
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 indication (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 foreseeable 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
	Idaho Department of Water Resources	Twin Falls	ID
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

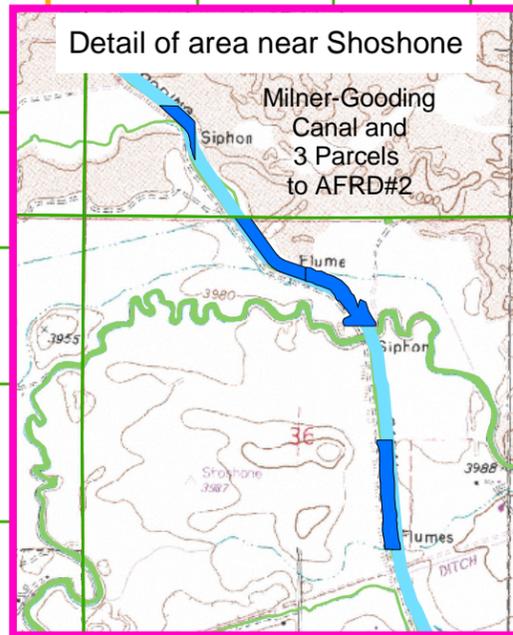
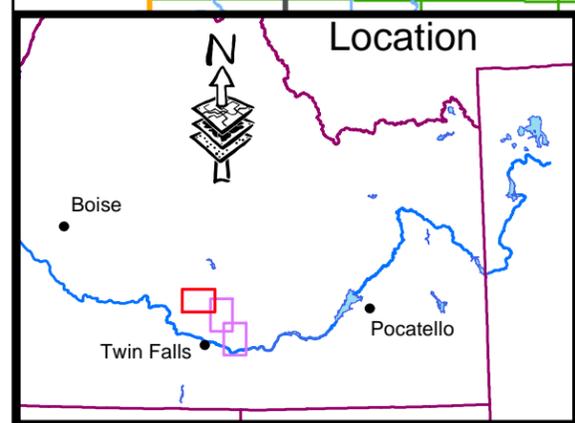
Parcel proposed for transfer to State of ID, Dept of F&G 39.72 ac.

Parcel proposed for transfer to City of Gooding. 5.0 ac.

