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THIS IS A BROCHURE COVERING
FEDERAL LAND ACQUISITION POLICIES AND PROCEDURES
FOR THE
BRUCES EDDY DAM AND RESERVOIR
NORTH FORK CLEARWATER RIVER, IDAHO

QUESTIONS AND ANSWERS CONCERNING
THE ACQUISITION OF PROPERTY BY THE
UNITED STATES GOVERNMENT

"RUMORS DO NOT BELONG TO ANYONE, FACTS BELONG TO EVERYONE"

FOR ADDITIONAL INFORMATION
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14 December 1962

PRESENT BRUCES EDDY DAM AND RESERVOIR SITE

PREFACE

The development of this nation's resources sometimes necessitates the acquisition of private property for public use. Such is the case in the construction of the Bruces Eddy Dam and Reservoir, which was authorized in Section 201 of the Flood Control Act of 1962, Public Law 87-874, approved 23 October 1962. Construction funds were appropriated in the Public Works Appropriation Act, 1963, Public Law 87-880, approved 24 October 1962.

This brochure was prepared as a ready reference for landowners as to the basic policy of the Department of the Army, acting through the Corps of Engineers, in the acquisition of privately owned property. It also very briefly covers relocation of roads and utilities as required for the construction, operation and maintenance of the Bruces Eddy Dam and Reservoir Project. This brochure is prepared in compliance with Section 302, Public Law 86-645, approved 14 July 1960.

The Corps' policy is to endeavor to be fair, realistic, and to pay market value of the property taken and to limit real estate requirements to the minimum acreage. It is also the policy to cooperate in solving the problems confronting property owners whose property is taken.

While it is recognized that this brochure will not answer all the questions that may arise, particularly personal, the following should cover questions most frequently asked.

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1 WHY IS THE LANDOWNER'S PROPERTY NEEDED?

The location of the dam was selected after long and detailed studies both prior and subsequent to the Act of Congress which authorized its construction. This project is a unit of the general comprehensive plan for the development of the water resources of the Middle Snake River and tributaries. It is designed primarily for flood control and to produce hydro-electric power. Collateral benefits to irrigation, recreation, and fish and wildlife also will result. Studies revealed the site of the dam to be the most practical to secure the maximum public benefits for the entire project.

2. WHAT LAND WILL BE BOUGHT BY THE CORPS?

The Corps will purchase all lands in fee required for the damsite, construction areas, permanent structures, public access and operation and maintenance of the reservoir, rights of way for relocation of utilities, roads and lands below the maximum flowage line including a freeboard allowance.

Freeboard is established above the top pool to allow for effects of wave action, sloughing and bank erosion, saturation, deposit of debris and other adverse effects of backwater. Where this freeboard does not provide a minimum of 300 feet horizontally from elevation 1600 feet m.s.l., it will be increased to that extent. No private ownerships will remain within this minimum acquisition. Present planning does not call for any flowage easement acquisition in this project. The project taking line will normally follow legal subdivisions of original surveyed sections where practical or where topography dictates along long tangents and along right of way lines of relocated roads, etc.

This brochure does not include coverage of related lands for the U. S. Fish and Wildlife Service.

3. WHAT PERSONAL PROPERTY WILL THE CORPS BUY?

Acquisition by the Corps in this project is limited to real property, to-

gether with improvements thereon, but does not include items of personal property such as readily removable household furnishings, farm machinery, etc.

4. WHAT IS AN APPRAISAL?

An appraisal is an estimate and opinion of value by a professional real estate appraiser. In this instance the estimate will be the fair market value. A common definition of fair market value is: "The amount in cash, for which in all probability the property would be sold by an owner willing but not obligated to sell to a purchaser who desires but is not obligated to buy." In estimating the fair market value, the appraiser uses, where applicable, the three commonly accepted approaches to value, namely: The Market Data Approach, or comparable sales; the Reproduction Cost Less Depreciation Approach; and the Income Approach. The appraisals are generally prepared by staff employees, however, in some instances when workload requires or unusual valuation problems are encountered, services of independent professional appraisers are obtained by contract.

5. WHAT IS AN OFFER TO SELL?

An offer to sell, or as it is usually called, an "offer", is the basis for an agreement or contract between the property owner and the Corps and setting forth the price and terms of sale. It is helpful for both the property owner and the Corps to have an offer to sell signed as both parties will then know where they stand with respect to what the Corps will pay and the terms and conditions of the sale.

