

# **Finding of No Significant Impact**

## **Final Environmental Assessment**

### **King Spill Flood Water Holding Pond Expansion Project**

#### **Minidoka County, Idaho**

#### **U.S. Department of the Interior**

#### **Bureau of Reclamation**

#### **Columbia-Pacific Northwest Region**

#### **Snake River Area Office**

#### **CPN FONSI # 22-01**

## **Introduction**

The Bureau of Reclamation (Reclamation) has prepared this Finding of No Significant Impact (FONSI) to comply with the Council on Environmental Quality regulations for implementing procedural provisions of the National Environmental Policy Act. This document briefly describes the Proposed Action, other alternatives considered, the scoping process, Reclamation's consultation and coordination activities, and Reclamation's finding. The Final Environmental Assessment fully documents the analyses of the potential environmental effects of implementing the changes proposed.

## **Location and Background**

The King Spill area spans roughly 30 acres and sits 3 miles northwest from Rupert, Idaho, (Figure 1) in Minidoka County along the Snake River Plain of southern Idaho (Figure 2). The King Spill area is a natural depression where water tends to naturally pool during high water events. The site was initially developed in 1996 and involved the buildup of some of the existing islands and development and expansion of existing ponds. The B-1 canal runs adjacent to the area and operates in conjunction with the King Spill area in times of flooding and overflow. There is an over/under structure at the point the water leaves the canal and enters King Spill on the east side of the area. This structure acts as a weir most of the time, keeping water in the system unless the water level is above a certain point; in which case it then spills over the top of the weir and enters King Spill.

In the winter of 2016/2017, Minidoka County had an unusually high amount of snowfall. In January 2017, a warming trend melted some of the fallen snow and filled the canals and low-lying areas with ice. More snow accumulation and a hard freeze immediately followed the previous warming trend. Then, a large rain event started the runoff in earnest and, due to the ground still being frozen, the water could not percolate into the soil. The natural contour and depression of the landscape

funneled the runoff down to the King Spill area. This location experienced a significant flooding event. Residences, roads, bridges, and canal infrastructure all suffered major damage from this event estimated to equal approximately \$721,000. The impacts to agricultural lands has not been fully evaluated.

Minidoka Irrigation District (MID) requested a title transfer through the [John D. Dingell, Jr. Conservation, Management, and Recreation Act of 2019](#) (Pub. L. 116-9, 133 Stat. 804; 43 U.S.C. 2902, et seq.) (Dingell Act), which is an Act of Congress that was signed into law on March 12, 2019. Title VIII of this Act provides Reclamation the authority to transfer title of certain eligible facilities to qualifying entities without specific acts of Congress. MID's request was approved in January 2021, which transferred title to certain facilities, lands, and rights located within the Gravity Division, Minidoka Project, from the United States to MID. The King Spill area was not included as part of the transfer because it is used by the public for recreation and is also a wildlife tract; therefore, it did not meet the requirements for transfer identified within the Dingell Act.

## **Purpose and Need**

Reclamation's purpose and need for the proposed action is to respond to MID's request to perform construction to expand the existing flood water holding pond and add two new flood water holding ponds to the King Spill area. These actions are needed to improve flood protection in an area that experiences flooding. In high precipitation years, the flooding in the area can cause significant damage to irrigation infrastructure, agricultural land, and personal homes and property.

## **Alternatives Considered and Recommended Action**

The range of alternatives developed for analysis of this Proposed Action was based on the purpose and need for the project, and on the issues raised during internal, external, and tribal scoping. The alternatives analyzed include a No Action alternative and the Proposed Action. The No Action alternative does not meet the defined purpose and need for action but was evaluated because it provides an appropriate baseline to which the recommended action is compared.

## **Summary of Environmental Effects**

The following summarizes the effects that the preferred alternative – the Proposed Action (Alternative B) – would have on each resource category analyzed in the EA. Chapter 3 of the EA provides a full analysis and explanation of how each resource was evaluated.

### **Biota – Vegetation, Wetlands, Fish and Wildlife**

The terrestrial plant community would shrink due to the expansion of the holding ponds. The wetland and riparian habitat would be enhanced and cover more area in the long term. In the short term, the vegetive component around the ponds would likely be gone at the ground level due to

construction, but grow back in a short time. Terrestrial mammalian communities within the proposed action area would decline due to habitat loss from the expansion of the holding ponds. The mammalian communities that depend on the riparian and wetland zones would likely increase and quality of habitat in the wetland and riparian zones would likely improve. Terrestrial avian communities within the proposed action area would decline due to habitat loss from the expansion of the holding ponds. The avian communities that depend on the riparian and wetland zones should increase and quality of habitat in the wetland and riparian zones would likely improve.

Under Alternative B, the terrestrial reptile communities within the proposed action area would decline due to habitat loss from the expansion of the holding ponds. The amphibian communities that depend on the riparian and wetland zones would decline in the short term, but in the long term would likely increase due to the expansion of riparian habitat after the project is complete. Most importantly, mature black cottonwood trees provide shade for the entire wetland/riparian complex and most of the riparian species depend on them to keep the area cooler and vegetated. The trees are also heavily used as perches for avian raptor species. Additionally, the trees provide thermal cover for mammals, amphibians, and reptiles using the area. If the black cottonwood trees are taken out, King Spill would become essentially uninhabitable to most mammal, avian, and amphibian/reptile communities. King Spill is one of the last areas to contain mature black cottonwood trees in an area of agricultural land, making it a critical natural wildlife sanctuary. Even though the King Spill area would be disturbed, this disturbance would not be long term and would not affect the black cottonwood trees due to the noted avoidance plan in the proposed action.

### **Threatened and Endangered Species**

Under the Proposed Alternative, in the short term any vegetation adjacent to the proposed pond construction areas would likely be removed or destroyed by heavy equipment operation. This would result in a short-term (likely single season) effect to monarch butterflies if milkweed and/or other nectar-providing plant species are present at the proposed site and are disturbed during construction activities. Following the construction, the increased surface water retention capacity at these sites could create more persistent surface water following high precipitation year events. This altered hydrology could encourage a shift to more facultative wetland riparian vegetation assemblages over time, which could prove beneficial to monarch migrations' reproduction in the long term. If milkweed is currently present on the site, it would likely be disturbed in the short term by construction activities, but would be expected to return from seed in subsequent seasons. A revegetation plan put into place following construction would also incorporate the seeding of milkweed and other beneficial nectar-providing plant assemblages as a proactive measure to benefit the species in the longer term.

### **Land Use**

If the proposed action occurs, Reclamation would retain ownership and the easement would stand as it currently exists. Reclamation would monitor disturbed areas in order to ensure they have been restored to an acceptable condition upon completion of construction. As per the conditions of the Easement, Reclamation granted access for the purposes of construction, reconstruction, operation, and maintenance. The current easement also states MID shall not be required to seek additional

permitting for work occurring in the Easement areas to complete this action; therefore, no additional permitting is required. Consequently, the land use would not change due to Alternative B.

## **Water Quality**

Construction would temporarily increase turbidity and sediments when irrigation return flow water is first held in the ponds. This would dissipate and eventually decrease to an equilibrium. The soil removed during construction would likely remove a portion of the accumulated fertilizers, herbicides, and pesticides that are in the soil profile. Any excess salts that have accumulated on the soil surface would also be removed as the holding ponds are deepened and/or created.

After construction, water quality effects would be the same as those described in Alternative A. Salts would eventually accumulate on the surface as more soluble fertilizers, herbicides, and pesticides percolate into the soil profile. This would occur over the many years of operation. However, infrequent flood events would introduce more water into the holding ponds. The overall water quality effect of the excess water would be minor, occurring rarely (maybe every 10 years) and would be relatively low in nutrients, herbicides, and pesticides, thereby diluting any constituents currently in the ponds, if the ponds are holding water that time of year.

The creation and use of the irrigation return flow ponds would not likely affect beneficial uses in any water body, including the B-1 Canal, in the short and long term. Excess water (irrigation return flows or flood water) would be contained in the ponds and would not affect other water bodies.

## **Engineering**

Under the proposed action, no engineering issues were identified that would relate to the following Idaho Code 42-1711 on dam safety. The proposed action ponds would not classify as a dam under Idaho Statutes (2016) due to the holding capacities being less than 50 acre-feet of water per pond and the surrounding berm would not make the bank over 10 feet. MID would ensure the water from the pond system does not back up into the B-1 canal head gates.

## **Tribal Interests – Treaty Rights**

Under Alternative B, there are anticipated beneficial long-term effects, to reserved Treaty Rights such as access to or impacts to traditional or customary places for hunting, fishing, or gathering, or for livestock grazing in the area. The anticipated benefit of the ponds is increased water access for wild game and livestock grazing in the area.

The proposed pond construction ingress and egress routes may cause a temporary, short-term adverse effect on access to traditional or customary hunting, fishing, or gathering sites, or for livestock grazing areas during the construction periods.

Reclamation requested information from the Shoshone-Bannock Tribes, who traditionally and currently use the area for hunting, fishing, and gathering of plants; however, no responses were received. The lack of specific information about the area is not indicative of a lack of importance to Tribes. With no specific response, Reclamation assumes that there would be no adverse effects to reserved Treaty Rights such as access or impacts to areas for hunting, fishing, or gathering or for livestock grazing.

## **Mitigation Summary**

Mitigation efforts may be required to reduce the effects of construction ingress and egress on Tribal access to hunting, fishing, or gathering should construction ingress and egress activity take place in the same location and at the same time of year as traditional or customary hunting, fishing, and gathering of plants, or for livestock grazing. If this were to occur, Reclamation would meet with tribes to formulate an appropriate mitigation measure.

## **Unaffected Resources**

The Proposed Action would not cause any short- or long-term direct, indirect, or cumulative effects to the following resource categories:

- Cultural Resources
- Indian sacred sites
- Tribal Interests, including Indian Trust Assets
- Environmental justice

## **Consultation, Coordination, and Public Involvement**

In compliance with Section 106 of the National Historic Preservation Act of 1966 (as amended in 1992), Reclamation consulted with the Idaho State Historic Preservation Office to identify cultural and historic properties in the area of potential effect. Consultation was initiated on December 10, 2021, and the State Historic Preservation Office concurred with the finding of no adverse effect to historic properties on December 15, 2021 (see Appendix B of the Final EA).

Reclamation mailed tribal and public recipients scoping letters, with a project information package enclosed, on September 15, 2021. Reclamation received one comment during the scoping period from IDFG. The comment addressed the importance of the vegetation in the area and acknowledged support due to MID's efforts to avoid trees and sagebrush as much as possible during the project. The mailing list, scoping letters, and comments received are presented in Appendix C of the Final EA.

## **Finding**

Based on the analysis of the environmental effects presented in the Final EA and consultation with potentially affected agencies, tribes, organizations, and the general public, Reclamation concludes that implementation of the preferred alternative – the Proposed Action (Alternative B) – will not have a significant impact on the quality of the human environment or natural and cultural resources. The effects of the Proposed Action will be minor, temporary, and localized. Therefore, preparation of an Environmental Impact Statement (EIS) is not required.

## Decision

Based on the analysis in the EA, it is my decision to select for implementation the preferred alternative (i.e., the Proposed Action, Alternative B). The Proposed Action will best meet the purpose and need identified in the EA.

## Recommended:

**ROCHELLE OCHOA** Digitally signed by ROCHELLE OCHOA  
Date: 2022.03.29 11:00:09 -06'00'

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Rochelle Ochoa  
Natural Resources Specialist  
Snake River Area Office, Boise, Idaho

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Date

## Approved:

**MELANIE PAQUIN** Digitally signed by MELANIE PAQUIN  
Date: 2022.03.31 17:57:41 -06'00'

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Melanie Paquin  
Snake River Area Manager  
Columbia-Pacific Northwest Region, Boise, Idaho

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Date



— BUREAU OF —  
RECLAMATION

# **Final Environmental Assessment**

## **King Spill Flood Water Holding Pond Expansion Project**

**Minidoka County, Idaho**

**Columbia-Pacific Northwest Region**



## **Mission Statements**

The U.S. Department of the Interior protects and manages the Nation's natural resources and cultural heritage; provides scientific and other information about those resources; and honors its trust responsibilities or special commitments to American Indians, Alaska Natives, and affiliated 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.

Cover photograph: Overlooking the King Spill area with fall leaves beginning to change color in September 2021. Picture taken standing on the east edge of the area and facing west. Photograph by Sarah Wageman, 2021.



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# Acronyms and Abbreviations

Acronym or Abbreviation	Definition
APE	Area of Potential Effect
BP	Before the Present
CFR	Code of Federal Regulations
CWA	Clean Water Act
Dingell Act	John D. Dingell, Jr. Conservation, Management, and Recreation Act of 2019
DOI	Department of the Interior
EA	Environmental Assessment
EIS	Environmental Impact Statement
EO	Executive Order
ESA	Endangered Species Act
FONSI	Finding of No Significant Impact
GIS	Geographic Information Systems
IDFG	Idaho Department of Fish and Game
IPaC	Information for Planning and Conservation
ITAs	Indian Trust Assets
MGD	Minidoka Gravity Division Historic District
MID	Minidoka Irrigation District
National Register	National Register of Historic Places
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
NRHP	National Register of Historic Places
O&M	Operations and Maintenance
Reclamation	Bureau of Reclamation
SHPO	State Historic Preservation Office
T&E	Threatened and Endangered
USFWS	United States Fish and Wildlife Service

# 1 Purpose and Need

## 1.1 Introduction

The Bureau of Reclamation (Reclamation) prepared this Environmental Assessment (EA) in accordance with the National Environmental Policy Act (NEPA). This EA analyzes the potential environmental effects that could result from the proposed construction activities at the King Spill Flood Water Holding Pond Expansion Project.

This EA serves as a tool to aid the authorized official in making an informed decision that is in conformance with applicable Federal laws and regulations. The proposed action and additional alternatives are described in Chapter 2 of this document, and the effects (short- and long-term, adverse and beneficial, public health and safety, and effects that would violate Federal, State, Tribal, or local law protecting the environment) of the alternatives are evaluated for each of the affected resource areas in Chapter 3 of this document.

The NEPA process requires analysis of any Federal action that may have an impact on the human environment. This EA is being prepared to assist Reclamation in finalizing a decision on the proposed action, and to determine whether to issue a Finding of No Significant Impact (FONSI) or a notice of intent to prepare an Environmental Impact Statement (EIS).

## 1.2 Location, Background, and Action Area

### 1.2.1 Location and Background

The King Spill area spans roughly 30 acres and sits 3 miles northwest from Rupert, Idaho, (Figure 1) in Minidoka County along the Snake River Plain of southern Idaho (Figure 2). The King Spill area is a natural depression where water tends to naturally pool during high water events. The site was initially developed in 1996 and involved the buildup of some of the existing islands and development and expansion of existing ponds. The B-1 canal runs adjacent to the area and operates in conjunction with the King Spill area in times of flooding and overflow. There is an over/under structure at the point the water leaves the canal and enters King Spill on the east side of the area. This structure acts as a weir most of the time, keeping water in the system unless the water level is above a certain point; in which case it then spills over the top of the weir and enters King Spill.

