

Appendix I. Refuge Establishment History

- February 25, 1909, President Theodore Roosevelt signed Executive Order (E.O.) 1032 establishing several reservoir sites in the western United States, including the Deer Flat Reservoir, “as preserves and breeding grounds for native birds,” subject to Bureau of Reclamation (Reclamation) uses and any other existing rights. The E.O. also states, “It is unlawful for any person to hunt, trap, capture, willfully disturb or kill any bird of any kind whatever, or take the eggs of such birds within the limits of these reservations, except under such rules and regulations as may be prescribed by the Secretary of Agriculture.”
- January 12, 1937, Migratory Bird Conservation Commission (MBCC) Memorandum Number 13, “Snake River Migratory Waterfowl Refuge, Canyon and Owyhee Counties, Idaho,” stated in the History section: “This unit embraces a group of islands in the Snake River. Its strategic location on that flyway and its proximity to the Deer Flat Reservation makes it an important refuge possibility. The islands within the proposed refuge limits fall in three legal classifications: natural islands surveyed by the General Land Office prior to 1890 when Idaho became a state; natural islands not surveyed by the General Land Office and therefore public domain; islands formed since 1890, titles to which are vested in Idaho. The purpose is to purchase some 640 acres of privately owned and State owned islands, and obtain jurisdiction over the public lands through E.O. Then arrange with the Idaho State Fish and Game Commission to close a portion of the adjacent river as a sanctuary....”
- July 12, 1937, President Franklin D. Roosevelt issued E.O. 7655 “Establishing Deer Flat Migratory Waterfowl Refuge, Idaho,” revoking and superseding E.O. 1032. E.O. 7655 states “to effectuate further the purposes of the Migratory Bird Conservation Act (45 Stat. 1222), it is ordered that all lands owned or controlled by the United States within the following described area comprising 10,252.76 acres, more or less, in Canyon County, Idaho, be, and they are hereby, reserved and set apart for the use of the Department of Agriculture, subject to existing valid rights, as a refuge and breeding ground for migratory birds and other wildlife: Provided, that any private lands within the area described shall become a part of the refuge hereby established upon the acquisition of title thereto or lease thereof by the United States ... Most of the above-described lands have been withdrawn for use in connection with the Deer Flat Reclamation Project and are primarily under the jurisdiction of the Department of the Interior; and the reservation herein made of such lands shall be subject to the use thereof by the said Department for reclamation work and incidental purposes.
- Executive Order No. 1032 of February 25, 1909, in so far as it reserved certain lands within a reservoir site in Idaho as the Deer Flat Bird Reservation, as modified, is hereby revoked. This refuge shall be known as the Deer Flat Migratory Waterfowl Refuge” (Federal Register, Volume 2, Number 135, Page 1454, July 15, 1937).
- August 17, 1937, President Franklin D. Roosevelt issued E.O. 7691 “Establishing the Snake River Migratory Waterfowl Refuge, Idaho”: “to effectuate further the purposes of the Migratory Bird Conservation Act (45 Stat. 1222), it is ordered that all islands in the Snake River within the exterior limits of the following described area, owned or controlled by the United States, or of which the United States has the use for migratory bird refuge purposes, be, and they are hereby, withdrawn from settlement, location, sale, or entry, and reserved and set apart, subject to valid existing rights, for the use of the Department of Agriculture as a

refuge and breeding ground for migratory birds and other wildlife; *Provided*, that upon the acquisition of title to or lease of any privately-owned island by the United States, or upon the termination of any private right to or appropriation of any public-land island within the area, or upon the acquisition of control by the United States of any island within area, in any other manner, such islands shall be reserved and become part of the refuge....