6. WHEN WILL THE PROPERTY OWNER BE CONTACTED RELATIVE TO PURCHASE OF HIS PROPERTY?

Upon completion of appraisal of a property, a representative of the Corps will call upon the property owner to present the Government's offer for purchase of the property and discuss any problems. If the offered price is acceptable to the property owner, he will be asked to sign a contract to sell. Acquisition of real estate for this project will extend from early 1963 to the end of 1968.

7. WHAT HAPPENS IF THE CORPS' OFFER IS NOT ACCEPTABLE TO THE PROPERTY OWNER?

If every reasonable effort has been made in discussions with the Corps' representative to come to an agreement and the property owner and the Corps cannot agree on the terms and conditions of sale, then the Corps will request the local Federal Court to decide the fair market value of the property. This is accomplished through what is called a "Condemnation Proceeding".

8. WHAT IS A CONDEMNATION PROCEEDING?

It is a method of acquiring property needed for the project where the value of the property cannot be agreed upon between the property owner and the Corps. It may also be used to acquire property where title to such property is encumbered or clouded. When a condemnation proceeding is instituted to remove the encumbrance or cloud and there is no dispute between the property owner and the Corps as to the price of the land, he will be called on only to assist the United States Attorney as much as he can. On the other hand, if the property owner and the United States cannot agree as to the value of this property, it will be necessary that the condemnation case be brought to trial before the United States District Court having jurisdication. The trial will be conducted in accordance with the established rules and procedures of such courts. No attempt is made here to relate such rules and procedures; each side will be permitted to present its evidence to the court for the purpose of supporting its view as to value of the property being acquired. The court or jury then will determine the fair market value of the property.

9. WHAT HAPPENS IF OWNER'S TITLE IS DEFECTIVE?

The law requires the Attorney General of the United States to pass upon the adequacy of the title to the property owner's land before it can be bought by the United States. If the Attorney General determines that the title is so defective that it cannot be cured, the Corps will not pay the property owner immediately for the property, but will be required to file a condemnation and deposit the estimated fair

market value with the court. If the property owner and the Corps have already agreed on price, the court is so advised and judgment will be entered on the basis of this agreed price. The court will clear title at no cost to the property owner.

10. WHAT HAPPENS WHEN THE CORPS TAKES ONLY PART OF AN OWNERSHIP?

If only part of the ownership is needed for the project, the appraiser will make an investigation of the entire ownership to determine how this will affect the remaining property. In those cases where the part remaining is less valuable than it was before, an allowance for this damage will be included in the appraisal. This is commonly called "severance damage" and will be included with the overall settlement.

11. WHAT RESETTLEMENT EXPENSES CAN THE PROPERTY OWNER EXPECT FROM THE CORPS IN ADDITION TO PAYMENT OF FAIR MARKET VALUE FOR HIS PROPERTY?

Under law the Secretary of the Army is authorized to reimburse both owners and tenants for certain expenses, losses and damages which they incur in the process and as a direct result of the moving of themselves, their families, and their possessions because of the acquisition of land for reservoir projects. To secure reimbursement, it is necessary that owners and tenants make written application within one year following the date of acquisition or within one year following the date that the property is vacated by the applicant, whichever date is later. When the Corps acquires title, the Corps will notify all owners and tenants by letter of their right to make application for reimbursement and will furnish them forms for the purpose. The application for reimbursement must be supported by an itemized statement of the expenses, losses, and damages incurred. The law, however, provides that the total amount of reimbursement to be paid to the owners and tenants of any parcel of land acquired shall in no event exceed 25% of the fair value of the parcel of land. The Corps will furnish such information and assist-

ance in making the application for reimbursement, as requested.

12. WHAT SALVAGE RIGHTS TO BUILDINGS DOES THE PROPERTY OWNER HAVE?

In general, if the owner wishes to retain buildings and improvements and move them to another location outside the reservoir boundary, he may do so by including a provision in the offer. The salvage value of the buildings or improvements is deducted from the purchase price. This salvage value takes into consideration the fact that the owner must move the reserved improvements and reasonably clean up the site at his own expense and by a specified date. The salvage value is estimated by the appraiser on the basis of what the improvements would bring if offered for bid in the open market for off-site removal with reasonable site clean up requirements.

