

**UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT**

Shoshone Field Office
400 West F Street
Shoshone, ID 83352

DECISION RECORD

Ketchum Land Exchange
NEPA # DOI-BLM-ID-T030-2012-0008-EA

INTRODUCTION

The Bureau of Land Management (BLM), Shoshone Field Office (SFO) has conducted an environmental assessment (EA) (DOI-BLM-ID-T030-2012-0008-EA) to analyze the environmental effects and document the findings of a proposal submitted to the BLM by the Blue Canyon Corporation (Blue Canyon), an Idaho Corporation, and supported by the Wood River Land Trust Company (WRLT), an Idaho Nonprofit Corporation, for a land exchange. Sections 205 and 206 of the Federal Land Policy and Management Act of 1976 (FLPMA), as amended, provide authority to the Secretary of the Interior to acquire lands or interests in lands by purchase, exchange, or donation as well as to dispose of Federal land or interests in land by exchange when a determination is made that the public interest will be well served. When considering the public interest, the authorized BLM officer must give full consideration to: 1) the opportunity to achieve better management of Federal lands; 2) the needs of the state and local residents and their economies; and 3) securing important resource management objectives including, but not limited to, protection of fish and wildlife habitat, riparian habitat, enhancement of recreational opportunities and public access, accommodation of land use authorizations, and fulfillment of public needs.

The EA describing a proposed action and alternatives is available at the following website: <https://www.blm.gov/epl-front-office/eplanning/projectSummary.do?methodName=renderDefaultProjectSummary&projectId=23352> or at the SFO, and is incorporated by reference for this Decision Record. It has been determined that the project is not a major Federal action and will not significantly affect the quality of the human environment, individually, or cumulatively with other actions in the general area. Because there will not be any significant impact, an environmental impact statement is not required. The Finding of no Significant Impact for the project can also be located at the above-referenced website.

DECISION

It is my decision to select Alternative A as described in EA, DOI-BLM-ID-T030-2012-0008-EA, and approve a land exchange and a concurrently processed donation between the BLM, the Blue Canyon, and the WRLT. It is also my decision to issue to the BLM an access right-of-way identified as serial case number IDI-37310 being 200 feet wide and approximately 765 feet in length across the Blue Canyon parcel pursuant to Title V, Section 507 of the Act of October 21, 1976 (43 U.S.C. 1767). The BLM is in receipt of Mr. Fayed's Relinquishment of Application, Entry, or Grant forms regarding right-of-way grants IDI-22091, IDI-27018, and IDI-27119 which are hereby accepted. Right-of-way grants IDI-22091, IDI-27018, and IDI-27119 issued to Mr. Ali Fayed will be formally relinquished with the issuance of the patent for the Blue Canyon Parcel to the Blue Canyon.

The parties above initiated the single-phase assembled land exchange and donation in an effort to resolve a long-standing inadvertent trespass and to meet the land tenure adjustment objectives of the BLM SFO. All lands involved in the exchange are located in Blaine County, Idaho.

In Alternative A, the United States will convey one parcel of Federal land (Blue Canyon parcel), including surface and mineral interests totaling 19.92 acres, with one associated State water right, valued at \$700,000, to the Blue Canyon. The patent will reserve a right-of-way for ditches and canals constructed by the authority of the United States pursuant to the Act of August 30, 1890 (43 U.S.C. 945), and will be issued subject to valid existing rights described more fully in Exhibit A, attached to this decision. There are no unpatented mining claims, withdrawals, or oil and gas leases on the Federal land.

In the exchange deed to the United States, the WRLT will be directed by the Blue Canyon to convey two parcels, including Square Lake – 240 acres (surface and mineral interests), and Sheep Bridge – 306.89 acres (surface only) and associated State water rights for irrigation which is currently held in the Idaho Water Supply Bank, valued at \$700,000. The remainder of the non-Federal land in the Square Lake retained parcel [80 acres (surface and mineral interests)] will be conveyed in a separate action as a donation from the WRLT to the United States.

The land exchange and donation will proceed as described and analyzed for Alternative A in the EA with closing of the actions conditioned upon the terms and conditions as noted below.

The legal descriptions, reservations, and encumbrances are shown in Exhibits A, B, and C. All other non-Federal lands initially considered for exchange and identified in the Notice of Exchange Proposal, published on December 29, 2010, have been deleted from the proposal and will not be conveyed in this exchange. The non-Federal Cowcatcher parcel was dropped during the processing of the exchange and the boundary of the Square Lake parcel was modified to achieve equalization in value.

Terms and Conditions

Prior to closing, the Blue Canyon will be required to ensure that the WRLT removes existing improvements deemed unacceptable by either the BLM or the Solicitor for the Department of the Interior. Such improvements are anticipated to only include the small barn located on the Sheep Bridge non-Federal parcel.

At closing of the land exchange, the United States will provide a properly executed and recorded patent to the Blue Canyon from the United States for the Federal land described in Exhibit A, containing the reservations and encumbrances also described in Exhibit A. The WRLT will provide the United States with a properly executed and recorded warranty deed for the non-Federal lands containing the legal descriptions, reservation and encumbrances described in Exhibit B, and a donation deed for the non-Federal land containing the legal description, reservations, and encumbrances described in Exhibit C, subject to only those encumbrances deemed acceptable by the Solicitor for the Department of the Interior. The warranty deeds will be accompanied by Policies of Title Insurance on the form approved by the Department of Justice. The policies of Title Insurance must show that title to the non-Federal lands is vested in “the United States of America, and its assigns.”

