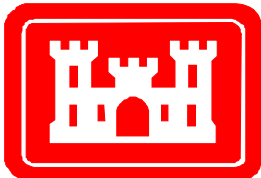


**Owyhee River
Ecosystem Restoration 206
Duck Valley Reservation, Idaho/Nevada**

**Appendix E
Real Estate Plan**

WALLA WALLA DISTRICT REAL ESTATE



**US Army Corps
Of Engineers
Walla Walla District**

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**OWYHEE RIVER ECOSYSTEM RESTORATION FEASIBILITY REPORT WITH
INTEGRATED ENVIRONMENTAL ASSESSMENT
APPENDIX E, REAL ESTATE PLAN**

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REFERENCES

1 STATEMENT OF PURPOSE

This Real Estate Plan (REP) is prepared in accordance with Engineering Regulation (ER) 405-1-12 and presents the real estate requirements for the Owyhee River Ecosystem Restoration Study and Environmental Assessment Recommended Plan (RP) described in Section 1.4. The Shoshone-Paiute Tribe (SPT) is the Non-Federal Sponsor (NFS) for this project.

This REP is an appendix to the Feasibility Study/Environmental Assessment report and fully describes the lands, easements, rights of way, relocations, and disposal areas (LERRD) required for construction, operation, and maintenance of the proposed project, including the number of parcels, acreages, estates, ownerships, and estimated value. The REP includes other relevant information on NFS ownership of land, existing Federal projects and ownership, relocations under the Uniform Relocation Assistance and Real Property Acquisition Policies Act (Public Law 91-646, as amended) (“the Uniform Act”), presence of contaminants, facility/utility relocations, a baseline cost estimate for real estate, a schedule for real estate activities, and other elements as required by Engineer Regulation 405-1-12.

The purpose of the REP is to support the Owyhee River Section 206 Ecosystem Restoration Study and Environmental Assessment Report, dated June 2024. It is tentative in nature and is to be used for planning purposes only. Both the final real estate acquisition lines and the estimate of value are subject to change even after the report has been approved.

1.1 Project Purpose/Objective

The purpose of the feasibility study is to evaluate problems, address issues, and determine the feasibility of the potential solutions. In doing so, the study will formulate and evaluate cost effective, environmentally sensitive, and technically feasible ecosystem restoration alternatives for the Owyhee River valley and surrounding areas. The purpose of the proposed project and alternatives considered in the study is to provide ecosystem restoration benefits necessary for restoring degraded aquatic and riparian ecosystems along the river.

The Federal objective of water and related land resources project planning is to contribute to National Ecosystem Restoration (NER) and maximize environmental restoration benefits in comparison to costs. Planning objectives represent desired positive changes to the future without-project conditions. All of the planning objectives focus on activity within the study area over a 50-year period of analysis.

1.2 Study Authority

The Owyhee River Ecosystem Restoration Feasibility Study is authorized by the Water Resources Development Act (WRDA) of 1996, as amended (33 U.S.C 2330) Continuing Authorities Program (CAP), Section 206. Section 206 authorizes the US Army Corps of Engineers to carry out projects not specifically authorized by Congress for aquatic ecosystem restoration purposes.

1.3 Study Area

The Owyhee River Project is located along the Owyhee River within the Duck Valley Reservation, situated just north of the Idaho/Nevada border along State Highway 51. Although the NFS's headquarters is located in Nevada, the Duck Valley Reservation is located in both states. The sites that are being considered for this project are both located within Owyhee County in the State of Idaho.

The Owyhee River is a tributary of the Snake River originating in the Independent Mountain Range of Northern Nevada. The runoff from the Owyhee basin is collected in the Wild Horse Reservoir, a Bureau of Reclamation (BOR) built dam that is managed by the Bureau of Indian Affairs (BIA).