13. WHEN WILL THE PROPERTY OWNER GET HIS MONEY?

The Corps recognizes that a property owner may need his money in order to buy another place and will pay him just as soon as it can after an offer has been accepted and the Attorney General of the United States has approved his title. If the property is acquired by a condemnation proceeding, the amount the Corps estimates the property to be worth is deposited in The Registry of the local United States District Court and usually very soon thereafter the Court will permit the property owner to withdraw nearly all of the amount deposited, provided his title is clear. What percentage he can draw is discretionary with the Court. The withdrawal does not in any way prevent him from going ahead with his claim for more money for his property than deposited in the Court. Inquiries about withdrawals for cases in condemnation should be sent to the U. S. Attorney, Post Office Building, Boise, Idaho.

14. WHAT FEDERAL INCOME TAXES DOES THE PROPERTY OWNER PAY ON MONEY RECEIVED FROM THE UNITED STATES FOR HIS PROPERTY?

Responsibility for the administration of the Federal income tax laws rests with the Internal Revenue Service, Department of the Treasury. As presently written,

these laws contain special provisions with respect to gains derived from the sale of real estate, including sales made to the United States. It may be that the property owner will not be obligated for income tax on such gain, especially if he rebuilds or reinvests in similar or like property. Such questions concerning the application of these provisions should be taken up with the local Director of Internal Revenue.

15. WHEN WILL THE BRUCES EDDY DAM AND RESERVOIR BE RAISED?

The Bruces Eddy Dam and Reservoir is scheduled to be raised in 1971.

16. WHERE WILL COUNTY HIGHWAY RELOCATIONS BE MADE?

See condensed reservoir map for brochure.

17. HOW IS THE VALUE OF PROPERTY ESTIMATED?

The Fifth Amendment to the Constitution provides that just compensation will be paid for taking private property for public use. However, since the Constitution does not define "just compensation" the matter has been left to the Federal Courts for definition. In establishing a practical standard for determining just compensation the courts have adopted the concept of market value, which generally has been defined as that amount which would probably be paid for property as between a willing seller and a willing buyer. The courts also have laid down criteria on which to base determination of market value. For example, that price the particular property has been bought and sold for in the open market within a reasonable time of the acquisition by the Government, or the recent selling price of similar properties in the vicinity, are recognized to be among the best indications of value.

18. HOW MUCH WILL THE PROPERTY OWNER BE PAID FOR HIS PROPERTY?

The rights of a citizen are protected by the Fifth Amendment of the Constitution of the United States which permits private property to be acquired for public use provided that the property owner is paid "just compensation" for any of his pro-

perty taken. The Constitution does not define "just compensation." Neither are there general statutes which attempt to establish criteria upon which to base payments to property owners affected by public works projects. The determination of "just compensation," therefore, is a judicial question. The Federal courts have defined "just compensation" as "fair market value." It is the Corps' desire and duty to pay the property owner "just compensation."

19. NEGOTIATIONS

To avoid litigation and relieve congestion in the courts, Congress recently enacted a law to facilitate the procedure by which owners and the Corps can reach agreement for the purchase of land. Section 301, Public Law 86-645, approved 14 July 1960, known as "Land Acquisition Policy Act of 1960 ", as interpreted by the Assistant Attorney General established a policy that the Corps land negotiators will engage in actual, practical and realistic negotiations to the same extent as is the practice normally between willing buyers and willing sellers in an effort to acquire property at a price considered just and reasonable. This in no way negated the importance of appraisals, prepared by professional appraisers, as being the basis for settlements. However, it often will permit conclusions of transactions which might otherwise have to be condemned, which could be costly to both the owner and the Government. This law is not authority for the Corps to pay amounts which are not just and reasonable.

20. HOW LONG WILL THE PROPERTY OWNER BE PERMITTED TO REMAIN ON THE PROPERTY AFTER PAYMENT IS MADE AND THE UNITED STATES ACQUIRES TITLE?

This depends upon the Corps' schedule for use of the property. In the case of residential property, the owner may reserve up to a year's rent free occupancy with reasonable rental thereafter. On agricultural properties reservation of possession to harvest crops can be arranged with rental to begin the next crop year. On commercial property rental from the Government begins when title passes. These pro-

cedures permit former owners or tenants to stay on the property for a period to be agreed upon. Thereafter, the possibility of remaining on the property will depend on the Corps' plans for the use of the property.

