

**UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Twin Falls District
Shoshone Field Office
400 West F Street
Shoshone, Idaho 83352**

CATEGORICAL EXCLUSION REVIEW SHEET

NEPA No. DOI-BLM-ID-T030-2012-0027-CX

A. Background

Description of Proposed Action: The Magic Triangle, LLC, (Applicant) has applied to the Bureau of Land Management, Shoshone Field Office (BLM), to acquire a 1.14 acre parcel of public land through a Class 1 Color-of-Title claim pursuant to the Color-of-Title Act (43 U.S.C. 1068, and 1068a). The Color-of-Title Act provides that any individual, group, or corporation who has evidence giving the appearance of having title to public lands, which are administered by the BLM, and legal title to the lands remains vested in the United States, may file a color-of-title claim. If the landowner(s), for at least 20 years, have treated the public lands as their own possession without knowing it was public land and have improved the land during that time, it is filed under a Class 1 claim. Under this type of claim, the claimant(s) must demonstrate that they have made valuable improvements upon the land or have reduced part of the land to cultivation.

Qualifications:

The applicant appears to qualify under a Class 1 color-of-title claim, having demonstrated that they have held the property in peaceful adverse possession for more than 20 years and upon which valuable improvements have been placed. The County assessor's records show that the claimant(s) have paid taxes on the property for more than the past 20 years. The BLM has investigated the chain of title for the claimants and verified claim of peaceful adverse possession. The subject parcel has been field inspected and is currently encumbered with improvements including portions of houses, decks, manicured lawns with underground sprinkler systems, and areas that have been cleared and planted with native landscaping as well as environmental art and river bank stabilization. It's anticipated that the current use would continue in the future.

History:

The Applicant (representing a group of landowners affected by a re-survey) owns approximately 14 acres of private land that adjoins the subject parcel on the north side. The subject parcel of public land was thought to be private land for 21 to 29 years (or from the early 1980's) until 2010 when the BLM Cadastral Survey conducted a resurvey of the area. During the course of the fieldwork for the resurvey an original monument was located for the ¼ section corner for sections 8 and 17. This is one of the corners that control the location of all property boundaries in section 8.

The original monument was not found and utilized in local surveys in the area; including the surveys for the Willowood and Grove Creek subdivision as well as the Magic Mountain Road area. As a result, the most southerly boundary identified by those surveys (i.e., where the private lands abut public lands) incorrectly located the common boundaries between the public lands and the private lands. The previous use of the subject parcel was in conjunction with the adjacent private lands.

Valuation:

The regulations contained in 43 CFR 2541.4 state that the parcel will be appraised in the basis of its fair market value, but that consideration will be given for 1) improvements made to the property and 2) equities to the applicant in determining the price paid by the applicant for the parcel.

The subject parcel was valued at \$185,000.00 (excluding the improvements), based on an appraisal prepared by Henri LeMoyné and approved by the Department of Interior – Office of Valuation Services (OVS) on July 3, 2012. The BLM has determined that the documented price paid by the applicant for the parcel (adjusted to reflect the land value), and the other equities to the applicant exceed the market value of the subject parcel. However, the Act requires that the property be sold for no less than \$1.25 per acre. Therefore, the total value for the 1.14 acre parcel is established at \$1.43.

Upon approval of the application, subsequent conveyance of the property would be made under the authority of the Color-of-Title Act of December 22, 1928 (45 Stat. 1069, 43 U.S.C. 1068, 1068a), as amended, and processed in accordance with federal regulations contained in 43 CFR 2540. Any patent issued will contain the following terms, conditions and reservations:

1. A reservation of a right-of-way to the United States for ditches or canals constructed by the authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945);
2. A reservation to the United States of all mineral deposits in the lands so patented, and to it, or persons authorized by it, the right to prospect for, mine, and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe;
3. A condition that the conveyance be subject to all valid existing rights of record;
4. A notice and indemnification statement under the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9620(W)), indemnifying, and holding the United States harmless from any release of hazardous materials that may have occurred; and
5. Additional terms and conditions that the authorized officer deems appropriate.

B. Consideration of Extraordinary Circumstances

This Categorical Exclusion Review Sheet documents the review of the proposed action to determine if any of the extraordinary circumstances described in 516 DM 2, Appendix 2 apply. If any of the extraordinary circumstances apply to the proposed action, then an EA or EIS must be prepared. Any evidence or concerns that one or more of the exceptions may apply must be brought to the attention of the manager who is authorized to approve the proposed action.

1. The proposed action would not have any significant impacts on public health or safety.

The disposal of the 1.14 acres of public land thought to have been in private ownership would not have any significant impacts on public health and safety. The subject parcel would continue to be used in conjunction with the adjacent private lands and subject to all applicable federal, state, and local laws and ordinances.

