the draft environmental assessment. If you should have any concerns or questions, please contact me at (208) 736-2190.

Sincerely,

Dr. Balthasar B. Buhidar, Ph.D.
Regional Manager – Water Quality Protection

BBB: gl

cc: Doug Howard, Regional Administrator, TFRO-DEQ
Bill Allred, Regional Manager – Remediation & Groundwater, TFRO-DEQ

LND-5.00
MIN

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
PORTLAND OFFICE
1201 NE Lloyd Boulevard, Suite 1100
PORTLAND, OREGON 97232-1274</F/NWR5>

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6303 | MR | 7/26
CONTROL #: 5-3109
FOLDER #: 7715

July 20, 2005

Mike Relf
U.S. Bureau of Reclamation
Pacific Northwest Regional Office
1150 North Curtis Road, Suite 100
Boise, ID 83706

Re: Proposed transfer of title to certain lands and facilities to the American Falls District #2 Draft Environmental Assessment and the U.S. Bureau of Reclamation's finding of no effect on Endangered Species Act-listed anadromous fish

Dear Mr. Relf:

This letter acknowledges the National Marine Fisheries Service's (NMFS) receipt of the above-referenced Draft Environmental Assessment and no-effect determination (included in Mr. Jerrold Gregg's cover letter) for the proposed title transfer.

Because the U.S. Bureau of Reclamation has determined that the proposed action would not affect Endangered Species Act-listed anadromous fish species, further involvement of NMFS in the process leading to title transfer is not required. Please maintain a copy of your no-effect determination and supporting documents in your files for future reference. NMFS has no comments on the Draft Environmental Assessment.

If you have any questions regarding this letter, please contact Rich Domingue of my staff at 503-231-6858.

Sincerely,

Christopher L. Toole, Ph.D.
Acting Assistant Regional Administrator
Hydropower Division

cc: Jerrold Gregg, Snake River Area Manager