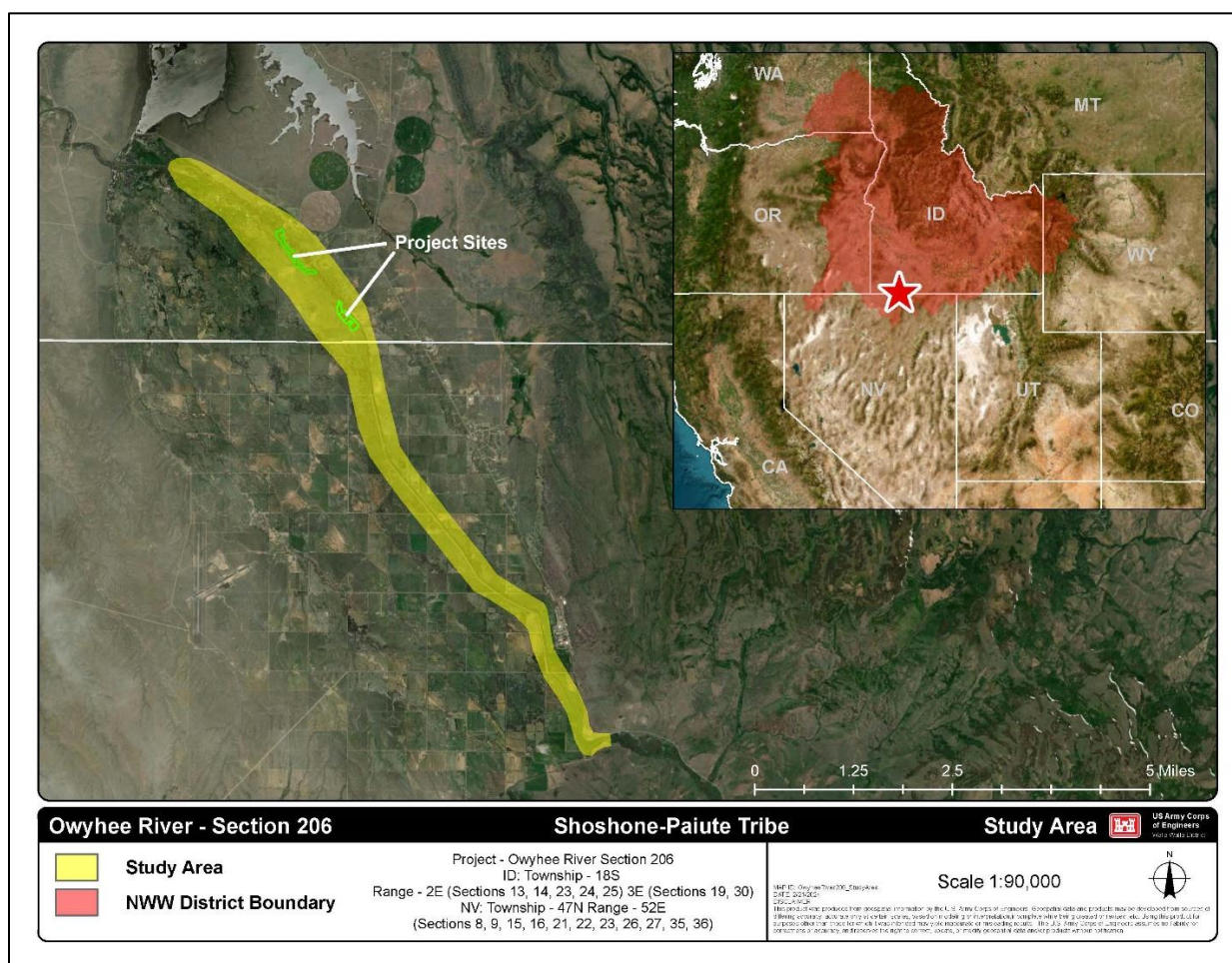


Figure 1. Owyhee River 206 Ecosystem Restoration Project – Study Area

1.4 Tentatively Selected Plan

This REP describes the real estate requirements for the Tentatively Selected Plan (TSP). The TSP is also the National Ecosystem Restoration (NER) Plan as it is the alternative that maximizes environmental benefits while passing tests of cost effectiveness and incremental cost analyses, significance of outputs, acceptability, completeness, efficiency, and effectiveness as required by regulation ER 1105-2-100, Planning Guidance Notebook and the Institute for Water Resources (IWR) Report 95-R-1, Evaluation of Environmental Investments Procedures Manual, Interim: Cost Effectiveness and Incremental Cost Analyses. Alternative 6 is the selected alternative.

Alternative 6 is the floodplain and side channel reconnection alternative and consists of excavating notches in the banks along the Owyhee River to allow for flooding of the historic floodplain during high water events. Notches would also be created to redirect the flow of the river into historic meanders and reactivate side channels. The fill material from the notching of the berms would be placed into the bed of the river raising its elevation and forcing the water to backflow and flood onto the floodplain. Beaver dam analogs or other detainment structures may be constructed to allow for water retention and ground water recharge over extended periods of time.