- This refuge shall be known as the Snake River Migratory Waterfowl Refuge.”
- July 27, 1940, Presidential Proclamation No. 2416 (54 Stat. 2720) changed the name of the “Deer Flat Migratory Waterfowl Refuge” to the “Deer Flat National Wildlife Refuge” and changed the name of the “Snake River Migratory Waterfowl Refuge” to the “Snake River National Wildlife Refuge.”
- February 20, 1951, MBCC Memorandum Number 9 *Deer Flat National Wildlife Refuge, Canyon County, Idaho*, gave purchase approval for 74.34 acres (Tract 5 for 61 acres from J.B. De Motto and Tract 8 for 13.34 acres, with an easement for electric power line from G.M. Jenkins).
- MBCC Memorandum Number 9 also stated, “The Deer Flat Refuge is an important link in the system of national wildlife refuges in the Pacific Flyway. It is primarily a resting and feeding ground for ducks and geese and a considerable number of geese winter on the area. This refuge will be of even greater importance if proposed power impoundments on the Snake River are completed. Such impoundments will eliminate many small islands in the Snake River that are presently serving as feeding areas for waterfowl. The primary need on this refuge is additional land areas that can be planted to food for waterfowl. There is presented for consideration at this time two tracts of land that can be developed for feeding purposes”
- December 2, 1953, as mitigation for wildlife losses resulting from construction of the C.J. Strike Reservoir, the Idaho Power Company purchased and donated Dilly Island (21.26 acres) to the Service (November 22, 1971, Region 1 Realty Supervisor’s memo and January 27, 1964, Service memo to the files).
- January 26, 1955, Public Land Order (PLO) 1060 “Reserving Certain Public Lands As Addition to Deer Flat National Wildlife Refuge” stated “Subject to valid existing rights, the following described public lands in Canyon County, Idaho, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining but not the mineral leasing laws, and reserved as an addition to the Deer Flat National Wildlife Refuge” (adding 280 acres to the Refuge).
- February 15, 1955, MBCC Memorandum Number 8, “Deer Flat National Wildlife Refuge, Canyon County, Idaho,” gave purchase approval for Tract 51 (80 acres) from M.H. Leavitt, Canyon County, Idaho. Exceptions were rights-of-way for ditches, tunnels, telephone and power lines, and mineral rights in the State of Idaho. The option for purchase provided for the conveyance of 15 water shares in the Nampa and Meridian Irrigation District, which is sufficient to irrigate 15 acres of land.

- MBCC Memorandum Number 8 stated, “The Deer Flat Refuge is an important link in the system of national wildlife refuges in the Pacific Flyway, and is one of the principal wintering grounds for mallard and Canada geese in that flyway. Between 500,000 and 800,000 ducks and geese winter on this refuge each year. It is the terminus of a distinct flight from the prairie provinces of Canada. The Irrigation District which operates the reservoir draws down the water heavily in the early summer, and a considerable acreage of flats is exposed for the growth of smartweed and the important dwarfish “tealgrass,” both of which are of great appeal to geese and other waterfowl as food. Under the refuge management program, the Fish and Wildlife Service has reclaimed substantial part so these flats of a dense, smothering growth of willows which formerly covered the area. The construction of dams on the Snake and other rivers in this area for flood and power purposes has drawn increased numbers of waterfowl to this vicinity, and has created the problem of providing additional food to take care of the flocks and to prevent crop depredation. Also, there is a pressing need for additional marshlands that can be developed and used for nesting purposes... There is presented for consideration at this time a tract of land located immediately east of the existing refuge. This tract consists of both marsh and agricultural land, and its acquisition will increase the effectiveness of the refuge.”
- October 21, 1955, PLO 1239 added one tract of 10.25 acres to the refuge stating, “The lands are withdrawn for reclamation purposes by Departmental orders of December 22, 1903 and February 7, 1906.”
- March 7, 1958, PLO 1597 “Reserving Lands for Use of the U.S. Fish and Wildlife Service in Connection with Deer Flat National Wildlife Refuge” added 120 acres to the Refuge: “1. Subject to valid existing rights and the provisions of existing withdrawals, the following described public lands in Idaho are hereby withdrawn from all forms of appropriation under public land laws, including the mining but not the mineral leasing laws, or the act of July 31, 1947 (61 Stat. 367: 30 U.S. Code [U.S.C.] 601-604) as amended, and reserved for use of the Service as an addition to the Deer Flat National Wildlife Refuge. 2. The Bureau of Land Management shall continue to administer and dispose of sand, gravel, and other road building material in the NE ¼, SW ¼, Section 26, pursuant to the act of July 31, 1937, supra subject to such provisions as it shall prescribe to insure that the surface of the lands be restored as nearly as possible to their original condition. 3. This order shall take precedence over but shall not otherwise affect the Department Order of April 2, 1935, establishing Grazing District No. 1.”
- April 8, 1963, PLO 3016 “Addition to Deer Flat National Wildlife Refuge” added 26 islands to the refuge (264.41 acres, including a small portion of McCrea Island) on the Idaho side of the Snake River between Homedale and Farewell Bend. “Subject to valid existing rights, all islands owned by the United States within the exterior limits of the following described areas in the Snake River, Idaho, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws, and reserved for use of the Bureau of Sport Fisheries and Wildlife.”
- April 26, 1963, PLO 3047 added 32 acres to the Lake Lowell Unit of the refuge.
- June 28, 1963, PLO 3110, “Abolishment of Snake River National Wildlife Refuge; Transfer of Lands to Deer Flat National Wildlife Refuge,” stated “The Snake River National Wildlife

Refuge, heretofore established by E.O. 7691... is hereby abolished, and the lands now comprising the said refuge are transferred to and consolidated with the Deer Flat National Wildlife Refuge. The lands consist of islands in the Snake River and are located within the following described areas....”