In the winter of 2016/2017, Minidoka County had an unusually high amount of snowfall. In January 2017, a warming trend melted some of the fallen snow and filled the canals and low-lying areas with ice. More snow accumulation and a hard freeze immediately followed the previous warming trend. Then, a large rain event started the runoff in earnest and, due to the ground still being frozen, the water could not percolate into the soil. The natural contour and depression of the landscape funneled the runoff down to the King Spill area. This location experienced a significant flooding event. Residences, roads, bridges, and canal infrastructure all

suffered major damage from this event estimated to equal approximately \$721,000. The impacts to agricultural lands has not been fully evaluated.

Minidoka Irrigation District (MID) requested a title transfer through the [John D. Dingell, Jr. Conservation, Management, and Recreation Act of 2019](#) (Pub. L. 116-9, 133 Stat. 804; 43 U.S.C. 2902, et seq.) (Dingell Act), which is an Act of Congress that was signed into law on March 12, 2019. Title VIII of this Act provides Reclamation the authority to transfer title of certain eligible facilities to qualifying entities without specific acts of Congress. MID's request was approved in January 2021, which transferred title to certain facilities, lands, and rights located within the Gravity Division, Minidoka Project, from the United States to MID. The King Spill area was not included as part of the transfer because it is used by the public for recreation and is also a wildlife tract; therefore, it did not meet the requirements for transfer identified within the Dingell Act.

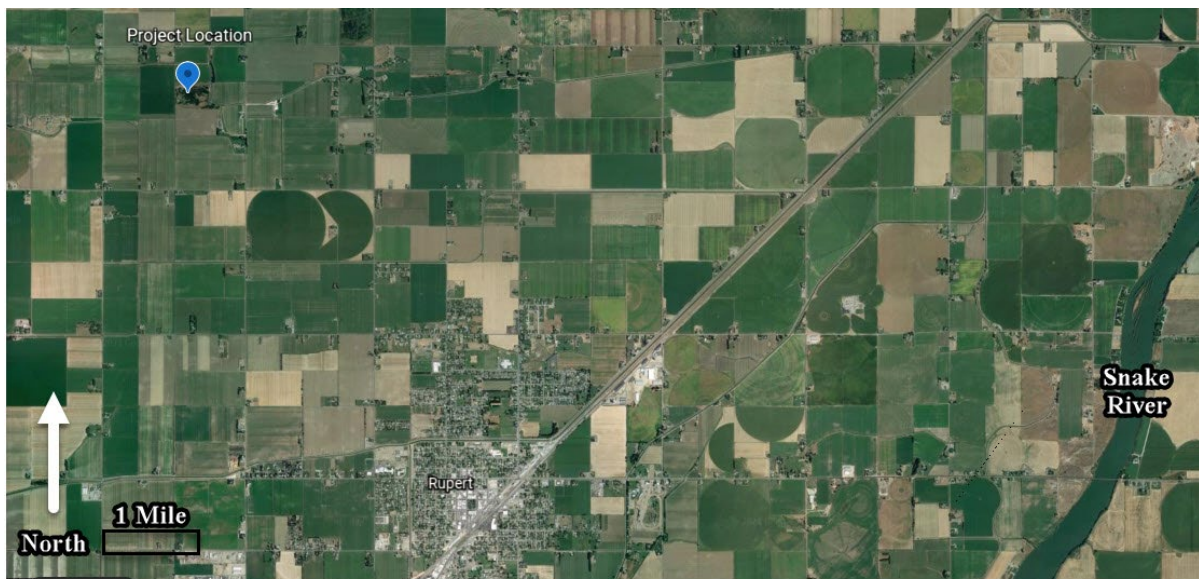


Figure 1. Project location in proximity to Rupert, Idaho



Figure 2. Project location in southern Idaho

### 1.3 Purpose and Need

Reclamation’s purpose and need for the proposed action is to respond to MID’s request to perform construction to expand the existing flood water holding pond and add two new flood water holding ponds to the King Spill area. These actions are needed to improve flood protection in an area that experiences flooding. In high precipitation years, the flooding in the area can cause significant damage to irrigation infrastructure, agricultural land, and personal homes and property.

### 1.4 Regulatory Compliance

The following major laws, executive orders, and secretarial orders apply to the proposed project, and compliance with their requirements is documented in this EA:

- NEPA;
- Endangered Species Act (ESA);
- National Historic Preservation Act (NHPA);
- Clean Water Act (CWA);
- Executive Order (EO) 13007 Indian Sacred Sites;
- EO 12898 Environmental Justice;
- EO 13175 Consultation and Coordination with Tribal Governments;
- Secretarial Order 3175 Department Responsibilities for Indian Trust Assets (ITAs); and
- Secretarial Order 3398 Revocation of Secretary’s Orders Inconsistent with Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis

## **1.5 Scoping Summary**

The scoping process provides an opportunity for the public, governmental agencies, and Tribes to identify their concerns or other issues. The process also aids in the development of a full range of potential alternatives that address the project's purpose and need as stated in this document. To complete this scoping process, Reclamation provided information to the public through a mailed preliminary information package and solicited comments from the public, governmental agencies, and potentially affected Tribes. Details regarding the public and agency scoping are presented in Chapter 4.



## **2 Description of Alternatives**

### **2.1 Introduction**

This chapter describes the two alternatives analyzed in this EA—Alternative A, the No Action alternative and Alternative B, the Proposed Action alternative.

### **2.2 Alternative Development**

The alternatives presented in this chapter were developed based on the purpose and need for the project, as described in Chapter 1, and the issues raised during internal, external, and tribal scoping. The alternatives analyzed in this document include the No Action alternative and the Proposed Action alternative that would involve the expansion of an existing flood water holding pond and creation of two additional ponds in the King Spill area. A No Action alternative is evaluated because it provides an appropriate basis to which the other alternative is compared. No new alternatives were identified during the scoping process.

### **2.3 Alternative A – No Action**

Under the No Action alternative, Reclamation would not approve MID’s request to expand the current flood water holding pond and create additional ponds in the King Spill area. The area would continue to be a natural depression where flood water naturally flows and collects. The flood water entering the King Spill area would fill the existing pond #1 from the B-1 canal. After the existing pond #1 is filled, the excess water could overflow the area and cause damage as what was described in the past. For the purposes of this analysis, the assumption is that the project would not go forward so that the environmental effects associated with taking no action can be compared to the other alternatives as required under NEPA.

### **2.4 Alternative B – Expansion of existing flood water holding pond and creation of two additional ponds at King Spill (Proposed Action)**

The Proposed Action Alternative involves the expansion of an existing flood water holding pond and the creation of two additional ponds at King Spill. This would include deepening the existing 10-foot-deep flood water holding pond (Pond #1) to 20 feet deep, as well as creating two additional flood water holding ponds in the southeast corner (Ponds # 2 and 3). Pond #2 would be 1.5 acres and up to 20 feet in depth. Pond #3 would be 1.3 acres and up to 20 feet in depth (Figure 3). A small berm would be constructed along the outer boundary of the King Spill

area using material excavated from the created ponds. The berm would allow additional water to be held within the King Spill area to avoid damage to surrounding infrastructure if a catastrophic weather event occurs.

Check structures exist on the east side of the King Spill area that keep water from backflowing into the irrigation system. Staging areas for the construction would occur within the boundary of the King Spill area shown in Figure 3. MID would pursue 404 permitting and fulfill state requirements upon approval of this request. Construction would likely take place in the spring of 2024 or 2025. During construction, all precautions would be taken to avoid disturbing the mature black cottonwood trees in the King Spill area. This includes taking care to ensure there is no damage to the roots in the surrounding area below these trees when excavating. Upon completion of construction, MID would fully revegetate the area incorporating habitat restoration Best Management Practices intended to benefit Monarch Butterfly (*Danaus plexippus*) habitat, such as those outlined in the Xerces Society for Invertebrate Conservation’s guidance document “Managing for Monarchs in the West: Best Management Practices for Conserving the Monarch Butterfly and its Habitat” (Xerces Society 2018).



Figure 3. King Spill holding pond expansion projections

### **2.4.1 Operation and Maintenance**

MID would operate the flood water holding ponds by filling them in numerical succession, attempting to fill holding Pond #1 first, then holding Pond #2, and finally holding Pond #3. This would allow the flood water holding pond with the largest capacity to be filled first and the additional holding ponds to be filled as needed due to their smaller capacity and closer proximity to the B-1 canal. MID would maintain the area by routinely cleaning the ponds as needed by removing sediment when it accumulates. This maintenance also includes ensuring there is no damage to the roots in the surrounding area below the black cottonwood trees when removing accumulated sediment.

## **2.5 Alternatives Considered but Eliminated From Further Study**

NEPA encourages the consideration of alternatives developed through the scoping process. However, only those alternatives that are within the agency's authority that are reasonable and meet the purpose and need of the proposed action must be analyzed as per the Council on Environmental Quality's 2021 Proposed Rule titled "National Environmental Policy Act Implementing Regulations" (40 CFR Parts 1502, 1507, and 1508). There were no alternatives presented through the public and agency scoping process.

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# 3 Affected Environment and Environmental Consequences

## 3.1 Introduction

This chapter evaluates the environmental consequences of implementing each of the alternatives described in Chapter 2. The level and depth of the environmental analysis corresponds to the potentially affected environment and the degree of the effects of the action anticipated for each environmental component (resource). The affected environment (proposed action area) addressed in this EA is defined in varying contexts, depending on the affected resource being analyzed.

Resources evaluated in this document and analyzed in this chapter were selected based on: Reclamation requirements; compliance with laws, statutes, and executive orders; public and internal scoping; and the potential for resources to be affected by the proposed project.

## 3.2 Biota – Vegetation, Wetlands, and Fish and Wildlife

### 3.2.1 Affected Environment

The analysis area is a functional seasonal wetland with ponds that contain a variety of riparian and wetland plants, along with valuable cottonwood trees planted by Reclamation when the site was developed. Over the years, the analysis area has become a sanctuary for many, if not all, wildlife species using the larger area because it has some of the only vegetative tree cover and standing water. During the past 15 years, Reclamation's Upper Snake Field Office has planted over 2,000 shrubs at this location and monitored the area for vandalism and recreational use. Mature black cottonwood trees exist in the project area, which provide the only shade and sanctuary for terrestrial, avian, and aquatic wildlife species for miles around. Specifically, the black cottonwood trees provide daytime perching areas for wintering bald eagles, which is particularly significant due to the scarcity of this important feature in the area. Fish could be entrained within King Spill area due to the B-1 Canal being connected. The B-1 canal is connected to the North Side Canal which come out of Lake Walcott.

#### ***Habitat – Terrestrial and Riparian Vegetation***

Historically, the vegetation surrounding the proposed action area consisted of shrub-steppe habitat (Tisdale and Hironaka 1981). Shrub-steppe habitats in western North America are characterized by woody, mid-height shrubs, perennial bunchgrasses, and forbs (Daubenmire 1978; Dealy et al. 1981; Tisdale and Hironaka 1981; Short 1986). Periodic drought, extreme temperatures, wind, poor soil stability, and only fair soil quality (Wiens and Dyer 1975; Short 1986) create a stressful environment for biotic communities. The original shrub-steppe

vegetation of the proposed action area was dominated by big sagebrush (*Artemisia tridentata*) with an understory of native perennial grasses and forbs, consisting mainly of bluebunch wheatgrass (*Agropyron/Pseudoroegneria spicatum*), Sandberg bluegrass (*Poa secunda*), needlegrasses (*Stipa spp.*), lupine (*Lupinus spp.*), Indian paintbrush (*Castilleja spp.*), and penstemon (*Penstemon spp.*) (Hironaka et al. 1983).

Most of the original bunchgrass-sagebrush communities in the vicinity of the proposed action area have been replaced by irrigated agriculture and pastures. Additionally, any non-agricultural areas are dominated by exotic species, primarily cheat grass (*Bromus tectorum*) and skeleton weed (*Chondrilla juncea*) that have become established as a result of human disturbance, livestock grazing, and a higher fire frequency compared to pre-European settlement. Habitat value of the original shrub-steppe for wildlife has been substantially reduced and degraded by agricultural and related development, which eliminated most of the original habitat and fragmented much of what remains within predominantly agricultural areas. Remaining habitats have been further degraded by grazing and noxious weed invasion (Reclamation 2004).

Currently, most of the riparian land within the proposed action area contains black cottonwood (*Populus trichocarpa*), bulrush (*Scirpus spp.*), cattails (*Typha spp.*), and willows (*Salix spp.*) During the past 30 years, Reclamation has planted red-osier dogwood (*Cornus sericea (stolonifera)*), woods rose (*Rosa woodsia*), oak leafed sumac (*Rhus trilobata*), golden current (*Ribes aureum*), and chokecherry (*Prunus virginiana*) to enhance the wetland diversity. Milk weed (*Asclepias speciosa*) and Great Basin wildrye (*Elymus cinereus*) has grown on its own on the drier portions of the area.

The primary threat to the riparian zone around the Snake River is invasive weeds. Much of the riparian habitat is degraded by Russian olive, which is an invasive weed/tree. Past grazing practices may have encouraged the Russian olive trees as they are less palatable than native willows. The riparian zone has been degraded by several other invasive weeds, primarily Canada thistle (*Cirsium arvense*), Scotch thistle (*Onopordum acanthium*), and poison hemlock (*Conium maculatum*). Other species present in the proposed action area that are difficult to control are perennial pepperweed (*Lapidium latifolium*), hoary cress (*Lapidium draba*), and Russian (*Rhaponticum repens*) and diffuse knapweeds (*Centaurea diffusa*). These weeds grow primarily in herbaceous riparian areas, but can also grow under trees.

### **Wildlife – Mammals**

The only big game species existing within the proposed action area are a few mule deer (*Odocoileus hemionus*) that reside on the Snake River plain year-round. The loss of native shrublands from past conversion to agriculture has generally reduced and degraded mule deer habitat so the existing mule deer must live along the river corridor (IDFG 2015).

Large fur-bearing mammals occurring in upland parts of the proposed action area include coyote (*Canis latrans*), red fox (*Vulpes vulpes*), badger (*Taxidea taxus*), and striped skunk (*Mephitis mephitis*). Raccoons (*Procyo lotor*), muskrats (*Ondatra zibethica*), long-tailed weasels (*Mustela frenata*), and mink (*Mustela vison*) occur along the canal laterals, shoreline, and wetland. Small mammals common to the area include black-tailed jackrabbits (*Lepus californicus*), montane voles (*Microtus montanus*), and deer mice (*Peromyscus maniculatus*).