Gooding Co
Lincoln Co

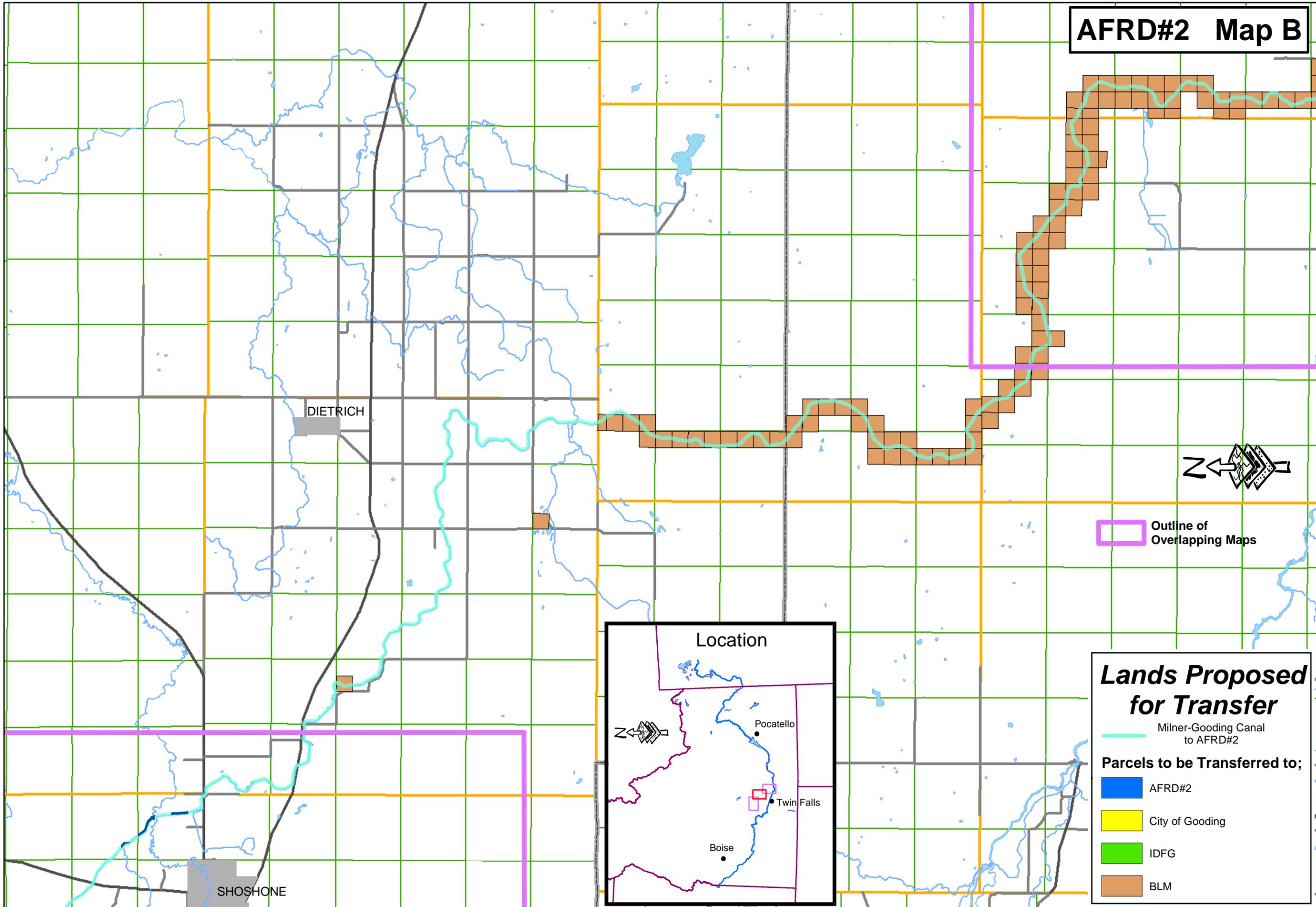
GOODING

SHOSHONE



Outline of Overlapping Map

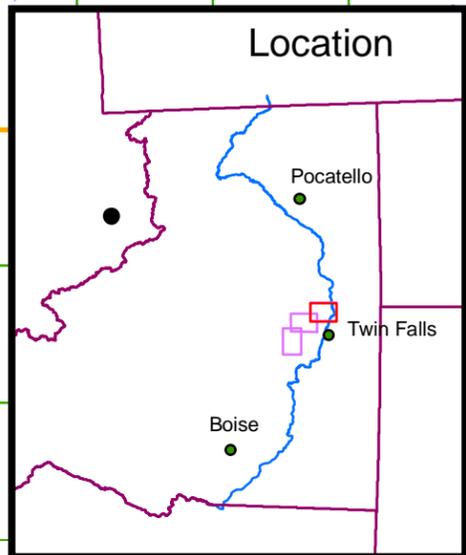
AFRD#2 Map B



Outline of Overlapping Maps

Lands Proposed for Transfer

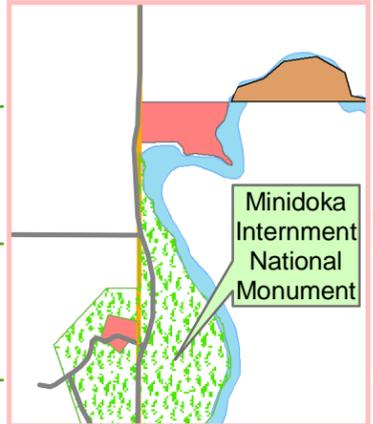
- Milner-Gooding Canal to AFRD#2
- Parcels to be Transferred to:
 - AFRD#2
 - City of Gooding
 - IDFG
 - BLM



