

The more we in Lake, Missoula and Sanders County dig in the artifacts located in government archives, the more we learn of the corruption of individuals at the federal, state and local government levels.

We have discovered just how valuable and critical simple fee patents are to private property and water rights, and how the SECRETARY of INTERIOR and the Bureau of Land Management have attempted to manipulate those rights, ignoring the law. They have been misappropriating RECLAMATION FUNDS for decades. Net Power Revenues, generated by dams for the beneficial use of the irrigated land and landholders, who have water rights or appropriation of water to their lands, have been told that they have no water right nor any claim to reclamation funds. We have discovered differently, and despite the fact that we have both documents and law to support our rights, the Secretary of Interior, the BLM, BIA, the State of Montana, and local entities are refusing to recognize settle law. Water rights for irrigation, power and other purposes were legally appropriated by Acts of Congress, acts of the United States Government and the Montana State Constitution. Patents were purchased and filed on by miners and homesteaders, and included a right to irrigation water and all appurtenances above and beneath surface. Water, oil, gas, gold, silver, and coal are some of the wealth held by the patents along with easements of right of ways. Every original land patent can be found under the section, township and range, and water rights documents are on file at county courthouses all over the west, as well as in BLM land offices. These claims, water rights or notice of appropriations, state the amounts of water, or as with the water appropriation act, may have claimed all of the water in the streams and rivers for use and control by the land owner. Notices of Appropriation are LEGAL water rights decreed by the District Court, and in many cases appropriated ALL water, with no reserve water to be claimed remaining. These are LAWS that must be upheld by the Secretary of Interior, the federal government, the State of Montana and local governments. The water appropriation to the dam in the Flathead River claimed way more water than there ever has been in the river since.

Here in Western Montana, the reclamation funds have been stolen, the irrigation project not completed as was mandated by Congress and water misappropriated, from 1920 through the REPAYMENT CONTRACTS of 1949 to present. Many of the dams in the Western States were bought and paid for and are owned by the irrigators, which most irrigators do not know. The water running through those dams was bought and paid for along the land patents that were issued by the United States Government through the Homestead Acts. These "LAWS" have been on file in all Western States, here since 1905, and recorded under Acts of Congress and of public record. In 1983 water rights certificates were filed with the DNRC, however, these documents have been fraudulently altered by federal, state and local employees.

Documents that were put on file 30 or more years ago prove water rights ownership and lost revenue to the irrigation projects, irrigators and the State of Montana. Federal and State governments have been changing or ignoring water rights laws all across the western states, resulting in a taking of both water and net power revenues. The water in the Flathead River was illegally filed on in 1920, 30 days later it was sold to Rocky

Mountain Power, and in 1928 Rocky Mountain Power filed illegally on the Kerr Dam site. Kerr Dam, that was bought and paid for by the irrigators and landowners, was then illegally sold in 1999 by Montana Power to PPL. Now, North Western Energy, is quickly purchasing the 11 dams in Montana, many built with irrigation/landowner/reclamation funds, and in the case of Kerr Dam, with the intent to turn it over to the Tribe. You can find it online at [www.northwesternenergy.com](http://www.northwesternenergy.com). This is indicative of a government gone rogue.

Bernie Madoff stole a hell of a lot less, look where he is today. The Secretary of Interior needs to bring the reclamation fund books records, along with a Repayment Plan from Congress for landowners who have felt the effects of this depredation from the 100<sup>th</sup> Meridian West. Article #8 of the Hell Gate Treaty talks about depredation against a neighbor, the Montana State Constitution states in Article II, Section 17, that no person shall be deprived of life, liberty or property without due process of law, and Article II, Section 29 which prohibits the taking of private property without just compensation. Yes the guilty souls need to reread, not rewrite, their oaths that have been taken!!!

Gene Erb  
Dixon, MT  
406-544-9588

Bill-FYI

DEPARTMENT OF NATURAL RESOURCES  
AND CONSERVATION

166596



BRIAN SCHWEITZER  
GOVERNOR

DIRECTOR'S OFFICE (406) 444-2074  
TELEFAX NUMBER (406) 444-2684

STATE OF MONTANA

WATER RESOURCES DIVISION (406) 444-6601  
TELEFAX NUMBERS (406) 444-0533 / (406) 444-5918  
<http://www.dnrc.mt.gov>

1424 9TH AVENUE  
PO BOX 201601  
HELENA, MONTANA 59620-1601

October 18, 2006

WILLIAM SLACK, ADMINISTRATOR  
WALTER SCHOCK, CHAIRMAN  
FLATHEAD JOINT BOARD OF CONTROL  
PO BOX 639  
ST IGNATIUS MT 59865-0639