There are no existing data to support a pygmy rabbit (*Brachylagus idahoensis*) population detection within the analysis area, as no surveys have been conducted. According to U.S. Fish and Wildlife Service (USFWS) survey records, pygmy rabbit have not been detected within or near the proposed action area based off of data collected on adjacent Bureau of Land Management lands (Bouffard 2009, pers. comm.).

Predators that may be encountered include bobcat (*Lynx rufus*) and numerous coyotes (*Canis latrans*). Some of the abundant or common mammal species that can be found in the analysis area are listed on Table 1.

**Table 1. Common and uncommon mammals found on or near King Spill (sources: White 2003; Groves et al. 1997).**

Common Name	Scientific Name
Mule deer	<i>Odocoileus hemionus</i>
Mountain lion ( <i>uncommon</i> )	<i>Felis concolor</i>
Bobcat	<i>Felis rufus</i>
Coyote	<i>Canis latrans</i>
Red fox	<i>Vulpes</i>
Yellow-bellied marmot	<i>Marmota flaviventris</i>
American beaver	<i>Castor canadensis</i>
American mink	<i>Neovison vison</i>
American marten	<i>Martes americana</i>
Weasel	<i>Mustela spp.</i>
Racoon	<i>Procyon lotor</i>
Skunk	<i>Mephitis</i>
Badger	<i>Taxidea taxus</i>
Porcupine	<i>Erethizon dorsatum</i>
Several rodent spp.	<i>Peromyscus maniculatus spp.</i>
Several bat spp.	<i>Vespertilionidae</i>

Common Name	Scientific Name
Several squirrel spp.	<i>Sciuridae</i>

### **Wildlife – Birds**

The river corridor and canal system near King Spill attracts numerous avian species, including waterfowl, shorebirds, and wading birds. There are more than 230 species of birds known to use the Snake River corridor in and near the proposed action area (USFWS 2002). The more common breeding raptors are northern harrier (*Circus cyaneus*), red-tailed hawk (*Buteo jamaicensis*), American kestrel (*Falco sparverius*), and occasional burrowing owl (*Athene cunicularia*). Less common raptors that are present during migration or summer include prairie falcon (*E. mexicanus*), Swainson’s hawk (*B. swainsoni*), ferruginous hawk (*B. regalis*), turkey vulture (*Cathartes aura*), short-eared owl (*Asio flammeus*), osprey (*Pandion haliaetus*), and great horned owl (*Bubo virginianus*). The most abundant wintering raptors are the rough-legged hawk (*Buteo lagopus*), bald eagles (*Haliaeetus leucocephalus*), red-tailed hawk (*Buteo jamaicensis*), and prairie falcon (*Falco mexicanus*). Northern goshawks (*Accipiter gentilis*) may be present in the winter, especially near the Snake River, and golden eagles (*Aquila chrysaetos*) may also be present during the winter.

### **Bald Eagle and Golden Eagle Protection Act**

The Bald and Golden Eagle Protection Act was enacted in 1940 and provides protection for the bald and golden eagle by prohibiting the take, possession, sale, purchase, barter, offer to sell, purchase or barter, transport, export or import, of any bald or golden eagle, alive or dead, including any part, nest, or egg, unless allowed by permit (16 U.S.C. 668(a); 50 CFR 22). Bald eagle roosting habitat could exist within the King Spill area with the presence of the black cottonwood trees. Bald Eagles using the trees to perch while passing through the King Spill area would not necessitate a permit. To assess if a take permit is necessary under the Bald and Golden Eagle Protection Act, a survey of the project area was completed on January 6, 2022 to detect the presence of bald eagles actively roosting and record the existence of any unoccupied bald eagle nests.

Results of the survey identified no previously occupied or current bald eagle nests in the area. Their absence is likely due to the black cottonwood trees not having thick enough upper limbs to support the weight of an eagle nest. During the survey period, no bald eagles were observed using the trees as roosts in the area or traveling through (Arana 2022, pers. comm.). Figure 4 shows the current age class of the black cottonwoods in the King Spill area and the lack of existing nesting structures.





**Figure 4. Black cottonwood trees in the King Spill area during the bald eagle survey**

USFWS information (USFWS 1989 and 2002) indicates that the waterfowl species most likely to use the wetlands and nearby grain fields of the analysis area include mallards (*Anas platyrhynchos*), gadwalls (*A. strepera*), and cinnamon teal (*A. cyanoptera*). Fewer redheads (*Aythya americana*), ruddy ducks (*Oxyura jamaicensis*), pintails (*Anas acuta*), American wigeon (*Anas americana*), and northern shovelers (*Anas chipeata*) breed in the general area and may occasionally use drain-water wetlands.

Great blue herons (*Ardea herodias*), American avocets (*Recurvirostra americana*), long-billed curlews (*Numenius americanus*), killdeer (*Charadrius vociferous*), and other shorebirds would also be expected to use King Spill, as would red-winged blackbirds (*Agelaius phoeniceus*). In addition, white pelicans (*Pelicanus erythrohynchus*), grebes (*Podicipedidae*), Sabine's gull (*Xema sabini*), and several other species of gulls use the area along the Snake River during the summer. Upland game bird species in the proposed action area include Chinese ring neck pheasant (*Phasianus colchicus*), gray partridge (*Perdix perdix*), and mourning dove (*Zenaidura macroura*). Common birds present in the proposed action area are identified in Table 2.

Table 2. Common birds found on lands in and around King Spill (sources: White 2003; Groves et al. 1997).

Common Name	Scientific Name
Mallard	<i>Anas platyrhynchos</i>
Canada geese	<i>Branta Canadensis</i>
Gadwall	<i>A. strepera</i>
Green-winged and cinnamon teal	<i>A. cyanoptera</i>
Bald eagle ( <i>uncommon/but present</i> )	<i>Haliaeetus leucocephalus</i>
Golden eagle	<i>Aquila chrsaetos</i>
Northern harrier	<i>Circus cyaneus</i>
Red-tailed hawk	<i>Falco sparverius</i>
American kestrel	<i>Falco sparverius</i>
Mourning dove	<i>Zenaida macroura</i>
Black-billed magpie	<i>Pica</i>
Great blue heron	<i>Ardea herodias</i>
White pelican	<i>Pelicanus erythrohynchus</i>
Common nighthawk	<i>Chordeiles minor</i>
Hummingbirds	<i>Trochilidae</i>
Killdeer	<i>Charadrius vociferus</i>
Sandpipers and allies	<i>Scolopacidae</i>
Osprey	<i>Pandion haliaetus</i>
Several owl spp.	<i>Strigidae</i>
Several woodpecker spp.	<i>Picidae</i>
American Robin	<i>Turdus migratorius</i>

Common Name	Scientific Name
Chinese ring neck pheasant	<i>Phasianus colchicus</i>
Gray partridge	<i>Perdix</i>
Mourning dove	<i>Zenaida macroura</i>

### **Wildlife – Amphibians and Reptiles**

Some of the more common amphibians and reptiles are listed in Table 3. Those that could occur in the analysis areas include long-toed salamanders (*Ambystoma macrodactylum*), pacific treefrogs (*Hyla regilla*), leopard frogs (*Rana pipiens*), western chorus frogs (*Pseudacris triseriata*), longnose leopard lizards (*Gambelia wislizenii*), side-blotched lizard (*Uta stansburiana*), racers (*Coluber constrictor*), gopher snakes (*Pituophis melanoleucus*), garter snakes (*Thamnophis spp.*), and western rattlesnakes (*Crotalus viridis*) (Reclamation 2004). There have not been any documented surveys for amphibians or reptiles in the King Spill wetland complex, but most of the species listed below occur on the Minidoka National Wildlife refuge located on Lake Walcott. King Spill and Lake Walcott are in close proximity of each other so the vegetation and topography are similar and the list would be representative for both.

**Table 3. Common amphibians and reptiles found adjacent to King Spill**

Common Name	Scientific Name
Western Rattlesnake	<i>Crotalus viridis lutosus</i>
Yellow-bellied racer	<i>Coluber constrictor mormon</i>
Common garter snake	<i>T. sirtalis</i>
Gopher snake	<i>Pituophis melanoleucus deserticola</i>
Side-blotched lizard	<i>Uta stansburiana</i>
Northern leopard frogs	<i>Rana pipiens</i>
Western chorus frog	<i>Pseudacris triseriata</i>
Long-toed salamanders	<i>Ambystoma macrodactylum</i>
Pacific treefrogs	<i>Hyla regilla</i>

### **Fisheries and Wetlands**

The Snake River and surrounding area support a substantial non-game fish community comprised primarily of carp (*Cyprinus carpio*), Utah chub (*Gila atraria*), and sucker species (*Catostomus*). Game fish present include smallmouth bass (*Micropterus dolomieu*) and rainbow trout

(*Oncorhynchus mykiss*) (Ryan et al. 2008). Additionally, hatchery rainbow trout are regularly stocked in the Snake River by Idaho Department of Fish and Game (IDFG), or have escaped from one of the private fish hatcheries in the region. Smallmouth bass were introduced into the general area in 1985 and can be found throughout the Snake River system below American Falls Dam (Teuscher and Scully 2008).

Fish are entrained into both the South Side and North Side Canals (Partridge et al. 1990; Hiebert and Bjornn 1980). Current numbers of fish entrained into these systems are not known. However, recent anecdotal information suggests that significant numbers of both game and non-game fish enter the canal system during the irrigation season (IDWR 1999).

The King Spill area could contain fish from Minidoka Reservoir that have been entrained by the North Side canal system. Otherwise, King Spill does not contain a known sustained fishery. Common fish species are listed in Table 4.

**Table 4. Common fish species identified upstream of King Spill in the Snake River that could possibly become entrained in the canal system**

Common Name	Scientific Name
Rainbow trout	<i>Oncorhynchus mykiss</i>
Carp	<i>Cyprinus carpio</i>
Utah chub	<i>Gila atraria</i>
Smallmouth bass	<i>Micropterus dolomieu</i>
Sucker spp.	<i>Catostomus</i>

### 3.2.2 Environmental Consequences

#### **Alternative A – No Action**

Under the No Action alternative, the habitat within the proposed action area would remain the same. The present distribution of riparian and wetland habitat in the area around and within the proposed action area would remain unchanged and there would be no adverse impacts on the aquatic and terrestrial biota, or mammalian, avian, amphibian, and reptile communities.

#### **Alternative B – Expansion of existing flood water holding pond and creation of two additional ponds at King Spill (Proposed Action)**

The terrestrial plant community would shrink due to the expansion of the holding ponds. The wetland and riparian habitat would be enhanced and cover more area in the long term. In the short term, the vegetive component around the ponds would likely be gone at the ground level due to construction, but grow back in a short time. Terrestrial mammalian communities within the proposed action area would decline due to habitat loss from the expansion of the holding

ponds. The mammalian communities that depend on the riparian and wetland zones would likely increase and quality of habitat in the wetland and riparian zones would likely improve. Terrestrial avian communities within the proposed action area would decline due to habitat loss from the expansion of the holding ponds. The avian communities that depend on the riparian and wetland zones should increase and quality of habitat in the wetland and riparian zones would likely improve.

Under Alternative B, the terrestrial reptile communities within the proposed action area would decline due to habitat loss from the expansion of the holding ponds. The amphibian communities that depend on the riparian and wetland zones would decline in the short term, but in the long term would likely increase due to the expansion of riparian habitat after the project is complete. Most importantly, mature black cottonwood trees provide shade for the entire wetland/riparian complex and most of the riparian species depend on them to keep the area cooler and vegetated. The trees are also heavily used as perches for avian raptor species. Additionally, the trees provide thermal cover for mammals, amphibians, and reptiles using the area. If the black cottonwood trees are taken out, King Spill would become essentially uninhabitable to most mammal, avian, and amphibian/reptile communities. King Spill is one of the last areas to contain mature black cottonwood trees in an area of agricultural land, making it a critical natural wildlife sanctuary. Even though the King Spill area would be disturbed, this disturbance would not be long term and would not affect the black cottonwood trees due to the noted avoidance plan in the proposed action.

### **3.3 Threatened and Endangered Species**

#### **3.3.1 Affected Environment**

Based on the description and maps of the project action area, the attached Information for Planning and Conservation (IPaC) report (see Appendix A) was generated using the online tool provided by the U.S. Fish and Wildlife Service. The analysis area identified in the IPaC report includes an approximately 10 square mile polygon encompassing the northern parts of the town of Rupert, and areas to the north and west, including the sites proposed for construction and contiguous surrounding land in Jerome, Lincoln, and Minidoka Counties, Idaho. The IPaC findings are used to guide evaluation of this project's potential for significant impacts to species listed or proposed to be listed for protection under Section 7 of the Endangered Species Act, or to have critical impacts on designated critical habitat for these species.

The IPaC report indicates that one candidate species may occur in this project's action area—the monarch butterfly. The project area does not intersect with designated critical habitat for any listed species.

#### ***Monarch Butterfly (Danaus plexippus)***

The monarch butterfly is a butterfly species that is globally distributed, with the North American populations being well-known for long-distance migration. They are obligate to their larval host plant, milkweed (primarily *Asclepias* spp.; ten species of which occur in Idaho (USDA NRCS

2021), on which they lay eggs and larvae emerge in 2 to 5 days. Multiple generations of monarchs are produced in a breeding season; most individuals live approximately 2 to 5 weeks, but overwintering adults enter reproductive diapause (suspended reproduction) and may live 6 to 9 months.

Migratory individuals in western North America generally fly shorter distances south and west to overwintering groves along the California coast into northern Baja California. In the spring in western North America, monarchs migrate north and east over multiple generations from coastal California toward the Rockies and to the Pacific Northwest. Adult monarch butterflies during breeding and migration require a diversity of blooming nectar resources, which they feed on throughout their migration routes and breeding grounds (spring through fall). Monarchs also need milkweed (for both oviposition and larval feeding) embedded within this diverse nectaring habitat. The correct phenology, or timing, of both monarchs and nectar plants and milkweed is important for monarch survival. In western North America, nectar and milkweed resources are often associated with riparian corridors, and milkweed may function as the principal nectar source for monarchs in more arid regions (USFWS 2020).

In 2020 the USFWS completed a Species Status Assessment Report (USFWS 2020) that found that the Western North American Population of monarch butterflies has been generally declining for the last 23 years, with the risk of extinction over the next 60 years reaching 99 percent under current conditions. The primary drivers affecting the health of North American populations are changes in breeding, migratory, and overwintering habitat due to conversion of grasslands to agriculture and urban development, widespread herbicide use, adverse management practices at overwintering sites, and drought. Monarchs are also affected by the effects of climate change, including rising maximum daily temperatures and an increase in stochastic climatic events, such as severe precipitation events and widespread drought.

