

## Appendix H. Public Involvement

### H.1 Public Involvement Efforts

Public involvement was sought in the early stages of development of the comprehensive conservation plan and environmental impact statement (CCP/EIS). Prior to beginning of public scoping, the Refuge created a Stakeholder Scoping Team to help identify people and organizations that would be interested in the CCP/EIS process. The team met in June 2010 and brainstormed organizations and individuals that could help provide information to the public about the CCP/EIS process and maximize public involvement, as well as outreach tools that could be used. Invitees to this team included representatives of the business, agricultural, hunting, recreation, conservation, and Hispanic communities.

Public involvement strategies included face-to-face meetings with community organizations, local, State, and Federal agencies, elected officials (or their aides), and Refuge users. To inform the broader public, invite discussion, and solicit feedback, the planning team also held open houses, provided a twice-a-month call-in line, and conducted weekly on-site field outreach. Field outreach included distributing pamphlets to visitors and engaging them in conversation regarding the CCP. The Refuge also maintained a website where CCP information could be found and where the public could print out comment forms or submit emails during the scoping phase. Below is a brief summary of the events, meetings, and outreach tools that were used in our scoping and public involvement efforts.

During the public scoping phase of the CCP, three issues appeared to be of most interest to Refuge stakeholders: surface water recreation, upland recreation, and hunting. Work sessions were created to continue discussion around these themes. Commenters with differing viewpoints and those that appeared willing to look for solutions to difficult issues, as well as local partners that had voiced interest in these themes, were invited to join these topic-based work sessions. The Refuge invited approximately 130 people (or their representatives) to attend the work sessions held from September 23 to September 25, 2010. Of those 130 invitees, 47 attended at least some part of the work sessions. Six members of the public also viewed the work sessions at some point during the three days. To view a summary of the work sessions, please visit the Deer Flat NWR Planning website at <http://www.fws.gov/deerflat/refugeplanning.html>.

#### H.1.1. Invitation to the Tribes

- May 27, 2010. Hard copy letters were mailed to Robert Bear, Tribal Chairman of Shoshone-Paiute Tribes; Alonzo Coby, Fort Hall Business Council (FHBC) Chairman of Shoshone-Bannock Tribes; and Samuel Penney, Chairman of the Nez Perce Tribe.
- May 12, 2011. Emails were sent to Robert Bear, Tribal Chairman of the Shoshone-Paiute Tribes, Brooklyn Baptiste, Chairman of the Nez Perce Tribe, and Nathan Small, FHBC Chairman of the Shoshone-Bannock Tribes to invite them to send a representative to the Extended Team Meetings.
- May 18, 2011. Received word from Brian Kelly and Meggan Laxalt-Mackay of the U.S. Fish and Wildlife Service (USFWS) Ecological Services office that the Shoshone-Paiute only want to be consulted through the “Wings and Roots” program. Since this time, Brian Kelly has taken the lead on attempting to reinstate a consultation process with this tribe. Since they requested that they not be consulted outside of this formal program, no further direct contact

was made with the tribe by the Ecological Services office. When the consultation process resumes, the Refuge will be a participant.

- May 25, 2011. Called and left messages for the chairmen of the Shoshone-Paiute, Shoshone-Bannock, and Nez Perce Tribes asking how they would like to be involved in the CCP process.
- September 20, 2011. Called and left messages for Nathan Small, FHBC Chairman of Shoshone-Bannock Tribes, and Brooklyn Baptiste, Chairman of the Nez Perce Tribe, asking them how they would like to be involved and letting them know that if there was no response by October 30, we would assume that they were not interested in participating in the process.
- August 29, 2011. Brian Kelly attempted to set up a consultation meeting with the Shoshone-Paiute for September 8, 2011. Unfortunately, the meeting never materialized.
- October 27, 2011. Attempted to contact the Natural Resources departments of the Nez Perce and Shoshone-Bannock Tribes. Left messages for Keith Lawrence and Yvette Tuell.
- November 1, 2011. Keith Lawrence of the Nez Perce Tribe contacted us to let us know that the Natural Resources department was not interested in being involved in the CCP in any way. He suggested that we contact their Cultural Resources department.
- November 3, 2011. Contacted Pat Baird, archaeologist for the Nez Perce Tribe, who said that they wanted to be notified of undertakings and that they wanted a hard copy of the Draft and Final CCP sent to the Nez Perce Tribe archaeologist and the tribal chairman. These contacts were added to the mailing list.

## **H.1.2 Meetings and Communication with Federal, State, or Local Elected Officials and Federal, State, or Local Agencies**

### **H.1.2.1 Interagency Coordination Team**

- May 27, 2010. Letters requesting involvement on the CCP Interagency Coordinating Team (ICT) were sent to U.S. senators and representatives, State of Idaho senators and representatives within the Lake Lowell districts, the Governor of Idaho, Canyon County commissioners, the mayors of Caldwell and Nampa, Bureau of Reclamation, Idaho Department of Fish and Game (IDFG), Idaho Department of Environmental Quality (IDEQ), Canyon County Parks Recreation and Waterways (CCPRW), and the Boise Project Board of Control.
- ICT Meetings
  - July 1, 2010. Attendees included representatives of IDEQ, Bureau of Reclamation, Canyon County Parks, Recreation and Waterways (CCPRW), Canyon County Commissioners, Senator Crapo's office, Canyon County District 13, and the City of Caldwell.
  - November 30, 2010. Attendees included representatives of the City of Nampa, State Representative Christy Perry's office, Canyon County Commissioners, CCPRW, Bureau of Reclamation, and the City of Caldwell.
  - May 27, 2011. Attendees included representatives of the City of Caldwell, IDEQ, Canyon County Commissioners, CCPRW, the offices of Senators Crapo and Risch, the office of Congressman Labrador, Canyon County Sheriff's office, Idaho Department of Parks and Recreation, IDFG, and the City of Greenleaf.
  - March 14, 2013. Attendees included representatives of the offices of Senators Crapo and Risch, the office of Congressman Labrador, the Cities of Nampa, Caldwell, and

Greenleaf; Canyon County Commissioners, CCPRW, Canyon County Sheriff's Office, Boise Project Board of Control, IDFG, and Idaho Department of Parks and Recreation.

- ICT Updates
  - Updates were sent to the coordination team monthly. ICT updates were sent on August 2, 2010; September 9, 2010; October 8, 2010; November 10, 2010; January 12, 2011; February 22, 2011; March 21, 2011; May 4, 2011; June 9, 2011; July 27, 2011; August 30, 2011; September 29, 2011; October 25, 2011; November 30, 2011; December 22, 2011; February 6, 2012; February 23, 2012; April 2, 2012; April 27, 2012; May 31, 2012; July 2, 2012; August 2, 2012; September 5, 2012; October 4, 2012; November 1, 2012; November 29, 2012; January 3, 2013; March 18, 2013; April 25, 2013; June 6, 2013.
  - No ICT update was sent in December 2010, because of the meeting held at the end of November.
  - No ICT update was sent in April 2011. An update was sent in early May.
  - January 2012 update was sent the first week of February.
- Current Representatives on the ICT
  - Kathy Alder – Canyon County Commissioner
  - Tom Bicak – Director, CCPRW
  - Tom Dale – Mayor, City of Nampa
  - Joe Decker – Canyon County Public Information Officer
  - Paul Deveau – Project Manager, Boise Project Board of Control
  - Steve Dunn – Natural Resource Specialist, Bureau of Reclamation
  - Phil Hardy – Regional Director for Congressman Raul Labrador
  - Darrin Johnson – Director, Nampa Parks and Recreation
  - Dean Johnson – Lands Resource Supervisor, Idaho Department of Lands
  - Dustin Miller – Environmental Liaison for Governor Otter
  - Susan Miller – Executive Assistant to the Mayor of Caldwell
  - Lauri Monnot – Watershed Coordinator, IDEQ
  - Christy Perry – Representative for Canyon County District 13
  - Scott Reinecker – Regional Director, IDFG
  - John Revier – Deputy Chief of Staff for Congressman Simpson
  - Bryan Ricker – Regional Director for Senator Crapo
  - Mike Roach – Natural Resource Director for Senator Risch

#### **H.1.2.2 Congressional Meetings/Tours (in addition to ICT involvement)**

- May 27, 2010. Letters requesting involvement on the CCP ICT were sent to U.S. senators and representatives, State of Idaho senators and representatives within the Lake Lowell districts, the Governor of Idaho, Canyon County commissioners, the mayors of Caldwell and Nampa, Bureau of Reclamation, IDFG, Idaho DEQ, CCPRW, and the Boise Project Board of Control.
- May 26, 2011. Refuge Manager Jennifer Brown-Scott and Assistant Chief of Refuges Ben Harrison met with Senators Crapo and Risch, Congressman Simpson, and staff of Congressman Labrador in Washington D.C. to brief them on the preliminary draft alternatives.
- August 18, 2011. Refuge Manager Jennifer Brown-Scott, Chief of Refuges Robin West, Assistant Regional Director Richard Hannan, and Regional Director Robyn Thorson met with

representatives of Senators Crapo and Risch and Congressmen Labrador and Simpson to discuss public comment and future changes to the preliminary draft alternatives.

- March 20, 2013. Refuge Manager Jennifer Brown-Scott provided informational CCP presentation to aide of Congressman Labrador.

#### **H.1.2.3 Presentations for Federal, State and County Agencies (in addition to ICT involvement)**

- Sent out invitations in June 2010 for a presentation on August 3, 2010. No County employees responded.
- August 4, 2010. Held presentation for Idaho state agencies. Kurt Stieglitz, IDFG; Thomas Woolf, Idaho Department of Agriculture; Jim Vannoy, Idaho Department of Health and Welfare; and David Dahms, Idaho Department of Parks and Recreation attended.
- August 11, 2010. Met with Idaho Department of Lands to discuss management authority.
- October 11, 2011. Met with IDFG and discussed public comments and potential changes to the preliminary draft alternatives.
- March 14, 2013. Interagency coordinating team meeting.
- April 4, 2013. Ecological Services meeting.

### **H.1.3 Communication with the Public, Local Businesses, and Community Organizations**

#### **H.1.3.1 Presentations with Community/Business Organizations**

- During scoping in summer 2010, we contacted over 40 nongovernmental organizations and State and county agencies to offer CCP question-and-answer sessions. We met with 23 groups, including the following:
  - June 10, 2010. Informational CCP presentation to Caldwell Kiwanis.
  - June 10, 2010. Informational CCP presentation to Southwest Idaho Birders Association.
  - June 16, 2010. Informational CCP presentation to Idaho Bass Federation Nation.
  - July 10, 2010. Brief speech at the Premier Bass Tournament weigh-in.
  - July 12, 2010. Informational CCP presentation to the board of Golden Eagle Audubon Society.
  - July 13, 2010. Informational CCP presentation to the Southern Idaho Sailing Association.
  - July 14, 2010. Informational CCP presentation to the Idaho-Oregon Snake River Water Trail Coalition.
  - July 20, 2010. Informational CCP presentation to the Southwest Irrigation District (SWID) Resource Conservation and Development.
  - July 21, 2010. Informational CCP presentation to the Friends of Deer Flat Refuge.
  - July 26, 2010. Informational CCP presentation to the Intermountain Jet Boat Association.
  - July 27, 2010. Informational CCP presentation to the Kiwanis Club.
  - August 4, 2010. Informational CCP presentation at the Boise Watershed Teacher Workshop.
  - August 9, 2010. Informational CCP presentation to the Western White Water Association.

- August 10, 2010. Informational CCP presentation to the Idaho Waterfowl Association.
- August 10, 2010. Brief presentation at the Caldwell Chamber of Commerce luncheon.
- August 13, 2010. Speech to a floatplane club.
- August 18, 2010. Informational CCP presentation to the Caldwell Rotary Club.
- August 23, 2010. Informational CCP presentation to the Snake River Canyon Scenic Byway.
- August 26, 2010. Informational CCP presentation to the Nampa Association of Realtors.
- August 31, 2010. Informational CCP presentation to the Caldwell Optimist Club.
- Two requests for CCP presentations were received in the winter of 2011. Presentations were provided to the following organizations.
  - February 14, 2011. Informational CCP presentation to the Woman's Century Club.
  - March 13, 2011. Informational CCP presentation to the Nampa Exchange Club.
- During the preliminary draft alternatives comment period in summer 2011, we contacted 70 nongovernmental organizations to offer CCP question-and-answer sessions. We met with 28 groups, including the following.
  - June 6, 2011. Informational CCP presentation to Idaho Power.
  - June 6, 2011. Informational CCP presentation to Snake River Bassmasters.
  - June 8, 2011. Informational CCP presentation to the Nampa Exchange Club.
  - June 9, 2011. Informational CCP presentation to the Caldwell Kiwanis Club.
  - June 9, 2011. Informational CCP presentation to the Lower Boise Watershed Council.
  - June 14, 2011. Informational CCP presentation to the Nampa Lions Club.
  - June 17, 2011. Informational CCP presentation to a local floatplane club.
  - June 21, 2011. Informational CCP presentation to the Ada County Association of Realtors.
  - June 21, 2011. Informational CCP presentation to the Caldwell Exchange Club.
  - June 21, 2011. Informational CCP presentation to Southwest Idaho Resource Conservation and Development.
  - June 22, 2011. Informational CCP presentation to the Caldwell Optimist Club.
  - June 22, 2011. Informational CCP presentation to the Caldwell Rotary Club.
  - June 28, 2011. Informational CCP presentation to the Treasure Valley Kiwanis Club.
  - June 28, 2011. Informational CCP presentation to the Nampa Rotary Club.
  - June 28, 2011. Informational CCP presentation to Lakeside Bassmasters.
  - June 29, 2011. Informational CCP presentation to the Sunrise Rotary.
  - June 30, 2011. Informational CCP presentation to Idaho Water Sports.
  - July 6, 2011. Informational CCP presentation to Idaho Waterfowl Association.
  - July 7, 2011. Informational CCP presentation to Bass Federation Nation.
  - July 11, 2011. Informational CCP presentation to Western Whitewater Association.
  - July 12, 2011. Informational CCP presentation to Golden Eagle Audubon Society.
  - July 13, 2011. Informational CCP presentation to the Caldwell Chamber of Commerce.
  - July 15, 2011. Informational CCP presentation to the Boise Sailors Association.
  - July 21, 2011. Informational CCP presentation to the Nampa Kiwanis Club.
  - July 21, 2011. Informational CCP presentation to Idaho Bass Federation.
  - July 23, 2011. Informational CCP presentation to the Idaho Recreation Council.