The land exchange will be completed without compensation for any assumption of costs. Furthermore, since the values of the Federal and non-Federal land have been equalized by

adjustment (reduction) of the non-Federal acreage conveyed in the land exchange, no equalization payment will be required.

In the absence of any protests, the decision to exchange the selected Federal lands for the offered non-Federal lands as well as the acceptance of the offered donation will become the final determination of the Department of the Interior.

RATIONALE FOR THE DECISION

The decision to exchange 19.92 acres (Blue Canyon parcel) of selected Federal lands for 546.89 acres (Square Lake and Sheep Bridge parcels) of non-Federal lands as well as acquire 80 acres (Square Lake retained parcel) of non-Federal lands through donation are consistent with the criteria for land tenure adjustment (exchanges, donations, etc.) established in the FLPMA and the approved Sun Valley (1981) and Magic (1975) Management Framework Plans (MFP), as amended. The BLM is authorized to complete land tenure adjustment actions, including the disposal of Federal lands and acquisition of non-Federal lands, by either exchange or donation if it has been determined to be in the public interest.

Implementation of Alternative A meets the purpose and need identified in the EA and will be consistent with objectives and potential impacts analyzed in the EA and the Sun Valley and Magic MFPs, as amended. The proposed action is rejected as it will leave a private inholding of 80 acres (Square Lake retained parcel) among a large area of BLM-administered Federal lands. The no action alternative is rejected because it will only resolve the long-standing inadvertent trespass and, therefore, will not meet the SFO land tenure objectives.

Public Interest Determination

The impact of the land exchange and donation on the natural resource values on both the selected Federal and offered non-Federal lands were analyzed in the EA. Based on that analysis, I have determined that, in accordance with the provisions of Section 206 of the FLPMA, the public interest is well served by approval of the land exchange between BLM and the Blue Canyon, as well as the land donation as described in this Decision Record because:

- A. Disposal of the Federal lands will resolve a long-standing inadvertent trespass and allow the unauthorized improvements associated with the adjacent private residence to remain on the parcel. The Federal lands are encumbered with multiple rights-of-way, several of which are associated with the adjacent private residence. Disposal of the Federal lands “subject to” the rights-of-way will allow for the elimination of the BLM’s administration of the rights-of-way. The exchange and donation will result in the consolidation of both Federal and non-Federal lands and allow for more cost-effective and efficient management of both interests. Disposal of the Federal lands to the Blue Canyon will consolidate their lands for non-Federal uses associated with the adjacent residence and eliminate management conflicts with the BLM. The BLM’s acquisition of the non-Federal parcels (both land exchange and donation) will eliminate private inholdings within a large block of BLM-administered Federal lands making natural resource management on adjacent BLM-administered Federal lands more cost effective and efficient. The exchange will also provide a net gain of BLM-administered Federal lands within the SFO’s land tenure Zone 5.
- B. Acquisition of the non-Federal lands (both land exchange and donation) will result in the BLM’s acquisition of higher resource valued lands with identified habitat for BLM Sensitive Species in exchange for the disposal of lower resource valued lands. While sensitive species

are not federally protected, it is the BLM's policy to manage these species to prevent future listing. The Greater Sage-Grouse (Type 1 Sensitive); pygmy rabbit (Type 2 Sensitive); loggerhead shrike, willow flycatcher, Brewer's sparrow, mourning milkvetch, and bugleg goldenweed (Type 3 Sensitive); and sage thrasher, short-eared owl, and Brewer's blackbird (Type 5 Watchlist) were documented to occur on the non-Federal parcels. The Greater Sage-Grouse and pygmy rabbits are both listed as Idaho Department of Fish and Game's (IDFG) Species of Conservation Need. The Greater Sage-Grouse is also listed by the U.S. Fish and Wildlife Service as a candidate for listing under the Endangered Species Act (ESA). The non-Federal parcels are within preliminary priority habitat for the Greater Sage-Grouse.

- C. Disposal of the Federal parcel will result in a loss of habitat with documented occurrences of Brewer's sparrow and prairie falcon (Type 3 Sensitive).
- D. Acquisition of the non-Federal lands (both land exchange and donation) will increase the amount of identified crucial mule deer winter range; and mule deer, pronghorn and elk migration routes as well as unaltered riverine, riparian, and wetland areas under the BLM's administration. The Square Lake parcels have about 28.6 acres of riparian area and wetlands with the Sheep Bridge parcel having approximately 30.4 acres. The Square Lake parcel contains Square Lake. The Sheep Bridge parcel contains a 1-mile reach of unaltered riverine and riparian habitat along the Big Wood River and a ½ mile reach of riparian habitat along Rock Creek. The Federal parcel does not contain any riparian areas or wetlands.
- E. Alternative A will result in the removal of the Blue Canyon parcel from the North Ketchum Special Recreation Management Area (SRMA) reducing the SRMA by less than 8 percent, from 272 acres to 252 acres. The parcel does not provide access to the Big Wood River and does not contain existing recreation features consistent with the SRMA aside from open space. Acquisition of the non-Federal lands (both land exchange and donation) will increase the amount of BLM-administered Federal lands available for recreational uses, including special recreation permits for commercial outfitters on the Big Wood River. The non-Federal lands offer access to the Big Wood River and Rock Creek.
- F. A Mineral Potential report has been prepared for the Federal lands included in the exchange. The Mineral Potential report concluded that despite intensive mineral exploration in the Wood River valley for more than 100 years, no mineral deposits have been discovered in the vicinity of the Federal lands. No sand and gravel or other salable mineral resources exist on the Federal lands. Therefore, the mineral potential of the Federal lands is classified as having no known mineral values for all mineral resources. To avoid unmanageable split estate, the surface and mineral estates for the Federal lands will be conveyed together to the Blue Canyon. The patent for the Federal lands will reflect this recommendation. The United States owns 306.89 acres of the mineral estate for the non-Federal lands (Sheep Bridge parcel) by virtue of prior patent reservations. The remaining mineral estate (Square Lake parcels – 320 acres) for the non-Federal lands will be re-conveyed to the United States with the surface estate. Reuniting the surface and mineral estates (306.89 acres) and acquiring the mineral estate along with the surface estate (320 acres) will facilitate future mineral management by the BLM.
- G. The exchange of the selected Federal lands will not result in a reduction in access for livestock trailing purposes as the existing livestock access across the Federal lands will be reserved to the United States by a right-of-way reservation identified as IDI-37310 under Title V, Section 507 of the Act of October 21, 1976 (43 U.S.C. 1767). This right-of-way will

