

AFRD #2
Manager is Lynn Harmon.
PH. 886-2331

2/25/05 Lynn said they
completed their maps
and returned them to
Steve Oelland about a
year ago.

Carter said that the
boundary for AFRD #2
should be the same as
the Big Wood Canal Co.
Steve should have shape
files. Area will be
different.

COMMUNICATION DOCUMENTATION

From: Vikie Hancock

May 8, 2002

Regarding:

Customer:

Claims of Big Wood Canal Co.

Lynn Harmon, Mgr

Mr. Harmon came into the office and met with Allen Merritt, Doug Jones and myself on May 6th. He was concerned about there being no storage right for Magic Reservoir filed in the SRBA. A cursory review of the Adjudication claims and of the water rights confirmed that there were no existing claims or water rights for irrigation storage at Magic, with the exception of decreed right 37-895 for 18 cfs that was not claimed in the Adjudication. Allen Merritt pointed out that the licensing field exam for 37-2116, which was the partial basis of decreed right 37-870, specifically mentions the reservoir and that there probably should have been some storage right associated with the first license issued, 37-2033 priority 1905.

The history of the reservoir was discussed briefly. According to Mr. Harmon, the reservoir originally had a capacity of 172,000 AF and was modified several years later to increase the capacity to it's current 191,500 AF. He thought that he heard 1910 as the year it was modified. It was decided by the claimant that an amendment to claim 37-867 (original basis 37-2033 priority 1905) to include irrigation storage and irrigation from storage in the amount of 172,000 would be appropriate. Options for claiming the balance of 19,500 AF were addressed. They included the filing of a new beneficial use claim with a 1910 priority date, or amending claim 37-870 (priority 1920) to add irrigation storage and irrigation from storage. It was pointed out to Mr. Harmon that he should probably discuss the options with the BWCC board and possibly their legal counsel, and that in his discussion with the BWCC board, he should point out that the claimed priority date of 1908 for claim 37-870 would most probably be modified to 1920 in the SRBA to agree with the 1925 decree findings in BWCC v Chapman. It was suggested that he find some records to confirm the year the capacity of the reservoir was increased.

Mr. Harmon also inquired as to whether they had stock water use covered in the SRBA. There was some inconclusive discussion as to whether the remarks about non-irrigation use for stock water included in the claim were adequate, whether the decree language would allow the inclusion of stock water as a purpose of use on the existing claims, or whether a separate beneficial use claim would need to be filed. A more detailed review of the decrees pertaining to the BWCC water rights needs to be undertaken as a step in resolving this issue.

In regard to the Big Wood's right to water from American Falls Reservoir, research conducted by Allen found that neither the BOR nor BWCC had filed

claims on the storage right associated with their diversion right from that source. Mr. Harmon was going to contact the BOR to get more information on which to base a decision of whether an additional SRBA claim needed to be filed.

A quick review of the SRBA claims filed by BWCC with Mr. Harmon showed some indiscrepancies and elements confusing to him as well as to us. Most had already been uncovered earlier and mentioned in a memo found in claim 37-13116. I advised Mr. Harmon that when he eventually sat down with an AJ agent that had had time to really delve into our records and compare them with BWCC records he might expect that there would be some changes needed in the claims as they were currently configured, and possibly some additional claims filed.



IN REPLY REFER TO:

PN-3248

United States Department of the Interior

BUREAU OF RECLAMATION

Snake River Area Office
214 Broadway Avenue
Boise, Idaho 83702-7298

RECEIVED

JUL 17 2000

Department of Water Resources
Southern Region

JUL 14 2000

Subject: Proposal to Transfer Title from the Bureau of Reclamation of Certain Irrigation Facilities to American Falls Reservoir District #2

Ladies and Gentlemen:

The Bureau of Reclamation (Reclamation) is considering a proposal to transfer title to certain Federal irrigation facilities (canals, laterals, and drains) and associated real property interests to American Falls Reservoir District #2 (AFRD2). The facilities and land interests included in this proposal are limited to those facilities which are currently operated and maintained by AFRD2. A more detailed description of the proposed title transfer is included in the attached information.