- July 31, 1963, PLO 3168, “Withdrawing Public Lands for Use of the Bureau of Sport Fisheries and Wildlife, an Addition to the Deer Flat National Wildlife Refuge,” added 11 islands in Idaho and part of a twelfth (159.53 acres) on the Oregon side of the Snake River between Homedale and Farewell Bend. The PLO stated, “1. Subject to valid existing rights, all islands owned by the United States within the exterior limits of the following described areas in the Snake River, Idaho, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws, and reserved for use of [the Service]...2. Grazing of domestic livestock on the lands shall be in accordance with provisions of the Taylor Grazing Act of June 28, 1934 (48 Stat. 1269; 43 U.S.C. 315) as amended, and the regulations in 43 C.F.R. [Code of Federal Regulations], but shall be subordinate to the use of the lands for wildlife purposes.”
- , but shall be subordinate to the use of the lands for wildlife purposes.”
- June 3, 1965, PLO 3661, “Partial Revocation of the Executive Order No. 7655 (Deer Flat National Wildlife Refuge),” added approximately 0.93 acres to the Lake Lowell Unit of the Refuge, stating “The land is acquired.”
- February 12, 1968, PLO 4366, “Addition to Deer Flat National Wildlife Refuge,” added Fields Island (2.91 acres) to the Refuge, located in both Idaho and Oregon. “1. Subject to valid existing rights, the following described lands, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, and reserved as an addition to the Deer Flat National Wildlife Refuge... 2. Grazing of domestic livestock on the lands shall be in accordance with provisions of the Taylor Grazing Act of June 28, 1934 (48 Stat. 1269; 43 U.S.C. 315) as amended, and the regulations in 43 C.F.R.
- May 28, 1968, PLO 4425, “Addition to Deer Flat National Wildlife Refuge,” added 16.9 acres to the Snake River Islands Unit of the Refuge. “1. Subject to valid existing rights, the following described lands, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, and reserved as an addition to the Deer Flat National Wildlife Refuge.... 2. Grazing of domestic livestock on the lands shall be in accordance with provisions of the Taylor Grazing Act of June 28, 1934 (48 Stat. 1269; 43 U.S.C. 315) as amended, and the regulations in 43 C.F.R., but shall be subordinate to the use of the lands for wildlife purposes.”
- November 20, 1968, the Bureau of Sport Fisheries and Wildlife signed a memorandum of understanding (MOU) with the City of Marsing, Idaho, allowing the city use of Marsing Island as a park and recreation area; on February 23, 1972, the Bureau reported the island as excess property to the General Services Administration (GSA) and on May 11, 1972, the MOU between the Bureau and the City of Marsing was terminated. On June 21, 1972,

Marsing Island was assigned to the Reclamation by GSA and later deeded to the City of Marsing.

- October 24, 1975, PLO 5545 added 175 acres to the Lake Lowell Unit of the refuge, stating, “Except for any private lands which may be involved, the lands described in paragraph 1. above remain withdrawn from all forms of appropriation under the public land laws, including the mining laws, for the Payette-Boise Reclamation Project.”
- On June 26, 2002, a lawsuit with the State of Idaho regarding ownership of islands in the Snake River was settled. The State of Idaho had filed suit on September 15, 1997, claiming title to islands and portions of islands that were part of the Snake River Island Unit of the Refuge. The suit was based on the State’s contention that these islands were formed after statehood (July 4, 1890) and, therefore, belonged to the State. The State laid claim to 63 of the islands that were part of the Refuge at the time. In 1936, certain islands in the Snake River had been identified as under Federal or State ownership by Idaho and Service personnel, ownership determinations that were not founded on science. In its defense, the Service contracted various experts to gather data and refute the State’s claim. Work was conducted on the geomorphology, soil, and location of the ordinary high water mark. Based on the findings of these scientific investigations, a settlement was negotiated, whereupon, a few islands previously identified as part of the Refuge became State property, and several islands previously thought to be State property became part of the Refuge.

Document continues on next page.