reserve public and livestock access from SH 75 across a portion of the Federal lands to the adjacent BLM-administered Federal lands. Use of the reserved access for livestock trailing will be managed with the BLM's issuance of crossing permits. The current livestock grazing permit will be updated to exclude the area that will no longer be managed by the BLM. However, the preference for the allotment will not be affected as Alternative A will result in less than 1 percent reduction in acres (meaning that there will be no change in Animal Unit Months). The livestock grazing permittee was notified in writing (scoping notification letter dated December 28, 2010) of the proposed land exchange with a copy of the Notice of Exchange Proposal, initiating the 2-year notification period as required by regulations at 43 CFR 4110.4-2(b).

H. There are no cultural resources eligible for the National Register of Historic Places or significant paleontological resources on the selected Federal parcels.

The intended and most likely foreseeable future use of the selected Federal lands after they are transferred to the Blue Canyon is continuation of the existing uses associated with the adjacent non-Federal residence. The intended use of the conveyed Federal lands will not significantly conflict with established management objectives on adjacent Federal lands. Management of the non-Federal parcels (land exchange and donation) will be according to applicable Federal laws and regulations, including the FLPMA; the Environmental Species Act of 1973; and in conformance with decisions in the Magic MFP. Management under multiple-use principles will apply pursuant to guidance in the approved MFP. Because the Square Lake, Sheep Bridge, and 80-acre retained parcels include habitat for the Greater Sage-Grouse, future management actions will also be consistent with the BLM's Washington Office Instruction Memoranda No. 2012-043 and 2012-044, the BLM's *National Sage-Grouse Conservation Strategy*, and the *Conservation Plan for the Greater Sage-grouse in Idaho*.

The non-Federal lands in the land exchange will remain closed to the operation of the public land and mineral laws for a period of 90 days after acceptance of title by the BLM (43 CFR 2201.9(b)). Following this period, and subject to valid existing rights, the lands will be automatically opened to operation under the public land and mineral laws. The land conveyed by donation will remain closed to the operation of the public land and mineral laws pursuant to 43 CFR 2091.

The resource values and the public objectives that the Federal land or interests to be conveyed may serve if retained in Federal ownership are not more than the resource values of the non-Federal lands or interests and the public objectives they could serve if acquired.

Water Rights

The Federal Blue Canyon parcel has one associated water right (37-17314) allowing for 0.02 cubic feet per second of water from an unnamed stream for stockwater purposes that will be transferred from the United States to the Blue Canyon. The Blue Canyon will be responsible for ensuring that all appropriate paperwork is filed with the Idaho Department of Water Resources (IDWR) regarding the transfer in ownership upon issuance of any patent for the Blue Canyon parcel.

The non-Federal Square Lake parcels (both land exchange and donation) do not have any water rights associated with them.

According to the IDWR, there are three water rights with a current place of use (POU) listed as the Sheep Bridge parcel. Two of the water rights (37-26 and 37-27) have interests held by several people. The United States will acquire an interest in water rights 37-26 and 37-27 allowing for 0.111 cubic feet per second of water from the Big Wood River for each water right for irrigation purposes. The BLM will request that the IDWR split water rights 37-26 and 37-27 into separate rights for each successor. The BLM will be responsible for ensuring that all appropriate paperwork is filed with the IDWR regarding the transfer in ownership for the acquired water right interests upon issuance of any deed for the Sheep Bridge parcel. The entirety of water rights, 37-26 and 37-27, have been placed in the Idaho Water Supply Bank in order to protect them from forfeiture due to non-use. The BLM intends to leave the newly acquired water right interests in the Idaho Water Supply Bank for the time being. The remaining holders of interests in water rights, 37-26 and 37-27, have informed the BLM of their intent to execute an agreement, acceptable to the United States, that: 1) the holders will not apply their interest in the water rights on the appurtenant property; and, 2) the holders will transfer their interests in the water rights to other “non-Federal” property.

The third water right (37-20945) is a claim to “saved water” that was created with the construction of the extension bypass canal and provides a total of 1.50 cubic feet per second for irrigation and mitigation purposes. The claim has been recommended for disallowance by the IDWR Director (Report dated 4/30/12) to the Snake River Basin Adjudication (SRBA) Court. The deadline for objecting to IDWR’s recommendation of disallowance was June 29, 2012; no objections were received. The SRBA Court was scheduled to hold a hearing on the uncontested recommendations on September 18, 2012; however, this hearing will be rescheduled due to the overlapping of other contested water rights (that do not affect the Sheep Bridge parcel). If there is no opposition at the hearing, then the SRBA Court will issue a final order disallowing the claim soon thereafter. The WRLT, current owner of the Sheep Bridge parcel, has no ownership or interests in water right 37-20945. Therefore, the United States will not receive any interest in water right 37-20945.