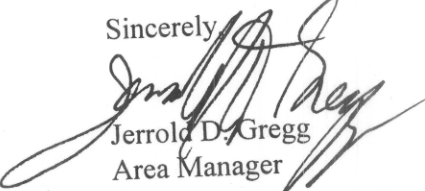
As part of Vice President Gore's National Performance Review, Reclamation has undertaken a program to transfer title of facilities that could be efficiently and effectively managed by non-Federal entities and that are not identified as having national importance. The transfer of title to these facilities will divest Reclamation of the oversight responsibility for the operation, maintenance, management, administration, regulation of, and liability for the facilities. In August 1995 Reclamation issued its "*Framework for the Transfer of Title*" (*Framework*) which outlines certain criteria that must be met prior to implementing the transfer of title action. Key elements of that *Framework* are:

- The Federal Treasury and thereby the taxpayers' financial interests must be protected.
- There must be compliance with all Federal and State laws.
- Interstate compacts and agreements must be protected.
- The Secretary of the Interior's Native American trusts responsibilities must be met.
- Treaty obligations and international agreements must be fulfilled.
- The public aspects of the projects must be protected.

AFRD2 has satisfied its construction repayment obligations and have effectively operated and maintained the facilities since 1933 and have asked for transfer of title under the *Framework*.

The National Environmental Policy Act (NEPA) requires Reclamation to evaluate the environmental impacts of this action. In order to meet the requirements of NEPA and to help determine if transfer of these facilities is in the best interest of the public, Reclamation is asking for your assistance in identifying issues and concerns you may have about the proposed title transfer. We invite you to send your written comments on this proposal to the Bureau of Reclamation, Snake River Area Office, 1359 Hansen Avenue, Burley, Idaho 83318 by August 1, 2000. If you have any questions concerning the proposal or the NEPA process, please contact Dick Bauman at (307) 739-8765.

Sincerely,


Jerrold D. Gregg
Area Manager

Attachment

RECEIVED
JUL 17 2000
Department of Water Resources
Southern Region

PROPOSED ACTION

TRANSFER OF TITLE TO IRRIGATION FACILITIES TO AMERICAN FALLS RESERVOIR DISTRICT #2

Background

American Falls Reservoir District #2 (AFRD2) is an irrigation district organized and existing under the laws of the State of Idaho for the purpose of operating the Gooding Division of the Minidoka Project. AFRD2 diverts water from the Snake River upstream of Milner Dam into the Milner-Gooding Canal and laterals for delivery to lands in Jerome and Lincoln Counties, Idaho. The canal and laterals serve 20,000 acres with a full water supply and 78,667 acres with a supplemental water supply. The location of AFRD2 facilities and lands are shown on the attached maps.

Construction of the Milner-Gooding Canal (Gooding Division, Gravity Extension Unit) was authorized by an act of Congress and signed by the President on July 3, 1928. The work (circa 1928 - 1932) consisted primarily of construction of the canal and support structures (ditch rider houses, shops, etc.). The canal extends 70 miles from near Milner Dam on the Snake River northward to the North Gooding Canal, northwest of Shoshone, Idaho. The initial capacity of the canal is 2,700 cubic feet per second.

About half (36 miles) of the canal is on Bureau of Land Management (BLM) land that has been withdrawn for Bureau of Reclamation (Reclamation) purposes. The other 34 miles of canal are on private lands that have 1890 Canal Act rights-of-way. Only one mile (13.74 acres) of the canal lies along acquired (fee title) land.

Reclamation's Title Transfer Initiative

Many of Reclamation's projects were constructed in the early 1900's before much of the West was settled and there were no local communities and utilities. Reclamation owns facilities that if located in other parts of the country, would be owned, operated, and funded by publicly operated private corporations or local government agencies. While it has been Reclamation's policy for decades to transfer operation and maintenance of projects to local entities where and, when appropriate, there currently is a growing interest in the transfer of title to the Federal facilities (with its attendant responsibilities).

In 1995, as part of Vice President Gore's National Performance Review, and with the goal of a Federal government which works better and costs less, Reclamation began a program to transfer title of facilities which could efficiently and effectively be managed by non-Federal entities and are not nationally important. Reclamation's aim is to transfer title directly to project beneficiaries where these entities are competent to manage the facilities and are willing and able

to fulfill legal obligations associated with taking ownership of those facilities. Reclamation believes that AFRD2 meets these requirements and is a good candidate for title transfer.

Purpose and Need for Action

Currently Reclamation oversees the operation, maintenance, management, and administration of the district and has responsibility for the regulation of, and liability for the facilities. Additionally, Reclamation and AFRD2 each review and respond to third party applicants requesting use of rights-of-way affecting Reclamation-owned facilities or related land interest. Reclamation normally requests AFRD2's formal approval since AFRD2 operates and maintains these facilities and knows what specific requirements are needed. This administrative process is a burden to both Reclamation and AFRD2, as well as the third party applicant

The transfer of title of the United States' interest in these facilities to AFRD2 would completely divest Reclamation of the responsibility for the operation, maintenance, management, regulation of, and liability for the facilities. It would streamline administrative processes for Reclamation, AFRD2 and the public and allow Reclamation to use its resources more effectively in other areas of water resource management while still ensuring the irrigation facilities within AFRD2 will continue to function properly.

