

Montana Water Court
PO Box 1389
Bozeman, MT 59771-1389
1-800-624-3270 (In-state only)
(406) 586-4364
watercourt@mt.gov

42K-6001-P-2020

September 17, 2021

Montana Water Court

IN THE WATER COURT OF THE STATE OF MONTANA
YELLOWSTONE DIVISION YELLOWSTONE RIVER BETWEEN
TONGUE AND POWDER RIVERS (42K)

CLAIMANTS: Buffalo Rapids Irrigation District No. 2;
United States of America (Bureau of
Reclamation)

OBJECTOR: McAulay Ranch Co.

42K-6001-P-2020

42K 40785-00

42M 211267-00

42M 211268-00

42K 40799-00

42M 40800-00

42M 40801-00

NOTICE OF FILING OF MASTER'S REPORT

This Master's Report was filed with the Clerk of the Montana Water Court. Please review this Report carefully.

You may file a written objection to this Master's Report if you disagree or find errors with the Master's Findings of Fact, Conclusions of Law, or Recommendations. The above stamped date indicates the date this Master's Report was filed and mailed. Rule 23 of the Water Right Adjudication Rules requires written objections to a Master's Report be filed within 10 days of the date of the Master's Report. Because this Master's Report was mailed to you, Rule 6(d) of the Montana Rules of Civil Procedure provides an additional 3 days to the 10-day objection period.

If you file an objection, you must mail a copy of the objection to all parties on the Service List found at the end of this Master's Report. The original objection and a certificate of mailing to all parties on the Service List must be filed with the Water Court. *If you do not file a timely objection, the Water Court will conclude that you agree with the content of this Master's Report.*

MASTER'S REPORT

FINDINGS OF FACT

1. On August 31, 2020, Claimant Buffalo Rapids Irrigation District No. 2 (hereinafter “District”) filed a Motion to Amend claims 42K 40785-00, 42M 211267-00, and 42M 211268-00 and a withdrawal of claims 42K 40799-00, 42M 40800-00, and 42M 40801-00. The District’s filing proposed the withdrawal of claims 42K 40799-00, 42M 40800-00, and 42M 40801-00 and proposed changes to the purpose from irrigation to “DIVERSION FOR MULTIPLE USES”,¹ increasing the maximum acres of claims 42K 40785-00 and 42M 211267-00, and replacing the places of use with a general service area legal land description for claims 42K 40785-00, 42M 211267-00, and 42M 211268-00.

2. The District supports changing the purpose of claims 42K 40785-00, 42M 211267-00, and 42M 211268-00 from “irrigation” to “other purpose” with the addition of a remark noting it is used for multiple purposes and explaining that there is no practical distinction between water diverted for irrigation use and water diverted for stock use:

...water is simply diverted from the Yellowstone River at each of the three Units’ points of diversion and used for multiple purposes by the District’s members. Decreeing the District’s water rights as single water rights for multiple purposes for each of the District’s three Unit better reflects how the District operates and eliminates the need for redundant or confusing claims for each type of potential water use.

August 31, 2020, *Motion to Amend*, pg. 5. The District withdrew its stock claims – claims 42K 40799-00, 42M 40800-00, and 42M 40801-00.

3. The District states the service area of claims 42K 40785-00 (Shirley Unit), 42M 211267-00 (Terry Unit), and 42M 211268-00 (Fallon Unit) is the general service area approved by the 1941 Order, as extended by the 2019 and 2020 Orders. See Exhs. 1, 2, and 3. The District supported the maximum acres and place of use of claims 42K 40785-00, 42M 211267-00, and 42M 211268-00 with the assistance of Water Rights

¹ The DNRC Water Rights Database has limitations and unfortunately, claim purposes are limited to a standardized purpose list referenced in Rule 27(a), W.R.C.E.R. and listed in Figure VI-1 of the DNRC Claim Examination Manual. Remarks can be added to claims, providing additional information. “Diversion for multiple uses” is not one of the standardized purposes. On August 4, 2021, Abigail Brown, counsel for the District, confirmed the purpose should be changed to “other purpose” and a remark should be added stating “WATER IS USED FOR IRRIGATION, STOCK, AND LAWN AND GARDEN PURPOSES.”

Consultant Russ Radliff. Mr. Radliff analyzed Water Resource Survey (WRS) information, WRS maps, and aerial photographs

4. Because the amendments had the potential to adversely affect other water rights, notice of the Amendments was required pursuant to §85-2-233(6), MCA.

5. Additionally, a deadline was set for co-Claimant United States of America (Bureau of Reclamation) to file a statement agreeing or disagreeing with the contents of the Motion to Amend and the withdrawal of claims 42K 40799-00, 42M 40800-00, and 42M 40801-00. The following language was included in the Order Setting filing deadline:

Failure to comply with the terms of this Order may result in sanctions, up to and including entry of default and termination of a water right claim or dismissal of objections. Rule 22, W.R.Adj.R.

Nothing was filed by the Bureau of Reclamation.

6. McAulay Ranch Co. (“McAulay”) objected to the District’s proposed expansion of the place of use of claim 42K 40785-00 on November 20, 2020. McAulay argued that certain land owned by McAulay should be excluded from the service area described by claim 42K 40785-00 because the lands:

- i. have never been historically irrigated by the District,
- ii. do not have irrigation facilities that can provide District water,
- iii. are topographically situated such that they cannot be irrigated by District facilities,
- iv. are otherwise un-irrigable ground, and/or
- v. are already irrigated by other water rights owned by McAulay.

November 20, 2020, *Objection*, pg. 2.

7. On July 22, 2021, the District and McAulay filed a Stipulation and Motion to Approve the Stipulation. A copy of the *Stipulation and Agreement* is attached to this Report.

8. The parties agreed to resolve McAulay’s Objection by deeming the following land owned by McAulay as “nonirrigable lands or tracts” under 85-7-2110, MCA:

<u>Description of McAulay's "Nonirrigable Lands or tracts"</u>				<u>Acres</u>
Section 2	NESE	T10N, R49E	CUSTER	14.31
Section 2	SWSE	T10N, R49E	CUSTER	8.10
Section 2	N2NW	T10N, R49E	CUSTER	43.37
Section 11	N2NE	T10N, R49E	CUSTER	60.20
Section 11	SWNE	T10N, R49E	CUSTER	35.61
Section 11	NWSE	T10N, R49E	CUSTER	40.00
Section 11	E2SW	T10N, R49E	CUSTER	53.92
Section 11	SWSW	T10N, R49E	CUSTER	12.00
Section 14	NWNW	T10N, R49E	CUSTER	40.00
Section 35	SWSW (Lot 5)	T11N, R49E	PRAIRIE	15.68
TOTAL ACREAGE DEEMED "Nonirrigable lands or tracts"				323.19

9. McAulay and the District agree that the nonirrigable land or tracts shall be taxed or assessed by the District, and no liens shall be placed on these lands or tracts by the District.

10. McAulay and the District agree that the nonirrigable lands or tracts shall remain classified as "nonirrigable" by the District, until such time as McAulay or its successors, request in writing to the District, in accordance with Mont. Code Ann. Sec. 85-7-1842 and any applicable District policies, that any such lands be eligible to be deemed "irrigable" from the works or proposed works of the District.

11. McAulay and the District agree that the nonirrigable lands or tracts may remain as part of the District's proposed service area for claim 42K 40785-00 because the Parties acknowledge that, as a practical matter, service areas often encompass some nonirrigated and nonirrigable acres. See e.g., Final Order, Case 41B-0265-P-2015, p. 18 (Water Court, Dec. 24, 2021) ("Service areas are different than places of use for private irrigation rights and "may encompass an area greater than the footprint of historical irrigation.") Stipulation, pg. 7

12. McAulay and the District agree that the District does not and shall not claim any easement rights or right-of-way rights on any of the nonirrigable lands or tracts that have not been historically and regularly used and exercised by the District, or that are not shown as canals or ditches on the map attached to the *Stipulation and Agreement* as Exhibit B, labeled "Buffalo Rapid Irrigation District No. 2 Conveyance and McAulay Non-Irrigable Land." Exhibit B is intended as a visual representation of existing and historical District rights-of-way, ditches, and canals in the vicinity of the nonirrigable

lands or tracts; it is not intended as a legal survey. Furthermore, according to the agreement of the parties, the District agrees it will not enter any such nonirrigable lands or tracts without advance permission from McAulay.

PRINCIPLES AND CONCLUSIONS OF LAW

1. A properly filed Statement of Claim for an existing water right is prima facie proof of its content. Section 85-2-227, MCA. This prima facie validity may be overcome by evidence showing that one or more elements of the claim are incorrect. This standard of proof applies to objectors or claimants objecting to their own water right claims. Rule 19, W.R.Adj.R.; *Nelson v. Brooks*, 2014 MT 120, 375 Mont.86, 95, 329 P.3d 558, 564.

2. Pursuant to section 85-2-233(6), MCA, a motion to amend that may adversely affect other water rights must be published once a week for three consecutive weeks in two newspapers of general circulation in the basin where the decree was issued.

On December 1, 2020, the District filed its Notice of Publication from the *Miles City Star*, *Terry Tribune*, and *Glendive Ranger Review*. The notice requirements for motions to amend claims specified in section 85-2-233(6), MCA were met regarding claims 42K 40785-00, 42M 211267-00, and 42M 211268-00.

3. Pursuant to Rule 22, W.R.Adj.R., if a claimant, objector, or intervenor fails to appear at a scheduled conference or hearing or fails to comply with an order issued by the Water Court, the Water Court may issue such orders of sanction with regard thereto as are just.

4. Service areas may only include lands susceptible to irrigation; however, the exterior boundaries of a service area generally encompass an area greater than the footprint of the historically irrigated acres because of the movement of water within the exterior boundary of the District's service area. See generally *Curry v. Pondera Cty. Canal & Reservoir Co.*, 2016 MT 77, ¶¶ 41-48, 383 Mont. 93, 379 P.3d 440; Or. Vacating Master's Or. & Approving Stipulation, Case No. 40J-99, pp. 6-11 (MT Water Ct., Nov. 16, 2018) ("40J-99 Order").

RECOMMENDATIONS

1. Claims 42K 40799-00, 42M 40800-00, and 42M 40801-00 should be dismissed.
2. Claims 42K 40785-00, 42M 211267-00, and 42M 211268-00 should be changed as shown on the attached abstracts.

Post Decree Abstracts of Water Right Claim are served with the Report to confirm that the recommended changes have been made in the DNRC's water rights database.

Anika M. Stern
Senior Water Master

Service Via Electronic Mail:

Judith Coleman, Trial Attorney
James J. DuBois, Trial Attorney
NRS-ENRD/DOJ
PO Box 7611
Washington, D.C. 20044-7611
Phone (202) 514-3553 (Coleman)
Fax (202) 305-0506
judith.coleman@usdoj.gov
james.dubois@usdoj.gov
carla.valentino@usdoj.gov
amber.engelkes@usdoj.gov
montanabasins.enrd@usdoj.gov
(Courtesy Copy)

Ross D. Miller
Miller Law, PLLC
401 Washington Street Missoula
MT 59802
ross@millerlawmontana.com

Abigail R. Brown
ARB Law Group
PO Box 1182
Helena, MT 59624
(406) 457-5494
office@mtwaterlaw.com
abby@mtwaterlaw.com

Service via USPS Mail:

David K. W. Wilson, Jr.
MORRISON SHERWOOD WILSON & DEOLA
401 North Last Chance Gulch
P.O. Box 557
Helena, MT 59624
(406) 442-3261
kwilson@mswdlaw.com

United States DOI Bureau of Reclamation
2021 4th Ave., N., Ste 112
Billings, MT 59101

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
YELLOWSTONE RIVER, BETWEEN TONGUE & POWDER RIVERS
BASIN 42K**

Water Right Number: **42K 40785-00** STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: BUFFALO RAPIDS IRRIGATION DISTRICT NO 2
 % PAT DAVIS
 PO BOX 907
 TERRY, MT 59349

USA (DEPT OF INTERIOR BUREAU OF RECLAMATION)
PO BOX 30137
BILLINGS, MT 59107 0137

Priority Date: JUNE 17, 1938

Type of Historical Right: FILED

Purpose (Use): OTHER PURPOSE

WATER IS USED FOR IRRIGATION, STOCK, AND LAWN AND GARDEN PURPOSES.

Flow Rate: 111.00 CFS

FLOW RATE FOR CLAIMS NO. 42K 40785-00 AND 42K 40795-00 IS LIMITED TO THE
HISTORIC CAPACITY OF THE SHIRLEY UNIT PUMPING STATION.

***Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT
PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 1 - HIGH

Maximum Acres: 5,555.00

Source Name: YELLOWSTONE RIVER

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWNWSW	32	10N	49E	CUSTER

Period of Diversion: APRIL 1 TO OCTOBER 19

Diversion Means: PUMP

KNOWN AS THE SHIRLEY UNIT

Period of Use: APRIL 1 TO OCTOBER 19

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			N2	1	10N	49E	CUSTER
2			SW	1	10N	49E	CUSTER
3			N2SE	1	10N	49E	CUSTER
4				2	10N	49E	CUSTER
5			NE	3	10N	49E	CUSTER
6			E2NW	3	10N	49E	CUSTER

7		S2	3	10N	49E	CUSTER
8		E2	9	10N	49E	CUSTER
9			10	10N	49E	CUSTER
10		N2NE	11	10N	49E	CUSTER
11		SWNE	11	10N	49E	CUSTER
12		W2	11	10N	49E	CUSTER
13		NWSE	11	10N	49E	CUSTER
14		NWNW	14	10N	49E	CUSTER
15		N2	15	10N	49E	CUSTER
16		SW	15	10N	49E	CUSTER
17		N2NESE	15	10N	49E	CUSTER
18		W2SE	15	10N	49E	CUSTER
19		E2NE	16	10N	49E	CUSTER
20	1		16	10N	49E	CUSTER
21	4		16	10N	49E	CUSTER
22	5		16	10N	49E	CUSTER
23	7		16	10N	49E	CUSTER
24		SE	16	10N	49E	CUSTER
25	4		20	10N	49E	CUSTER
26	5		20	10N	49E	CUSTER
27	6		20	10N	49E	CUSTER
28			21	10N	49E	CUSTER
29		NW	22	10N	49E	CUSTER
30		N2SW	22	10N	49E	CUSTER
31		N2	28	10N	49E	CUSTER
32		SW	28	10N	49E	CUSTER
33			29	10N	49E	CUSTER
34	7		31	10N	49E	CUSTER
35			32	10N	49E	CUSTER
36		NWNW	33	10N	49E	CUSTER
37		NWNW	6	10N	50E	PRAIRIE
38	5		25	11N	49E	PRAIRIE
39	1		34	11N	49E	PRAIRIE
40	2		34	11N	49E	PRAIRIE
41	5		35	11N	49E	PRAIRIE
42		E2NE	36	11N	49E	PRAIRIE
43	11		36	11N	49E	PRAIRIE
44		SE	36	11N	49E	PRAIRIE
45	11		3	11N	50E	PRAIRIE
46	7		4	11N	50E	PRAIRIE
47	9		4	11N	50E	PRAIRIE
48	10		4	11N	50E	PRAIRIE
49	12		4	11N	50E	PRAIRIE
50	13		4	11N	50E	PRAIRIE
51	5		8	11N	50E	PRAIRIE

52	6		8	11N	50E	PRAIRIE
53		E2NE	9	11N	50E	PRAIRIE
54	2		9	11N	50E	PRAIRIE
55	4		9	11N	50E	PRAIRIE
56		S2	9	11N	50E	PRAIRIE
57	3		10	11N	50E	PRAIRIE
58		W2NW	10	11N	50E	PRAIRIE
59		SENW	10	11N	50E	PRAIRIE
60		W2	16	11N	50E	PRAIRIE
61			17	11N	50E	PRAIRIE
62	8		18	11N	50E	PRAIRIE
63	10		18	11N	50E	PRAIRIE
64		E2NE	19	11N	50E	PRAIRIE
65		SE	19	11N	50E	PRAIRIE
66	13		19	11N	50E	PRAIRIE
67			20	11N	50E	PRAIRIE
68		NW	21	11N	50E	PRAIRIE
69		W2SW	21	11N	50E	PRAIRIE
70		N2	29	11N	50E	PRAIRIE
71		SW	29	11N	50E	PRAIRIE
72		NWNENE	30	11N	50E	PRAIRIE
73		W2NE	30	11N	50E	PRAIRIE
74		NW	30	11N	50E	PRAIRIE
75		N2SW	30	11N	50E	PRAIRIE
76	6		30	11N	50E	PRAIRIE
77		NWSESW	30	11N	50E	PRAIRIE
78		N2	31	11N	50E	PRAIRIE
79		SW	31	11N	50E	PRAIRIE

A MAXIMUM OF 5555 ACRES ARE IRRIGATED WITHIN THE SERVICE AREA IN ANY ONE YEAR.

Remarks:

THIS FILE IS THE TOTAL RECORD FOR THE BUFFALO RAPIDS IRRIGATION PROJECT.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
YELLOWSTONE RIVER, BETWEEN TONGUE & POWDER RIVERS
BASIN 42K**

Water Right Number: **42K 40799-00** STATEMENT OF CLAIM
Version: 2 -- POST DECREE
Status: **DISMISSED**

Owners: BUFFALO RAPIDS IRRIGATION DISTRICT NO 2
 % PAT DAVIS
 PO BOX 907
 TERRY, MT 59349

 USA (DEPT OF INTERIOR BUREAU OF RECLAMATION)
 PO BOX 30137
 BILLINGS, MT 59107 0137

Priority Date:
Type of Historical Right:
Purpose (Use): STOCK
Flow Rate:
Volume:
Source Name: YELLOWSTONE RIVER
 Source Type: SURFACE WATER
Point of Diversion and Means of Diversion:
Period of Use:
Place of Use:

Remarks:

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
YELLOWSTONE RIVER, BELOW POWDER RIVER
BASIN 42M**

Water Right Number: **42M 40800-00** STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: **DISMISSED**

Owners: BUFFALO RAPIDS IRRIGATION DISTRICT NO 2
 % PAT DAVIS
 PO BOX 907
 TERRY, MT 59349

 USA (DEPT OF INTERIOR BUREAU OF RECLAMATION)
 PO BOX 30137
 BILLINGS, MT 59107 0137

Priority Date:

Type of Historical Right:

Purpose (Use): STOCK

Flow Rate:

Volume:

Source Name: YELLOWSTONE RIVER

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

Remarks:

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
YELLOWSTONE RIVER, BELOW POWDER RIVER
BASIN 42M**

Water Right Number: **42M 40801-00** STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: **DISMISSED**

Owners: BUFFALO RAPIDS IRRIGATION DISTRICT NO 2
 % PAT DAVIS
 PO BOX 907
 TERRY, MT 59349

 USA (DEPT OF INTERIOR BUREAU OF RECLAMATION)
 PO BOX 30137
 BILLINGS, MT 59107 0137

Priority Date:

Type of Historical Right:

Purpose (Use): STOCK

Flow Rate:

Volume:

Source Name: YELLOWSTONE RIVER

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

Remarks:

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
YELLOWSTONE RIVER, BELOW POWDER RIVER
BASIN 42M**

Water Right Number: 42M 211267-00 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: BUFFALO RAPIDS IRRIGATION DISTRICT NO 2
% PAT DAVIS
PO BOX 907
TERRY, MT 59349

USA (DEPT OF INTERIOR BUREAU OF RECLAMATION)
PO BOX 30137
BILLINGS, MT 59107 0137

THIS IRRIGATION DISTRICT WAS ESTABLISHED UNDER TITLE 85, CHAPTER 7,
MCA.

Priority Date: JUNE 17, 1938

Type of Historical Right: FILED

Purpose (Use): OTHER PURPOSE

WATER IS USED FOR IRRIGATION, STOCK, AND LAWN AND GARDEN PURPOSES.

Flow Rate: 66.00 CFS

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT
PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 1 - HIGH

Maximum Acres: 3,563.90

Source Name: YELLOWSTONE RIVER

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NENESW	13	12N	50E	PRAIRIE

Period of Diversion: APRIL 1 TO OCTOBER 15

Diversion Means: PUMP

Period of Use: APRIL 1 TO OCTOBER 15

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		1		13	12N	50E	PRAIRIE
2		2		13	12N	50E	PRAIRIE
3			S2	13	12N	50E	PRAIRIE
4			N2NE	24	12N	50E	PRAIRIE
5		1		7	12N	51E	PRAIRIE
6		1		8	12N	51E	PRAIRIE
7		2		8	12N	51E	PRAIRIE

8	1	9	12N	51E	PRAIRIE
9	2	9	12N	51E	PRAIRIE
10	3	9	12N	51E	PRAIRIE
11	1	10	12N	51E	PRAIRIE
12	2	10	12N	51E	PRAIRIE
13	5	11	12N	51E	PRAIRIE
14		13	12N	51E	PRAIRIE
15		14	12N	51E	PRAIRIE
16		15	12N	51E	PRAIRIE
17		16	12N	51E	PRAIRIE
18		16	12N	51E	PRAIRIE
19		16	12N	51E	PRAIRIE
20		16	12N	51E	PRAIRIE
21		17	12N	51E	PRAIRIE
22		18	12N	51E	PRAIRIE
23		19	12N	51E	PRAIRIE
24		20	12N	51E	PRAIRIE
25		21	12N	51E	PRAIRIE
26		21	12N	51E	PRAIRIE
27		21	12N	51E	PRAIRIE
28		21	12N	51E	PRAIRIE
29		22	12N	51E	PRAIRIE
30		23	12N	51E	PRAIRIE
31		24	12N	51E	PRAIRIE
32		24	12N	51E	PRAIRIE
33		24	12N	51E	PRAIRIE
34		24	12N	51E	PRAIRIE
35		18	12N	52E	PRAIRIE

KNOWN AS THE TERRY UNIT

A MAXIMUM OF 3563.90 ACRES ARE IRRIGATED WITHIN THE SERVICE AREA IN ANY ONE YEAR.

Remarks:

PARENT FILE FOR THIS RIGHT IS 40785-00.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
YELLOWSTONE RIVER, BELOW POWDER RIVER
BASIN 42M**

Water Right Number: 42M 211268-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: BUFFALO RAPIDS IRRIGATION DISTRICT NO 2
% PAT DAVIS
PO BOX 907
TERRY, MT 59349

USA (DEPT OF INTERIOR BUREAU OF RECLAMATION)
PO BOX 30137
BILLINGS, MT 59107 0137

THIS IRRIGATION DISTRICT WAS ESTABLISHED UNDER TITLE 85, CHAPTER 7,
MCA.

Priority Date: JUNE 17, 1938

Type of Historical Right: FILED

Purpose (Use): OTHER PURPOSE

WATER IS USED FOR IRRIGATION, STOCK, AND LAWN AND GARDEN PURPOSES.

Flow Rate: 78.00 CFS

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT
PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 1 - HIGH

Maximum Acres: 3,069.70

Source Name: YELLOWSTONE RIVER

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SWSNW	33	13N	52E	PRAIRIE

Period of Diversion: APRIL 1 TO OCTOBER 19

Diversion Means: PUMP

Period of Use: APRIL 1 TO OCTOBER 19

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1				1	12N	52E	PRAIRIE
2				2	12N	52E	PRAIRIE
3		7		3	12N	52E	PRAIRIE
4			NESE	3	12N	52E	PRAIRIE
5			SENE	10	12N	52E	PRAIRIE
6			NESE	10	12N	52E	PRAIRIE
7			N2	11	12N	52E	PRAIRIE

8		N2SW	11	12N	52E	PRAIRIE
9		SW	25	13N	52E	PRAIRIE
10	7		25	13N	52E	PRAIRIE
11		S2	26	13N	52E	PRAIRIE
12		S2NW	27	13N	52E	PRAIRIE
13		SW	27	13N	52E	PRAIRIE
14	3		27	13N	52E	PRAIRIE
15	4		27	13N	52E	PRAIRIE
16		S2SE	27	13N	52E	PRAIRIE
17	1		28	13N	52E	PRAIRIE
18	2		28	13N	52E	PRAIRIE
19	3		28	13N	52E	PRAIRIE
20		SESE	28	13N	52E	PRAIRIE
21		E2E2	33	13N	52E	PRAIRIE
22	1		33	13N	52E	PRAIRIE
23	2		33	13N	52E	PRAIRIE
24	3		33	13N	52E	PRAIRIE
25	4		33	13N	52E	PRAIRIE
26		SWSE	33	13N	52E	PRAIRIE
27		N2	34	13N	52E	PRAIRIE
28		W2SW	34	13N	52E	PRAIRIE
29		E2SE	34	13N	52E	PRAIRIE
30			35	13N	52E	PRAIRIE
31			36	13N	52E	PRAIRIE
32		N2	5	12N	53E	PRAIRIE
33		N2	6	12N	53E	PRAIRIE
34		N2SW	6	12N	53E	PRAIRIE
35		SWSW	6	12N	53E	PRAIRIE
36		NWSE	6	12N	53E	PRAIRIE
37	1		31	13N	53E	PRAIRIE
38	4		31	13N	53E	PRAIRIE
39		SW	31	13N	53E	PRAIRIE

KNOWN AS THE FALLON UNIT

A MAXIMUM OF 3069.7 ACRES ARE IRRIGATED WITHIN THE SERVICE AREA IN ANY ONE YEAR.

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE ASSOCIATED WHICH MEANS THE RIGHTS SHARE THE SAME PLACE OF USE.

54911-00 211268-00

PARENT FILE FOR THIS RIGHT IS 40785-00.

THIS APPROPRIATION OF WATER TAKES WATER FROM THE YELLOWSTONE RIVER, BELOW POWDER RIVER DRAINAGE (BASIN 42M) AND USES IT IN THE O'FALLON CREEK DRAINAGE (BASIN 42L). ANY OBJECTION TO THIS RIGHT MAY BE FILED DURING THE OBJECTION PERIODS FOR EITHER THE POINT OF DIVERSION OR PLACE OF USE BASIN.

Abigail R. Brown
ARB Law Group
P.O. Box 1182
Helena, MT 59624
406-457-5494
office@mtwaterlaw.com
abby@mtwaterlaw.com

42K-6001-P-2020

August 31, 2020

Montana Water Court

Attorney for Buffalo Rapids Irrigation District No. 2

**IN THE WATER COURT OF THE STATE OF MONTANA
YELLOWSTONE RIVER BELOW POWDER RIVER - BASIN 42M**

CLAIMANTS: Buffalo Rapids Irrigation
District No. 2; United States of America—
Bureau of Reclamation

42K 40785-00
42M 211267-00
42M 211268-00
42K 40799-00
42M 40800-00
42M 40801-00

**MOTION TO AMEND BUFFALO RAPIDS IRRIGATION DISTRICT NO. 2
WATER RIGHT CLAIMS AND SUPPORTING BRIEF**

Motion to Amend

COMES NOW, co-owner Buffalo Rapids Irrigation District No. 2 (hereinafter the “District”), by and through its undersigned counsel of record, and moves the Court for entry of an order pursuant to Rule 10, W.R.Adj.R. and Section 85-2-233(6)(a)(1), MCA, decreeing the District’s direct flow water rights (1) as “multiple use” claims with a purpose clarification describing the uses, and (2) with places of use described as general service areas, to be consistent with other Reclamation project water rights. To accomplish this consolidation of water right claims, and as discussed fully herein, the District moves the Court to amend the irrigation water right claims for the District’s three divisions 42K 40785-00 (Shirley Unit), 42M 211267-00 (Terry Unit), and 42M 211268-00 (Fallon Unit) and grant the District’s simultaneous motion to withdraw

current stock water right claims 42K 40799-00, 42M 40800-00, and 42M 40801-00, since their purpose would be subsumed within the amended irrigation claims.

The District further moves the Court to increase the historical maximum irrigated acres of two of its three water rights, claims 42K 40785-00 (Shirley Unit) and 42M 211267-00 (Terry Unit), as described herein.

This motion is supported by documents in the statements of claims files for the above-captioned water rights, portions of relevant Water Resource Survey books, an affidavit of Water Resource Specialist Russ Radliff of WGM Group who completed extensive document review and aerial analysis of the District's pre-July 1, 1973 place of use and irrigated acres, and verified motions to amend signed by representatives of the District and the United States of America—Bureau of Reclamation (hereinafter "Reclamation").

Reclamation personnel has reviewed this motion and its supporting documents and represent that Reclamation does not oppose the instant motion.