Hazardous Substances

A Phase I Environmental Site Assessment (Phase I) was conducted for both the Federal and non-Federal lands to determine if any recognized environmental conditions exist that may preclude the acquisition or disposal of the parcels. The assessments conformed to the BLM Manual Handbook H-2000-02, *Environmental Site Assessments for Disposal of Real Property* (for the Blue Canyon parcel) and H-2000-01, *Pre-Acquisition Environmental Site Assessments* (for the Square Lake and Sheep Bridge parcels). No evidence of any hazardous substance releases, past environmental contamination, or existing solid waste dumping were identified on any of the Federal or non-Federal lands.

Equal Value Requirements

The properties involved in this land exchange were appraised in accordance with Federal standards and regulations at 43 CFR 2200.0-6(c). All reservations, restrictions, and encumbrances that will be included in the conveyance documents for both the Federal and non-Federal lands were identified and considered in the appraisals. The Department of the Interior, Office of Valuation Services approved the values for both the Federal and non-Federal lands. The parties to the exchange concurred with the values established for both the Federal and non-Federal lands. An Agreement on Value for Lands involved in the Ketchum Land Exchange was

approved and accepted on April 17, 2012. The total approved value of the Federal lands is \$700,000; the approved value of the non-Federal lands is \$700,000. One non-Federal parcel (Cowcatcher) was eliminated from consideration and acreage was reduced for a second parcel (Square Lake parcel). The resultant, equalized land exchange proposal includes the BLM conveying one parcel of Federal land totaling approximately 20 acres (Blue Canyon parcel) to the Blue Canyon, in exchange for the BLM acquiring two parcels of non-Federal land totaling an estimated 547 acres (Square Lake parcel – 240 acres and Sheep Bridge parcel – 307 acres). The Blue Canyon, with the WRLT's support, has offered to the BLM as a donation, the acres reduced from the Square Lake parcel, referenced as the 80-acre retained parcel.

Conformance with the Land Use Plan

Alternative A has been reviewed and found to be in conformance with the approved Sun Valley (1982) and Magic (1975) MFPs, as amended and exchange regulations at 43 CFR 2200.0-6(g). The two MFPs were amended collectively in 2003 by the *Amendments to Shoshone Field Office Land Use Plans for Land Tenure Adjustment and Areas of Critical Environmental Concern* ("2003 Amendment") to identify land management strategies and land ownership adjustment criteria for land tenure adjustment proposals. The 2003 Amendment identifies five land management zones (Zones 1 through 5), each with different management strategies where BLM-administered Federal lands are emphasized for retention or can be considered for disposal. The approved Sun Valley (1982) and Magic (1975) MFPs, as amended offer no affirmative direction regarding land adjustments that will expand or reduce the acres of public land within the boundaries of SRMAs within the respective planning areas. As previously stated, a slight reduction in acreage within the North Ketchum SRMA will occur with implementation of Alternative A.

The parcels involved with Alternative A are located within two land management zones – Zone 2 (Square Lake parcels, inclusive of the 80-acre retained parcel) and Zone 5 (Blue Canyon and Sheep Bridge parcels). The priorities for Zone 2 are to retain the existing large blocks of high-value public lands within the zone, consolidate public lands ownership within high-priority watersheds by seeking to acquire non-Federal and state inholdings in those watersheds, and acquire additional high resource value lands within lower priority watersheds. Acquired lands also have to improve efficiencies in public land management. The general land tenure management strategy of Zone 5 is to consolidate ownership; maintain the total amount of public land within the zone; and to "acquire, primarily through exchange, additional high resource value lands that improve the manageability of public lands" that "would result in disposal of lower resource value and difficult to manage tracts of Zone 5 public lands" (2003 Amendment, page 10).

The Federal lands can be disposed of as the disposal provides an opportunity to consolidate Federal lands, accommodate the need for community expansion, improve management in areas of high resource values, resolve long-standing unauthorized uses, and is otherwise in the public interest (2003 Amendment). Federal acquisition of the non-Federal lands (both land exchange and donation) will consolidate land ownership patterns for more effective and efficient management; increase the amount of federally owned wildlife habitat, including preliminary priority habitat for the Greater Sage-Grouse, habitat for pygmy rabbits, crucial mule deer winter range, and mule deer, pronghorn and elk migration routes; increase the amount of federally owned wetland and riparian habitat; and provide a net gain of BLM-administered Federal lands within the BLM SFO land tenure Zones 2 and 5. Alternative A therefore meets the objectives outlined in the Sun Valley and Magic MFPs, as amended, to resolve long-standing unauthorized

uses, consolidate Federal lands, and to improve management in areas of high resource values.

Relationship to Statutes, Regulations, or Other Plans

Disposal of Federal lands as well as the acquisition of non-Federal lands is allowable by the BLM per Title II of the FLPMA. Section 205 allows the BLM to acquire lands or interests in lands by purchase, exchange, donation, or eminent domain. Section 206 allows for the BLM to dispose of Federal lands by exchange. The BLM regulations at 43 CFR Part 2200.0-6 allow for the completion of an exchange where it is determined to be in the public interest.