2. The proposed action would not have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive

Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.

There are no unique geographic characteristics such as historic or cultural resources; park or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands, national monuments; or other ecologically significant or critical areas that would be significantly impacted by the proposed action. A cultural resource records review and inventory were conducted for the project area on May 21, 2012, with a determination that there would be no effect to National Register listed or eligible cultural resources by the proposed action. The public lands in the project area are currently available for recreational activities; however, legal access to the area is lacking thus limiting the use of the subject parcel. The East Fork of the Big Wood River meanders through the subject parcel; thus within the floodplain. The activities that occurred upon the subject parcel as well as the improvements made while it was thought to have been in private ownership were in accordance with all applicable federal, state, and local laws and ordinances. The subject parcel would continue to be managed in this manner after implementation of the proposed action. Blaine County has specific ordinances in place regarding floodplain development and riparian setbacks. The proposed action would not have additional impacts to migratory birds beyond that of the current level.

3. The proposed action would not have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].

The proposed action is not specifically provided for in the Sun Valley Management Framework Plan (MFP), as amended. However it does fall within the guidance for resolving unauthorized use pursuant to current laws, regulation and priorities established in the Amendments to Shoshone Field Office Land Use Plans for Land Tenure Adjustment and Areas of Critical Environmental Concern (Amendment, Pg 15). The Sun Valley MFP, as amended, established the land use allocation and goals for the affected public land; as such, there are no unresolved conflicts regarding other uses of these resources. The environmental process for the Class 1 Color-of-Title claim has not been highly controversial, nor are the effects expected to generate future controversy.

4. The proposed action would not have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.

The proposed action does not involve highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks. The subject parcel was thought to have been in private ownership for more than 20 years without involving highly uncertain and potentially significant environmental effects or unique or unknown environmental risks. The environmental process for the proposed action has not identified any effects that may involve highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks unique or unknown risks.

5. The proposed action would not establish a precedent for future actions or represent a decision in principle about future actions with potentially significant environmental effects.

The proposed action is not connected to another action that would require further environmental analysis and would not set a precedent for future actions that would normally require environmental analysis.

6. The proposed action would not have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.

The proposed action does not have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.

7. The proposed action would not have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the bureau or office.

A cultural resource records review and inventory were conducted for the project area on May 21, 2012, with a determination that there would be no effect to National Register listed or eligible cultural resources by the proposed action.

8. The proposed action would not have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated critical habitat for these species.

There are no threatened or endangered plant species within the BLM Shoshone Field Office area. A Special Status Plant Species Assessment will be completed for the subject parcel prior to the issuance of any patent. The disposal of the subject parcel will impact the vegetation on the subject parcel beyond the current level. A Special Status Animal Species Assessment was completed in May 2012, with a determination that the proposed action would not adversely impact any special status, including endangered or threatened, animal species or their habitat.

9. The proposed action would not violate a Federal law, or a State, local or tribal law or requirement imposed for the protection of the environment.

The BLM process Color-of-Title claims in accordance with the Color-of-Title Act (43 U.S.C. 1068, and 1068a) and the BLM regulations at 43 CFR 2540. There are no tribal laws in effect for the project area.

10. The proposed action would not have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).

The proposed action would not have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).

11. The proposed action would not limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).

The proposed action would not limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites. The subject parcel was thought to have been in private ownership for more than 20 years.

12. The proposed action would not contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).

The subject parcel was thought to have been in private ownership for more than 20 years with uses and improvements occurring on the parcel in conjunction with the adjacent private lands. These uses/improvements include portions of houses and decks, portions of manicured lawns with underground sprinkler systems, areas that have been cleared and planted with native

landscaping as well as environmental art and river bank stabilization. The adjacent private landowners have conducted activities on the subject parcel to reduce the introduction, continued existence, and spread of noxious weeds or non-native invasive species known to occur in the area. As a result of the proposed action it is anticipated that these activities would continue in the future.

C. Consultation and Preparation

Name of Participant	Position Title	Comments Provided (Initial One)		Date
		None	Attached	
Tara Hagen	Realty Specialist/Project Lead	TH		5/31/12
Tom Askew	Physical Scientist	TA		6/7/12
Tara Barrier	Wildlife Biologist	TAB		6/18/12
Lisa Cresswell	Archeologist/NEPA Coordinator	LC		5/31/12
David Freiberg	Outdoor Recreation Planner	DF		6/27/12
John Garth	Geologist	JSG		6/18/12
John Kurtz	Outdoor Recreation Planner	JK		6/8/12
Danelle Nance	Natural Resource Specialist	JB for		7/6/12
Joe Russell	Fire Use Specialist	JR		6/6/12
Joanna Tjaden	Rangeland Management Specialist	JB for		7/6/12