Brief in Support

A. Factual Background

In support of its instant motion to amend, the District reports the following facts to the Court:

1. The District was established and organized by Order of the Sixteenth Judicial District Court, Prairie County¹ dated February 10, 1941 (hereinafter "1941 Order") as Civil Matter No. 1574 pursuant to Mont. Code Ann. Title 85, Chapter 7 (the Irrigation District Statutes).

That 1941 Order is attached hereto as **Exhibit 1**. Since February 10, 1941, the District has

¹ Prairie County is now part of the 7th Judicial District.

been, and continues to be, a duly and regularly created irrigation district operating under the laws of the State of Montana.

2. On August 20, 2019, the Montana Seventh Judicial District Court entered an Order, Judgment, and Decree Extending the Exterior Boundaries of the District (hereinafter “2019 Order”). The time for appeal of this 2019 Order has expired. *See* Mont. Code Ann. § 85-7-1810. A copy of the 2019 Order is attached hereto as **Exhibit 2**.
3. On August 10, 2020, the Montana Seventh Judicial District Court entered a second Order, Judgment, and Decree Extending the Exterior Boundaries of the District (hereinafter “202 Order”). The time for appeal of this 2020 Order will expire prior to the end of the public notice period for this motion. *See* Mont. Code Ann. § 85-7-1810. A copy of the 2020 Order is attached hereto as **Exhibit 3**.
4. The 1941 Order establishing the District also established three (3) units or subdivisions within the District: the Shirley Unit; the Fallon Unit; and the Terry Unit. **Exh. 1 at 7**.
5. The District has three (3) irrigation water rights that correspond to each of its subdivisions: claim 42K 40785-00 serves the Shirley Unit; claim 42M 211267-00 serves the Terry Unit; and claim 42M 211268-00 serves the Fallon Unit. Claims 42M 211267-00 and 42M 211268-00 were implied from the parent claim file 42K 40785-00.² Detailed descriptions of the three subdivisions are found in the 1948 Water Resource Survey for Custer County and 1970 Water Resource Survey for Prairie County. Relevant portions of the 1948 Custer

² As of the date of filing, the DNRC Claim File for the parent claim (42M 40785-00) has not been scanned into the DNRC’s Query System and has been “missing” for a while, according to DNRC personnel who responded on January 29, 2020 to an inquiry by Attorney Brown regarding the location of this parent file. The DNRC Records unit continues to look for this file. If the file is found, the undersigned will supplement this motion as necessary.

County WRS are attached hereto as **Exhibit 4**. Relevant portions of the 1970 Prairie County WRS are attached hereto as **Exhibit 5**.

6. Water right claim 42K 40785-00 is an irrigation right from the Yellowstone River with a point of diversion in the NWNWSW of Section 32 T10N R49E, Custer County, and a 111.00 cfs flow rate. This water right irrigates the Shirley Unit acreage, which is currently decreed was a specific 4,692.95-acre place of use. The service area for the Shirley Unit is located in both Prairie County and Custer County.
7. Water right claim 42M 211267-00 is an irrigation right from the Yellowstone River with a point of diversion in the NENESW of Section 13 T12N R50E, Prairie County, and a 66.00 cfs flow rate. This water right irrigates the Terry Unit acreage, which is decreed with a specific 3,052.10-acre place of use. The service area for the Terry Unit is located entirely within Prairie County.
8. Water right claim 42M 211268-00 is an irrigation right from the Yellowstone River with a point of diversion in the SWSNW of Section 33 T13N R52E, Prairie County, and a 78.00 cfs flow rate. This water right irrigates the Fallon Unit acreage, which is decreed with a specific 3,069.70-acre place of use. The service area for the Terry Unit is located entirely within Prairie County.
9. Irrigation water right claims 42K 40785-00, 42M 211267-00, and 42M 211268-00 are based on a June 17, 1938 Notice of Appropriation, recorded at Book I, page 333 of Water Right Records, Prairie County Clerk & Recorder.
10. The District also has three (3) stock water rights: 42K 40799-00 (Shirley Unit); 42M 40800-00 (Terry Unit); and 42M 40801-00 (Fallon Unit). These water rights are based on

the dates of first use for each of the District's subdivisions. The parent DNRC claim file for these three stock claims is found under water right claim 42M 40798-00.

11. During the course of pursuing the above-referenced boundary extensions in the District Court, the District and Reclamation reviewed the District's files and historical water right records in detail, particularly as those files related to historically irrigated acres within the District's boundary. As a result of that review and the boundary extension, the District determined the historically irrigated acres for 2 of its 3 units should be increased as follows:
 - a. **42K 40785-00 (Shirley Unit):** from 4,692.95 acres to 5,555.00 irrigated acres; and
 - b. **42M 211267-00 (Terry Unit):** from 3,052 acres to 3,563.90 irrigated acres.

No correction to the historical acreage is necessary for claim 42M 211268-00 (Fallon Unit). Evidentiary support for the increased maximum acres is set forth below pursuant to Rule 17(a) and (b), W.R.Adj.R.

12. While the District holds separate water right claims for irrigation and stock uses for each of the three Units, there is no practical distinction between water diverted for irrigation use and water diverted for stock use. Rather, water is simply diverted from the Yellowstone River at each of the three Units' points of diversion and used for multiple purposes by the District's members. Decreeing the District's water rights as single water rights for multiple purposes for each of the District's three Unit better reflects how the District operates and eliminates the need for redundant or confusing claims for each type of potential water use. Water right claim 42K 40799-00 (stock) should be incorporated into the Shirley Unit irrigate claim 442K 40785-00. Water right claim 42M 40800-00 (stock) should be incorporated into the Terry Unit irrigation claim 42M 211267-00. Water right claim 42M 40801-00 (stock) should be incorporated into the Fallon Unit irrigation claim 42M 211268-

00. Have a single water right claim for each of the District's Units will provide for more efficient future administration of the Yellowstone River.

B. Argument

Rule 10, W. R. Adj. R. states that a claimant may file a motion to amend his or her own claim(s) and such amendment must "specify the requested amendment and grounds for such amendment." Upon review of the motion, the Water Court shall determine the scope of notice required and issue an appropriate order. Rule 10, W. R. Adj. R. (citing Mont. Code Ann. § 85-2-233(6)). Claimants who move to amend their water rights must rebut the prima facie status of their originally filed statement of claim by a preponderance of the evidence, showing the elements that movant seeks to amended, are incorrect as initially claimed. *Nelson v. Brooks*, 2014 MT 120, ¶ 34, 375 Mont. 86, 329 P.3d 558 (discussing Rule 19, W. R. Adj. R.). "Parties seeking to amend water rights typically rely on facts showing a pattern of historical beneficial use that differs from, and justifies modifications to, the original claim." *In re Matador Cattle Co.*, 2017 Mont. Water LEXIS 6, *14, Case No. 41A-66, Second Master's Report, Findings of Fact Nos. 7 and 8 (Water Court, Mar. 24, 2017) (rejected in part, on other grounds, by *Matador Cattle Co. v. Huntsman Ranch Co.*, 2017 Mont. Water 7, Case No. 41A-66, Order Adopting Master's Report in Part (Water Court, May 4, 2017)). "Motions to amend are intended to provide water right claimants with an opportunity to modify the elements of a previously filed water right. They are not intended to enable claimants to obtain water rights that were not timely filed." *Id.* (quoting Case 41J-265, Order Denying Motions to Amend (Dec. 15, 2015)).

1. Place of Use Legal Description (All Claims)

The historically accurate place of use for irrigation water right claims 42K 40785-00 (Shirley Unit), 42M 211267-00 (Terry Unit), and 42M 211268-00 (Fallon Unit) is the general

service area approved by the 1941 Order, as extended by the 2019 and 2020 Orders. *See* Exhs. 1, 2, and 3. The legal descriptions for the general service area place of use are discussed in the affidavit of Water Resource Specialist Russ Radliff (**Exhibit 6**) and incorporated into the proposed abstracts for each claim, which are attached hereto as **Exhibits 8-A through 8-C**.

The place of use for the District's water right is appropriately described as a general service area, the exterior boundaries of which were reviewed and approved by the appropriate district courts in 1941, 2019, and 2020 pursuant to Mont. Code Ann. § 85-7-1808. Service areas may only include lands susceptible to irrigation; however, the exterior boundaries of a service area generally encompass an area greater than the footprint of the historically irrigated acres because of the movement of water within the exterior boundary of the District's service area. *See generally Curry v. Pondera Cty. Canal & Reservoir Co.*, 2016 MT 77, ¶¶ 41-48, 383 Mont. 93, 379 P.3d 440; Or. Vacating Master's Or. & Approving Stipulation, *Case No. 40J-99*, pp. 6-11 (MT Water Ct., Nov. 16, 2018) ("40J-99 Order"). The District's general service area was reviewed and approved by the 1941 Order, 2019 Order, and 2020 Order, and nothing further is required to establish a general service area place of use for the District's water right claims irrigation water right claims 42K 40785-00 (Shirley Unit), 42M 211267-00 (Terry Unit), and 42M 211268-00 (Fallon Unit) and stock water right claims 42K 40799-00 (Shirley Unit); 42M 40800-00 (Terry Unit); and 42M 40801-00 (Fallon Unit). *See* 40J-99 Order at 11.

2. Evidence of Maximum Acres: 42K 40785-00 (Shirley Unit)

Based on available evidence of actual historically irrigated acres, the correct maximum acres for claim 42K 40785-00 is 5,555.00 acres. In support of this acreage number, the Parties inform the Court of the following facts:

- a. The 1948 Custer County WRS stated that there was a maximum irrigable acreage of 5,300.00 acres in the Shirley Unit. **Exh. 4 at p.3.**
- b. Water Resource Specialist Russ Radliff conducted an independent aerial photograph analysis of the historically irrigated acres for water right claim 42K 40785-00 (Shirley Unit). For this analysis, Radliff used the 1970 Prairie County WRS information, the 1948 Custer County WRS information, WRS aerials (numbered MA-15 37 and MA-17 120, dated 7/28/1944) and a 1978 USDA aerial (numbered 278-18, dated 10/7/1978) to conduct an independent analysis of historical irrigated acres within that Unit. The 1978 aerial was used because the WRS aerials do not cover the northern part of this unit. Based on this analysis, the maximum number of historically irrigated acres within the exterior boundaries of the Shirley Unit is 5,555.00 acres. **Exh. 6 at ¶ 5.**
- c. The DNRC has misplaced the original claim file and examination worksheets for 42K 40785-00, therefore it is unknown what DNRC's examination determined for the Shirley Unit acreage, if an examination of this unit was done. **Exh. 6 at ¶ 4.**
- d. The historical information contained in the WRS information (both text and GIS shape files) and Radliff's independent analysis are consistent with District's current records indicating that in 2019 there were approximately 5,051.66 acres irrigated in the Shirley Unit.

While the District timely filed its original statement of claim with the DNRC in the 1980s, the District filed only one statement of claim for all three units in the District. Since the parent file for the District's statement of claim appears to be missing within the DNRC, the origins of the 4,692.92-acre figure on the abstract for 42K 40785-00 is unclear. Nonetheless, what is clear from the available documents is that the maximum acreage on the abstract is too low; the irrigated

acreage in the Shirley Unit has been consistently between 5,300.00 and 5,555.00 acres since the Unit was constructed in the 1940s.

Based on the historical evidence in the WRS coupled with Radliff's ability to use technology to more accurately calculate the historical acreage number, the maximum acreage for the Shirley Unit irrigation water right claim 42K 40785-00 is 5,555.00 acres. A proposed abstract is attached hereto as **Exhibit 8-A** for the Court's and public's review and consideration.

3. Evidence of Maximum Acres: 42M 211267-00 (Terry Unit)

Based on available evidence of actual historically irrigated acres, the correct maximum acres for claim 42M 211267-00 is 3,563.90 acres. In support of this acreage number, the Parties inform the Court of the following facts:

- a. The 1970 Prairie County WRS stated that there was a maximum irrigable acreage of 3,352.00 acres in the Terry Unit. **Exh. 5 at p.4.**
- b. Water Resource Specialist Russ Radliff used the 1970 Prairie County WRS information and associated aerials (numbered JJ-63, JJ-18, and JJ-98, dated 8/25/1968 and JJ-152, 9/9/1968) to conduct an independent analysis of historical irrigated acres within that Unit. Based on this analysis, the maximum number of historically irrigated acres within the exterior boundaries of the Terry Unit is 3373.00 acres. *See Exh. 6 at ¶ 6.*
- c. In 2009, the DNRC mapped the historically irrigated acres in the Terry Unit as 3,563.90 acres. *See Exh. 6 at Att. A.*
- d. The historical information in the WRS (text and maps), the DNRC's examination of historical place of use, and Radliff's analysis are consistent with District's current records indicating that in 2019 there were approximately 3,343.72 acres irrigated in the Terry Unit.

Based on the historical evidence in the WRS coupled with the DNRC's and Radliff's abilities to use technology to more accurately calculate the historical acreage number, the maximum acreage for the Terry Unit irrigation water right claim 42M 211267-00 is 3,563.90 acres, as confirmed by the DNRC's examination in 2009. A proposed abstract is attached hereto as **Exhibit 8-B** for the Court's and public's review and consideration.

4. Amendment to Purpose; Clarification of Purpose

Finally, as noted on the attached Verified Motions to Amend (**Exhibits 7-A through 7-C**), Claimants move the Court to (1) amend the purpose of claims 42K 40785-00 (Shirley Unit), 42M 212267-00 (Terry Unit), and 42M 40801-00 (Fallon Unit) from "irrigation" to "Divisions for Multiple Use" with a clarification that the multiple uses include: irrigation, stock, and lawn and garden purposes; and (2) simultaneously terminate the District's current stock water right claims 42K 40799-00, 42M 40800-00, and 42M 40801-00, since their purpose (stock) would be subsumed within the amended irrigation claims. *See* proposed abstracts **Exhibits 8-A through 8-C**.

Decreeing the District's water rights as single water rights for multiple purposes for each of the District's three Unit better reflects how the District operates and eliminates the need for redundant or confusing claims for each type of potential water use. Water right claim 42K 40799-00 (stock) should be incorporated into the Shirley Unit irrigate claim 442K 40785-00. Water right claim 42M 40800-00 (stock) should be incorporated into the Terry Unit irrigation claim 42M 211267-00. Water right claim 42M 40801-00 (stock) should be incorporated into the Fallon Unit irrigation claim 42M 211268-00. Have a single water right claim for each of the District's Units will provide for more efficient future administration of the Yellowstone River. The Water Court has such authority to decree these rights with a purpose and clarification of purpose remark

pursuant to Mont. Code Ann. § 85-2-234 (authorizing the Water Court to decree water rights with “any other information necessary to fully define the nature and extent of the right.

C. Conclusion

For the foregoing reasons, the District respectfully requests that the Water Court issue an order instructing the District on the appropriate scope of notice for the instant motion to amend, pursuant to Rule 10, W. R. Adj. R. Upon expiration of that public notice period, barring any timely-filed objections to the instant motion, the District moves the Court for an order: (1) amending the maximum acres of irrigation water rights 42K 40785-00 (Shirley Unit) and 42M 211267-00 (Terry Unit) as described herein; (2) modifying the places of use of water right claims 42K 40785-00 (Shirley Unit), 42M 212267-00 (Terry Unit), and 42M 40801-00 (Fallon Unit) to reflect a general service area description as described herein; (3) decree the District’s water rights 42K 40785-00 (Shirley Unit), 42M 212267-00 (Terry Unit), and 42M 40801-00 (Fallon Unit) as single water rights for multiple purposes; and (4) terminate stock water right claims 42K 40799-00, 42M 40800-00, and 42M 40801-00 as that purpose would be subsumed within the amended irrigation rights. Proposed abstracts are attached hereto as **Exhibit 8-A, 8-B, and 8-C** for the Court’s review and consideration.

RESPECTFULLY SUBMITTED this 31st day of August 2020.

ARB Law Group

By: /s/ Abigail R. Brown
Abigail R. Brown
Attorney for Buffalo Rapids Irrigation District No. 2

Cc: Rita Frasure, USBOR Water Resource Specialist (via email only rfrasure@usbr.gov)

ORDERS AND DECREES NO. 2

3. That the heirs at law of said decedent, Thomas M. Murn, are:

Tessie A. Franzen, formerly Tessie A. Murn, widow, of 346 Wyoming Avenue, Billings, Montana

Patricia Murn, daughter, of 346 Wyoming Avenue, Billings, Montana.

4. That all the remaining property of said estate, hereinafter described, together with any and all other property, real or personal, wherever situated and any interest in any such property as may be hereinafter discovered, be and the same is hereby distributed to said Tessie A. Franzen and Patricia Murn, each an undivided one-half (1/2) interest therein.

5. That the following is a particular description of the property herein ordered distributed:

North Half (N $\frac{1}{2}$) of School Lot No. Fourteen (14) in the Town of Terry, Prairie County, Montana, less part thereof as conveyed to Tom George and recorded in Book 11 of Deeds, Page 71, and conveyed to W. H. Hamlin and recorded in Book 11 of Deeds, Page 273, of the records of said county.

Lot Seven (7) in Block Fifteen (15) of the Original Townsite of Glendive, Dawson County, Montana.

6. That upon the filing of this order said Tessie A. Franzen be and she is hereby wholly and absolutely discharged from her trust as such administratrix and her sureties are hereby released from any liability to be hereafter incurred.

Done this 14 day of February, 1941..

(COURT SEAL)

S. D. McKinnon
Judge of the District Court

CERTIFICATE OF COPY:

STATE OF MONTANA,)
Sixteenth Judicial District, : SS.
County of Prairie,)

I HEREBY CERTIFY the foregoing to be a full, true and correct copy of the original Order Approving Supplemental Final Account, Decree Determining Heirship, Decree of Distribution, and of Final Discharge in the matter of the Estate of Thomas M. Murn, deceased, now on file in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court this 15th day of February, A. D. 1941.

Kath Otis
Clerk.

(COURT SEAL)

Filed for record Feb. 15, 1941, at 2:00 p.m.
Fee \$2.60 Paid.

READ AND COMPARED Glenn L. Duckingham, Recorder.

ORDER

DOCUMENT #53869

C O P Y

IN THE DISTRICT COURT OF THE SIXTEENTH JUDICIAL DISTRICT OF THE
STATE OF MONTANA, IN AND FOR THE COUNTY OF PRAIRIE

oooooooooooooooooooooooooooo

IN THE MATTER OF THE ORGANIZATION
OF BUFFALO RAPIDS IRRIGATION
DISTRICT NO. 2

ORDER

oooooooooooooooooooooooooooo

This matter came on regularly for hearing on Thursday, the 30th day of January, A. D., 1941, at the hour of 10:00 o'clock A. M., that being a regular day of the January, 1941, term. Walter R. Flachsenhar, Esq., of Terry, Montana, and Desmond J. O'Neill of Glendive, Montana, appeared as attorneys for the petitioners. Daniel L. O'Hern, Esq., of Miles City, Montana, appeared for G. G. Kalfell, also known as Gotlieb G. Kalfell and Gottlieb G. Kalfell, one of the owners of the land described in the petition, and filed objections to the inclusion of a certain tract belonging to said objector within the district. There were no other appearances.

Due proof was submitted to the Court of due and legal publication of notice as required

EXHIBIT 1

of said petition to each land owner who was not a resident of either Custer County or Prairie County, State of Montana.

Witnesses were duly sworn and testified in behalf of the petitioners and in behalf of the objector.

The Court having considered the allegations contained in the petition filed herein, and having heard and considered all of the testimony and exhibits offered and received in behalf of the petitioners and the objector, and being fully advised in the premises, finds as follows:

FINDINGS OF FACT

I.

That sixty per cent in number of the holders of title or evidence of title to lands sought to be included in the proposed irrigation district, and which are susceptible of irrigation, which holders of title or evidence of title also represent sixty per cent of the acreage of lands within the proposed irrigation district have signed the petition for the establishment and the organization of the Buffalo Rapids Irrigation District No. 2;

II.

That the written consent of all holders of mortgages or other liens on lands within the proposed irrigation district have signified their written consent to the organization of the district excepting such mortgages as are barred by the statute of limitations and as disclosed by the testimony;

III.

That the proposed irrigation district is formed in cooperation with the United States under the Federal Reclamation laws and the acts of Congress relating to irrigation, and that the benefits accruing to all of the lands within the district, except as hereinafter referred to, will exceed the detriment or the burdens placed thereon by their inclusion within the proposed irrigation district.

IV.

That the lands proposed to be included in the said Buffalo Rapids Irrigation District No. 2 lie entirely within the counties of Prairie and Custer in the State of Montana, and that the jurisdiction of this cause is in the District Court of Prairie County, Montana, for the reason that the larger number of acres to be included within the district are situated within Prairie County, Montana;

V.

That all of the allegations, statements and things set forth in the petition for the organization of the Buffalo Rapids Irrigation District No. 2 are true and correct, subject to the objections which have been interposed by Gottlieb C. Kalfell, and that said irrigation district should be, and the same is hereby, organized pursuant to Chapter 84 of the Civil Code of the State of Montana, and it shall include all of the lands susceptible of irrigation described in the petition for the creation of the district and as disclosed by the testimony in this case, excepting the following lands, to-wit: All of that land south and east of the Northern Pacific Railway Company right-of-way and Highway No. 10 in Section 30, Township 11 North, Range 50 East of the Montana Principal Meridian, which said property belongs to Gottlieb C. Kalfell and which said lands have water rights appurtenant thereto, and the Court finds with reference to the particular lands that are excluded that the benefits accruing to these lands will not exceed the detriment or the burdens placed thereon by their inclusion within the proposed irrigation district. There is also excluded from said proposed irrigation district that particular parcel of land in Section 18, Township 12 North, Range 51 East of the Montana Principal Meridian, belonging to the Chicago, Milwaukee, St. Paul and Pacific

Railroad Company and to its trustees as set forth in the affidavit of J. C. Ellington, and made a part of the record in this cause;

VI.

That the petition filed herein is in due form and fully and completely meets the requirements of the law; that due notice of the hearing of such petition has been duly given; that the allegations contained in the petition above mentioned are fully sustained by competent evidence; and the Court finds all of such allegations to be true.

CONCLUSIONS OF LAW

That the petition above mentioned fully and completely meets the requirements of the law in all respects; that an order was duly made fixing the time and place of hearing of such petition; that due notice was given of the time and place of such hearing; that a hearing was duly held at the time and place fixed therefor; that appearances were made thereat as hereinabove set forth; that each and all of the allegations of the petition are sustained by competent evidence introduced at such hearing; that, therefore, the petition ought to be and it is granted, and such irrigation district ought to be and it is created; and all of the lands hereinafter described shall be and are included in that district for the purpose of cooperating with the United States under the Federal Reclamation laws heretofore or hereafter enacted, or under any Act of Congress which shall permit of the performance by the United States of work in the State of Montana for the purpose of construction of irrigation works, including drainage works and power plants, or for purchase, extension, operation or maintenance of such construction works, or for the assumption as principal, or guarantor of indebtedness to the United States on account of district lands.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that there be, and there hereby is created, organized and established an irrigation district to cooperate with the United States under the Federal Reclamation laws heretofore or hereafter enacted, or under any Act of Congress which shall permit of the performance by the United States of work in the State of Montana for the purpose of construction of irrigation works, including drainage works and power plants, or for purchase, extension, operation or maintenance of construction works, or for the assumption as principal, or guarantor of indebtedness to the United States on account of district lands, and that said irrigation district shall include the following described lands to-wit:

Lots One (1), Two (2), Three (3) and Four (4) and the South Half of the North Half ($S\frac{1}{2}N\frac{1}{2}$), the Southwest Quarter ($SW\frac{1}{4}$) and the North Half of the Southeast Quarter ($N\frac{1}{2}SE\frac{1}{4}$) of Section One (1);

Lots One (1), Two (2), Three (3), Four (4), the Southwest Quarter of the Northwest Quarter ($SW\frac{1}{4}NW\frac{1}{4}$) and the South Half ($S\frac{1}{2}$) of Section Two (2);

Lots One (1), Two (2), Three (3), Six (6), Seven (7), Eight (8), the East half of the Southwest Quarter ($E\frac{1}{2}SW\frac{1}{4}$), the Southeast Quarter ($SE\frac{1}{4}$) and the South Half of the Northeast Quarter ($S\frac{1}{2}NE\frac{1}{4}$) of Section Three (3);

Lots One (1), Four (4), Five (5), Eight (8), the Southeast Quarter of the Northeast Quarter ($SE\frac{1}{4}NE\frac{1}{4}$) and the East Half of the Southeast Quarter ($E\frac{1}{2}SE\frac{1}{4}$) of Section Nine (9);

All of Section Ten (10);

The West Half ($W\frac{1}{2}$), the North Half of the Northeast Quarter ($N\frac{1}{2}NE\frac{1}{4}$), the Southwest Quarter of the Northeast Quarter ($SW\frac{1}{4}NE\frac{1}{4}$), and the Northwest Quarter of the Southeast Quarter ($NW\frac{1}{4}SE\frac{1}{4}$) of Section Eleven (11);

The Northwest Quarter of the Northwest Quarter ($NW\frac{1}{4}NW\frac{1}{4}$) of Section Fourteen (14);

The West Half ($W\frac{1}{2}$), the West Half of the East Half ($W\frac{1}{2}E\frac{1}{2}$) and the Northeast Quarter of the Northeast Quarter ($NE\frac{1}{4}NE\frac{1}{4}$) of Section Fifteen (15);

Lots One (1), Four (4), Five (5), Seven (7), the East Half of the Northeast Quarter ($E\frac{1}{2}NE\frac{1}{4}$), and the Southeast Quarter ($SE\frac{1}{4}$) of Section Sixteen (16);

Lots Four (4), Five (5) and Six (6) of Section Twenty (20);

Lots One (1), Two (2), the South Half of the Northwest Quarter ($S\frac{1}{2}NW\frac{1}{4}$), the Southwest

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ORDER NO. 2
Railroad Company and to its trustees as set forth in the affidavit of J. C. Ellington, and made a part of the record in this cause;

VI.

That the petition filed herein is in due form and fully and completely meets the requirements of the law; that due notice of the hearing of such petition has been duly given; that the allegations contained in the petition above mentioned are fully sustained by competent evidence; and the Court finds all of such allegations to be true.