Native American Consultation

As part of tribal consultation, the Shoshone-Bannock and Shoshone-Paiute Tribes were presented with information by the BLM regarding the proposed land exchange to solicit comments. The Shoshone-Bannock Tribes were sent a scoping notification letter on December 28, 2010, and information was presented at a meeting on January 20, 2011, and November 8, 2011. The project was presented to the Tribal Business Council on April 30, 2012, and they stated their support for the exchange due to the fact that there is a net increase of approximately 600 acres. The BLM SFO regularly meets with the Shoshone-Paiute Tribes on projects throughout the field office. Information on the proposed land exchange was initially presented to the Tribes on December 2, 2010, with multiple periodic updates. The Tribes initially expressed their opposition to any Federal land disposals; however, recent discussions have resulted in a visit to the parcels to be acquired to discuss their potential benefits. As a result of the site visit, the Tribes noted their support of the BLM's acquisition of the non-Federal higher resource valued lands. None of the Tribes provided information about, or expressed interest in, any particular historic properties of religious and cultural significance on the Federal lands.

Summary of Public Involvement

The BLM was presented with two land tenure adjustment proposals: the proposed Ketchum Land Exchange and a proposal to dispose of lands under the Recreation and Public Purposes Act (R&PPA) (43 USC 869) to the City of Ketchum (IDI-36276). Because of the proximity of the parcels involved in both proposals, the similarity of the resources on or associated with all parcels involved, the need to assess the public benefit of the land tenure adjustment proposals, and the desire by all parties to the proposals for efficiency of efforts, the BLM originally chose to evaluate both proposals in one EA; subsequently, a determination was made to analyze the two proposals in separate EAs. Initial scoping and public involvement included and described each land tenure adjustment proposal independently, while the resource surveys, inventories, and technical reporting were combined for efficiencies. For this reason, scoping documents include comments and issues identified for both the land exchange and R&PPA proposals. Scoping issues attributed specifically to the land exchange were identified and are analyzed in the Ketchum Land Exchange EA, DOI-BLM-ID-T030-2012-0008-EA. Issues specifically pertaining to the R&PPA proposal were not considered in the EA. Issues identified, but with insufficient clarity to be directly attributed to one proposal or the other, were considered during the preparation of the EA.

The public was informed of the proposed land exchange by publication of a combined Notice of Exchange Proposal and Notice of Recreation and Public Purposes Act Proposal in the local newspaper in December 2010 and January 2011 and through briefings with representative groups including the Blaine County Commissioners and State Government elected officials. Copies of the notice were also sent to grazing permittees, right-of-way holders, adjacent landowners,

elected officials of both local and state governments, and other interested parties and groups. A public open house was held on January 10, 2011, at Atkinson Park in Ketchum to provide information to the public, answer questions, and solicit public comments on the proposed land exchange. A scoping packet was posted on the BLM National Environmental Policy Act (NEPA) website as of December 30, 2010. Additional hard copies of the scoping packets were mailed upon request.

Comments and Issues Raised by the Public

In response to publications of the notice and the public open house, the BLM received several public comments. The BLM summarized the comments received during the comment period and scoping process, and identified the issues noted in Table 1 (EA, page 14). These issues were addressed during preparation of the EA. In general, the comments received were in support of the land exchange, with no significant opposition.

Comment letters were received from the IDFG and the BLM Twin Falls District Resource Advisory Council (TFD RAC) indicating support of the proposed land exchange. The IDFG stated their support for the land exchange proposal, noting that their interpretation of the proposed land exchange presented during scoping appeared to meet the stated objectives, particularly with respect to protecting and enhancing wildlife values and BLM sensitive species habitat. The IDFG comments noted that the WRLT currently has the Sheep Bridge parcel identified for participation in the “*Access Yes!*” program, restricted to foot-access only and encouraged the BLM to continue to manage access to the parcel in this manner.

The TFD RAC indicated that, based on information presented during scoping, wildlife habitat on the offered non-Federal parcels “appeared to be more significant” and that the proposed land exchange will resolve trespass, and increase the number of public land acres in Blaine County. The TFD RAC noted that the Square Lake parcels contained habitat for mule deer winter range, a Greater Sage-Grouse lek, big sagebrush, and habitat for pygmy rabbit and Brewer’s sparrow. The Sheep Bridge parcel was noted to contain critical mule deer, pronghorn, and elk migration corridor routes, in addition to big sagebrush and pygmy rabbit habitat.

IMPLEMENTATION PERIOD

Implementation of this decision for the land exchange will occur upon the expiration of a 45-day protest period initiated by the publication of a Notice of Decision (NOD) (43 CFR 2201.7-1) and the resolution of any protests. Implementation of this decision for the donation will occur upon the expiration of a 30-day appeal period. The land exchange and the donation are anticipated to be fully implemented simultaneously.

ADMINISTRATIVE REMEDIES

This decision with regards to the NEPA may be appealed to the Interior Board of Land Appeals (IBLA), Office of the Secretary, in accordance with the regulations contained in 43 CFR Part 4. Public notification of this decision will be considered to have occurred on October 10, 2012. Within 30 days of this decision, a *Notice of Appeal* must be filed in the office of the authorized officer at 400 West F Street, Shoshone, Idaho, 83352. If a statement of reasons for the appeal is not included with the Notice, it must be filed with the IBLA, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy St., Suite 300, Arlington, Virginia 22203 within 30 days after the *Notice of Appeal* is filed with the authorized officer.

If you wish to file a *Petition for Stay* pursuant to 43 CFR Part 4.21(b), the *Petition for Stay*

should accompany the *Notice of Appeal* and must show sufficient justification based on the following standards: 1) the relative harm to the parties if the stay is granted or denied, 2) the likelihood of the appellant's success on the merits, 3) the likelihood of irreparable harm to the appellant or resources if the stay is not granted, and 4) whether the public interest favors granting the stay.