SITE 3

Approximately 15 acres along the side channel would be planted with riparian vegetation creating approximately 50 acres of wet meadows. The side channel would consist of approximately 6,400 linear feet that could be used by juvenile and adult red-band trout during high flow events.

SITE 4

Approximately 13 acres along the side channel would be planted with riparian vegetation creating approximately 6 acres of wet meadows. Additionally, 5,400 linear feet of side channel would be reactivated during high flow events.

Alternative 6 maximizes ecosystem restoration benefits compared to costs, is consistent with the Federal objective, and is the only alternative that maximizes habitat benefits while fully achieving the stated objectives of the National Ecosystem Restoration (NER) plan. In addition to the NER plan, Alternative 6 maximizes benefits for social, environmental, and economic considerations making it the choice for the Comprehensive Benefits Plan. Due to these factors, Alternative 6 has been selected as the TSP and Recommended Plan (RP).

2 REAL ESTATE REQUIREMENTS: DESCRIPTION OF LANDS, EASEMENTS, AND RIGHTS-OF-WAY REQUIRED FOR THE PROJECT

The lands, easements, and rights of way (LER) required to be provided for the proposed project (Alternative 6), including the requirements for staging areas, ingress/egress routes, and borrow and disposal sites, are described below:

Construction for Ecosystem Restoration Elements

Construction of Alternative 6 would require Fee Interest (Standard Estate #1) of 241.40 acres of land to support the ecosystem restoration project. Temporary Work Area Easements (Standard Estate #15) for access to the sites and staging of equipment and materials of 4.2 acres.

Construction activity of Alternative 6 takes place on NFS owned Tribal Trust lands. All other lands to gain access to the project site are owned by the NFS, the description of the tracts can be viewed in Table 1.

Staging/Access Areas

Staging and access areas are still yet to be determined. It will be on the NFS land so no additional easements would be required other than the locations identified on a map. If land outside of the NFS is needed, the REP will update the current information.

Disposal Sites

Alternative 6 would not require the need for a disposal site. Fill material gained from the berm would be used within the current river channel, an additional disposal site for any extra material is not anticipated.

Borrow Sites

Alternative 6 would not require the need for a borrow site. All fill material required for raising the riverbed will be provided by the berm notching within the project sites.

Table 1. Breakdown of Ownership

Feature	Ownership	Interest to be acquired/provided	Approx. acres to be acquired/provided
Ecosystem Restoration	Shoshone-Paiute Tribe Site 3 Tracts: 922 923 UNKNOWN TRACT 928 951 925 UNKNOWN TRACT Site 4 Tracts: UNKNOWN TRACT 823 822	Fee	Approximately 241.40

Feature	Ownership	Interest to be acquired/provided	Approx. acres to be acquired/provided
	842 843 UNKNOWN TRACT 902 901		
Staging and Access	Shoshone-Paiute Tribe Tracts: 843 902 901 922	Temporary	4.2

3 NON-FEDERAL SPONSOR-OWNED LANDS, EASEMENTS, AND RIGHTS-OF-WAY

The Owyhee River Project is located within the Duck Valley Reservation. The lands of the Duck Valley Reservation are held in Tribal Trust by the Federal government for the benefit of the Shoshone-Paiute Tribe. Although the title to the lands for the DVR are held in trust by the Federal government, the lands are controlled by the Shoshone-Paiute Tribe through coordination with the BIA.

4 NON-STANDARD ESTATES

The use of non-standard estates is not anticipated to be required for this proposed project. If it is later determined that non-standard estates are necessary, a request for approval of the non-standard estate will be submitted to Corps Headquarters for approval through Northwestern Division separate from this REP.

5 EXISTING FEDERAL PROJECTS

Where there is an existing Federal project within the area proposed for a new project, such lands must be identified, and the sufficiency of those lands for the proposed project must be evaluated. In addition, the value of lands provided as an item of local cooperation for a previous Federal project are not included in the valuation of lands for the current proposed project, and no credit may be afforded for such interests. There is currently no identified federal projects.

6 FEDERALLY OWNED LAND

Title to all project lands is held by the Federal Government in trust (Tribal Trust) for the benefit of the Shoshone-Paiute Tribe as part of the DVR. As described in Section 3 above, although the title for the lands is held by the Federal Government, the Tribal Trust lands are controlled by the Shoshone-Paiute Tribe through coordination with the BIA.

7 NAVIGATIONAL SERVITUDE

Exercise of Federal navigational servitude is not applicable to this proposed project and is not being invoked.