CONCLUSIONS OF LAW

That the petition above mentioned fully and completely meets the requirements of the law in all respects; that an order was duly made fixing the time and place of hearing of such petition; that due notice was given of the time and place of such hearing; that a hearing was duly held at the time and place fixed therefor; that appearances were made thereat as hereinabove set forth; that each and all of the allegations of the petition are sustained by competent evidence introduced at such hearing; that, therefore, the petition ought to be and it is granted, and such irrigation district ought to be and it is created; and all of the lands hereinafter described shall be and are included in that district for the purpose of cooperating with the United States under the Federal Reclamation laws heretofore or hereafter enacted, or under any Act of Congress which shall permit of the performance by the United States of work in the State of Montana for the purpose of construction of irrigation works, including drainage works and power plants, or for purchase, extension, operation or maintenance of such construction works, or for the assumption as principal, or guarantor of indebtedness to the United States on account of district lands.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that there be, and there hereby is created, organized and established an irrigation district to cooperate with the United States under the Federal Reclamation laws heretofore or hereafter enacted, or under any Act of Congress which shall permit of the performance by the United States of work in the State of Montana for the purpose of construction of irrigation works, including drainage works and power plants, or for purchase, extension, operation or maintenance of construction works, or for the assumption as principal, or guarantor of indebtedness to the United States on account of district lands, and that said irrigation district shall include the following described lands to-wit:

Lots One (1), Two (2), Three (3) and Four (4) and the South Half of the North Half ($S\frac{1}{2}N\frac{1}{2}$), the Southwest Quarter ($SW\frac{1}{4}$) and the North Half of the Southeast Quarter ($N\frac{1}{2}SE\frac{1}{4}$) of Section One (1);

Lots One (1), Two (2), Three (3), Four (4), the Southwest Quarter of the Northwest Quarter ($SW\frac{1}{4}NW\frac{1}{4}$) and the South Half ($S\frac{1}{2}$) of Section Two (2);

Lots One (1), Two (2), Three (3), Six (6), Seven (7), Eight (8), the East half of the Southwest Quarter ($S\frac{1}{2}SW\frac{1}{4}$), the Southeast Quarter ($SE\frac{1}{4}$) and the South Half of the Northeast Quarter ($S\frac{1}{2}NE\frac{1}{4}$) of Section Three (3);

Lots One (1), Four (4), Five (5), Eight (8), the Southeast Quarter of the Northeast Quarter ($SE\frac{1}{4}NE\frac{1}{4}$) and the East Half of the Southeast Quarter ($E\frac{1}{2}SE\frac{1}{4}$) of Section Nine (9);

All of Section Ten (10);

The West Half ($W\frac{1}{2}$), the North Half of the Northeast Quarter ($N\frac{1}{2}NE\frac{1}{4}$), the Southwest Quarter of the Northeast Quarter ($SW\frac{1}{4}NE\frac{1}{4}$), and the Northwest Quarter of the Southeast Quarter ($NW\frac{1}{4}SE\frac{1}{4}$) of Section Eleven (11);

The Northwest Quarter of the Northwest Quarter ($NW\frac{1}{4}NW\frac{1}{4}$) of Section Fourteen (14);

The West Half ($W\frac{1}{2}$), the West Half of the East Half ($W\frac{1}{2}E\frac{1}{2}$) and the Northeast Quarter of the Northeast Quarter ($NE\frac{1}{4}NE\frac{1}{4}$) of Section Fifteen (15);

Lots One (1), Four (4), Five (5), Seven (7), the East Half of the Northeast Quarter ($E\frac{1}{2}NE\frac{1}{4}$), and the Southeast Quarter ($SE\frac{1}{4}$) of Section Sixteen (16);

Lots Four (4), Five (5) and Six (6) of Section Twenty (20);

Lots One (1), Two (2), the Southeast Quarter of the Northwest Quarter ($SE\frac{1}{4}NW\frac{1}{4}$), the Southwest

Quarter (SW $\frac{1}{4}$) and the East Half (E $\frac{1}{2}$) of Section Twenty-one (21);

The Northwest Quarter (NW $\frac{1}{4}$) and the North Half of the Southwest Quarter, (N $\frac{1}{2}$ SW $\frac{1}{4}$) of Section Twenty-two (22);

The North Half (N $\frac{1}{2}$) and the Southwest Quarter (SW $\frac{1}{4}$) of Section Twenty-eight (28);

Lots One (1), Three (3), Four (4), Five (5), the Southeast Quarter of the Northwest Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$), the Northeast Quarter of the Southwest Quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$), and the East Half (E $\frac{1}{2}$) of Section Twenty-nine (29);

Lot Seven (7) of Section Thirty-one (31);

Lots One (1), Two (2), Three (3), the Southeast Quarter of the Northwest Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$), the Southwest Quarter of the Southwest Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$), the East Half of the Southwest Quarter (E $\frac{1}{2}$ SW $\frac{1}{4}$) of the East Half (E $\frac{1}{2}$) of Section Thirty-two (32);

The Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$) of Section Thirty-three (33);

All in Township Ten (10) North, Range Forty-nine (49) East, in Custer County, Montana.

Lot Five (5) in Section Twenty-five (25);

Lots One (1) and Two (2) in Section Thirty-four (34);

Lot Five (5) in Section Thirty-five (35);

Lots One (1) and Five (5), Six (6), Seven (7), Eleven (11), Twelve (12), and the Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section Thirty-six (36);

All in Township Eleven (11) North of Range Forty-nine (49) East in Prairie County, Montana.

Lot Four (4) in Section Six (6), Township ^{ten}10 North of Range Fifty (50) East in Prairie County, Montana;

Lot Eleven (11) in Section Three (3);

Lots Seven (7), Nine (9), Ten (10), Twelve (12) and Thirteen (13) in Section Four (4);

Lots Five (5) and Six (6) in Section Eight (8);

Lots Two (2), Four (4), Five (5), Six (6), the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$), the East Half of the Northeast Quarter (E $\frac{1}{2}$ NE $\frac{1}{4}$), and the Southeast Quarter (SE $\frac{1}{4}$) of Section Nine (9);

Lot Three (3), the West Half of the Northwest Quarter (W $\frac{1}{2}$ NW $\frac{1}{4}$) and the Southeast Quarter of the Northwest Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section Ten (10);

The West Half (W $\frac{1}{2}$) of Section Sixteen (16);

Lots Two (2), Three (3), the Southeast Quarter of the Northwest Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$), the Northeast Quarter (NE $\frac{1}{4}$) and the South Half (S $\frac{1}{2}$) of Section Seventeen (17);

Lots Eight (8) and Ten (10) of Section Eighteen (18);

Lots Eight (8), Nine (9), Ten (10), Eleven (11), Twelve (12), Thirteen (13), and the Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section Nineteen (19);

All of Section Twenty (20);

The Northwest Quarter (NW $\frac{1}{4}$) and the West Half of the Southwest Quarter (W $\frac{1}{2}$ SW $\frac{1}{4}$) of Section Twenty-one (21);

The North Half (N $\frac{1}{2}$) and the Southwest Quarter (SW $\frac{1}{4}$) of Section Twenty-nine (29);

That Portion of Section Thirty (30), Township Eleven (11), North of Range Fifty (50) East, lying north and west of the Northern Pacific Railway right-of-way;

Lots One (1), Two (2), Three (3), Four (4), the East Half of the West Half (E $\frac{1}{2}$ W $\frac{1}{2}$) and the Northeast Quarter (NE $\frac{1}{4}$) of Section Thirty-one (31);

All in Township Eleven (11) North of Range Fifty (50) East in Prairie County, Montana.

Lots One (1), Two (2), Three (3), Four (4), Five (5), the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$), the Northeast Quarter of the Southeast Quarter (NE $\frac{1}{4}$ SE $\frac{1}{4}$) and the South Half of the Southeast Quarter (S $\frac{1}{2}$ SE $\frac{1}{4}$) of Section Thirteen (13);

The North Half of the Northeast Quarter (N $\frac{1}{2}$ NE $\frac{1}{4}$) of Section Twenty-four (24);

All in Township Twelve (12) North of Range Fifty (50) East in Prairie County, Montana.

Lot One (1) in Section Seven (7);

Lots One (1) and Two (2) in Section Eight (8);

Lots One (1), Two (2) and Three (3) in Section Nine (9);

Lots One (1) and Two (2) in Section Ten (10);

Lot Five (5) in Section Eleven (11);

Lots One (1), Two (2), Three (3), Four (4) and the South Half (S $\frac{1}{2}$) of Section Thirteen (13);

Lots One (1), Two (2), Three (3), the Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$).

the South Half of the North Half ($S\frac{1}{2}N\frac{1}{2}$) and the South Half ($S\frac{1}{2}$) of Section Fourteen (14);

Lot One (1), the Northeast Quarter of the Northwest Quarter ($NE\frac{1}{4}NW\frac{1}{4}$), the South Half of the Northwest Quarter ($S\frac{1}{2}NW\frac{1}{4}$), the Northeast Quarter ($NE\frac{1}{4}$) and the South Half ($S\frac{1}{2}$) of Section Fifteen (15);

The Southeast Quarter of the Northeast Quarter ($SE\frac{1}{4}NE\frac{1}{4}$), Lot One (1), the Northwest Quarter of the Northeast Quarter ($NW\frac{1}{4}NE\frac{1}{4}$) the North Half of the Northwest Quarter ($N\frac{1}{2}NW\frac{1}{4}$) and the Southwest Quarter of the Northwest Quarter ($SW\frac{1}{4}NW\frac{1}{4}$) of Section Sixteen (16);

Lots One (1), and Two (2), the South Half of the Northwest Quarter ($S\frac{1}{2}NW\frac{1}{4}$), the Northeast Quarter ($NE\frac{1}{4}$) and the South Half ($S\frac{1}{2}$) of Section Seventeen (17);

Lots One (1), Two (2), Three (3), Four (4), Five (5), Six (6), Seven (7), the Southeast Quarter of the Northwest Quarter ($SE\frac{1}{4}NW\frac{1}{4}$), the East Half of the Southwest Quarter ($E\frac{1}{2}SW\frac{1}{4}$), the South Half of the Northeast Quarter ($S\frac{1}{2}NE\frac{1}{4}$) and the Southeast Quarter ($SE\frac{1}{4}$) of Section Eighteen (18); except right-of-way of Chicago, Milwaukee & St. Paul Railway Company;

Lots One (1), Two (2), Three (3), Four (4), the East Half of the West Half ($E\frac{1}{2}W\frac{1}{2}$) and the East Half ($E\frac{1}{2}$) of Section Nineteen (19);

All of Section Twenty (20);

All of Section Twenty-one (21), except a tract known as the Fillenworth Addition described as follows: Commencing at a point on the north line of said Section Twenty-one (21) a distance of 1181.8 feet east of the northwest corner of said section, running thence south $2^{\circ}19'$ east, a distance of 1250.9 feet, thence north $87^{\circ}41'$ east, a distance of 3040 feet, thence north $2^{\circ}19'$ west a distance of 1132.2 feet to the north line of said section and thence west on north line of said Section Twenty-one (21) to the point of beginning, containing approximately 83.19 acres;

All of Section Twenty-two (22);

All of Section Twenty-three (23);

The Northwest Quarter of the Southwest Quarter ($NW\frac{1}{4}SW\frac{1}{4}$), the West Half of the Northwest Quarter ($W\frac{1}{2}NW\frac{1}{4}$), the Northeast Quarter of the Northwest Quarter ($NE\frac{1}{4}NW\frac{1}{4}$) and the Northwest Quarter of the Northeast Quarter ($NW\frac{1}{4}NE\frac{1}{4}$) of Section Twenty-four (24);

All in Township Twelve (12) North of Range Fifty-one (51) East in Prairie County, Montana.

Lots One (1) and Two (2) in Section Eighteen (18)

Lots One (1), Two (2), Three (3), Four (4), the South Half of the North Half ($S\frac{1}{2}N\frac{1}{2}$) and the South Half ($S\frac{1}{2}$) of Section One (1);

Lots One (1), Two (2), Three (3), Four (4), the South Half of the North Half ($S\frac{1}{2}N\frac{1}{2}$) and the South Half ($S\frac{1}{2}$) of Section Two (2);

Lot Seven (7) and the Northeast Quarter of the Southeast Quarter ($NE\frac{1}{4}SE\frac{1}{4}$) of Section Three (3);

The Southeast Quarter of the Northeast Quarter ($SE\frac{1}{4}NE\frac{1}{4}$) and the Northeast Quarter of the Southeast Quarter ($NE\frac{1}{4}SE\frac{1}{4}$) of Section Ten (10);

The North Half ($N\frac{1}{2}$) and the North Half of the Southwest Quarter ($N\frac{1}{2}SW\frac{1}{4}$) of Section Eleven (11);

All in Township Twelve (12) North of Range Fifty-two (52) East in Prairie County, Montana.

Lots One (1), Two (2), Three (3), Four (4), and the South Half of the North Half ($S\frac{1}{2}N\frac{1}{2}$) of Section Five (5);

Lots One (1), Two (2), Three (3), Four (4), Five (5), Six (6), and Seven (7), the Southeast Quarter of the Northwest Quarter ($SE\frac{1}{4}NW\frac{1}{4}$), the South Half of the Northeast Quarter ($S\frac{1}{2}NE\frac{1}{4}$), the Northeast Quarter of the Southwest Quarter ($NE\frac{1}{4}SW\frac{1}{4}$) and the Northwest Quarter of the Southeast Quarter ($NW\frac{1}{4}SE\frac{1}{4}$) of Section Six (6);

All in Township Twelve (12) North of Range Fifty-three (53) East in Prairie County, Montana.

Lots Seven (7), Eight (8), Nine (9), and the South Half of the Southwest Quarter ($S\frac{1}{2}SW\frac{1}{4}$) of Section Twenty-five (25);

Lots One (1), Two (2), Three (3), and Four (4) in Section Twenty-six (26);

Lots One (1), Two (2), Three (3), Four (4), the South Half of the Southeast Quarter ($S\frac{1}{2}SE\frac{1}{4}$) and the Southwest Quarter ($SW\frac{1}{4}$) of Section Twenty-seven (27);

Lots One (1), Two (2), Three (3), and the Southeast Quarter of the Southeast Quarter ($SE\frac{1}{4}SE\frac{1}{4}$) of Section Twenty-eight (28);

Lots One (1), Two (2), Three (3), Four (4), the Southwest Quarter of the Southeast Quarter ($SW\frac{1}{4}SE\frac{1}{4}$), the East Half of the Southeast Quarter ($E\frac{1}{2}SE\frac{1}{4}$), and the East Half of the Northeast Quarter ($E\frac{1}{2}NE\frac{1}{4}$) of Section Thirty-three (33);

North Half ($N\frac{1}{2}$), the West Half of the Southwest Quarter ($W\frac{1}{2}SW\frac{1}{4}$) and the East Half of the Southeast Quarter ($E\frac{1}{2}SE\frac{1}{4}$) of Section Thirty-four (34);

All of Section Thirty-five (35);

Lot One (1), the Northwest Quarter of the Northeast Quarter ($NW\frac{1}{4}NE\frac{1}{4}$), the South Half of the Northeast Quarter ($S\frac{1}{2}NE\frac{1}{4}$), the Northwest Quarter ($NW\frac{1}{4}$), and the South Half ($S\frac{1}{2}$) of Section Thirty-six (36);

All in Township Thirteen (13) North of Range Fifty-two (52) East in Prairie County, Montana.

Lots One (1), Two (2), Three (3), Four (4), and the East Half of the Southwest Quarter (E $\frac{1}{2}$ SW $\frac{1}{4}$) of Section Thirty-one (31), Township Thirteen (13) North of Range Fifty-three (53) East in Prairie County, Montana.

That the name of said irrigation district shall be and is hereby designated as;
BUFFALO RAPIDS IRRIGATION DISTRICT NO. 2;

That the said irrigation district shall be under the supervision of the United States of America, acting by and through the Bureau of Reclamation or other department as now existing or as it may hereafter exist under and by virtue of the laws of the United States of America;

That said Buffalo Rapids Irrigation District No. 2 shall be sub-divided into three Divisions;

That SHIRLEY DIVISION shall include the following described lands, to-wit:

All lands within the irrigation district hereby created and hereinbefore described which are situated within Township Ten (10) North, Range Forty-nine (49) East; also all lands within said irrigation district situated within Township Eleven (11) North, Range Forty-nine (49) East; Lot Four (4) of Section Six (6), Township Ten (10) North, Range Fifty (50) East; and also all lands within said irrigation district within Township Eleven (11) North, Range Fifty (50) East.

That TERRY DIVISION shall include the following described lands, to-wit;

All lands included within the irrigation district hereby created and hereinbefore described which are in Township Twelve (12) North, Range Fifty (50) East; also all lands within said irrigation district which are situated within Township Twelve (12) North, Range Fifty-one (51) East; and all lands which are described as Lots One (1) and Two (2) of Section Eighteen (18), Township Twelve (12) North, Range Fifty-two (52) East.

That FALLON DIVISION shall include the following described lands, to-wit;

All lands included within the said irrigation district as hereinbefore described and which are situated within Township Twelve (12) North, Range Fifty-two (52) East, except Lots One (1), and Two (2) of Section Eighteen (18), Township Twelve (12) North, Range Fifty-two (52) East; and also all lands which are included in the irrigation district and which are situated within Township Twelve (12) North, Range Fifty-three (53) East; and all lands which are situated within Township Thirteen (13) North, Range Fifty-two (52) East; and Lots One (1), Two (2), Three (3), Four (4), and the East Half of the Southwest Quarter (E $\frac{1}{2}$ SW $\frac{1}{4}$) of Section Thirty-one (31), Township Thirteen (13) North, Range Fifty-three (53) East.

IT IS FURTHER ORDERED that John Nelson of Custer County, Montana, be and he is hereby appointed Commissioner of the Shirley Division;

That I. E. Thomas of Prairie County, Montana, be and he is hereby appointed Commissioner of the Terry Division;

That H. R. Morse of Prairie County, Montana, be and he is hereby appointed Commissioner of the Fallon Division.

Done this 10th day of February, A. D., 1941.

(COURT SEAL)

/s/ RUDOLPH NELSTEAD
District Judge

CERTIFICATE OF COPY

STATE OF MONTANA,
SIXTEENTH JUDICIAL DISTRICT, : SS.
COUNTY OF PRAIRIE,

I HEREBY CERTIFY the foregoing to be a full, true and correct copy of the original "ORDER" in the matter of the organization of Buffalo Rapids Irrigation District No. 2, Civil Matter No. 1574 now on file in my office.

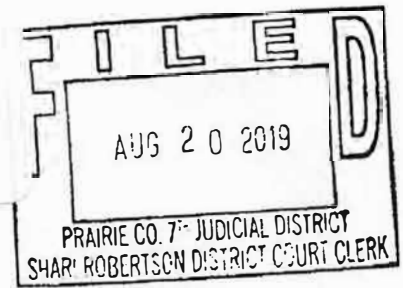
IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court this 20th day of February, A. D. 1941.

(COURT SEAL)

Kath Otis
Clerk

173335 Fee: \$28.00

Custer County Recorded 9/11/2019 At 3:35 PM
Linda Corbett, Clk & Rcdr By *[Signature]*
Return to: ARB Law Group 7 W. 6th Ave, Ste 512
HELENA MT 59601



MONTANA SEVENTH JUDICIAL DISTRICT, PRAIRIE COUNTY

**IN RE THE MATTER OF BUFFALO RAPIDS
IRRIGATION DISTRICT NO. 2**

CAUSE NO. DV-40-2019-0014-OC

**ORDER, JUDGEMENT & DECREE
RE: BUFFALO RAPIDS
IRRIGATION DISTRICT #2
PETITION TO CHANGE
EXTERIOR BOUNDARIES**

On August 19, 2019 at 2:00 p.m., the above-entitled matter came on regularly for hearing before this Court, sitting without a jury, at the courtroom of the above-entitled Court in Terry, Prairie County, Montana. Petitioner Buffalo Rapids Irrigation District #2 ("District") appeared through its Manager Tim Kortum, with its counsel of record, Abigail R. Brown of ARB Law Group. There were no other appearances.

Due and legal proof of the publication of said hearing to extend the District's exterior boundaries has been made pursuant to Mont. Code Ann. § 85-7-1809 and Affidavits of Publication was filed with the Clerk of Court on or about August 12, 2019. There were no protests made at the hearing to the petition and there were no written protests presented to or filed with the Court.

The Court, having fully considered the District's petition filed herein and having considered the evidence submitted in support of said petition, and being fully advised in the matter, finds as follows:

FINDINGS OF FACT

1. The name of the District is the Buffalo Rapids Irrigation District No. 2. The District was established and organized by Order of the Sixteenth Judicial District Court; Prairie County dated February 10, 1941 as Civil Matter No. 1574.
2. The District has been and is now a duly and regularly created irrigation district that operates under the laws of the State of Montana.
3. The District filed its petition to change its exterior boundaries with this Court on June 13, 2019, in due and proper form as required by Mont. Code Ann. § 85-7-1808, to extend the boundaries of the District.
4. Evidence of the title of lands sought to be included in the District was provided. The land sought to be included by the District is 60 acres owned by Diamond Ring Ranch LLC, who consented in writing to the inclusion of his lands within the District boundaries. See Petition at Exh. A. at attach. 1.
5. Diamond Ring Ranch's 60 acres petitioned to be included in the District were not part of a previous court decree but are susceptible to irrigation by the District's irrigation canal and works and water supply. See Petition at Exh. A. at attach. 1. The lands sought to be included have no other feasible way or source to irrigate their lands, other than the District's irrigation works.
6. The specific 60 acres of irrigable lands owned by Diamond Ring Ranch to be included in the District and subject to assessment by the District are more particularly described as:

Township 10N, Range 49E, Custer County

Section 15: SENE, N2NESE

7. The District's extended exterior boundary is shown on an aerial photograph attached to the District's Petition as Exh. A at attach. 2.

8. Extension of the District boundary, as petitioned, shall not deprive the lands already in the District of an adequate supply of water for irrigation purposes.
9. Extension of the District boundary, as petitioned, does not impair or affect the District's organization or its rights in or to property or any of its rights or privileges or whatsoever kind or nature, nor does it affect, impair, or discharge any contract, obligation, lien, or charge for or upon which it was or might become liable or chargeable had such a change of its boundaries not been made.

That from the foregoing Findings of Fact, and being duly and fully advised, and all matters having been duly and fully considered, this Court makes its:

CONCLUSIONS OF LAW

1. This Court has jurisdiction over this cause of action.
2. The District's Petition to Change the Boundaries of the Buffalo Rapids Irrigation District #2 meets all the requirements of law set forth in Mont. Code Ann. §§ 85-7-1801 through 85-7-1810.
3. Pursuant to Mont. Code Ann. § 85-7-1810, the District's petition that extends the exterior boundary to include the Consent Acres is **GRANTED**.
4. Diamond Ring Ranch's above-described acres that are to be included in the extended District boundaries shall be subject to the same laws, regulations, and assessments that are binding upon the other lands within the District. Therefore, District's Board of Commissioners shall take all appropriate actions, including, but not limited to those actions set forth in Mont. Code Ann. §§ 18-7-2102 to -2111 to determine the irrigable areas within the District's extended boundaries and fix the appropriate assessment on the irrigable lands within the District. The District's Board of Commissioners may, but is not required to, seek confirmation by this Court

of the board's actions in determining the irrigable area and fixing, refunding, or cancelling any taxes or assessments pursuant to Mont. Code Ann. § 85-7-2112.

5. Pursuant to Mont. Code Ann. §§ 85-7-1807 and -1810, this order shall be final and conclusive upon all of the owners of the lands within the District and shall have the same effect as the order originally creating the District, unless appealed to the Montana Supreme Court within the timeframes set forth Mont. Code Ann. §§ 85-7-1807 or -1810.
6. Nothing in this Order shall be construed as an adjudication of the elements of the District's water right claims. Adjudication of the elements of an existing water right is within the exclusive jurisdiction of the Montana Water. See *In re Formation of E. Bench Irrigation Dist.*, 2009 MT 135, ¶ 34, 350 Mont. 309, 207 P.3d 1097.

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED,

1. The District's exterior boundary shall be extended to include the lands in Custer County, Montana specifically described above in Finding of Fact No. 6.
2. The irrigable acres within the District's above-mentioned extended exterior boundary shall be taxed by the District in accordance with applicable statutory requirements.
3. A duly certified copy of this Order, Judgement & Decree shall be filed with the Office of the Clerk & Recorder of Custer County, Montana within 30 days, in accordance with Mont. Code Ann. §§ 85-7-1807 and -1810.

Olivia Rueger 08/19/2019
District Judge

CERTIFICATE OF COPY

STATE OF MONTANA
Seventh Judicial District, } ss.
County of Prairie,

I HEREBY CERTIFY the foregoing to be a full, true and correct copy of the original Order, Judgement and Decree

now on file in my office. Page 1
IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court this 19th day of September, 2019

Shari Robertson
Clerk of District Court

By Melanie Sheffler

Order, Judgement & Decree re: Buffalo Rapids Irr. District #2 Pet.
to Extend District Boundaries (CAUSE NO. DV-10-2019-0014-OC)

173335 Fee: \$28.00

Custer County Recorded 9/11/2019 At 3:35 PM

MONTANA SEVENTH JUDICIAL DISTRICT, PRAIRIE COUNTY

**IN RE THE MATTER OF BUFFALO RAPIDS
IRRIGATION DISTRICT NO. 2**

CAUSE NO. DV-2020-008

**ORDER, JUDGEMENT & DECREE
RE: BUFFALO RAPIDS
IRRIGATION DISTRICT #2
SECOND PETITION TO CHANGE
EXTERIOR BOUNDARIES**

On August 10, 2020, the above-entitled matter came on regularly for hearing before this Court, sitting without a jury, at the courtroom of the above-entitled Court in Terry, Prairie County, Montana. Petitioner Buffalo Rapids Irrigation District #2 ("District") appeared through its counsel of record, Abigail R. Brown of ARB Law Group. There were no other appearances.

Due and legal proof of the publication of said hearing to extend the District's exterior boundaries has been made pursuant to Mont. Code Ann. § 85-7-1809 and Affidavits of Publication was filed with the Clerk of Court on or about August 6, 2020. There were no protests made at the hearing to the petition and there were no written protests presented to or filed with the Court.

The Court, having fully considered the District's petition filed herein and having considered the evidence submitted in support of said petition, and being fully advised in the matter, finds as follows:

FINDINGS OF FACT

1. The name of the District is the Buffalo Rapids Irrigation District No. 2. The District was established and organized by Order of the Sixteenth Judicial District Court; Prairie County dated February 10, 1941 as Civil Matter No. 1574.

2. The District has been and is now a duly and regularly created irrigation district that operates under the laws of the State of Montana.
3. On August 20, 2019 the Court issued an Order, Judgement and Decree extending the District's exterior boundaries to include 60 acres in the SENE and N2NESE § 15 T10N R49E, Custer County.
4. During the District's internal work to conform the place of use of its water rights with the extended boundary, the District discovered that 252-acre parcel of land, which had been included in all District maps and records for several decades, had never been formally included in the District by court decree, as required by statute.
5. The District filed its petition to change its exterior boundaries with this Court on July 8, 2020, in due and proper form as required by Mont. Code Ann. § 85-7-1808, to extend the boundaries of the District to include this 252-acre parcel.
6. Evidence of the title of lands sought to be included in the District was provided. The land sought to be included by the District is 252 acres, more or less, owned by Kalfell Ranch, Inc., who consented in writing to the inclusion of his lands within the District boundaries. *See* Petition at Exh. A. at attach. 1.
7. Kalfell Ranch, Inc.'s 252 acres petitioned to be included in the District were not part of a previous court decree but are susceptible to irrigation by the District's irrigation canal and works and water supply and have been irrigated with District water for several decades. *See* Petition at Exh. A. at attach. 1. The lands sought to be included have no other feasible way or source to irrigate their lands, other than the District's irrigation works.
8. The specific 252 acres of irrigable lands owned by Kalfell Ranch, Inc. to be included in the District and subject to assessment by the District are more particularly described as:

Township 11N, Range 50E, Prairie County

Section 30: All land lying south and east of the Northern Pacific Railway Company right-of-way and Interstate I-94 [PT SE'LY OF BNRR LESS HWY 11.92 AND INT 94 17.3]

9. The District's extended exterior boundary is shown on an aerial photograph attached to the District's Petition as Exh. A at attach. 2.
10. Extension of the District boundary, as petitioned, shall not deprive the lands already in the District of an adequate supply of water for irrigation purposes.
11. Extension of the District boundary, as petitioned, does not impair or affect the District's organization or its rights in or to property or any of its rights or privileges or whatsoever kind or nature, nor does it affect, impair, or discharge any contract, obligation, lien, or charge for or upon which it was or might become liable or chargeable had such a change of its boundaries not been made.

That from the foregoing Findings of Fact, and being duly and fully advised, and all matters having been duly and fully considered, this Court makes its:

CONCLUSIONS OF LAW

1. This Court has jurisdiction over this cause of action.
2. The District's Second Petition to Change the Boundaries of the Buffalo Rapids Irrigation District #2 meets all the requirements of law set forth in Mont. Code Ann. §§ 85-7-1801 through 85-7-1810.
3. Pursuant to Mont. Code Ann. § 85-7-1810, the District's petition that extends the exterior boundary to include the Consent Acres is **GRANTED**.
4. Kalfell Ranch's above-described acres that are to be included in the extended District boundaries shall be subject to the same laws, regulations, and assessments that are binding

upon the other lands within the District. Therefore, District's Board of Commissioners shall take all appropriate actions, including, but not limited to those actions set forth in Mont. Code Ann. §§ 18-7-2102 to -2111 to determine the irrigable areas within the District's extended boundaries and fix the appropriate assessment on the irrigable lands within the District. The District's Board of Commissioners may, but is not required to, seek confirmation by this Court of the board's actions in determining the irrigable area and fixing, refunding, or cancelling any taxes or assessments pursuant to Mont. Code. Ann. § 85-7-2112.

5. Pursuant to Mont. Code Ann. §§ 85-7-1807 and -1810, this order shall be final and conclusive upon all of the owners of the lands within the District and shall have the same effect as the order originally creating the District, unless appealed to the Montana Supreme Court within the timeframes set forth Mont. Code Ann. §§ 85-7-1807 or -1810.
6. Nothing in this Order shall be construed as an adjudication of the elements of the District's water right claims. Adjudication of the elements of an existing water right is within the exclusive jurisdiction of the Montana Water. See *In re Formation of E. Bench Irrigation Dist.*, 2009 MT 135, ¶ 34, 350 Mont. 309, 207 P.3d 1097.