If a *Petition for Stay* is submitted with the *Notice of Appeal*, a copy of the *Notice of Appeal* and *Petition for Stay* must be served on each party named in the Decision from which the appeal is taken, and with the IBLA at the same time it is filed with the authorized officer.

A copy of the *Notice of Appeal*, any statement of reasons and all pertinent documents must be served on each adverse party named in the Decision from which the appeal is taken and on the Office of the Solicitor, 960 Broadway Avenue, Suite 400, Boise, Idaho 83706, not later than 15 days after filing the document with the authorized officer and/or IBLA.

Approval of Authorized Officer

/s/ Holly Hampton
Holly Hampton, Assistant Shoshone Field Manager/
Monument Manager

4 October 2012
Date

Exhibit A- Federal Land Exchange Parcel

The 19.92 acres of Federal land to be exchanged are described as follows:

Blue Canyon Parcel (19.92 Acres)

Boise Meridian, Blaine County, Idaho,
Township 4 North, Range 17 East,
Section 1: Lot 7.

Both the surface and mineral estates for the Blue Canyon Parcel will be transferred in this exchange. The Blue Canyon Parcel currently has one water right (37-17314) appurtenant to the land which will be transferred to the Non-Federal Party. The patent will reserve a right-of-way for ditches and canals constructed by the authority of the United States pursuant to the Act of August 30, 1890 (43 U.S.C. 945), and will be issued subject to valid existing rights, including:

- Those rights for access purposes issued to the Bureau of Land Management, its successors or assigns, by right-of-way IDI-37310, pursuant to Title V of the Act of October 21, 1976 (43 U.S.C. 1767).
- Those rights for Federal Highway purposes issued to the Idaho Department of Transportation, its successors or assigns, by right-of-way IDBL-0-50218, pursuant to the Act of August 27, 1958, as amended (23 U.S.C. 317).
- Those rights for buried natural gas distribution purposes granted to the Intermountain Gas Company, its successors and assigns, by right-of-way IDI-4693, pursuant to Section 28 of the Mineral Leasing Act (30 U.S.C. 185).
- Those rights for buried telephone distribution purposes granted to the Qwest Corporation, its successors and assigns, by right-of-way IDI-20192, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761).
- Those rights for buried natural gas distribution purposes granted to the Intermountain Gas Company, its successors and assigns, by right-of-way IDI-21139, pursuant to Section 28 of the Mineral Leasing Act (30 U.S.C. 185).
- Those rights for buried television cable distribution purposes granted to the Cox Communications, its successors and assigns, by right-of-way IDI-23532, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761).
- Those rights for electrical distribution purposes granted to the Idaho Power Company, its successors and assigns, by right-of-way IDI-27046, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761).
- Those rights for buried natural gas distribution purposes granted to the Intermountain Gas Company, its successors and assigns, by right-of-way IDI-27056, pursuant to Section 28 of the Mineral Leasing Act (30 U.S.C. 185).
- Those rights for buried water distribution purposes granted to the City of Ketchum, its successors and assigns, by right-of-way IDI-27470, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761).

- Those rights for buried water distribution purposes granted to the City of Ketchum, its successors and assigns, by right-of-way IDI-32433, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761).
- Those rights for buried fiber optic purposes granted to the Syringa Networks, LLC, its successors and assigns, by right-of-way IDI-33859, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761).
- Pursuant to the requirements established by Section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act [42 U.S.C. 9620(h)] (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1988 (100 Stat. 1670), notice is hereby given that the above described parcel has been examined and no evidence was found to indicate that any hazardous substances have been stored for one year or more, nor have any hazardous substances been disposed of or released on the subject property.
- The patentee, by accepting this patent, covenants and agrees to indemnify, defend, and hold the United States harmless from any costs, damages, claims, causes of action, penalties, fines, liabilities, and judgments of any kind arising from the past, present, and future acts or omissions of the patentee, its employees, agents, contractors, lessees, or any third party, arising out of, or in connection with the patentee's use, occupancy, or operations on the patented real property. This indemnification and hold harmless agreement includes, but is not limited to, acts and omissions of the patentee and its employees, agents, contractors, or lessees, or any third party, arising out of, or in connection with, the use and/or occupancy of the patented real property that has already resulted or does hereafter result in: (1) Violations of Federal, state, and local laws and regulations that are now, or may in the future, become applicable to the real property; (2) Judgments, claims, or demands of any kind assessed against the United States; (3) Costs, expenses, or damages of any kind incurred by the United States; (4) Releases or threatened releases of solid or hazardous waste(s), and /or hazardous substance(s), as defined by Federal or state environmental laws, off, on, into or under land, property and other interests of the United States; (5) Activities by which solids or hazardous substance(s) or wastes, as defined by Federal and state environmental laws are generated, released, stored, used or otherwise disposed of on the patented real property, and any cleanup response, remedial action, or other actions related in any manner to said solid or hazardous substance(s) or waste(s); or (6) Natural resource damages as defined by Federal and state law. This covenant shall be construed as running with the patented real property and may be enforced by the United States in a court of competent jurisdiction.

Exhibit B – Non-Federal Land Exchange Parcels

The 546.89 acres of non-Federal land (Square Lake Parcel and Sheep Bridge Parcel) to be acquired are described as follows:

Square Lake Parcel (240 Acres)

Boise Meridian, Blaine County, Idaho,
Township 2 South, Range 18 East,
Section 9: SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$;
Section 10: W $\frac{1}{2}$ W $\frac{1}{2}$.