USDI, BUREAU OF INDIAN AFFAIRS  
FLATHEAD AGENCY IRRIGATION DIVISION  
PO BOX 666  
ST IGNATIUS MT 59865

MISSION VALLEY POWER  
65 PABLO WEST RD  
PABLO MT 59855

RE: Water Rights Adjudication Fee Appeal Nos. 7454, 7467, and 7503

Dear Sirs,

Earlier this year, three invoices were sent out to collect the fees that are required for all the water rights that serve the Flathead Irrigation Project. Two of these invoices were appealed by the Flathead Joint Board of Control (FJBC). I am the Hearings Officer who will respond to these Appeals on behalf of the Department of Natural Resources and Conservation (DNRC). A brief description of each invoice and the issues involved, as I understand them, follows.

Invoice 7454

This invoice, for \$1,400, was sent to the Flathead Joint Board of Control. The invoice lists 145 irrigation water rights in the "Other" fee category and one "PG 2" (power generation) water right. This bill was appealed by FJBC because it did not believe the power generation water right should be in its name and that the \$1,000 fee for this water right should not be its responsibility. As an aside, it appears to be a mistake that the irrigation water rights were in the "Other" fee category, as these water rights should have been in the Irrigation District (IR DIST) category. No payment was applied to this Invoice.

Invoice 7467

This Invoice, for \$800, was sent to the Flathead, Mission & Jocko Irrigation Districts Joint Board of Control. The invoice listed two 76F statements of claim (Blackfoot River Basin) in the "IR DIST" fee category assuming the maximum of 40 water users. The status of this Invoice is listed in DNRC's database as "Pending." The \$400 paid by the FJBC was applied to this Invoice, which leaves \$400 due. A copy of an Owership Update form is included with the Appeal No. 7454 with the intent of changing the name of the owner on these two claims to the FJBC, thus consolidating the ownership records and the invoices so that the fee cap would be applied to these two water rights as well.

Invoice 7503

This Invoice, for \$800, was sent to the USDI, Bureau of Indian Affairs, Flathead Agency Irrigation Division. It lists 143 claims in the "IR DIST" fee category assuming the maximum for 40 water users. This bill was apparently forwarded from the Flathead Agency Irrigation Division to FJBC, which appealed this Invoice based on the belief that the listed water right statements of claim were duplicates of those of the FJBC. No payment was made but the appeal was timely, although penalty and interest of an additional \$20 had accrued.

There are several issues that need to be addressed. First of all, who owns these water rights? So long as the bulk of the water rights are duplicative, and either the USDI BIA or the Joint Board of Control refuses to withdraw their duplicative claims, the water users may have to pay twice for their water. This is because the statute is very clear that every water right claim that is not withdrawn or terminated is to be assessed a fee. (Sec. 85-2-276(8), MCA).

Secondly, who owns the hydropower water right? An Ownership Update needs to be filed with DNRC's Kalispell WRD Regional Office if it is not the FJBC.

Third, the copy of the Ownership Update transferring the two 76F statements of claim has not been completed. Was an original signed form with the filing fee sent to the Kalispell Regional Office?

These ownership issues will ultimately have to be addressed in the adjudication process. By resolving the issues now we can eliminate at least one of the issues that process will have to address and possibly save the water users some money toward this Adjudication Fee. Finally, the FJBC appears to believe that its maximum fee was \$400, when the maximum fee for an irrigation district or other irrigation users group with 40 or more water users is \$800. (Sec. 85-2-276(6), MCA).

Please consider these issues and let me know how you wish to proceed within 60 days. Also, please forward to me copies of Ownership Updates or other forms you decide to

166596

file. If I do not hear from you, I will make a determination of these appeals based on the existing water right records.

Sincerely,

---

*Curt Martin*

Curt Martin  
Hearings Examiner

LAKE COUNTY, MONTANA

153

Location of Water right

16292

D.1661-Bessette-Stock Co. Butte

Transcribed from Missoula County Records, Book "I" Water Rights, Page 111.

Compared.

NOTICE OF APPROPRIATION

Compared

STATE OF MONTANA )  
 ) ss  
 County of Missoula )  
 Flathead Reservation

TO ALL WHOM THESE PRESENTS MAY CONCERN:

BE IT KNOWN, That Baptiste Marengo (No. 724) for his wife Caroline and his minor son Herbert Marengo, of Flathead Reservation, in said County and State do hereby publish and declare, as a legal notice to all the world, as follows, to-wit:

I. That they have a legal right to the use, possession and control of and claim Three Hundred and sixty (360) inches of the waters of Crow Creek, in said County and State for irrigating and other purposes.