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED,

1. The District's exterior boundary shall be extended to include the lands in Prairie County, Montana specifically described above in Finding of Fact No. 6.
2. The irrigable acres within the District's above-mentioned extended exterior boundary shall be taxed by the District in accordance with applicable statutory requirements.
3. A duly certified copy of this Order, Judgement & Decree shall be filed with the Office of the Clerk & Recorder of Prairie County, Montana within 30 days, in accordance with Mont. Code Ann. §§ 85-7-1807 and -1810.

Olivia Rieger

Electronically signed in Chambers

District Judge

CC: Abigail R. Brown, Atty for Petition (abby@mtwaterlaw.com)

Water Resources Survey

RECORDS
MANAGEMENT
WRS COPY



Part I:

HISTORY OF LAND AND WATER
USE ON IRRIGATED AREAS

Custer County, Montana

Published by

STATE ENGINEER'S OFFICE

Helena, Montana, July, 1948

EXHIBIT 4

IN WITNESS WHEREOF, the parties hereto have caused this contract to be executed the day and year first above written.

THE UNITED STATES OF AMERICA

By /s/ H. W. Johnson
Acting Regional Director

(CORPORATE SEAL)

ATTEST: /s/ Henry H. George
Secretary

KINSEY IRRIGATION COMPANY

By /s/ Matt Mathison
President

The Kinsey Project is located on the north side of the Yellowstone River about 14 miles below Miles City in Custer County. It is served by the main line of the Chicago, Milwaukee, St. Paul and Pacific Railroad. The main shipping point is at Kinsey. Improved gravelled roads make Miles City the principal trading center available throughout the year.

The principal crops are sugar beets, alfalfa, wheat, barley, corn, oats and potatoes. Sheep, beef cattle, dairy cattle, hogs and poultry are raised on the project in considerable numbers. Sheep and cattle are also brought to the Project from adjacent ranges to be fed.

Seepage has not been a factor—having only occurred in small areas. In these areas drain ditches have been constructed or are being constructed. Water users report that the water supply is adequate during high water in the Yellowstone River if all pumps are operating, but that during low water they are sometimes short when all users are irrigating. To alleviate a water shortage users are placed on a water rotation basis until the situation is relieved.

In 1947 there were 6,205.10 acres being irrigated under the Kinsey Irrigation Company system, with a potential acreage under existing works of 779.50 acres, or a maximum irrigable acreage of 6,984.60 acres.

SECOND DIVISION, BUFFALO RAPIDS PROJECT

Shirley Unit

The Second Division, Buffalo Rapids Project, is located in eastern Montana. Three separate units: Shirley, Terry and Fallon comprise the Second Division.

The Shirley Unit is located in Prairie and Custer Counties, the southwesterly end being eighteen miles northeast of Miles City. From this location, Shirley Unit lands extend northeasterly along the southerly bank of the Yellowstone River a distance of thirteen miles.

The Second Division, Buffalo Rapids Project, is a Water Conservation and Utility Project, authorized under the "Great Plains Act" of August 11, 1939. An allocation of \$740,000 was approved by the President on May 15, 1940 from the Department of the Interior Appropriation Act of 1940. Of the \$740,000 allocated, \$515,000 was for use by the Bureau of Reclamation to construct the irrigation system. The remaining \$225,000 was for

use by the Department of Agriculture for development and settlement of the project. Under the President's approval of May 15, 1940, the amount allocated from the Department of the Interior Appropriation Act of 1940, \$740,000 was to be repaid by the water users. In addition to the above funds, a \$1,100,000 grant was to be provided by the Work Projects Administration. This grant was not to be repaid into the Federal Treasury.

Under this authorization and allocation of funds, construction of the irrigation system was begun in September, 1940. It soon became evident that W.P.A. would not furnish sufficient labor to accomplish the work. In January, 1942 a Civilian Conservation Corps camp at Terry, Montana was occupied. Under technical supervision of the Bureau of Reclamation, C.C.C. labor was also used for construction. The overall C.C.C. program was discontinued in July, 1942 and the camp at Terry was disbanded. The abandoned camp was occupied in January, 1943 by Civilian Public Service assignees. Under technical sponsorship of the Farm Security Administration a limited amount of C.P.S. labor was available for Bureau of Reclamation work. The W. P. A. program on the project was discontinued in January, 1943 and all W. P. A. help ceased entirely.

With the discontinuance of the W. P. A. program and consequent failure to realize the full amount of the anticipated W. P. A. contributions toward project construction, funds for completing irrigation features became inadequate. Some of the relief labor help anticipated from W. P. A. was made up by C. C. C. and C. P. S. contributions, but this help did not approach that scheduled for W. P. A. under the original Presidential authorization. On November 30, 1943 the President approved an additional allotment of \$706,000 from funds appropriated under the "Great Plains Act" of August 11, 1939, as amended with the stipulation that none of the additional funds were to be made available for construction of the Fallon Unit until the War Production Board had approved priorities for the critical materials needed. These funds were to be used in lieu of the W. P. A. contributions, which that agency had been unable to furnish. The application to W. P. B. for priorities for the Fallon Unit was refused. In order to complete the Shirley and Terry Units, \$200,000 of the \$706,000 allotment was made available to the project in April, 1944. With these funds and contributed C. P. S. labor, work on the project was continued on the Shirley and Terry Units during 1944 and 1945. In March, 1946 a teletype from the Commissioner advised that the Bureau of the Budget had informally approved an additional allocation of \$646,000 for construction of the Fallon Unit.

Development work on the project, consisting of land leveling and farm ditches, was started by the Farm Security Administration late in 1943. This work for the Shirley and Terry Units was completed during 1944 and 1945. Development work on the Fallon Unit, started in the spring of 1947 by the Soil Conservation Service, is to be completed in 1948.

Irrigable lands of the Second Division, Buffalo Rapids Project, total 11,600 acres. Of this total, the Shirley Unit contains 5,300 acres, the Terry Unit contains 2,800 acres and the Fallon Unit contains 3,500 acres.

The Shirley Pumping Plant is located on the Yellowstone River about 18 miles downstream from Miles City, Montana. At the present time two pumping units are installed, each having a capacity of 37 second feet when operating against a pumping head of 51 feet. Each pump is driven by a 250 horsepower, 2300 volt, synchronous electric motor. Power is supplied

by the Montana-Dakota Utilities Company from their 57,000 volt transmission line. A Bureau tap line .43 of a mile long connects the Company's transmission line to the Bureau substation at the pumping plant where transformers reduce the voltage to 2300 volts for pump operation, and to 110 to 220 volts for pumphouse lighting and incidental power. Water is pumped into the Shirley main canal through a triple barrel conduit 542 feet long. Each barrel of the discharge line is 3'.0" in diameter. Construction of the Shirley Unit pumphouse required 24,140 cubic yards of excavation and backfill, 1,012 cubic yards of concrete and 159,649 pounds of reinforcing steel.

The Shirley main canal has a maximum section conforming to the following dimensions: base width 8.0 feet, total depth 6.5 feet, side slopes $1\frac{1}{2}$: 1, water depth 4.0 feet. These dimensions permit a maximum flow of 105 second feet, which is the ultimate capacity designed for the irrigable lands of the Shirley Unit. The main canal is 13.5 miles in length and required 260,144 cubic yards of excavation and 7,574 cubic yards of compacted embankment. Eight siphons, varying in diameter from 5'.0" to 2'.6" and in length from 50 feet to 347 feet were constructed across natural surface runoff channels. Six of these siphons are of monolithic pipe construction and two are constructed of precast concrete pipe. Main canal siphon construction required 25,307 cubic yards of excavation and backfill, 1,454 cubic yards of concrete and 63,212 pounds of reinforcing steel.

Laterals, totaling 15.1 miles in length, were necessary to serve the 5,300 acres of irrigable land comprising the Shirley Unit. Excavation for these laterals amounted to 76,357 cubic yards. A total of 14 siphons were constructed as part of the lateral system with pipe diameters ranging from 42" to 24" and lengths ranging from 57 feet to 294 feet. Lateral siphons required 9,347 cubic yards of excavation and backfill, 170 cubic yards of concrete, 12,076 pounds of reinforcing steel and 1,340 lineal feet of precast concrete pipe. Lateral minor structures included the usual farm delivery turnouts, lateral turnouts, bridges, checks, drops and weirs. Feature quantities for these minor structures amounted to 7,098 cubic yards of excavation and backfill, 571 cubic yards of concrete, 40,971 pounds of reinforcing steel, 95½ lineal feet of concrete pipe, 23 bridges and 36,075 pounds of miscellaneous metal work.

Provisions for the various methods of irrigation are incorporated in development operations by S.C.S. depending upon each individual field. The border dike system is established wherever fields, after leveling, have slopes less than 2.5 feet per 100 feet. Twenty-foot dikes are used where the ground slopes range between 1.25 and 2.5 feet per 100 feet; thirty-foot dikes are used where slopes range between .7 and 1.25 feet per 100 feet; forty-foot dikes are used where slopes range between .3 and .7 feet per 100 feet; and fifty-foot dikes are installed where slopes range between 0 and .3 feet per 100 feet. Contour ditches are installed on steeper slopes where the best use of water combined with erosion control are required.

Crops in 1947 consisted of hay, forage crops, grain and sugar beets. Most of the land on the project belong to the Department of Agriculture and was being developed by that agency. Very few farmers lived on the project during 1947.

Project settlement and development is under the direction of the Soil Conservation Service. These functions were transferred from the Farm Security Administration in June, 1946. Purchase of land for division into farm units was handled from a special fund allotted to the Department of Agriculture. A total of 21,172 acres were purchased by the F. S. A. at an average cost of \$4.76 per acre on the Second division.

A water users organization, called the Buffalo Rapids Irrigation District No. 2, was created in January, 1941. Ultimately, this organization will handle operation and maintenance on the Second Division. To date, (May 7, 1948) no contract has been executed between the United States and the District covering this function. As of 1947, no repayment contract had been executed by the Buffalo Rapids Irrigation District No. 2 for the Second Division. Consequently, no construction charges were levied against project irrigable lands.

A cooperative organization, called the Buffalo Rapids Farms Association, was organized in conformance with Section 6375, revised codes of Montana for 1935. Certificate of Incorporation was issued November 19, 1941. Under this Section the organization is not required to file Articles of Incorporation. Officers and board members for the Association are elected each year by the farmers on the project. It was organized to administer government owned land and to expedite work that government agencies are not authorized to perform. The Association also takes care of the operation and maintenance of the irrigation system, pumping plant, ditch riders, etc. All work performed by the Association is under government supervision. The S.C.S. is in charge of the project, approving the budget, leases, etc.

The Bureau of Reclamation charges the Association \$1.00 per acre-foot for water used. Leasees are charged \$2.00 per acre-foot by the Association. This additional charge is for operation and maintenance. Fifty percent of the profits made by the Association are turned over to the government under lease agreement. Any profits made from the balance are turned over to the members of the Buffalo Rapids Farms Association in the form of dividends. Some profits have been made.

BY-LAWS OF BUFFALO RAPIDS FARMS ASSOCIATION

ARTICLE I

Section 1. The name of this corporation is BUFFALO RAPIDS FARMS ASSOCIATION.

Section 2. The principal office of this corporation shall be located in the Town of Glendive, Dawson County, Montana.

ARTICLE II

Section 1. The seal of this corporation shall have inscribed the name of the corporation, the year of its organization, and the word "Montana," and shall be in the custody of the Secretary.

ARTICLE III

Section 1. The fiscal year of this corporation shall begin on the first day of January of each year.

ARTICLE IV

Section 1. The members of this corporation shall consist of the owners of the shares of its capital stock. Any person eighteen (18) years of age or over, engaged in agricultural

pursuits, who resides at or in the vicinity of the Buffalo Rapids Project of the Farm Security Administration, United States Department of Agriculture, in Prairie, Dawson and Custer Counties, Montana, and who is approved for membership by the Board of Directors of the corporation, shall be eligible to purchase a share of stock and to become a member of this corporation upon complying with the terms and conditions prescribed in these By-Laws; provided, however, that not more than one (1) person in each household may be admitted to membership.

Section 2. Application for membership shall be made on a stock subscription form prescribed by the Board of Directors. The application shall be accompanied by the sum of One Dollar (\$1.00) to be applied against the purchase price of one (1) share of stock. The shares of stock shall be sold at their par value of \$10.00. The balance of the purchase price may be paid upon acceptance of the application, or in deferred installments approved by the Board of Directors. Any promissory note given in payment or part payment of, or as evidence of a promise to pay for, capital stock of this corporation, shall have written or printed across the face thereof the words "Subscription note for one share of the capital stock of Buffalo Rapids Farms Association." If the application is not accepted, the deposit shall be returned to the applicant. Upon acceptance of the application, the Secretary shall issue to the new member a stock certificate, in the form prescribed by the Board of Directors, signed by the President and Secretary, shall enter the name of the new member upon the stock record book of the corporation, and shall present him with a copy of the By-Laws. The corporation shall have a lien upon the stock of each member for the payment of any sum due, or to become due, on any account whatsoever from the member to the corporation, and the form of stock certificate shall so provide.

Section 3. No assignment of stock shall be made to any person who already owns a share, and in no event except by the consent of a majority of the members, but stock may be assigned to the corporation at any time with the consent of the Directors. Upon the withdrawal, expulsion, removal from the Buffalo Rapids Project or its vicinity, or death of any member, the corporation shall have the option to purchase his share of stock at its book value or par value, whichever is lower. Neither the member nor his legal representative shall thereafter have any interest in the corporation, except to share, on the basis of the member's interest payments prior to such purchase of his stock, in subsequent distribution of net earned surplus, and to share in the retirement of retained patronage refunds, in accordance with the provisions of Article XI of these By-Laws.

Section 4. Any member who has failed to cooperate in the purposes and objects of this corporation, or has acted contrary to the best interests of the corporation, may be expelled by a majority vote of the members upon the recommendation of the Board of Directors, provided that such member is notified promptly, in writing, of the directors' recommendation and is given an opportunity to appear in his own defense before the next regular or special meeting of the corporation following the directors' meeting at which such recommendation shall have been made.

Section 5. Any member desiring to withdraw from the corporation may do so by depositing his stock certificate with the Secretary, to be dealt with in accordance with Section 3 hereof.

ARTICLE V

Section 1. Regular meetings of the members shall be held semi-annually on the third Monday in February and October of each year at such time and place as may be determined by the Board of Directors. The February meeting shall be known as the annual meeting. Notice of each meeting shall be given by the Secretary of the corporation at least ten (10) days prior to the date of said meeting, by mailing or delivering written notice thereof to each member of record at his address as it appears upon the records of the corporation. Such notice shall state the time, place of the meeting. (Amended 2-19-45.)

Section 2. Special meetings of the members may be called at any time by action of the Board of Directors, and such meetings must be called whenever a petition requesting such a meeting and stating the business to be brought up thereat is signed by at least ten percent (10%) of the members and presented to the Secretary or to the Board of Directors. Notice of such meetings shall be given by the Secretary in the manner provided in Section 1 of this Article. No business shall be transacted at any special meeting other than that specified in the notice thereof.

Section 3. A majority of the members of this corporation shall constitute a quorum for the transaction of business at any regular or special meeting. If a quorum shall not be present at any meeting, the members present shall have the power to adjourn the meeting from time to time without notice other than announcement at the meeting. At any such adjourned meeting at which a quorum shall be present, such business may be transacted as might have been transacted at the meeting as originally called.

Section 4. All meetings of the corporation shall be governed by Robert's "Rules of Order" (revised). The order of business at regular membership meetings shall include, as far as applicable:

1. Roll call.
2. Proof of due notice and determination of quorum.
3. Reading and disposal of any unapproved minutes.
4. Nominations for vacancies on the Board of Directors.
5. Report of Board of Directors by President, or Vice-President.
6. Report of Secretary.
7. Report of Treasurer.
8. Report of General Manager.
9. Report of Committees.
10. Unfinished business.
11. New business.
12. Elections.
13. Adjournment.

Section 5. Each member shall have one (1) vote and only one (1) vote on all matters. Voting in elections shall be by written ballot and voting on all other matters shall be by show of hands, unless ballot voting be requested by a majority of those present.

Section 6. At any regularly called general or special meeting of the members, a written vote received by mail from any absent member, and signed by him, may be read at such meeting and shall be equivalent to a vote of the member so signing; provided he has been previously notified in writing of the exact motion or resolution upon which such vote is taken, and a copy thereof is forwarded with and attached to the mailed vote.

ARTICLE VI

Section 1. The affairs of this corporation shall be managed by a board of seven directors, all of whom shall be members of the corporation. The directors shall be elected by the members at their annual meeting. For the purpose of election of directors, the Buffalo Rapids Project is hereby divided into six divisions, designated as (1) the Shirley Division; (2) the Terry division; (3) the Fallon Division; (4) the Bad Route Division; (5) the Clear Creek Division; and (6) the Sand Creek Division. The Shirley Division shall include the lands owned or controlled by the association or its stockholders lying west of a line extending north and south from the point where the Powder River enters the Yellowstone River. The Terry Division shall include the lands owned or controlled by the association or its stockholders lying between the east boundary of the Shirley Division as above located and a line extending north and south from the point of intersection of the main line of the Northern Pacific Railroad and the main line of the Chicago, Milwaukee & St. Paul Railroad. The Fallon Division shall include the lands owned or controlled by the association or its stockholders lying east of the east boundary of the Terry Division as above defined, south of the Yellowstone River and west of the section line dividing Sections 31 and 32, Township 13 North, Range 53 East extended southerly. The Bad Route Division shall include the lands owned or controlled by the association or its stockholders lying north of the Yellowstone River, east of the section line dividing Sections 23 and 24, Township 13 North, Range 52 East extended northerly from the river, and west of the range line dividing Township 14 North, Range 53 East and Township 14 North, Range 54 East. The Clear Creek Division shall include the lands owned or controlled by the association or its stockholders lying east of the east boundary of the Bad Route Division as above fixed and west of the line dividing Township 15 North, Range 54 East and Township 15 North, Range 55 East. The Sand Creek Division shall include the lands owned or controlled by the association or its stockholders lying east of the east boundary of the Clear Creek Division. The boundaries of these divisions may be revised from time to time by members of the corporation, upon the recommendation of the Board of Directors, for the purpose of maintaining approximate equality among the districts as to population by members of the corporation. The Board of Directors shall at all times include at least one resident of each division. The term of office of each director shall be one year or until his successor is elected and qualified.

Section 2. The officers of this corporation shall be a President, Vice-President, Secretary, and a Treasurer, all of whom shall be elected by the members of the corporation at their annual meeting. The President and Vice-President shall be elected from among the members of the Board of Directors; the Secretary and Treasurer need not be directors or members of the corporation. Their term of office shall be one (1) year and until their successors

are duly elected and qualified. In addition to these officers, the Board of Directors shall contract for the services of a manager or general manager, and shall fix his compensation and other terms and conditions of employment. The manager or general manager shall not be a member of the Board. The Board may appoint and remove such other officers, attorneys, and agents as it may deem necessary to carry on the business of the corporation. Such appointees need not be members of this corporation, and shall not be directors or members of their families.

Section 3. Any director officer shall vacate his office if he receives or obtains any direct personal gain or advantage arising from business dealings of this corporation with an individual, firm or corporation, differing in any way from the dealings which this corporation has with all its members, or if he competes in any way with the business of this corporation on his private account.

Section 4. Regular meetings of the Board of Directors shall be held at such time and place, and at such regular intervals, not exceeding three months, as may be designated by resolution adopted from time to time by the Board. Special meetings of the Board may be called by the President, Vice-President, or by any two members of the Board. Notice of all regular and special meetings of the Board shall be given to each Director by the Secretary of the corporation by mailing or delivering to him at his last known post office address, at least five (5) days prior to the date fixed for such meeting, a notice setting forth the time and place and in case of a Special Meeting, the notice shall also set forth the purpose thereof. Four (4) Directors shall constitute a quorum.

At any meeting at which every member of the Board shall be present, although held without notice, any business may be transacted which might have been transacted if notice of such meeting had been duly given.

Section 5. The Board of Directors shall have general power to act for the corporation in the administration and management of its affairs.

Section 6. The Board of Directors may, by resolution or resolutions, passed by a majority of the whole Board designate one or more committees which shall function in an advisory capacity, and shall report to the Board of Directors, but such committees shall not exercise any of the powers of the Board.

Section 7. Vacancies in the Board of Directors shall be filled by the members at their next regular meeting. Vacancies in any office shall be filled by the Board of Directors until the next regular meeting of the members, at which time the members shall fill the vacancy for the unexpired term.

Section 8. Any director may be removed from office by a vote of two thirds of all of the members of the corporation, at any regular or special meeting held after due notice of the proposed removal shall have been given to the members and to the Director whose removal is sought. The Director shall have an opportunity at such meeting to be heard in person or by counsel and to present witnesses.

Section 9. The Directors, the President and the Vice President shall serve without compensation; the Board of Directors may provide for the payment to the Secretary and Treasurer of a reasonable sum, for the time actually spent by them on the business of the corporation and for any expense incurred thereby; the Board of Directors may authorize payment to the members thereof, and to the officers of the corporation, for travel incurred in connection with the business of said corporation, at a rate not to exceed 4½¢ per mile, and may also authorize a payment to such members and officers, per diem at a rate not to exceed \$4.00 per day, for time actually spent in connection with the business of the corporation.

ARTICLE VII

Section 1. The principal duties of the President shall be to preside at all meetings of the Board of Directors and the members, to execute all instruments on behalf of this corporation, to have general supervision of the affairs of this corporation, and to perform such additional or different duties as shall, from time to time, be imposed or required by the Board of Directors.

Section 2. The principal duties of the Vice President shall be to discharge the duties of the President in the event of the absence or disability of the latter for any cause whatever.

Section 3. The principal duties of the Secretary shall be to countersign all instruments executed by this corporation, affix the seal of this corporation thereto and to such other papers as shall be required or directed to be sealed, to keep a record of the proceedings of the Board of Directors and of the members and of all committees, to keep all books, papers, records and documents belonging to this corporation or in anywise pertaining to the business thereof, and to perform such additional or different duties as shall, from time to time, be imposed or required by the Board of Directors.

Section 4. The principal duties of the Treasurer shall be to keep and account for all moneys, credits, and property of any and every nature of this corporation which shall come into his hands, to keep an accurate account of all moneys received and disbursed and proper vouchers for moneys disbursed, to render such accounts, statements, and inventories of moneys received and disbursed, and of money and property on hand, and generally of all matters pertaining to this office as shall be required by the Board of Directors, and to perform such additional or different duties as shall, from time to time, be imposed or required by the Board of Directors.

Section 5. The duties of the manager or general manager shall be; (a) to have charge of the direct management of the corporation's business in accordance with the instructions of the Board of Directors and under supervision of the Board; (b) to engage and discharge the employees of the corporation subordinate to him in accordance with the authority given by the Board of Directors; (c) to cause accurate books to be kept of the business of the corporation and to submit the same, together with all files, records, inventories and other information pertaining thereto for inspection at any time by the Board of Directors or by auditors appointed by the board; (d) to give aid, advice and recommendations to

the Board in the preparations of budgets and to furnish to the Board once a month a statement in writing of the condition of the corporation's business and submit a report of the management at the regular meeting of the members; (e) to assist the Board in formulating policies and to attend to such other duties and offices as the Board of Directors may require.

ARTICLE VIII

Section 1. The Board of Directors shall present at each semi-annual meeting and when called for by vote of the members at any special meeting, a full and clear statement of the business and condition of the corporation.

Section 2. At the close of each fiscal year, the Board of Directors shall provide for an annual audit of the accounts of the corporation by a public accountant having no connection with the corporation, the audit to be conducted in accordance with generally accepted auditing procedure. This audit shall include narrative statements of services rendered by the corporation, the balance sheet, profit and loss statements, members admitted and withdrawn, total number of members, and other proper information, and it shall be submitted in written form to the members at the annual meeting in February, or as soon thereafter as practicable. The Board may provide such other audits as shall be desirable in the best interests of the corporation.

Section 3. The Treasurer, Manager, and other officers or employees, having the custody of funds or goods of the corporation, shall each give or execute a fidelity bond in favor of the corporation, in such sum and with such surety or sureties as shall be satisfactory to the Board of Directors.

ARTICLE IX

Section 1. The corporation shall, insofar as it is engaged in the cooperative production of goods or performance of services which are to be sold in competition with the goods or services of private enterprises, maintain labor standards of wages, hours and conditions of employment in its several occupations at least equivalent to those that prevail for similar occupations in the private enterprises with which it is in direct competition.

Section 2. The corporation shall not employ any person whose age or physical condition is such as to make his employment dangerous to his health or safety or to the health and safety of others.

Section 3. The corporation shall at all times recognize and respect the right of its employees, whether members or non-members, to organize and bargain collectively through representatives of their own choosing, free from the interference, restraint, or coercion of the corporation or any of its officers or directors.

ARTICLE X

Section 1. Subject to the provisions of any agreement between this corporation and the United States Government, the Board of Directors shall fix the extent to which credit may be given or taken in the business transactions of this corporation.

ARTICLE XI

Section 1. At the end of each fiscal year, the Board of Directors shall cause to be computed the net earned surplus of the corporation after deducting any accumulated deficits at the end of the preceding fiscal year. Such net earned surplus shall then be apportioned by the Board of Directors as follows:

(a) On common stock there shall be declared and paid a dividend of not exceeding six per cent (6%) per annum on the par value thereof.

(b) From the balance remaining, if any, not less than five percent (5%) of the net earned surplus shall be set aside in a reserve fund until an amount has been accumulated in said reserve fund amounting to thirty per cent (30%) of the paid up stock.

(c) From the balance remaining, if any, five per cent (5%) of the net earned surplus shall be set aside in an educational fund for use in teaching cooperation.

The Board of Directors shall then allocate from the residue of the net earned surplus to each profitable enterprise ("profitable enterprise" as used herein shall include any combination of profitable enterprises considered as a unit) that portion of the net earned surplus of the Corporation which the net earned surplus of each profitable enterprise bears to the net earned surplus of all profitable enterprises. Amounts so allocated to any leasing enterprise shall then be distributed by the Board of Directors on the books of the Corporation as a retained refund to the credit of each individual patron in such proportion as the rent charged by said enterprise to each patron bears to the amount of rent charged by the enterprise to all patrons. Amounts so allocated to any consumer or service enterprise shall be distributed by the Board of Directors on the books of the Corporation as a retained refund to the credit of each individual patron of said enterprise in such proportion as the amount of his purchases of goods and services from and sales to the Corporation bears to the total amount of all purchases of goods and services from and sales to the Corporation through said enterprise. Amounts so allocated to produce enterprises shall be distributed by the Board of Directors on the books of the Corporation as a retained refund to the credit of each individual patron in such proportion as the number of hours of labor performed by each patron for said enterprise bears to the total number of hours of labor performed by all patrons for said enterprise.

Section 2. After the net earned surplus has been computed and distributed in accordance with Section 1, hereof, the Board of Directors shall determine the total amount of cash that will be needed by the Corporation for the ensuing fiscal year for the following purposes: (a) more efficient operation of the Corporation, (b) repayment of principal on indebted-

ness, (c) expansion of facilities, (d) replacement of fixed assets, (e) providing operating capital, (f) cooperative education, (g) welfare program of the members, (h) for unforeseen losses, and (i) contingencies and for other purposes. The Board of Directors shall then determine the amount of cash available for payment in retirement of retained refunds, and shall pay such amount to the patrons as soon after the end of the fiscal year as is practicable. The Board of Directors may retire all or any part of the refunds retained for the fiscal year just ended or all or any part of the refunds which were retained in previous years; provided, however, that if the Board of Directors shall determine to retire refunds which were retained in previous years, payment shall be made in the order of annual retention. The repayment to each patron for any particular year shall be made in that proportion which the total amount of his retained refunds for that year bears to the total amount of retained refunds for that year. Any payment made in accordance with this paragraph shall first be applied in liquidation of any indebtedness of the patron to the Corporation in which case the patron shall be notified in writing of the amount so applied.

Section 3. In the event a membership is terminated, for any reason, during a fiscal year, at the end of which the Corporation has a net deficit from operations, such member's proportionate share of such deficit shall be determined by the Board of Directors in the same manner as refunds are calculated, as provided in Section 1, and shall be deducted from his share of retained refunds provided that such member shall not be charged for an amount in excess of the amount credited to his account for retained refunds, and provided, further that such proportionate share of such deficit shall be deducted from his retained refunds inversely to the order of retention.

