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**Results of Scoping for the  
Environmental Impact Statement for the  
Proposed Operation and Maintenance of  
the Flathead Indian Irrigation Project  
upon Transfer**

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**FINAL**



December 1, 2004

*Results of Scoping for the Environmental Impact Statement for the Proposed Operation  
and Maintenance of the Flathead Indian Irrigation Project upon Transfer*

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## **I. Introduction**

The United States Department of Interior (DOI), through the Bureau of Indian Affairs (BIA), is preparing an environmental impact statement (EIS) to evaluate the environmental impacts associated with its proposal to develop and implement rules and regulations governing the future operation and maintenance of the Flathead Indian Irrigation Project. By law, responsibility for the operation and maintenance of the project will be transferred from BIA to the owners of the lands irrigated by the project under rules and regulations approved by the Secretary of the Interior. As part of the EIS process, BIA conducted public scoping meetings and sponsored an agency scoping meeting. The purpose of these meetings was to solicit input from the public and from interested agencies to assist BIA in identifying issues to be addressed in the EIS and developing a reasonable range of alternatives to be analyzed in the EIS.

BIA conducted the scoping process pursuant to Council of Environmental Quality regulations (40 CFR § 1501.7) and the BIA National Environmental Policy Act Handbook (30 BIA Manual Supplement 1, Release No. 9303, September 24, 1993). Using an early and open public and agency process, including an open-house format for the public meetings, BIA afforded the public and agencies an opportunity to ask questions about its proposed action and to offer input. BIA has prepared this report to document the scoping process and the results that were obtained. This report includes the following information related to the scoping process and the development of the EIS:

- Background on the Flathead Indian Irrigation Project and the pending transfer of operation and maintenance responsibilities;
- Purpose and need for BIA's action;
- Summary of the scoping process;
- Summary of scoping comments;
- Description of BIA's proposed action, the no action alternative, and alternative actions;
- Summary of impact areas and issues to be addressed in the EIS.

## **II. Background**

The Flathead Indian Irrigation Project is a federally owned and currently federally operated and maintained irrigation project located almost entirely on the Flathead Indian Reservation in northwest Montana. The reservation was created in 1855 by the Treaty of Hell Gate, which provided for the conveyance of 12 million acres of land to the United States by the Flathead, Kootenai, and Upper Pend d'Oreilles Indians, now known as the Confederated Kootenai and Salish Tribes of the Flathead Indian Reservation, in return for the establishment of the 1.25 million-acre Flathead Indian Reservation. The Flathead Indian Irrigation Project was originally authorized in 1904 to provide irrigation water for the benefit of the Indians on the

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Flathead Indian Reservation. In 1908, the project was authorized to also serve non-Indians who had started to homestead on unallotted lands within the reservation.

The Flathead Indian Irrigation Project includes 17 reservoirs, 4 pump facilities, over 1,300 miles of canals and laterals, and over 10,000 structures for diversion, control, and delivery of water (Figure 1). The project encompasses approximately 134,790 irrigated acres.

Today, most of the land irrigated by the Flathead Indian Irrigation Project is owned by non-Indian irrigators. Non-Indian irrigation interests are represented by three irrigation districts: the Flathead Irrigation District, the Mission Irrigation District, and the Jocko Irrigation District; those districts are collectively represented by the Flathead Joint Board of Control, which is chartered under state law and represents only owners of fee lands. Approximately 10 percent of the irrigated land is held in trust for the Confederated Salish and Kootenai Tribes and a small number of tribal members.

As discussed below, federal law requires that the operation and maintenance of the Flathead Indian Irrigation Project be transferred from BIA to the owners of the land irrigated by the project. BIA has no discretion with respect to this transfer, except with regard to the rules and regulations that will govern the operation and maintenance of the project. BIA anticipates that operation and maintenance of the project will be transferred to an entity made up of the Flathead Joint Board of Control and the Confederated Salish and Kootenai Tribes (currently referred to as the Cooperative Management Entity), with BIA participating in its role as trustee. The entity will operate and manage the project in accordance with rules and regulations established by the Secretary of the Interior.

The EIS will analyze and compare potential environmental impacts associated with BIA's proposed action, the no action alternative, and other reasonable action alternatives.

### **III. Purpose and Need for Agency Action**

In 1904, the Flathead Indian Allotment Act (33 Stat. 302) authorized allotments of land within the Flathead Indian Reservation to members of the Confederated Salish and Kootenai Tribes. After all the allotments were made, the remaining unallotted lands were to be disposed of under homestead, mineral, and town site laws. Any agricultural and grazing lands subject to settlement that remained undisposed of after 5 years from the passage of the Act were to be sold to the highest bidder in tracts not to exceed 640 acres to any one person. One-half of the proceeds from the sale of the lands were to be expended for the benefit of the Confederated Salish and Kootenai Tribes "in the construction of irrigation ditches, the purchase of stock cattle, farming implements, or other necessary articles to aid the Indians in farming and stock raising."

The Act was amended in 1908 to allow for the payment (by owners of unallotted lands) of the construction of an irrigation system to serve irrigable lands within the Flathead Indian Reservation and to provide for the future turnover of the operation and maintenance of the irrigation works to the owners of the lands irrigated by the project when certain