- July 25, 2011. Informational CCP presentation to the Snake River Canyon Scenic Byway.
- January 1, 2012. Informational CCP presentation to the Parma Lion's club.
- October 1, 2012. Informational CCP presentation to the Idaho RC & D.
- During the Draft CCP/EIS comment period in spring 2013, we contacted 76 agencies and nongovernmental organizations to offer CCP question-and-answer sessions. We met with 26 groups, including the following.
  - March 14, 2013. Informational CCP presentation to the Southern Idaho Birding Association.
  - March 16, 2013. Informational CCP presentation to the Friends of Deer Flat.
  - March 19, 2013. Informational CCP presentation to the Parma Lion's Club.
  - March 19, 2013. Informational CCP presentation to the Idaho Gem Fly.
  - March 19, 2013. Informational CCP presentation to Southwest Idaho Resource Conservation
  - March 20, 2013. Informational CCP presentation to the Caldwell Optimists.
  - March 20, 2013. Informational CCP presentation to the Caldwell Rotary Club.
  - March 20, 2013. Informational CCP presentation to the Nampa/Caldwell Association of Realtors.
  - March 20, 2013. Informational CCP presentation to Save Lake Lowell.
  - March 21, 2013. Informational CCP presentation to the Fly Fishers of Idaho.
  - March 25, 2013. Informational CCP presentation to the Intermountain Jet Boat Association.
  - March 26, 2013. Informational CCP presentation to the Golden Eagle Audubon Society.
  - April 2, 2013. Informational CCP presentation to the Lakeside Bassmasters.
  - April 4, 2013. Informational CCP presentation to the Idaho BASS Nation.
  - April 4, 2013. Informational CCP presentation to the BASS Federation.
  - April 8, 2013. Informational CCP presentation to Western Whitewater.
  - April 9, 2013. Informational CCP presentation to the Caldwell Chamber of Commerce.
  - April 9, 2013. Informational CCP presentation to the Nampa Rotary Club.
  - April 10, 2013. Informational CCP presentation to the Snake River Water Trail.
  - April 10, 2013. Informational CCP presentation to the Nampa Exchange Club.
  - April 20, 2013. Informational CCP presentation to the Boise Sailors Association.
  - April 25, 2013. Informational CCP presentation to the Sunrise Club.
  - April 29, 2013. Informational CCP presentation to the Canyon County Alliance for Responsible Growth.
  - April 30, 2013. Informational CCP presentation to the Caldwell Exchange club.
  - May 1, 2013. Informational CCP presentation to the Caldwell Lion's Club.
  - May 2, 2013. Informational CCP presentation to Caldwell Kiwanis.

### **H.1.3.2 Public Open Houses/Scoping Sessions**

- July 28, 2010. Open House from 12:00 PM to 3:00 PM at the Refuge Visitor Center.
- August 20, 2010. Open House from 10:00 AM to 6:00 PM at the Refuge Visitor Center.
- August 21, 2010. Open House from 10:00 AM to 3:00 PM at the Refuge Visitor Center.

- September 23-24, 2010. Work Session 1. Participation was by invitation. The work sessions were open to public viewing.
- September 24-25, 2010. Work Session 2. Participation was by invitation. The work sessions were open to public viewing.
- June 3, 2011. Open House from 12:00 PM to 3:00 PM and 6:00 PM to 9:00 PM at the Refuge Visitor Center.
- June 4, 2011. Open House from 10:00 AM to 3:00 PM at the Refuge Visitor Center.
- July 8, 2011. Open House from 12:00 PM to 3:00 PM and 6:00 PM to 9:00 PM at the Refuge Visitor Center.
- July 9, 2011. Open House from 10:00 AM to 3:00 PM at the Refuge Visitor Center.
- March 29, 2013. Open House from 12:00 PM to 3:00 PM and 6:00 PM to 9:00 PM at the Refuge Visitor Center.
- March 30, 2013. Open House from 10:00 AM to 3:00 PM at the Refuge Visitor Center.
- April 26, 2013. Open House from 12:00 PM to 3:00 PM and 6:00 PM to 9:00 PM at the Refuge Visitor Center.
- April 27, 2013. Open House from 10:00 AM to 3:00 PM at the Refuge Visitor Center.

#### **H.1.3.3 Field Outreach**

- June 26, 2010. Staff outreach at Upper Dam East.
- July 1, 2010. Staff outreach at Gotts Point and Lower Dam Recreation Area.
- July 10, 2010. Staff outreach at Gotts Point, the Lower Dam Recreation Area, and the Lavender Festival.
- July 11, 2010. Staff outreach at the Lavender Festival.
- July 22, 2010. Staff outreach at the Lower Dam Recreation Area.
- July 30, 2010. Staff outreach at the Lower Dam Recreation Area, the Upper Dam, and Gotts Point.
- August 8, 2010. Staff outreach at Access #7, Lower Dam Recreation Area, Upper Dam East, and Upper Dam West.
- August 14, 2010. Staff outreach at the Lower Dam Recreation Area.
- August 27, 2010. Staff outreach at the Upper Dam West, Upper Dam East, Lower Dam Recreation Area, and Gotts Point.
- June 25-26, 2011. Staff outreach at the Boise Recreation Festival.
- July 8-9, 2011. Staff outreach at the Lavender Festival.

#### **H.1.3.4 CCP Hotline**

- June 23, 2010. Available 5:00 PM to 7:00 PM
- July 14, 2010. Available 5:00 PM to 7:00 PM
- July 28, 2010. Available 5:00 PM to 7:00 PM
- August 11, 2010. Available 5:00 PM to 7:00 PM
- August 25, 2010. Available 5:00 PM to 7:00 PM
- September 8, 2010. Available 5:00 PM to 7:00 PM

### H.1.3.5 News Releases

The following CCP-related news releases were issued to over 100 statewide television, radio, and print media contacts.

- June 21, 2010. Announcement of start of CCP process and opportunities for comment.
- July 19, 2010. Announcement of upcoming open house about management plan.
- September 16, 2010. Announcement of CCP Work Sessions.
- December 28, 2010. Update on status of CCP planning and announcement of release of Planning Update #2.
- May 27, 2011. Announcement of comment period for preliminary draft alternatives.
- October 25, 2011. Update on status of CCP planning and announcement of release of Planning Update #4.
- March 15, 2013. Announcement of comment period for Draft CCP/EIS and release of Planning Update #5.

### H.1.3.6 Press Coverage

- 2010. Idaho Bass Federation Nation, “Lake Lowell.”  
[http://idahobassfederationnation.com/yahoo\\_site\\_admin/assets/docs/1\\_IBFN\\_Header\\_2nd\\_Qtr\\_2010-Completed.17062425.pdf](http://idahobassfederationnation.com/yahoo_site_admin/assets/docs/1_IBFN_Header_2nd_Qtr_2010-Completed.17062425.pdf)
- April 14, 2010. Idaho Press-Tribune, “Deer Flat Prepares to Update Conservation Guidelines.” [http://www.idahopress.com/news/deer-flat-prepares-to-update-conservation-guidelines/article\\_502215ae-4783-11df-9634-001cc4c002e0.html](http://www.idahopress.com/news/deer-flat-prepares-to-update-conservation-guidelines/article_502215ae-4783-11df-9634-001cc4c002e0.html)
- May 02, 2010. Idaho Press-Tribune, “County Seeks Full Access to Popular Recreation Spot.” [http://www.idahopress.com/news/county-seeks-full-access-to-popular-recreation-spot/article\\_26b61884-55af-11df-8b7c-001cc4c002e0.html](http://www.idahopress.com/news/county-seeks-full-access-to-popular-recreation-spot/article_26b61884-55af-11df-8b7c-001cc4c002e0.html)
- May 02, 2010. KTVB, “Some residents want vehicle ban lifted on Lake Lowell recreation spot.” <http://www.ktvb.com/home/Some-SW-Idaho-residents-want-vehicle-ban-lifted-92636164.html>
- May 02, 2010. NWCN, “Some Residents Want Vehicle Ban Lifted on Lake Lowell Recreation Spot.” <http://www.nwcn.com/news/idaho/Some-residents-want-vehicle-ban-lifted-on-Lake-Lowell-recreation-spot-92680184.html>
- May 05, 2010. Idaho Press-Tribune, “Public Can Give Views on Lake Lowell Water.” [http://www.idahopress.com/news/public-can-give-views-on-lake-lowell-water/article\\_e36e2b28-580d-11df-acbc-001cc4c03286.html](http://www.idahopress.com/news/public-can-give-views-on-lake-lowell-water/article_e36e2b28-580d-11df-acbc-001cc4c03286.html)
- May 13, 2010. Idaho Press-Tribune, “Find Way to Open Gates at Gotts Point.” [http://www.idahopress.com/editorials/find-way-to-open-gates-at-gotts-point/article\\_6e42822c-5e43-11df-bb1c-001cc4c002e0.html](http://www.idahopress.com/editorials/find-way-to-open-gates-at-gotts-point/article_6e42822c-5e43-11df-bb1c-001cc4c002e0.html)
- June 16, 2010. Idaho Press-Tribune, “Lake Lowell Flush with Water.” [http://www.idahopress.com/news/lake-lowell-flush-with-water/article\\_d8417eec-7907-11df-af0a-001cc4c002e0.html](http://www.idahopress.com/news/lake-lowell-flush-with-water/article_d8417eec-7907-11df-af0a-001cc4c002e0.html)
- June 21, 2010. Press release was sent to local press outlets informing the public of the start of public scoping and promoting the CCP hotline.
- June 21, 2010. Idaho Statesman, “Deer Flat National Wildlife Refuge Kicks Off Comprehensive Planning Process, Wants Public Comment.”
- July 08, 2010. Idaho Press-Tribune, “Work begins on Deer Flat Wildlife Refuge Plan.”

- [http://www.idahopress.com/news/work-begins-on-deer-flat-wildlife-refuge-plan/article\\_07500ab4-8a4c-11df-96bd-001cc4c03286.html](http://www.idahopress.com/news/work-begins-on-deer-flat-wildlife-refuge-plan/article_07500ab4-8a4c-11df-96bd-001cc4c03286.html)
- July 08, 2010. Snake River Bassmasters, “July 8, 2010.”  
<http://www.srb.idahobassfed.com/news.htm>
  - July 19, 2010. Press release was sent to local press outlets informing them of the July and August open houses.
  - July 24, 2010. Idaho Press-Tribune, “Refuge Meeting Plan Set for Wednesday.”  
[http://www.idahopress.com/news/refuge-meeting-plan-set-for-wednesday/article\\_928f891a-96e0-11df-9834-001cc4c002e0.html](http://www.idahopress.com/news/refuge-meeting-plan-set-for-wednesday/article_928f891a-96e0-11df-9834-001cc4c002e0.html)
  - July 29, 2010. Idaho Press-Tribune, “Refuge Seeks to Save Water Sports.”  
[http://www.idahopress.com/news/refuge-seeks-to-save-water-sports/article\\_8d53518e-9b3b-11df-874a-001cc4c002e0.html](http://www.idahopress.com/news/refuge-seeks-to-save-water-sports/article_8d53518e-9b3b-11df-874a-001cc4c002e0.html)
  - August 09, 2010. Blue Ribbon Coalition, “IDAHO: Help Preserve Recreation on Lake Lowell.” <http://www.sharetrails.org/node/13092>
  - August 10, 2010. KIVI-TV, “Boaters Beware in Lake Lowell.”
  - August 10, 2010 KBOI AM 670, “Officials Urge Public Comment on Deer Flat National Refuge Plan.”
  - August 10, 2010. Big Fish Tackle, Idaho Fishing General, “Will they close lake lowell???”  
[http://www.bigfishtackle.com/forum/gforum.cgi?do=post\\_view\\_flat;post=606371](http://www.bigfishtackle.com/forum/gforum.cgi?do=post_view_flat;post=606371)
  - August 11, 2010. Idaho Press-Tribune, “Help Save Recreation on Lake Lowell.”  
[http://www.idahopress.com/opinion/editorial/help-save-recreation-on-lake-lowell/article\\_27eafdbe-a4dd-11df-b91d-001cc4c03286.html](http://www.idahopress.com/opinion/editorial/help-save-recreation-on-lake-lowell/article_27eafdbe-a4dd-11df-b91d-001cc4c03286.html)
  - August 12, 2010. KTRV-TV, “Lake Lowell Activities Debate.”
  - August 12, 2011. Boise Riders, Motorcycle Talk, “Help Preserve Recreation on Lake Lowell.” <http://boiseriders.net/motorcycle-talk/8977-help-preserve-recreation-lake-lowell.html>
  - August 13, 2010. KIVI-TV, “Public to Weigh in on Lake Lowell Management Plan.”
  - August 13, 2010. Mike Crapo, United States Senator, “Lake Lowell Meeting Set to Discuss Future Boating.”  
[http://www.crapo.senate.gov/media/newsreleases/release\\_full.cfm?id=327192&](http://www.crapo.senate.gov/media/newsreleases/release_full.cfm?id=327192&)
  - August 14, 2010. KBOI, Story about boating, open houses, and comments.
  - August 14, 2010. KBOI 2, “Change ‘is coming’ to Lake Lowell, Boaters Fear Worst.”  
[www.kboi2.com/news/local/100700244.html](http://www.kboi2.com/news/local/100700244.html)
  - August 14, 2010. KTVB and NWCN, “Public Weighs in on Future of Boating at Lake Lowell.” <http://www.ktvb.com/news/Is-boating-at-Lake-Lowell-in-danger-100697609.html>
  - August 15, 2010. KTVB, “Wildlife Refuge Could Curtail Water Sports on Popular Lake.”  
<http://www.ktvb.com/news/local/64260402.html>
  - August 15, 2010. Idaho Press-Tribune, “Crowd Defends Lake Use.”  
[http://www.idahopress.com/news/crowd-defends-lake-use/article\\_78837816-a83c-11df-96ad-001cc4c002e0.html](http://www.idahopress.com/news/crowd-defends-lake-use/article_78837816-a83c-11df-96ad-001cc4c002e0.html)
  - August 17, 2010. Idaho Statesman Blog, “Boaters Gear Up for Fight at Lake Lowell.”  
[http://voices.idahostatesman.com/2010/08/17/rockybarker/boaters\\_gear\\_fight\\_lake\\_lowell](http://voices.idahostatesman.com/2010/08/17/rockybarker/boaters_gear_fight_lake_lowell)
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### **H.1.3.7 Planning Updates**

- July 15, 2010. Planning Update 1 was mailed to individuals on the CCP mailing list and adjacent landowners. Copies of the planning update were also available at the Visitor Center and made available at outreach events. Adjacent landowners in Malheur County were accidentally left off of the initial mailing. They received Planning Update 1 and Planning Update 2 in December. This planning update let the public know of the Refuge's intent to begin a planning process, provided an overview of the CCP process, and requested public comment.
- November 29, 2010. Planning Update 2 was mailed to individuals on the CCP mailing list. Adjacent landowners not on the mailing list received postcards informing them of the availability of the planning update on the Refuge's website. Copies of the planning update were also available at the Visitor Center and outreach events. This planning update provided an overview of comments received during the summer scoping period.
- May 27, 2011. Planning Update 3 was mailed to individuals on the CCP mailing list. Adjacent landowners not on the mailing list received postcards informing them of the availability of the planning update on the Refuge's website. Copies of the planning update were also available at the Visitor Center and outreach events. This planning update provided an overview of preliminary draft alternatives and requested public comment.
- October 25, 2011. Planning Update 4 was mailed to individuals on the CCP mailing list. Adjacent landowners not on the mailing list received postcards informing them of the availability of the planning update on the Refuge's website. Copies of the planning update were also available at the Visitor Center and outreach events. This planning update provided an overview of comments received after the release of the preliminary draft alternatives and explained some of the changes that would be made based on those comments.
- March 15, 2013. Planning Update 5 was mailed to individuals on the CCP mailing list. Adjacent landowners not on the mailing list received postcards informing them of the availability of the planning update on the Refuge's website. Copies of the planning update were also available at the Visitor Center and outreach events. This planning update presented a summary of the alternatives proposed in the Draft CCP/EIS and requested public comment.