8 PROJECT MAP

Please see Exhibit A for proposed project map depicting the project study footprint. Currently there is only a 10 percent design construction boundary footprint.

9 POTENTIAL FLOODING INDUCED BY CONSTRUCTION, OPERATION, OR MAINTENANCE OF PROJECT

The purpose of the project is to provide over bank flooding to create habitat. This alternative removes berms along the Owyhee River to allow for the river to flood the historic floodplain during high water events which redirects the flow of the Owyhee River into historic meanders to reactivate side channels. Negative impacts to downstream landowners from this type of flooding is not anticipated. Areas to be inundated are localized to the project area and do not impact landowners not supportive of the project. All areas with induced flooding are part of the ecosystem feature of this project are required in fee.

10 REAL ESTATE BASELINE COST ESTIMATE

The Baseline Cost Estimate for Real Estate (BCERE) for the RP is presented below. In accordance with Engineering Circular (EC) 405-1-4 and Real Estate Policy Guidance Letter (PGL) No. 31, for projects in which the value of real estate (including lands, improvements, and severance damages) are not anticipated to exceed 15 percent of total project cost, a cost estimate or rough order of magnitude is acceptable for purposes of the feasibility phase. In the event where the value of real estate exceeds the 15 percent threshold, but is not greater than 30 percent, a brief gross appraisal will be acceptable. When the value of the real estate exceeds 30 percent, a full gross appraisal will be required.

A Land Cost Estimate (LCE) prepared by a licensed appraiser, Matthew Reese, has been performed on June 24, 2024. An LCE is not an appraisal and is intended for internal planning purposes only. Pre-acquisition appraisal services to determine the current actual market value of LER may be obtained if total real estate costs constitute more than 15 percent of the total proposed project costs. A contingency of approximately 20 percent has been added into this estimate due to factors that cannot be evaluated at this time, such as the proposed project being delayed, differences in the Preconstruction Engineering and Design, and potential

unforeseen changes in land use or zoning practices. Closing costs and title work costs, which in Nevada average approximately 10 percent of the total cost of acquisition, have also been added into the estimate.

Table 2. Real Estate Baseline Cost Estimate-

NFS Cost (Alternative X)	ACRES	COST
Lands, Easements and Rights-of-Way (01 Account)	245.60	\$921,000.00
Facility/Utility Relocations (02 Account)	0	N/A
Incremental RE Costs (20% contingency)		\$184,200.00
Subtotal LERRDs		\$1,105,200.00
*NFS Administrative Costs (15% contingency)		\$123,625.00
Total NFS LERRDs		\$1,228,825.00
Federal Cost		
**Federal Administrative Costs		\$28,600.00
Total Creditable LERRDS		\$1,228,825.00
Total Real Estate Costs		\$1,257,425.00

11 PUBLIC LAW 91-646 RELOCATION ASSISTANCE BENEFITS

The NFS is aware of the requirements of the Uniform Act (Public Law 91-646) and if relocations are required, the NFS will proceed in accordance with the Act. Currently, the RP does not identify the displacement of any businesses or residences that are eligible for relocation assistance benefits under the Act.

12 MINERAL/TIMBER ACTIVITY

There is no known mineral activity currently occurring inside the proposed project area. There is no known timber harvesting within the proposed project boundary.

13 NON-FEDERAL SPONSOR'S LEGAL AND PROFESSIONAL CAPABILITY TO ACQUIRE AND PROVIDE LANDS, EASEMENTS, AND RIGHTS-OF-WAY

A thorough assessment of the NFS's legal and professional capability and experience to acquire, provide, and perform LER has been completed through the assessment of the NFS's real estate acquisition capability, which is in the format prescribed in ER 405-1-12, Appendix 12-E, and attached as Exhibit B. Based on the information provided by the NFS, the Shoshone-Paiute Tribe's overall assessment is that the NFS is anticipated to be "marginally capable."

14 APPLICATION OR ENACTMENT OF ZONING ORDINANCES

At this time there are no foreseen enactments of zoning ordinances to facilitate acquisition of real property in connection with this proposed project.

15 REAL ESTATE ACQUISITION SCHEDULE

Currently, the proposed project is anticipated to be implemented in phases, with construction beginning at the upstream end of the project area and progressing downstream. However, because the proposed project is only at a preliminary design, the construction timelines have not yet been determined but with an estimate of 12 months. The acquisition of Temporary Work Area Easements, and Rights of Entry for Construction needed for the TSP would be accomplished over 6 months, with the acquisition of all of the real estate interests required completed in advance of contracting for construction activities. The schedule below reflects an approximate realistic timeline to complete the acquisition activities.