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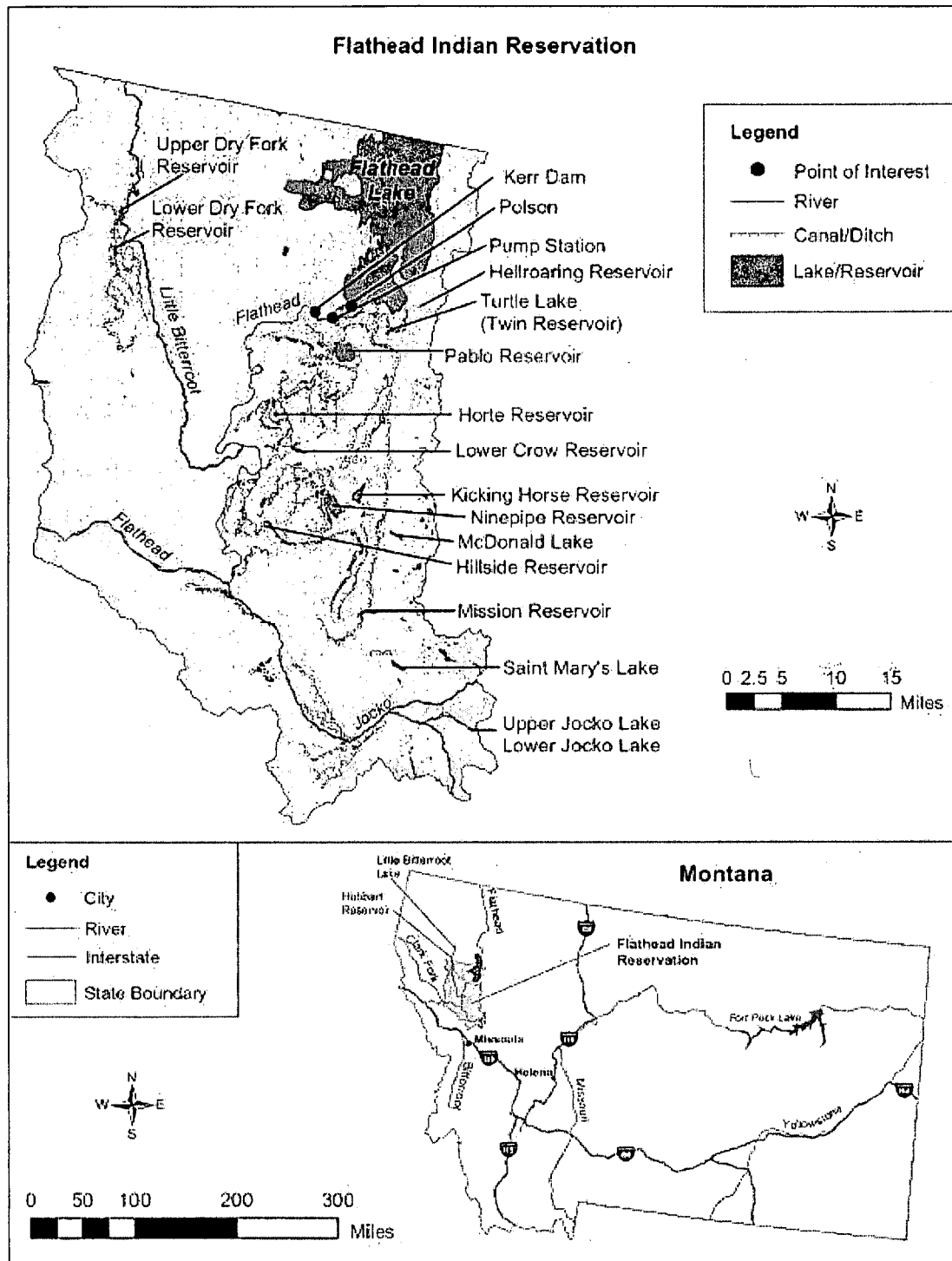


Figure 1. Project Area Map

construction repayment conditions were met (the United States will continue to hold title to the project). Specifically, the 1908 amendment stated that when the repayment conditions were met, “the management and operation of such irrigation works shall pass to the owners of the lands irrigated thereby, to be maintained at their expense under such form of organization and under such rules and regulations as may be acceptable to the Secretary of the Interior” (35 Stat. 444, Section 15).

The construction repayment conditions were met in January 2004. The Secretary of the Interior, through the BIA, needs to establish and implement the rules and regulations under which the project will be operated and maintained following the statutorily mandated turnover of operation and maintenance to the owners of the irrigated lands. BIA has determined that the implementation of such rules and regulations could result in significant environmental impacts and, for that reason, is preparing an EIS to evaluate and compare alternative operation and maintenance options.

#### **IV. Summary of the Scoping Process**

This section summarizes the scoping process BIA conducted for the EIS. Through the scoping process, BIA solicited input from the public, from federal and Montana agencies, and from other interested organizations regarding the scope of the EIS, the proposed action, and the range of reasonable alternative actions.

##### **A. Public and Agency Outreach and Notification**

BIA used a variety of means to notify the public and potentially interested agencies and organizations and to provide them with an opportunity to participate in the scoping process.

###### *Federal Register Notice of Intent*

BIA’s formal scoping process began on June 7, 2004, with publication in the Federal Register of a *Notice of Intent to Prepare an EIS for the Proposed Operations and Maintenance of the Flathead Indian Irrigation Project Upon Transfer* (69 Fed. Reg. 31835 (June 7, 2004)). The notice provided information on the project and EIS; announced the dates, times, and locations of the two public scoping meetings; indicated that comments could be mailed, faxed, or hand-delivered to BIA before July 31, 2004; and provided the name, address, and telephone number to which comments should be mailed or faxed. A copy of the Notice of Intent is shown in Exhibit A.

###### *Local Newspaper and Radio Announcements*

Announcements of the publication of the Notice of Intent in the *Federal Register* and of the times and places of the two public scoping meetings were published or broadcast on two consecutive Thursdays (June 17 and June 24, 2004) in the newspapers or radio stations listed below. A copy of the published announcement is shown in Exhibit B.

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- *Lake County Leader / Advertiser*
- *Sanders County Ledger*
- *Char-Koosta News*
- *The Missoulian*
- KERR Radio, Pablo, Montana

*Agency Notifications*

On June 17, 2004, a letter was sent to potentially interested federal, tribal, and Montana agencies and organizations alerting them to the EIS and inviting them to attend an agency meeting on June 29, 2004, in Polson, Montana. A copy of the announcement letter is shown in Exhibit C. The letter was sent to the following agencies and organizations:

- U.S. Fish and Wildlife Service (USFWS), Kalispell, Montana
- U.S. Environmental Protection Agency, Region 8, Denver, Colorado
- U.S. Army Corps of Engineers, Portland, Oregon
- U.S. Forest Service, Kalispell, Montana
- U.S. Geological Survey, Helena, Montana
- National Weather Service, Missoula, Montana
- Natural Resource Conversation Service, Pablo, Montana
- National Marine Fisheries Service
- Confederated Salish and Kootenai Tribes, Polson, Montana
- Montana Department of Transportation, Helena, Montana
- Montana Department of Commerce, Helena, Montana
- Montana Department of Fish, Game and Parks, Kalispell, Montana
- Montana Department of Agriculture, Helena, Montana
- Office of the Governor, Sate of Montana, Helena, Montana
- Montana Historical Society, Helena, Montana

*Website*

On June 28, 2004, BIA launched a website for the EIS (URL: <http://projects1.battelle.org/FIIP-EIS>). The website provides current, updated information on the EIS, access to relevant documents, and a means for the public to submit comments or questions online.

**B. Public Scoping Meetings**

BIA conducted two public scoping meetings. The first took place on June 28, 2004, at the Confederated Salish and Kootenai Arlee Community Center in Arlee, Montana. The second took place on June 30, 2004, at the Ronan High School gymnasium in Ronan, Montana. Both meetings were held from 6:30 to 9 p.m. Fifteen individuals signed the register at the June 28 meeting in Arlee. Twenty individuals signed the register at the June 30 meeting in Ronan.