### **H.1.3.8 Other Tools**

- The Refuge website featured CCP information, Refuge fact sheets, frequently asked questions, and comment forms.
- CCP information flyers and outreach "business cards" were placed in over 40 local businesses.
- CCP informational "half sheets" and/or outreach "business cards" were handed out at every presentation and outreach event and were passed out during field outreach.
- Refuge and CCP fact sheets were created and made available at presentations and outreach events, and in the Visitor Center.
- The Refuge created CCP messages that played on the Headquarters/Visitor Center phone lines if someone was put on hold or called after business hours.
- Participated in Senator Crapo's press conference at the Lower Dam Recreation Area on August 14, 2010.
- Article in the Southwest Idaho Birders Association July newsletter
- Article in the Idaho Bass Federation Nation spring newsletter

- Article in the Deer Flat NWR Volunteer newsletter
- Draft CCP video PowerPoint posted on Refuge website
- Spanish language translation of Planning Updates #3 (preliminary alternatives) and #5 (Draft CCP/EIS) posted on Refuge website

#### **H.1.3.9 Federal Register Notices**

- July 15, 2010. Federal Register published notice of intent to prepare a CCP/EIS and a request for comments.
- March 15, 2013. Federal Register published notice of action to release Draft CCP/EIS and make it available for public comment.

#### **H.1.3.10 Field Reviews**

- June 16-19, 2008. Wildlife and Habitat Management Field Review on Refuge. Approximately 30 participants.
- September 9-11, 2008. Public Uses Field Review on Refuge. Approximately 25 participants.

## **H.2 Response to Comments**

During the 60-day comment period for the Draft CCP/EIS for Deer Flat NWR, we received comments from 170 entities or individuals as well as one petition signed by 426 people. All written comments were reviewed and organized so that an objective analysis, summary, and presentation of the comments could be made.

This appendix contains a summary of all comments that were received in response to the Draft CCP/EIS during the official public comment period. Due to public interest, comments on the draft were accepted from March 15, 2013, to May 15, 2013, longer than the required 45-day comment period.

Each original piece of correspondence was assigned an identification number and identified with the last name and first initial of the commenter. Note that for simplicity's sake, the word "letter" is generally used throughout this appendix to refer to any comment or reference document received, whether by letter, fax, email, or other form.

Some individual commenters mailed a number of letters and/or reference materials. Multiple correspondences from a commenter are counted as one comment letter. Telephone calls from the public were also received. All callers were encouraged to place their comments in writing so they could be included in the public record.

A database was created to log correspondence from each of the commenters, and letters were placed in one file. To help analyze the nature and extent of comments received, a number of themes and subthemes were identified within the letters. Comments were coded manually and electronically within the identified themes.

Comments were grouped into 21 categories based upon management actions considered in the Draft CCP/EIS alternatives or based on topics of particular interest as indicated by comments themselves. These categories are: CCP/EIS process, purpose of Lake Lowell, water rights, wildlife and habitat

management, trapping, water quality, public use management—general, facilities, refuge access, hunting, fishing, wildlife observation and photography, environmental education and interpretation, partnerships, nonwildlife-dependent recreation, boating—general, boating—closures, boating—no-wake zones, economic effects, hydropower facility, and editorial comments.

Due to the volume and similarity of written comments received, most comments have been paraphrased from the originals, and in some cases consolidated with others where the Service’s response is the same. In some cases we have included specific language from a letter that best summarized similarly written comments.

We received comments both in opposition to and in support of each alternative. Where the comment provided some level of detail or was based on a real or perceived fact, the Service has provided a response. Where the comment expressed solely an opinion and was not supported by any assertion, the Service considered the comment in selection of the Preferred Alternative, but did not respond to the comment in this appendix, other than to thank the writers for expressing their opinions and thoughts.

## H.2.1 Changes Made to the Final CCP

Table H-1 shows the major changes between the Draft and Final CCP. For additional information, see Chapter 2 and Maps 4-9 in the CCP/EIS.

**Table H-1. Summary of Changes to Alternative 2 between the Draft and Final CCP/EIS.**

Theme	Alternative 2 Draft CCP/EIS	Alternative 2 Final CCP/EIS
<b>Public Use</b>		
Youth Waterfowl Hunt	Open only southeast of Parking Lot 1.	Open in all designated waterfowl hunt zones, not in area southeast of Parking Lot 1.
Ice fishing	Not allowed.	Allowed in Fishing Areas A and B within 200 yards of the dams, subject to areas posted by the Bureau of Reclamation (see Map 5).
Walking with on-leash dogs	Allowed on designated trails.	Allowed on designated trails and at LDRA.
Jogging, Bicycling, and Horseback Riding	Groups of more than 4 people would need to obtain a SUP. Groups larger than 10 people would be prohibited.	Groups with 10 or fewer people would not require a SUP. Groups of more than 10 people would be required to obtain a SUP.
Trapping	Not included in Draft CCP/EIS	Trapping would not be allowed on the Lake Lowell Unit. Trappers would be allowed to use the Snake River Islands to access trapping sites below high water that are under the State’s jurisdiction. The use of licensed trappers for predator management under the provisions of 50 CFR 31.16, would be considered if it is identified as a management need.
Sailing Regattas	Not allowed at Lake Lowell Unit.	Allow at Lake Lowell Unit according to stipulations in Compatibility Determination, including regattas allowed only every other week in April and May and stipulations to ensure that presence of regatta does not restrict the ability of other users to use the Refuge.
Swimming	Allowed only in two designated areas.	Encouraged in two designated areas, but allowed elsewhere, with the exception of around fishing or other wildlife-dependent facilities (e.g., docks), or immediately adjacent to boat launch areas.
Nonwildlife-dependent	Allowed at Lower Dam Recreation Area	Allowed only at LDRA. Stipulations laid out in the Swimming, Beach Use, and Picnicking Compatibility Determination (see

Theme	Alternative 2 Draft CCP/EIS	Alternative 2 Final CCP/EIS
Organized Group Activities	(LDRA) only, and by special use permit (SUP).	Appendix B). If staffing and funding levels allow at a later time, events may be required to obtain an SUP and a fee may be assessed for the SUP.
Clarifying edits	Throughout the document.	Edits were incorporated to improve the clarity and accuracy of the document.

## H.2.2 Summary of Comments Received

This section provides a summary of the individual comments received on the Draft CCP/EIS followed by the Service’s responses to those comments. The comments are organized into 21 categories based on management actions considered in the Draft CCP/EIS alternatives or based on topics of particular interest as indicated by comments themselves.

### H.2.2.1 CCP/EIS Process

1. **Comment summary:** Expressed opinions supporting or opposing each of the alternatives. Some preferred Alternative 1 since it meant no changes would occur in the current management. Others agreed with our Preferred Alternative, believing that it provided a balanced approach to recreation and wildlife management. Others preferred Alternatives 3 or 4 because they provide better protections for wildlife and habitat as well as wildlife-dependent recreationists.

**Response:** The Service acknowledges and appreciates these comments.

2. **Comment summary:** Expressed concern that management actions are required only if there is proof that a problem exists and stated that there are no studies, data, or evidence that wildlife are being negatively impacted by recreational activities on Lake Lowell. Suggested that wildlife have been coexisting with multiple uses and there is no reason to change current management.

**Response:** As discussed in Section 1.4, the Service undertook a comprehensive conservation planning process for the Refuge because the National Wildlife Refuge System Administration Act of 1966 ([16 U.S.C. 668dd-668ee](#), et seq.), as amended by the National Wildlife Refuge System Improvement Act of 1997 ([Public Law 105-57](#)), requires refuge CCPs to set forth management guidance for a refuge for a period of 15 years.

In developing a CCP, Refuge policy requires that best available science be used. Studies need not have been conducted on the particular Refuge. Many studies have shown that human-caused disturbance can be detrimental to wildlife as cited throughout the document, especially in Chapter 2 and Appendix B. The most relevant studies were used to assess the effects of recreational activities on wildlife before proposing management strategies. Rationales for these strategies are in Section 2.4.

Deer Flat National Wildlife Refuge was established primarily for the protection of migratory birds and other wildlife (see Section 1.7.2). As noted in Section 1.6.2.2, according to the Refuge Administration Act, as amended, the “fundamental mission” of the National Wildlife Refuge System “is wildlife conservation: wildlife and wildlife conservation must come first.” The Refuge Administration Act also identifies six priority

wildlife-dependent recreational activities for the Refuge System (hunting, fishing, wildlife observation and photography, and environmental education and interpretation) that the Service should make extra efforts to facilitate on refuges, where compatible with the wildlife and wildlife habitat mission. Finally, other activities can be allowed if deemed appropriate (see Appendix A) and if they can be implemented without impairing existing or future wildlife-dependent uses. Therefore, where conflicts arise between protections for wildlife and habitat and recreational activities, priority must be given to wildlife and habitat.

### H.2.2.2 Purpose of Lake Lowell

3. **Comment summary:** Suggestions that the infrastructure and water in Lake Lowell were built and owned through tax dollars for local use. Concerns of ownership of the water and the management of the established reservoir and the regulations imposed by executive order are in need of justification.

**Response:** The Service recognizes that the Refuge is an overlay refuge on a Reclamation reservoir, and Reclamation has primary jurisdiction over the manipulation of water levels of Lake Lowell. The Board of Control has the day-to-day responsibility of controlling Lake Lowell water levels. The executive order that established Deer Flat NWR states the Refuge does not have the legal authority to manipulate water levels. The Service also recognizes that refuge operations are secondary to operations and maintenance of the irrigation project.

Under the Refuge Administration Act, each refuge must be managed to fulfill the Refuge System mission as well as the specific purposes for which it was established. The Refuge was established to provide refuge and breeding grounds for migratory birds and other wildlife, subject to use by the Department of Interior for reclamation work originally as E.O. 1032, and re-established and renamed in 1937 under E.O. 7655. This means that the Service has an obligation to manage uses of the Refuge consistent with the National Wildlife Refuge System Administration Act ([16 U.S.C. 668dd-668ee](#), et seq.) and other laws, regulations, and policies governing the Refuge System, but our management may not interfere with operation of the reservoir for irrigation purposes. For more information on Refuge history, see Appendix I.

4. **Comment summary:** Lake Lowell and surrounding resources should continue to be managed by state and local governments such as Idaho Department of Fish and Game and Canyon County.

**Response:** Deer Flat National Wildlife Refuge was designated in February 1909, just three days after water started flowing in the New York Canal to fill the reservoir. Although there was no on-site Refuge staff until 1937, the Refuge has been managed by the Fish and Wildlife Service since 1909. The Service appreciates ongoing partnerships with Canyon County and IDFG to facilitate law enforcement, maintenance, and fish and wildlife management. The Service looks forward to continuing coordination and partnerships with both Canyon County and IDFG.

As a result of a pre-planning task prior to initiation of the CCP process, the Service and Reclamation concluded that the Service has jurisdiction over surface water and public

uses on Lake Lowell. Now, because it has been determined that the Service has responsibility for the management of all public uses within the Refuge, including on-water recreational uses, these uses must be legally compatible with the purposes of the Refuge. For more information on Service policy and mandates, see Section 1.6.3.

### H.1.2.3 Water Rights

5. **Comment summary:** The Board of Control’s water conservation projects should not be viewed by the Service as a source of water for the Service’s programs. The water managed by the Board of Control is dedicated by law to its landowners.

**Response:** The Service recognizes that it does not possess a water right for the water within Lake Lowell.

6. **Comment summary:** “The Board of Control welcomes partnerships and collaboration in order to protect and enhance wildlife habitat protection in Idaho. However, the Project cannot enter into any agreements that would 1) prevent or restrict it from providing irrigation water to its Districts for distribution the Districts’ landowners, or that would 2) prevent or restrict the Board of Control from conducting maintenance and cleaning operations, or that would 3) prevent or restrict the Board of Control from taking emergency action to prevent or minimize damage from flooding events.... Given the uncertain nature of water availability the Board of Control cannot commit to maintain any particular reservoir elevation for non-irrigation purposes, including for the Service.”

**Response:** The Refuge understands the irrigation purpose of Lake Lowell and that administrative responsibility for water level management lies with Reclamation and the Board of Control. The Refuge also appreciates the Board of Control’s invitation to continue to explore a partnership to maintain a water level appropriate to provide nesting and foraging habitat for grebes, fish, and other wildlife from April through July, while still meeting the Board of Control’s mission of providing water to irrigators. Further discussions between parties would be needed to assist each other’s established purpose and mission.

### H.1.2.4 Wildlife and Habitat Management

7. **Comment summary:** Pointing to a provision respecting state authority contained in the National Wildlife Refuge System Administration Act (NWRSA or Act), as amended, the Idaho Department of Fish and Game (IDFG) states that management of resident fish and wildlife on refuge lands is under the State of Idaho’s jurisdiction, including the stocking of resident fish species in Lake Lowell. IDFG states that it looks forward to working with the Service to develop a fisheries management plan, but that any language limiting IDFG’s ability to manage the fisheries is unacceptable.

**Response:** All uses of national wildlife refuges are subject to the provisions of the NWRSA. The Secretary is authorized, “under such regulations as he may prescribe,” to “permit the use of any area within the System for any purpose ... whenever he determines that such uses are compatible with the major purposes for which such areas were established ...” (16 U.S.C. § 668dd(d)(1)(A)); see also *id.* § 668dd(d)(3)(A) [The

Secretary shall not permit a use of a refuge “unless the Secretary has determined that the use is a compatible use”]).

The provision cited by IDFG states:

Nothing in the Act shall be construed as affecting the authority, jurisdiction, or responsibility of the several States to manage, control, or regulate fish and resident wildlife under State law or regulations in any area within the System. Regulations permitting hunting or fishing of fish and resident wildlife within the System shall be, to the extent practicable, consistent with State fish and wildlife laws, regulations, and management plans. (Id. § 668dd(m))

The United States Courts of Appeals for both the Ninth and Tenth Circuits have found that Congress invoked its power under the Property Clause of the Constitution when it enacted the NWRSA, and that the Act plainly gives the Service the authority to manage national wildlife refuges (*Nat’l Audubon Soc’y v. Davis*, 307 F.3d 835, 854 [9th Cir. 2002]; *Wyoming v. United States*, 279 F.3d 1214, 1228 [10th Cir. 2002]). Further, both Federal circuits held that the provision cited by IDFG was not meant to eviscerate Federal authority over refuge management. Rather, they concluded that it reflects Congress’s intent for ordinary principles of conflict preemption to apply. This means to the extent that actual conflict persists between State and Federal policies, State law is pre-empted by the NWRSA (307 F.3d at 854; 279 F.3d at 1234).

