

Summary of Proposed Water Rights Compact for the U.S. Fish and Wildlife Service Charles M. Russell National Wildlife Refuge

The Montana Reserved Water Rights Compact Commission and U.S. Fish and Wildlife Service have agreed to the terms of a proposed water rights compact for the Charles M. Russell National Wildlife Refuge. Following extensive public comment and approval by the Commission, the compact has been introduced as SB 278. The key provisions include:

1. **Protection of all existing water rights arising under State law** with a priority date earlier than the Effective Date of the compact. All state-based rights with a priority date prior to the Effective Date of the compact are effectively senior in priority to any rights granted to the USFWS under this compact.
2. **Continued Exception to permitting for domestic wells and stock ponds** that are excepted from permitting under § 85-2-306, MCA. Uses less than the current exception limits will not be subject to call by the Reserved Right, including those with a priority date after the Effective Date of the compact.
3. **Water Right.** In settlement of the Refuge's federal reserved water right, the following rights will be recognized:
 - a. A quantified right of ½ or 1 cfs in 68 named streams draining onto the refuge for instream use to benefit stock, wildlife, and wildlife habitat. The place of use is from the point where the Refuge boundary crosses each named stream to its confluence with Ft. Peck Lake or the Missouri River. The period of use is March 1 to June 30.
 - b. A minimum instream flow right of 70 cfs in the Musselshell River measured where the mainstem river enters USFWS owned land within the Refuge. The place of use is from the point where the mainstem river channel enters USFWS land on the refuge to its confluence with Fort Peck Lake. The period of use is from March 1 to June 30. This right shall run coextensively with and junior to the Montana Fish, Wildlife & Parks right for the same source and flow rate. This right will be enforceable when the flow on the Musselshell falls below 70 cfs for 5 consecutive days.
 - c. Filed rights to wells, ponds, and developed springs. The claims that are consistent with the purposes for which the Refuge was established will be incorporated into the Reserved Right and withdrawn from the adjudication.
4. **Conditions to be applied to permits issued after the Effective Date of the compact.** On streams with a quantified right, the DNRC may issue new permits subject to the Reserved Right. On the stream reaches identified in Appendix 5 on the map titled "Article IV.C. Protected Reaches for On-Stream Impoundment Limitations," no new on-stream impoundments may be constructed after the Effective Date of this compact, with the following exceptions:
 - a. On-stream impoundments less than 15 AF capacity allowed;
 - b. On-stream diversion works to serve off-stream impoundment 15 AF or larger allowed;
 - c. On-stream impoundments 15 AF or larger allowed upstream of restricted reach;
 - d. On-stream impoundments 15 AF or larger allowed on tributaries of restricted reach.

SAMPLE GENERAL ABSTRACT

Water Right Number: 40EJ-183095-00 COMPACT
Version: 1 – ORIGINAL RIGHT
Version Status:

Owners:
 US DEPARTMENT OF INTERIOR
 US FISH AND WILDLIFE SERVICE
 DENVER FEDERAL CENTER
 PO BOX 25488, MS#60189
 DENVER, CO 80255-0486

Priority Date: DECEMBER 11, 1936
Enforceable Priority Date: DATE OF COMPACT

Type of Historical Right: RESERVED

Purpose (use):
 STOCK
 WILDLIFE
 WILDLIFE HABITAT

Maximum Flow Rate: 0.5 CFS

Maximum Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK AND WILDLIFE WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name: ANTELOPE CREEK
Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		N2	3	22N	23E	PHILLIPS
Period of Diversion: MARCH 1 to JUNE 30						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						
2		SW	3	22N	23E	PHILLIPS
Period of Diversion: MARCH 1 to JUNE 30						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						
3		SENE	9	22N	23E	PHILLIPS
Period of Diversion: MARCH 1 to JUNE 30						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						
4		E2SE	9	22N	23E	PHILLIPS
Period of Diversion: MARCH 1 to JUNE 30						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						

Charles M. Russell National Wildlife Refuge Water Compact
 SB 278 February 13, 2013
 Reserved Water Rights Compact Commission Bill Schultz 406.542.5880

5 **Period of Diversion:** NW 10 22N 23E PHILLIPS
Diversion Means: MARCH 1 to JUNE 30
LIVESTOCK DIRECT FROM SOURCE