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The general format of both meetings was as follows:

- Meeting attendees were asked to sign in at a registration station upon arrival.
- BIA provided various information stations including: (1) printed fact sheets and key questions and answers about the pending transfer and EIS, (2) poster board maps of the Flathead Indian Irrigation Project area, (3) a poster board of the components of the current and anticipated operating procedures, and (4) a poster board outline of the anticipated organizational structure for managing the Flathead Indian Irrigation Project upon transfer. Copies of these materials are included in Exhibit D.
- BIA gave presentations on the requirements of the National Environmental Policy Act and on the historical events leading to the pending transfer of Flathead Indian Irrigation Project operation and maintenance. The presentations also emphasized that the Secretary of Interior's primary concerns regarding the transfer were to (1) comply with the 1908 law requiring the transfer of the project; (2) comply with the National Environmental Policy Act, the Endangered Species Act, and other laws; and (3) faithfully discharge the U.S. tribal trust responsibilities. The presentations also mentioned three ongoing or planned studies that would support the EIS (an engineering study, a plan of operations for the project, and a cultural resources report), reiterated the Secretary's desire that the transfer reflect a local solution to community concerns, and stated that the rules and regulations for the operation and maintenance of the project would be set forth in a contract between the Department of the Interior and the Cooperative Management Entity, rather than through formal rulemaking.
- BIA opened the meeting to questions and comments. Participants were encouraged to ask questions or to provide suggestions regarding the scope of the EIS and the alternatives to be analyzed. Participants were also reminded that written comments could be submitted using the comment forms that were provided at the meetings and that comments could also be submitted to BIA by fax, mail, or electronically through July 31, 2004, the end of the comment period. At the conclusion of public comments, representatives from BIA and from the EIS team remained available for informal discussions until all meeting attendees left.

### **C. Agency Meeting**

The agency scoping meeting took place on June 29, 2004, from 10 a.m. to 2 p.m. at the Kwataqnuq Best Western Resort, Polson, Montana. In general, the format for the agency meeting was the same as that described above for the public meetings.

Of the 15 agencies or organizations invited to attend, the following sent representatives:

- Natural Resource Conservation Service
- National Weather Service



- U.S. Environmental Protection Agency
- Confederated Salish and Kootenai Tribes

A USFWS representative who had planned on attending the meeting was unable to do so due to illness. BIA will continue working with USFWS to identify and address issues of concern to the agency, including appropriate fish protection measures to ensure compliance with the Endangered Species Act.

The Flathead Joint Board of Control, which represents the interests of non-Indian irrigators, was also represented at the agency scoping meeting.

## **V. Summary of Comments and Questions**

### *Public Scoping Meetings*

BIA received the following questions or comments at the public scoping meetings:

- Question: Why does the pending transfer of Flathead Indian Irrigation Project responsibilities require an EIS when the proposed changes appear to be primarily managerial?
- Question: How is the EIS to be funded?
- Question: Why should money be spent on an EIS rather than on badly needed project rehabilitation?
- Comment: Many people on the Reservation do not understand Net Power Revenues. BIA should provide a better explanation of this and should make explicit the fact that everyone on the Reservation who uses electricity, not just the irrigators, is underwriting the cost of operating and maintaining the Flathead Indian Irrigation Project.
- Question: Is the structure of the Cooperative Management Entity part of the proposed action to be addressed in the EIS?
- Question: Will the transfer result in the Tribes surrendering their right to own and control Kerr Dam's potential energy resource?
- Comment: There is a potential for power generation from the project. There is a 2,000-foot drop from the Pablo Canal to the valley floor.
- Comment/Question: I had the impression that the transfer was imminent; that the proposed Cooperative Management Entity would develop operating procedures and that everything was pretty much "on track." Why is a whole new process starting now with studies that should be within the Cooperative Management Entity's purview?

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- Comment: The project should be expanded to allow use of water from the project in Polson.
- Comment: Farming benefits wildlife. Farming is a dying way of life in the Flathead Valley.

*Agency Scoping Meeting*

BIA received the following questions or comments at the agency scoping meeting:

- Question: The no action alternative appears to be a continuation of current operation and maintenance procedures and the proposed action appears to be the development of changes in these procedures. What other alternatives if any are being considered?
- Question: What is the timeframe envisioned for the future development of other action alternatives?
- Question: What is the timeframe for the EIS?
- Question: What is the schedule for the biological assessment and biological opinion?
- Comment: The basic information necessary to develop an acceptable mitigation package does not exist. There is a need to implement a package of studies that will allow USFWS to prepare a no jeopardy determination.
- Comment: Biological studies could take years. There will be a need to negotiate with USFWS on a plan that specifies a certain duration of study.
- Groundwater recharge and non-point source runoff and their impacts on irrigation and drinking water may be issues.

*Written Public Comments*

BIA received the following written comments:

- Comment: The sovereign rights of the Confederated Salish and Kootenai Tribes need to be recognized prior to and above whatever rights may apply to the owners of the lands irrigated by the project. Accordingly, the Tribes should contract the operation and maintenance of the project and/or be assigned the oversight of the agency or agencies that obtain operation and maintenance responsibilities in whatever manner such responsibilities are made.
- Comment: A proposal to remove all gates from the ditches and have landowners fence both sides of the ditch where it flows through their property makes no sense. This would leave the ditch banks open to the general public, fence the landowner off his own

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property, and open him up to liability suits. Fencing both sides of the ditch will limit movement of irrigation equipment, and stock would have to be moved using local roadways. If the gates are to remain open, the ditch should be placed in a culvert and covered to remove liability concerns.

- Comment: Noxious weeds are a main concern of local farmers and ranchers. If all stock is fenced off of the ditch banks, weeds will run rampant and seeds will travel down the ditch to reseed into neighboring fields.
- Comment: It is in the best interests of the farmers and ranchers to have a local control board in charge of the irrigation project. They work the land every day and have a much better idea of how to control noxious weeds, prevent accidents and liability concerns, and provide service that makes sense.
- Comment: All irrigators should be treated equally and this is more apt to be the case when landowners are working together for the common good. At this time, the district is guilty of capricious enforcement of its policies, at best.
- Comment: Mutually acceptable guidelines should be developed for operating the new irrigation project, including terms, personnel requirements, attendance at meetings, definition of properties and rights (such as ownership of electrical power from irrigation water), controlled usages of irrigation water, ability to recommend forestry practices, climate control, pollution, public access, fish poisonings in reservoirs, stream flows, creation of artificial ponds, runoff from barnyards or septic systems, waste of irrigation water, use of irrigation to develop or maintain artificial wetlands, erosion from runaway or neglected canals, damage claim settlements from canal breaks, development of tribal resources, protection of archeological treasures such as burial sites, and guidance and approval of budgets and project operations.
- Comment: Election or appointment of all members (and rules for conduct) should be acceptable to a two-thirds or three-fourths majority of the bodies making the rules. The Joint Board of Control elections should be fair and representative. Flathead Indian Irrigation Project employees have filed unfair labor practices grievances, held meetings, and protested poor administrative practices. The recent operation and maintenance practice is to patch an antiquated system rather than modernize, resisting improvement opportunities and ignoring severe erosion, water loss, public safety at canals and road crossings, and legality of permits.
- Comment: The employees of the project must be secure in their jobs, receive adequate training and rewards for exceptional performance, be entitled to union representation, understand performance standards, be discharged for incompetence, have a safe workplace, have an ombudsman system to redress grievances, and have a work record to track accomplishments, safety, competence, and performance. Professional employees should review support in licensing and be able to consult with other professionals, with advancement by ability.