Individual monarchs in temperate climates, such as those that may be present in Idaho, undergo long-distance migration, and live for an extended period of time. In the fall, in both eastern and western North America, monarchs begin migrating to their respective overwintering sites. This migration can take monarchs distances of over 3,000 kilometers and last for over 2 months. In early spring (February to March), surviving monarchs break diapause and mate at the overwintering sites before dispersing. The same individuals that undertook the initial southward migration begin flying back through the breeding grounds and their offspring start the cycle of generational migration over again.

Although there exists very little high-resolution occurrence data on monarchs in Idaho, some survey and habitat suitability monitoring efforts have been conducted that indicate the potential for milkweed and monarch distribution in or near the analysis area (Waterbury et al. 2019).

The monarch butterfly, as a candidate species, has not yet been proposed for listing. There are no Section 7 requirements for candidate species, but agencies are encouraged to take advantage of opportunities for conservation. No critical habitat has been designated for this species.

### **3.3.2 Environmental Consequences**

#### ***Alternative A – No Action***

Under the No Action Alternative, overall water management operations by MID would remain unchanged and the effects of water management, including occasional flooding in high precipitation years, would continue to follow their current trends. No new effects to the species would occur. There are no effects to riparian vegetation that would implicate that any indirect effect to monarch butterflies would be anticipated.

#### ***Alternative B – Expansion of existing flood water holding pond and creation of two additional ponds at King Spill (Proposed Action)***

Under the Proposed Alternative, in the short term any vegetation adjacent to the proposed pond construction areas would likely be removed or destroyed by heavy equipment operation. This would result in a short-term (likely single season) effect to monarch butterflies if milkweed and/or other nectar-providing plant species are present at the proposed site and are disturbed during construction activities. Following the construction, the increased surface water retention capacity at these sites could create more persistent surface water following high precipitation year events. This altered hydrology could encourage a shift to more facultative wetland riparian vegetation assemblages over time, which could prove beneficial to monarch migrations' reproduction in the long term. If milkweed is currently present on the site, it would likely be disturbed in the short term by construction activities, but would be expected to return from seed in subsequent seasons. A revegetation plan put into place following construction would also incorporate the seeding of milkweed and other beneficial nectar-providing plant assemblages as a proactive measure to benefit the species in the longer term.

## **3.4 Land Use**

### **3.4.1 Affected Environment**

Jurisdiction over land use and development within the King Spill area is held predominately by Reclamation and MID. This area was acquired in fee title by Reclamation in 1945. In 1916, Reclamation entered into an agreement with MID transferring the operation, maintenance, and care of the water conveyance system for the Gravity Division. MID continues to operate and maintain the water conveyance system to this day. Under the 1916 agreement, ownership of the land and facilities (canals, ditches, drains, etc.) was held by Reclamation. In 2021, Reclamation transferred the ownership of some land and all facilities to MID under the Dingell Act.

The facilities transferred include the water conveyance system consisting of ditches, canals, drains, wasteways, etc., and lands encumbered by those systems. The King Spill area was not included as part of the transfer because it is used by the public for recreation and is also a wildlife tract. Consequently, it did not meet the requirements for transfer identified within the Dingell Act.

Both Reclamation and MID recognize this area has multiple uses and is still essential for the overall water conveyance system. As a result, on January 8, 2021, Reclamation executed a Grant of Easement (Easement) #16-07-14-L0936 to MID. This Easement grants MID access over certain lands for the purposes of construction, reconstruction, operation, and maintenance of the MID facilities associated with the water conveyance system for the Gravity Division. King Spill was an area included within this Easement.

Adjacent to the land to the east is the B-1 canal, owned and operated by MID. This canal is significant to delivering water to water users within the Gravity Division (MID boundary). The canal operates in conjunction with the King Spill area in times of flooding and overflow. There is an over/under structure at the point the water leaves the canal and enters King Spill. This structure acts as a weir most of the time, keeping water in the system unless the water level is above a certain point; in which case it then spills over the top of the weir and enters King Spill.

### **3.4.2 Environmental Consequences**

#### ***Alternative A – No Action***

If the proposed action were not to occur, MID would continue to operate the Gravity Division water conveyance system, but would not have a location to hold excess water in flood events. During the last major flood event, several roads, farms, and homes were flooded, which would likely occur again if a major flood event occurred.

#### ***Alternative B – Expansion of existing flood water holding pond and creation of two additional ponds at King Spill (Proposed Action)***

If the proposed action occurs, Reclamation would retain ownership and the easement would stand as it currently exists. Reclamation would monitor disturbed areas in order to ensure they have been restored to an acceptable condition upon completion of construction. As per the conditions of the Easement, Reclamation granted access for the purposes of construction, reconstruction, operation, and maintenance. The current easement also states MID shall not be required to seek additional permitting for work occurring in the Easement areas to complete this action; therefore, no additional permitting is required. Consequently, the land use would not change due to Alternative B.

## **3.5 Water Quality**

### **3.5.1 Affected Environment**

The proposed project is located in the Big Lost subbasin in the Lake Walcott hydrologic unit (HUC 17040209). The surrounding area is dominated by row crop agriculture irrigated by a variety of methods (flood, pivot, and sprinkler). The immediate area is in a localized depression approximately 26 acres in size with a 7-acre (approximate) shallow pond somewhat centrally located in the depression. The only source of water for the pond is from return flow irrigation



from the surrounding area. The pond is intermittent having water during the irrigation season and typically going dry in the fall and winter.

Since this is a terminal pond used to hold excess irrigation return flows, there are no regulatory statutes that govern the water quality. Specifically, the Clean Water Act excludes irrigation water quality as a point source for pollution. Consequently, there is no regulatory requirement to test the irrigation water quality. The Environmental Protection Agency's water quality portal (<https://www.waterqualitydata.us/portal/>) that contains water quality data collected by various local, State, and Federal agencies was reviewed and no known water quality data is available for this pond (EPA et al. 2021).

The closest waterbody that has a water quality designation is the B-1 Canal located 670 feet north of the proposed project location (IDEQ 2020b). The B-1 Canal has been designated by Idaho Department of Water Quality for these beneficial uses: aesthetics, agricultural and industrial water supply, cold water aquatic life, primary and secondary recreation, and wildlife habitat (IDEQ 2020a). None of these uses have been assessed and no water quality data is available for the B-1 Canal.

### **3.5.2 Environmental Consequences**

#### ***Alternative A – No Action***

The holding pond water quality would continue to change in the short and long terms based on anthropogenic and natural watershed inputs, snowpack/precipitation events, and irrigation. The holding pond likely concentrates salts in the irrigation return flow waters through the wetting and drying cycles throughout the year. This is typical for terminal irrigation return flow ponds. The excess irrigation return flow waters would likely contain very small amounts of fertilizer, herbicides, and pesticides from the surrounding irrigated areas. These are unlikely to concentrate in the holding pond due to their solubility and would likely percolate into the soil as water infiltrates through the soil profile. The constituents that are likely in the holding ponds do not appear to be of concentrations that negatively affect vegetation growth because various shrubs and trees grow around the pond. Routine maintenance requires periodic sediment removal. This action would remove any accumulated surface salts and any herbicides and pesticides in the sediments.

The continued use of the irrigation return flow pond would not likely affect beneficial uses in any water body including the B-1 Canal in the short and long term. The holding water pond is in a depression and any irrigation return flow water would be held in the depression and in the holding pond.

#### ***Alternative B – Expansion of existing flood water holding pond and creation of two additional ponds at King Spill (Proposed Action)***

Construction would temporarily increase turbidity and sediments when irrigation return flow water is first held in the ponds. This would dissipate and eventually decrease to an equilibrium. The soil removed during construction would likely remove a portion of the accumulated fertilizers, herbicides, and pesticides that are in the soil profile. Any excess salts that have

accumulated on the soil surface would also be removed as the holding ponds are deepened and/or created.

After construction, water quality effects would be the same as those described in Alternative A. Salts would eventually accumulate on the surface as more soluble fertilizers, herbicides, and pesticides percolate into the soil profile. This would occur over the many years of operation. However, infrequent flood events would introduce more water into the holding ponds. The overall water quality effect of the excess water would be minor, occurring rarely (maybe every 10 years) and would be relatively low in nutrients, herbicides, and pesticides, thereby diluting any constituents currently in the ponds, if the ponds are holding water that time of year.

The creation and use of the irrigation return flow ponds would not likely affect beneficial uses in any water body, including the B-1 Canal, in the short and long term. Excess water (irrigation return flows or flood water) would be contained in the ponds and would not affect other water bodies.

## **3.6 Engineering**

### **3.6.1 Affected Environment**

The proposed project sits within the larger Magic Valley Region of Southern Idaho. The landscape surrounding the King Spill area causes water to move in a southwest direction when large precipitation events occur. Once excess water reaches the depression of King Spill, it sits until eventual evaporation occurs, leaving the area dry in summer months. Currently, the existing flood water holding pond #1 is relatively shallow at 10 feet deep and covers about 13 acres which fills with return flow irrigation from surrounding agricultural fields.

Idaho Department of Water Resources' Dam Safety regulations state that embankments exceeding 10 feet in height and resulting in a storage capacity of at least 50 acre-feet would be considered a dam and subject to follow Idaho Code 42-1711 and Idaho Administrative Procedure Act 37.03.06. This would entail filing applications before any dam construction can commence and dam design and construction would be subject to Idaho Department of Water Resources dam safety section review and approval. Currently, the existing pond does not reach either of these qualifications.

### **3.6.2 Environmental Consequences**

#### ***Alternative A – No Action***

The no action alternative would not cause any structural changes within the King Spill area. With that lack of change, the surrounding communities may continue to periodically flood as occurred in the most recent 2016/2017 flood season with flows increasing to about 100 cubic feet per second, as stated by MID (Adams 2021, pers. comm.).

**Alternative B – Expansion of existing flood water holding pond and creation of two additional ponds at King Spill (Proposed Action)**

Under the proposed action, no engineering issues were identified that would relate to the following Idaho Code 42-1711 on dam safety. The proposed action ponds would not classify as a dam under Idaho Statutes (2016) due to the holding capacities being less than 50 acre-feet of water per pond and the surrounding berm would not make the bank over 10 feet. MID would ensure the water from the pond system does not back up into the B-1 canal head gates.

### 3.7 Cultural Resources

#### 3.7.1 Affected Environment

A total of five cultural resources are within 1 mile of the project area with the project area being completely within the Minidoka Gravity Division Historic District (MGD) and the B-1 branch of the B Canal immediately adjacent to the project area. The latter two are discussed below and all sites can be seen in Table 5. According to Reclamation records, additional sub-laterals of the MGD are also within 1 mile of the Area of Potential Effect (APE); however, they were previously determined not to be contributing elements. In addition, four surveys have been performed within the same distance, including an intensive survey of approximately 15 acres completely within the current APE.

Historic aerial photographs from 1953, 1978, and 1992 were examined to determine the amount of disturbance to the area from the original project which appears to have expanded the natural sink, added multiple canals and ditches, and generally altered this remaining natural sand dune.

**Table 5. Cultural resources within 1 mile of the Area of Potential Effect**

Site No.	Description	Age	Eligibility	In APE?
67-2046	Asson Barn	Historic	Unevaluated	No
67-4091	House	Historic	Unevaluated	No
67-4092	Barn	Historic	Unevaluated	No
67-14811/10MA153	B Canal	Historic	Eligible	No
Minidoka Gravity Division Historic District	Irrigation District	Historic	Eligible	Yes

#### **Minidoka Gravity Division Historic District**

The MGD is made up of a series of canals, laterals, pumphouses, drains, and administrative buildings primarily constructed in the first half of the 20<sup>th</sup> century. It was recorded in full in 2019 and evaluated as eligible for listing in the National Register of Historic Places in 2020. It retains a high level of integrity and covers hundreds of square miles in Minidoka and Cassia Counties. Only one physical contributing feature is located within a mile of the APE: B Canal.

## **B Canal**

The B Canal system is the main canal system in the western half of the MGD. The B Canal was started in 1905 and completed in November 1906. It starts at the end of the Main North Side Canal, where it splits with the A Canal. At that point, the B Canal is siphoned under the Oregon Short Line Railroad and continues 12.89 miles southwest to near the Snake River. It branches into three tertiary laterals and three quaternary laterals, which measure between 1.59 and 9.57 miles long for a total of 39.87 miles of canal. C Canal branches off B Canal in lieu of a B-3 Canal. In addition, 52 sub-laterals deliver water to the end users. The canal is earthen for its entire extent and the banks rise above the surrounding farmlands at varying heights throughout the system. A dirt or gravel road exists on each bank of the B Canal and for much of the length of the tertiary and quaternary laterals as well.

The B Canal system provides water to lands north of Rupert, Idaho and north and west of Heyburn, Idaho. The B-1 Canal branches off the B Canal at approximately mile 0.32. It trends primarily west for 6.3 miles where it terminates at Laterals 1211 and 1213. The B-2 Canal diverges from the B Canal at approximately mile 1.84. It trends west for 5.02 miles where it branches into the B-2/1 and B-2/2 Canals. The B-2/1 canal flows north approximately 0.93 miles before heading west for a total length of 2.8 miles. The B-2/2 Canal veers south for approximately half a mile before turning west for a total length of 1.7 miles. As mentioned above, the B-3 designation was skipped in favor of the C Canal. The B-4 Canal diverges from the B canal at approximately mile 7.64. It is the longest of the tertiary laterals of the MGD system running a total of 9.57 miles. It runs west for approximately 5 miles before winding south 1.8 miles before turning west again. At mile 5.78, B-4/1 Canal diverges from the B-4 Canal and flows west for 1.59 miles.

Modifications to the canal have been minimal, changes are associated with the operation and maintenance of the system, including clean out of the canals; replacement of gates, turnouts, and checks; and maintenance of the road. Work to reduce erosion of the canal banks during the 1930s and 1940s included work by the Civilian Conservation Corps to line portions of B Canal with locally mined or collected basalt. The B Canal was found individually eligible for listing in the National Register of Historic Places in 2016 and the canal and secondary canals (B-1, B-2, and B-4) were found to be contributing elements to the MGD in 2020.

### **3.7.2 Cultural Resource Investigations**

#### **1996 Survey**

A 15 acre survey within the APE was completed by Reclamation in 1996. The proposed project at that time was similar to the current action and involved the buildup of some of the existing islands and development and expansion of existing ponds. Survey methods in the report are described as, “Transects utilizing the ‘Lazy S’ survey pattern were employed. Subsurface trowel testing was conducted throughout the survey area (Leight 1996).” At the time of the survey, only modern refuse such as, “tires, car bodies, metal cabinets, appliances, wood planks, and concrete slabs (Leight 1996),” were noted. No historic or precontact artifacts were recorded.