Section 4. The sums credited to a patron's account for retained refunds shall not be assignable, except with the written consent of the Board of Directors, shall not bear interest, and, in the event of dissolution of the Corporation, after the payment of all debts of the Corporation shall be paid to each patron that proportion which they bear to the total amount of all sums credited to all patrons for retained refunds, without regard to their order of retention: provided, that after all retained refunds have been paid to the patrons, any remaining assets shall be used (a) to repay amounts paid in for stock certificates, and (b) for distribution to the patrons in the proportion provided in this section.

ARTICLE XII

Section 1. At any regular meeting or at any special meeting of the members of this Corporation called for such purpose, any provision of these By-Laws may be amended or repealed by a vote of two-thirds of the members. Notice of such meeting, including an accurate statement of the subject matter of the proposed amendment, shall be sent to the members at least ten (10) days prior to the meeting.

Cost of O. & M. per irrigated acre for Buffalo Rapids, Second Division, is shown on the following table:

Item	Year			
	1944	1945	1946	1947
Acre-feet of water delivered to farms.....	354.3	3,299	7,919	7,969
Acre-feet delivered per acre irrigated.....	.29	.68	1.27	1.25
Acreage irrigated.....	1,040.5	4,886	6,235	6,378
Number of farms irrigated.....	13	52	67	68
Cost of O. & M. per acre irrigated.....	\$2.89	2.59	3.02	9.47

For the Terry plant, 1945 was the first year of operation and the second for the Shirley plant. Both plants were in operation in 1947. All water delivered during 1947 was delivered under "Operation and Maintenance during Construction." This provided O. & M. during construction period, which will go into the construction debt and will possibly be classified as a non-reimbursable cost. The high O. & M. cost for 1947 was the result of pumping plant break down. Operation and maintenance cost for 1948 has been estimated to be about \$3.00 per irrigated acre. With the exception of pumping water for the purpose of priming and puddling into the new canals and laterals, the Fallon Unit was not in operation in 1947 and is not expected to be in operation for the 1948 season because installations will not be completed until fall.

Water Right Filings on the Buffalo Rapids Project in Custer, Prairie & Dawson Counties

A water right filing was made by Paul A. Jones, Construction Engineer of the Buffalo Rapids Project acting in behalf of the United States of America, for 1,340 cubic feet per second of the waters of the Yellowstone River and tributaries. Notice was posted June 17, 1938 and the filing was recorded in the Custer County courthouse in Bin 132 of Water Right Records, June 21, 1938.

The United States of America, named as appropriator, filed an identical notice of appropriation, except that the date of filing was June 11, 1940. This filing is recorded in Book F, Page 134 of Water Right Records in the Custer County courthouse.

Paul A. Jones, acting in behalf of the United States of America, filed on 1,340 cubic feet per second of the waters of the Yellowstone River and tributaries in Prairie County, June 3, 1940, with the date of posting given as June 17, 1938. This notice of appropriation is recorded in Book 1 of Water Right Records in the Prairie County courthouse.

The United States of America, on June 5, 1940 filed on 1,340 cubic feet per second of the waters of the Yellowstone River, with the date of posting given as June 17, 1938. This notice of appropriation is recorded in Book D-4, Page 401 of Water Right Locations in the Dawson County courthouse.

The data to follow is applicatory to the above appropriations:

That the places of intended use are within the following described areas lying along or adjacent to the Yellowstone River in the counties of Custer, Prairie and Dawson:

Area No. 1

Area No. 1, or the Shirley Division, consists of the land along the east side of the Yellowstone River extending from a point opposite Harris Creek to Powder River. It contains about 5300 acres of arable land, located within the following sections: Sections 1, 2, 3, 4, 9, 10, 11, 15, 16, 20, 21, 22, 28, 29, 32 and 33, T. 10 N., R. 49E., M. P. M., all in Custer County; and Sections 8, 9, 10, 16, 17, 18, 19, 20, 21, 29, 30, and

31, T. 11N., R. 50E., M. P. M., and sections 25 and 36, T. 11N., R. 49E., M. P. M. all in Prairie County. The diversion point for Area No. 1, or the Shirley Division, is on the east side of the Yellowstone River about $1\frac{1}{2}$ miles above the station of Shirley on the N. P. Ry. in the NE $\frac{1}{4}$ of Sec. 6 T. 9N., R. 49E., M. P. M.

The diversion for the area will be effected by a pumping plant with a capacity of 150 second feet, with a discharge pipe of 68 inches diameter.

Area No. 2

Area No. 2, or the Saugus-Calypso Division, consists of the land along the west side of the Yellowstone River, surrounding the stations of Saugus and Calypso on the C. M. & St. P. Ry., and contains about 2600 acres of arable land located in the following sections: Sections 21, 22, 26, 27, 28, 32 and 33, T. 12N., R. 50E., M. P. M.; Sections 4, 5, 8, 9, 17, 18, 19 and 30, T. 11N., R. 50E., M. P. M.; and Sections 24, 25, 26, 35 and 36, T. 11N., R. 49E., M. P. M.; all in Prairie County.

The diversion point for Area No. 2, or the Saugus-Calypso Division, is on the west side of the Yellowstone River, about 3 miles above the station of Saugus, on the C. M. & St. P. Ry., and is located in the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 35, T. 11N., R. 49E., M. P. M.

The diversion for the area will be effected by a pumping plant with a capacity of 70 second feet, with a discharge pipe of 48 inches diameter.

Area No. 3

Area No. 3, or the Terry-Fallon Division, consists of the land along the east side of the Yellowstone River surrounding the towns of Terry and Fallon, and contains about 10,900 acres of arable land located in the following sections: Section 31, T. 13N., R. 53E., M. P. M.; Sections 25, 26, 27, 28, 33, 34, 35 and 36, T. 13 N., R. 52E., M. P. M.; Sections 5 and 6, T. 12N., R. 53E., M. P. M.; Sections 1, 2, 3, 4, 7, 8, 9, 10, 11 and 18, T. 12N., R. 52E., M. P. M.; Sections 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28, 29 and 30, T. 12N., R., 51E., M. P. M.; Sections 13, 14, 15, 22, 23, 24, 26, 27, 28, 33 and 34, T. 12N., R. 50E., M. P. M. and Sections 3 and 4, T. 11N., R. 50E., M. P. M., all in Prairie County.

The diversion point for Area No. 3, or the Terry-Fallon Division, is on the east side of the Yellowstone River about 3 miles west of the City of Terry, Montana, and is located in the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 13, T. 12N., R. 50E., M. P. M.

The diversion for this area will be effected by a pumping plant with a capacity of 300 second feet, with a discharge pipe of 96 inches diameter, or its equivalent in two smaller diameters.

Area No. 4

Area No. 4, or the Haley Division, consists of the land on the west side of the Yellowstone River between Terry and Fallon, and contains about 3600 acres of arable land, located

within the following sections: Sections 28, 29, 30, 31, 32 and 33, T. 13N., R. 52E., M. P. M.; Sections 35 and 36, T. 13N., R. 51E., M. P. M.; Sections 3, 4, 5, 6, 7 and 8, T. 12N., R. 52E., M. P. M. and Sections 1, 2, 11 and 12, T. 12N., R. 51E., all in Prairie County.

The diversion for Area No. 4, or the Haley Division, is on the west side of the Yellowstone River, about one mile east and one mile north of Terry, and immediately downstream from the burning coal mine. It is located in the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 11, T. 12N., R. 51E., M. P. M.

The diversion for this area will be effected by a pumping plant with a capacity of 100 second feet, and a discharge pipe with a diameter of 56 inches.

Area No. 5

Area No. 5, or the Glendive Division, has been organized as the Buffalo Rapids Irrigation District No. 1 and is now under construction, (June 3, 1940). It consists of the land on the Glendive bench along the west side of the Yellowstone River between Fallon and Glendive, but does not include the land in the old Glendive-Fallon Irrigation District. It contains about 17,000 acres of arable land within the following sections: Sections 17, 18, 19, 20 and 30, T. 13N., R. 53E., M. P. M.; and Sections 24, 25, 26 and 27, T. 13N., R. 52E., M. P. M.; all in Prairie County; Sections 22, 23, 26, 27, 28, 33, 34, 35, T. 16N., R. 55E., M. P. M.; Sections 3, 4, 5, 8, 9, 16, 17, 18, 19, 20, 21, 28, 29, 30, 31 and 32, T. 15N., R. 55E., M. P. M.; Sections 24, 25, 35 and 36, T. 15N., R. 54E., M. P. M.; Sections 5, 6, 7, 8, 17, 18 and 19, T. 14N., R. 55E. M. P. M.; Sections 1, 2, 10, 11, 12, 13, 14, 15, 20, 21, 22, 23, 24, 26, 27, 28, 29, 30, 31, 32, 33 and 34, T. 14N., R. 54E., M. P. M.; Sections 4 and 5, T. 13N., R. 54E., M. P. M.; and Sections 1, 2, 3, 8, 9, 10, 11 and 16 T. 13N., R. 53E., M. P. M.; all in Dawson County.

The diversion for Area No. 5, or the Glendive Division, is on the west side of the Yellowstone River about one mile north of the Fallon bridge. It is located in the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 25, T. 13N., R. 52E., M. P. M.

The diversion for this area will be effected by a pumping plant, with a capacity of 460 second feet and a discharge pipe of 84 inches diameter.

Area No. 6

Area No. 6, or the Marsh Division, consists of the land along the east side of the Yellowstone River and adjacent to the towns of Marsh and Hoyt, and contains about 1500 acres of irrigable land within the following sections: Sections 25, 26, 27, 34, 35 and 36, T. 14N., R. 54E., M. P. M.; Sections 3, 4, 5, 6, 7, 8, 9, and 18, T. 13N., R. 54E., M. P. M.; and Section 13, T. 13N., R. 53E., M. P. M.; all in Dawson County.

The diversion for Area No. 6, or the Marsh Division, is on the east side of the Yellowstone River about one-half mile above the town of Marsh on the Northern Pacific Railway. It is located in the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 13, T. 13N., R. 53E., M. P. M.

The diversion for this area will be effected by a pumping plant with a capacity of 40 second feet, with a discharge pipe of 36 inches diameter.

Area No. 7

Area No. 7, or the Colgate Division, consists of the land on the east side of the Yellowstone River which surrounds the station of Colgate on the Northern Pacific Railway, and contains about 1500 acres of arable land located within the following sections: Sections 21, 22, 27, 28, 29, 32, 33 and 34, T. 15N., R. 55E., M. P. M.; and Sections 4 and 5, T. 14N., R. 55E., M. P. M.; all in Dawson County.

The diversion point for Area No. 7, or the Colgate Division, is on the east side of the Yellowstone River about one and one-half miles above the station of Colgate on the Northern Pacific Railway. It is located in the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 4, T. 14N., R. 55E., M. P. M.

The diversion for this area will be effected by a pumping plant with a capacity of 40 second feet and a discharge pipe of 36 inches diameter.

Area No. 8

Area No. 8, or the Stipek Division, consists of the land along the west side of the Yellowstone River between Glendive and Morgan Creek, and contains about 6700 acres of irrigable land within the following sections: Section 31, T. 18N., R. 56E., M. P. M.; Sections 6, 7 and 18, T. 17N., R. 56E., M. P. M.; Sections 1, 11, 12, 13, 14, 22, 23, 24, 25, 26, 27, 33, 34, 35 and 36, T. 17N., R. 55E., M. P. M.; Sections 5, 6, 7 and 8, T. 16N., R. 56E., M. P. M.; and Sections 1, 2, 11, 12, 13 and 14, T. 16N., R. 55E., M. P. M.; all in Dawson County.

The diversion point for Area No. 8, or the Stipek Division, is on the west side of the Yellowstone River about two miles north of the City of Glendive, Montana. It is located in the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 23, T. 16N., R. 55E., M. P. M.

The diversion for this area will be effected by a pumping plant with a capacity of 180 second feet, and a discharge pipe of 72 inches diameter.

According to Bureau of Reclamation engineers, Area 2 (Saugus-Calypso), Area 4 (Haley), Area 6, (Marsh), Area 7, (Colgate) and Area 8 (Stipek), as of May 13, 1948 are in investigation stages with no development work accomplished.

In 1947 there were 2,797.83 acres being irrigated under the Buffalo Rapids Project, Shirley Unit, Second Division, in Custer County, with a potential acreage under existing facilities of 409.00 acres, or a maximum irrigable acreage of 3,206.83. These figures are both government and private owned land.

Water Resources Survey

WRD LIBRARY COPY



Part II:

MAPS SHOWING IRRIGATED AREAS IN COLORS
DESIGNATING THE SOURCES OF SUPPLY

Custer County, Montana

Published by

STATE ENGINEER'S OFFICE

Helena, Montana, July, 1948

Township No. 10 NORTH

Range No. 49 EAST

County. CUSTER

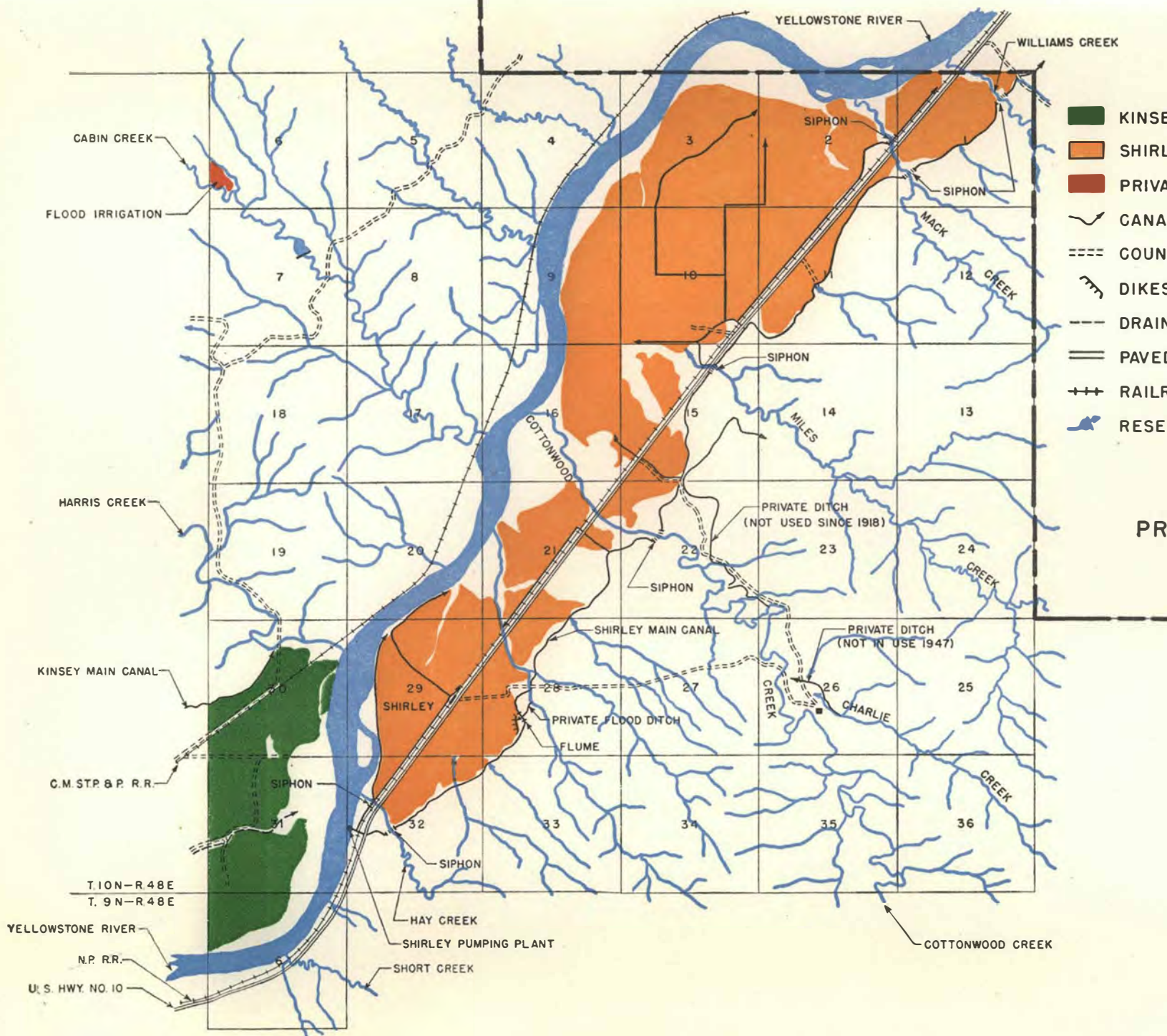
T. 10 NORTH

R. 49 EAST

LEGEND

- KINSEY IRRIGATION CO.
- SHIRLEY UNIT
- PRIVATE DITCHES
- CANALS OR DITCHES
- COUNTY ROADS
- DIKES
- DRAIN DITCHES
- PAVED HIGHWAY
- RAILROADS
- RESERVOIRS

PRAIRIE COUNTY



Water Resources Survey

RECORDS
MANAGEMENT
WRS COPY



*Prairie
County,
Montana*

Part I:

WATER AND RELATED LAND
RESOURCES

and

Part II:

IRRIGATION DEVELOPMENT WITH
MAPS SHOWING IRRIGATED AREAS
IN COLORS DESIGNATING
SOURCES OF SUPPLY

Published by

MONTANA WATER RESOURCES BOARD

Sam W. Mitchell Building

Helena, Montana 59601 — September, 1970

Telephone: 406/449-3648



EXHIBIT 5

IRRIGATION DEVELOPMENT

The first irrigation of the land now contained within the Buffalo Rapids Project was made by farmers prior to the drought period of the early 1930's.

One of two methods tried was by a diversion dam from the Yellowstone River and the other by pumping. The diversion dam method failed because a suitable dam was not provided and the pumping unit proved unsatisfactory because the fuel operated power plant was too costly.

In 1933, investigations by local businessmen to combat depressed conditions of the area, led to the formation of the Mid-Yellowstone Recovery Association and financing by National Recovery Act funds to further investigate the Project Area by the Bureau of Reclamation. Based on the report of this investigation, the Glendive Unit of the First Division, Buffalo Rapids Project, was authorized for construction by the Bureau of Reclamation.

BUFFALO RAPIDS PROJECT

HISTORY

The Glendive Unit was approved by the President on September 27, 1937, to irrigate an estimated 15,500 acres, with funds provided under the Emergency Relief Appropriation Act of 1937. The Glendive Extension was approved by the President on May 15, 1940, for 3,000 acres under the Water Conservation and Utilization Act of May 10, 1939, (53 Stat. 685). The Glendive Unit and Extension constitute the First Division.

The construction of the Glendive Unit, First Division, was initiated in 1937 by the Bureau of Reclamation. The main canal and portions of the laterals of this unit were completed in the spring of 1941. In 1942 and 1943, the Farm Security Administration completed the balance of irrigation laterals and concrete structures on the First Division. A third pumping unit at the Glendive Pumping Plant was installed by the Bureau of Reclamation in 1944 to increase the capacity of the pumping plant and furnish irrigation water for an additional 6,000 acres, or to be used as a standby in case one of the other two pump units need repairs during the irrigation season.

The **Shirley, Terry and Fallon** Units of the Second Division were approved by the President on October 11, 1939, and a revised plan on May 15, 1940, under the Water Conservation and Utilization program.

As a natural outgrowth of the initial development, the Second Division, comprising the Shirley, Terry and Fallon Units along the east bank of the Yellowstone River, was conceived. Construction of the Second Division began in September 1940 and proceeded, with some delays, throughout World War II, although work on the Fallon Unit did not begin until August 1945. Construction of the Second Division was essentially completed in 1948.

The project is operated by the Buffalo Rapids Board of Control as the agent of the Buffalo Rapids Irrigation District No. 1 and Buffalo Rapids Irrigation District No. 2.

PRESENT STATISTICS

Location: Lands irrigated under the **Glendive Unit, First Division** are located in sections 24, 25 and 26, T. 13 N., R. 52 E.; and in sections 17, 18, 19, 20, 29 and 30, T. 13 N., R. 53 E

Location of irrigated lands in the Second Division are: **Shirley Unit**—sections 25 and 36, T. 11 N., R. 49 E.; and sections 17, 18, 19, 20, 21, 29, 30 and 31, T. 11 N., R. 50 E.

Terry Unit—section 13, T. 12 N., R. 50 E.; sections 8, 9, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 24, T. 12 N., R. 51 E.

Fallon Unit—sections 25, 26, 27, 28, 33, 34, 35 and 36, T. 13 N., R. 52 E.; and section 31, T. 13 N., R. 53 E.; **Fallon Relift Canal**—sections 33, 34, 35 and 36, T. 13 N., R. 53 E., sections 1 and 2, T. 12 N., R. 52 E., and sections 5 and 6, T. 12 N., R. 53 E.

Location and capacity of pumping plants:

Glendive Unit pumping plant is located in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ section 25, T. 13 N., R. 52 E. and has three pumps with capacities of 110 c.f.s. each.

Shirley Unit pumping plant is located in Custer County in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ section 32, T. 10 N., R. 49 E. and contains three pumps with capacities of 37 c.f.s. each.

Terry Unit pumping plant is located in NE $\frac{1}{4}$ SW $\frac{1}{4}$ section 13, T. 12 N., R. 50 E. and has three pumps with capacities of 20.5 c.f.s. each.

Fallon Unit pumping plant contains three pumps with capacities of 24 c.f.s. each and is located in SE $\frac{1}{4}$ NW $\frac{1}{4}$ section 33, T. 13 N., R. 52 E.

Fallon Relift pumping station is located on the Fallon Canal in NW $\frac{1}{4}$ NW $\frac{1}{4}$ section 5, T. 12 N., R. 53 E. and contains two pumps with capacities of 20 c.f.s. each.

Length and Capacities of Canals:

The **Glendive Canal** from the pumping plant has an initial capacity of 330 c.f.s., and a total length of about 35 miles. This canal extends into Dawson County with approximately 6.25 miles of the canal in Prairie County.

The **Shirley Canal** originates in Custer County and has a total length of 13.3 miles, of which 4.5 miles extends into Prairie County. At the pumping plant the canal capacity is 105 c.f.s.

The **Terry Canal** has an initial capacity of 60 c.f.s. and length of 7.7 miles.

The **Fallon Canal** is approximately 3.5 miles in length and has a capacity of 72 c.f.s.

The **Fallon Relift Canal** has a capacity of 40 c.f.s. and a total length of about 3 miles.

Operation and Maintenance:

The operation and maintenance charges are the same for all units of the Buffalo Rapids Project. This charge is \$4.35 for each acre of land irrigated.

Present Users:

In Prairie County the number of water users under various units in 1969 were: Glendive Unit—16; Shirley Unit—11; Terry Unit—23; Fallon Unit—8; and Fallon Relift—19.

Acreage Irrigated:

In 1969, there were 1,535 acres irrigated under the **Glendive Unit**, First Division, in Prairie County, with 41 acres potentially irrigable under present facilities, making a maximum irrigable acreage of 1,576 acres under the system.

For the Second Division, in 1969, the **Shirley Unit** had 1,712 acres irrigated in Prairie County and 67 acres potentially irrigable, totaling a maximum irrigable acreage of 1,779 acres; the **Terry Unit** has 3,167 acres irrigated, with 185 acres potentially irrigable, and a maximum of 3,352 acres irrigable under the Unit; the **Fallon Unit** (including relift canal) has 2,974 acres irrigated, 86 acres potentially irrigable under existing ditch facilities and a total irrigable acreage of 3,060 acres.

WATER RIGHT DATA

The water right filing that applies to the Buffalo Rapids Project in Prairie County was filed by Paul A. Jones, Construction Engineer for the Buffalo Rapids Project, acting in behalf of the United States of America. This filing was made as of August 27, 1940, with the priority date given as June 17, 1938, for 1,340 cubic feet per second of the waters of the Yellowstone River and its tributaries. The filing is recorded in Book I of Water Right Records, page 333, Clerk and Recorder Office, Prairie County Courthouse, Terry, Montana.

See Maps in Part II

Glendive Unit—pages 15 and 16

Shirley Unit—pages 5 and 6

Terry Unit—page 10

Fallon Unit—pages 11, 15 and 16

LEGEND

- Buffalo Rapids Irrigation Project Shirley Unit
- Private Irrigation

CUSTER

COUNTY

T. 11 N-R. 48 E
T. 10 N-R. 48 E

C.M. St. P. & P.R.R.
Yellowstone River

HAUGHIAN PUMPS-
PIPELINES & SPRINKLERS

CUSTER

COUNTY

Gate Coulee

Yellowstone Coulee

Custer Creek

C.M. St. P. & P.R.R.

Yellowstone River

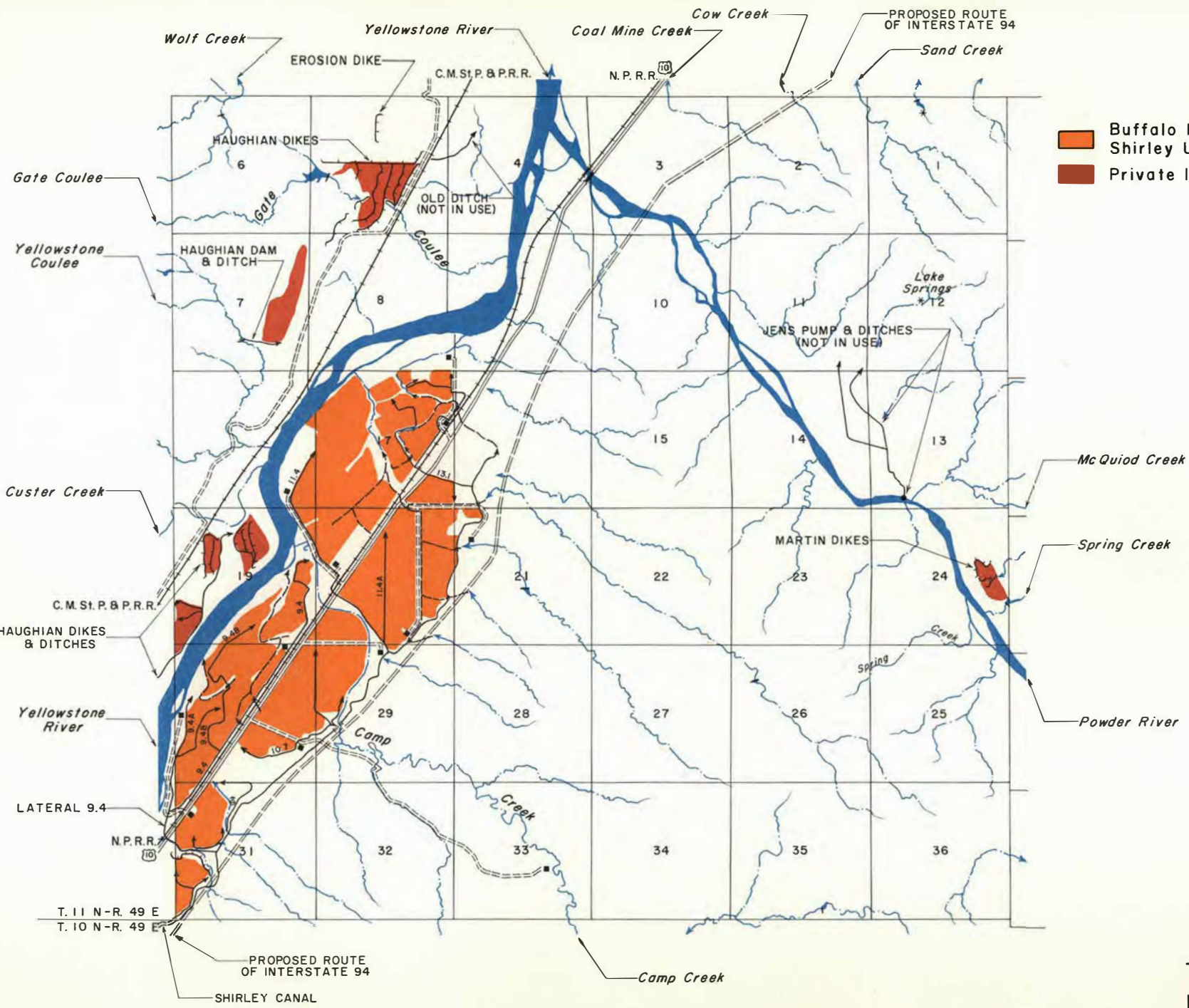
LATERAL 9.4A

LATERAL 9.4

N.P.R.R.