- Comment: Project administration should be conducted by principles of effective business practice rather than autocratic bureaucracy. Performance must be evaluated and changed to control losses; legal reviews must be provided for all permits, easements, access routes, personnel policies, and long-term policies for operations, maintenance, and construction. Purchase, lease, rental, and sale ownership must be reviewed and brought up to date, both property and equipment. Water delivery systems should be modernized using current materials and technology rather than piecemeal replacement of a 1920s delivery system. Gravity pressure systems must be installed with economic and political assistance to promote a modern irrigation system.
- Comment: The individual asked to be put on the mailing list for the EIS.

## **VI. Proposed Action, No Action Alternative, and Alternative Actions**

Council on Environmental Quality and BIA regulations require that an EIS present an agency's proposed action, reasonable alternative actions the agency has developed and considered, and, for comparison purposes, a description of the "no action" alternative. Based on internal agency discussions and input received during the scoping process, BIA has developed the following descriptions of the proposed action and alternatives.

### ***Proposed Action/Preferred Alternative: Implementation of Short-term Compliance and System Enhancement Actions and Creation of a Long-term Process for Continued System Improvements***

The Secretary of the Interior would transfer the operation and management of the Flathead Indian Irrigation Project under rules and regulations that would (1) provide for the implementation of specific short-term actions needed for compliance with the Endangered Species Act and other federal and tribal environmental laws and for system enhancement, and (2) establish a long-term process for the development and implementation of additional rehabilitation and betterment measures to protect tribal fisheries resources and enhance the ability of the project to provide irrigation water to users.

Specific short-term actions would include those that would improve and/or address:

- Water measurement
- Water accounting
- Water distribution management
- Water delivery and water use requirements
- System losses
- Water quality
- Instream flows and fishery management
- Land classification
- Maintenance, including facilities maintenance; weeds, trees, and brush control; and re-establishing existing rights-of-way

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The short-term actions would be funded from the project's annual operating budget and would be completed within approximately 5 years from the date of transfer of the operation and management of the project.

The long-term process would involve the initiation and subsequent completion of studies to obtain additional information regarding current environmental conditions. This process would also include the creation of an "implementation committee" with representatives and technical experts from the BIA, USFWS, Confederated Salish and Kootenai Tribes, Flathead Joint Board of Control, and others as appropriate or needed. The committee would be responsible for reviewing the results of the additional studies and other information as it became available, making recommendations to the Cooperative Management Entity for additional rehabilitation and betterment actions, and identifying funding sources for such actions.

These long-term actions would be undertaken approximately 5 to 20 years from the date of transfer of the operation and management of the project and would be expected to be primarily outside the project's annual operating budget. Implementation of any future actions may require additional consultation under the Endangered Species Act and/or environmental analysis and documentation under the National Environmental Policy Act.

Failure of the Cooperative Management Entity to complete the specified short-term actions or to implement good-faith recommendations made by the implementation committee could result in rescission of the transfer by BIA.

***Alternative: Implementation of Short-term Compliance and System Enhancement Actions Only***

The Secretary of the Interior would transfer the operation and management of the Flathead Indian Irrigation Project under rules and regulations that would provide for the implementation of specific short-term actions needed for compliance with the Endangered Species Act and other federal and tribal environmental laws and for system enhancement.

Specific short-term actions would include those that would improve and/or address:

- Water measurement
- Water accounting
- Water distribution management
- Water delivery and water use requirements
- System losses
- Water quality
- Instream flows and fishery management
- Land classification
- Maintenance, including facilities maintenance; weeds, trees, and brush control; and re-establishing existing rights-of-way

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The short-term actions would be funded from the project's annual operating budget and would be completed within approximately 5 years from the date of transfer of the operation and management of the project. No long-term actions would be implemented.

Failure of the Cooperative Management Entity to complete the specified short-term actions could result in rescission of the transfer by BIA.

***No Action Alternative***

Under the no action alternative, the Secretary of the Interior would transfer the operation and management of the Flathead Indian Irrigation Project in accordance with existing operation and management guidelines. No improvements to the project would be undertaken.

**VII. Summary of Impact Areas and Issues to be Addressed in the EIS**

Based on internal scoping discussions and input received during the scoping process, BIA anticipates the following in regard to impacts and other issues that will be addressed in the EIS. These impact areas and issues may be refined or expanded as the EIS process continues.

- Increases or decreases in the amount and/or cost of water available for irrigation could affect crop production and result in socioeconomic impacts.
- Installation of additional fish protection structures, increases in minimum instream flow requirements, or increased availability of water for fisheries would have beneficial impacts on these biological resources.
- Increasing the efficiency of the project (e.g., less leakage) could decrease groundwater recharge rates and/or could affect wetlands that have been created as a result of such leakage.
- Regulating return flows into the natural system would have water quality impacts.
- Improvements to project components requiring ground disturbance could have impacts to cultural resources. Some components of the project may qualify as historic structures.
- Noise impacts are likely to be minor and temporary.
- Removal of trees or brush could affect visual resources.
- Environmental justice impacts (disproportionately high and adverse impacts to low-income or minority populations) will need to be studied.
- Geology and soils, land use, and traffic are unlikely to be significantly affected by any of the alternatives. Air quality is also unlikely to be significantly affected, but an air conformity analysis will need to be included in the EIS.

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- Although not a component of the proposed action or alternatives, the legal status of the current employees of the Flathead Indian Irrigation Project after transfer is an issue of concern to the community and will be addressed in the EIS.

In addition, BIA has determined that:

- The amount of land under irrigation from the project would not increase under any alternative. If additional water were to become available for irrigation, it would be used for land currently under irrigation (or eligible to receive irrigation water). Crop production on those lands could increase, but the geographic limits of the project would not expand.
- Components of the existing project may be improved, enhanced, reconstructed, or replaced, but the project's major engineered elements would not be expanded. With the exception of fish protection devices such as fish screens or ladders, no new construction would be undertaken under any alternative.
- Potential for power production from the irrigation project is outside the scope of this EIS. Use of the project for power production could be proposed in the future and would be analyzed as appropriate at the time such a proposal were made.
- The organizational structure of the entity that would operate and maintain the Flathead Indian Irrigation Project will not be addressed in the EIS because it would not impose any environmental or socioeconomic impacts. Similarly, project administration activities such as personnel management are outside the scope of the EIS.

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Exhibit A Notice of Intent

Federal Register / Vol. 69, No. 109 / Monday, June 7, 2004 / Notices

31835

**Applicant:** Iowa State University, PRT-084859

The applicant requests a permit to import biological samples and discarded shells from wild caught specimens of two species of turtle (*Apalone ater* and *Terrapene coahuila*) from Mexico for scientific research. This notification covers activities to be conducted by the applicant over a five-year period.

**Applicant:** Alberto Santos Jr., The Woodlands, TX, PRT-086636

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Dainaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

**Applicant:** Richard E. Heckert, Kennell Square, PA, PRT-085827

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Dainaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

**Endangered Marine Mammals and Marine Mammals**

The public is invited to comment on the following applications for a permit to conduct certain activities with endangered marine mammals and/or marine mammals. The applications were submitted to satisfy requirements of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, et seq.) and/or the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 et seq.), and the regulations governing endangered species (50 CFR part 17) and/or marine mammals (50 CFR part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (ADDRESSES above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

**Applicant:** Robert J. Merkle, El Dorado, AR, PRT-086954

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal use.