Both the surface and mineral estates for the Square Lake Parcel will be transferred in this exchange. The Square Lake Parcel does not have any water rights appurtenant to the land. The land transfer will be subject to the following valid existing rights:

- Reservations and Rights-of-Way contained in that certain United States of America Patent, recorded May 23, 1919, as Instrument No. 42653, records of Blaine County, Idaho. Subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; and there is reserved from the lands here granted, a right-of-way thereon for ditches or canals constructed by the authority of the United States.
- Terms and Conditions contained in that certain right-of-way for the Magic Reservoir and Canal System, recorded June 9, 1906, as Instrument No. 4954, records of Blaine County, Idaho.
- Terms and Conditions in that certain Agreement for Easement and Right-of-Way in favor of the United States of America, recorded as Instrument No. 89791, records of Blaine County, Idaho. Right-of-Way on any lands owned by John Brown, Grantee, in Sections 4, 9, and 10 of T. 2 S., R. 18 E., B.M., and in Sections 20 and 29 in T. 1 S., R. 18 E., B.M., for construction of a truck trail not wider than 30 feet ditch line to ditch line. The said easement and right-of-way hereby granted is for the full, free, unrestricted, and quiet use and enjoyment by the Grantee of the land of the Grantor, occupied by the said improvements, for any and all purposes deemed necessary or beneficial for, or in connection with, the control, administration, or use of the public land surrounding or adjacent to the land herein described, which may be properly grazed from, serviced by, or used in connection with the said land improvements, including the right of ingress and egress to, from, and over the land of the said Grantor by the Grantee, its officers, agents, permittees, allottees, and licensees for the purpose of repairing, renewing, or using the said improvements, or for other business pertaining to the use and maintenance thereof, and will be appurtenant to said public land.
- Grant of Easement and Right-of-Way in favor of the United States of America, recorded April 26, 1962, as Instrument No. 116829, records of Blaine County, Idaho. Right-of-Way for construction of approximately 200 rods of 4-wire fence with posts a rod apart. The said easement and right-of-way hereby granted is for the full, free, unrestricted, and quiet use and enjoyment by the Grantee of the land of the Grantor, occupied by the said improvements, for any and all purposes deemed necessary or beneficial for, or in connection with, the control, administration, or use of the public land surrounding or adjacent to the land herein described, which may be properly grazed from, serviced by, or used in connection with the said land

improvements, including the right of ingress and egress to, from, and over the land of the said Grantor by the Grantee, its officers, agents, permittees, allottees, and licensees for the purpose of repairing, renewing, or using the said improvements, or for other business pertaining to the use and maintenance thereof, and will be appurtenant to said public land.

- Access Road Easement in favor of the United States of America, recorded as Instrument No. 133789, records of Blaine County, Idaho. A perpetual easement and right-of-way, including but not limited to, the right and privilege to locate, construct, relocate, maintain, control, and repair a roadway within a strip of land 50 feet on each side of the centerline.

Sheep Bridge Parcel (306.89 Acres)

Boise Meridian, Blaine County, Idaho

Township 1 South, Range 17 East,

Section 13: Portion of the SE $\frac{1}{4}$;

Section 24: NE $\frac{1}{4}$ NE $\frac{1}{4}$, Portion of the NW $\frac{1}{4}$ NE $\frac{1}{4}$.

Township 1 South, Range 18 East, Blaine County, Idaho,

Section 18: Portion of the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Portion of the SW $\frac{1}{4}$ SE $\frac{1}{4}$, and Portion of Lot 4;

Section: 19 NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, and Lot 1.

Being more particularly described as follows¹:

A parcel of land located within Sections 13 and 24, Township 1 South, Range 17 East, Boise Meridian, Blaine County, Idaho and also within Sections 18 and 19, Township 1 South, Range 18 East, Boise Meridian, Blaine county, Idaho, and more particularly described as follows:

Commencing at a brass cap marking the One Quarter Corner common to said Section 18 and 19, from which point the northwest corner of said Section 19 bears South 89°35'52" West 2,478.84 feet;

Thence, North 89°38'46" East 1,331.67 feet along the north boundary of said Section 19 to an aluminum cap marking the northeast corner of the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 19, which point is the REAL POINT OF BEGINNING;

Thence, South 0°11'50" East 1,311.76 feet along the east boundary of said NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 19 to an aluminum cap marking the southeast corner of said of said NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 19;

Thence, South 89°29'31" West, 1,325.15 feet along the south boundary of said NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 19, to an aluminum cap marking the southwest corner of said NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 19;

Thence, South 89°28'02" West, 2,473.88 feet along the south boundary of the N $\frac{1}{2}$ NW $\frac{1}{4}$ to an aluminum cap marking the southwest corner of said N $\frac{1}{2}$ NW $\frac{1}{4}$, Section 19;

Thence, South 88°33'38" West 2,227.48 feet along the south boundary of the N $\frac{1}{2}$ NE $\frac{1}{4}$, said Section 24;

¹ Otherwise described as Blaine County, Idaho Tax Lot 7946

Thence, North 11°07'50" East 324.91 feet;

Thence, North 78°52'10" West 100.00 feet;

Thence, North 11°07'50" East 250.00 feet;

Thence, South 78°52'10" East 100.00 feet;

Thence, North 11°07'50" East 2,225.80 feet to a point on the southerly boundary of Idaho State Highway No. 20,

Thence, the following five courses and distances along the southerly boundary of said Idaho State Highway No. 20 to an aluminum cap, South 79°18'56" East 345.39 feet;

North 61°30'28" East 221.48 feet;

South 79°19'06" East 2,565.58 feet;

South 79°19'09" East 2,330.08 feet;

South 45°58'28" East 185.05 feet;

Thence, South 0°24'42" East 351.20 feet along the east boundary of the SW1/4SE1/4 of said Section 18 to the POINT OF BEGINNING.