Nevertheless, we have a clear responsibility, not only pursuant to the Section 668dd(m) but other provisions of the NWRSA and our own policies, to coordinate and cooperate with IDFG in administering Deer Flat NWR. We look forward to working with IDFG in this effort.

Regulations implementing the NWRSA are found in the Code of Federal Regulations at 50 C.F.R. Subchapter C. Policies implementing the NWRSA specific to hunting and fishing are found in the U.S. Fish and Wildlife Service Manual at [605 FW 2](#) and [605 FW 3](#), respectively. The policy on coordination and cooperative work with State fish and wildlife agencies is found at [601 FW 7](#). In addition, the Compatibility Policy, which regulates uses on national wildlife refuges in collaboration with the purposes of the NWRSA can be found in 65 Federal Register 62458-62483 (Oct. 18, 2000). We will do everything we can to accommodate IDFG’s proposals consistent with applicable Federal laws and our regulations and policies.

8. **Comment summary:** The Boise Project Board of Control (BPBOC) states that it has authority to remove vegetation on the banks of Lake Lowell as part of its operation and maintenance duties because these trees and brush consume water that belongs to the irrigation districts’ landowners and the Federal government does not have water right for aesthetic, wildlife or recreation purposes. BPBOC states that it will continue to carry out that function in the vicinity of the conduit and irrigation works and that the alternative chosen by the Service must recognize the primary authority of the BPBOC to carry out its irrigation and maintenance functions even when those functions might conflict with the goals of the Service.

**Response:** We agree that refuge operations are secondary to operation and maintenance (O&M) of the irrigation project, including control of vegetation where, for example, Reclamation finds that it is unreasonably interfering with canal bank stability or necessary access. Accordingly, nothing in the CCP is intended to interfere with O&M of the irrigation project. However, we understand BPBOC's comment to extend beyond normal O&M activities to removal of vegetation from the reservoir shoreline based on ownership of the water rights. The trees and shrubs growing along the margins of Lake Lowell are a function of the way the reservoir water levels are managed by Reclamation and BPBOC, a situation unrelated to the ownership of water rights. In addition, the comment does not cite any legal authority for this assertion and we are not aware of any. Taken to its logical conclusion, it would mean that downstream water right owners throughout the State of Idaho could remove vegetation on upstream property simply because it might use water. Therefore, unless Reclamation determines that it is necessary for O&M of the irrigation project, removal of vegetation along the reservoir shoreline would be governed by refuge regulations.

9. **Comment summary:** Expressed concern that providing further protection for waterbirds may increase their population and thus negatively impact fish populations at Lake Lowell.

**Response:** Deer Flat National Wildlife Refuge was established as a refuge and breeding grounds for migratory birds and other wildlife. Protection of migratory birds takes priority over protection of non-native fish. The Service looks forward to working with IDFG to manage fish populations in order to continue to provide a high-quality fishing experience.

10. **Comment summary:** Referenced studies that showed that water level fluctuations and water quality problems (especially nutrient loads) were the main concerns for nesting grebes in Idaho and that those problems should be addressed first.

**Response:** The Service looks forward to working with partners to improve Lake Lowell water quality, and the CCP includes a number of strategies to improve water quality (summarized in Section 2.3.1). Board of Control, in cooperation with Reclamation, manages the water level. The CCP includes a proposal for the Service to consult and collaborate with Board of Control and Reclamation to explore the possibility of maintaining a water level appropriate to provide nesting and foraging habitat for grebes, fish, and other wildlife from April through July, while still meeting the Board of Control's mission of providing water to irrigators (see Section 2.3.1).

11. **Comment summary:** Commenter recalls the Refuge controlling the carp population by allowing carp to be harvested commercially.

**Response:** Carp removal has occurred intermittently through a Special Use Permit (SUP) for many years to enhance submergent vegetation and moist-soil plants in Lake Lowell. A commercial fisherman currently uses a beach seine to harvest carp. Current seining operations, which remove an estimated 50 to 125 tons of biomass annually, likely do not remove enough of the carp population (estimated at 4,800 tons of biomass) to result in significant water quality improvements or promote submergent plant growth.

The Refuge looks forward to working with IDFG and other partners to develop and implement methods to reduce carp biomass in Lake Lowell. Potential methods include mechanical removal, chemical treatments, biological treatments, and carp exclusion devices. Carp impacts and potential treatments are further discussed in Wildlife and Habitat Objective 1.1 in Section 2.4.1.

12. **Comment summary:** Proposed stocking sunfish to enhance prey base for piscivorous birds and for anglers at Lake Lowell. Expressed concern that non-native fish not be stocked unless they have become an important food source for wildlife.

**Response:** The Refuge is committed to developing a cooperative agreement with the State of Idaho for resident fish and wildlife management. The Refuge would continue to coordinate with IDFG on the stocking of fish species identified in Objective 3.1 of Section 2.5.3. Stocking of any other fish species would require additional planning. The Refuge plans to work in close cooperation and coordination with IDFG for management of fishing opportunities on the Refuge and in setting population management goals and objectives. These strategies will most likely benefit piscivorous birds as well as increase fishing opportunities.

13. **Comment summary:** Expressed concern about Refuge management of invasive weeds, including that the Service has not done an effective job of treating invasive species, that all invasives should be aggressively treated, perhaps in partnership with Canyon County Weed Control, that the CCP/EIS should include specific actions to control invasive species including implementation schedules, and that the Service should minimize the use of herbicides and explore alternative methods like the use of goats.

**Response:** The Service is aware of the major problems that invasive species and noxious weeds present on all public lands, including the Refuge, and invasive species control is a priority for the Refuge to address. As noted in Section 2.3.1, the Service would use an Integrated Pest Management (IPM) plan (see Appendix G) to identify weed control methods based upon effectiveness, cost, and minimal ecological disruption (which considers minimum potential effects to nontarget species and the Refuge environment). The Service is currently, and will continue, working with various Federal, State, and local agencies to implement invasive species control. Appendix C identifies that a habitat management step-down plan will be developed within 2 years of CCP implementation. The habitat management plan would identify specific areas that need to be prioritized for treatment, as well as integrated pest management strategies to be used.

14. **Comment summary:** Expressed concern about the existence of brush piles and suggested that volunteers be recruited to remove them for fire safety.

**Response:** Section 2.4 identifies that issuance of firewood collection permits could be used to help manage fuel loads in riparian areas by removing some of the dead and downed debris. It could also be used to clear mudflat habitat for migrating shorebirds.

15. **Comment summary:** Expressed concern about predator management on the Refuge and asked that the Service reduce the number of crows, magpies, starlings, and other predators.

**Response:** As expressed in Section 2.3.1, the Refuge is concerned about controlling invasive species because of their effects on native species and habitat. The Service would continue to work with our State and local partners to control the impacts of non-native animals (e.g., starlings, bullfrogs, house cats, etc.). While the Refuge purpose is to protect migratory birds, the Service will continue to work with our State and local partners to identify and mitigate impacts of native species (e.g., crows and magpies) that present a management concern.

16. **Comment summary:** Expressed concern about the amount of tree removal proposed in Objective 1.3 and suggested that a balance between the needs of fish/fishermen and shorebirds should be considered.

**Response:** Tree removal is proposed in an area near Farm Field 5 that was historically kept open to provide duck trapping sites and is currently within a closed section of the Refuge. Because of the topography of the area and the narrow vegetation line, these spots are used by migrating shorebirds even when the water level is high. The Service proposes to continue to remove trees from approximately 25 acres of sparsely vegetated riparian zone to keep these areas free from vegetation. There is an estimated 760 acres of riparian habitat on the Lake Lowell Unit, and impacts to fish and fishermen from this action are not anticipated.

#### H.1.2.5 Trapping

17. **Comment summary:** The Idaho Trappers Association suggested that trapping is a valuable tool for controlling furbearers during nesting season and that the Service should open the Refuge to licensed trappers. Also suggested different strategies and dates that would allow public commercial trapping in order to benefit waterfowl on the Snake River Islands.

**Response:** The Service recognizes that trapping is a valuable tool that land managers use for wildlife management purposes. However, trapping on the Refuge would not be safe because of concerns about injury to domestic pets as well as Refuge visitors.

The Snake River Islands Unit would continue to be open to public access from June 15 to January 31 on goose-nesting islands and from July 1 to January 31 on heron- and gull-nesting islands. Trappers may use the islands during those months to access trapping sites below high water that are under the jurisdiction of the State of Idaho. Should the Service determine that predators are negatively impacting waterfowl nesting on the Snake River Islands Unit, we will consider all management options to remedy the situation, including the use of licensed fur trappers.

18. **Comment summary:** The Idaho Trappers Association pointed out that the Refuge does not have to determine “appropriateness” of trapping because the form for “Finding of Appropriateness of a Refuge Use” (form 3-2319) states “This form is not required for wildlife-dependent recreational uses, take regulated by the State, or uses already described in a refuge CCP or step-down management plan approved after October 9, 1997” and trapping by licensed fur trappers would clearly fall under the category of “take regulated by the State,” and could therefore be found to be an appropriate activity on the Refuge.

**Response:** Trapping is not a Refuge use that needs to be evaluated under the Service's Appropriate Use Policy. We have considered the opportunity to allow a commercial/recreational trapping program on the Refuge and have concluded that this use would not be safe.

Public commercial/recreational trapping on the Refuge, especially the Lake Lowell Unit, has a high likelihood of capturing and causing injury to nontarget wildlife and domestic pets. Visitors who are unfamiliar with trapping procedures could further injure their pets or themselves by trying to free a captured pet or wildlife.

The limited space and high urban use of this Refuge is not conducive to a public trapping program as the potential for conflict between trapping and recreation visitors would be high. Given the potential for disturbance to wildlife-dependent uses and wildlife, this use is not consistent with the purpose of the Refuge or its visitor use goals. The Snake River Islands would continue to be open to public access from June 15 to January 31 on goose-nesting islands and from July 1 to January 31 on heron- and gull-nesting islands. Trappers may use the islands to access trapping sites below high water that are under the jurisdiction of the State of Idaho.

19. **Comment summary:** The Idaho Trappers Association cautioned that relocating furbearing animals is not recommended from a biological standpoint and that “the American Veterinary Medical Association, the National Association of State Public Health Veterinarians, and the Council of State and Territorial Epidemiologists all oppose relocation of mammals because of the risk of disease transmission, especially amongst raccoons, skunks, and foxes.”

**Response:** The Service has not proposed in the CCP/EIS to conduct any relocation of furbearing animals.

#### H.1.2.6 Water Quality

20. **Comment summary:** The Boise Project “believes that a water quality improvement feasibility study was encompassed in the Lake Lowell Addendum to the Lower Boise TMDL and this objective oversteps the authority of The Service.”

**Response:** The Federal Clean Water Act (CWA; [33 U.S.C. 1251](#) et seq.) requires that states and tribes restore and maintain the chemical, physical, and biological integrity of the nation's waters. States and tribes, pursuant to Section 303 of the CWA, are to adopt water-quality standards necessary to protect fish, shellfish, and wildlife while providing for recreation in and on the nation's waters whenever possible. Section 303(d) of the CWA establishes requirements for states and tribes to identify and prioritize water bodies that are water quality limited (i.e., water bodies that do not meet water-quality standards). Lake Lowell is on this list. For waters identified on this list, states and tribes must develop a total maximum daily load (TMDL) for the pollutants that is set at a level expected to achieve water quality standards. The Idaho Department of Environmental Quality (IDEQ) published the final TMDL for pollutants in Lake Lowell in 2010.

Although water quality issues are not within the management authority of the Refuge, contaminants in Lake Lowell may have an impact on wildlife resources and recreational

opportunities at the Refuge. Before assessing ways to reduce contaminants, we must first identify and quantify their presence, and assess their impacts on the public and wildlife. Once there is a better understanding of the contaminants issue, the Refuge would be able to work with partners to address potential problems and look for solutions.

21. **Comment summary:** The U.S. EPA expressed appreciation of the Service responsiveness to scoping comments and support of Service strategies outlined in Section 2.3 for addressing water quality. They recommend that the Service prioritize carp population reductions and reduce sediment runoff for improved canal maintenance.

**Response:** Carp impacts and potential treatments are further discussed in Wildlife and Habitat Objective 1.1 of Section 2.4.1, and in a previous comment relating to carp commercially harvested from Lake Lowell.

22. **Comment summary:** The Board of Control identifies that they use best management practices (BMPs) to address siltation and water quality issues and strives to continually improve as more information is learned and new technologies become available. The Board of Control doubts that the Service has greater knowledge and judgment concerning what constitutes the best management practices where irrigation operations and delivery are concerned. The Board of Control also feels the Service has attempted to impede regular maintenance functions on drains leading to Lake Lowell. This interference is inappropriate and oversteps the Service's authorities.

**Response:** The Service agrees that the Board of Control may have more knowledge and judgment where maintenance of irrigation operations and delivery are concerned. The Refuge would like to establish a partnership and coordinate with the Board of Control and Reclamation as stated earlier to "identify ways to reduce future siltation and correct current siltation issues without damaging wildlife habitat or impeding the delivery of irrigation water." The Refuge is also cognizant of Board of Control's responsibility of maintenance of irrigation operations and delivery. The Board of Control did not provide any specifics and the Refuge is not aware of any interference to impede the irrigation purpose or administrative responsibility for water level management with Reclamation and the Board of Control. The Refuge remains very concerned about water quality impacts on both wildlife and Refuge visitors and plans to be an active partner in working toward improving the water quality of the lake.

#### H.1.2.7 Public Use Management—General

23. **Comment summary:** Several specific strategies were suggested for implementing proposed actions. For example: providing restrooms on the south side of Lake Lowell, providing additional trash receptacles at access points, providing summer camps on a variety of suggested topics, providing binocular and camera rentals, expanding the book store in the Visitor Center, conducting more outreach to inform the public that Lake Lowell is part of the Refuge, and constructing an outdoor amphitheater for educational programs.

**Response:** The purpose of the CCP is to provide overall long-term management direction, and includes strategies to improve visitors' experience, including a strategy to "Provide additional bathroom facilities at high-use access points" (Section 2.5.1,

Objective 1.1). Specific management decisions about recommended strategies will be developed as part of the Visitor Services step-down plan, which is planned to be completed within 5 years of CCP implementation and will include public input. The Service acknowledges these comments and will incorporate them as appropriate into the Visitor Services step-down plan.

24. **Comment summary:** Proposal to eliminate some or all wildlife-dependent recreational activities (including elimination of all hunting or specifically youth hunting) or expressed support for wildlife-dependent recreational activities.