**Applicant:** Kevin M. Libby, Reno, NV, PRT-087507

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Viscount Malville polar bear population in Canada for personal use.

**Applicant:** Walter O. Kirby, Sacramento, CA, PRT-087684

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal use.

**Applicant:** Richard R. Childress, Lexington, NC, PRT-087563

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Southern Beaufort polar bear population in Canada for personal use.

**Applicant:** Raymond K. Yu, Los Angeles, CA, PRT-087181

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal use.

**Applicant:** Lonnie R. Hentiksen, Arlington, SD, PRT-087596

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Southern Beaufort polar bear population in Canada for personal use.

Dated: May 21, 2004.

**Monica Farris,**  
Senior Permit Biologist, Branch of Permits,  
Division of Management Authority.  
[FR Doc. 04-12735 Filed 6-4-04; 8:45 am]  
BILLING CODE 4310-55-P

**DEPARTMENT OF THE INTERIOR**

**Bureau of Indian Affairs**

**Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Operations and Maintenance of the Flathead Indian Irrigation Project Upon Transfer**

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of intent and public scoping meeting.

**SUMMARY:** This notice advises the public that the Bureau of Indian Affairs (BIA) intends to gather information necessary for preparing an Environmental Impact Statement (EIS) for the proposed operations and maintenance of the Flathead Indian Irrigation project upon

transfer. This notice also announces public meetings to determine the scope of issues to be addressed in the EIS.

The purpose of this notice is to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments and participation in this scoping process are encouraged.

**DATES:** Comments on the scope and implementation of this proposal must be received before July 31, 2004. The meeting dates are:

1. June 28, 2004, from 6:30 p.m. to 9 p.m., Arlee, Montana.

2. June 30, 2004, from 6:30 p.m. to 9 p.m., Ronan, Montana.

**ADDRESSES:** Mail or hand deliver written comments to Mr. Jeffery Loman, Chief, Natural Resources Division, Office of Trust Services, Bureau of Indian Affairs, Mail Stop-3061, 1849 C Street, NW., Washington, DC 20240. You may also fax comments to Chief, Natural Resources, at (202) 219-0006 or (202) 219-1255.

The first meeting will be held at the Confederated Salish and Kootenai Arlee Community Center, Arlee, Montana.

The second meeting will be held at the Ronan High School Gymnasium, Ronan, Montana.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jeffery Loman, (202) 208-7373.

**SUPPLEMENTARY INFORMATION:** The Flathead Indian Irrigation Project (Project) is located on the Flathead Indian Reservation in northwestern Montana. The Secretary of the Interior (Secretary) is required to transfer the operations and maintenance of the Project as provided by the 1908 Act of May 29, 1908, Public Law 60-156, 35 Stat. 441 (1908) (the 1908 Act) and the 1948 Act of May 25, 1948, Public Law 80-554, 62 Stat. 269 (1948) (the 1948 Act).

In 1904, the Flathead Indian Allotment Act authorized allotments of land within the Flathead Indian Reservation to members of the Confederated Salish and Kootenai tribes ("tribes") and construction of the Flathead Indian Irrigation Project for "the benefit of Indians" on the Flathead Indian Reservation. 33 Stat. 302. When this Act was amended in 1908, it also authorized the construction of irrigation systems to serve homesteaded lands within the Flathead Indian Reservation and provided for turnover of the operation and maintenance of irrigation works to non-Indian lands served by the Project when certain Project construction repayment conditions had been met. 35 Stat. 450. Further, upon turn over of the project, the 1948 Act called for the operation and



Results of Scoping for the Environmental Impact Statement for the Proposed Operation and Maintenance of the Flathead Indian Irrigation Project upon Transfer

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maintenance of the Project under rules and regulations approved by the Secretary.

As of August of 2002, there were 134,788 total acres in the project; 127,535 of which were assessed acres, with 7,252 designated as temporarily non-assessed acres. Approximately 10 percent of the project's irrigated lands are held in trust by the United States for the benefit of individual Indian landowners and for the Confederated Salish and Kootenai tribes. Trust land totals 11,771 acres, while land in fee status totals 115,764 acres. The primary source of the water for the Project originates from the Mission Mountains which border the east side of the reservation. Project facilities include 17 major storage reservoirs, 1,300 miles of canals and laterals and more than 10,000 structures. The project is divided into the Mission, Post, Pablo, Camas, and Jocko divisions. Primary irrigated crops are hay and alfalfa, grains, potatoes, canola, and some fruit orchards.

Currently, the Bureau of Indian Affairs Flathead Agency Superintendent is the Officer in Charge of the Project and administers activities through the Irrigation Systems Manager. The Irrigation Systems Manager supervises the operation and maintenance of the Project works.

Non-Indian irrigation interests are represented by three irrigation districts, the Flathead Irrigation District, the Mission Irrigation District, and the Jocko Valley Irrigation District. These Districts signed repayment contracts with the United States in 1928, 1931, and 1934 respectively, and are collectively represented by the Flathead Joint Board of Control (FJBC), which is chartered under state law and represents only owners of fee lands. Individual Indians and the tribes that irrigate lands held in trust by the United States are statutorily excluded from representation by the FJBC.

Repayment of Project construction conditions were fulfilled in early January 2004. The Bureau of Indian Affairs, the tribes and the FJBC are developing proposed standard operating procedures for the Project and are proposing to contract the management of the Project under a Cooperating Management Entity, made up of representatives from the FJBC and the tribes with BIA providing oversight functions and maintaining its traditional role as trustee.

The Bureau of Indian Affairs has been delegated the responsibility to serve as the Lead Agency for National Environmental Policy Act compliance in connection with the proposed

operations and maintenance of the Flathead Indian Irrigation project upon transfer. Issues to be addressed in the environmental analysis include, but are not limited to, irrigation and farming, rights-of-ways, treaty-protected fisheries, aquatic habitat, biological resources, wildlife habitat, and Indian traditional and cultural properties and resources.

Alternatives to the proposed operations and maintenance of the project to be examined in the EIS may include a variety of measures, such as various Project management control structures, certain operating and maintenance methods or procedures, system rehabilitation, and alternative water delivery regimes. The range of environmental issues and alternatives will be further developed based upon comments received during the scoping process.

**Authority:** This notice is published in accordance with section 1501.7, Council on Environmental Quality Regulations (40 CFR parts 1500 through 1508) implementing the procedural requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*) and the Department of the Interior Manual (516 DM 1.6) and is within the exercise of authority delegated to the Assistant Secretary—Indian Affairs by 209 DM 8.1.

Dated: May 27, 2004.