II. That the purpose for which said water is claimed, and the place of intended use is for domestic and irrigating purposes on the S/2 S/2 NW/4 and the entire S/2 of Sec. 29, Twp 21 N. R. 19 W. M. M.

III. That the means of diversion with size of flume, ditch, pipe, or aqueduct, by which they intend to divert the said water is as follows: A ditch 48 inches by 24 inches in size, which carries and conducts 360 inches of water from said Creek; which said ditch diverts the water from said stream at a point upon its North bank, and runs thence in a southwesterly direction (head of ditch in NW/4 SW/4 Sec. 21, Twp. 21 N. R. 19 W. M. M., thence over and upon said land (or mining claim.)

IV. That they appropriated and took said water on the 15th day of November, 1895, A.D. by means of said ditch.

V. That the names of the appropriators of said water are as written above.

VI. That they also hereby claim said ditch and the right of way therefor, and for said water by it conveyed or to be conveyed, from said point of appropriation to said land or point of final discharge, and also the right of location upon any lands of any dams, flumes reservoirs, constructed or to be constructed, by them, in appropriating and in using said water.

VII. That they also claim the right to keep in repair and to enlarge said means of water appropriation at any time, and the right to dispose of said right, water, ditch or said appurtenances in part or whole, at any time.

CLAIMING THE SAME ALL AND SINGULAR, Under any and all laws, National and State, and local rulings and decisions thereunder, in the matter of water rights.

TOGETHER WITH ALL AND SINGULAR, The hereditaments and appurtenances thereunto belonging and appertaining, or to accrue to the same.

WITNESS Baptiste Marengo's hand at ...Montana, this 1st day of November, 1907,  
 Duplicate sign & return  
 to agency, Dont file Baptiste Marengo

STATE OF MONTANA )  
 ) ss  
 County of Missoula )

Baptiste Marengo, having first been duly sworn, deposes and says that he is of lawful age and is the appropriator and claimant of the water and water right mentioned in the foregoing notice of appropriation and claim, and the person whose name is subscribed thereto as the appropriator and claimant, that he know the contents of said foregoing notice and that the matters and things therein stated are true.

Baptiste Marengo.  
 Subscribed and sworn to before me, this 27th day of Aug. A. D. 1910.  
 (SEAL) D. D. Hull,  
 Notary Public in and for State of Montana, residing at Ronan, Montana.  
 My commission expires February 27th, 1911, County, Montana.

Filed for record the 26 day of September A.D. 1910, at 10:50 o'clock A.M.  
 P.W. ADAMS COUNTY RECORDER BY

# BUSINESS

## Stock quotes

More stock prices and market information are available online at [spokesman.com/money](http://spokesman.com/money)

LOGS/OFFICEHOURS READ AND JOIN THE CONVERSATION AT OUR BUSINESS BLOG

8.99 DOW 15,451.85 ↓ -32.41 6-MO T-BILLS .06% ↓ -.01 30-YR T-BONDS 3.59% ■ ... EURO 1.3160 ↑ +.0097 CRUDE OIL \$106.00 ↓ -.32 GOLD \$1,290.80 ↑ +7.00

# BPA head replaced

## Announcement follows report on veteran hiring

By Jeff Barnard  
Associated Press

PORTLAND – The newly appointed administrator of the Bonneville Power Administration has been replaced in the midst of an inspector general’s investigation into allegations that veterans were not given proper preference in hiring, and managers may have retaliated against employees cooperating with the investigation.

An email from a deputy secretary of Energy to BPA employees on Monday said the acting deputy administrator, Elliot Mainzer, has been named acting administrator on an interim basis.

The email from Deputy Secretary of Energy Daniel B. Poneman does not mention Bill Drummond, who was hired as BPA administrator in January, or give any explanation for

### BPA’s energy aim

BPA is the Northwest’s federal nonprofit agency that produces, distributes and sells electricity from 31 hydroelectric dams and a nuclear power plant.

his replacement.

But the announcement came out a day before an inspector general’s report finding there was evidence BPA was not giving federally required hiring preference to veterans.

The report – called a management alert – said there were concerns some employees were disciplined who had cooperated with the inspector general’s investigation, or who had raised concerns over the hiring practices.

Drummond’s replacement was first reported by the Oregonian.

Energy spokeswoman Niketa Kumar said in an email that the department could not

comment on personnel matters, but noted that the department had made an official response to the inspector general’s investigation.