**Response:** As noted in Section 1.6.2.2, according to the Refuge Administration Act, as amended, the “fundamental mission” of the National Wildlife Refuge System “is wildlife conservation: wildlife and wildlife conservation must come first.” The Refuge Administration Act also identifies six priority wildlife-dependent recreational activities for the Refuge System (hunting, fishing, wildlife observation and photography, and environmental education and interpretation) that the Service should make extra efforts to facilitate on refuges, where compatible. All of the six priority wildlife-dependent recreational activities have been determined to be compatible and would therefore continue to be allowed according to the stipulations laid out in the compatibility determinations in Appendix B.

25. **Comment summary:** Proposal to more clearly mark and improve signage on multi-use trails and to provide better directional signage off-Refuge to help people find the Refuge.

**Response:** As noted in Objective 1.1 of Section 2.5.1, to better welcome and orient visitors, the CCP includes strategies to install entrance signs at high-use visitor access points and along high-traffic roads bordering the Refuge, to install orientation signs that alert visitors to the presence of nearby Refuge facilities (e.g., “boat launch,” “fishing area,” “Visitor Center”) on main roads in appropriate locations, and to provide trail signs at all trailheads.

#### H.1.2.8 Facilities

26. **Comment summary:** Expressed concern about the need to provide additional visitor facilities as well as support for providing additional proposed recreational facilities described in the Preferred Alternative, including providing more ADA-accessible trails, wildlife observation and photography facilities, docks, and disabled access for all activities.

**Response:** The selected alternative includes all of the facilities proposed by these commenters. Providing a variety of recreational opportunities and facilities provides multiple points of entry for visitors of different comfort and skill levels.

Installation of the proposed facilities does depend on funding. Funding would be sought through increases in Refuge base funding, special project funds, grants, and the like. See Appendix C for additional implementation information.

27. **Comment summary:** Request that access roads be paved or oiled and that more parking be provided.

**Response:** The Refuge would consider upgrading, expanding, or providing additional access points as funds for road improvements and maintenance become available. Consideration of factors such as the effects on runoff and erosion, on wildlife habitat, and on existing wildlife-dependent recreational opportunities would be assessed while developing a Visitor Services step-down plan. A Visitor Services Plan is planned to be completed within 5 years of CCP implementation and will include public input. The Service acknowledges these comments and will incorporate them as appropriate into the Visitor Services step-down plan.

28. **Comment summary:** Proposal to provide additional facilities on the south side of Lake Lowell within areas that are inundated during high water, including providing duck blinds and providing a trail between Parking Lot 1 and Parking Lot 7.

**Response:** Given the fluctuating water levels of Lake Lowell, facilities installed on land below the high water level of the lake require either high expense or management challenges. For example, the proposal to install duck blinds was considered; however it was determined to not be practical to install blinds that would be useful to duck hunters, given that water levels fluctuate from year to year and even during waterfowl hunting season. The proposal to install a trail on the south side below high water was also considered, and is included in Alternative 3. However, the expense of building a boardwalk to remain accessible during all water levels, nearly six million dollars, was determined to be too high.

29. **Comment summary:** Support for a walking and bicycling path around the entire lake.

**Response:** As noted in Section 2.2, this idea was considered but rejected, because it would remove habitat and increase disturbance to wildlife and wildlife-dependent recreationists. In addition, the existence of wildlife closure areas on the Refuge would make it impossible to have a bike loop around the entire lake. This proposal may be best explored by other entities as an easement on land adjacent to the Refuge. The Refuge would be happy to discuss connecting existing or proposed new Refuge trails with a trail system installed adjacent to the Refuge by other agencies.

30. **Comment summary:** The College of Idaho Museum of Natural History proposed installing research stations.

**Response:** The Refuge looks forward to working with the College of Idaho Museum of Natural History to better understand their proposal and identify how the Refuge and Museum can mutually benefit from potential research stations.

#### **H.1.2.9 Refuge Access**

31. **Comment summary:** Expressed concern that providing access to the Refuge only through designated entrances would alienate law-abiding users who would like to use the most convenient point to gain access and create a labor-intensive enforcement challenge and therefore requested that visitors continue to be able to access the Refuge over fences adjacent to private property and over fences along roadways, including between the Tio Lane and Gotts Point entrances and off of Lakeshore Drive.

**Response:** As noted in Objective 1.1 of Section 2.5.1, the Preferred Alternative would provide access to the Refuge through designated entrances only. Refuge visitors can currently access recreational activities adjacent to 17 designated entrances scattered around the Lake Lowell Unit, and the infrastructure associated with each access reduces habitat availability as well as recreational opportunities. By restricting access through designated entrances only, those users who are interested in enjoying areas farther away from crowds (e.g., the area between the Tio Lane and Gotts Point entrances) have the ability to do that by walking farther from the designated entrances. Finally, continuing to allow access to the Refuge over fences could result in an increase in habitat impacts (through increased social trailing and spread of invasive plant seeds) and wildlife disturbance, especially given anticipated increased development over the next 15 years that could increase demand for this sort of access from private lands.

32. **Comment summary:** Request for a new designated entrance between the Tio Lane and Gotts Point entrances.

**Response:** As noted in Objective 1.1 of Section 2.5.1, the Preferred Alternative would provide access to the Refuge through designated entrances only. The Service considered but rejected providing another Refuge access in this area. Visitors can currently access duck hunting opportunities through a short walk east of the Gotts Point entrance in the East Side Recreation Area and at several locations in the South Side Recreation Area. Because these areas are a short distance from designated entrances, they can become crowded. Currently, visitors who are interested in enjoying areas farther away from crowds have the ability to do that by walking farther from the designated entrances. Designating another entrance in this area would reduce the variety of duck hunting experiences available on the Refuge.

33. **Comment summary:** Request for the Refuge to work with private landowners along Lake Shore Drive to develop an agreement whereby they provide access across their property to a proposed new entrance and trail to access the East Dike Trail and the Tio Lane parking lot from the southeast Refuge boundary.

**Response:** Refuge visitors can currently access recreational activities adjacent to 17 designated entrances at the Lake Lowell Unit, and the infrastructure associated with each access reduces habitat availability as well as recreational opportunities. Although an additional designated entrance might be considered, the Service considers the financial and habitat impacts of the access proposed by the commenter would be unwarranted given the availability of access to the same area (Leavitt Tract and East Dike Trail) through an existing entrance that is less than a 3 mile drive away.

34. **Comment summary:** Proposal to close “as much land as possible to overland vehicles such as ATVs with the exception of research vehicles.”

**Response:** The Refuge does not currently allow vehicles, including ATVs, to travel off of designated roads, and no change is proposed in the CCP/EIS to this policy.

35. **Comment summary:** Interest in re-opening Gotts Point to vehicles to increase access to the area, while a separate comment encourages the closure and validates the desired

results of the area being safe and enjoyed by families while enjoying water-related activities.

**Response:** Gotts Point is currently open to public access from February 1 to September 30. The road to the point has been closed to reduce illegal activities and vandalism. The Service proposes to re-open the road to Gotts Point (Objective 3.1 in Section 2.5.3) upon completion of a memorandum of understanding or cooperative agreement with Canyon County to resolve law-enforcement issues and retain the family-friendly nature of the area. Providing vehicle access to Gotts Point will provide more opportunities for both wildlife-dependent and nonwildlife-dependent recreational opportunities.

36. **Comment summary:** Request that the gate at Gotts Point be relocated 150 yards farther west “to provide a gear drop off area for uses that require substantial equipment.”

**Response:** As described above, the Service plans to re-open the road to Gotts Point when a law-enforcement agreement is in place. Given that the current Gotts Point parking lot allows access to all recreational opportunities in that area (e.g., lakeshore, trails), the Service considers that the investment of financial and staff resources in moving the gate a short distance would be unwarranted.

37. **Comment summary:** Expressed support for fees if used to support funding of fee-payer activities or if recreational access to the Refuge is left unchanged, and expressed opposition to charging fees to access public lands.

**Response:** Section 2.3.2 proposes that a feasibility assessment be conducted to evaluate whether to charge an entrance and/or boat launch fee to provide funding to maintain visitor facilities and hire visitor services and law enforcement staff. Determining whether a fee would be implemented will be based on the feasibility assessment and appropriate public input.

#### H.1.2.10 Hunting

38. **Comment summary:** IDFG requested that fall turkey hunting be allowed on the Snake River Islands Unit because they anticipate a growing turkey population and would like to be able to use hunting as a management tool.

**Response:** As noted in Section 2.3.2, opportunities for hunting of additional species (e.g., turkey) would be addressed in future step-down planning efforts occurring in close coordination with IDFG. Opening a new turkey hunt would require both a hunt plan and an individual National Environmental Policy Act (NEPA) analysis. This process would require additional information and analysis before a decision could be made. The Service looks forward to working with IDFG to evaluate the possibility of opening a turkey hunt on the islands.

39. **Comment summary:** Expression of opposition to the proposed shotgun shell limit for waterfowl hunters on the Lake Lowell Unit as well as support for the limit because it potentially allows more people the opportunity to hunt and makes hunters more ethical by encouraging them to wait for birds to come within range before shooting.

**Response:** As noted in Objective 2.1 of Section 2.5.1, limiting waterfowl hunters to possession of 25 shotgun shells per hunter per day would help address complaints about sky busting.

40. **Comment summary:** Requests to modify designated hunting areas to either close to hunting those lands with the most biodiversity of plants and animals and also to open the area east of Parking Lot 1 to hunting.

**Response:** Existing hunting areas were assessed to determine whether they are appropriate, based on concerns that high-quality habitat be protected as a refuge from hunting and that other wildlife-dependent recreationists have access to areas without hunting. Through this assessment, it was determined that existing designated hunting areas are appropriate. The area east of Parking Lot 1 is particularly high-quality habitat for waterfowl and other waterbirds and therefore would not be opened to hunting.

41. **Comment summary:** IDFG pointed out that it was unclear whether the youth waterfowl hunt area proposed east of Parking Lot 1 in alternatives 2 and 4 would allow hunting only during the designated youth waterfowl hunt dates set by the Fish and Game Commission or whether youth-only hunting would be allowed in that area during the rest of the hunting season as well.

**Response:** After clarifying discussions with IDFG to indicate the Refuge's intent to limit hunting during the designated youth waterfowl hunt dates to the proposed new area and not to allow youth hunting in the rest of the regular waterfowl hunting area between Parking Lots 1 and 8, IDFG and the Refuge decided that the best youth hunting opportunity would be provided by allowing hunting during the designated youth waterfowl hunt dates in the regular waterfowl hunting area between Parking Lots 1 and 8.

42. **Comment summary:** Requested that lead shot, bullets, and sinkers be banned to reduce impacts "to avian scavengers, like Bald Eagles, and diving water birds, like grebes and loons" and affects to air, water, and soil quality.

**Response:** Lead shot has been and would continue to be banned on the Refuge. Lead shot is the perfect size and shape for dabbling waterfowl to pick up and store in their crop, which can cause a variety of toxicity problems for both the waterfowl that eat the shot and predators that may eventually eat the waterfowl. Lead bullets have not been banned because their larger size prevents their ingestion by most wildlife.

There is some concern as to the toxicity of lead tackle and bullets with certain species but the extent of these problems does not seem to be as dire or as well supported in the literature as the use of lead shot. Whenever possible, refuges try to be consistent with State rules and regulations regarding fish and game in order to avoid confusion. The State of Idaho does not currently ban the use of lead fishing tackle. If new findings surface regarding impacts to wildlife from lead tackle the Service will take appropriate measures.

#### H.1.2.11 Fishing

43. **Comment summary:** Request to allow ice fishing in Fishing Areas A and B, 200 yards in front of the Lower and Upper Dams.

**Response:** In response to these comments, changes have been incorporated in the Final CCP/EIS to allow ice fishing in Fishing Areas A and B within 200 yards of the dams, subject to areas posted by the Bureau of Reclamation. Lake Lowell is currently closed to boating from October 1 through April 14 to provide habitat for wintering waterfowl and reduce disturbance from human-caused flushing events. However, human-powered boats are allowed in Fishing Areas A and B to allow wildlife-dependent recreational opportunities with minimal disturbance to wildlife. Restricting ice fishing to these areas would reduce disturbance to waterfowl using the lake but would still provide ice fishing opportunities when ice conditions allow. Anglers would be responsible for checking ice conditions and confirming that they are safe.

44. **Comment summary:** Expressed concern that non-Preferred Alternatives 3 and 4 would close to access “several of the best fishing spots on Lake Lowell” and therefore concentrate anglers into lower-quality areas, shorten the boat-fishing season (Alt 3), and increase the time required to access preferred fishing spots because of no-wake zones, thus reducing fishing time.

**Response:** The Service selected the Preferred Alternative (Alternative 2), since it provides the best balance to protect wildlife and habitat while also providing quality wildlife-dependent recreational opportunities.

NEPA requires that a range of alternatives be considered when developing a CCP/EIS. This range of alternatives helps Refuge staff develop, track, and present a variety of ideas to the public. This process has helped stimulate useful discussions and ideas that ultimately shaped the Preferred Alternative.

45. **Comment summary:** Several comments indicated that there is some confusion about what fishing access would be allowed in the Preferred Alternative. Included in these comments were requests to allow fishing at the north end of Murphy’s Neck, to create more year-round fishing opportunities, and to clarify regulations for wading anglers from February 1 to July 31 when lakeshore access is restricted to 100 yards of shoreline on either side of trails accessing the lakeshore.

**Response:** The Preferred Alternative allows shoreline fishing at the north end of Murphy’s Neck from March 15 through September 30. It is closed the rest of the year to reduce disturbance to wintering waterfowl. The Preferred Alternative also increases year-round fishing opportunities by allowing shoreline fishing from any open shoreline during waterfowl hunting season, rather than just from Fishing Areas A and B. This has been clarified in Objective 3.1 in Section 2.5.3. Finally, the Preferred Alternative does allow wading access to fishing anywhere at Lake Lowell from April 15 to September 30. In areas where walking access to the shoreline is limited to maintained roads and trails during the nesting season, bank fishing is limited to 100 yards of shoreline on either side of trails accessing the lakeshore. Note that anglers can wade anywhere during these times. This has also been clarified in Objective 3.1 in Section 2.5.3.

46. **Comment summary:** Requested that Lake Lowell not be closed to bass fishing.

**Response:** The Service has not considered closing Lake Lowell to bass fishing. In fact, the CCP/EIS process has sought to improve conditions for wildlife-dependent users like bass anglers while balancing the needs of wildlife.

#### H.1.2.12 Wildlife Observation and Photography

47. **Comment summary:** Request that access be allowed in Fishing Areas A and B for all wildlife-dependent activities throughout the year.