Only the surface estate for the Sheep Bridge Parcel will be transferred in this exchange, as the United States currently owns the mineral estate. The Sheep Bridge Parcel currently has portions of two water rights (37-26 and 37-27) appurtenant to the land; only that interest currently held by the Wood River Land Trust will be transferred with the parcel. The land transfer will be subject to the following valid existing rights:

- Reservations and Rights-of-Way contained in that certain United States of America Patent, recorded July 8, 1925, as Instrument No. 57614, records of Blaine County, Idaho. Subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; and there is reserved from the lands here granted, a right-of-way thereon for ditches or canals constructed by the authority of the United States. Excepting and reserving, however, to the United States all the coal and other minerals in the lands so entered and patented, together with the right to prospect for, mine, and remove the same pursuant to the provisions and limitations of the Act of December 29, 1916 (39 Stat., 862).
- Reservations contained in that certain Warranty Deed in favor of the State of Idaho, recorded October 14, 1955, as Instrument No. 106824, records of Blaine County, Idaho. A strip of land 120.0 feet wide, being 60.0 feet on each side of the center line as surveyed and shown on the official plat of State Highway No. 68 – Project No. S-2809(2) Highway Survey; also an additional irregular strip of land contiguous to and on each side of the aforementioned right-of-way being 140.0 feet wide between the west line and east line of the NWSE of Section 13 of T. 1 S., R. 17 E., B.M., and tapering to 0.0 feet at Station 1101.00 and an additional triangular piece of land contiguous to and on each side of the aforementioned right-of-way widening from 0.0 feet at Station 1150-00 to 140.0 feet at the east line of the SWSE of Section 18 of T. 1 S., R. 18 E., B.M.

- Terms and Conditions contained in that certain Affidavit Affecting Title to Property and Correction Warranty Deed, recorded April 13, 2009, as Instrument No. 566559, records of Blaine County, Idaho.
- Right, Title and Interest of the State of Idaho within the natural bed of the Wood River below the ordinary high water line, and also excepting any artificial accretions waterward of said ordinary high water line.

Exhibit C – Non-Federal Donation Parcel

The 80 acres of non-Federal land (Square Lake 80-acre Retained Parcel) to be acquired through donation are described as follows:

Square Lake Parcel (80 Acres)

Boise Meridian, Blaine County, Idaho,
Township 2 South, Range 18 East,
Section 4: SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Section 9: NE $\frac{1}{4}$ NE $\frac{1}{4}$.

Both the surface and mineral estates for the Square Lake 80-acre Retained parcel will be transferred in the donation. The Square Lake 80-acre Retained parcel does not have any water rights appurtenant to the land. The land transfer will be subject to the following valid existing rights:

- Reservations and Rights-of-Way contained in that certain United States of America Patent, recorded May 23, 1919, as Instrument No. 42653, records of Blaine County, Idaho. Subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; and there is reserved from the lands here granted, a right-of-way thereon for ditches or canals constructed by the authority of the United States.
- Terms and Conditions contained in that certain right-of-way for the Magic Reservoir and Canal System, recorded June 9, 1906, as Instrument No. 4954, records of Blaine County, Idaho.
- Terms and Conditions in that certain Agreement for Easement and Right-of-Way in favor of the United States of America, recorded as Instrument No. 89791, records of Blaine County, Idaho. Right-of-Way on any lands owned by John Brown, Grantee, in Sections 4, 9, and 10 of T. 2 S., R. 18 E., B.M., and in Sections 20 and 29 in T. 1 S., R. 18 E., B.M., for construction of a truck trail not wider than 30 feet ditch line to ditch line. The said easement and right-of-way hereby granted is for the full, free, unrestricted, and quiet use and enjoyment by the Grantee of the land of the Grantor, occupied by the said improvements, for any and all purposes deemed necessary or beneficial for, or in connection with, the control, administration, or use of the public land surrounding or adjacent to the land herein described, which may be properly grazed from, serviced by, or used in connection with the said land improvements, including the right of ingress and egress to, from, and over the land of the said Grantor by the Grantee, its officers, agents, permittees, allottees, and licensees for the purpose of repairing, renewing, or using the said improvements, or for other business pertaining to the use and maintenance thereof, and will be appurtenant to said public land.
- Grant of Easement and Right-of-Way in favor of the United States of America, recorded April 26, 1962, as Instrument No. 116829, records of Blaine County, Idaho. Right-of-Way for construction of approximately 200 rods of 4-wire fence with posts a rod apart. The said easement and right-of-way hereby granted is for the full, free, unrestricted, and quiet use and enjoyment by the Grantee of the land of the Grantor, occupied by the said improvements, for any and all purposes deemed necessary or beneficial for, or in connection with, the control, administration, or use of the public land surrounding or adjacent to the land herein described,

which may be properly grazed from, serviced by, or used in connection with the said land improvements, including the right of ingress and egress to, from, and over the land of the said Grantor by the Grantee, its officers, agents, permittees, allottees, and licensees for the purpose of repairing, renewing, or using the said improvements, or for other business pertaining to the use and maintenance thereof, and will be appurtenant to said public land.

- Access Road Easement in favor of the United States of America, recorded as Instrument No. 133789, records of Blaine County, Idaho. A perpetual easement and right-of-way, including but not limited to, the right and privilege to locate, construct, relocate, maintain, control, and repair a roadway within a strip of land 50 feet on each side of the centerline.