6 **Period of Diversion:** W2W2W2 15 22N 23E PHILLIPS
Diversion Means: MARCH 1 to JUNE 30
LIVESTOCK DIRECT FROM SOURCE

7 **Period of Diversion:** E2E2NE 21 22N 23E PHILLIPS
Diversion Means: MARCH 1 to JUNE 30
LIVESTOCK DIRECT FROM SOURCE

8 **Period of Diversion:** E2SE 21 22N 23E PHILLIPS
Diversion Means: MARCH 1 to JUNE 30
LIVESTOCK DIRECT FROM SOURCE

9 **Period of Diversion:** W2W2W2 22 22N 23E PHILLIPS
Diversion Means: MARCH 1 to JUNE 30
LIVESTOCK DIRECT FROM SOURCE

Purpose: STOCK

Period of Use: MARCH 1 to JUNE 30

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1			N2	3	22N	23E	PHILLIPS
2			SW	3	22N	23E	PHILLIPS
3			SESE	9	22N	23E	PHILLIPS
4			E2SE	9	19N	23E	PHILLIPS
5			NW	10	22N	30E	PHILLIPS
6			W2W2W2	15	22N	23E	PHILLIPS
7			E2E2NE	21	22N	23E	PHILLIPS
8			E2SE	21	22N	23E	PHILLIPS
9			W2W2NW	22	19N	23E	PHILLIPS

Purpose: WILDLIFE

Period of Use: MARCH 1 to JUNE 30

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1			N2	3	22N	23E	PHILLIPS
2			SW	3	22N	23E	PHILLIPS
3			SESE	9	22N	23E	PHILLIPS
4			E2SE	9	19N	23E	PHILLIPS
5			NW	10	22N	30E	PHILLIPS
6			W2W2W2	15	22N	23E	PHILLIPS
7			E2E2NE	21	22N	23E	PHILLIPS
8			E2SE	21	22N	23E	PHILLIPS
9			W2W2NW	22	19N	23E	PHILLIPS

Purpose: WILDLIFE HABITAT
Period of Use: MARCH 1 to JUNE 30
Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rec	County
1			N2	3	22N	23E	PHILLIPS
2			SW	3	22N	23E	PHILLIPS
3			SESE	9	22N	23E	PHILLIPS
4			E2SE	9	19N	23E	PHILLIPS
5			NW	10	22N	30E	PHILLIPS
6			W2W2W2	15	22N	23E	PHILLIPS
7			E2E2NE	21	22N	23E	PHILLIPS
8			E2SE	21	22N	23E	PHILLIPS
9			W2W2NW	22	19N	23E	PHILLIPS

Remarks:

THIS RIGHT IS A RESERVED WATER RIGHT WHICH IS SUBJECT TO THE COMPACT BETWEEN THE UNITED STATES AND THE STATE OF MONTANA, CODIFIED AT MONT. CODE ANN. §85-20-____ (2013). THIS RIGHT CANNOT BE CHANGED TO ANY OTHER USE.

PROPOSED GENERAL ABSTRACT

Water Right Number: 40C-000000-00 COMPACT
 40EJ-000000-00 COMPACT
Version: 1 - ORIGINAL RIGHT
Version Status:

Owners:
 US DEPARTMENT OF INTERIOR
 US FISH AND WILDLIFE SERVICE
 DENVER FEDERAL CENTER
 PO BOX 25488, MS#60189
 DENVER, CO 80255-0486

Priority Date: DECEMBER 11, 1936
Enforceable Priority Date: DATE OF COMPACT

Type of Historical Right: RESERVED

Purpose (use):
 STOCK
 WILDLIFE
 WILDLIFE HABITAT

Maximum Flow Rate: 70 CFS

Source Name: MUSSELSHELL RIVER
Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

ID	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		1	18N	29E		PETROLEUM
Period of Diversion: JANUARY 1 to DECEMBER 31						
Diversion Means: INSTREAM						
2		12	18N	29E		PETROLEUM
Period of Diversion: JANUARY 1 to DECEMBER 31						
Diversion Means: INSTREAM						
3		13	18N	29E		PETROLEUM
Period of Diversion: JANUARY 1 to DECEMBER 31						
Diversion Means: INSTREAM						
4		36	19N	29E		PETROLEUM
Period of Diversion: JANUARY 1 to DECEMBER 31						
Diversion Means: INSTREAM						
5		18	18N	30E		PETROLEUM
Period of Diversion: JANUARY 1 to DECEMBER 31						
Diversion Means: INSTREAM						
6		1	18N	29E		GARFIELD
Period of Diversion: JANUARY 1 to DECEMBER 31						
Diversion Means: INSTREAM						
7		12	18N	29E		GARFIELD