**Response:** All wildlife-dependent recreational activities are allowed in that area between April 15 and September 30 from any type of boat, and during the rest of the year from human-powered boats. However, local weather conditions make safety a major concern for recreational users who rely on the structural integrity of the ice on Lake Lowell to enjoy their sport (see Section 2.3.1). In addition, ice fishing would be allowed in the Preferred Alternative, so there would be additional safety concerns associated with the possibility of falling into fishing holes. Finally, Lake Lowell is currently closed to boating from October 1 through April 14 to provide habitat for wintering waterfowl and reduce disturbance from human-caused flushing events. Unlike fishing, which cannot be conducted from the shoreline when the lake is covered with ice, other wildlife-dependent activities can still be conducted from shore. All ice-based activities other than fishing would therefore be prohibited.

#### H.1.2.13 Environmental Education and Interpretation

48. **Comment summary:** The National Park Service requested that the Refuge interpret and mark the Oregon Trail corridor on the Refuge.

**Response:** The Refuge would be happy to work with the regional National Trails office of the National Park Service to identify, mark, and interpret the Oregon Trail corridor on the Refuge.

49. **Comment summary:** Request that an interpretive sign be installed at the boat ramp at Walter's Ferry to educate people about swallows and their value in controlling insects so as to reduce harassment of swallows that nest under the Walter's Ferry bridge.

**Response:** Although the Refuge does currently have a kiosk at the Walter's Ferry boat ramp that includes Refuge information and a map of the adjacent section of the Snake River Islands Unit, that boat ramp is not managed by the Refuge. We will pass this comment along to IDFG, who do manage that ramp, and would be happy to partner with IDFG to develop and install further interpretive signs at this and other Snake River Islands Unit access points to educate visitors about wildlife.

#### H.1.2.14 Partnerships

50. **Comment summary:** Request that Refuge staff work with partner agencies to conduct law enforcement activities, and develop and conduct environmental education activities.

**Response:** The Refuge appreciates the assistance of a variety of organizations and local, State, and Federal agencies in maintaining and improving existing Refuge programs. As

identified in Objective 6.2 of Section 2.5.1, the Service plans to maintain existing partnerships and build additional partnerships to increase partner knowledge of the Refuge's purpose and leverage resources to increase the effectiveness of the Refuge's programs in environmental education and interpretation, fishing, hunting, wildlife photography and observation, compatible nonwildlife-dependent surface-water recreation, water quality, urbanization and agriculture, and invasive species.

51. **Comment summary:** The Canyon County Commissioners stated that “Canyon County will not allow its legislative or executive power to be used to enforce the on-water regulations proposed by FWS.” In addition, “in the event FWS provides the Refuge with federal law enforcement personnel and resources sufficient to enforce its regulations, Canyon County will cease its provision of Parks assistance and labor (without which the Refuge will apparently be unable to maintain appropriately hygienic conditions in its bathrooms, mowed lawns, or parking lots) to the Refuge.”

**Response:** The Refuge considers Canyon County to be a valuable partner in law enforcement as well as maintenance of public use areas and would like to continue to work with the county. We appreciate that the county currently provides most of the on-water law enforcement at Lake Lowell and the maintenance of recreational facilities at the Lower Dam Recreation Area (e.g., irrigating and mowing lawns, cleaning restrooms, and maintaining buoys).

As noted in Appendix B, if the county discontinued their assistance and labor, there would be additional Refuge costs and labor associated with maintaining various uses, and Refuge management would have to re-assess our ability to provide the recreational opportunities that are currently available.

#### H.1.2.15 Nonwildlife-Dependent Recreation

52. **Comment summary:** Although recognizing that the sole purpose of the Reclamation project at Lake Lowell was to capture and deliver irrigation flows, the Board of Control states that Reclamation has a duty to provide recreational facilities and opportunities for the public and that the Service must be mindful of Reclamation's responsibility in this regard.

**Response:** Reclamation advises us that neither the project authorization nor its statutory authority creates a duty to provide public recreation at Lake Lowell. As the commenter recognizes, the 1905 Lake Lowell authorization does not provide any authority for recreation or require Reclamation to ensure that recreational facilities are provided. The commenter may be referring to the Federal Water Project Recreation Act, Public Law 98-72, which governs Reclamation's recreation authority if the project authorization does not provide for recreation. However, it is Reclamation's position that this statute encourages, but does not require, Reclamation to provide recreational opportunities and facilities in cooperation with non-Federal partners and by using cost-sharing. It does not add recreation as a project purpose to a Reclamation project or impose a Federal recreation obligation. Significantly for Lake Lowell, P.L. 98-72 also excludes areas that are administered by a Federal agency “in connection with an authorized Federal program for the conservation and development of fish and wildlife” (16 U.S.C. § 4601-12).

53. **Comment summary:** Canyon County states that the Federal government does not have authority to control on-water uses of a reservoir in which it does not have water rights, and therefore, the Service has no regulatory authority over surface water uses of Lake Lowell.

**Response:** We agree that the Federal government does not have a water right for the water collected at Lake Lowell and we have not asserted that a water right is the legal basis for the Federal government's authority to regulate surface uses. Rather, the basis for this authority is Federal ownership of the lands underlying the reservoir, the United States Constitution, and Federal statutes.

The lands under Lake Lowell were withdrawn or acquired by the United States prior to completion of the reclamation project in 1909.<sup>1</sup> On February 25, 1909, President Theodore Roosevelt established the Deer Flat Bird Reservation by Executive Order 1032. President Franklin D. Roosevelt issued a new executive order on July 12, 1937 revoking E.O. 1032 and establishing the Deer Flat Migratory Waterfowl Refuge. Although the lands were reserved for refuge purposes subject to use by the Department of the Interior (DOI) for reclamation operations and incidental purposes, they are included in the National Wildlife Refuge System (16 U.S.C. § 668dd(a)(1)). See also 16 U.S.C. § 668dd(a)(6) (stating that each area included in the refuge system by an executive order will continue to be part of the Refuge System until otherwise specified by an Act of Congress).

The Property Clause contained in Article IV, § 3 of the Constitution gives Congress authority to make rules governing the property of the United States. As it relates to the National Wildlife Refuge System, Congress has exercised this power by enacting a number of laws that authorize the Secretary of the Interior, through the Service, to regulate activities on national wildlife refuges, including waterborne activities. For example, the National Wildlife System Administration Act (NWRSA), as amended, authorizes the Secretary, "under such regulations as he may prescribe, to . . . permit the use of any area within the System for any purpose, including but not limited to hunting, fishing, public recreation and accommodations, and access whenever he determines that such uses are compatible with the major purposes for which such areas were established . . ." (16 U.S.C. § 668dd(d)(1)(A)). The NWRSA also states that "the Secretary shall not initiate or permit a new use of a refuge or expand, renew or extend an existing use of a refuge, unless the Secretary has determined that the use is a compatible use and that the use is not inconsistent with public safety." (16 U.S.C. § 668dd(d)(3)(A)(i)). The Refuge Recreation Act permits the Secretary to administer refuge areas for public recreation, but only to the extent that it is "not inconsistent with . . . the primary objectives" for which the area was established (16 U.S.C. § 460k). It also directs the Secretary to curtail public recreation within areas whenever he considers such action to be necessary. Thus, both the NWRSA and Refuge Recreation Act provide authority to the Service to control activities on national wildlife refuges. In fact, under the terms of these laws, such

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<sup>1</sup> Two parcels were owned by the State. On February 24, 1909, the State granted the United States a right-of-way over and across these parcels in perpetuity for construction and maintenance of the reservoir. These two parcels were included in the description of the refuge in both E.O. 1032 and E.O. 7655 and are managed as part of the refuge.

activities may not take place unless permitted. These statutory provisions have been implemented by the Service in regulations found at 50 C.F.R. Subchapter C. The regulations describe the process for opening a refuge to public access and use and, in relevant part, prohibit boating and water-skiing unless otherwise permitted (50 C.F.R. §§ 27.32-33).

Likewise, Reclamation's jurisdiction over water-borne activities on its facilities does not depend on ownership of a water right. Federal law provides that the United States holds the right to manage and operate Reclamation projects (43 U.S.C. §§ 491, 498; *United States v. Pioneer Irrigation District*, 157 P.3d 600, 603 (Idaho 2007)). Reclamation's regulations govern the use of Reclamation facilities by the public, including recreation and boating. The preamble to this regulation explains that Reclamation has proprietary jurisdiction over its facilities and property, including water legally stored in such facilities under state law (71 Federal Register 19790, 19791 (Apr. 17, 2006)). However, it is important to note that Reclamation regulations also provide that public conduct on Reclamation lands and waterbodies administered by other Federal agencies under statute or other authority will be governed by the regulations of those agencies (43 C.F.R. § 423.3(d)).

In a further analogy, the State laws regulating boating and other uses on navigable waters within the State (although not purporting to control Federal reservoirs) are not tied to the existence of a water right. Therefore, we are not aware of any legal basis to conclude that ownership of a water right is a necessary prerequisite to regulating surface uses of Lake Lowell.

54. **Comment summary:** Proposal to provide camping facilities, perhaps at Gotts Point.

**Response:** Camping is considered appropriate on a national wildlife refuge only when no reasonable (based on time, distance, and expense) lodging opportunities are available off-refuge and when staff resources needed to manage camping do not detract from the quality of another priority wildlife-dependent recreational use. There are other nearby private and public campgrounds that accommodate both recreational vehicles (RVs) and tent campers with a better level of service; therefore, camping would continue to not be allowed.

55. **Comment summary:** Request to continue allowing swimming at various locations at Lake Lowell, rather than being allowed only at designated areas at the Lower Dam Recreation Area and Upper Dam as proposed in the Draft CCP/EIS in the Preferred Alternative.

**Response:** The Final CCP/EIS has been modified to direct swimmers to designated areas at the Lower Dam Recreation Area and the east end of the Upper Dam to minimize safety concerns and reduce impacts of swimmers on wildlife and wildlife-dependent recreationists, but to continue allowing swimming everywhere at Lake Lowell, with the exception of around fishing or other wildlife-dependent facilities (e.g., docks), or immediately adjacent to boat launch areas. For more information, see rationale for Objective 1.4 in Section 2.5.1.

56. **Comment summary:** Support for the proposal to require that dogs be leashed, both because of their effect on wildlife and habitat and because of concern for safety of other visitors, as well as a request that dogs be allowed off leash when nobody else is around.

**Response:** The Final CCP/EIS requires that dogs be leashed except when accompanying someone engaged in allowed hunting, that leashed pets remain on designated trails and in the Lower Dam Recreation Area, and that visitors with leashed pets bag and remove fecal material. Although walking with pets is not a wildlife-dependent recreational activity, it is often conducted in conjunction with wildlife-dependent uses like wildlife observation, photography, and interpretation. The potential for wildlife disturbance is minimal when the use is conducted in accordance with the stipulations listed above. See the Walking with Pets (other than hunting dogs) compatibility determination in Appendix B for more information.

57. **Comment summary:** Request that ice skating be allowed.

**Response:** Because of local weather conditions, safety is a major concern for recreational users who rely on the structural integrity of the ice on Lake Lowell to enjoy their sport (see Section 2.3.1). In addition, ice fishing would be allowed in the Preferred Alternative, so there would be additional safety concerns associated with the possibility of falling into fishing holes. Finally, Lake Lowell is currently closed to boating from October 1 through April 14 to provide habitat for wintering waterfowl and reduce disturbance from human-caused flushing events. Unlike fishing, which cannot be conducted from the shoreline when the lake is covered with ice, other wildlife-dependent activities can still be conducted from shore. All ice-based activities other than fishing would therefore be prohibited.

58. **Comment summary:** Request that Refuge staff plant “a new generation of shade trees for years of future nonwildlife related uses at the park areas located at both ends of the lake.”

**Response:** The park located adjacent to the east Upper Dam boat launch is a Canyon County park. The Refuge will convey this comment to the Canyon County Department of Parks, Recreation, and Waterways.

The Service plans to maintain shade trees at the Lower Dam Recreation Area because this area provides a different habitat type than is found elsewhere on the Refuge (open canopy with limited understory) and particularly benefits waterfowl and raptors, especially in winter.

59. **Comment summary:** Commenter spent time on Lake Lowell with his father as a child and would like to pass on the same experiences to his children and grandchildren.

**Response:** The proposed actions delineated in the Preferred Alternative allow for a variety of recreation throughout the year. All of the activities that are currently enjoyed on the Refuge would continue to be allowed with only a few changes that seek to promote wildlife protection and encourage more use by wildlife-dependent users.

60. **Comment summary:** Request that sailing regattas be allowed because they do not exclude the general public, increase wildlife disturbance, increase safety concerns, or require additional management resources; they enhance wildlife-dependent activities; and they provide a positive economic impact for the state and local vendors. Some commenters were even concerned that all sailing would be prohibited.

**Response:** In response to comments, changes have been incorporated in the Final CCP/EIS to allow sailing regattas with certain stipulations to address concerns about safety and interactions with other users. For further information about the activity and required stipulations, see the appropriate use determination in Appendix A and compatibility determination in Appendix B.

In addition, as noted in Appendix B, currently most on-water law enforcement and boating-related dock maintenance is provided by the Canyon County Sheriff's Office. If the Sheriff's Office decided to discontinue this assistance, there would be additional costs associated with maintaining this use and the ability of the Refuge to provide this use may be impaired.

#### H.1.2.16 Boating—General

61. **Comment summary:** Proposed to extend the boating season beyond the current season (April 15-September 30) by either having an earlier start or a later end to the boating season, or by allowing boating all year.

**Response:** Deer Flat National Wildlife Refuge was established primarily for the protection of migratory birds and other wildlife (see Section 1.7.2). As noted in Section 1.6.2.2, according to the Refuge Administration Act, as amended, the “fundamental mission” of the National Wildlife Refuge System “is wildlife conservation: wildlife and wildlife conservation must come first.” The Refuge Administration Act also identifies six priority wildlife-dependent recreational activities for the Refuge System (hunting, fishing, wildlife observation and photography, and environmental education and interpretation) that the Service should make extra efforts to facilitate on refuges, where compatible with the wildlife and wildlife habitat mission. However, where conflicts arise between protections for wildlife and habitat and providing wildlife-dependent recreation, priority must be given to wildlife and habitat. The Service has determined that the existing boating season provides appropriate wildlife protections.

62. **Comment summary:** Proposal “that the time boats have to be off the water be tied to civil twilight (half-hour after sunset). Currently, the time boats have to be off the water approximates twilight, but is not tied to it. The results are that sometimes, one must be off the water 15 or 20 minutes before is really necessary, and also that someone has to change the signs that tell the time boats need to be off the water.” Suggested that instead of posting a time when boats must be off the water, the Refuge should notify boaters that they must be off water by civil twilight and then post a table showing the times of civil twilight throughout the boating season.

**Response:** The time boats must be off the water cannot be tied directly to civil twilight, because the Refuge closes to visitors at civil twilight, and boaters need time to trailer and prepare their boats in order to depart before civil twilight. It is especially important that

boaters be prepared to depart by civil twilight at the Lower Dam Recreation Area, where an automatic gate closes and prevents boaters from exiting the parking lot shortly after civil twilight. The Refuge considered but rejected the idea of extending Refuge hours beyond civil twilight because of concerns for visitor safety and to reduce potential illegal activity after dark.