21. HOW MUCH RENTAL WILL BE REQUIRED BY THE CORPS FROM FORMER PROPERTY OWNERS WHO WISH TO REMAIN ON PROPERTY AFTER PROPERTY IS PURCHASED BY THE CORPS?

The rental figure will be based on the current rentals of private properties in the area and each such rental will be negotiated on an individual basis. Generally these rates are very reasonable, especially if the owner reserves his buildings for off-site removal so only land rental values are involved.

OTHER QUESTIONS

There are undoubtedly numerous questions yet to be answered. These questions will vary from ownership to ownership and will require answers on an individual basis.

It is recognized that various, and often conflicting, rumors may arise regarding the acquisition of property. The property owner may be sure, however, that he will be officially notified at an early date when action is to be taken on his particular ownership. In the meantime, and until he has received such official notification, he should continue to use or operate his property in a normal manner.

For additional information and procedures in connection with property acquisition, property owners and tenants are invited to write or contact the U. S. Army Engineer District, Walla Walla, Corps of Engineers, Real Estate Division, Building 602, City-County Airport, Walla Walla, Washington. A prompt and courteous reply to every inquiry will be made.

CORPS OF ENGINEERS

U.S. ARMY

ELK CREEK

BIG BEND CORNER

T.38N., R.1E., B.M.
T.37N., R.1E., B.M.

FREEMAN

BRUCES EDDY DAM

CLEARWATER RIVER

Lewis Clark Canoe Camp State Park

BIG EDDY LAUNCHING

T.36N., R.1E., B.M.
T.35N., R.2E., B.M.

T.37N., R.2E., B.M.
T.36N., R.2E., B.M.

ORofino

Orofino Cr.

LITTLE BAY

COUNTY ROAD RELOCATION

T.38N., R.1E., B.M.
T.38N., R.2E., B.M.

T.39N., R.2E., B.M.
T.38N., R.2E., B.M.

COUNTY ROAD RELOCATION

DENT ACRES

ADDITIONAL SITE 1

ADDITIONAL SITE 2

T.38N., R.2E., B.M.
T.38N., R.3E., B.M.

T.37N., R.3E., B.M.

T.39N., R.3E., B.M.
T.38N., R.3E., B.M.

ADDITIONAL SITE 3

HIGH FLAT

T.40N., R.3E., B.M.
T.39N., R.3E., B.M.

EVANS

T.38N., R.4E., B.M.
T.38N., R.4E., B.M.

MAGNUS BAY

BOEHLS LAUNCHING

T.41N., R.4E., B.M.
T.41N., R.5E., B.M.

GRANDDAD CREEK LAUNCHING

ADDITIONAL SITE 4

T.39N., R.3E., B.M.
T.40N., R.3E., B.M.
T.39N., R.4E., B.M.

T.40N., R.4E., B.M.
T.40N., R.5E., B.M.

BENTON BUTTE

T.41N., R.5E., B.M.
T.40N., R.5E., B.M.

T.41N., R.6E., B.M.
T.40N., R.6E., B.M.

ADDITIONAL SITE 5

SCALE IN FEET
4000 0 4000 8000

Prepared by the Coast and Geodetic Survey for the Corps of Engineers
Compiled in 1960 by photogrammetric methods from aerial photographs of
June 1959
Field Inspected in July 1959
Transverse Mercator Grid, Idaho West
Contour Interval 200 feet