The Proposed Action

The Proposed Action is for Reclamation to transfer all right, title, and interest in certain irrigation facilities and associated land interests to AFRD2. The facilities to be transferred are only those currently operated and maintained solely by AFRD2 and lie generally within the AFRD2 boundary as indicated on the attached maps. The facilities include canals, laterals, and structures for ditch riders' residences and maintenance facilities which were constructed, extended, or enlarged by Reclamation and the associated rights-of-way, withdrawn lands, and fee title land interests held by Reclamation shown on the attached maps. **Title to major facilities, natural flow water rights, reserved power rights or storage rights held by the United States, that are affiliated with the Minidoka Project, will not be considered for transfer.**

The facilities to be transferred include:

1. Conveyance facilities and associated features,
2. Rights-of-way for the conveyance facilities,
3. Acquired lands located along and under one mile of canal consisting of 13.74 acres.
4. Two parcels of withdrawn land and associated ditch riders' houses and maintenance buildings, totaling 48.49 acres.
5. Houses, shops, and warehouses that are in the name of the United States.

The land withdrawn from BLM for the canal would be returned to the BLM. The Legislation would grant a permanent easement for the canal (where it is currently located on withdrawn lands). The withdrawn land for the material sites (gravel pits) would be returned to the BLM. The BLM would issue the district a free use permit for up to 5,000 cubic yards of material per year.

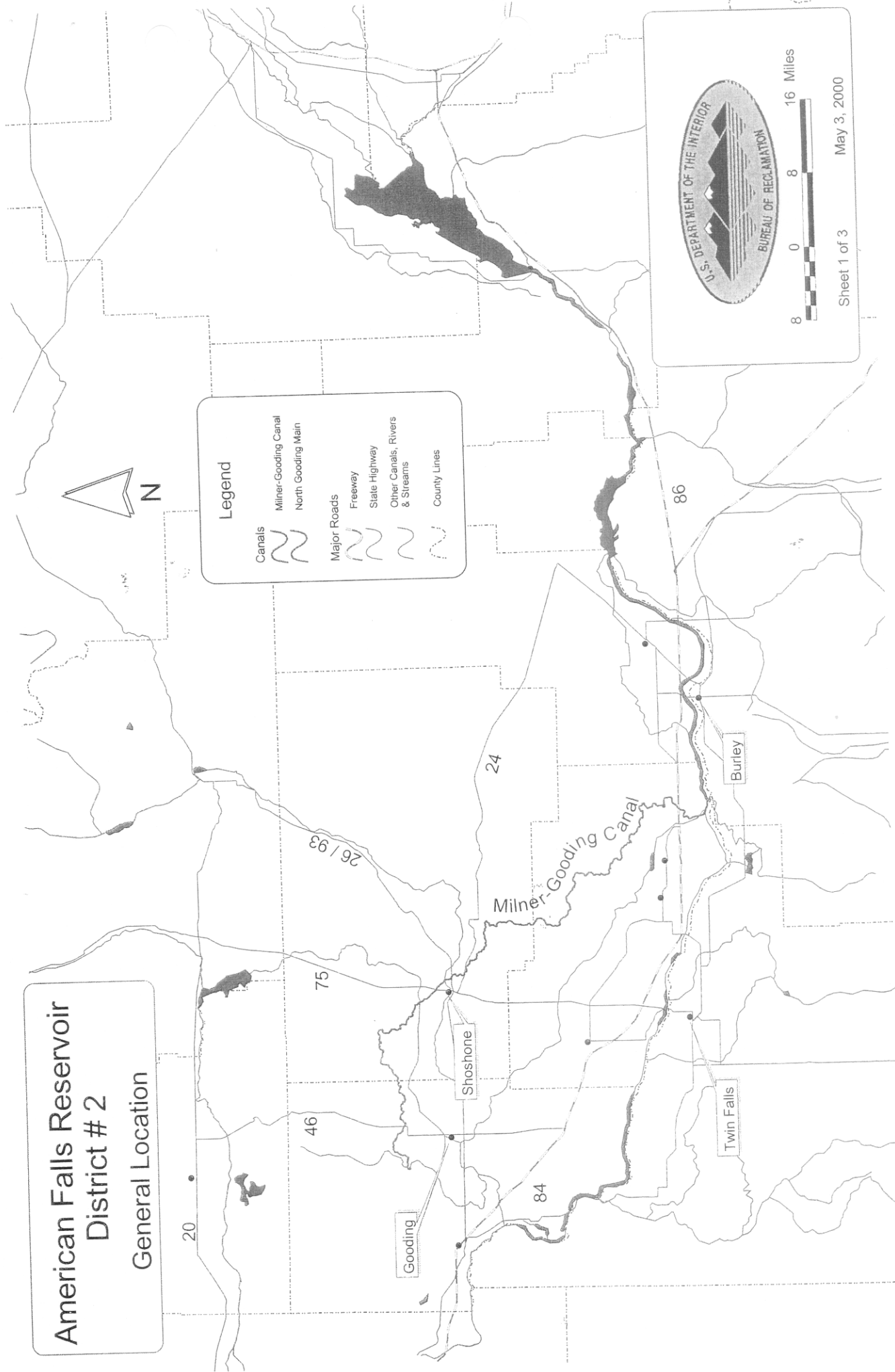
There are several tracts of withdrawn land where there are no canals or associated structures that are required to facilitate operations. These tracts would be returned to the BLM and depending on the operational need, special use permits would be issued by BLM. Legislation would grant a permanent easement for the emergency floodway on one parcel.