LATERAL 9.4

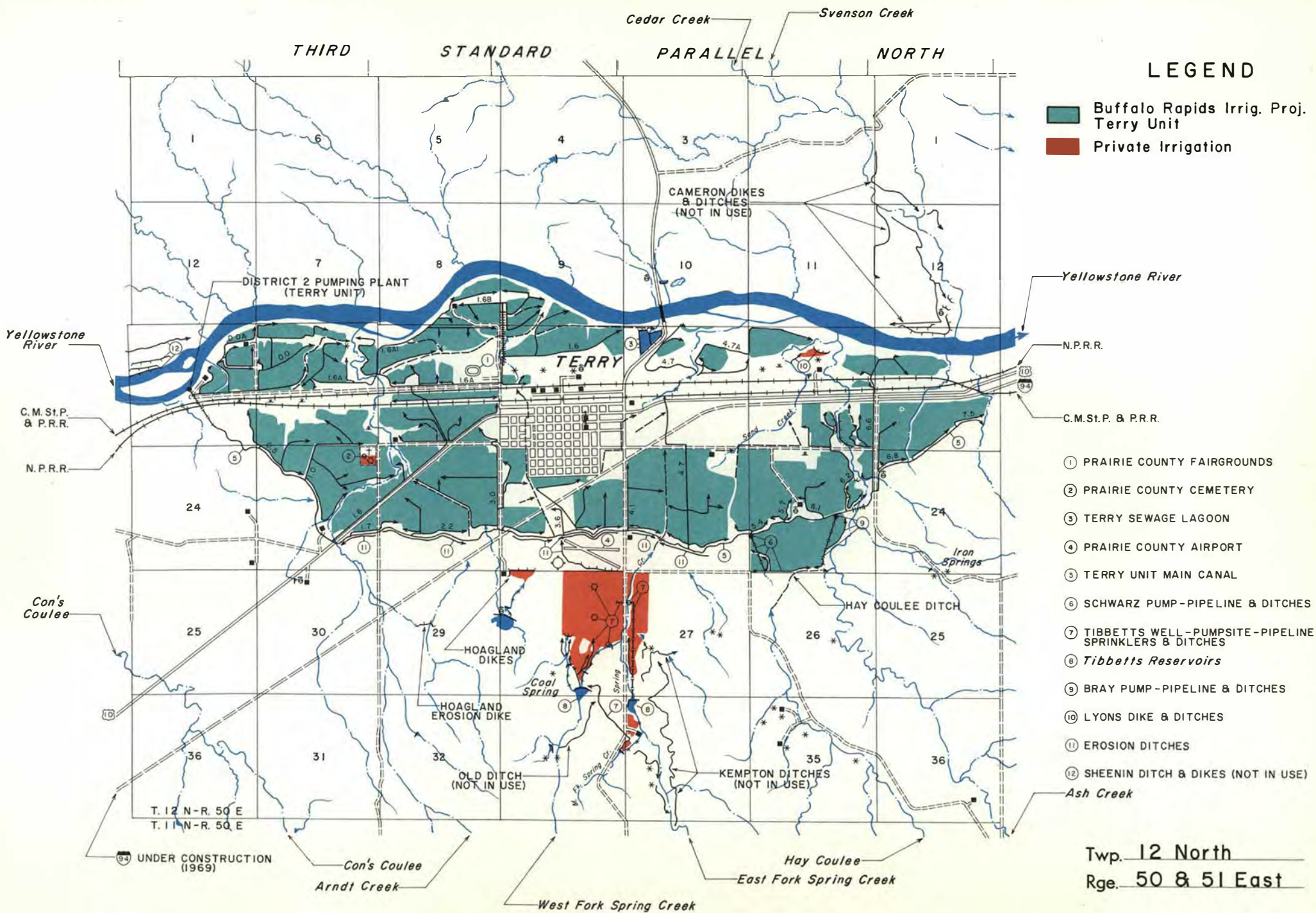
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Rge. 49 East

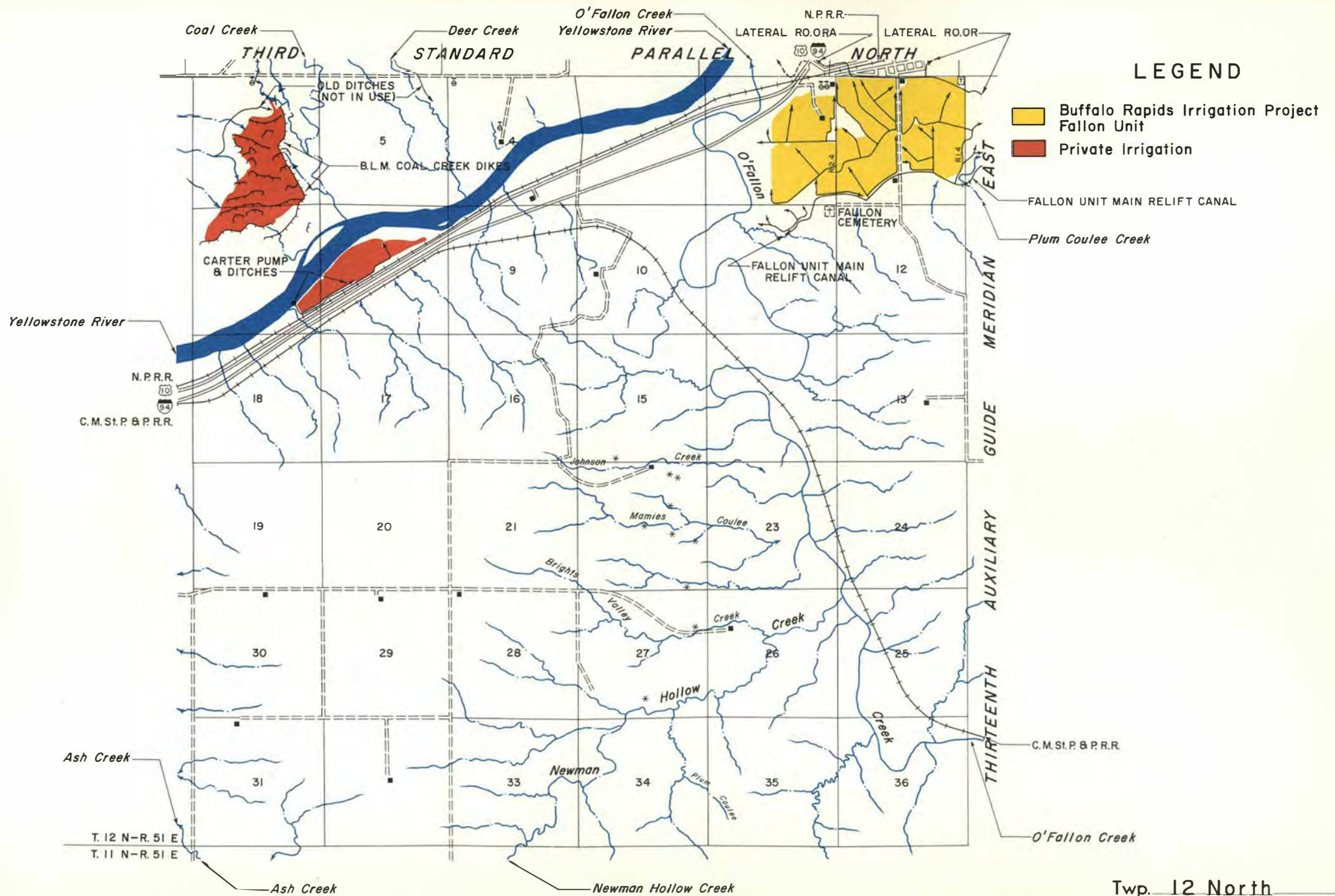


LEGEND

- Buffalo Rapids Irrigation Project Shirley Unit
- Private Irrigation




Twp. 11 North
 Rge. 50 East



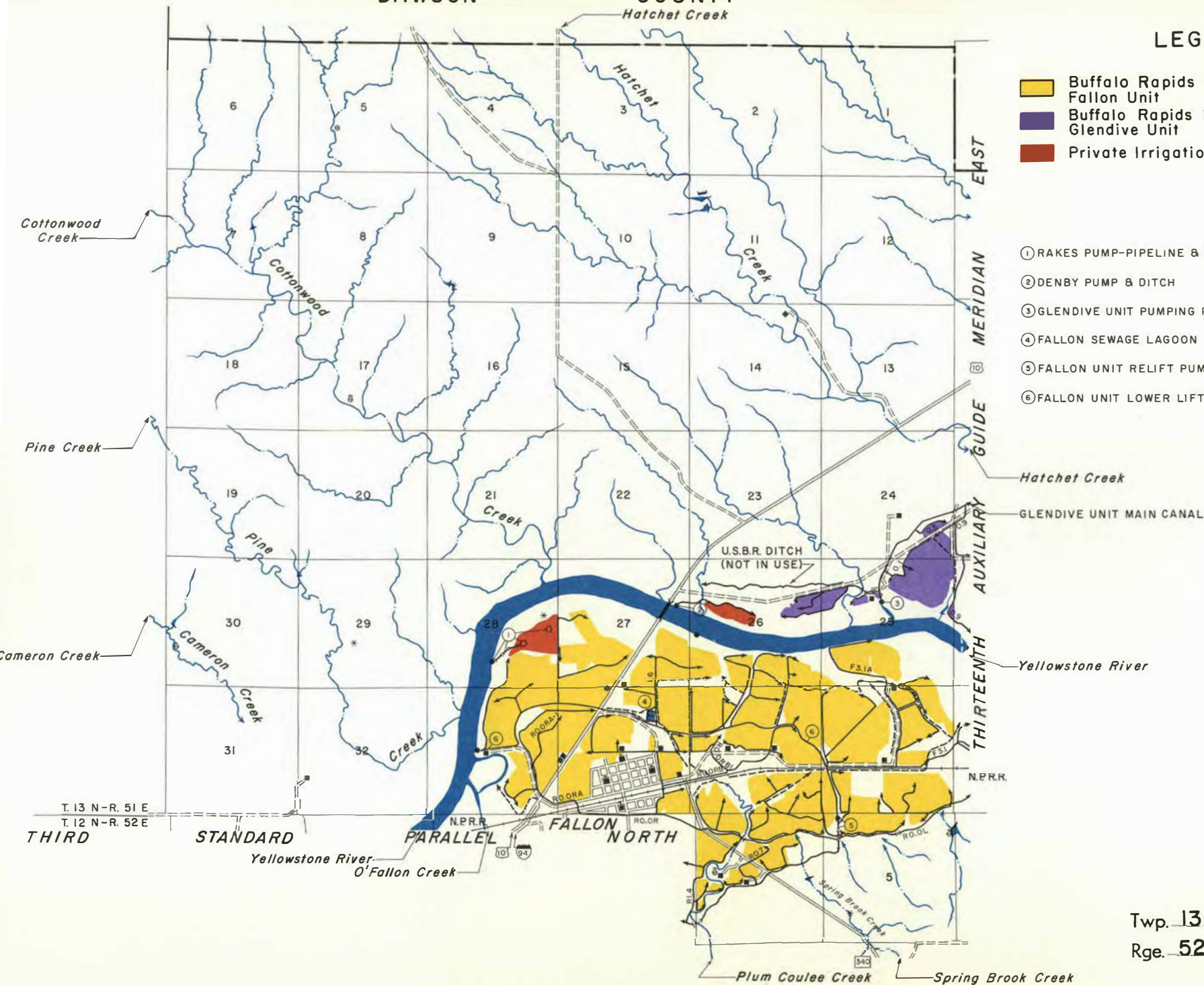


Twp. 12 North
Rge. 52 East

LEGEND

-  Buffalo Rapids Irrigation Project
Fallon Unit
 Buffalo Rapids Irrigation Project
Glendive Unit
 Private Irrigation

- ① RAKES PUMP-PIPELINE & SPRINKLERS
 ② DENBY PUMP & DITCH
 ③ GLENDIVE UNIT PUMPING PLANT
 ④ FALLON SEWAGE LAGOON
 ⑤ FALLON UNIT RELIFT PUMP & PIPELINE
 ⑥ FALLON UNIT LOWER LIFT PUMP & MAIN CANAL

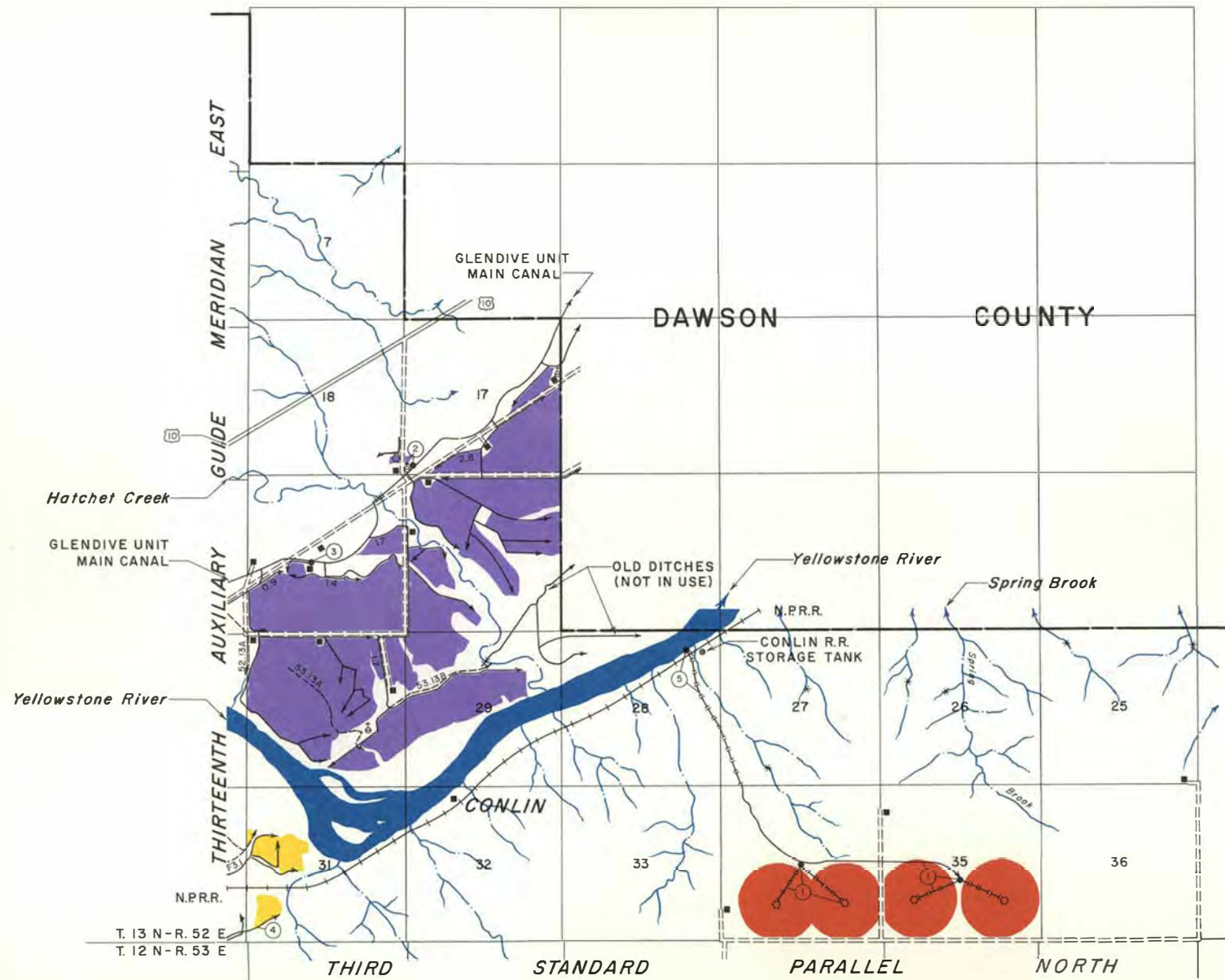


Twp. 13 & 12 North
 Rge. 52 & 53 East

LEGEND

- Buffalo Rapids Irrigation Project
Glendive Unit
- Buffalo Rapids Irrigation Project
Fallon Unit
- Private Irrigation

- ① HAIDLE DITCH-PUMPS-PIPELINE & SPRINKLERS
- ② HESS PUMP-PIPELINE & SPRINKLERS
- ③ LAPP PUMP
- ④ HJORTH DITCH
- ⑤ HAIDLE PUMP & PIPELINE



Twp. 13 North
Rge. 53 East

Affidavit of Russell A. Radliff

Russell A. Radliff, being first duly sworn, deposes and states as follows:

1. I am of legal age and reside in Missoula, Montana. I am a Water Resource Specialist for WGM Group, Inc. I have worked in the water rights field for over 10 years. I first worked as an employee in the Montana Department of Natural Resources and Conservation (DNRC) Water Resources Division for over 4 years, then for the Wyoming State Engineers Office for over 2 years and since then I have been employed with WGM. One major emphasis of my work experience during this time has been identifying and evaluating historical water use.
2. I was engaged by Buffalo Rapids Irrigation District No. 2 to assist in determining whether all historically irrigated acres were within the exterior boundaries of the District, which included assistance with mapping (1) the general service area for each of its three subdivisions and (2) calculating the historically irrigated acres based on a review of aerial photographs.
3. As part of my review, I obtained GIS shape files and aerial photographs associated with the Water Resource Survey (WRS) performed in each county of the District's subdivisions. I also obtained GIS shape files of the place of use for each Unit and relevant DNRC water right files. Using this information, I identified the claimed places of use, irrigated acres by each Unit (as designated in the WRS), and additional irrigated acres not identified in the WRS. These additional irrigated acres were mapped by identifying areas with shade contrasts when compared to non-irrigated areas, field boundaries, existence of a supply ditch, and evidence of irrigation systems. I also confirmed these acres were irrigated through interviews with Buffalo Rapids Irrigation District No. 2 personnel with firsthand knowledge.
4. I also reviewed the available DNRC examination maps for water right claims 42M 211267-00 (Terry Unit) and 42M 211268-00 (Fallon Unit). Those examination maps are attached hereto as **Attachment A**. I did not review the DNRC examination maps for 42K 40875-00 (Shirley Unit) as they are not available from DNRC. It is my understanding that claim file has been misplaced and DNRC is still attempting to locate it.
5. For water right claim 42K 40785-00 (Shirley Unit), I used the 1970 Prairie County WRS information, the 1948 Custer County WRS information, WRS aerials (numbered MA-15 37 and MA-17 120, dated 7/28/1944) and a 1978 USDA aerial (numbered 278-18, dated 10/7/1978) to conduct an independent analysis of historical irrigated acres within that Unit. The 1978 aerial was used because the WRS aerials do not cover the northern part of this unit. I mapped this acreage on February 2, 2018. Based on this analysis, the maximum number of historically irrigated acres within the exterior boundaries of the Shirley Unit is 5,555.00 acres.

Refer to **Attachment B** for a visual depiction of my mapping analysis of the historically irrigated acres for water right claim 42K 40785-00 (Shirley Unit).

6. For water right claim 42M 211267-00 (Terry Unit), I used the 1970 Prairie County WRS information and associated aerals (numbered JJ-63, JJ-18, and JJ-98, dated 8/25/1968 and JJ-152, 9/9/1968) to conduct an independent analysis of historical irrigated acres within that Unit. I mapped this acreage on February 2, 2018. Based on this analysis, the maximum number of historically irrigated acres within the exterior boundaries of the Terry Unit is 3373.00 acres.

Refer to **Attachment C** for a visual depiction of my mapping analysis of the historically irrigated acres for water right claim 42M 211267-00 (Terry Unit).

7. Based on my review of the historically irrigated acres within each of the District's subdivision and of the exterior boundaries of the District, and in connection with a review of the legal descriptions contained in the 1941 Order, 2019 Order, and 2020 Order, I determined the appropriate legal descriptions for the general service areas for each of the District's subdivisions. Once determined, I created tables and maps that show those general services areas, which are attached to the corresponding Proposed Abstracts affixed to the Motion to Amend as **Exhibit 8-A, 8-B, 8-C**.

Further the affiant sayeth not.

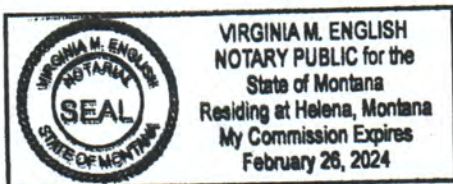
State of Montana)
 Lewis & Clark) ss.
County of Missoula)

I, Russell A. Radliff, having been duly sworn, depose and say that I, being of legal and age and being the person whose name is signed to this affidavit know the matters and things stated here are true and correct.

Russell A. Radliff Date 8/26/2020

Subscribed and sworn before me this 26 day of August 2020

Virginia M. English
Notary Public for the State of Montana

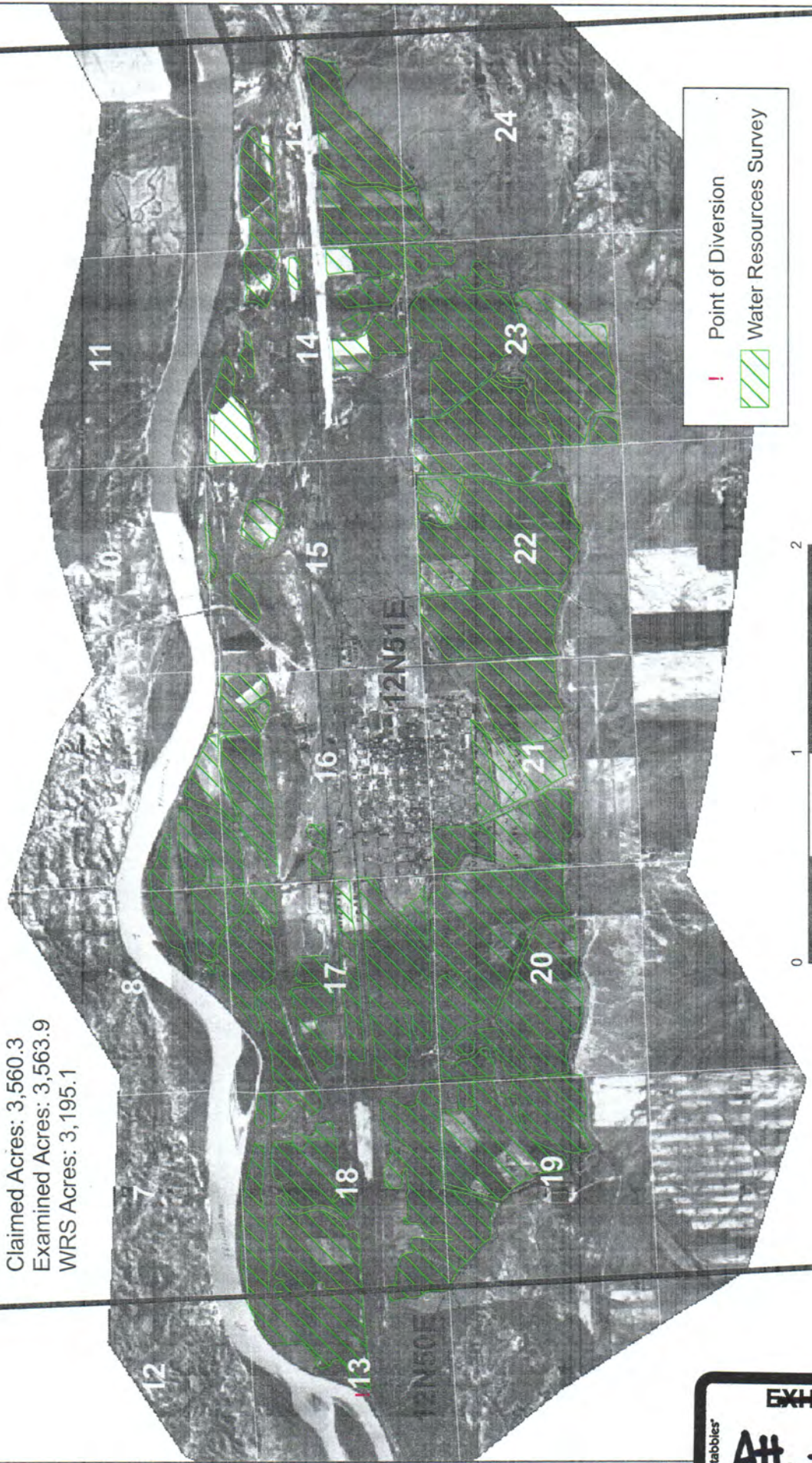


Residing at _____

My Commission expires _____

Department of Natural Resources and Conservation **Examination Report**

Examination of: 42M 211267 00
 Buffalo Rapids Terry Unit
 Examiner: Craig Karge 4/15/09
 Claimed Acres: 3,560.3
 Examined Acres: 3,563.9
 WRS Acres: 3,195.1

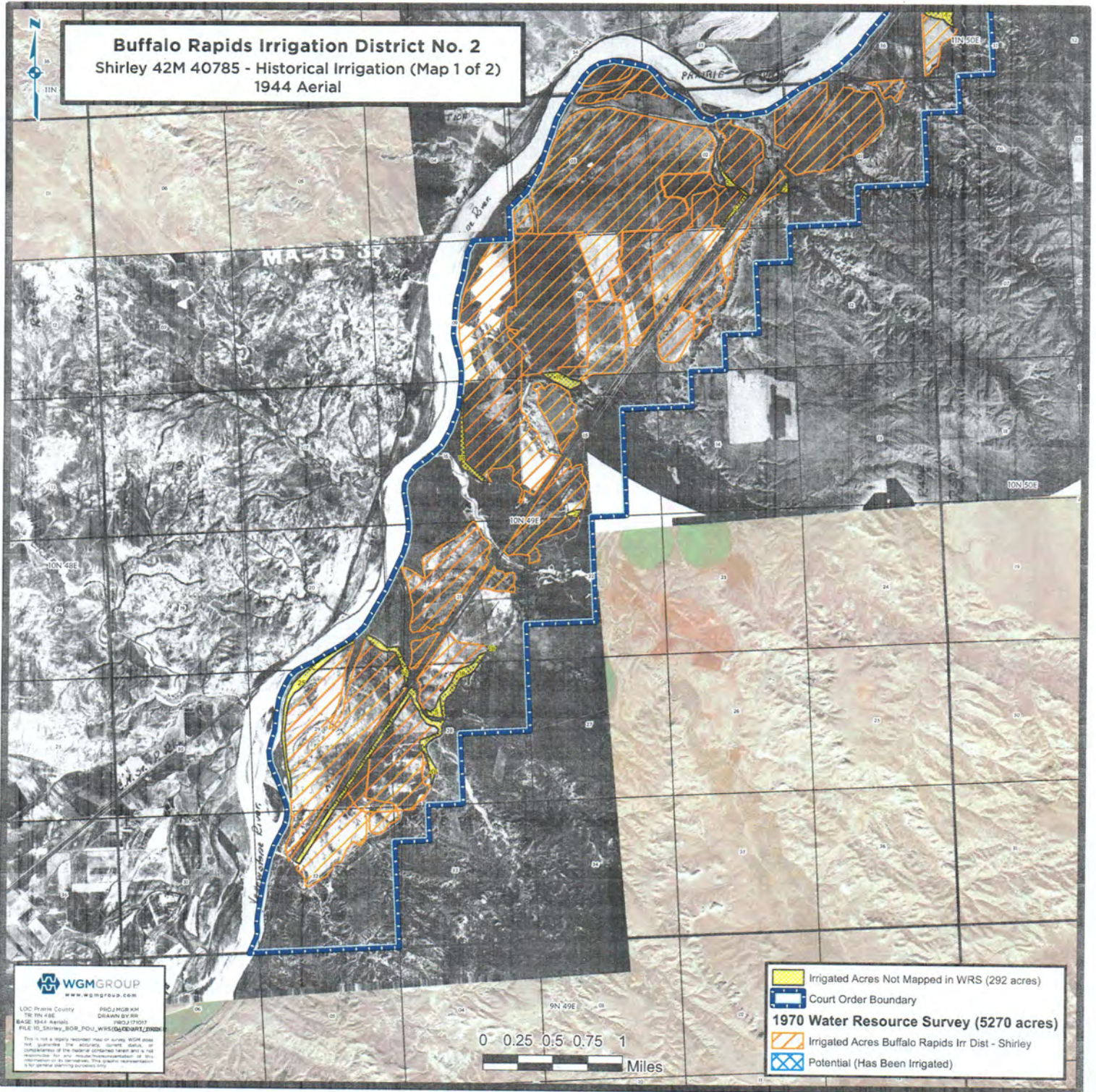


Department of Natural Resources and Conservation Examination Report

Examination of: 42M 211267 00
Buffalo Rapids Terry Unit
Examiner: Craig Karge 4/15/09
Claimed Acres: 3,560.3
Examined Acres: 3,563.9
WRS Acres: 3,195.1



Buffalo Rapids Irrigation District No. 2
 Shirley 42M 40785 - Historical Irrigation (Map 1 of 2)
 1944 Aerial



WGM GROUP
 www.wgmgroup.com
 LDC Shreve County
 TO: RN 436
 BASE: 1944 Aerial
 FILE: 42, Shirley, BOR, FOU, WKS, 42M 40785, 2012
 PROJ: MGR 436
 DRAWN BY: RN
 PROJ: 12/01/12
 This is not a legally recorded map or survey. WGM does not guarantee the accuracy, content, status, or completeness of the material contained herein and is not responsible for any errors or omissions. This graphic representation is for general planning purposes only.