Table 3. Real Estate Acquisition Schedule Milestones

Final Project Plans and Specifications Submitted to NFS	30 days after PPA signed.
Obtain Surveys	30 days after plans and specs submitted. If necessary.
Obtain Title Evidence	15 days after obtaining surveys. If necessary.
Obtain Appraisals and Reviews	30 days after obtaining title evidence.
Prepare Offer Letters	10 days after obtaining appraisals. If necessary.
Conclude Negotiations	15 days after start of negotiations. If necessary.
Conclude Closings	30 days after concluding negotiations. If necessary.
Attorney Certify Availability of LERRD	30 days after concluding closings.
Review LERRD Credit Request	30 days after receiving LERRDs documents.
Approve or Deny LERRD Credit Request	10 days after concluding LERRD review.

16 FACILITY/UTILITY RELOCATIONS

The design team continues to assess options in coordination with this feasibility report. At the time of this report, the information regarding the facility and utility relocations required for this project is not yet available. Impacted parcels and acreages are still being determined at this time and this REP will be updated as soon as more information becomes available.

A preliminary assessment of facilities and utilities within the TSP footprint is ongoing and guidance set forth in Real Estate PGL No. 31 is being utilized. In accordance with PGL No. 31, the District Real Estate Office will draft a real estate assessment addressing whether the identified facilities/utilities are generally of the type eligible for compensation under the substitute facilities doctrine, and if the District has valid data or evidence that demonstrates it has identified an owner with a compensable interest in the property. The identified utilities will be added to this REP when that information becomes available as Exhibit B.

ANY CONCLUSION OR CATEGORIZATION CONTAINED IN THIS REPORT THAT AN ITEM IS A UTILITY OR FACILITY RELOCATION TO BE PERFORMED BY THE NON-FEDERAL SPONSOR AS PART OF ITS LER RESPONSIBILITIES IS PRELIMINARY ONLY. THE GOVERNMENT WILL MAKE A FINAL DETERMINATION OF THE RELOCATIONS NECESSARY FOR THE CONSTRUCTION, OPERATION, OR MAINTENANCE OF THE PROJECT AFTER FURTHER ANALYSIS AND COMPLETION AND APPROVAL OF FINAL ATTORNEY'S OPINION OF COMPENSABILITY FOR EACH OF THE IMPACTED UTILITIES AND FACILITIES.

17 IMPACT ON REAL ESTATE ACQUISITION DUE TO SUSPECTED OR KNOWN CONTAMINANTS

The NFS fully understands their responsibilities for assessing the properties for any potential presence of hazardous waste materials as defined and regulated under CERCLA. The LER estimate is predicated on the assumption that all lands and properties are clean and require no remediation. In June 2023 a Phase I Environmental Site Assessment was conducted for this project in accordance with ER 1165-2-132, the investigation into regulatory databases, historic information, and other commonly accessible environmental records resulted in no recognized environmental conditions within the project area.

18 SUPPORT/OPPOSITION FOR THE PROJECT

There is no known opposition by local, state, and tribal stakeholders at this time. This proposed project enjoys popular broad-based support from the Bureau of Land Management and State agencies such as Idaho Fish and Game and the Nevada Department of Wildlife. The Corps hosted staff from Federal and State agencies and the Shoshone-Paiute Tribe Council for two, three-hour meetings on August 11, 2022, conducted at 1100 a.m. to 1:00 p.m. and 5:30 p.m. to 7:30 p.m. The Corps presented the audience with a power point presentation on-site in the Council office that was available to the remote audience through webinar. The public scoping period was from August 11, 2022, until September 11, 2022. Interested Party letters went to various interest groups, agencies, and tribal members to identify any scoping concerns, questions, or information. These agencies included Bureau of Land Management, National Resource, Conservation Service, Bureau of Indian Affairs, Idaho Fish and Game, Nevada Department of Wildlife, and Environmental Protection Agency. The Corps sent cooperating agency letters to five agencies to assist in scope and project development. Four agencies accepted the invite: Bureau of Land Management, Idaho Department of Fish and Game, Nevada Department of Wildlife. The Corps did not hear a response from United States Fish and Wildlife Service. A follow up e-mail was sent on December 9, 2022, to confirm the U.S. Fish and Wildlife Service status.