The Reclamation also has three agricultural leases, six grazing leases, and one agricultural and grazing lease on withdrawn land. It has been proposed that the grazing land would be returned to the BLM. However, the BLM has indicated that they have no interest in the agricultural lease lands. Disposition of these agricultural lands will be subject to a separate action not associated with this title transfer process.

The Process

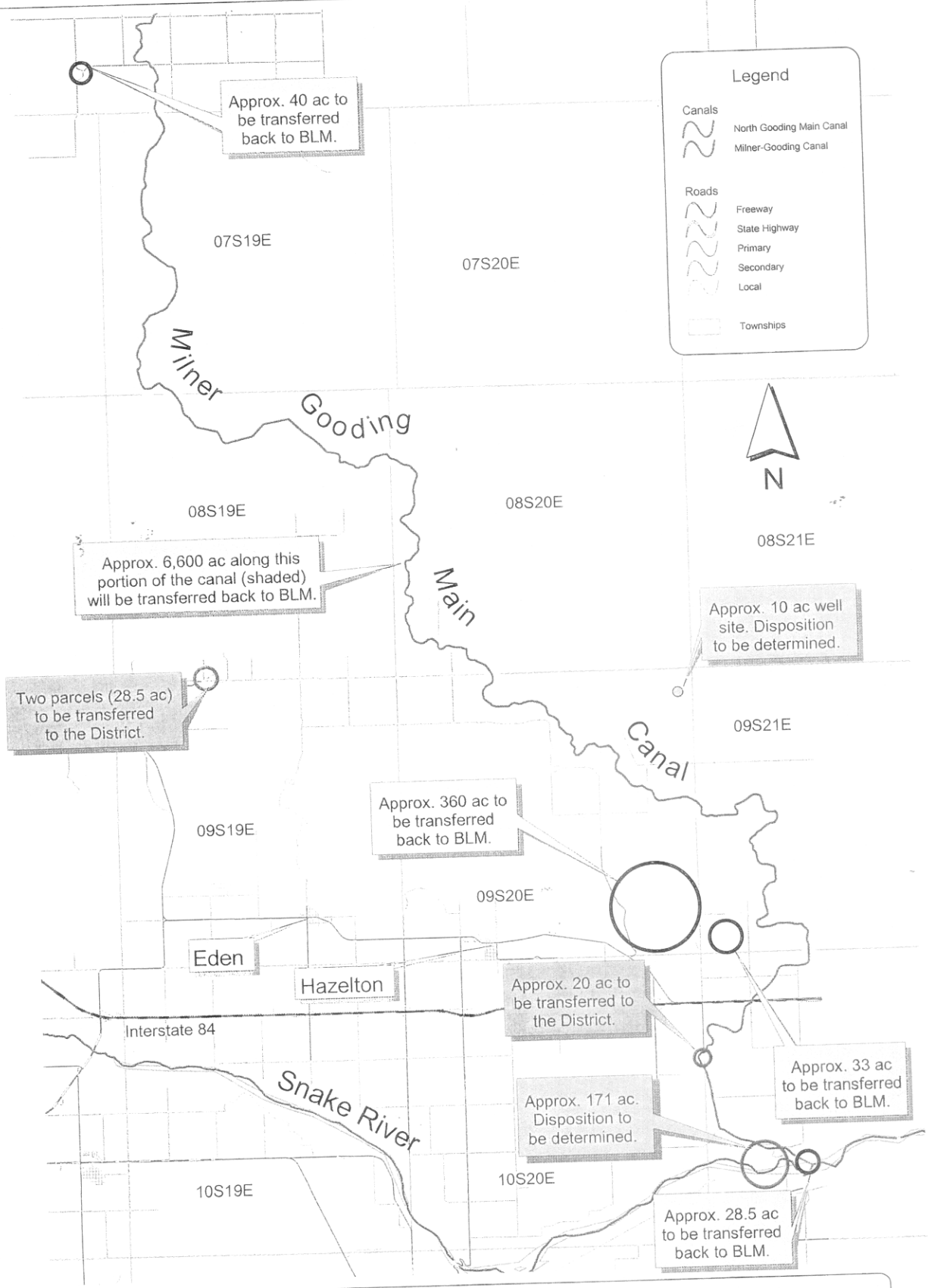
Reclamation does not currently have the authority to transfer title to these facilities and lands. Specific legislation would need to be passed by Congress. If the decision is made to proceed with the title transfer, AFRD2 would draft legislation with provisions that are consistent with Reclamation's 1995 Framework for Title Transfer, and, where appropriate, environmental commitments that would be made by Reclamation through the National Environmental Policy Act, Endangered Species Act, and/or National Historic Preservation Act process.