David W. Anderson,  
Assistant Secretary—Indian Affairs.  
[FR Doc. 04-12814 Filed 6-4-04; 8:45 am]  
BILLING CODE 4310-W7-P

#### DEPARTMENT OF THE INTERIOR

Bureau of Land Management  
[ES-930-04-1310-MSES 047099]

#### Proposed Reinstatement of Terminated Oil and Gas Lease, Mississippi

**AGENCY:** Bureau of Land Management, Interior.  
**ACTION:** Notice.

**SUMMARY:** Under the provisions of Public Law 97-451, a petition for reinstatement of oil and gas lease, MSES 047099, Forrest County, DeSoto N.F., Mississippi, was timely filed and accompanied by all required rentals and royalties. No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rental and royalties at rates of \$10 per acre and 16½ percent. Payment of \$500 in administrative fees and a \$155 publication fee has been made.

**FOR FURTHER INFORMATION, CONTACT:** Ann Dickerson, Land Law Examiner, BLM Eastern States Office, 7450 Boston

Boulevard, Springfield, Virginia at (703) 440-1512.

**SUPPLEMENTARY INFORMATION:** The Bureau of Land Management is proposing to reinstate the lease effective the date of termination, May 1, 2002, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above. This is in accordance with section 31(d) and (e) of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 199(d) and (e)).

Dated: April 14, 2004.

Michael D. Nadd,  
State Director.  
[FR Doc. 04-12754 Filed 6-4-04; 8:45 am]  
BILLING CODE 4310-GJ-P

#### DEPARTMENT OF THE INTERIOR

Bureau of Land Management  
[NM-010-1430-ES; NMNM 100202]

#### Notice of Realty Action; Recreation and Public Purpose (R&PP) Act Classification; New Mexico

**AGENCY:** Bureau of Land Management, Interior.  
**ACTION:** Notice of realty action.

**SUMMARY:** The following public lands in Sandoval County, New Mexico have been examined and found suitable for classification for patent to the Cuba Soil and Water Conservation District under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). The Cuba Soil and Water Conservation District proposes to use the lands for an outdoor classroom and administrative site.

New Mexico Principal Meridian  
T. 20 N., R. 1 W., Sec. 5. NW¼SW¼NW¼  
and W½NE¼SW¼NW¼  
Containing 15.00 acres, more or less.

The lands are not needed for Federal purposes. Patent is consistent with current BLM land use planning and would be in the public interest.

The patent will be subject to the following terms, conditions and reservations:

1. Provisions of the Recreation and Public Purposes Act and all applicable regulations of the Secretary of the Interior.
2. A right-of-way for ditches and canals constructed by the authority of the United States.
3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.
4. All valid existing rights documented on the official public land records at the time of patent issuance.

**Exhibit B Local Newspaper Announcement**

**NOTICE OF PUBLIC SCOPING MEETINGS**

The Bureau of Indian Affairs has published in the Federal Register a Notice of Intent to Prepare an Environmental Impact Statement for the proposed operation and maintenance of the Flathead Indian Irrigation Project upon transfer. Public scoping meeting dates are as follows:

June 28th, 2004, from 6:30 to 9:00 PM at the Confederated Salish and Kootenai Community Center in Arlee, Montana

June 30th, 2004, from 6:30 to 9:00 PM at the Ronan High School Gymnasium in Ronan, Montana

For additional information contact Mr. Jeffery Loman, Chief, Natural Resources Division, Office of Trust Services, Bureau of Indian Affairs, at 202/208-7373.

## **Exhibit C Agency Letter**

June 17, 2004

**Re: Agency Meeting for Environmental Impact Statement for the Proposed Operations and  
Maintenance of the Flathead Indian Irrigation Project Upon Transfer**

Dear Agency Invitee:

Battelle, on behalf of the Bureau of Indian Affairs, has scheduled an agency scoping meeting on Tuesday, June 29, 2004 at 10:00am at the Best Western KwaTuqNuk Resort (303 U.S. Hwy. 93) in Polson, Montana, and requests your presence at that meeting. Public scoping meetings are also scheduled (see details in enclosed announcement). The subject of the meeting will be the Environmental Impact Statement for the Proposed Operations and Maintenance of the Flathead Indian Irrigation Project Upon Transfer.

The project area includes the five irrigation divisions located on the Flathead Indian Reservation. These divisions are (1) Camas, serving the communities of Lonepine and Hot Springs; (2) Mission, serving the community of St. Ignatius; (3) Jocko, serving the communities of Arlee and Dixon; (4) Post, serving the communities of Charlo and Moise; and (5) Pablo, serving the communities of Pablo, Ronan and Polson.

If you require further information or have questions regarding this matter, please contact me at 301/933-4668.

Sincerely,

Lucinda Low Swartz  
Program Manager

Enclosure: *Federal Register* Notice of Intent to Prepare an Environmental Impact Statement,  
dated June 7, 2004

cc: Jeffery Loman, BIA

## **Exhibit D Materials Shown at Public Scoping Meetings**

### **FACT SHEET: Environmental Impact Statement for the Proposed Operation and Maintenance of the Flathead Indian Irrigation Project Upon Transfer**

The Bureau of Indian Affairs (BIA) is preparing an environmental impact statement (EIS) for the proposed operation and maintenance of the Flathead Indian Irrigation Project upon transfer to the owners of the lands irrigated by the project. The transfer is required by law. Upon turnover of the operation and maintenance of the project, the project will be operated and maintained under rules and regulations approved by the Secretary of the Interior.

BIA currently manages the Flathead Indian Irrigation Project and will continue to own the project following the transfer of the operations and maintenance. The project is located primarily within the Flathead Indian Reservation in northwestern Montana; all irrigated lands are located within the reservation.

The project encompasses approximately 134,790 irrigated acres, of which approximately 11,770 are held in trust by the United States for the benefit of individual Indian landowners and for the Confederated Salish and Kootenai Tribes (CS&KT). The project includes 17 reservoirs, 4 pump facilities, over 1,300 miles of canals and laterals, and over 10,000 structures for diversion, control, and delivery of water.

The project is divided into five divisions for management purposes: (1) Camas, serving the communities of Lonepine and Hot Springs; (2) Jocko, serving the communities of Arlee and Dixon; (3) Mission, serving the community of St. Ignatius; (4) Pablo, serving the communities of Pablo, Ronan, and Polson, and (5) Post, serving the communities of Charlo and Moise.



**FACT SHEET (cont)**

As required by court order, the Flathead Indian Irrigation Project maintains minimum instream flow levels on streams designated and identified by BIA and the CS&KT. The project is managed in such a way as to protect threatened, endangered, and sensitive animal species, including grizzly bear, northern gray wolf, Canadian lynx, bald eagle, peregrine falcon, bull trout, and westslope cutthroat trout.

BIA will transfer the operation and maintenance of the project to a Cooperative Management Entity (CME) made up of the Flathead Joint Board of Control (FJBC) (representing fee landowner interests) and the CS&KT. The project would be operated by the CME in accordance with approved rules and regulations, with oversight by BIA.

Preparation of the Flathead Indian Irrigation Project Operation and Maintenance EIS will follow the procedures outlined in the National Environmental Policy Act (NEPA) and applicable NEPA-implementing regulations. NEPA requires federal agencies to consider the potential environmental impacts of proposed actions as part of their decision making process. BIA has determined that the new rules and regulations under which the Flathead Indian Irrigation Project will be operated and maintained after the transfer could result in significant environmental impacts, either adverse or beneficial; therefore, an EIS is being prepared to comply with NEPA requirements.

