

**TESTIMONY OF  
KEVIN WASHBURN  
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UNITED STATES DEPARTMENT OF THE INTERIOR  
BEFORE THE  
SENATE COMMITTEE ON INDIAN AFFAIRS  
UNITED STATES SENATE  
ON S. 2040,  
THE BLACKFOOT RIVER LAND EXCHANGE ACT OF 2014**

**MAY 7, 2014**

Chairman Tester, Vice-Chairman Barrasso, and Members of the Committee, my name is Kevin Washburn and I am the Assistant Secretary - Indian Affairs at the Department of the Interior (Department). Thank you for the opportunity to testify on S. 2040, the Blackfoot River Land Exchange Act of 2014, a bill to exchange trust and fee land to resolve land disputes created by the realignment of the Blackfoot River along the boundary of the Fort Hall Indian Reservation. The Department supports S. 2040.

**Background**

In 1867, the Fort Hall Indian Reservation was created by Executive Order for various Bands of the Shoshone and Bannock Indians. Pursuant to the Executive Order, the Blackfoot River, as it existed in its natural state, formed the northern boundary of the Reservation. In the 1960's, the United States Army Corps of Engineers (Army Corps) completed a flood control project along the Blackfoot River. The project consisted of constructing levees, replacing irrigation diversion structures, replacing bridges and channel realignment.

While the flood control project did not change the original boundaries of the Reservation, it realigned portions of the Blackfoot River. Thus, after the Army Corps completed the project, individually-Indian owned and Indian lands (approximately 37.04 acres) ended up on the north side of the realigned River, and non-Indian owned lands (approximately 31.01 acres) ended up on the south side of the realigned River. Over the years, these parcels of land have remained idle because the landowners could not gain access to the parcels of land without trespassing or seeking rights-of-way across the lands of other owners.

In the late 1980's, the Snake River Basin Adjudication (SRBA) began to decree water rights on all streams and rivers within the Snake River basin in Idaho, which includes the Blackfoot River basin. During SRBA, several non-Indian landowners, whose lands were affected by the realignment of Blackfoot River, claimed as their water rights' place of use lands on the Fort Hall Indian Reservation.

The Shoshone-Bannock Tribes (Tribes) filed objections to these water right claims. The United States did not file objections on behalf of the Tribes, but has been closely working with the Tribes and monitoring these and related water right claims in the SRBA. Thus, resolution of the land ownership issues along the realigned portions of the Blackfoot River could resolve related water rights claim in the SRBA.

## **S. 2040**

The primary features of S. 2040 are to:

- authorize the United States to take certain non-Indian lands into trust on behalf of the Shoshone-Bannock Tribes in Idaho;
- authorize the United States to convey certain Indian lands into fee lands;
- extinguish certain claims that potentially could be asserted by the Shoshone-Bannock Tribes against the United States;

The Department supports the exchange of these lands because this exchange will enable the general stream adjudication of the Snake River to be concluded without interfering with the water rights claims of either party. The Department reviewed similar legislation in 2010 and that legislation had several provisions that the Administration could not support. The Department congratulates the Shoshone-Bannock Tribes and the parties on improving this legislation, and thanks Senator Crapo and Senator Risch for working with to remove those provisions that the Administration could not support.

Thank you for the opportunity to present the Department's views on S. 2040. I will be happy to answer any questions you may have.