There are currently signs at the major boat ramps (east Upper Dam, west Upper Dam, and Lower Dam Recreation Area) that indicate “Boats must be off water by...” with the time indicated on an interchangeable time sign. These signs were installed at the request of the Canyon County Sherriff’s Office Marine Patrol officers to better communicate to boaters the end of boating hours and help officers ensure that boaters would be off the water in sufficient time to allow officers to safely search for and assist or rescue any stragglers who might be having mechanical or safety concerns. They also help boaters plan their departure before the gate closes at the Lower Dam Recreation Area.

As the commenter points out, because Refuge staff insert the appropriate time sign as sunset shifts during the season, it is not possible to always have the boats off water time match an appropriate time between sunset and civil twilight. Currently, the boats off water sign is changed so that it indicates a time anywhere from one to thirty minutes after sunset, to provide time to depart before civil twilight.

Given that boaters require different amounts of time to trailer and prepare their boats for departure, the Service will discuss with the Canyon County Sherriff’s Office Marine Patrol the possibility of replacing the “Boats must be off water” signs with “Gate closes at” signs (for the Lower Dam Recreation Area) or “Refuge closes at” signs (for the Upper Dam boat ramps) that would indicate times anywhere from one to thirty minutes after civil twilight. Alternatively, the Service would notify boaters that they must be off-water by civil twilight and post a table showing the times of civil twilight throughout the boating season as suggested by the commenter. Either approach could allow boaters a bit more flexibility to plan their boating and still comply with the Refuge closure time.

63. **Comment summary:** Expressed concern that motorized boating should be eliminated or restricted to no-wake because high-speed motorized boating is unsafe, causes wildlife disturbance, detracts from user experiences, was not foreseen when the Refuge was established, and is available at many other local lakes and reservoirs that are not National Wildlife Refuges. Suggests that there be one day a week or even a half day during which the lake is open only to no-wake activities.

**Response:** The use of a boat often provides a vehicle for participating in wildlife-dependent recreational activities (e.g., fishing, wildlife observation, and photography), so boating is often allowed on national wildlife refuges. Typically, however, high-speed boating and tow-behind activities are not permitted on national wildlife refuges. As noted in Section 5.5.1, because the Refuge was unstaffed in its early history and because of an erroneous assumption that administrative responsibility for on-water uses rests with Reclamation, recreational activities that would typically not be allowed on a Refuge have been allowed at Deer Flat NWR.

Refuge staff worked closely with regional and national staff to identify areas where traditional uses such as high-speed boating could continue to take place while still

providing adequate habitat for wildlife. Nonwildlife-dependent boating visitors provide the Refuge opportunity to reach out to nontraditional user groups and to encourage boating users to observe wildlife and learn about the NWRS. Due to the close proximity of the Refuge to the cities of Nampa and Caldwell, the number and variety of users to this urban refuge are expected to grow. For many of these people, boating at Lake Lowell may provide an introduction to a national wildlife refuge

The Service considers that with the stipulations identified in the Recreational Boating Compatibility Determination (e.g., seasonal closures and no-wake zones, see Appendix B), high-speed boating and tow-behind activities can be compatible with the Refuge purpose and the mission of the NWRS. The Service proposes to monitor impacts of boating activities annually to assess compliance with these stipulations, impacts to waterfowl, shorebirds, waterbirds (especially *Aechmophorus* grebes), and other migratory birds as well as wildlife habitat, and conflicts between user groups. Monitoring data would be used to modify these stipulations if necessary to ensure continued compatibility of these activities.

64. **Comment summary:** Proposed banning two-stroke motors and unmuffled modified V-8 automobile engines because of the levels of pollution, exhaust, noise and speed that they produce. Proposed a limit on the size of boats.

**Response:** The size of boats is already limited by the size of existing boat ramps. There are no plans to expand the ramps to accommodate larger boats. The Service considered banning two-stroke motors, but was informed that some newer two-stroke engines are capable of performance similar to four-stroke engines. Also, where possible, the Service tries to be consistent with local regulations and there are no restrictions on motor type in this area. As proposed in Objective 1.4 in Section 2.5.1, the Service would enforce existing Idaho State noise ordinances and promote the use of CARB star-rated motors at the level of two stars and above. The Refuge is open to working with partners to assess the impacts of different kinds of motors on water quality and wildlife/habitat.

65. **Comment summary:** Questioned the ability to enforce the proposed noise ordinance and suggested that the decibel limit allowed on county and city streets may not be appropriate for a National Wildlife Refuge.

**Response:** The scientific literature related to decibel limits that will reduce disturbance for particular species is limited. As proposed in Objective 1.4 in Section 2.5.1, the Service would enforce existing Idaho State noise ordinances to be as consistent as possible with local regulations and increase protections for wildlife from noise disturbance.

Service law enforcement partners with State and local agencies to enforce regulations, and would continue to enforce Refuge regulations to the greatest extent possible.

66. **Comment summary:** Concerned that restricting current public use on Lake Lowell would negatively impact the environment through increased fossil fuel consumption and carbon dioxide emissions because some boaters would choose to drive farther to access recreational opportunities at another lake or reservoir.

**Response:** Although the Service is proposing to continue allowing all existing recreational activities, there would be some restrictions, including more no-wake zones and seasonal closures to protect sensitive wildlife habitat. As projected in Table 6-3, the Service does anticipate a reduction in the number of visitors participating in nonwildlife-dependent boating on the assumption that some users would be displaced from the lake because there is less area available for high-speed boating and tow-behind activities.

However, the Service anticipates that this would have a negligible long-term negative effect on air quality because it is unlikely that a large enough number of visitors would be displaced to cause a larger effect.

67. **Comment summary:** Questioned the feasibility of enforcing no-wake zones and other regulations given current rate of noncompliance with no-wake zones, current Refuge law enforcement staffing, and the difficulty of identifying distances from protected features that are not marked with buoys. Also questioned whether the cost of educating the public and purchasing buoys is worth the benefit.

**Response:** The Service intends to educate the public about the wildlife benefits of no-wake zones and seasonal closures through signs and brochures and hopes that an educated public will comply with regulations. However, we understand that this will not always be the case. Service law enforcement officers would enforce these and other Refuge regulations. Although Service enforcement staff is limited, they will do their best to respond as often as possible.

The proposed no-wake zones on the east end of the lake and at the Narrows would be clearly marked with buoys placed every 100 to 150 yards and should therefore be easily identifiable and enforceable. The proposed no-wake zone on the south side of the lake shifts with fluctuating water levels and would therefore not be marked with buoys. Officers would use appropriate discretion and provide necessary information when interacting with visitors who are unknowingly violating an unmarked no-wake zone versus those who are flagrantly violating no-wake zones.

68. **Comment summary:** Proposed that the Refuge dredge the “Narrows” and/or dredge or extend boat ramps.

**Response:** The Narrows is a narrow area that connects the East and West Pools. The Bureau of Reclamation established what is now called the “equalizer” in this area during the construction of the reservoir. The area is approximately three-quarters of a mile long and approximately 50 feet wide, varying throughout its entirety. The purpose of the equalizer was to maintain flow between the two pools at low surface elevations.

The lake bed topography in front of the west end of the Upper Dam and Lower Dam ramps does not have the necessary slope to extend current ramps. Dredging and maintenance dredging to obtain desired results is expensive, may adversely impact the environment (e.g., release contaminants bound in lake-bottom sediments), and is often complicated since suitable sites must be located for placement of the dredged material. Dredging more of the existing channel or said boat ramps would not provide wildlife value and would only be a temporary correction as wave action and substrate deposition will fill in manipulated areas.

### H.1.2.17 Boating—Closures

69. **Comment summary:** Concern that limiting public access to some areas of the lake through seasonal closures and no-wake zones would be unsafe by forcing more boaters into a small area and would reduce awareness and appreciation for the Refuge because the Service is restricting access to places visitors currently enjoy.

**Response:** The Service sought a balance between wildlife protections and recreational activities by emphasizing seasonal, movable closures to protect wildlife during sensitive times (e.g., nesting, migratory shorebird feeding and resting) rather than permanent on-water closures. Although these seasonal closures in the Preferred Alternative would reduce the area available for boating, they would be primarily concentrated in emergent vegetation along the shoreline. The majority of both pools of the lake would be available for high-speed boating, so the total acreage available for high-speed boating would be similar to the status quo alternative (compare Maps 4 and 5 in Chapter 2). In addition, under the Preferred Alternative all activities that have been enjoyed historically would still be allowed.

By providing information about why seasonal closures and no-wake zones are in place, the Service anticipates that visitors will increase their awareness and appreciation of the Refuge, and by requiring travel through new or expanded no-wake zones at a no-wake speed, will increase awareness and appreciation by allowing visitors to better observe wildlife and habitat.

70. **Comment summary:** Suggests that boaters using electric motors, push poles and other manual propulsion devices be allowed to enter seasonal nesting closures to allow for wildlife-dependent activities without damaging nesting areas or disturbing wildlife. Commenters also observed that a fully mature emergent weed bed becomes impenetrable, eliminates human access, and creates protection for the nesting colony.

**Response:** The seasonal closures were based on recommendations from disturbance literature (see rationale for Objective 1.4 in Section 2.5.1). Allowing any type of human presence into the closure, whether motorized or nonmotorized, causes wildlife disturbance, so there would be no exceptions to the seasonal closures proposed in the Final CCP/EIS.

71. **Comment summary:** Requests clarification of how the proposed 500-yard grebe nesting closures will be implemented and suggests that a 1,000-yard closure measured from a nest at the center of the colony be implemented.

**Response:** The sizes of seasonal wildlife closures for important wildlife areas (e.g., nesting, foraging) were determined using the best available science (see Recreational Boating Compatibility Determination in Appendix B). The suggested buffer for nesting grebes is 500 yards. To determine grebe colony boundaries, the staff biologist would mark nests within, and especially on the periphery of, a colony using a global positioning system (GPS) capable of sub-meter accuracy as part of the regular colony studies. These data points would be exported to a geo-referenced mapping system and up to a 500-yard buffer would be drawn around the colony. Buoy locations would then be mapped every 100 to 150 yards and exported back into the GPS unit to be used to place the buoys in the

proper location. In the first year that grebes nest, the closure would be based on nests established by early in the nesting season. In the second year of a grebe nesting closure, the closure would be based on the full extent of the colony in the first year.

72. **Comment summary:** Expressed support for closures to protect nesting habitat, and in particular supported the concept of seasonal, movable closures to protect important wildlife areas.

**Response:** The Service acknowledges these comments, as well as the scoping comments that proposed the idea of flexible seasonal closures.

73. **Comment summary:** Wants the Service to identify the maximum amount of habitat necessary to protect a given species so that the seasonal, movable closures around sensitive wildlife areas (see Recreational Boating Compatibility Determination in Appendix B) could not end up including most of the emergent beds as proposed in Alternatives 3 and 4.

**Response:** Deer Flat National Wildlife Refuge was established primarily for the protection of migratory birds (see Section 1.7.2). As noted in Section 1.6.2.2, according to the Refuge Administration Act, as amended, the “fundamental mission” of the National Wildlife Refuge System “is wildlife conservation: wildlife and wildlife conservation must come first.” The Refuge Administration Act also identifies six priority wildlife-dependent recreational activities for the Refuge System (hunting, fishing, wildlife observation and photography, and environmental education and interpretation) that the Service should make extra efforts to facilitate on refuges, where compatible with the wildlife and wildlife habitat mission. However, where conflicts arise between protections for wildlife and habitat and providing wildlife-dependent recreation, priority must be given to wildlife and habitat.

The species the Service is proposing to protect with seasonal closures (e.g., grebes, herons, etc.) require specific types of habitat for nesting. Because of limited availability of suitable habitat (e.g., vegetation, water level, etc.), it is unlikely that they would nest in a way that would result in seasonal closures like those proposed in Alternatives 3 and 4. This limited availability of adequate habitat is the reason that the Service shifted from proposing permanent closures of emergent beds (as during presentation of preliminary draft alternatives) to seasonal, movable closures that provide wildlife protections while also maintaining space available for wildlife-dependent recreation.

74. **Comment summary:** Expressed concern that the proposed seasonal closures would restrict access to prime fishing spots and other recreational activities. Suggested that unless grebes often re-use the same nesting colony, the proposal to continue grebe nesting closures through July 15 of the following year should be eliminated. Also suggested that seasonal nesting closures should “end at the normal fledging date for the affected species.”

**Response:** See first paragraph of response to comment #73, above, for discussion of relative priorities of wildlife and wildlife-dependent recreation.

Nesting grebes at Lake Lowell have typically used the same area to set up their colonies from year to year, and the Refuge is attempting to limit human-caused disturbance in those areas at the beginning of the nesting and boating season when grebes are establishing territories.

The seasonal closures have been proposed to begin and end at appropriate times (e.g., the start of nest territory establishment and typical fledging time for nesting closures and the typical arrival and departure of migrating shorebirds for seasonal shorebird closure) based on best available science and observations at Deer Flat NWR.

75. **Comment summary:** Suggested that the Refuge expand the seasonal closure around the bald eagle nesting area if needed.

**Response:** The size of the seasonal nesting closures are based on recommendations presented in peer-reviewed literature that the Refuge considers best available science. If the size or seasonal restrictions prove to be inadequate in the future, the Refuge will take appropriate measures to adjust accordingly.

76. **Comment summary:** Suggested that the emergent vegetation on the south side of the lake be protected by a 50-yard buffer closed to human entry.

**Response:** A similar closure was proposed in Alternatives 3 and 4. The Service considers that the Preferred Alternative would adequately protect wildlife while still allowing access to popular fishing areas along the south shore.

#### H.1.2.18 Boating—No-Wake Zones

77. **Comment summary:** Expressed opposition to the proposed Narrows no-wake zones because of safety concerns when reducing speed in the Narrows in windy conditions, because the Narrows is not “narrow” when water levels are high, because a no-wake zone will discourage boaters from traveling from the East Pool to the West Pool when water levels are low, thus concentrating usage in the East Pool, and because it is a new proposal that was not included in the preliminary draft alternatives. Expressed support for this no-wake zone because it would reduce disturbance from wake to anglers fishing in the Narrows.

**Response:** As noted in Section 1.6.2.2, according to the Refuge Administration Act, as amended, the “fundamental mission” of the National Wildlife Refuge System “is wildlife conservation: wildlife and wildlife conservation must come first.” The Refuge Administration Act also identifies six priority wildlife-dependent recreational activities for the Refuge System (hunting, fishing, wildlife observation and photography, and environmental education and interpretation) that the Service should make extra efforts to facilitate on Refuges, *where compatible*. Compatibility determinations have been developed for both fishing and recreational boating activities (see Appendix B). In order for on-water recreational activities to be compatible, it has been determined that the stipulations laid out in Appendix B must be followed, including the reduction of disturbance provided by no-wake zones and seasonal closures.