BIA is holding these public scoping meetings as part of the NEPA process. The primary purpose of the meetings is to provide the potentially affected public with an opportunity to offer their opinions about specific potential impacts and alternatives that should be addressed in the EIS. BIA will also hold public meetings on the Draft EIS and seek public comments on that document after it is issued.

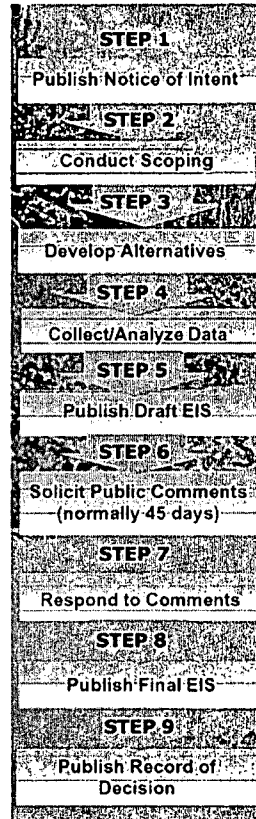
**COMPONENTS OF CURRENT AND PROPOSED OPERATING PROCEDURES**

- Fisheries Protection
  - Instream Flows
  - Fish Screen and Fish Passage Construction and Operation
  - Fish Rescue
- Distribution Plan
  - Snow Surveys/Runoff Forecasts
  - Water Supply
  - Water Storage
  - Pumping Plants
  - Distribution and Delivery
- Facilities Maintenance

For more information regarding the EIS, see the website at:  
<http://projects1.battelle.org/FIIP-EIS>

**Point of Contact:**

Jeffrey Loman  
 Chief, Natural Resources Division  
 Office of Trust Services  
 Bureau of Indian Affairs  
 Mail Stop 3061  
 1849 C Street, N.W.  
 Washington, D.C. 20240  
 Telephone: 202/208-7373  
 Fax: 202/219-0006 or 202/219-1255  
 E-mail: FIIP-EIScomments@battelle.org



Overview of the NEPA Process

## Environmental Impact Statement for the Proposed Operation and Maintenance of the Flathead Indian Irrigation Project Upon Transfer

### Questions and Answers

Why is operation and maintenance of the Flathead Agency Irrigation Project being transferred from BIA to the owners of land irrigated by the project?	The transfer is required by federal law. The 1908 and 1948 amendments to the 1904 Flathead Allotment Act, which authorized construction of the project, specified that operation and maintenance be transferred to owners of the irrigated land when certain construction repayments were met. The repayment requirement was satisfied by irrigation project power revenues in January 2004.
When will the transfer occur?	The transfer will occur upon the completion of ongoing studies and the approval by the Secretary of the Interior of the final rules and regulations for post-transfer operation and maintenance of the project.
Who will manage the Flathead Indian Irrigation Project after transfer?	The Flathead Indian Irrigation Project will be managed by the CME, with membership appointed by the FJBC and the CS&KT. The CME intends to employ a qualified irrigation project manager who would be responsible for day-to-day management and report to the CME.
How many people will be on the CME?	That still has to be decided. An operating plan for the project is being developed. This plan will give guidelines to the CME and project manager. Changes to the operating plan would require concurrence of the CS&KT, the FJBC, and BIA.
What role will BIA have during and after the transfer?	The law specifies that the Secretary of the Interior, acting through the BIA, must determine the rules and regulations under which the FHIP will be operated and maintained after the transfer. In addition, BIA will have an oversight role in the management of the project after transfer.
Will the amount of water available for irrigation or the cost of the water change?	It is not possible to determine this until the new rules and regulations for post-transfer operation and maintenance are established and implemented. It is the goal of the FJBC and the CS&KT to implement a Rehabilitation and Betterment program to secure more water for both fisheries and irrigation. This would be done by lining canals and ditches, installing pipelines, and improving water measurement and management. This would conserve water now being lost to leakage and other losses and make that water available to irrigation and fisheries. Further, both the FJBC and the CS&KT have a desire to maintain affordable rates. Increased efficiency, rehabilitation and betterment, and local management should minimize any rate increases. However, it is possible, but not certain, that there will be decreased water allotments or increased fees.

## Questions and Answers (cont)

How much will the rehabilitation program cost?

An Engineering Evaluation study is currently being conducted to assess the condition of the project and will be used to develop a cost estimate for rehabilitation. The CS&KT and FJBC intend to use this study to support a request for funding to do this work.

What will happen to instream flows for fisheries?

Minimum instream flows are court-mandated and will be maintained at current levels unless and until BIA makes a different determination of levels or water adjudication determines a different level requirement for minimum instream flows.

What will happen to current employees?

Both the FJBC and the CS&KT want to offer all current employees a job. Further, BIA is investigating how current employees could retain their status as federal employees following the transfer of the operation and maintenance of the project to the CME.

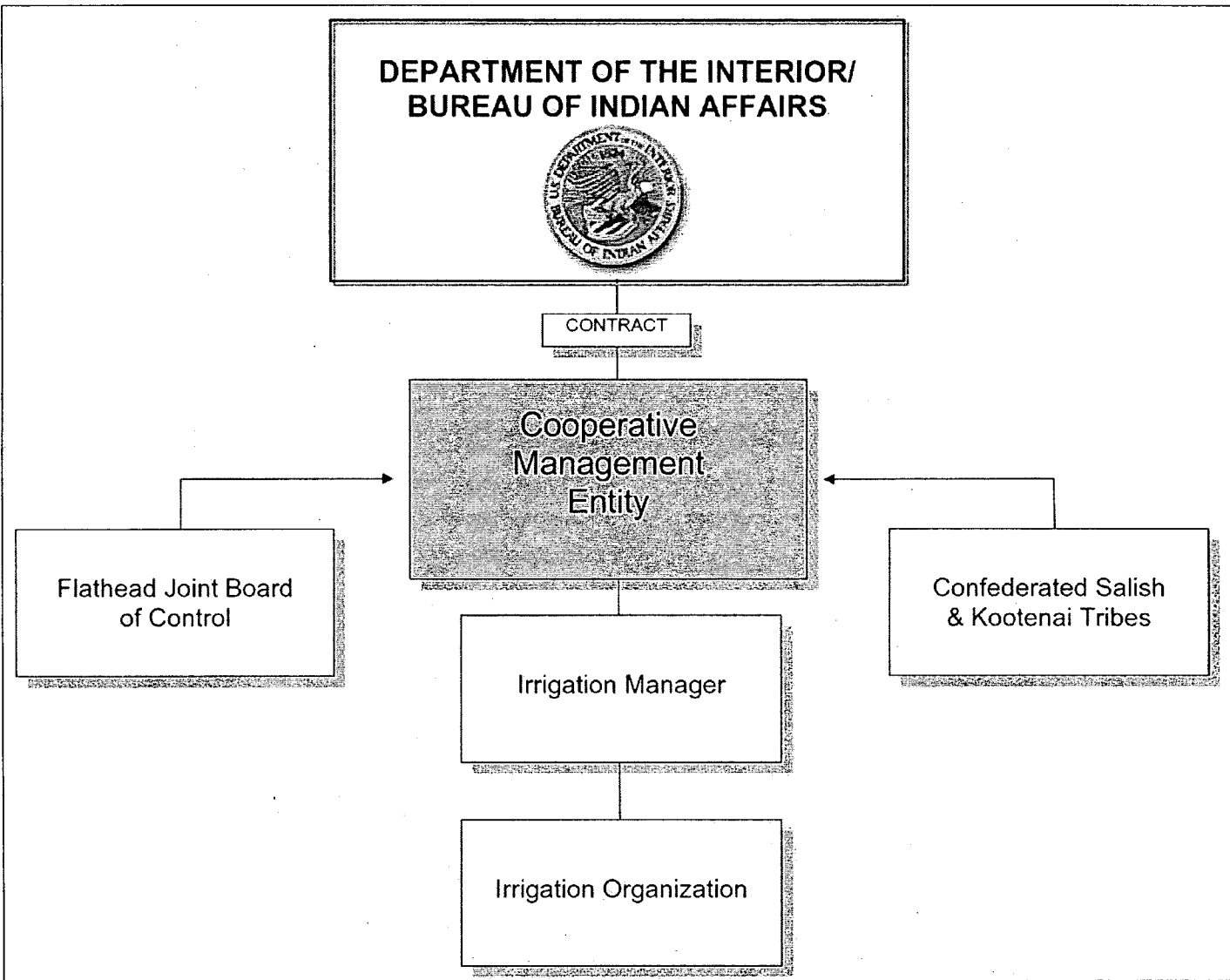
Will the transfer of operation and maintenance of the project affect the ongoing water rights adjudication?