19 NON-FEDERAL SPONSOR NOTIFICATION OF PRE-PPA ACQUISITION

The NFS will be advised in writing of the risks associated with acquiring land prior to the execution of the Project Partnership Agreement. The risk letter will be mailed by certified mail in July 2024. A signed copy of this letter will be displayed as Exhibit C of this report.

20 OTHER REAL ESTATE ISSUES

Lands needed for the project are encumbered agriculture leases for cattle grazing. The Tribe has an active lease, DV-101-2022, starting 01 January 2022 through 31 December 2031. NFS will have to make those lands available for the project which could mean terminating the leases to provide for ecosystem restoration project features. Landowners and tribal council members might not be supportive of pulling ag leases which provide revenue in favor of ecosystem restoration purposes. The tribe wants very limited impacts to the leases they have with their cattle ranchers; this creates a high risk to the project and the NFS could be reluctant to move forward to sign a PPA. There is continual coordination with the Tribe to ensure buy-in with our recommended plan.

21 RECOMMENDATION

Prepared by:

Sandy Cox

Realty Specialist (Kansas City District) _____

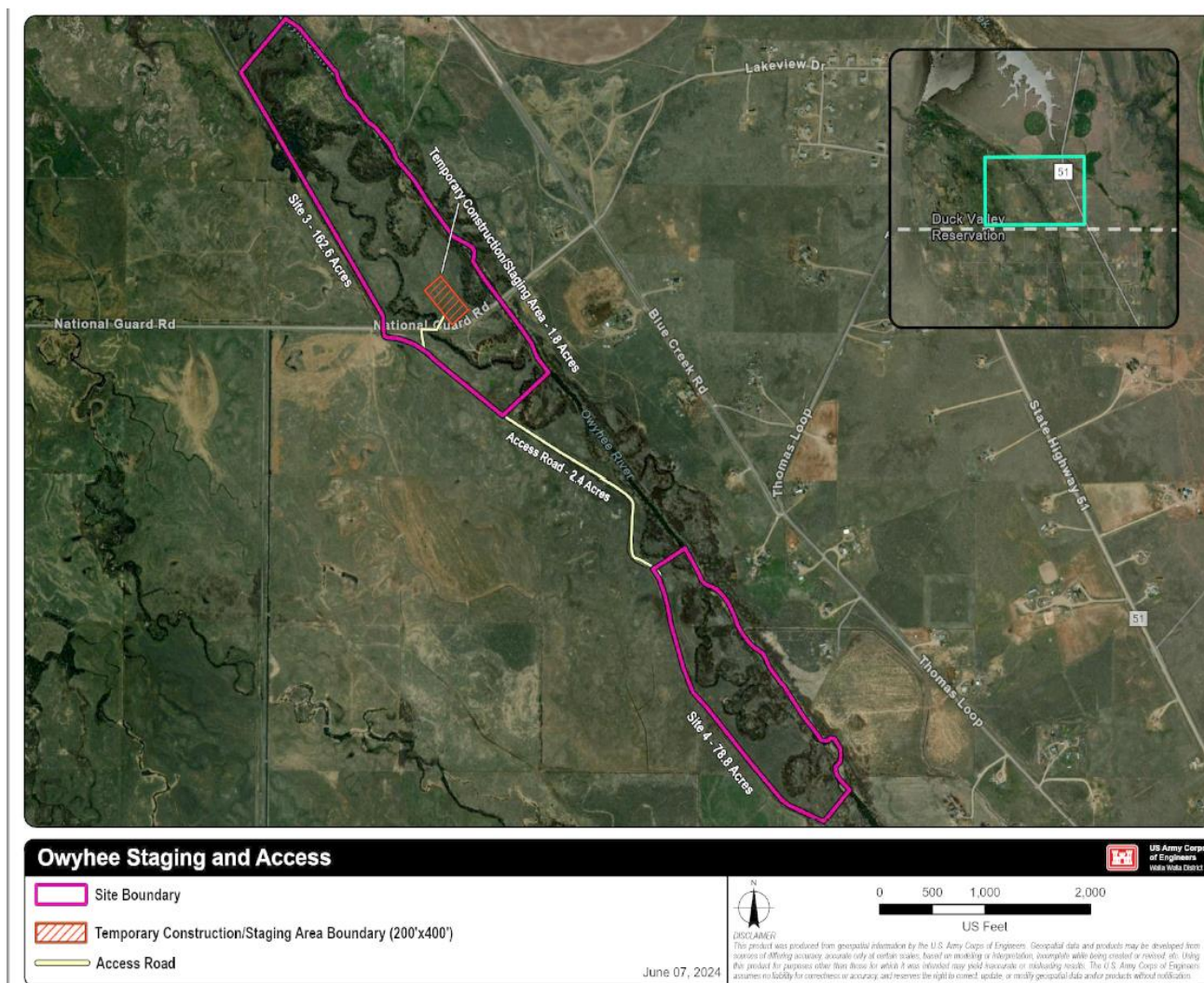
Reviewed by:

Allison Needham

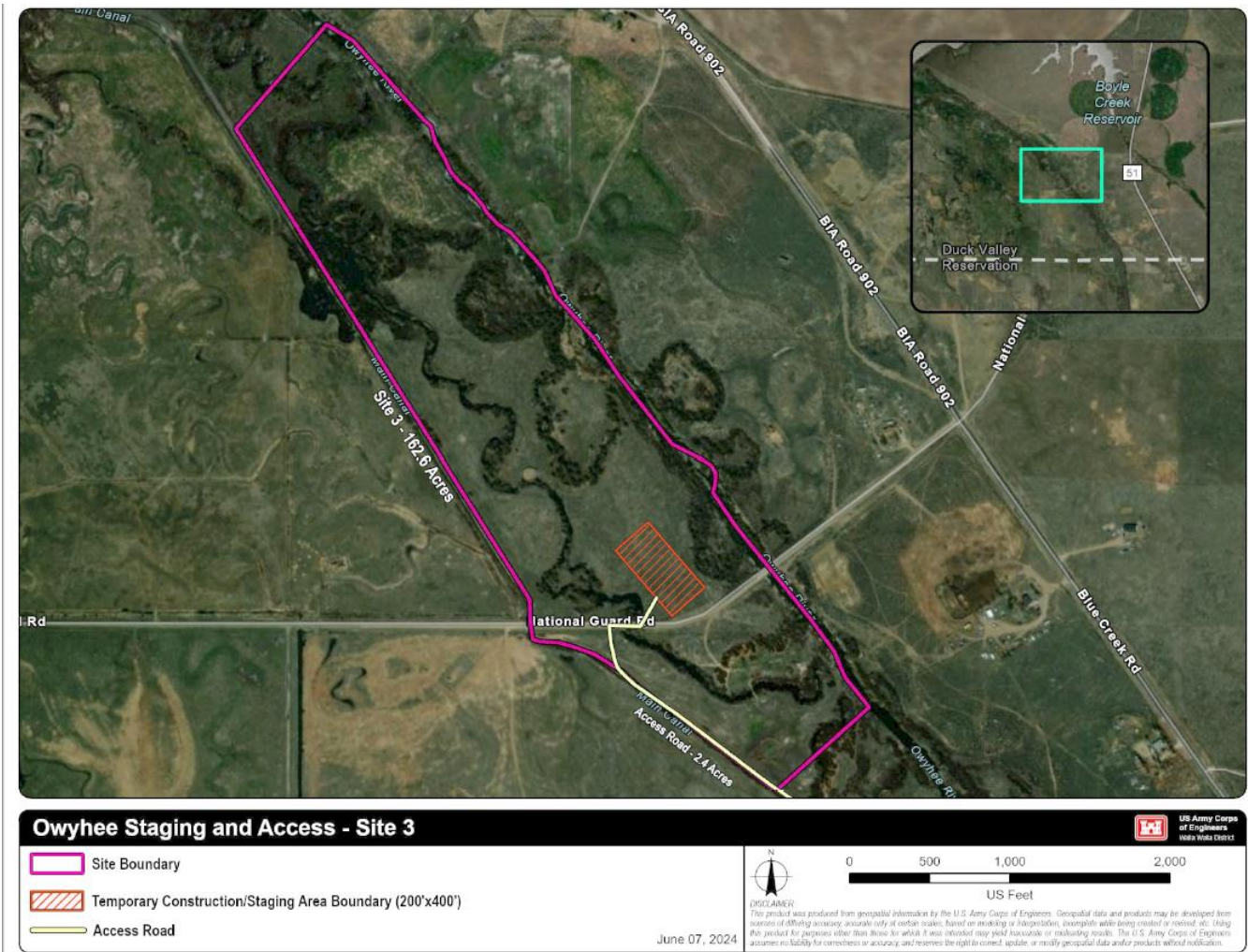
Chief, Real Estate Division _____

EXHIBIT A, PROJECT MAPS

Map 1. Owyhee 206 Project Map



Map 2. Owyhee 206 Project Map Site 3



Map 3. Owyhee 206 Project Map Site 4