## **2021 Survey**

Reclamation reviewed the previous cultural survey work and by georeferencing the mapped survey area, determined areas that needed to be surveyed. According to the text of Leight (1996), the survey covered 15 acres, but the map depicted a 24 acre parcel. Using the georeferenced data, Reclamation calculated that only approximately 4.26 acres of the King Spill parcel remained unsurveyed on the northern and southern boundaries. The area surveyed for in the B-1 Canal Wildlife Enhancement Project was significantly altered, including the area for the new proposed ponds of the current project. Based on this information, Reclamation chose to complete an intensive survey of the mostly undisturbed northern and southern boundaries (8.8 acres). The intensive archaeological survey was conducted with transects spaced no more than 15 meters apart. The reconnaissance survey consisted of revisiting portions of the central King Spill area that are typically above water to confirm the absence of cultural materials reported in 1996. Special attention was paid to road cuts or blowouts as shifting sands can obscure buried deposits. The existing pond areas were not surveyed.

Reclamation Archaeologist Nikki Polson, MA, RPA, performed the archaeological survey on November 17, 2021. Visibility overall ranged from 40 to 60 percent. The underlying sand dunes are very apparent in the northern and southern sections. The dunes have been modified significantly except at the very edges where there are several blowouts and cuts from past vehicle usage that are in various stages of healing. The modern debris reported in 1996 is completely removed and only a couple modern beer bottles and cans were noted during the survey. The ponds were enlarged, and numerous canals cut through other dunes to facilitate water distribution. The canals originate from headgates off the B-1 Canal outside of the project area. These changes were all part of the earlier project. No historic or precontact artifacts or features were recorded within the King Spill parcel.

No contributing or eligible physical elements of the MGD are present within the APE. The closest element—the B-1 branch of the B Canal—is located immediately adjacent to the APE, and the proposed King Spill changes would not have any indirect effects to characteristics of the canal or MGD that make it eligible for listing in the National Register.

### **3.7.3 Environmental Consequences**

#### ***Alternative A – No Action and Alternative B – Expansion of existing flood water holding pond and creation of two additional ponds at King Spill (Proposed Action)***

As there are no physical elements of the MGD within the project area, the no action alternative and Alternative B would have no adverse effect on historic properties. Additionally, no other cultural resources would be affected.

## 3.8 Indian Sacred Sites

### 3.8.1 Affected Environment

Evidence of human occupation in south-central Idaho dates as early as 14,500 years before the present (BP). The three major prehistoric cultural periods that have been identified for southeastern Idaho also apply to south central Idaho:

- Early Prehistoric Period (15,000 to 7,500 BP)
- Middle Prehistoric Period (7,400 to 1,300 BP)
- Late Prehistoric Period (1,300 to 150 BP)

These periods reflect a shift over time from a highly mobile lifestyle involving hunting and gathering (e.g., seeds, roots, mammals, and fish), to reduced mobility and intensified use of certain highly productive resources (e.g., camas and salmon). Many archaeological sites near the project area have yielded diagnostic artifacts, indicating that the APE and surrounding area was occupied or used during all three prehistoric periods.

The project area is within the Snake River basin, which was traditionally used by the Shoshone and Bannock Tribes for gathering plants for food and medicine, hunting, fishing, trading, and for ceremonial purposes. The Shoshone and Bannock Tribes of the Fort Hall Reservation, Idaho, represent two linguistically distinct populations of people. The length of time these Tribes have occupied southern Idaho is a subject of long-standing debate among scholars. Subsistence practices and lifestyles were similar to other Great Basin cultural groups. Because the environment could not sustain large populations, people moved from one resource to the next, relying on a wide variety of resources, including roots, berries, nuts, marmots, squirrels, rabbits, insects, large game, and fish. By the time of the earliest Euroamerican contact in the early 1800s, the Shoshone and Bannock Tribes began using horses, making it easier to procure bison and other resources, and to trade.

No known Indian Sacred Sites are within or near the project area.

### 3.8.2 Environmental Consequences

#### ***Alternative A – No Action and Alternative B – Expansion of existing flood water holding pond and creation of two additional ponds at King Spill (Proposed Action)***

As no Indian Sacred Sites have been identified in or near the project area, the no action alternative and Alternative B would have no effect on these resources.

## 3.9 Tribal Interests

### 3.9.1 Indian Trust Assets

Indian Trust Assets are legal interests in property held in trust by the United States for Indian Tribes or individual Indian trust landowners. ITAs include trust lands, natural resources, trust funds, or other assets held by the Federal government in trust. An Indian trust asset has three components: (1) the trustee, (2) the beneficiary, and (3) the trust

asset. Treaty-reserved rights, for instance, fishing, hunting, and gathering rights on and off reservation, are usufructuary rights that do not meet the Department of the Interior (DOI) definition of an ITA. The United States does not own or otherwise hold these resources in trust. ITAs do not normally include usufructuary rights alone (i.e., rights to access for hunting or fishing). Rather, they require first a possessory interest; that is, the asset must be held or owned by the Federal government as trustee.

A usufruct is the legal right to use and derive profit or benefit from property that belongs to another person.

The DOI requires that all impacts to trust assets, even those considered nonsignificant, must be discussed in a trust analysis in NEPA documents and appropriate compensation and/or mitigation implemented. Additionally, Reclamation's NEPA Handbook (Reclamation 2012) recommends a separate ITA section in all NEPA documents including a FONSI. These sections should be prepared in consultation with potentially affected tribal and other trust beneficiaries.

#### ***Affected Environment***

No Indian trust land assets were identified in the proposed action area or staging areas during the scoping process, such as those held in trust by the Bureau of Indian Affairs for the benefit of Tribes or individual Indian trust landowners. As part of the scoping process, Reclamation researched Tessel, a Federal Geographic Information System (GIS) land database that includes Federal lands held in trust for Tribes and Individual Indian trust landowners. This research indicated there are no Indian trust land assets in the proposed Action area or staging areas. The proposed action area, including staging areas, are contained wholly within a Federally-owned project.

ITAs in the closest proximity to the proposed action area are the Fort Hall Reservation occupied by the Shoshone-Bannock Tribes, which is situated approximately 48 miles east of the proposed action area. The Shoshone-Bannock Tribes have an on reservation water right in the portion of the Snake River basin upstream from Hells Canyon Dam, the furthest downstream of the three dams authorized as Federal Energy Regulatory Commission Project No. 1971 (Fort Hall Indian Water Rights Act of 1990; 104 Stat 3059 (1990)). Additionally, the Shoshone-Bannock Tribes have water storage rights in Palisades Reservoir and American Falls Reservoir, which are reserved under the Michaud Flats Project for irrigation in the State of Idaho (68 Stat. 741 at 1027 (1954)).

ITAs in the second closest proximity to the proposed action area are the Duck Valley Reservation occupied by the Shoshone-Paiute Tribes, which is situated approximately 112 miles southwest of the proposed action area. The Shoshone-Paiute Tribes have a water right in the

East Fork of the Owyhee River, a tributary of the Snake River (Public Law 111-11 §10801; 123 Stat. 1411 (2009)).

The Nez Perce Reservation, occupied by the Nez Perce Tribe, is situated approximately 258 miles northwest of the proposed action area. The Nez Perce Tribe has a water right in the Snake River basin as described in the Snake River Basin Adjudication, Case No. 39576, paragraph 3 of the Commencement Order issued by the Snake River Basin Adjudication Court on November 19, 1987 (118 Stat. 3433 (2004)).

### ***Environmental Consequences***

#### **Alternative A – No Action**

Under the No Action alternative, Reclamation would not approve MID's request to expand the current flood water holding pond and create additional ponds in the King Spill area. Existing short-term or long-term effects, either beneficial or adverse, or effects on public health and safety in relationship to nearby ITAs would remain unchanged.

#### **Alternative B – Expansion of existing flood water holding pond and creation of two additional ponds at King Spill (Proposed Action)**

Under Alternative B, the Proposed Action is expected to expand the existing flood water holding pond and creation of two additional ponds at King Spill. If the Proposed Action occurs, there are no known beneficial or adverse effects to ITAs.

Reclamation requested information from the Shoshone-Paiute Tribes of the Duck Valley Reservation and the Shoshone-Bannock Tribes of the Fort Hall Reservation, who traditionally or currently use the area under their reserved treaty rights; however, no responses were received. The lack of specific information about the area is not indicative of a lack of importance to Tribes. With no specific responses, Reclamation assumes that there would be no adverse effects to Indian Trust Assets, such as adverse impacts to water, water rights, or land held in trust for the Tribes.

## **3.9.2 Treaty Rights**

### ***Affected Environment***

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

The proposed action area is surrounded by areas historically used by many Tribes. Treaty Rights at issue here are access and impacts to off-reservation hunting, fishing, gathering rights, livestock grazing rights, and cultural or ceremonial use rights. Although the proposed action area is wholly situated within a Federally-owned project, Courts have ruled that members of Federally-recognized Tribes with reserved Treaty Rights have the right to cross private or state lands in order to gain access to treaty areas (United States v. Winans, 1905).

The Shoshone-Bannock Tribes of the Fort Hall Reservation are federally recognized Tribes in southeast Idaho, situated approximately 48 miles east of the proposed action area. On July 3,



1868, the Fort Bridger Treaty was signed and agreed to by the eastern and western bands of the Northern Shoshone and the Bannock (or Northern Paiute Bands). Article IV of the treaty states that members of the Shoshone-Bannock Tribes ‘...shall have the right to hunt on the unoccupied lands of the United States...’ Courts interpreted this to mean “unoccupied federal lands.”

In the case of *State of Idaho v. Timno*, an off-reservation fishing case in Idaho, the Idaho Supreme Court interpreted the Fort Bridger Treaty of the Shoshone-Bannock Tribes. The Court determined that the Shoshone word for ‘hunt’ also included to ‘fish.’ Under *Timno*, the Court affirmed the Tribal Members’ right to take fish off-reservation pursuant to the Fort Bridger Treaty. The Court also recognizes, “that treaty Indians have subsistence and cultural interests in hunting and fishing...” and “The Fort Bridger Treaty ... contains a unified hunting and fishing right, which...is unequivocal.” The treaty did not grant a hunting, fishing, or gathering right, it reserved a right the Shoshone-Bannock Tribes have always exercised.

The Shoshone-Paiute Tribes of the Duck Valley Reservation are Federally-recognized Tribes in southern Idaho and northern Nevada, situated approximately 112 miles southwest of the proposed action area. The reservation was established by Executive Orders dated April 16, 1877; May 4, 1886; and July 1, 1910. The Shoshone-Paiute sometimes claim the interests of the Tribes that are reflected in the Bruneau, Boise, Fort Bridger, Box Elder, Ruby Valley, and other treaties and executive orders that the Tribes’ ancestors agreed to with the United States. The Tribes continue to observe these treaties and executive orders in good faith; however, the Federal government did not ratify treaties that reserved off-reservation hunting and fishing rights. The Tribes assert they have aboriginal title and rights to those areas. All such treaties and executive orders recognize the need for the Tribes to continue to have access to off-reservation resources because most of the reservations established were and continue to be incapable of sustaining tribal populations. This need continues and has not diminished from the time of the first treaties and executive orders that established the Duck Valley Reservation (*Cherokee Nation of Oklahoma and Shoshone-Paiute Tribes of the Duck Valley Reservation v. Leavitt*, 2005).

The Northwestern Band of the Shoshone Indians, a Federally-recognized Tribe located near Washakie, Utah, is situated approximately 88 miles southeast of the proposed action area. The Tribe maintains reserved treaty-protected hunting, fishing, and gathering rights, also pursuant to the 1868 Treaty of Fort Bridger. As noted above, these reserved rights may be exercised on unoccupied lands within the area acquired by the United States.

The Nez Perce Tribe of the Nez Perce Reservation are a federally recognized Tribe in northern Idaho, situated approximately 258 miles northwest of the proposed action area. 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 to fish in all usual and accustomed places.

The Northern Arapaho of the Wind River Reservation are a federally recognized Tribe located in central Wyoming, situated approximately 216 miles east of the proposed action area. The United States and the Northern Arapaho entered into the Fort Laramie Treaty of 1851 (Horse

Creek Treaty), which reserved the right of the Northern Arapaho “to roam and hunt while game shall be found in sufficient quantities to justify the chase.”

### ***Environmental Consequences***

The United States Supreme Court has ruled that treaties with Indian Tribes are to be construed liberally in favor of Tribes, as the Tribes would have understood the language of the treaty at the time the treaty was signed. It is likely that the ratified or unratified treaties listed above include areas surrounding 3 miles northwest of Rupert, Idaho, the proposed action area.

#### **Alternative A – No Action**

Under the No Action Alternative, Reclamation would not approve MID’s request to expand the current flood water holding pond and create additional ponds in the King Spill area. There would be no short-term or long-term effects, either beneficial or adverse to existing reserved Treaty Rights for tribal hunting, fishing, or gathering in traditional or customary places or for livestock grazing in the area.

#### **Alternative B – Expansion of existing flood water holding pond and creation of two additional ponds at King Spill (Proposed Action)**

Under Alternative B, there are anticipated beneficial long-term effects to reserved Treaty Rights, such as access to or impacts to traditional or customary places for hunting, fishing, or gathering, or for livestock grazing in the area. The anticipated benefit of the ponds is increased water access for wild game and livestock grazing in the area.

The proposed pond construction ingress and egress routes may cause a temporary, short-term adverse effect on access to traditional or customary hunting, fishing, or gathering sites, or for livestock grazing areas during the construction periods.

Reclamation requested information from the Shoshone-Bannock Tribes, who traditionally and currently use the area for hunting, fishing, and gathering of plants; however, no responses were received. The lack of specific information about the area is not indicative of a lack of importance to Tribes. With no specific response, Reclamation assumes that there would be no adverse effects to reserved Treaty Rights, such as access or impacts to areas for hunting, fishing, or gathering, or for livestock grazing.

#### ***Mitigation Summary***

Mitigation efforts may be required to reduce the effects of construction ingress and egress on tribal access to hunting, fishing, or gathering should construction ingress and egress activity take place in the same location and at the same time of year as traditional or customary hunting, fishing, and gathering of plants, or for livestock grazing. If this were to occur, Reclamation would meet with Tribes to formulate an appropriate mitigation measure.