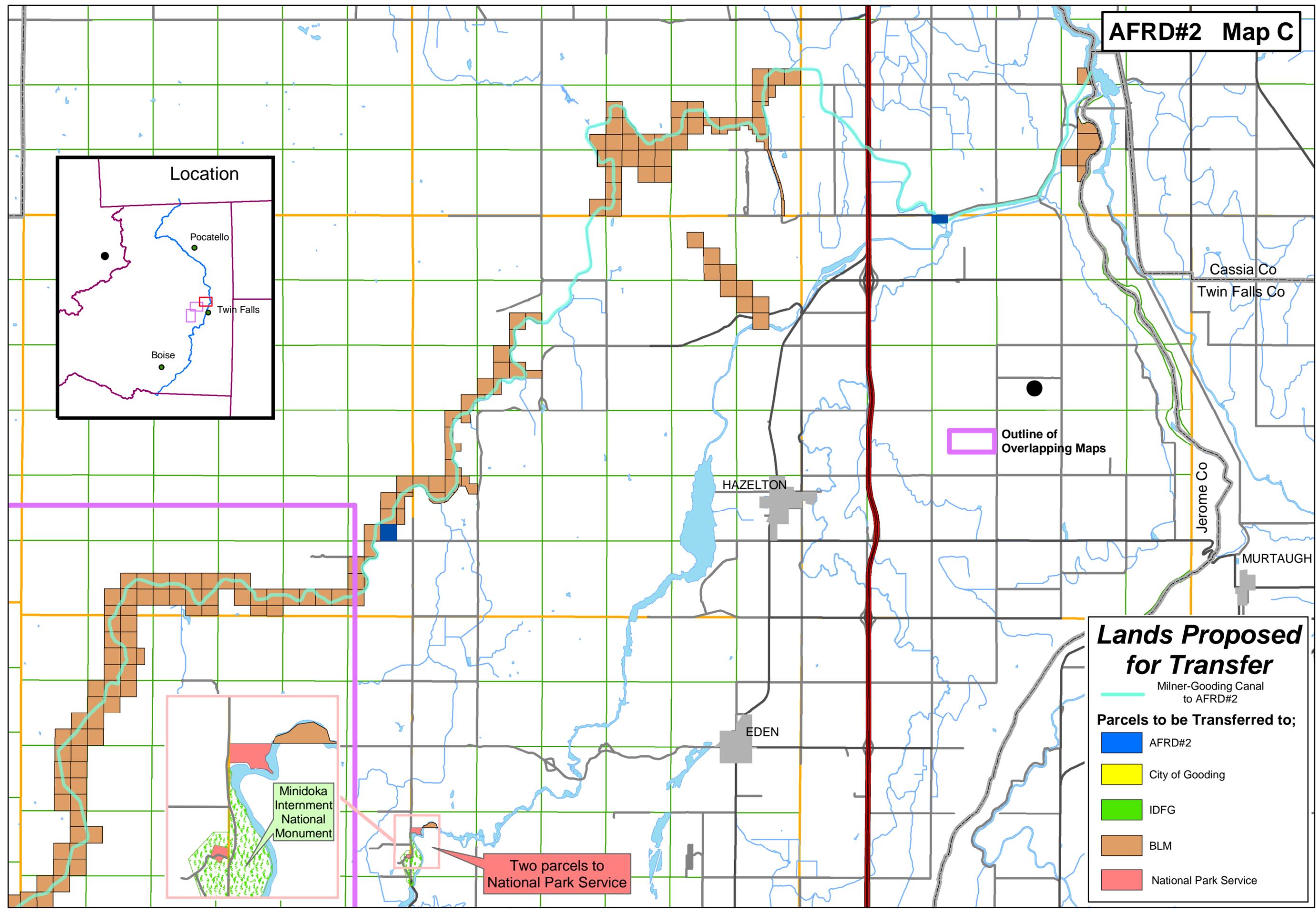
Outline of Overlapping Maps

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



Two parcels to 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: S $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ 120 acres