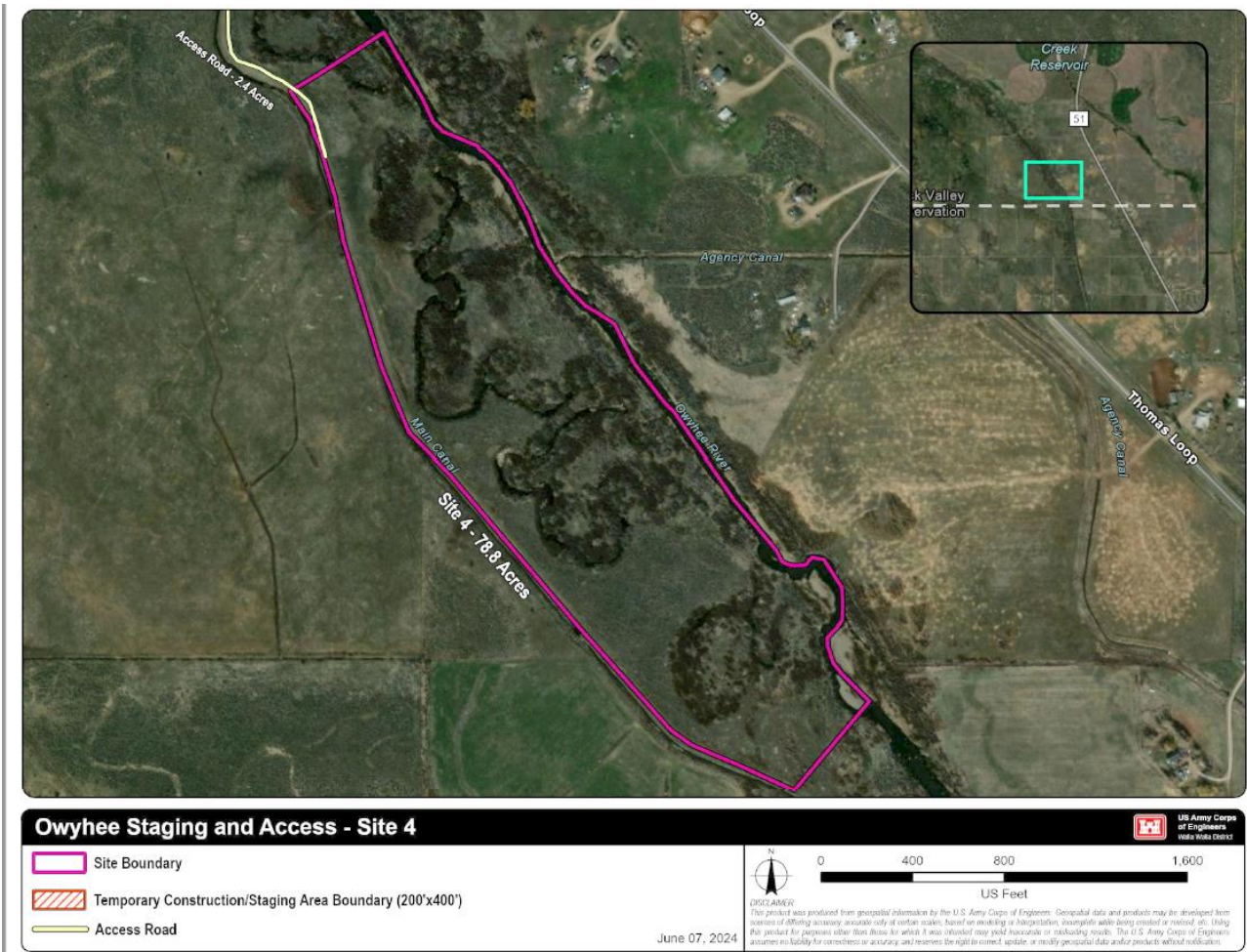


EXHIBIT B, ASSESSMENT OF NON-FEDERAL SPONSOR'S
ACQUISITION CAPABILITY

(To be added for Final Report)

EXHIBIT C, NON-FEDERAL SPONSOR NOTIFICATIONS OF RISKS
OF PRE-PPA ACQUISITION

(To be added for Final Report)