[Yellow Hatched] Irrigated Acres Not Mapped in WRS (292 acres)
 [Blue Dashed Line] Court Order Boundary
1970 Water Resource Survey (5270 acres)
 [Orange Hatched] Irrigated Acres Buffalo Rapids Irr Dist - Shirley
 [Blue Cross-hatched] Potential (Has Been Irrigated)

0 0.25 0.5 0.75 1
 Miles

EXHIBIT
 tabbies **Att. B**

Buffalo Rapids Irrigation District No. 2
Shirley 42M 40785 - Historical Irrigation (Map 2 of 2)
1944 & 1978 Aerial

10-7-78 USDA 40 30079 278-16

11N-50E 11N-50E 11N-50E

PRairie

0 0.25 0.5 0.75 1 Miles

WGM GROUP
 www.wgmgroup.com

LOC: Prairie County PROJ: HGB/KH
 TS: 504.686 DRAIN BY RS
 BASE: 1944/1978 Aerials PROJ: 171017
 FILE: T:\Shirley_RCD_POW_WRS\204524\WRS\204524.mxd

This is not a legally recorded map or survey. WGM does not guarantee the accuracy, current status, or completeness of the data or recorded facts and a full disclaimer for any third-party representation of this information or its derivatives. This graphic representation is for general planning purposes only.

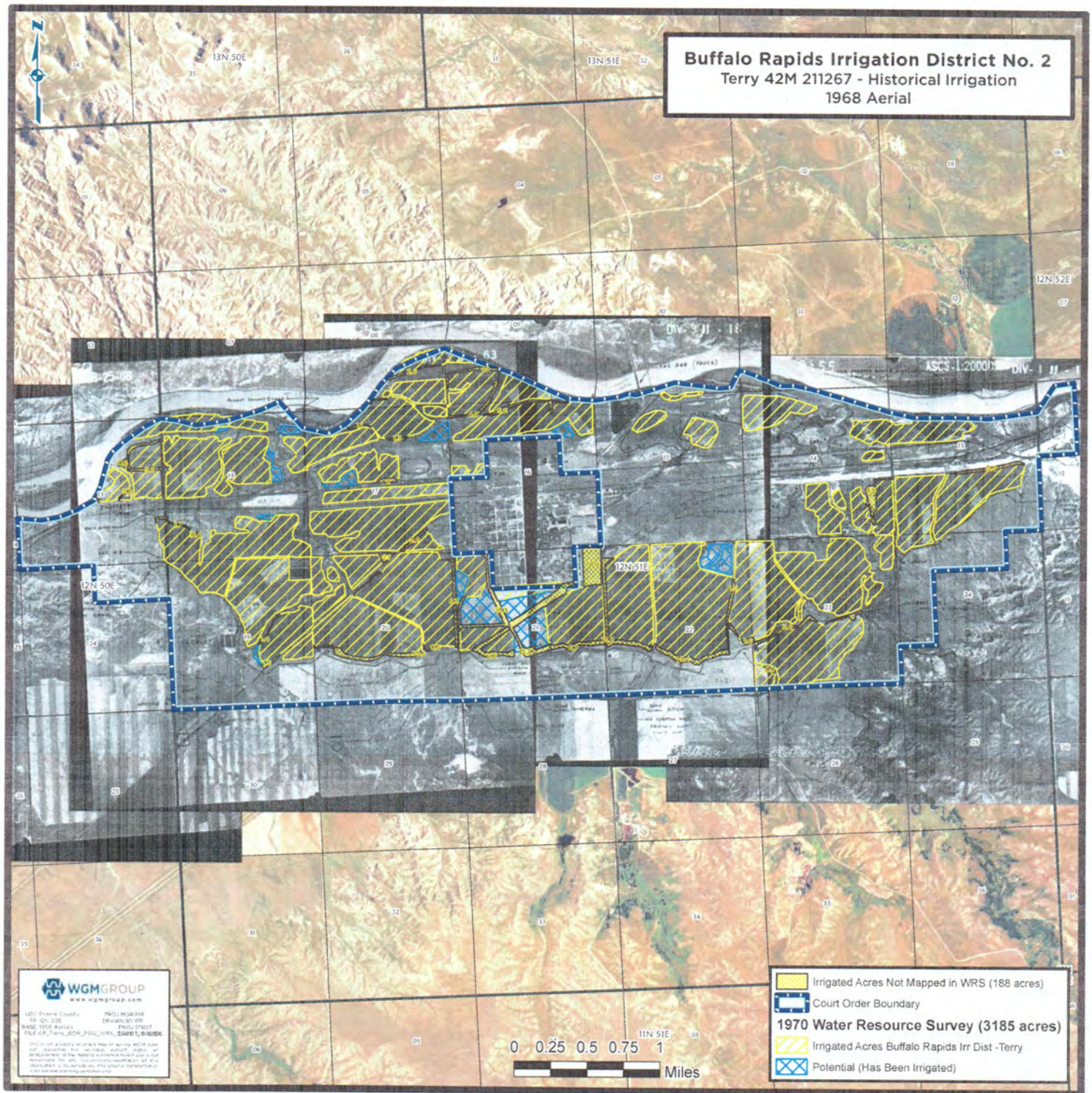
Legend:

- Court Order Boundary
- Irrigated Acres Not Mapped in WRS (292 acres)
- 1970 Water Resource Survey (5270 acres)
- Irrigated Acres Buffalo Rapids Irr Dist - Shirley
- Potential (Has Been Irrigated)

LOC: Prairie County PROJ: HGR/KM
TR: BN 48E DRAWN BY: RR
BASE: 1344/1978 Aerials PROJ: 171017
FILE: 11_ShirleyBOR_POU_WRS(2)48E48E(2)RR2E

This is not a legally recorded map or survey. WGSN does not guarantee the accuracy, current status, or completeness of the material contained herein and is not responsible for any misuse/misrepresentation of the information or its derivatives. This graphic representation is for general planning purposes only.

ATTACHMENT C. TERRY UNIT 42M 211267-00



STATE OF MONTANA)
) ss.
COUNTY OF PRAIRIE AND CUSTER)

VERIFIED MOTION TO AMEND WATER RIGHT CLAIM 42K 40785-00

Amendments to this claim to reflect historical use are listed below. Supporting information is attached:
1) Affidavit of Russ Radliff, Water Resources Specialist, WGM Group; 2) abstract with amendments shown; 3) spreadsheet of the Shirley Unit Service Area; and 4) map.

Purpose: DIVERSION FOR MULTIPLE USES

Purpose Clarification: WATER IS USED FOR IRRIGATION, STOCK, AND LAWN AND GARDEN PURPOSES

Maximum Acres: 5,555.00

Place of Use: See attached spreadsheet.

Place of Use remark: A MAXIMUM 5,555.00 ACRES ARE IRRIGATED WITHIN THE SERVICE AREA IN ANY ONE YEAR.

I/We declare under penalty of perjury and under the laws of the State of Montana that the foregoing is true and correct.

Bureau of Reclamation
Rita L. Frasure
Water Rights Specialist

August 20, 2020

Date

Buffalo Rapids Irrigation District No. 2
(Name) Tim Kortum
(Title) Manager

8-11-2020
Date

Exhibit 7-A
(Shirley Unit)

STATE OF MONTANA)
) ss.
COUNTY OF PRAIRIE)

VERIFIED MOTION TO AMEND WATER RIGHT CLAIM 42M 211267-00

Amendments to this claim to reflect historical use are listed below. Supporting information is attached:
1) Affidavit of Russ Radliff, Water Resources Specialist, WGM Group; 2) abstract with amendments shown; 3) spreadsheet of the Terry Unit Service Area; and 4) map.

Purpose: DIVERSION FOR MULTIPLE USES

Purpose Clarification: WATER IS USED FOR IRRIGATION, STOCK, AND LAWN AND GARDEN PURPOSES

Maximum Acres: 3,563.90

Place of Use: See attached spreadsheet.


Place of Use remark: A MAXIMUM 3,563.90 ACRES ARE IRRIGATED WITHIN THE SERVICE AREA IN ANY ONE YEAR.

I/We declare under penalty of perjury and under the laws of the State of Montana that the foregoing is true and correct.

Bureau of Reclamation
Rita L. Frasure
Water Rights Specialist

August 20, 2020

Date


Buffalo Rapids Irrigation District No. 2
(Name) *Tim Kortum*
(Title) *Manager*

8-11-2020
Date

Exhibit 7-B
(Terry Unit)

STATE OF MONTANA)
) ss.
COUNTY OF PRAIRIE)

VERIFIED MOTION TO AMEND WATER RIGHT CLAIM 42M 211268-00

Amendments to this claim to reflect historical use are listed below. Supporting information is attached: 1) Affidavit of Russ Radliff, Water Resources Specialist, WGM Group; 2) abstract with amendments shown; 3) spreadsheet of the Fallon Unit Service Area; and 4) map.

Purpose: DIVERSION FOR MULTIPLE USES

Purpose Clarification: WATER IS USED FOR IRRIGATION, STOCK, AND LAWN AND GARDEN PURPOSES

Place of Use: See attached spreadsheet.

Place of Use remark: A MAXIMUM 3,069.70 ACRES ARE IRRIGATED WITHIN THE SERVICE AREA IN ANY ONE YEAR.

I/We declare under penalty of perjury and under the laws of the State of Montana that the foregoing is true and correct.

Bureau of Reclamation
Rita L. Frasure
Water Rights Specialist

August 20, 2020

Date _____

Buffalo Rapids Irrigation District No. 2
(Name) *Tim Kortum*
(Title) *Manager*

Date 8-11-2020

Exhibit 7-C
(Fallon Unit)

STATE OF MONTANA

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

1424 9TH AVENUE P.O.BOX 201601 HELENA, MONTANA 59620-1601

GENERAL ABSTRACT

Water Right Number: 42K 40785-00 STATEMENT OF CLAIM

Version: 1 -- ~~ORIGINAL RIGHT~~ PROPOSED ABSTRACT

Version Status: ACTIVE

Owners: USA (DEPT OF INTERIOR BUREAU OF RECLAMATION)
PO BOX 30137
BILLINGS, MT 59107-0137

BUFFALO RAPIDS IRRIGATION DISTRICT NO 2
% PAT DAVIS
PO BOX 907
TERRY, MT 59349

Priority Date: JUNE 17, 1938

Enforceable Priority Date: JUNE 17, 1938

Type of Historical Right: FILED

Purpose (use): ~~IRRIGATION~~ DIVERSION FOR MULTIPLE USES

~~Irrigation Type: SPRINKLER/FLOOD~~ Purpose Clarification: WATER IS USED FOR IRRIGATION, STOCK, AND LAWN AND GARDEN PURPOSES.

Maximum Flow Rate: 111.00 CFS

~~FLOW RATE FOR CLAIMS NO. W040785-00, W040795-00 AND W040799-00 IS LIMITED TO THE HISTORIC CAPACITY OF THE SHIRLEY UNIT PUMPING STATION.~~

Maximum Volume:

Climatic Area: 1 - HIGH

Maximum Acres: ~~4,692.95~~ 5,562.00 acres

Source Name: YELLOWSTONE RIVER

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWNWSW	32	10N	49E	CUSTER

Period of Diversion: APRIL 1 TO OCTOBER 19
Diversion Means: PUMP

Period of Use: APRIL 1 to OCTOBER 19

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>	
1	4.40		NENE	2	10N	49E	CUSTER	
2	3.30		NWNE	2	10N	49E	CUSTER	
3	25.20		SWNE	2	10N	49E	CUSTER	
4	3.20		NWNW	2	10N	49E	CUSTER	
5	35.30		SWNW	2	10N	49E	CUSTER	
6	32.10		SENW	2	10N	49E	CUSTER	
7	19.25		NESW	2	10N	49E	CUSTER	
8	23.40		NWSW	2	10N	49E	CUSTER	
9	2.80		SWSW	2	10N	49E	CUSTER	
10	17.20		SESW	2	10N	49E	CUSTER	
11	8.70		NESE	2	10N	49E	CUSTER	
12	26.00		NWSE	2	10N	49E	CUSTER	
13	1.20		SWSE	2	10N	49E	CUSTER	
14	2.40		SESE	2	10N	49E	CUSTER	
15	27.60		NENE	3	10N	49E	CUSTER	
16	20.40		NWNE	3	10N	49E	CUSTER	
17	39.30		SWNE	3	10N	49E	CUSTER	
18	37.30		SENE	3	10N	49E	CUSTER	
19	6.00		NENW	3	10N	49E	CUSTER	
20	32.10		SENW	3	10N	49E	CUSTER	
21	38.10		NESW	3	10N	49E	CUSTER	
22	12.00		NWSW	3	10N	49E	CUSTER	
23	25.60		SWSW	3	10N	49E	CUSTER	
24	36.50		SESW	3	10N	49E	CUSTER	
25	38.50		NESE	3	10N	49E	CUSTER	

REPLACED WITH
GENERAL
SERVICE AREA;
LEGAL
DESCRIPTIONS
ATTACHED

Exhibit 8-A
(Shirley Unit)

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
26	37.70		NWSE	3	10N	49E	CUSTER
27	38.10		SWSE	3	10N	49E	CUSTER
28	38.10		SESE	3	10N	49E	CUSTER
29	27.70		NENE	9	10N	49E	CUSTER
30	0.60		NWNE	9	10N	49E	CUSTER
31	18.00		SWNE	9	10N	49E	CUSTER
32	36.10		SENE	9	10N	49E	CUSTER
33	34.50		NESE	9	10N	49E	CUSTER
34	24.70		NWSE	9	10N	49E	CUSTER
35	20.50		SWSE	9	10N	49E	CUSTER
36	36.90		SESE	9	10N	49E	CUSTER
37	36.10		NENE	10	10N	49E	CUSTER
38	33.10		NWNE	10	10N	49E	CUSTER
39	32.10		SWNE	10	10N	49E	CUSTER
40	38.10		SENE	10	10N	49E	CUSTER
41	4.00		NENW	10	10N	49E	CUSTER
42	14.00		NWNW	10	10N	49E	CUSTER
43	30.90		SWNW	10	10N	49E	CUSTER
44	38.90		NESW	10	10N	49E	CUSTER
45	38.50		NWSW	10	10N	49E	CUSTER
46	30.10		SWSW	10	10N	49E	CUSTER
47	34.50		SESW	10	10N	49E	CUSTER
48	35.30		NESE	10	10N	49E	CUSTER
49	38.50		NWSE	10	10N	49E	CUSTER
50	26.90		SWSE	10	10N	49E	CUSTER
51	5.20		SESE	10	10N	49E	CUSTER
52	0.60		NWNE	11	10N	49E	CUSTER
53	29.50		NENW	11	10N	49E	CUSTER
54	38.50		NWNW	11	10N	49E	CUSTER
55	33.30		SWNW	11	10N	49E	CUSTER
56	24.40		SENW	11	10N	49E	CUSTER
57	6.60		NESW	11	10N	49E	CUSTER
58	23.20		NWSW	11	10N	49E	CUSTER
59	20.90		SWSW	11	10N	49E	CUSTER
60	20.00		NENW	15	10N	49E	CUSTER
61	10.50		NWNW	15	10N	49E	CUSTER
62	14.80		SWNW	15	10N	49E	CUSTER
63	17.60		SENW	15	10N	49E	CUSTER
64	7.20		NESW	15	10N	49E	CUSTER
65	32.10		NWSW	15	10N	49E	CUSTER
66	20.80		SWSW	15	10N	49E	CUSTER
67	27.90		SESW	15	10N	49E	CUSTER
68	37.60		NENE	16	10N	49E	CUSTER
69	20.00		NWNE	16	10N	49E	CUSTER
70	35.10		SWNE	16	10N	49E	CUSTER
71	37.70		SENE	16	10N	49E	CUSTER
72	19.40		NESE	16	10N	49E	CUSTER
73	18.00		NWSE	16	10N	49E	CUSTER
74	0.60		SESE	16	10N	49E	CUSTER
75	1.20		SESW	20	10N	49E	CUSTER
76	14.80		SWSE	20	10N	49E	CUSTER
77	23.70		SESE	20	10N	49E	CUSTER
78	6.00		NENE	21	10N	49E	CUSTER
79	20.40		NWNE	21	10N	49E	CUSTER
80	38.10		SWNE	21	10N	49E	CUSTER
81	22.00		SENE	21	10N	49E	CUSTER
82	22.80		NENW	21	10N	49E	CUSTER
83	6.00		NWNW	21	10N	49E	CUSTER
84	18.00		SWNW	21	10N	49E	CUSTER
85	32.50		SENW	21	10N	49E	CUSTER
86	28.90		NESW	21	10N	49E	CUSTER
87	18.40		NWSW	21	10N	49E	CUSTER
88	32.50		SWSW	21	10N	49E	CUSTER
89	26.00		SESW	21	10N	49E	CUSTER
90	25.30		NESE	21	10N	49E	CUSTER
91	6.80		NWSE	21	10N	49E	CUSTER
92	19.60		SWSE	21	10N	49E	CUSTER
93	8.40		SESE	21	10N	49E	CUSTER

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
94	2.40		NENW	22	10N	49E	CUSTER
95	21.60		NWNW	22	10N	49E	CUSTER
96	2.80		SWNW	22	10N	49E	CUSTER
97	4.40		NWNE	28	10N	49E	CUSTER
98	34.10		NENW	28	10N	49E	CUSTER
99	22.00		NWNW	28	10N	49E	CUSTER
100	28.10		SWNW	28	10N	49E	CUSTER
101	7.60		SEnw	28	10N	49E	CUSTER
102	28.50		NWSW	28	10N	49E	CUSTER
103	20.00		SWSW	28	10N	49E	CUSTER
104	40.00		NENE	29	10N	49E	CUSTER
105	30.80		NWNE	29	10N	49E	CUSTER
106	22.90		SWNE	29	10N	49E	CUSTER
107	28.10		SENE	29	10N	49E	CUSTER
108	28.60		NENW	29	10N	49E	CUSTER
109	0.40		NWNW	29	10N	49E	CUSTER
110	5.60		SWNW	29	10N	49E	CUSTER
111	30.30		SEnw	29	10N	49E	CUSTER
112	33.20		NESW	29	10N	49E	CUSTER
113	4.00		NWSW	29	10N	49E	CUSTER
114	0.40		SWSW	29	10N	49E	CUSTER
115	35.30		SESW	29	10N	49E	CUSTER
116	35.30		NESE	29	10N	49E	CUSTER
117	36.90		NWSE	29	10N	49E	CUSTER
118	24.40		SWSE	29	10N	49E	CUSTER
119	29.70		SESE	29	10N	49E	CUSTER
120	22.40		NENE	32	10N	49E	CUSTER
121	37.10		NWNE	32	10N	49E	CUSTER
122	9.00		SWNE	32	10N	49E	CUSTER
123	25.60		NENW	32	10N	49E	CUSTER
124	3.20		NWNW	32	10N	49E	CUSTER
125	0.80		SWNW	32	10N	49E	CUSTER
126	23.30		SEnw	32	10N	49E	CUSTER
127	0.80		NWSW	33	10N	49E	CUSTER
128	7.20		NENE	1	10N	49E	CUSTER
129	24.10		NWNE	1	10N	49E	CUSTER
130	22.90		SWNE	1	10N	49E	CUSTER
131	20.40		NENW	1	10N	49E	CUSTER
132	26.90		NWNW	1	10N	49E	CUSTER
133	24.00		SWNW		10N	49E	CUSTER
134	35.30		SEnw	1	10N	49E	CUSTER
135	10.40		NESW	1	10N	49E	CUSTER
136	19.60		NWSW	1	10N	49E	CUSTER
137	0.40		NWSE	1	10N	49E	CUSTER
138	17.10		SENE	2	10N	49E	CUSTER
139	9.20		SWNW	16	11N	50E	PRAIRIE
140	0.40		NESW	16	11N	50E	PRAIRIE
141	38.10		NWSW	16	11N	50E	PRAIRIE
142	7.20		SWSW	16	11N	50E	PRAIRIE
143	28.90		NENE	17	11N	50E	PRAIRIE
144	26.80		NWNE	17	11N	50E	PRAIRIE
145	37.30		SWNE	17	11N	50E	PRAIRIE
146	22.40		SENE	17	11N	50E	PRAIRIE
147	18.60		NENW	17	11N	50E	PRAIRIE
148	17.00		NWNW	17	11N	50E	PRAIRIE
149	18.80		SWNW	17	11N	50E	PRAIRIE
150	23.20		SEnw	17	11N	50E	PRAIRIE
151	22.40		NESW	17	11N	50E	PRAIRIE
152	36.50		NWSW	17	11N	50E	PRAIRIE
153	39.70		SWSW	17	11N	50E	PRAIRIE
154	38.10		SESW	17	11N	50E	PRAIRIE
155	25.60		NESE	17	11N	50E	PRAIRIE
156	33.30		NWSE	17	11N	50E	PRAIRIE
157	20.40		SWSE	17	11N	50E	PRAIRIE
158	33.30		SESE	17	11N	50E	PRAIRIE
159	1.20		SENE	18	11N	50E	PRAIRIE
160	6.80		NESE	18	11N	50E	PRAIRIE
161	23.70		SESE	18	11N	50E	PRAIRIE

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
162	13.60		NENE	19	11N	50E	PRAIRIE
163	7.60		SENE	19	11N	50E	PRAIRIE
164	5.20		SESW	19	11N	50E	PRAIRIE
165	20.50		NESE	19	11N	50E	PRAIRIE
166	25.20		SWSE	19	11N	50E	PRAIRIE
167	20.30		SESE	19	11N	50E	PRAIRIE
168	36.90		NENE	20	11N	50E	PRAIRIE
169	33.90		NWNE	20	11N	50E	PRAIRIE
170	38.90		SWNE	20	11N	50E	PRAIRIE
171	36.10		SENE	20	11N	50E	PRAIRIE
172	27.70		NENW	20	11N	50E	PRAIRIE
173	38.10		NWNW	20	11N	50E	PRAIRIE
174	14.80		SWNW	20	11N	50E	PRAIRIE
175	21.70		SENE	20	11N	50E	PRAIRIE
176	35.30		NESW	20	11N	50E	PRAIRIE
177	4.00		NWSW	20	11N	50E	PRAIRIE
178	30.50		SWSW	20	11N	50E	PRAIRIE
179	23.60		SESW	20	11N	50E	PRAIRIE
180	26.40		NESE	20	11N	50E	PRAIRIE
181	38.50		NWSE	20	11N	50E	PRAIRIE
182	31.70		SWSE	20	11N	50E	PRAIRIE
183	4.80		SESE	20	11N	50E	PRAIRIE
184	12.80		NWNW	21	11N	50E	PRAIRIE
185	1.60		SWNW	21	11N	50E	PRAIRIE
186	3.60		NWNE	29	11N	50E	PRAIRIE
187	18.00		NENW	29	11N	50E	PRAIRIE
188	37.70		NWNW	29	11N	50E	PRAIRIE
189	33.70		SWNW	29	11N	50E	PRAIRIE
190	2.00		SENE	29	11N	50E	PRAIRIE
191	6.00		NWSW	29	11N	50E	PRAIRIE
192	24.10		NENE	30	11N	50E	PRAIRIE
193	35.30		NWNE	30	11N	50E	PRAIRIE
194	21.20		SWNE	30	11N	50E	PRAIRIE
195	38.50		SENE	30	11N	50E	PRAIRIE
196	37.30		NENW	30	11N	50E	PRAIRIE
197	1.60		NWNW	30	11N	50E	PRAIRIE
198	11.60		SWNW	30	11N	50E	PRAIRIE
199	35.30		SENE	30	11N	50E	PRAIRIE
200	15.60		NESW	30	11N	50E	PRAIRIE
201	30.10		NWSW	30	11N	50E	PRAIRIE
202	34.10		SWSW	30	11N	50E	PRAIRIE
203	2.00		SESW	30	11N	50E	PRAIRIE
204	37.90		NESE	30	11N	50E	PRAIRIE
205	14.50		NWSE	30	11N	50E	PRAIRIE
206	8.00		SWSE	30	11N	50E	PRAIRIE
207	1.60		SESE	30	11N	50E	PRAIRIE
208	1.60		NWNE	31	11N	50E	PRAIRIE
209	28.00		NENW	31	11N	50E	PRAIRIE
210	20.40		NWNW	31	11N	50E	PRAIRIE
211	34.10		SWNW	31	11N	50E	PRAIRIE
212	12.40		SENE	31	11N	50E	PRAIRIE
213	19.60		NWSW	31	11N	50E	PRAIRIE
214	13.20		SWSW	31	11N	50E	PRAIRIE
215	2.80		NENE	36	11N	49E	PRAIRIE
216	0.40		SENE	36	11N	49E	PRAIRIE
Total:		4,692.95					

REMARK: A MAXIMUM OF 5,562 ACRES ARE IRRIGATED WITHIN THE SERVICE AREA IN ANY ONE YEAR.

Remarks:

STARTING IN 2008, PERIOD OF DIVERSION WAS ADDED TO MOST CLAIM ABSTRACTS, INCLUDING THIS ONE.

KNOWN AS "SHIRLEY UNIT"

OWNERSHIP UPDATE RECEIVED

OWNERSHIP UPDATE TYPE 608 # 170150 RECEIVED 04/05/2018.