LEGEND

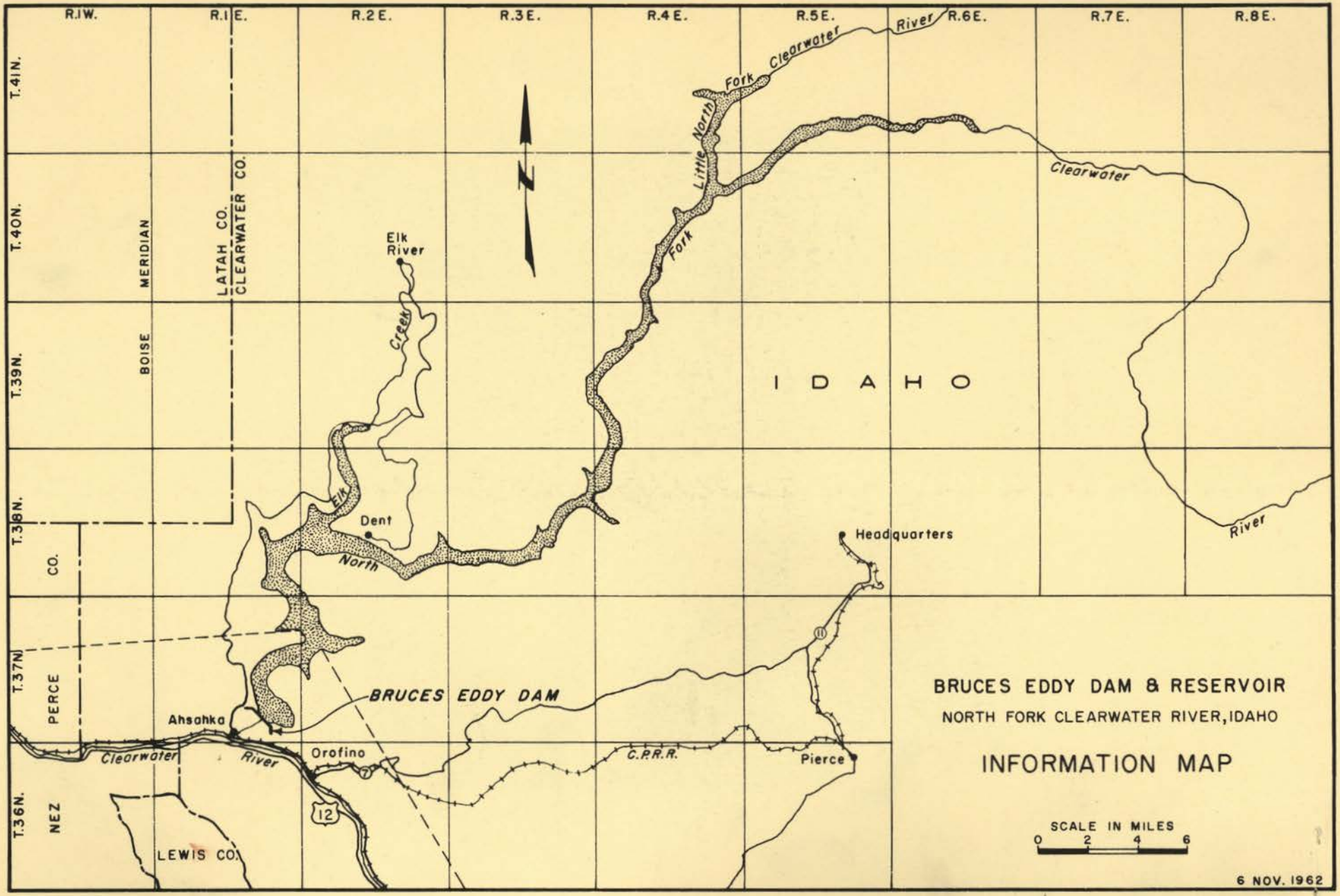
- Road Relocations
- Public Access Areas
- Normal Pool

BRUCES EDDY DAM AND RESERVOIR

NORTH FORK CLEARWATER RIVER, IDAHO

CONDENSED RESERVOIR MAP

ARTIST'S CONCEPTION OF
BRUCES EDDY DAM AND RESERVOIR


R.1W.
R.1E.
R.2E.
R.3E.
R.4E.
R.5E.
R.6E.
R.7E.
R.8E.
T.41N.
T.40N.
T.39N.
T.38N.
T.37N
T.36N.
BOISE MERIDIAN
LATAH CO.
CLEARWATER CO.
CO.
PERCE
NEZ
LEWIS CO.
IDAHO
Elk River
Elk Creek
Dent
North Fork Clearwater River
Little North Fork Clearwater River
Clearwater River
Headquarters
BRUCES EDDY DAM
Ahsahka
Orofino
Clearwater River
C.P.R.R.
Pierce
12
11
BRUCES EDDY DAM & RESERVOIR
NORTH FORK CLEARWATER RIVER, IDAHO
INFORMATION MAP
SCALE IN MILES
0 2 4 6
6 NOV. 1962