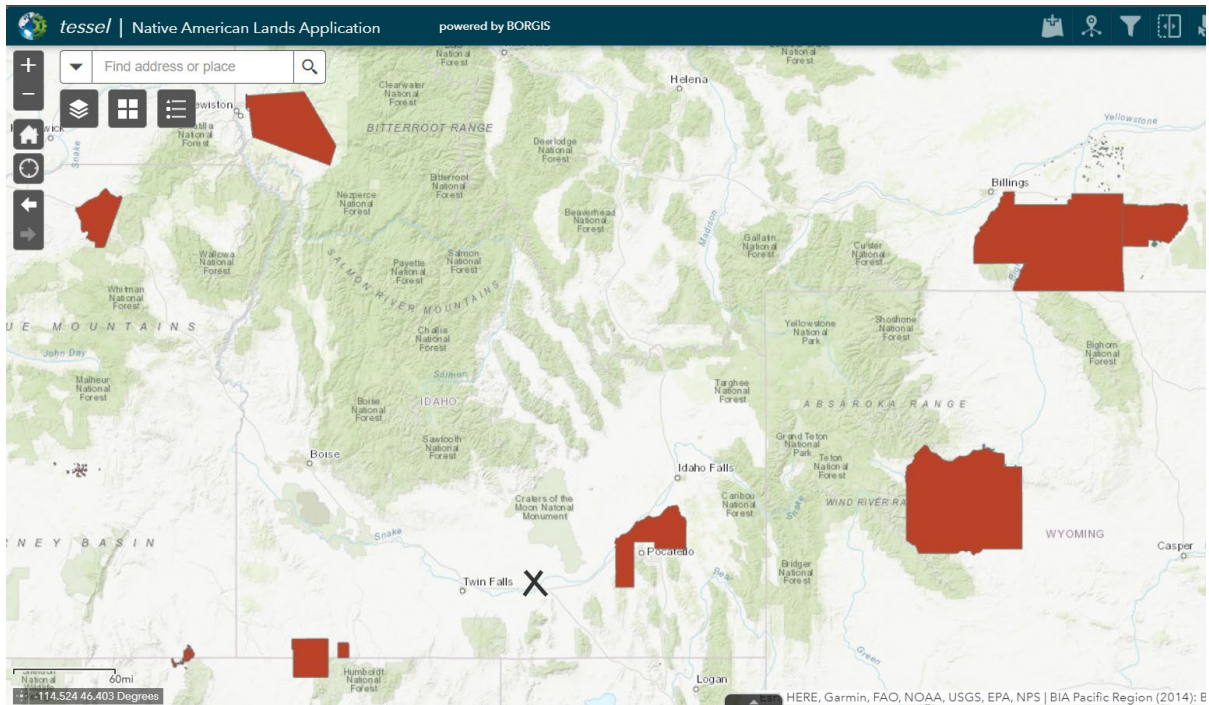


Figure 5. Locations of Federally-recognized reservations closest to the action area

### 3.10 Environmental Justice

Executive Order 12898 (59 FR 7629) requires each Federal agency to achieve environmental justice by addressing disproportionately high and adverse human health and environmental effects on minority and low-income populations. The demographics of the action area are examined to determine whether minority populations, low-income populations, and/or Native American Tribes are present in the area impacted by a Proposed Action. If present, the agency must determine if implementation of the Proposed Action would cause disproportionately high and adverse human health or environmental effects on the populations.

#### 3.10.1 Affected Environment

##### ***Racial Minorities***

The project construction area is located in Minidoka County, Idaho. The general proportions of race and ethnicity in Minidoka County are similar to Idaho as a whole, with a white population of more than 94 percent according to the Census Bureau’s 2015 to 2019 American Community Survey (Table 6).

**Table 6. 2019 Summary of racial and ethnic minority distribution in Idaho and Minidoka County**

Race or Ethnicity	Idaho	Minidoka County
White	93.0%	94.2%
Black or African American	0.9%	0.8%
Asian	1.6%	0.6%
Native Hawaiian and Other Pacific Islander	0.2%	0.1%
American Indian and Alaska Native	1.7%	2.3%
<b>Two or More Races</b>	2.6%	1.9%
<b>Hispanic or Latino (any race)<sup>1</sup></b>	12.8%	36.0%
Source: U.S. Census Bureau 2019 <sup>1</sup> By definition from the Federal Office of Management and Budget, race and Hispanic or Latino origin are two separate categories. People who report themselves as Hispanic or Latino can be of any race.		

**Low-Income Populations**

Low-income populations are identified by several socioeconomic characteristics. As categorized by the 2000 Census, specific characteristics include income (median family and per capita), percentage of population below poverty (individuals), and unemployment rates. The Census Bureau’s 2015 to 2019 American Community Survey shows a slightly lower median household income of \$53,370 for Minidoka County than \$55,785 for Idaho (USCB 2019). The Census Bureau reported that about 11.3 percent of the population of Minidoka County and 11.2 percent of the State of Idaho’s population were living in poverty in 2019 (USCB 2019).

Table 7. 2019 income and poverty status and 2020 unemployment status for Minidoka County and the State of Idaho

	Idaho	Minidoka County
<b>Median household income (in 2019 dollars), 2015 to 2019</b>	\$55,785	\$53,370
<b>Per capita income in past 12 months (in 2019 dollars), 2015 to 2019</b>	\$27,970	\$24,262
<b>Persons in poverty, percent</b>	11.2%	11.3%
<b>Persons unemployed (2020), percent</b>	2.8%	2.7%

Other measures of low-income, such as unemployment, characterize demographic data in relation to environmental justice. The 2.7 percent unemployed in Minidoka County is only slightly lower than the State of Idaho’s 2.8 percent of unemployed (Idaho Dept. of Labor 2020).

### 3.10.2 Environmental Consequences

#### ***Alternative A – No Action***

The No Action alternative would not alter the current regional environmental justice status based on the lack of action occurring and the information presented above, and therefore would have no environmental justice effects.

#### ***Alternative B – Expansion of existing flood water holding pond and creation of two additional ponds at King Spill (Proposed Action)***

No minority or low-income groups, as identified for further analysis by Executive Order 12898, were identified that would be disproportionately affected by health or environmental effects as the result of the implementation of the Proposed Action. Because the Proposed Action is a small, localized action with a relatively unpopulated area of effect, there would be no significant effect to the greater area’s low-income or minority populations.

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## **4 Consultation and Coordination**

On September 15, 2021, Reclamation mailed a scoping document including a letter, project information, and a map, to agencies, Indian Tribes, members of Congress, organizations, and individuals, soliciting their help in identifying any issues and concerns related to the Proposed Action. Reclamation received one comment during the scoping period from IDFG. The comment addressed the importance of the vegetation in the area and acknowledged support due to MID's efforts to avoid trees and sagebrush as much as possible during the project. The mailing list, scoping letters, and comments received are presented in Appendix C.

### **4.1 Agency Consultation and Coordination**

#### **4.1.1 National Historic Preservation Act**

Reclamation initiated consultation with the Idaho State Historic Preservation Office (SHPO) on December 10, 2021. SHPO concurrence with Reclamation's finding on No Effect to Historic Properties for the action area was received on December 15, 2021 (see Appendix B).

#### **4.1.2 Endangered Species Act**

Reclamation generated a preliminary endangered species report through the USFWS IPaC site (see Appendix A). The report indicated that one candidate species is expected to be present in the action area for the proposed project, the monarch butterfly. Since the Proposed Action would not adversely affect any listed species, no need exists for formal Section 7 consultation under the ESA.

### **4.2 Tribal Consultation and Coordination**

Reclamation mailed scoping letters to the Shoshone-Bannock Tribes and Shoshone-Paiute Tribes on September 15, 2021 (see Appendix C). No responses or concerns from the Tribes were brought forward during the scoping period.

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USFWS 1989	U.S. Fish and Wildlife Service (USFWS). 1989. <i>Wildlife Habitat Management Plan for Minidoka North Side Pumping Division Extension Project, Idaho</i> . Prepared for Bureau of Reclamation and the Idaho Department of Fish and Game.
USFWS 2002	U.S. Fish and Wildlife Service (USFWS). 2002. <i>Minidoka National Wildlife Refuge: Watchable Wildlife</i> . Minidoka National Wildlife Refuge. Rupert, Idaho.
USFWS 2020	U.S. Fish and Wildlife Service (USFWS). 2020. <i>Monarch (Danaus plexippus) Species Status Assessment Report</i> . V2.1 96 pp + appendices.
Waterbury et al. 2019	Waterbury B., A. Potter, and L.K. Svancara. 2019. <i>Monarch Butterfly Distribution and Breeding Ecology in Idaho and Washington</i> . <i>Front. Ecol. Evol.</i> 7:172. doi: 10.3389/fevo.2019.00172
White 2003	White, L. 2003. <i>Comparison of Vegetation on Historically Inundated and Non-Inundated South-Facing Slopes in the Teton River Canyon, Fremont County, Idaho; Implications for Mule Deer Winter Habitat</i> . Bureau of Reclamation.

Text Citation	Bibliographic Reference
Wiens and Dyer 1975	Wiens, J. and M. Dyer. 1975. "Rangeland Avifaunas. Their Composition, Energetics, and Role in the Ecosystem." In <i>Symposium on Management of Forest and Range Habitats for Nongame Birds</i> , pp.146-182. U.S. Department of Agriculture, Forest Service, General Technical Report WO-1.
Xerces Society 2018	The Xerces Society for Invertebrate Conservation. 2018. <i>Managing for Monarchs in the West: Best Management Practices for Conserving Monarch Butterfly and its Habitat</i> . Portland, Oregon. (Available online at <a href="http://www.xerces.org">www.xerces.org</a> ).

# **Appendices**

**Appendix A – Information for Planning and Conservation (IPaC) Report**

**Appendix B – Cultural Resources and Sacred Sites Consultation with State Historic Preservation Office and Shoshone-Bannock Tribes**

**Appendix C – Scoping Documents, Mailing List, and Scoping Comments Received**

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# IPaC resource list

This report is an automatically generated list of species and other resources such as critical habitat (collectively referred to as *trust resources*) under the U.S. Fish and Wildlife Service's (USFWS) jurisdiction that are known or expected to be on or near the project area referenced below. The list may also include trust resources that occur outside of the project area, but that could potentially be directly or indirectly affected by activities in the project area. However, determining the likelihood and extent of effects a project may have on trust resources typically requires gathering additional site-specific (e.g., vegetation/species surveys) and project-specific (e.g., magnitude and timing of proposed activities) information.

Below is a summary of the project information you provided and contact information for the USFWS office(s) with jurisdiction in the defined project area. Please read the introduction to each section that follows (Endangered Species, Migratory Birds, USFWS Facilities, and NWI Wetlands) for additional information applicable to the trust resources addressed in that section.

## Location

Jerome, Lincoln, and Minidoka counties, Idaho



## Local office

Idaho Fish And Wildlife Office

- ☐ (208) 378-5243
- ☐ (208) 378-5262

1387 South Vinnell Way, Suite 368  
Boise, ID 83709-1657

# Endangered species

This resource list is for informational purposes only and does not constitute an analysis of project level impacts.

The primary information used to generate this list is the known or expected range of each species. Additional areas of influence (AOI) for species are also considered. An AOI includes areas outside of the species range if the species could be indirectly affected by activities in that area (e.g., placing a dam upstream of a fish population even if that fish does not occur at the dam site, may indirectly impact the species by reducing or eliminating water downstream). Because species can move, and site conditions can change, the species on this list are not guaranteed to be found on or near the project area. To fully determine any potential effects to species, additional site-specific and project-specific information is often required.

Section 7 of the Endangered Species Act requires Federal agencies to "request of the Secretary information whether any species which is listed or proposed to be listed may be present in the area of such proposed action" for any project that is conducted, permitted, funded, or licensed by any Federal agency. A letter from the local office and a species list which fulfills this requirement can only be obtained by requesting an official species list from either the Regulatory Review section in IPaC (see directions below) or from the local field office directly.

For project evaluations that require USFWS concurrence/review, please return to the IPaC website and request an official species list by doing the following:

1. Draw the project location and click CONTINUE.
2. Click DEFINE PROJECT.
3. Log in (if directed to do so).
4. Provide a name and description for your project.
5. Click REQUEST SPECIES LIST.

Listed species<sup>1</sup> and their critical habitats are managed by the [Ecological Services Program](#) of the U.S. Fish and Wildlife Service (USFWS) and the fisheries division of the National Oceanic and Atmospheric Administration (NOAA Fisheries<sup>2</sup>).

Species and critical habitats under the sole responsibility of NOAA Fisheries are not shown on this list. Please contact [NOAA Fisheries](#) for [species under their jurisdiction](#).

1. Species listed under the [Endangered Species Act](#) are threatened or endangered; IPaC also shows species that are candidates, or proposed, for listing. See the [listing status page](#) for more information. IPaC only shows species that are regulated by USFWS (see FAQ).
2. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

The following species are potentially affected by activities in this location:

## Insects

NAME

STATUS



Monarch Butterfly *Danaus plexippus*

Candidate

Wherever found

No critical habitat has been designated for this species.

<https://ecos.fws.gov/ecp/species/9743>

## Critical habitats

Potential effects to critical habitat(s) in this location must be analyzed along with the endangered species themselves.

THERE ARE NO CRITICAL HABITATS AT THIS LOCATION.

## Migratory birds

Certain birds are protected under the Migratory Bird Treaty Act<sup>1</sup> and the Bald and Golden Eagle Protection Act<sup>2</sup>.

Any person or organization who plans or conducts activities that may result in impacts to migratory birds, eagles, and their habitats should follow appropriate regulations and consider implementing appropriate conservation measures, as described [below](#).

1. The [Migratory Birds Treaty Act](#) of 1918.
2. The [Bald and Golden Eagle Protection Act](#) of 1940.

Additional information can be found using the following links:

- Birds of Conservation Concern <http://www.fws.gov/birds/management/managed-species/birds-of-conservation-concern.php>
- Measures for avoiding and minimizing impacts to birds <http://www.fws.gov/birds/management/project-assessment-tools-and-guidance/conservation-measures.php>
- Nationwide conservation measures for birds <http://www.fws.gov/migratorybirds/pdf/management/nationwidestandardconservationmeasures.pdf>

The birds listed below are birds of particular concern either because they occur on the [USFWS Birds of Conservation Concern](#) (BCC) list or warrant special attention in your project location. To learn more about the levels of concern for birds on your list and how this list is generated, see the FAQ [below](#). This is not a list of every bird you may find in this location, nor a guarantee that every bird on this list will be found in your project area. To see exact locations of where birders and the general public have sighted birds in and around your project area, visit the [E-bird data mapping tool](#) (Tip: enter your location, desired date range and a species on your list). For projects that occur off the Atlantic Coast, additional maps and models detailing the relative occurrence and abundance of bird species on your list are available. Links to additional information about Atlantic Coast birds, and other important information about your migratory bird list, including how to properly interpret and use your migratory bird report, can be found [below](#).

For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to migratory birds on your list, click on the PROBABILITY OF PRESENCE SUMMARY at the top of your list to see when these birds are most likely to be present and breeding in your project area.