American Falls Reservoir District # 2 General Location



American Falls Reservoir District # 2

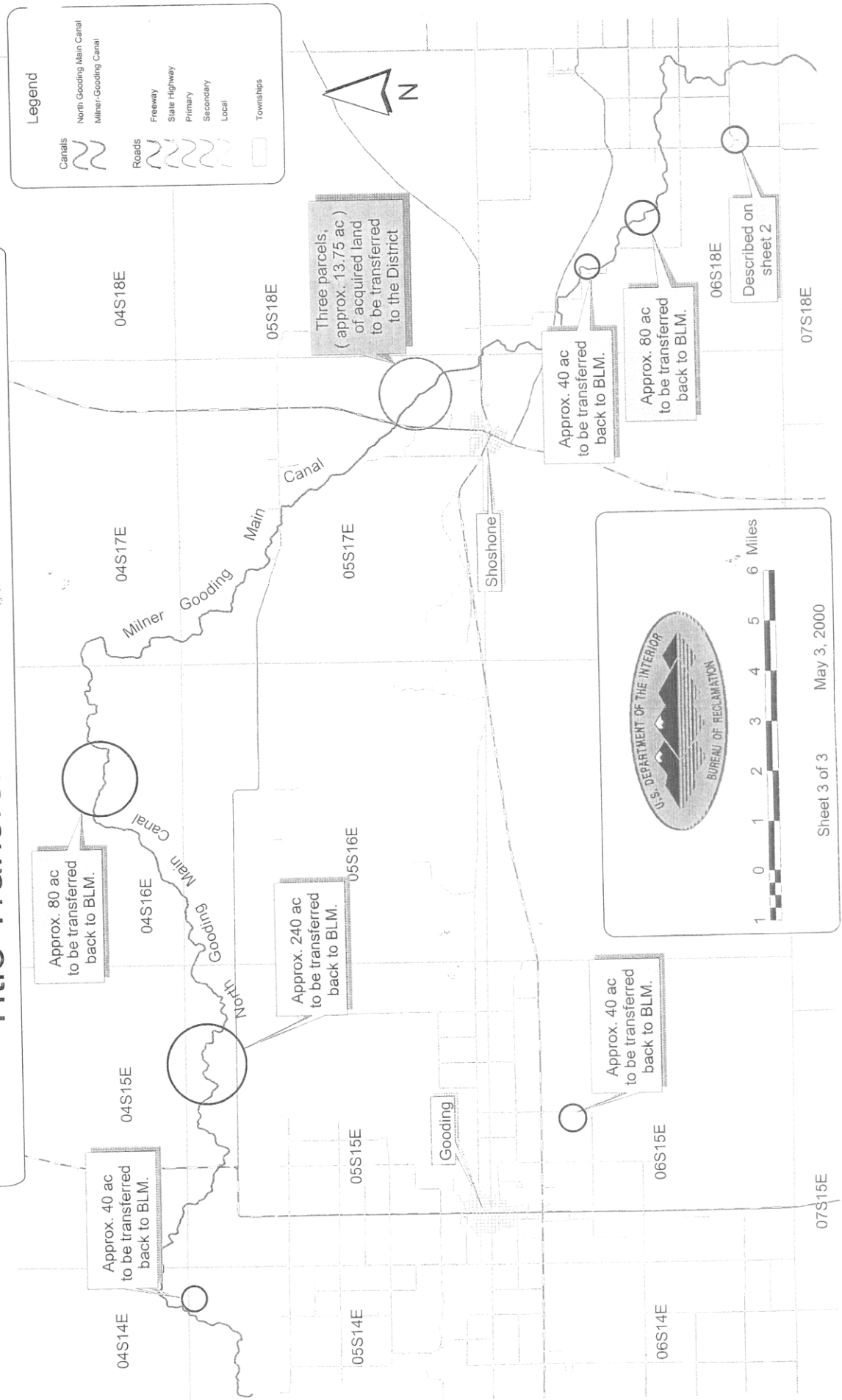
Title Transfer - Affected Lands



1 0 1 2 3 4 5 6 Miles



American Falls Reservoir District #2 Title Transfer - Affected Lands



*southern
region*

A01-00006

A01000006



John A. Rosholt
Gary D. Slette
ROSHOLT, ROBERTSON & TUCKER
P. O. Box 1906
Twin Falls, Idaho 83303-1906
Telephone: (208) 734-0700
4742p/shs/1-2-92

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

* * * * *

In Re the General Adjudication
of Rights to the Use of Water
from the Snake River Basin
Water System.

CASE NO: 39576

The State of Idaho, ex rel.
A. Kenneth Dunn in his official
capacity as director of the
Idaho Department of Water
Resources,

NOTICE OF
APPEARANCE

Petitioner,

vs.

The United States; the State
of Idaho; and all claimants
to the use of water from the
Snake River Basin Water System,

Defendants.

* * * * *

COME NOW, TWIN FALLS CANAL COMPANY, NORTH SIDE CANAL
COMPANY, LTD. and AMERICAN FALLS RESERVOIR DISTRICT, by and
through their attorneys, John A. Rosholt and Gary D. Slette of

Basin 01 ✓ was there
Basin 47 ✓
Basin 45 ✓ entered
Basin 36 ✓ was there
Basin 37 ✓ " "
Basin 01 ✓ " "

A01-00006

Basin 01 ✓

MICROFILMED
OCT 16 1992

1 the firm of ROSHOLT, ROBERTSON & TUCKER, and, pursuant to Order
2 of this Court entered December 17, 1991, enter their appearance