Period of Diversion: JANUARY 1 to DECEMBER 31
Diversion Means: INSTREAM

8
Period of Diversion: JANUARY 1 to DECEMBER 31
Diversion Means: INSTREAM

9
Period of Diversion: JANUARY 1 to DECEMBER 31
Diversion Means: INSTREAM

10
Period of Diversion: JANUARY 1 to DECEMBER 31
Diversion Means: INSTREAM

Purpose: STOCK

Period of Use: JANUARY 1 to DECEMBER 31

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1				1	18N	29E	PETROLEUM
2				12	18N	29E	PETROLEUM
3				13	18N	29E	PETROLEUM
4				36	19N	29E	PETROLEUM
5				18	18N	30E	PETROLEUM
6				1	18N	29E	GARFIELD
7				12	18N	29E	GARFIELD
8				13	18N	29E	GARFIELD
9				36	19N	29E	GARFIELD
10				18	18N	30E	GARFIELD

Purpose: WILDLIFE

Period of Use: JANUARY 1 to DECEMBER 31

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1				1	18N	29E	PETROLEUM
2				12	18N	29E	PETROLEUM
3				13	18N	29E	PETROLEUM
4				36	19N	29E	PETROLEUM
5				18	18N	30E	PETROLEUM
6				1	18N	29E	GARFIELD
7				12	18N	29E	GARFIELD
8				13	18N	29E	GARFIELD
9				36	19N	29E	GARFIELD
10				18	18N	30E	GARFIELD

Purpose: WILDLIFE HABITAT

Period of Use: JANUARY 1 to DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rce</u>	<u>County</u>
1				1	18N	29E	PETROLEUM
2				12	18N	29E	PETROLEUM
3				13	18N	29E	PETROLEUM
4				36	19N	29E	PETROLEUM
5				18	18N	30E	PETROLEUM
6				1	18N	29E	GARFIELD
7				12	18N	29E	GARFIELD
8				13	18N	29E	GARFIELD
9				36	19N	29E	GARFIELD
10				18	18N	30E	GARFIELD

Remarks:

THIS RIGHT IS A RESERVED WATER RIGHT WHICH IS SUBJECT TO THE COMPACT BETWEEN THE UNITED STATES AND THE STATE OF MONTANA, CODIFIED AT MONT. CODE ANN. §85-20-____(2013). THIS RIGHT CANNOT BE CHANGED TO ANY OTHER USE.

SAMPLE GENERAL ABSTRACT

Water Right Number: 40EJ-189323-00 COMPACT

Version: 1 - ORIGINAL RIGHT

Version Status: ACTIVE

Owners:

US DEPARTMENT OF INTERIOR
US FISH AND WILDLIFE SERVICE
DENVER FEDERAL CENTER
PO BOX 25488, MS#60189
DENVER, CO 80255-0486

Priority Date: DECEMBER 11, 1936

Enforceable Priority Date: DATE OF COMPACT

Type of Historical Right: RESERVED

Purpose (use):

STOCK
WILDLIFE
WILDLIFE HABITAT

Maximum Flow Rate: 1.00 GPM

Maximum Volume:

THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK AND WILDLIFE WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name:

GROUNDWATER

Source Type:

GROUNDWATER
ALSO KNOWN AS FIFTEEN WELL

Point of Diversion and Means of Diversion:

ID	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWNWSE	15	22N	26E	PHILLIPS

Period of Diversion: JANUARY 1 to DECEMBER 31
Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Purpose: STOCK

JANUARY 1 to DECEMBER 31

Place of Use:

ID	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWNWSE	15	22N	26E	PHILLIPS	

Purpose: WILDLIFE

JANUARY 1 to DECEMBER 31

Place of Use:

ID	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWNWSE	15	22N	26E	PHILLIPS	

Purpose: WILDLIFE HABITAT
Period of Use: JANUARY 1 to DECEMBER 31
Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rec</u>	<u>County</u>
1			NW/NW/SE	15	22N	26E	PHILLIPS

Remarks:

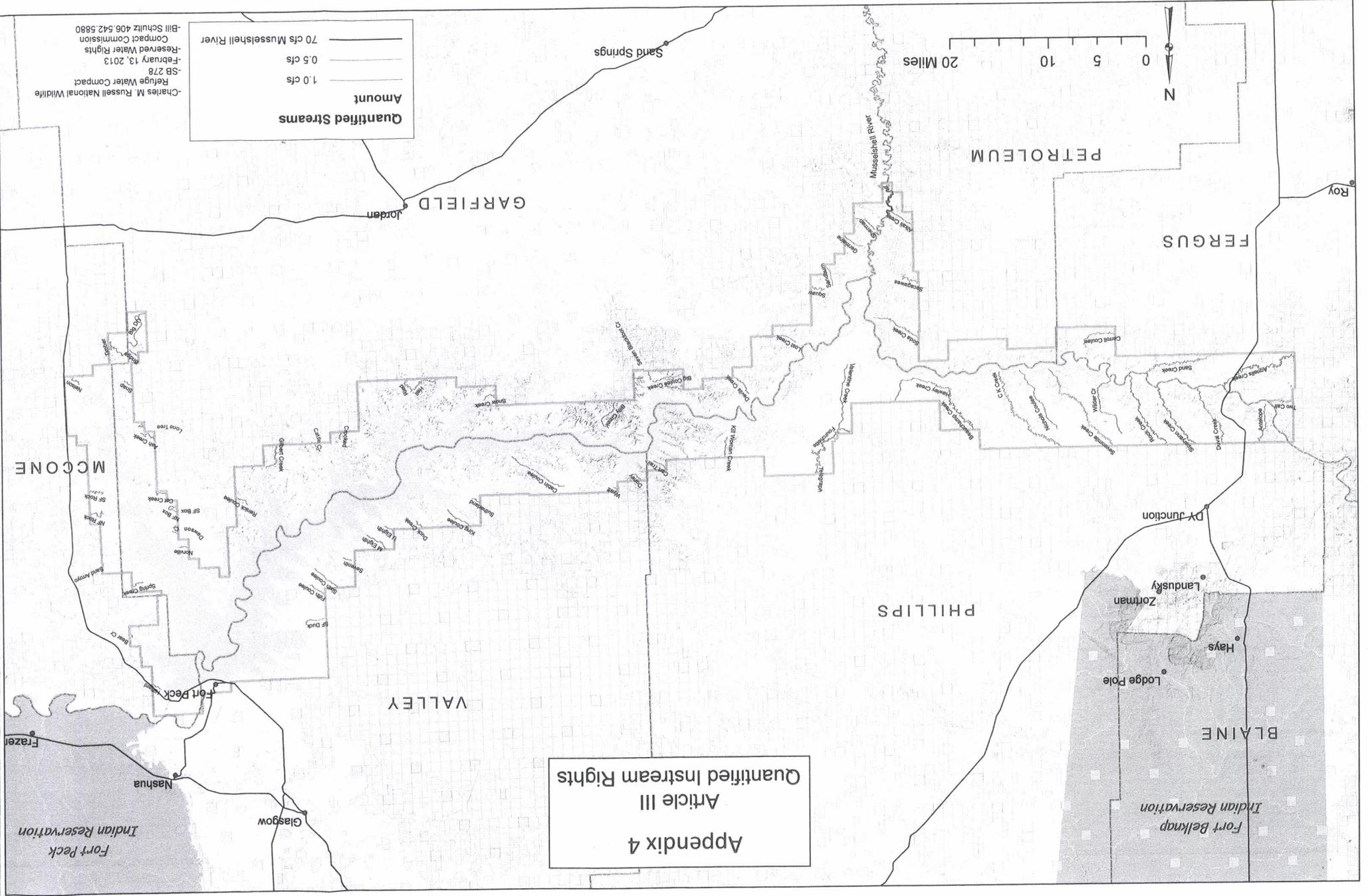
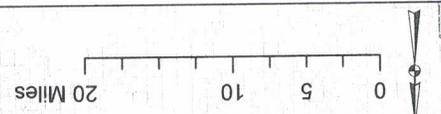
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