Section 3: SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ 120 acres

Parcel 4: Township 4 South, Range 16 East, Boise Meridian, Lincoln County, Idaho

Section 26: SE $\frac{1}{4}$ NW $\frac{1}{4}$ 40 acres

Section 27: N $\frac{1}{2}$ S $\frac{1}{2}$ NW $\frac{1}{4}$ 40 acres

Parcel 5: Township 8 South, Range 20 East, Boise Meridian, Jerome County, Idaho

Section 32: NW $\frac{1}{4}$ SW $\frac{1}{4}$ 40 acres

Parcel 6: Township 10 South, Range 20 East, Boise Meridian, Jerome County, Idaho

Section 13: E $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ 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: NE¹/₄SE¹/₄ (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: S¹/₂NW¹/₄, NW¹/₄SE¹/₄ 120 acres
 - Section 3: SE¹/₄NE¹/₄, SE¹/₄NW¹/₄, NW¹/₄SE¹/₄ 120 acres
- Township 4 South, Range 16 East, Boise Meridian, Idaho
 - Section 26: SE¹/₄NW¹/₄ 40 acres
 - Section 27: N¹/₂S¹/₂NW¹/₄ 40 acres
- Township 8 South, Range 20 East, Boise Meridian, Idaho
 - Section 32: NW¹/₄SW¹/₄ 40 acres
- Township 10 South, Range 20 East, Boise Meridian, Idaho
 - Section 13: E¹/₂NE¹/₄NE¹/₄ 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: $W\frac{1}{2}NE\frac{1}{4}$

Township 8 South, Range 20 East, Boise Meridian

Section 31: Lot 17, 18, 21

Township 9 South, Range 20 East, Boise Meridian

Section 14: $NW\frac{1}{4}NE\frac{1}{4}$

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: $NW\frac{1}{4}NE\frac{1}{4}$, $N\frac{1}{2}NW\frac{1}{4}$

Section 18: $NE\frac{1}{4}NE\frac{1}{4}$

Section 33: $SE\frac{1}{4}$

**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: NE¹/₄NE¹/₄NE¹/₄SE¹/₄, E¹/₂NW¹/₄NE¹/₄NE¹/₄SE¹/₄,
N¹/₂SE¹/₄NE¹/₄NE¹/₄SE¹/₄
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



REPLY REFER TO:

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	me	7/7/05
6519	me	7/7/05
6312	Dugo	7/14/05
CONTROL #:	5-2817	
FOLDER #:	21166-0	

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

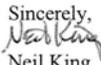
Dear Mr. Relf,

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

STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY
RECEIVED

JUL 18 05

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

RECEIVED

Dirk Kempthorne, Governor
Toni Hardesty, Director

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

10000
2000
4300

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

Jerrold D. Gregg, Area Manager
United States Department of the Interior
July 11, 2005
Page 2

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

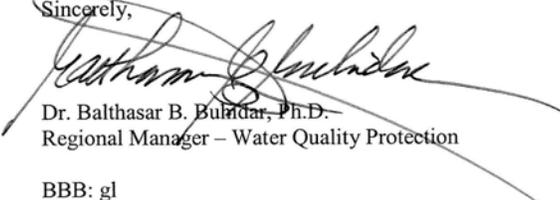
Based on Section 3.16 and DEQ's experience with BOR and the Idaho Department of Water Resources (IDWR), Mile Post 31 on the Milner-Gooding Canal is presently being pursued as an active recharge site. In fact, the IDWR in conjunction with DEQ is in the process of finalizing a monitoring plan for this 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

Jerrold D. Gregg, Area Manager
United States Department of Interior
July 11, 2005
Page 3

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. Buldar, Ph.D.
Regional Manager – Water Quality Protection

BBB: gl

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