NAME	BREEDING SEASON (IF A BREEDING SEASON IS INDICATED FOR A BIRD ON YOUR LIST, THE BIRD MAY BREED IN YOUR PROJECT AREA SOMETIME WITHIN THE TIMEFRAME SPECIFIED, WHICH IS A VERY LIBERAL ESTIMATE OF THE DATES INSIDE WHICH THE BIRD BREEDS ACROSS ITS ENTIRE RANGE. "BREEDS ELSEWHERE" INDICATES THAT THE BIRD DOES NOT LIKELY BREED IN YOUR PROJECT AREA.)
<p>Bald Eagle <i>Haliaeetus leucocephalus</i>            This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in off shore areas from certain types of development or activities.  <a href="https://ecos.fws.gov/ecp/species/1626">https://ecos.fws.gov/ecp/species/1626</a></p>	Breeds Dec 1 to Aug 31
<p>Franklin's Gull <i>Leucophaeus pipixcan</i>            This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.</p>	Breeds May 1 to Jul 31
<p>Lesser Yellowlegs <i>Tringa flavipes</i>            This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.  <a href="https://ecos.fws.gov/ecp/species/9679">https://ecos.fws.gov/ecp/species/9679</a></p>	Breeds elsewhere
<p>Sage Thrasher <i>Oreoscoptes montanus</i>            This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA  <a href="https://ecos.fws.gov/ecp/species/9433">https://ecos.fws.gov/ecp/species/9433</a></p>	Breeds Apr 15 to Aug 10
<p>Willet <i>Tringa semipalmata</i>            This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.</p>	Breeds Apr 20 to Aug 5

## Probability of Presence Summary

The graphs below provide our best understanding of when birds of concern are most likely to be present in your project area. This information can be used to tailor and schedule your project activities to avoid or minimize impacts to birds. Please make sure you read and understand the FAQ

"Proper Interpretation and Use of Your Migratory Bird Report" before using or attempting to interpret this report.

### Probability of Presence (■)

Each green bar represents the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during a particular week of the year. (A year is represented as 12 4-week months.) A taller bar indicates a higher probability of species presence. The survey effort (see below) can be used to establish a level of confidence in the presence score. One can have higher confidence in the presence score if the corresponding survey effort is also high.

How is the probability of presence score calculated? The calculation is done in three steps:

1. The probability of presence for each week is calculated as the number of survey events in the week where the species was detected divided by the total number of survey events for that week. For example, if in week 12 there were 20 survey events and the Spotted Towhee was found in 5 of them, the probability of presence of the Spotted Towhee in week 12 is 0.25.
2. To properly present the pattern of presence across the year, the relative probability of presence is calculated. This is the probability of presence divided by the maximum probability of presence across all weeks. For example, imagine the probability of presence in week 20 for the Spotted Towhee is 0.05, and that the probability of presence at week 12 (0.25) is the maximum of any week of the year. The relative probability of presence on week 12 is  $0.25/0.25 = 1$ ; at week 20 it is  $0.05/0.25 = 0.2$ .
3. The relative probability of presence calculated in the previous step undergoes a statistical conversion so that all possible values fall between 0 and 10, inclusive. This is the probability of presence score.

To see a bar's probability of presence score, simply hover your mouse cursor over the bar.

### Breeding Season (■)

Yellow bars denote a very liberal estimate of the time-frame inside which the bird breeds across its entire range. If there are no yellow bars shown for a bird, it does not breed in your project area.

### Survey Effort (|)

Vertical black lines superimposed on probability of presence bars indicate the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps. The number of surveys is expressed as a range, for example, 33 to 64 surveys.

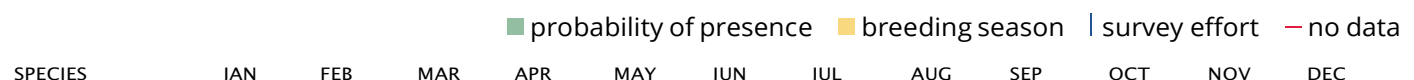
To see a bar's survey effort range, simply hover your mouse cursor over the bar.

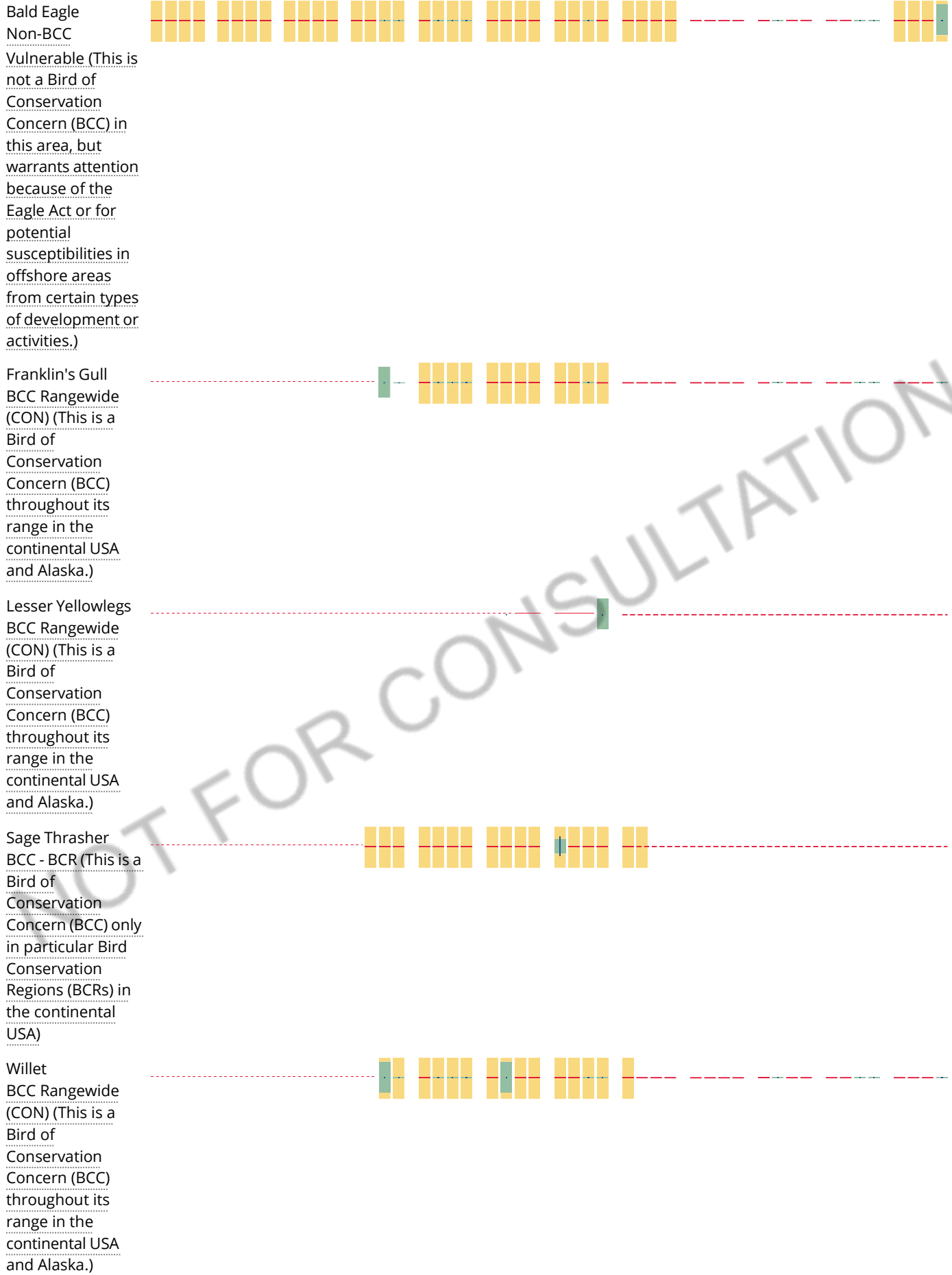
### No Data (-)

A week is marked as having no data if there were no survey events for that week.

### Survey Timeframe

Surveys from only the last 10 years are used in order to ensure delivery of currently relevant information. The exception to this is areas off the Atlantic coast, where bird returns are based on all years of available data, since data in these areas is currently much more sparse.





Tell me more about conservation measures I can implement to avoid or minimize impacts to migratory birds.

[Nationwide Conservation Measures](#) describes measures that can help avoid and minimize impacts to all birds at any location year round. Implementation of these measures is particularly important when birds are most likely to occur in the project area. When birds may be breeding in the area, identifying the locations of any active nests and avoiding their destruction is a very helpful impact minimization measure. To see when birds are most likely to occur and be breeding in your project area, view the Probability of Presence Summary. [Additional measures](#) or [permits](#) may be advisable depending on the type of activity you are conducting and the type of infrastructure or bird species present on your project site.

### **What does IPaC use to generate the migratory birds potentially occurring in my specified location?**

The Migratory Bird Resource List is comprised of USFWS [Birds of Conservation Concern \(BCC\)](#) and other species that may warrant special attention in your project location.

The migratory bird list generated for your project is derived from data provided by the [Avian Knowledge Network \(AKN\)](#). The AKN data is based on a growing collection of [survey, banding, and citizen science datasets](#) and is queried and filtered to return a list of those birds reported as occurring in the 10km grid cell(s) which your project intersects, and that have been identified as warranting special attention because they are a BCC species in that area, an eagle ([Eagle Act](#) requirements may apply), or a species that has a particular vulnerability to off shore activities or development.

Again, the Migratory Bird Resource list includes only a subset of birds that may occur in your project area. It is not representative of all birds that may occur in your project area. To get a list of all birds potentially present in your project area, please visit the [AKN Phenology Tool](#).

### **What does IPaC use to generate the probability of presence graphs for the migratory birds potentially occurring in my specified location?**

The probability of presence graphs associated with your migratory bird list are based on data provided by the [Avian Knowledge Network \(AKN\)](#). This data is derived from a growing collection of [survey, banding, and citizen science datasets](#).

Probability of presence data is continuously being updated as new and better information becomes available. To learn more about how the probability of presence graphs are produced and how to interpret them, go to the Probability of Presence Summary and then click on the "Tell me about these graphs" link.

### **How do I know if a bird is breeding, wintering, migrating or present year-round in my project area?**

To see what part of a particular bird's range your project area falls within (i.e. breeding, wintering, migrating or year-round), you may refer to the following resources: [The Cornell Lab of Ornithology All About Birds Bird Guide](#), or (if you are unsuccessful in locating the bird of interest there), the [Cornell Lab of Ornithology Neotropical Birds guide](#). If a bird on your migratory bird species list has a breeding season associated with it, if that bird does occur in your project area, there may be nests present at some point within the timeframe specified. If "Breeds elsewhere" is indicated, then the bird likely does not breed in your project area.

### **What are the levels of concern for migratory birds?**

Migratory birds delivered through IPaC fall into the following distinct categories of concern:

1. "BCC Rangewide" birds are [Birds of Conservation Concern](#) (BCC) that are of concern throughout their range anywhere within the USA (including Hawaii, the Pacific Islands, Puerto Rico, and the Virgin Islands);
2. "BCC - BCR" birds are BCCs that are of concern only in particular Bird Conservation Regions (BCRs) in the continental USA; and
3. "Non-BCC - Vulnerable" birds are not BCC species in your project area, but appear on your list either because of the [Eagle Act](#) requirements (for eagles) or (for non-eagles) potential susceptibilities in off shore areas from certain types of development or activities (e.g. off shore energy development or longline fishing).

Although it is important to try to avoid and minimize impacts to all birds, efforts should be made, in particular, to avoid and minimize impacts to the birds on this list, especially eagles and BCC species of rangewide concern. For more information on conservation measures you can implement to help avoid and minimize migratory bird impacts and requirements for eagles, please see the FAQs for these topics.

### **Details about birds that are potentially affected by offshore projects**

For additional details about the relative occurrence and abundance of both individual bird species and groups of bird species within your project area off the Atlantic Coast, please visit the [Northeast Ocean Data Portal](#). The Portal also offers data and information about other taxa besides birds that may be helpful to you in your project review. Alternately, you may download the bird model results files underlying the portal maps through the [NOAA NCCOS Integrative Statistical Modeling and Predictive Mapping of Marine Bird Distributions and Abundance on the Atlantic Outer Continental Shelf](#) project webpage.

Bird tracking data can also provide additional details about occurrence and habitat use throughout the year, including migration. Models relying on survey data may not include this information. For additional information on marine bird tracking data, see the [Diving Bird Study](#) and the [nanotag studies](#) or contact [Caleb Spiegel](#) or [Pam Loring](#).

### **What if I have eagles on my list?**

If your project has the potential to disturb or kill eagles, you may need to [obtain a permit](#) to avoid violating the Eagle Act should such impacts occur.

### **Proper Interpretation and Use of Your Migratory Bird Report**

The migratory bird list generated is not a list of all birds in your project area, only a subset of birds of priority concern. To learn more about how your list is generated, and see options for identifying what other birds may be in your project area, please see the FAQ "What does IPaC use to generate the migratory birds potentially occurring in my specified location". Please be aware this report provides the "probability of presence" of birds within the 10km grid cell(s) that overlap your project; not your exact project footprint. On the graphs provided, please also look carefully at the survey effort (indicated by the black vertical bar) and for the existence of the "no data" indicator (a red horizontal bar). A high survey effort is the key component. If the survey effort is high, then the probability of presence score can be viewed as more dependable. In contrast, a low survey effort bar or no data bar means a lack of data and, therefore, a lack of certainty about presence of the species. This list is not perfect; it is simply a starting point for identifying what birds of concern have the potential to be in your project area, when they might be there, and if they might be breeding (which means nests might be present). The list helps you know what to look for to confirm presence, and helps guide you in knowing when to implement conservation measures to avoid or minimize potential impacts from your project activities, should presence be confirmed. To learn more about conservation measures, visit the FAQ "Tell me about conservation measures I can implement to avoid or minimize impacts to migratory birds" at the bottom of your migratory bird trust resources page.

## **Facilities**

### **National Wildlife Refuge lands**

Any activity proposed on lands managed by the [National Wildlife Refuge](#) system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

THERE ARE NO REFUGE LANDS AT THIS LOCATION.

## Fish hatcheries

THERE ARE NO FISH HATCHERIES AT THIS LOCATION.

## Wetlands in the National Wetlands Inventory

Impacts to [NWI wetlands](#) and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local [U.S. Army Corps of Engineers District](#).

WETLAND INFORMATION IS NOT AVAILABLE AT THIS TIME

This can happen when the National Wetlands Inventory (NWI) map service is unavailable, or for very large projects that intersect many wetland areas. Try again, or visit the [NWI map](#) to view wetlands at this location.

### Data limitations

The Service's objective of mapping wetlands and deepwater habitats is to produce reconnaissance level information on the location, type and size of these resources. The maps are prepared from the analysis of high altitude imagery. Wetlands are identified based on vegetation, visible hydrology and geography. A margin of error is inherent in the use of imagery; thus, detailed on-the-ground inspection of any particular site may result in revision of the wetland boundaries or classification established through image analysis.

The accuracy of image interpretation depends on the quality of the imagery, the experience of the image analysts, the amount and quality of the collateral data and the amount of ground truth verification work conducted. Metadata should be consulted to determine the date of the source imagery used and any mapping problems.