No-wake zones are a common management tool that allows use in sensitive areas. For example, public boat docks are typically surrounded by a no-wake zone to reduce the danger of fast-moving vessels and the wake they create in such high-use areas. No-wake zones require boaters to slow down and be more aware of their surroundings. The Refuge has a number of sensitive areas, including irrigation structures, boat ramps, swimming areas, high public use areas, and sensitive wildlife habitats.

The Narrows no-wake zone was proposed in the preliminary draft alternatives and in the draft Preferred Alternative because this pinch point that connects the two larger pools of the lake has several sensitive areas. The south shore has a large expanse of smartweed that is used as nesting and foraging habitat by a variety of migratory birds. The north shore has historically had a bald eagle nest in the strip of trees along the lakeshore. Also, anglers congregate in the middle of the Narrows on a feature known as the “Equalizer” that channels water between the two pools and holds large quantities of bass. A no-wake zone in this area still allows passage to both pools, reduces the amount of wake that affects nesting water birds and stationary anglers, and slows boaters down so that they are more aware of their surroundings and can more easily avoid collisions with waterbirds or anglers and other boaters.

78. **Comment summary:** Expressed opposition to the proposed no-wake zone on the south side of the lake because it is unnecessary given that after May 30, “access into the emergent weed beds becomes virtually impossible.” Suggested that the no-wake zone be narrowed to 200 feet rather than 200 yards. Expressed support for this no-wake zone to protect habitat.

**Response:** Although it may be difficult to enter the emergent weed beds in late spring and summer, the proposed no-wake buffer actually requires no-wake speeds within 200 yards of the edge of the emergent bed. This would reduce disturbance to nesting, resting, and foraging birds from both the noise and speed of fast-moving boats. See also the general discussion of no-wake zones in the first two paragraphs of the response to comment #77 and compatibility determinations in Appendix B.

79. **Comment summary:** Expressed opposition to the proposed expansion of the no-wake zone on the east end of the lake because its placement appears to be arbitrary and the benefit is unclear, because it is a preferred area for water skiing. The Boise Sailors Association suggested that the no-wake zone boundary be shifted to the east boundary of the Gotts Point parking lot. Expressed support for this no-wake zone because it will reduce the risk of a fishing boat getting knocked against the concrete fish structure east of Gotts Point.

**Response:** During the CCP scoping process, the Service received requests from anglers, wildlife watchers, and photographers to provide more areas to conduct their activities with minimal disturbance from high-speed boating activities. The proposed expansion of the no-wake zone also reduces safety concerns associated with the concrete fish structures east of Gotts Point. The expansion of the existing no-wake zone on the east end of the lake was proposed primarily to accommodate these requests and to provide an area with less wildlife disturbance. Some suggested that the no-wake zone be expanded even farther, to start at Parking Lot 2 rather than Parking Lot 1.

Deer Flat National Wildlife Refuge was established primarily for the protection of migratory birds (see Section 1.7.2). As noted in Section 1.6.2.2, according to the Refuge Administration Act, as amended, the “fundamental mission” of the National Wildlife Refuge System “is wildlife conservation: wildlife and wildlife conservation must come first.” The Refuge Administration Act also identifies six priority wildlife-dependent recreational activities for the Refuge System (hunting, fishing, wildlife observation and photography, and environmental education and interpretation) that the Service should make extra efforts to facilitate on refuges, where compatible with the wildlife and wildlife habitat mission. Finally, other activities can be allowed if deemed appropriate (see Appendix A) and if they can be implemented without impairing existing or future wildlife-dependent uses. Therefore, where conflicts arise between protections for priority wildlife-dependent recreational activities and other recreational activities, priority must be given to the priority wildlife-dependent recreational activities.

Gotts Point is one of the most popular locations at Lake Lowell for shoreline anglers, and this no-wake boundary was devised to include all of Gotts Point to minimize disturbance from wake for shoreline anglers. Also, having the no-wake-zone boundary terminate at a prominent point is valuable to visitors and law enforcement because it provides a clearer visual reference to help understand and enforce the limits of the no-wake zone.

80. **Comment summary:** Proposed removing the concrete fish structures east of Gotts Point.

**Response:** The current cement structures provide habitat for fish and will remain in Lake Lowell.

81. **Comment summary:** Questioned why it is necessary to control boat wakes given that wind creates waves too.

**Response:** While wind does produce waves, unpredictable, omni-directional wake created by boats is more difficult for wildlife to adapt to than waves created by wind. Wildlife species like colonial surface-water nesters can generally adapt to waves that result from a prevailing wind. Storm events that are capable of destroying nests and nesting habitat are part of the natural order of things. Although wake from wind can be damaging, the purpose of the proposed no-wake zones is to reduce the amount of human-caused disturbance from wake in order to improve nesting success.

As noted in Section 1.6.2.2, according to the Refuge Administration Act, as amended, the “fundamental mission” of the National Wildlife Refuge System “is wildlife conservation: wildlife and wildlife conservation must come first.” The Refuge Administration Act also identifies six priority wildlife-dependent recreational activities for the Refuge System (hunting, fishing, wildlife observation and photography, and environmental education and interpretation) that the Service should make extra efforts to facilitate on refuges, *where compatible*. Compatibility determinations have been developed for both fishing and recreational boating activities (see Appendix B). In order for on-water recreational activities to be compatible, it has been determined that the stipulations laid out in Appendix B must be followed, including the reduction of disturbance provided by no-wake zones and seasonal closures.

82. **Comment summary:** Observed that “a fishing boat going slow, 5mph, in a no-wake zone, actually creates a bigger wake than when that same boat is ‘on plane.’”

**Response:** Given that the size of a boat’s wake at any given speed depends on the design of the boat, to minimize disturbance to wildlife and wildlife-dependent recreationists the Service has proposed no-wake zones with the requirement to travel <5 mph. Within no-wake zones, boaters would therefore be required to slow down to less than 5 mph or a slower speed if that is required for their boat to not produce a wake.

83. **Comment summary:** Suggested that certain groups (including law enforcement, administration, and anglers or tournament anglers) not be required to comply with no-wake zones and closed areas.

**Response:** Management activities (e.g., law enforcement) are exempted from regulations as required to achieve management goals, but would be done in a way that minimizes wildlife disturbance to the greatest extent possible.

Priority wildlife-dependent and nonwildlife-dependent recreational activities can be allowed on national wildlife refuges only when determined to be compatible with wildlife and wildlife habitat. To ensure that these activities are compatible, the compatibility determinations (see Appendix B) include stipulations necessary to ensure compatibility. Compatibility determinations for fishing and recreational boating both require compliance with proposed closures and no-wake zones to minimize disturbance to wildlife and habitat. Allowing exceptions for certain users would both increase wildlife disturbance and be unfair to other recreationists who did not receive similar exemptions.

#### H.1.2.19 Economic Effects

84. **Comment summary:** Expression of concern that additional restrictions to current public uses would have a negative economic impact on local businesses (e.g., boat- and fishing-related businesses and convenience stores), state boat license revenue, and local housing values.

**Response:** According to the economic effects analysis compiled by the Policy Analysis & Science Assistance Branch of the U.S. Geological Survey (USGS), the selected alternative would have a negligible long-term positive effect on the economy of Ada and Canyon Counties. See Table 6-1 and Section 6.6, Economic Effects.

85. **Comment summary:** Proposal to open Lake Lowell to all recreational activities all year to provide an economic benefit to gas stations, boat dealers, sporting goods stores, etc.

**Response:** Deer Flat National Wildlife Refuge was established primarily for the protection of migratory birds (see Section 1.7.2). The existing boating season (April 15-September 30) has been in effect for many years and was established to provide adequate habitat with minimal human disturbance for migratory birds during migration and overwintering at Lake Lowell. The Service considers that reducing the existing boating closure (October 1-April 14) would increase disturbance to migratory birds and other wildlife and would therefore contradict the Refuge’s purpose.

86. **Comment summary:** Idaho Department of Parks and Recreation expressed concern that Alternatives 3 and 4 would alter the intent of projects funded through Waterways Improvement Fund grants awarded to Canyon County and result in a conversion. Idaho Administrative Procedures Act (IDAPA) Rule 26.01.31.350 regarding conversions requires, “No project funded by Recreational Program Grant Funds shall, without the prior written approval of the director, be converted to uses other than for the authorized purposes specified in the original recreational program grant application, grant agreement, or Memorandum of Understanding.”

**Response:** Selection of the Preferred Alternative (Alternative 2) would not alter the intent of previously funded Waterways Improvement Fund grants to Canyon County.

87. **Comment summary:** Requested that the plan “prevent mining, or other industrial exploitation, including above and below ground water diversion.”

**Response:** Any activity on Refuge lands has to be appropriate and compatible with the purpose of the Refuge. Since the purpose of this Refuge is to serve as a refuge and breeding ground for migratory birds and other wildlife it is unlikely that mining or other industrial activities could be considered appropriate and compatible. Water diversion, on the other hand, is the original and overlying purpose for the reservoir (Lake Lowell) and the Service does not have jurisdiction over how that is regulated and used.

88. **Comment summary:** Requested the plan “forbid the exchange of such lands for other lands offered by any private corporations or individuals for any purpose.”

**Response:** The Service does have the authority to exchange lands. Any proposals for land exchanges would be evaluated to assess whether the proposed exchange is in the interests of both the Bureau of Reclamation and the Service in carrying out their respective responsibilities at the Lake Lowell Unit of the Refuge or is in the interest of the Service for the Snake River Islands Unit of the Refuge.

#### H.1.2.20 Hydropower Facility

89. **Comment summary:** The Board of Control asserts that it has authority to build hydropower facilities on the Refuge and opposes any element of the CCP that might interfere with this authority, pointing specifically to their plans to develop Richard’s Point Hydroelectric Project.

**Response:** Pursuant to Executive Order 7655, which established the Refuge, the Service’s jurisdiction over lands that were withdrawn for the Reclamation project is subject to “Reclamation work and incidental purposes.” According to the Bureau of Reclamation, the project encompassing Lake Lowell was authorized with the single purpose of irrigation; hydropower was not an authorized project purpose. Therefore, we have operated under the principle that Refuge management cannot interfere with the irrigation purpose of the project and activities associated with the irrigation purpose, such as operations and maintenance activities, but that other activities, such as hydropower, can be allowed only if consistent and compliant with statutory and regulatory authorities governing Refuge management. While we are aware that the president recently signed into law P.L. 113-24, the Bureau of Reclamation Small Conduit Hydropower

Development and Rural Jobs Act, we do not know the extent of its applicability to the proposed Richard's Point project. However, we would be glad to discuss this with Reclamation and BPBOC as appropriate.

#### H.1.2.21 Editorial Comments

90. **Comment:** “The Draft CCP/EIS references the Idaho Statewide Comprehensive Outdoor Recreation and Tourism Plan (SCORTP) on Page 6-58. The draft EIS states ‘According to the 2006-2010 Idaho SCORTP report (IDPR 2006), 73 percent of surveyed Idahoans said that the most they were willing to travel to their favorite outdoor recreation site for less than one day’s activity was two hours or more.’ The 2006-2010 SCORTP report actually found that the most Idahoans were willing to travel to their favorite outdoor recreation site for less than one day’s activity was two hours or less, not more.”

**Response:** Correction has been made.

91. **Comment:** Page 5-27, 2nd paragraph—“Recommend changing the sentence ‘Based on the assumption that administrative responsibility for on-water uses rested with Reclamation no compatibility determinations were developed for on-water recreation at this time’ to something along the lines:

Based on an erroneous assumption that administrative responsibility for on-water uses rested with Reclamation, no compatibility determinations were developed for on-water recreation at this time. Both the FWS and Reclamation have since confirmed that the USFWS has administrative responsibility for on-water uses as described earlier on page [insert page reference 1 for Lake Lowell]. This is because the USFWS’s management of on-water uses will not conflict with Reclamation’s off-stream storage of water in Lake Lowell for irrigation purposes; in addition, the USFWS’s legal authorities provide that the USFWS needs to manage Lake Lowell for wildlife refuge purposes too.”

**Response:** Changed as follows:

Based on an erroneous assumption that administrative responsibility for on-water uses rested with Reclamation, no compatibility determinations were developed for on-water recreation at this time. Both the Service and Reclamation have since confirmed that the Service has administrative responsibility for on-water uses at Lake Lowell as described earlier on page 1-1. The Federal Water Project Recreation Act, Public Law 98-72, governs Reclamation’s recreation authority if the project authorization does not provide for recreation. It does not add recreation as a project purpose to a Reclamation project or impose a Federal recreation obligation. Significantly for Lake Lowell, P.L. 98-72 also excludes areas that are administered by a Federal agency “in connection with an authorized Federal program for the conservation and development of fish and wildlife.” ([16 U.S.C. § 4601-12](#)).

92. **Comment:** Page 1-2, 4th paragraph—Suggest adding “maintenance” after “operation” in the first sentence, and clarifying that the Deer Flat Dams and diversion works are not reserved works in the last sentence.

**Response:** Changes have been made.

93. **Comment:** Page 5-34, Table 5-7—“The following revisions should be made to the table: at Black Canyon Reservoir, Reclamation manages recreation while Idaho Department of Fish and Game manages the adjacent Montour Wildlife Management Area under an agreement with Reclamation. Boise National Forest manages recreation at Arrowrock and Anderson Ranch Reservoirs under an agreement with Reclamation. At Cascade Reservoir, Idaho Department of Parks and Recreation manages recreation along with Reclamation.”

**Response:** Changes have been made.

94. **Comment:** Page 1-25, 3rd bullet—“This statement should clarify that BPBOC has the day-to-day responsibility of controlling Lake Lowell water levels.”

**Response:** Change has been made.

95. **Comment:** Page 180 (3-32)—“The Implementation Plan was finalized in October 2012.”

**Response:** Proper citation to final Implementation Plan inserted.

96. **Comment:** Page 180 (3-32)—“Update to 2010 (or 2012) Integrated Report depending on whether it is approved by the time this is finalized.”

**Response:** Proper citation to 2010 Integrated Report inserted, and text modified as appropriate.

97. **Comment:** Page 182 and 182 (3-33 and 3-34)—“Special Resource Waters are no longer a use designation in our water quality standards. There is no longer a special resource category; we want to protect wildlife everywhere regardless of whether it is a designated wildlife refuge or management area. Wildlife habitat is an assumed use for all surface waters as listed in table 3-14.”

**Response:** Left unchanged because the term Special Resource Waters was used in the TMDL developed for Lake Lowell (IDEQ 2010) as cited.

98. **Comment:** A commenter requested that the plan explicitly state that “windsporters would be permitted short, direct crossing [of no-wake zones] and must not dwell nor conduct their ‘play’ within that band.”

**Response:** No change needed. Objective 1.4 in Section 2.5.1 already states that in the Preferred Alternative, kiteboarders and windsurfers would be allowed to launch from any open shoreline, but they must comply with no-wake zones.