All parties (BIA, CS&KT, and FJBC) agree that this transfer will have no effect on water rights and that water rights adjudication is being pursued in an appropriate and separate venue.

### Point of Contact:

Jeffrey Loman  
Chief, Natural Resources Division  
Office of Trust Services  
Bureau of Indian Affairs  
Mail Stop 3061  
1849 C Street, N.W.  
Washington, D.C. 20240  
Telephone: 202/208-7373  
Fax: 202/219-0006 or 202/219-1255  
E-mail: FIIP-EIScomments@battelle.org

For more information regarding the EIS, see the website at:  
<http://projects1.battelle.org/FIIP-EIS>







## **COMPONENTS OF CURRENT AND PROPOSED OPERATING PROCEDURES**

### **Fisheries Protection**

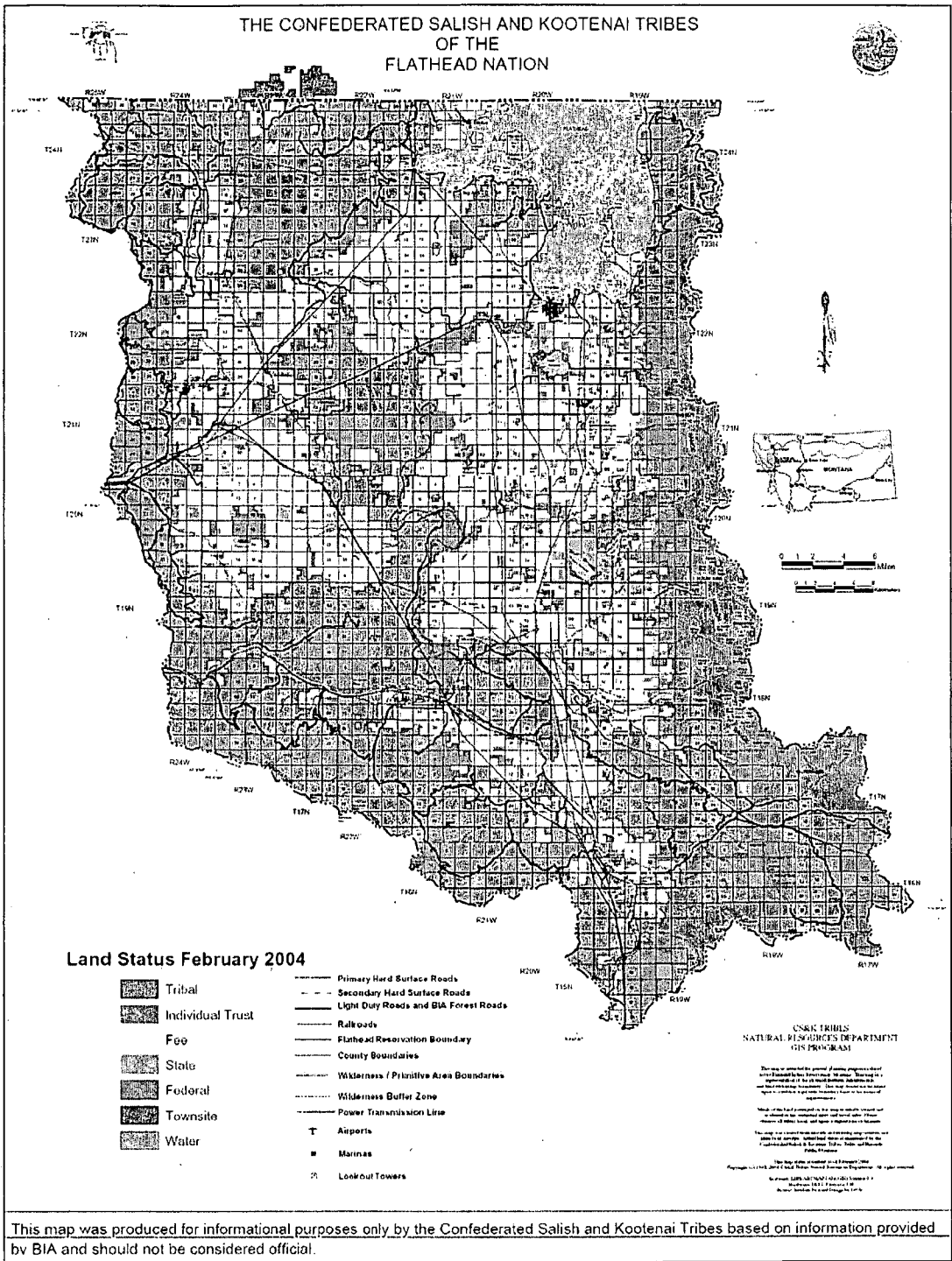
- Instream Flows
- Fish Screen and Fish Passage Construction and Operation
- Fish Rescue

### **Distribution Plan**

- Snow Surveys/Runoff Forecasts
- Water Supply
- Water Storage
- Pumping Plants
- Distribution and Delivery

### **Facilities Maintenance**

Results of Scoping for the Environmental Impact Statement for the Proposed Operation and Maintenance of the Flathead Indian Irrigation Project upon Transfer



Results of Scoping for the Environmental Impact Statement for the Proposed Operation and Maintenance of the Flathead Indian Irrigation Project upon Transfer