Wetlands or other mapped features may have changed since the date of the imagery or field work. There may be occasional differences in polygon boundaries or classifications between the information depicted on the map and the actual conditions on site.

### Data exclusions

Certain wetland habitats are excluded from the National mapping program because of the limitations of aerial imagery as the primary data source used to detect wetlands. These habitats include seagrasses or submerged aquatic vegetation that are found in the intertidal and subtidal zones of estuaries and nearshore coastal waters. Some deepwater reef communities (coral or tubercid worm reefs) have also been excluded from the inventory. These habitats, because of their depth, go undetected by aerial imagery.

### Data precautions

Federal, state, and local regulatory agencies with jurisdiction over wetlands may define and describe wetlands in a different manner than that used in this inventory. There is no attempt, in either the design or products of this

inventory, to define the limits of proprietary jurisdiction of any Federal, state, or local government or to establish the geographical scope of the regulatory programs of government agencies. Persons intending to engage in activities involving modifications within or adjacent to wetland areas should seek the advice of appropriate federal, state, or local agencies concerning specified agency regulatory programs and proprietary jurisdictions that may affect such activities.

NOT FOR CONSULTATION



15 December 2021



**Brad Little**  
Governor of Idaho

**Janet Gallimore**  
Executive Director  
State Historic  
Preservation Officer

**Administration:**  
2205 Old Penitentiary Rd.  
Boise, Idaho 83712  
208.334.2682  
Fax: 208.334.2774

**Idaho State Museum:**  
610 Julia Davis Dr.  
Boise, Idaho 83702  
208.334.2120

**Idaho State Archives  
and State Records  
Center:**  
2205 Old Penitentiary Rd.  
Boise, Idaho 83712  
208.334.2620

**State Historic  
Preservation Office:**  
210 Main St.  
Boise, Idaho 83702  
208.334.3861

**Old Idaho Penitentiary  
and Historic Sites:**  
2445 Old Penitentiary Rd.  
Boise, Idaho 83712  
208.334.2844

HISTORY.IDAHO.GOV

Melanie Paquin  
Area Manager  
Bureau of Reclamation  
npolson@usbr.gov

Via Email

**RE: Invitation to Consult on the Proposed Kings Spill Pond Expansion Project, Minidoka Project, Idaho/ USF-1219 / 2.1.1.04 / SHPO Rev. No. 2022-177**

Dear Ms. Paquin:

Thank you for consulting with our office on the above-referenced project. The State Historic Preservation Office is providing comments to the Bureau of Reclamation pursuant to Section 106 of the National Historic Preservation Act and its implementing regulations, 36 CFR § 800. Consultation with the SHPO is not a substitution for consultation with Tribal Historic Preservation Offices, other Native American tribes, local governments, or the public.

It is our understanding that the scope of the undertaking will include creating two new ponds and deepening the existing ponds at the Kings Spill Parcel located in Township 9 South, Range 23 East, Section 12.

Pursuant to 36 CFR § 800.5, we have applied the criteria of effect to the proposed undertaking. Based on the information received 10 December 2021, we concur that the proposed project actions will result in a finding of **no adverse effect to historic properties.**

If cultural material is inadvertently encountered during the implementation of this project, work shall be halted in the vicinity of the finds until they can be inspected and assessed by the appropriate consulting parties.

Thank you for the opportunity to comment. Please note that our response does not affect the review timelines afforded to other consulting parties. Additionally, the information provided by other consulting parties may cause us to revise our comments. If you have any questions or the scope of work changes, please contact me via phone or email at 208.488.7463 or ashley.molloy@ishs.idaho.gov.

Sincerely,



**Ashley Molloy, M.A.**  
**Historical Review Officer**  
**Idaho State Historic Preservation Office**

## **Scoping Information Package**

### **Proposed Kings Spill Flood Water Catchment Ponds Enhancement Project in Minidoka County, Idaho**

This information package summarizes the proposal from the Minidoka Irrigation District (MID) to construct a series of flood water catchment ponds near the B-1 Canal outside of the city of Rupert, Idaho. The flood water catchment ponds would be constructed near but not directly connected to the original canal alignments to preserve the original canal for water delivery. The ponds' function is to catch excess water and prevent water damage to property when flooding occurs in the area.

Federal actions must be analyzed in accordance with the National Environmental Policy Act (NEPA) and other relevant Federal and State laws and regulations to determine potential environmental consequences. Reclamation is asking for comment to better identify issues and concerns associated with this proposal.

#### **Location and Background**

The Kings Spill area spans roughly 30 acres and sits three miles northwest from Rupert, Idaho, in Minidoka County along the Snake River Plain of southern Idaho. The Kings Spill area is a natural depression where water tends to pool during high water events. MID requested a title transfer through the John D. Dingell, Jr. Conservation, Management, and Recreation Act of 2019 (Pub. L. 116-9, 133 Stat. 804; 43 U.S.C. 2902, et seq.) (Dingell Act), which is an Act of Congress that was signed into law on March 12, 2019. Title VIII of this Act provides the Secretary of the Interior, acting through the Commissioner, with new authority to transfer title to certain eligible facilities to qualifying entities without specific acts of Congress. Reclamation's authority is also codified at 43 U.S.C. 2902, et seq. MID's Title Transfer was approved January 2021, which transferred title to irrigation facilities serving MID water users and other lands, rights and facilities supporting MID operations located within the Gravity Division, Minidoka Project, from the United States to MID. The facilities transferred include the water conveyance system; consisting of ditches, canals, drains, wasteways, and lands encumbered by those systems. The Kings Spill area was not included as part of the transfer because it is used by the public for recreation and is also a wildlife tract; therefore, it did not meet the requirements for transfer identified within the Dingell Act. The surrounding Lake Walcott Watershed includes 2,150,407 acres of land. In the winter of 2016/2017, Minidoka County had an unusually high amount of snowfall. In January, a warming trend melted some of the fallen snow and filled the canals and low-lying areas with ice. More snow accumulation and a hard freeze immediately followed the previous warming trend. Then a large rain event started the runoff in earnest and due to the ground still being frozen, the water could not percolate into the soil. The natural contour and depression of the landscape funneled the runoff down to the Kings Spill area. This location experienced a significant flooding event. Residences, road, bridges, and canal infrastructure all suffered major damage from this event.

## **Existing Current Condition**

The existing flood water catchment pond in the Kings Spill area covers approximately 7 acres and is 10 feet deep. This is the only flood water catchment pond in the area to take on water during high water or flooding events. The area is filled with water all year round and surrounded by agricultural fields and the B-1 Canal along the eastern border.

***Decision to be made***-Through the process of an environmental assessment, Reclamation will determine whether the proposed project would significantly affect the quality of the human environment and thereby require the preparation of an Environmental Impact Statement, and if not, where the project qualifies for a Finding of No Significant Impact. Reclamation will then determine whether to do one of the following:

- Go forward with the proposed action
- Deny the proposed action
- Go forward with the proposed action with minor changes

## **Purpose and Need of Action**

Reclamation's purpose for the Proposed Action is to respond to MID's request to construct a berm around the existing Kings Spill area, expand one existing flood holding pond from 5.3 to 10.3 acres and approximately 10 feet to 20 feet deep as well as create two additional flood water catchment ponds that would be 1.2 and 1.5 acres. The need for this action comes from the lack of flood protection in a flood-prone area during high precipitation years.

## **Proposed Action**

MID is requesting to create a berm around the existing Kings Spill area, expand one existing flood water catchment pond from 5.3 to 10.3 acres and approximately 10 feet to 20 feet deep as well as create two additional flood water catchment ponds that will be 1.2 and 1.5 acres. MID would preserve the trees and sagebrush in the area as much as possible. This action would occur during the winter of 2022–2023, funding dependent.

## **Preliminary Alternative Development**

The environmental assessment would include consideration of the Proposed Action Alternative and the No Action Alternative. Additionally, alternatives would be developed with the identified issues throughout the NEPA process.



Figure 1. Project location within southern Idaho.

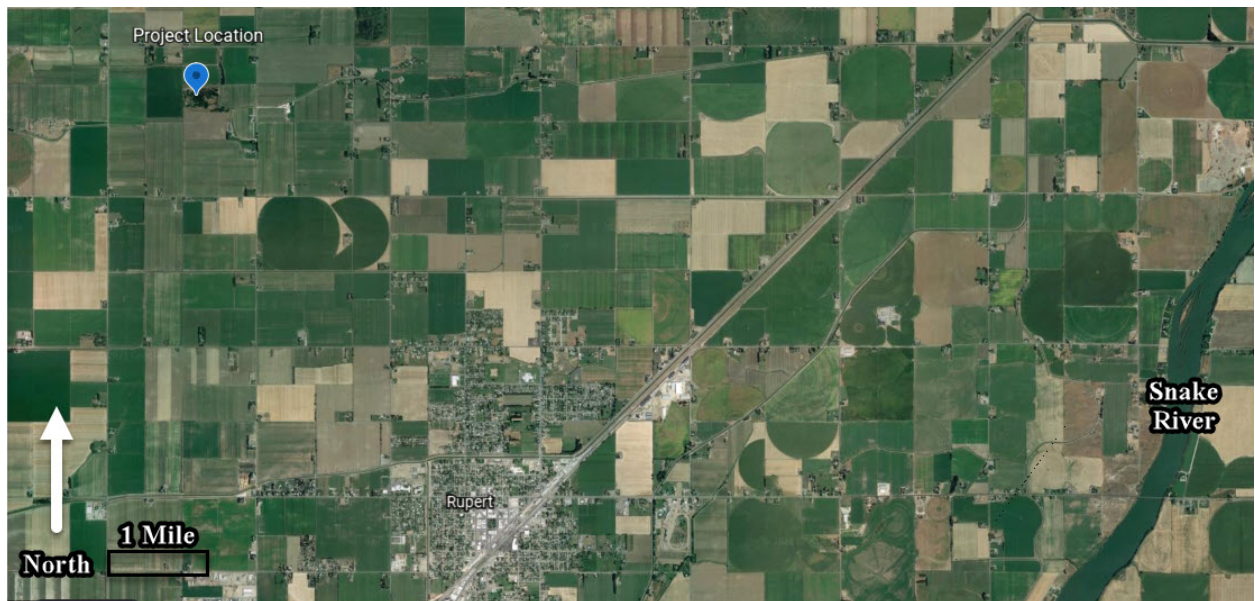


Figure 2. Project location proximity to largest city of Rupert, Idaho.

Position	Address	City	State	Zip	Type
ATTN: MS COLLEEN ERICKSON	410 MEMORIAL DR, SUITE 203	IDAHO FALLS	ID	83402	CONGRESSIONAL
ATTN: MS AMY TAYLOR	901 PIER VIEW DR, SUITE 202A	IDAHO FALLS	ID	83402	CONGRESSIONAL
ATTN: MR DON DIXON	410 MEMORIAL DR, SUITE 204	IDAHO FALLS	ID	83402	CONGRESSIONAL
CHAIRMAN	PO BOX 306	FORT HALL	ID	83203-0306	TRIBE
Tribal Water Engineer	PO BOX 307	FORT HALL	ID	83203-0306	TRIBE
Tribal Water Resources Commissioner	PO BOX 308	FORT HALL	ID	83203-0307	TRIBE
Tribal Water Resources	PO BOX 309	FORT HALL	ID	83203-0308	TRIBE
Tribal Water Resources Sergeant At Arms	PO BOX 310	FORT HALL	ID	83203-0309	TRIBE
Supervisor, Natural Resources and Fish and Wildlife Policy Representative	PO BOX 311	FORT HALL	ID	83203-0310	TRIBE
Natural Resources and G2G Coordinator	PO BOX 312	FORT HALL	ID	83203-0311	TRIBE
Cultural Resources Coordinator	PO BOX 313	FORT HALL	ID	83203-0312	TRIBE
	PO BOX 83720	BOISE	ID	83720-0199	STATE AGENCY
ENVIRONMENTAL RESOURCE SPECIALIST	900 N SKYLINE DR, SUITE A	IDAHO FALLS	ID	83402	FEDERAL AGENCY
ASSISTANT FIELD SUPERVISOR	4425 BURLEY DR, SUITE A	CHUBBUCK	ID	83202	FEDERAL AGENCY
STATE SUPERVISOR	1387 S VINNELL WAY, SUITE 368	BOISE	ID	83709	FEDERAL AGENCY
	650 Addison Avenue West, Suite 110	TWIN FALLS	ID	83301	STATE AGENCY
	324 South 417 East Suite 1	JEROME	ID	83338	STATE AGENCY
SOUTH REGION MANAGER	650 Addison Ave W, Ste 500	TWIN FALLS	ID	83301	STATE AGENCY
DIRECTOR	PO BOX 83720	BOISE	ID	83720-0098	STATE AGENCY
MAYOR	PO BOX 426	RUPERT	ID	83350	LOCAL AGENCY
EXECUTIVE DIRECTOR	4477 W EMERALD STE C-250	BOISE	ID	83706-2000	ASSOCIATION
EXECUTIVE DIRECTOR	1010 W JEFFERSON ST, SUITE 101	BOISE	ID	83702	ASSOCIATION
CHAIRMAN	PO BOX 83720	BOISE	ID	83720-0098	STATE AGENCY
GOVERNMENT RELATIONS DIRECTOR	PO BOX 844	BOISE	ID	83702	LETTER OF SUPPORT
WATER QUALITY DIVISION ADMIN	1410 N. HILTON	BOISE	ID	83706	LETTER OF SUPPORT

**[EXTERNAL] IDFG Comments re. Proposed Kings Spill Flood Water Catchment Ponds**

Dawson,Bradley &lt;bradley.dawson@idfg.idaho.gov&gt;

Tue 9/21/2021 11:12 AM

To: NEPA Mailbox, BOR SRA &lt;sra-nepa-comments@usbr.gov&gt;

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Dear Ms. Ochoa,

On September 20, the Idaho Dep. Of Fish and Game (IDFG) received a comment solicitation and Scoping Information Package from the Bureau of Reclamation regarding the proposed catchment ponds at Kings Spill in Minidoka County (SRA-1214). Thank you for the opportunity to provide comments; IDFG's mission is to protect, preserve, and manage Idaho's fish and wildlife resources for the public interest (Idaho Code 36-103).

The Kings Spill area contains approximately 30 acres of mixed ponds and wetlands and is co-managed by IDFG and the BOR as a "wildlife tract" that provides habitat for upland game and migratory waterfowl. The proposal seeks to expand the acreage and depth of the flood catchment ponds on the property through the creation of a berm.

We appreciate the clarification that Minidoka Irrigation District would "preserve the trees and sagebrush in the area as much as possible". Given this consideration, IDFG has no objections to the proposal.

Thank you again and give me a call if you have any questions.

Bradley Dawson  
Environmental Staff Biologist  
Idaho Department of Fish and Game  
208-644-6310