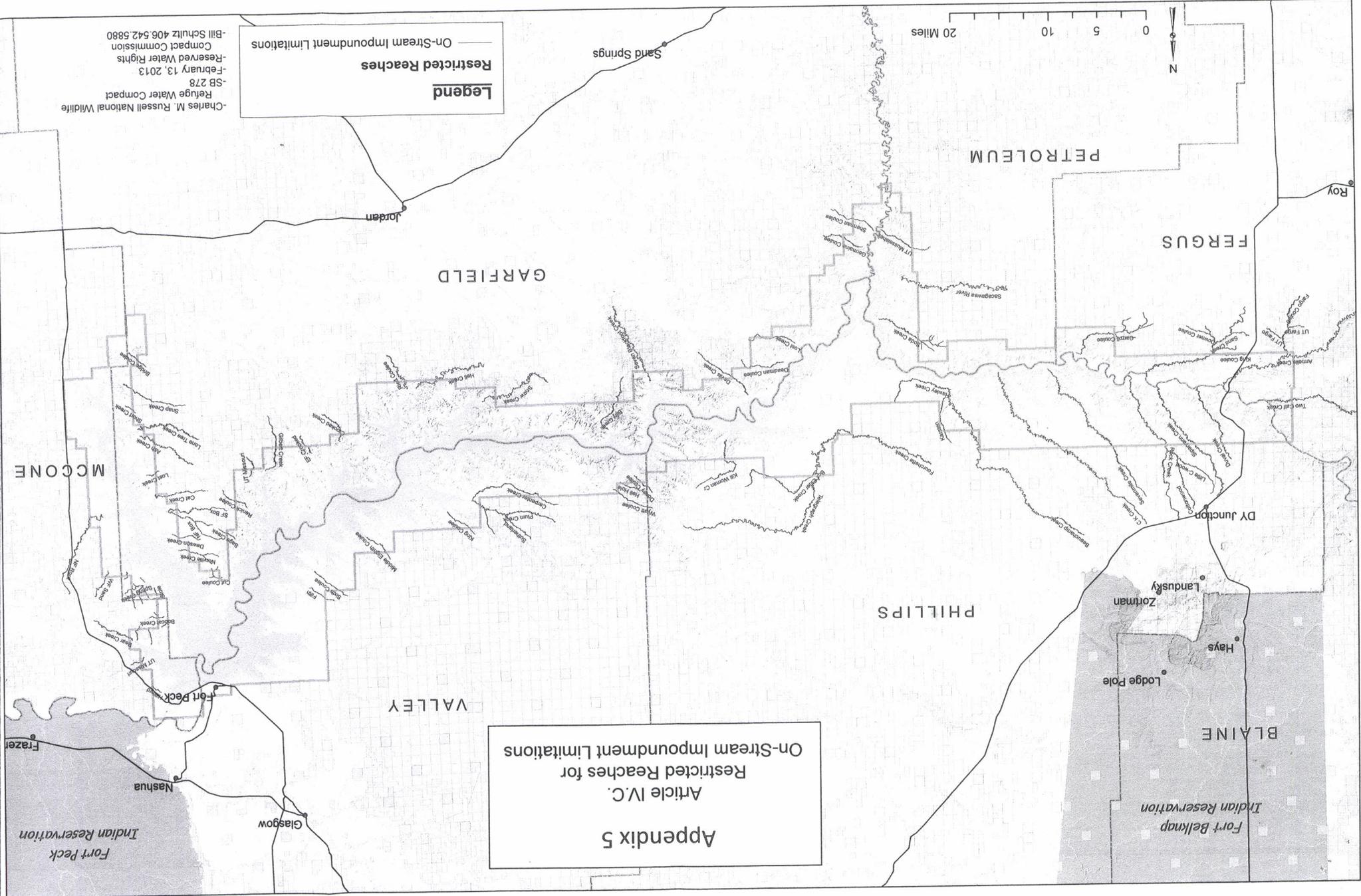
Appendix 4
Article III
Quantified Instream Rights