42M 40785-00

Service Area

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1			N2	1	10N	49E	CUSTER
2			SW	1	10N	49E	CUSTER
3			N2SE	1	10N	49E	CUSTER
4			ALL	2	10N	49E	CUSTER
5			NE	3	10N	49E	CUSTER
6			E2NW	3	10N	49E	CUSTER
7			S2	3	10N	49E	CUSTER
8			E2	9	10N	49E	CUSTER
9			ALL	10	10N	49E	CUSTER
10			N2NE	11	10N	49E	CUSTER
11			SWNE	11	10N	49E	CUSTER
12			W2	11	10N	49E	CUSTER
13			NWSE	11	10N	49E	CUSTER
14			NWNW	14	10N	49E	CUSTER
15			N2	15	10N	49E	CUSTER
16			SW	15	10N	49E	CUSTER
17			N2NESE	15	10N	49E	CUSTER
18			W2SE	15	10N	49E	CUSTER
19			E2NE	16	10N	49E	CUSTER
20		1		16	10N	49E	CUSTER
21		4		16	10N	49E	CUSTER
22		5		16	10N	49E	CUSTER
23		7		16	10N	49E	CUSTER
24			SE	16	10N	49E	CUSTER
25		4		20	10N	49E	CUSTER
26		5		20	10N	49E	CUSTER
27		6		20	10N	49E	CUSTER
28			ALL	21	10N	49E	CUSTER
29			NW	22	10N	49E	CUSTER
30			N2SW	22	10N	49E	CUSTER
31			N2	28	10N	49E	CUSTER
32			SW	28	10N	49E	CUSTER
33			ALL	29	10N	49E	CUSTER
34		7		31	10N	49E	CUSTER
35			ALL	32	10N	49E	CUSTER
36			NWNW	33	10N	49E	CUSTER
37			NWNW	6	10N	50E	CUSTER
38		5		25	11N	49E	PRAIRIE
39		1		34	11N	49E	PRAIRIE
40		2		34	11N	49E	PRAIRIE
41		5		35	11N	49E	PRAIRIE
42			E2NE	36	11N	49E	PRAIRIE
43		11		36	11N	49E	PRAIRIE
44			SE	36	11N	49E	PRAIRIE
45		11		3	11N	50E	PRAIRIE
46		7		4	11N	50E	PRAIRIE
47		9		4	11N	50E	PRAIRIE

42M 40785-00

Service Area

48		10		4	11N	50E	PRAIRIE
49		12		4	11N	50E	PRAIRIE
50		13		4	11N	50E	PRAIRIE
51		5		8	11N	50E	PRAIRIE
52		6		8	11N	50E	PRAIRIE
53			E2NE	9	11N	50E	PRAIRIE
54		2		9	11N	50E	PRAIRIE
55		4		9	11N	50E	PRAIRIE
56			S2	9	11N	50E	PRAIRIE
57		3		10	11N	50E	PRAIRIE
58			W2NW	10	11N	50E	PRAIRIE
59			SE	10	11N	50E	PRAIRIE
60			W2	16	11N	50E	PRAIRIE
61			ALL	17	11N	50E	PRAIRIE
62		8		18	11N	50E	PRAIRIE
63		10		18	11N	50E	PRAIRIE
64			E2NE	19	11N	50E	PRAIRIE
65			SE	19	11N	50E	PRAIRIE
66		13		19	11N	50E	PRAIRIE
67			ALL	20	11N	50E	PRAIRIE
68			NW	21	11N	50E	PRAIRIE
69			W2SW	21	11N	50E	PRAIRIE
70			N2	29	11N	50E	PRAIRIE
71			SW	29	11N	50E	PRAIRIE
72			NWNENE	30	11N	50E	PRAIRIE
73			W2NE	30	11N	50E	PRAIRIE
74			NW	30	11N	50E	PRAIRIE
75			N2SW	30	11N	50E	PRAIRIE
76		6		30	11N	50E	PRAIRIE
77			NWSESW	30	11N	50E	PRAIRIE
78			N2	31	11N	50E	PRAIRIE
79			SW	31	11N	50E	PRAIRIE

STATE OF MONTANA
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
1424 9TH AVENUE P.O.BOX 201601 HELENA, MONTANA 59620-1601

GENERAL ABSTRACT

Water Right Number: 42M 211267-00 STATEMENT OF CLAIM
Version: 1 -- ~~ORIGINAL RIGHT~~ **PROPOSED ABSTRACT**
Version Status: ACTIVE
Owners: USA (DEPT OF INTERIOR BUREAU OF RECLAMATION)
PO BOX 30137
BILLINGS, MT 59107-0137
BUFFALO RAPIDS IRRIGATION DISTRICT NO 2
% PAT DAVIS
PO BOX 907
TERRY, MT 59349
~~THIS IRRIGATION DISTRICT WAS ESTABLISHED UNDER TITLE 85, CHAPTER 7, MCA.~~
Priority Date: JUNE 17, 1938
Enforceable Priority Date: JUNE 17, 1938
Type of Historical Right: FILED
Purpose (use): ~~IRRIGATION~~ **DIVERSION FOR MULTIPLE USES**
Irrigation Type: SPRINKLER/FLOOD **Purpose Clarification:** WATER IS USED FOR IRRIGATION, STOCK, AND LAWN AND GARDEN USES.
Maximum Flow Rate: 66.00 CFS
Maximum Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.
Climatic Area: 1 - HIGH
Maximum Acres: ~~3,052.10~~ **3,358.63 acres**
Source Name: YELLOWSTONE RIVER
Source Type: SURFACE WATER
Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NENESW	13	12N	50E	PRAIRIE

Period of Diversion: APRIL 1 TO OCTOBER 15
Diversion Means: PUMP
Period of Use: APRIL 1 to OCTOBER 15

Place of Use:							
ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	18.00		NENE	13	12N	50E	PRAIRIE
2	34.40		SENE	13	12N	50E	PRAIRIE
3	10.40		SWNE	13	12N	50E	PRAIRIE
4	11.60		NESE	13	12N	50E	PRAIRIE
5	8.40		NWSE	13	12N	50E	PRAIRIE
6	17.60		SESE	13	12N	50E	PRAIRIE
7	16.40		NESE	8	12N	51E	PRAIRIE
8	1.60		NWSE	8	12N	51E	PRAIRIE
9	37.30		SESE	8	12N	51E	PRAIRIE
10	25.20		SWSE	8	12N	51E	PRAIRIE
11	0.80		SESW	8	12N	51E	PRAIRIE
12	12.20		SWSE	9	12N	51E	PRAIRIE
13	9.20		NWSW	9	12N	51E	PRAIRIE
14	27.60		SESW	9	12N	51E	PRAIRIE
15	38.60		SWSW	9	12N	51E	PRAIRIE
16	12.80		SESE	10	12N	51E	PRAIRIE
17	0.40		NWNE	13	12N	51E	PRAIRIE
18	2.40		SWNE	13	12N	51E	PRAIRIE
19	5.60		NENW	13	12N	51E	PRAIRIE
20	2.40		NWNW	13	12N	51E	PRAIRIE
21	18.80		SENW	13	12N	51E	PRAIRIE
22	18.80		SWNW	13	12N	51E	PRAIRIE
23	19.00		NESE	13	12N	51E	PRAIRIE
24	29.00		NWSE	13	12N	51E	PRAIRIE
25	8.00		SWSE	13	12N	51E	PRAIRIE
26	23.60		NESW	13	12N	51E	PRAIRIE

REPLACE WITH
GENERAL
SERVICE AREA;
LEGAL
DESCRIPTIONS
ATTACHED

Exhibit 8-B
(Terry Unit)

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
27	22.30		NWSW	13	12N	51E	PRAIRIE
28	32.90		SESW	13	12N	51E	PRAIRIE
29	37.30		SWSW	13	12N	51E	PRAIRIE
30	4.80		NENE	14	12N	51E	PRAIRIE
31	25.60		SENE	14	12N	51E	PRAIRIE
32	0.80		SWNE	14	12N	51E	PRAIRIE
33	20.50		NENW	14	12N	51E	PRAIRIE
34	32.90		NWNW	14	12N	51E	PRAIRIE
35	12.00		NESE	14	12N	51E	PRAIRIE
36	14.40		NWSE	14	12N	51E	PRAIRIE
37	25.20		SESE	14	12N	51E	PRAIRIE
38	26.80		SWSE	14	12N	51E	PRAIRIE
39	7.20		NESW	14	12N	51E	PRAIRIE
40	8.00		SESW	14	12N	51E	PRAIRIE
41	3.00		NENE	15	12N	51E	PRAIRIE
42	8.40		NWNE	15	12N	51E	PRAIRIE
43	2.00		SENE	15	12N	51E	PRAIRIE
44	12.00		SWNE	15	12N	51E	PRAIRIE
45	12.00		NENW	15	12N	51E	PRAIRIE
46	10.70		NWNW	15	12N	51E	PRAIRIE
47	3.30		SENW	15	12N	51E	PRAIRIE
48	30.10		NENE	16	12N	51E	PRAIRIE
49	27.30		NWNE	16	12N	51E	PRAIRIE
50	0.40		SENE	16	12N	51E	PRAIRIE
51	33.70		NENW	16	12N	51E	PRAIRIE
52	32.10		NWNW	16	12N	51E	PRAIRIE
53	9.60		SWNW	16	12N	51E	PRAIRIE
54	0.80		NWSW	16	12N	51E	PRAIRIE
55	17.20		NENE	17	12N	51E	PRAIRIE
56	32.10		NWNE	17	12N	51E	PRAIRIE
57	0.80		SENE	17	12N	51E	PRAIRIE
58	12.80		SWNE	17	12N	51E	PRAIRIE
59	20.80		NENW	17	12N	51E	PRAIRIE
60	5.20		NWNW	17	12N	51E	PRAIRIE
61	32.50		SESW	17	12N	51E	PRAIRIE
62	28.40		SWNW	17	12N	51E	PRAIRIE
63	26.40		NESW	17	12N	51E	PRAIRIE
64	26.40		NWSE	17	12N	51E	PRAIRIE
65	12.00		SESE	17	12N	51E	PRAIRIE
66	31.30		SWSE	17	12N	51E	PRAIRIE
67	23.20		NESW	17	12N	51E	PRAIRIE
68	20.40		NWSW	17	12N	51E	PRAIRIE
69	34.90		SESW	17	12N	51E	PRAIRIE
70	22.10		SWSW	17	12N	51E	PRAIRIE
71	14.20		NENE	18	12N	51E	PRAIRIE
72	23.80		NWNE	18	12N	51E	PRAIRIE
73	22.80		SENE	18	12N	51E	PRAIRIE
74	36.50		SWNE	18	12N	51E	PRAIRIE
75	30.80		NENW	18	12N	51E	PRAIRIE
76	29.20		NWNW	18	12N	51E	PRAIRIE
77	32.50		SENW	18	12N	51E	PRAIRIE
78	29.20		SWNW	18	12N	51E	PRAIRIE
79	5.60		NESE	18	12N	51E	PRAIRIE
80	7.40		NWSE	18	12N	51E	PRAIRIE
81	17.70		SESE	18	12N	51E	PRAIRIE
82	34.50		SWSE	18	12N	51E	PRAIRIE
83	4.00		NESW	18	12N	51E	PRAIRIE
84	6.40		NWSW	18	12N	51E	PRAIRIE
85	26.10		SESW	18	12N	51E	PRAIRIE
86	32.10		SWSW	18	12N	51E	PRAIRIE
87	27.90		NENE	19	12N	51E	PRAIRIE
88	37.30		NWNE	19	12N	51E	PRAIRIE
89	32.50		SENE	19	12N	51E	PRAIRIE
90	36.90		SWNE	19	12N	51E	PRAIRIE
91	32.50		NENW	19	12N	51E	PRAIRIE
92	8.80		NWNW	19	12N	51E	PRAIRIE
93	4.00		SENW	19	12N	51E	PRAIRIE
94	24.40		NESE	19	12N	51E	PRAIRIE

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
95	18.80		NWSE	19	12N	51E	PRAIRIE
96	35.70		SESE	19	12N	51E	PRAIRIE
97	35.70		NENE	20	12N	51E	PRAIRIE
98	33.70		NWNE	20	12N	51E	PRAIRIE
99	39.30		SENE	20	12N	51E	PRAIRIE
100	37.40		SWNE	20	12N	51E	PRAIRIE
101	30.10		NENW	20	12N	51E	PRAIRIE
102	28.00		NWNW	20	12N	51E	PRAIRIE
103	36.50		SENE	20	12N	51E	PRAIRIE
104	28.20		SWNW	20	12N	51E	PRAIRIE
105	19.60		NESE	20	12N	51E	PRAIRIE
106	27.30		NWSE	20	12N	51E	PRAIRIE
107	30.50		NESW	20	12N	51E	PRAIRIE
108	18.80		NWSW	20	12N	51E	PRAIRIE
109	1.20		NWNE	21	12N	51E	PRAIRIE
110	33.30		SENE	21	12N	51E	PRAIRIE
111	13.60		SWNE	21	12N	51E	PRAIRIE
112	25.70		NWNW	21	12N	51E	PRAIRIE
113	12.40		SENE	21	12N	51E	PRAIRIE
114	6.00		SWNW	21	12N	51E	PRAIRIE
115	25.70		NESE	21	12N	51E	PRAIRIE
116	12.40		NWSE	21	12N	51E	PRAIRIE
117	21.20		NESW	21	12N	51E	PRAIRIE
118	16.80		NWSW	21	12N	51E	PRAIRIE
119	14.40		NENE	22	12N	51E	PRAIRIE
120	33.20		NWNE	22	12N	51E	PRAIRIE
121	37.70		SENE	22	12N	51E	PRAIRIE
122	37.30		SWNE	22	12N	51E	PRAIRIE
123	35.30		NENW	22	12N	51E	PRAIRIE
124	16.40		NWNW	22	12N	51E	PRAIRIE
125	36.90		SENE	22	12N	51E	PRAIRIE
126	37.30		SWNW	22	12N	51E	PRAIRIE
127	28.80		NESE	22	12N	51E	PRAIRIE
128	36.90		NWSE	22	12N	51E	PRAIRIE
129	0.40		SESE	22	12N	51E	PRAIRIE
130	4.80		SWSE	22	12N	51E	PRAIRIE
131	32.10		NESW	22	12N	51E	PRAIRIE
132	24.50		NWSW	22	12N	51E	PRAIRIE
133	0.80		SESW	22	12N	51E	PRAIRIE
134	14.00		NENE	23	12N	51E	PRAIRIE
135	36.50		NWNE	23	12N	51E	PRAIRIE
136	16.50		SWNE	23	12N	51E	PRAIRIE
137	25.50		NENW	23	12N	51E	PRAIRIE
138	36.10		NWNW	23	12N	51E	PRAIRIE
139	36.70		SENE	23	12N	51E	PRAIRIE
140	39.70		SWNW	23	12N	51E	PRAIRIE
141	33.30		NWSE	23	12N	51E	PRAIRIE
142	17.50		SWSE	23	12N	51E	PRAIRIE
143	0.60		NESW	23	12N	51E	PRAIRIE
144	16.40		NWSW	23	12N	51E	PRAIRIE
145	2.00		NENW	24	12N	51E	PRAIRIE
146	13.60		NWNW	24	12N	51E	PRAIRIE
Total:	3,052.10						

KNOWN AS THE TERRY UNIT

Remark: A MAXIMUM OF 3,358.63 ACRES ARE IRRIGATED WITHIN THE SERVICE AREA IN ANY ONE YEAR.

Remarks:

STARTING IN 2008, PERIOD OF DIVERSION WAS ADDED TO MOST CLAIM ABSTRACTS, INCLUDING THIS ONE.

PARENT FILE FOR THIS RIGHT IS 40785-00.

OWNERSHIP UPDATE RECEIVED

OWNERSHIP UPDATE TYPE 608 # 170150 RECEIVED 04/05/2018.

42M 211267-00
Terry Service Area

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
		1		13	12N	50E	PRAIRIE
		2		13	12N	50E	PRAIRIE
			S2	13	12N	50E	PRAIRIE
			N2NE	24	12N	50E	PRAIRIE
		1		7	12N	51E	PRAIRIE
		1		8	12N	51E	PRAIRIE
		2		8	12N	51E	PRAIRIE
		1		9	12N	51E	PRAIRIE
		2		9	12N	51E	PRAIRIE
		3		9	12N	51E	PRAIRIE
		1		10	12N	51E	PRAIRIE
		2		10	12N	51E	PRAIRIE
		5		11	12N	51E	PRAIRIE
				13	12N	51E	PRAIRIE
				14	12N	51E	PRAIRIE
				15	12N	51E	PRAIRIE
			N2NE	16	12N	51E	PRAIRIE
			SENE	16	12N	51E	PRAIRIE
			N2NW	16	12N	51E	PRAIRIE
			SWNW	16	12N	51E	PRAIRIE
				17	12N	51E	PRAIRIE
				18	12N	51E	PRAIRIE
				19	12N	51E	PRAIRIE
				20	12N	51E	PRAIRIE
			NENE	21	12N	51E	PRAIRIE
			NWNW	21	12N	51E	PRAIRIE
			S2N2	21	12N	51E	PRAIRIE
			S2	21	12N	51E	PRAIRIE
				22	12N	51E	PRAIRIE
				23	12N	51E	PRAIRIE
			NWNE	24	12N	51E	PRAIRIE
			N2NW	24	12N	51E	PRAIRIE
			SWNW	24	12N	51E	PRAIRIE
			NWSW	24	12N	51E	PRAIRIE
			W2NW	18	12N	52E	PRAIRIE

STATE OF MONTANA
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
1424 9TH AVENUE P.O.BOX 201601 HELENA, MONTANA 59620-1601

GENERAL ABSTRACT

Water Right Number: 42M 211268-00 STATEMENT OF CLAIM
Version: 2 -- ~~POST DECREE~~ PROPOSED ABSTRACT

Version Status: ACTIVE

Owners: USA (DEPT OF INTERIOR BUREAU OF RECLAMATION)
PO BOX 30137
BILLINGS, MT 59107-0137

BUFFALO RAPIDS IRRIGATION DISTRICT NO 2
% PAT DAVIS
PO BOX 907
TERRY, MT 59349

~~THIS IRRIGATION DISTRICT WAS ESTABLISHED UNDER TITLE 85, CHAPTER 7, MCA.~~

Priority Date: JUNE 17, 1938

Enforceable Priority Date: JUNE 17, 1938

Type of Historical Right: FILED

Purpose (use): ~~IRRIGATION~~ DIVERSION FOR MULTIPLE USES

Irrigation Type: SPRINKLER/FLOOD Purpose Clarification: WATER IS USED FOR IRRIGATION, STOCK, AND LAWN AND GARDEN PURPOSES.

Maximum Flow Rate: 78.00 CFS

Maximum Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 1 - HIGH

Maximum Acres: 3,069.70

Source Name: YELLOWSTONE RIVER
Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SWSNW	33	13N	52E	PRAIRIE

Period of Diversion: APRIL 1 TO OCTOBER 19
Diversion Means: PUMP

Period of Use: APRIL 1 to OCTOBER 19

Place of Use:							
ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	36.50		NENE	1	12N	52E	PRAIRIE
2	36.10		NWNE	1	12N	52E	PRAIRIE
3	40.00		SENE	1	12N	52E	PRAIRIE
4	36.10		SWNE	1	12N	52E	PRAIRIE
5	34.90		NENW	1	12N	52E	PRAIRIE
6	36.10		NWNW	1	12N	52E	PRAIRIE
7	33.70		SENW	1	12N	52E	PRAIRIE
8	34.50		SWNW	1	12N	52E	PRAIRIE
9	37.70		NESE	1	12N	52E	PRAIRIE
10	30.90		NWSE		12N	52E	PRAIRIE
11	2.40		SESE	1	12N	52E	PRAIRIE
12	38.10		NESW	1	12N	52E	PRAIRIE
13	34.90		NWSW	1	12N	52E	PRAIRIE
14	12.61		SESW	1	12N	52E	PRAIRIE
15	26.90		SWSW	1	12N	52E	PRAIRIE
16	23.60		NENE	2	12N	52E	PRAIRIE
17	9.20		NWNE	2	12N	52E	PRAIRIE
18	33.30		SENE	2	12N	52E	PRAIRIE
19	37.30		SWNE	2	12N	52E	PRAIRIE
20	3.70		NESE	2	12N	52E	PRAIRIE
21	37.90		NWSE	2	12N	52E	PRAIRIE
22	24.79		SESE	2	12N	52E	PRAIRIE
23	37.50		SWSE	2	12N	52E	PRAIRIE
24	39.00		NWNE	11	12N	52E	PRAIRIE
25	11.00		NENW	11	12N	52E	PRAIRIE
26	6.40		NWNE	5	12N	53E	PRAIRIE

REPLACE WITH
GENERAL
SERVICE AREA;
LEGAL
DESCRIPTIONS
ATTACHED

Exhibit 8-C
(Fallon Unit)

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
27	31.08		NENW	5	12N	53E	PRAIRIE
28	24.43		NWNW	5	12N	53E	PRAIRIE
29	20.80		NENE	6	12N	53E	PRAIRIE
30	39.70		NWNE	6	12N	53E	PRAIRIE
31	20.40		SWNE	6	12N	53E	PRAIRIE
32	31.60		NENW	6	12N	53E	PRAIRIE
33	28.80		NWNW	6	12N	53E	PRAIRIE
34	20.40		SENW	6	12N	53E	PRAIRIE
35	21.30		SWNW	6	12N	53E	PRAIRIE
36	4.00		NESW	6	12N	53E	PRAIRIE
37	12.77		NWSW	6	12N	53E	PRAIRIE
38	2.40		NWSE	25	13N	52E	PRAIRIE
39	6.90		SESE	25	13N	52E	PRAIRIE
40	24.10		SWSE	25	13N	52E	PRAIRIE
41	3.60		NESW	25	13N	52E	PRAIRIE
42	1.60		NWSW	25	13N	52E	PRAIRIE
43	23.20		SESW	25	13N	52E	PRAIRIE
44	24.67		SWSW	25	13N	52E	PRAIRIE
45	36.10		SESE	26	13N	52E	PRAIRIE
46	37.80		SWSE	26	13N	52E	PRAIRIE
47	10.40		NWSW	26	13N	52E	PRAIRIE
48	28.92		SESW	26	13N	52E	PRAIRIE
49	24.10		SWSW	26	13N	52E	PRAIRIE
50	7.20		SWNW	27	13N	52E	PRAIRIE
51	30.00		NESE	27	13N	52E	PRAIRIE
52	6.00		NWSE	27	13N	52E	PRAIRIE
53	35.70		SESE	27	13N	52E	PRAIRIE
54	23.30		SWSE	27	13N	52E	PRAIRIE
55	21.60		NESW	27	13N	52E	PRAIRIE
56	21.20		NWSW	27	13N	52E	PRAIRIE
57	26.80		SESW	27	13N	52E	PRAIRIE
58	25.20		SWSW	27	13N	52E	PRAIRIE
59	1.20		NWSE	28	13N	52E	PRAIRIE
60	34.90		SESE	28	13N	52E	PRAIRIE
61	22.50		SWSE	28	13N	52E	PRAIRIE
62	37.30		NENE	33	13N	52E	PRAIRIE
63	36.90		NWNE	33	13N	52E	PRAIRIE
64	39.30		SENE	33	13N	52E	PRAIRIE
65	26.50		SWNE	33	13N	52E	PRAIRIE
66	8.00		NENW	33	13N	52E	PRAIRIE
67	10.80		SENW	33	13N	52E	PRAIRIE
68	24.55		NESE	33	13N	52E	PRAIRIE
69	13.20		NWSE	33	13N	52E	PRAIRIE
70	6.00		SESE	33	13N	52E	PRAIRIE
71	15.73		SWSE	33	13N	52E	PRAIRIE
72	40.00		NENE	34	13N	52E	PRAIRIE
73	26.90		NWNE	34	13N	52E	PRAIRIE
74	22.69		SENE	34	13N	52E	PRAIRIE
75	22.80		SWNE	34	13N	52E	PRAIRIE
76	13.60		NENW	34	13N	52E	PRAIRIE
77	32.80		NWNW	34	13N	52E	PRAIRIE
78	35.70		SENW	34	13N	52E	PRAIRIE
79	37.20		SWNW	34	13N	52E	PRAIRIE
80	19.64		NESE	34	13N	52E	PRAIRIE
81	0.40		NWSE	34	13N	52E	PRAIRIE
82	27.59		SESE	34	13N	52E	PRAIRIE
83	11.60		NESW	34	13N	52E	PRAIRIE
84	16.80		NWSW	34	13N	52E	PRAIRIE
85	1.60		SESW	34	13N	52E	PRAIRIE
86	32.29		SWSW	34	13N	52E	PRAIRIE
87	36.10		NENE	35	13N	52E	PRAIRIE
88	38.90		NWNE	35	13N	52E	PRAIRIE
89	32.80		SENE	35	13N	52E	PRAIRIE
90	31.00		SWNE	35	13N	52E	PRAIRIE
91	34.80		NENW	35	13N	52E	PRAIRIE
92	35.30		NWNW	35	13N	52E	PRAIRIE
93	38.08		SENW	35	13N	52E	PRAIRIE
94	29.86		SWNW	35	13N	52E	PRAIRIE

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
95	24.00		NESE	35	13N	52E	PRAIRIE
96	13.20		NWSE	35	13N	52E	PRAIRIE
97	37.70		SESE	35	13N	52E	PRAIRIE
98	31.20		SWSE	35	13N	52E	PRAIRIE
99	1.60		NESW	35	13N	52E	PRAIRIE
100	12.00		SESW	35	13N	52E	PRAIRIE
101	26.50		SWSW	35	13N	52E	PRAIRIE
102	21.60		NENE	36	13N	52E	PRAIRIE
103	28.90		NWNE	36	13N	52E	PRAIRIE
104	28.43		SENE	36	13N	52E	PRAIRIE
105	17.60		SWNE	36	13N	52E	PRAIRIE
106	38.27		NENW	36	13N	52E	PRAIRIE
107	33.70		NWNW	36	13N	52E	PRAIRIE
108	39.39		SENW	36	13N	52E	PRAIRIE
109	36.90		SWNW	36	13N	52E	PRAIRIE
110	9.60		NESE	36	13N	52E	PRAIRIE
111	22.35		NWSE	36	13N	52E	PRAIRIE
112	22.10		SESE	36	13N	52E	PRAIRIE
113	34.66		SWSE	36	13N	52E	PRAIRIE
114	32.40		NESW	36	13N	52E	PRAIRIE
115	22.50		NWSW	36	13N	52E	PRAIRIE
116	40.00		SESW	36	13N	52E	PRAIRIE
117	27.20		SWSW	36	13N	52E	PRAIRIE
118	15.20		SENW	31	13N	53E	PRAIRIE
119	12.00		SENW	31	13N	53E	PRAIRIE
120	50.00		SWNW	31	13N	53E	PRAIRIE
121	30.00		SWNW	31	13N	53E	PRAIRIE
122	10.40		NESW	31	13N	53E	PRAIRIE
123	2.00		NESW	31	13N	53E	PRAIRIE
124	13.60		NWSW	31	13N	53E	PRAIRIE
125	0.40		SESW	31	13N	53E	PRAIRIE
126	12.80		SWSW	31	13N	53E	PRAIRIE
127	25.00		W2SW	31	13N	53E	PRAIRIE
Total:	3,069.70						

KNOWN AS THE FALLON UNIT
A MAXIMUM OF 3,069.70 ACRES ARE IRRIGATED WITHIN THE SERVICE AREA IN ANY ONE YEAR.

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE ASSOCIATED WHICH MEANS THE RIGHTS SHARE THE SAME PLACE OF USE.

54911-00 211268-00

PARENT FILE FOR THIS RIGHT IS 40785-00.

THIS APPROPRIATION OF WATER TAKES WATER FROM THE YELLOWSTONE RIVER, BELOW POWDER RIVER DRAINAGE (BASIN 42M) AND USES IT IN THE O'FALLON CREEK DRAINAGE (BASIN 42L). ANY OBJECTION TO THIS RIGHT MAY BE FILED DURING THE OBJECTION PERIODS FOR EITHER THE POINT OF DIVERSION OR PLACE OF USE BASIN.

OWNERSHIP UPDATE RECEIVED

OWNERSHIP UPDATE TYPE 608 # 170150 RECEIVED 04/05/2018.

42M 211268-00
Fallon Service Area

ID	Acres	Govt Lot	Qtr Sec	Sec	TWP	RGE	COUNTY
1				1	12N	52E	PRAIRIE
2				2	12N	52E	PRAIRIE
3		7		3	12N	52E	PRAIRIE
4			NESE	3	12N	52E	PRAIRIE
5			SENE	10	12N	52E	PRAIRIE
6			NESE	10	12N	52E	PRAIRIE
7			N2	11	12N	52E	PRAIRIE
8			N2SW	11	12N	52E	PRAIRIE
9			SW	25	13N	52E	PRAIRIE
10		7		25	13N	52E	PRAIRIE
11			S2	26	13N	52E	PRAIRIE
12			S2NW	27	13N	52E	PRAIRIE
13			SW	27	13N	52E	PRAIRIE
14		3		27	13N	52E	PRAIRIE
15		4		27	13N	52E	PRAIRIE
16			S2SE	27	13N	52E	PRAIRIE
17		1		28	13N	52E	PRAIRIE
18		2		28	13N	52E	PRAIRIE
19		3		28	13N	52E	PRAIRIE
20			SESE	28	13N	52E	PRAIRIE
21			E2E2	33	13N	52E	PRAIRIE
22		1		33	13N	52E	PRAIRIE
23		2		33	13N	52E	PRAIRIE
24		3		33	13N	52E	PRAIRIE
25		4		33	13N	52E	PRAIRIE
26			SWSE	33	13N	52E	PRAIRIE
27			N2	34	13N	52E	PRAIRIE
28			W2SW	34	13N	52E	PRAIRIE
29			E2SE	34	13N	52E	PRAIRIE
30				35	13N	52E	PRAIRIE
31				36	13N	52E	PRAIRIE
32			N2	5	12N	53E	PRAIRIE
33			N2	6	12N	53E	PRAIRIE
34			N2SW	6	12N	53E	PRAIRIE
35			SWSW	6	12N	53E	PRAIRIE
36			NWSE	6	12N	53E	PRAIRIE
37		1		31	13N	53E	PRAIRIE
38		4		31	13N	53E	PRAIRIE
39			SW	31	13N	53E	PRAIRIE