3 in the above-captioned case.

4 DATED this 2nd day of January, 1992.

5 ROSHOLT, ROBERTSON & TUCKER
6 P. O. Box 1906
7 Twin Falls, ID 83303-1906

8 *John A. Rosholt*

9 JOHN A. ROSHOLT

10 *Gary D. Slette*
11 GARY D. SLETTE

12 CERTIFICATE OF MAILING

13 I hereby certify that on this 2nd day of January,
14 1992, I caused to be served a true copy of the foregoing NOTICE
15 OF APPEARANCE by the method indicated below, and addressed to
16 each of the following:

16 Larry Echohawk
17 Attorney General
18 State of Idaho
19 Statehouse, Room 210
20 Boise, Idaho 83720

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (Fax)

19 David Shaw
20 Adjudication Bureau Chief
21 Idaho Department of Water
22 Resources
23 1301 North Orchard
24 Statehouse Mail
25 Boise, Idaho 83720 (6 copies)

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (Fax)

26
27
28 MICROFILMED

OCT 16 1992

1 Peter C. Monson, Esq.
2 Assistant Attorney General
3 U.S. Department of Justice
4 Land and Natural Resources
5 Division
6 Indian Resources Section,
7 Rm. 6317
8 P. O. Box 44378
9 Washington, D.C. 20026-4378

✓

U.S. Mail, Postage Prepaid
Hand Delivered
Overnight Mail
Telecopy (Fax)

6 Don A. Olowinski
7 HAWLEY, TROXELL, ENNIS
8 & HAWLEY
9 P. O. Box 1617
10 Boise, Idaho 83701

✓

U.S. Mail, Postage Prepaid
Hand Delivered
Overnight Mail
Telecopy (Fax)

John A. Rosholt

JOHN A. ROSHOLT

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