Quantified Streams
Amount

- 1.0 cfs
- 0.5 cfs
- 70 cfs Musselshell River

-Charles M. Russell National Wildlife
Refuge Water Compact
-SB 276
-February 13, 2013
-Reserved Water Rights
Compact Commission
-Bill Schultz 406.542.5890



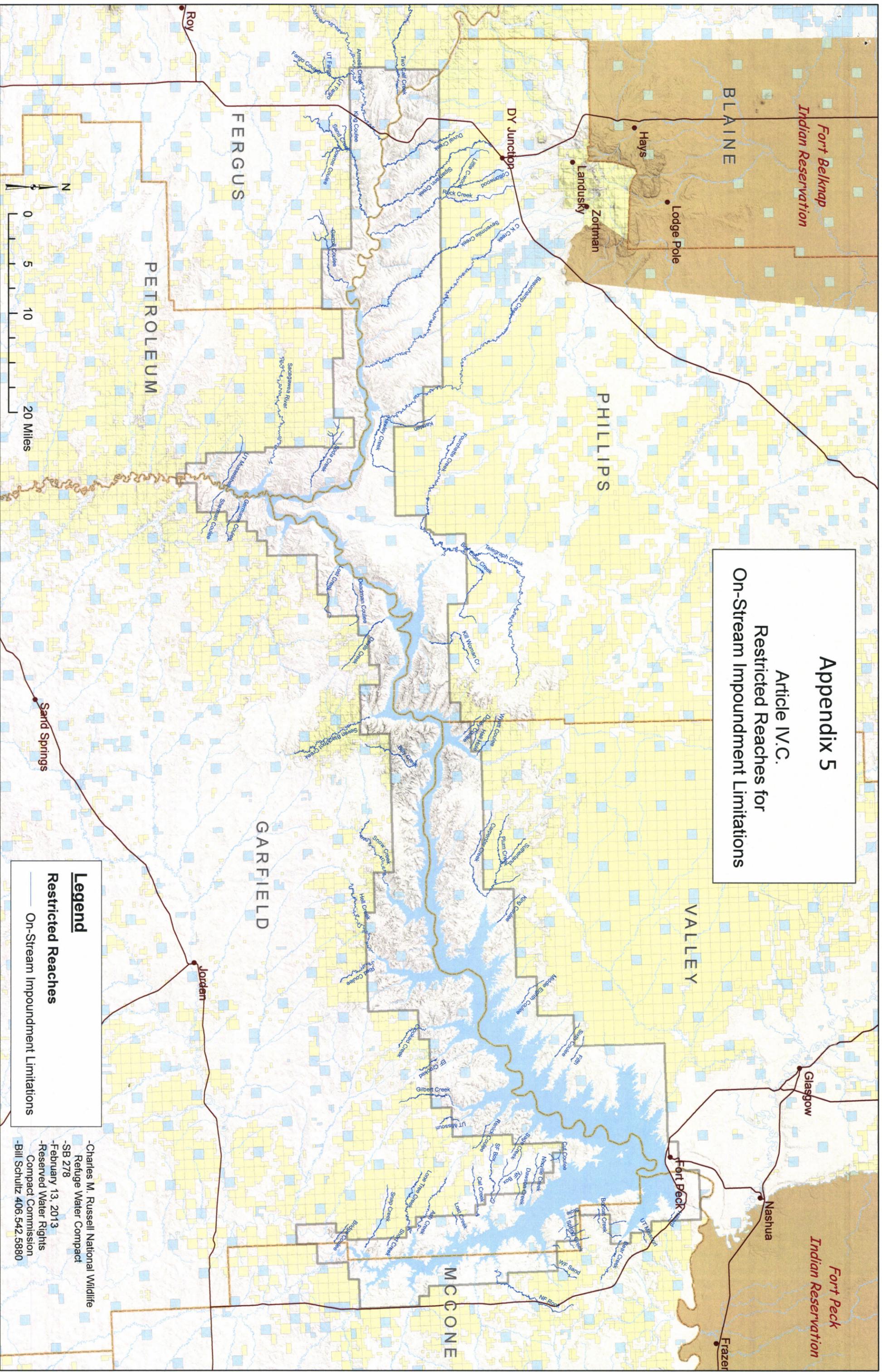


Appendix 5
 Article IV.C.
 Restricted Reaches for
 On-Stream Impoundment Limitations

Legend
 — On-Stream Impoundment Limitations
 — Restricted Reaches

-Charles M. Russell National Wildlife
 Refuge Water Compact
 -SB 278
 -February 13, 2013
 -Reserved Water Rights
 Compact Commission
 -Bill Schultz 406 542 5880

Appendix 5
Article IV.C.
Restricted Reaches for
On-Stream Impoundment Limitations



Legend
Restricted Reaches
 — On-Stream Impoundment Limitations

- Charles M. Russell National Wildlife Refuge Water Compact -SB 278
- February 13, 2013
- Reserved Water Rights Compact Commission
- Bill Schultz 406.542.5880