The Monday letter from Energy Department Chief Human Capital Officer Robert C. Gibbs said that on July 10, the deputy secretary directed the BPA administrator to “take no adverse personnel actions against BPA’s Human Capital Management employees, to immediately suspend any such actions that had already been taken,” and to tell any employees who had been suspended to return to work immediately.

The deputy secretary also directed the administrator to tell employees they can cooperate with the inspector general’s investigation without fear of retaliation.

The letter added that the deputy secretary has ordered an immediate review of BPA management, and was sending a special team to BPA headquarters in Portland to carry that out.

See **BPA, A9**

SEASURIES	YEST	PVS	NET CHG	1YR AGO
month T-bill	.03	.03	...	.09
month T-bill	.06	.07	-0.01	.14
1-wk T-bill	.09	.10	-0.01	.16
year T-note	.33	.33	...	.23
year T-note	1.37	1.38	-0.01	.60
1-year T-note	2.53	2.54	-0.01	1.47
1-year T-bond	3.59	3.59	...	2.56

ONDS	YEST	PVS	NET CHG	1YR AGO
Barclays LongT-BdIdx	3.33	3.36	-0.03	2.27
2nd Buyer Muni Idx	4.91	4.90	...	...

## BPA

Continued from A8

The report from Inspector General Gregory H. Friedman said the investigation was ongoing, stemming from an anonymous June 2012 complaint about prohibited personnel practices. The department’s personnel office notified BPA of the allegations in February, a month after Drummond’s appointment.

The investigation so far has found that Bonneville “engaged in

prohibited personnel practices” in 95 of 146 cases, or 65 percent, between November 2010 and June 2012. The practices involved modifying the classification of which applications were best qualified after they were received, resulting in the “inappropriate exclusion of veterans and other applicants” from consideration.

The continuing investigation was looking at why the issues were not addressed “in a timely manner” after they were discovered by Bonneville.

The report noted that investigators were not yet ready to conclude whether retaliation was taken against employees.

BPA is the Northwest’s federal nonprofit agency that produces, distributes and sells electricity from 31 hydroelectric dams and a nuclear power plant. Workers at BPA are federal employees.

Drummond was managing the Western Montana Electric Generating and Transmission Cooperative in Missoula when he was named to the No. 2 position at BPA

in August 2011. He took over the top spot in January, when longtime BPA administrator Steve Wright retired.

Mainzer has been with Bonneville since 2002, and took over as deputy administrator in February. The position oversees finance, strategy, legal, public affairs, risk management, compliance, governance and BPA’s power, transmission and corporate organizations.

U.S. Sen. Ron Wyden, chairman of the Committee on Energy and

Natural Resources, issued a statement saying veterans’ hiring preferences were the law, and retaliation against whistleblowers “in any way, shape or form that affects hiring veterans cannot be tolerated.”

The Oregon Democrat added he was encouraged the Obama administration was taking the allegations seriously, but the Energy Department “must ensure” BPA immediately begins following the law on veterans’ hiring preferences.

*Exhibit "A"*

# Repayment Contract



BETWEEN  
THE UNITED STATES OF AMERICA  
AND  
THE FLATHEAD IRRIGATION DISTRICT

AS  
APPROVED BY THE DEPARTMENT  
OF THE INTERIOR  
SEPTEMBER 15, 1949

AND  
APPROVED BY THE BOARD OF  
COMMISSIONERS  
OF  
THE FLATHEAD IRRIGATION DISTRICT  
SEPTEMBER 24, 1949

UNDER THE PROVISIONS OF THE  
ACT OF MAY 25, 1948 (PUBLIC LAW 554  
EIGHTIETH CONGRESS)

# Repayment Contract



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AS  
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UNDER THE PROVISIONS OF THE  
ACT OF MAY 25, 1948 (PUBLIC LAW 554  
EIGHTIETH CONGRESS)

**AMENDATORY REPAYMENT CONTRACT  
FLATHEAD IRRIGATION DISTRICT  
FLATHEAD IRRIGATION PROJECT**

This amendatory contract, made this ..... day of ....., 19....., in pursuance of the Act of April 23, 1904 (33 Stat. 302), and acts amendatory thereof or supplementary thereto, and especially the Act of May 25, 1948 (Public Law 554—80th Congress), by and between the United States of America (hereinafter called the United States), acting by and through the Secretary of the Interior, and the Flathead Irrigation District (hereinafter called the District), a public corporation duly organized and existing under the laws of the State of Montana, their respective successors and assigns, WITNESSETH:

1. WHEREAS, in pursuance of said Act of April 23, 1904, and acts amendatory thereof or supplementary thereto, the parties to this amendatory contract have entered into a repayment contract (hereinafter called the original repayment contract), executed by the District as of the 12th day of May, 1928, and by the United States as of the 24th day of November, 1928, with respect to certain portions of the lands, costs, charges and benefits of the Flathead Indian Irrigation Project (hereinafter called the project); and have entered into a supplemental contract (hereinafter called the first supplemental contract), executed by the District as of the 27th day of February, 1929, and by the United States as of the 16th day of March, 1929, which modified certain provisions of the original repayment contract; and have entered into another supplemental contract (hereinafter called the second supplemental contract), executed by the District as of the 28th day of March, 1934, and by the United States as of the 14th day of May, 1934, which also modified certain provisions of the original repayment contract; and have entered into still another supplemental contract (hereinafter called the third supplemental contract), executed by the District as of the 11th day of July, 1936, and by the United States as of the 26th day of August, 1936, which further modified certain provisions of the original repayment contract.

2. WHEREAS, said Act of May 25, 1948, entitled "An Act To Provide for adjustment of irrigation charges on the Flathead Indian Irrigation Project, Montana, and for other purposes," provides as follows:

"That the repayment to the United States of all reimbursable costs heretofore or hereafter incurred for the construction of the irrigation and power systems of the Flathead Indian irrigation project in Montana (hereinafter called the project), including such operation and maintenance costs as have been covered into construction costs under the Act of March 7, 1928 (45 Stat. 200, 212-213), and supplemental Acts, and including the unpaid operation and maintenance costs for the irrigation

seasons of 1926 and 1927 which are hereby covered into construction costs, shall be accomplished as prescribed by this Act, notwithstanding any provision of law to the contrary.

"Sec. 2. (a) All costs heretofore or hereafter incurred for the construction of the irrigation system shall be allocated to the Mission Valley, Camas, and Jocko divisions of the project in proportion to the amount of such costs incurred for the respective benefit of each of these divisions.

(b) The net revenues heretofore and hereafter accumulated from the power system shall be determined by deducting from the gross revenues the expenses of operating and maintaining the power system, and the funds necessary to provide for the creation and maintenance of appropriate reserves in accordance with section 3 of the Act of August 7, 1946 (60 Stat. 895; 31 U. S. C., sec. 725s-3).

(c) The deferred obligation established by the Act of May 10, 1926 (44 Stat. 453, 464-466), for repayment of the per acre costs of the Camas division in excess of the per acre costs of the Mission Valley division shall be determined on the basis of the costs heretofore incurred for the construction of those divisions, and shall be liquidated from the net revenues heretofore accumulated from the power system.

(d) The remainder of the net revenues heretofore accumulated from the power system shall be applied to reduce the reimbursable costs heretofore incurred for the construction of the power system, and the reimbursable costs heretofore incurred for the construction of the irrigation system (exclusive of the deferred obligation for the excess costs of the Camas division) as allocated among the several divisions pursuant to subsection (a) of this section, in proportion to the respective amounts of each of the foregoing categories of costs.

(e) The reimbursable costs heretofore incurred for the construction of the irrigation system of each division of the project and not repaid through the credits provided for in subsections (c) and (d) of this subsection shall be scheduled for repayment in annual installments of approximately equal amount, in a manner which will provide for liquidation of such costs over a period of fifty years from January 1, 1950. The reimbursable costs hereafter incurred for the construction of the irrigation system shall be added to the schedule of repayments established pursuant to this subsection by increasing the amount or the number, or both, of the annual installments maturing after the incurrence of such costs, in a manner which will provide for their liquidation within a period not exceeding the useful life of the works involved, or not exceeding fifty years from the time when the additional costs are incurred, whichever period is the lesser. Each annual installment shall

be distributed over all irrigable lands within the division on an equal per acre basis, and the costs so charged against any parcel of lands within the division shall constitute a first lien thereon under the Act of May 10, 1926 (44 Stat. 453, 464-466). Upon the maturity or prepayment of any annual installment, the amount of the installment shall be reduced by deducting any sums included therein which are chargeable to lands on which the collection of construction costs is then deferred under the Act of July 1, 1932 (47 Stat. 564; 25 U. S. C., sec. 386a), or which are chargeable to other lands and have been already repaid to the United States.

(f) The reimbursable costs heretofore incurred for the construction of the power system and not repaid through the credits provided for in subsections (c) and (d) of this subsection, or through other credits from the revenues of the power system, shall be scheduled for repayment in annual installments of approximately equal amount, in a manner which will provide for liquidation of such costs over a period not exceeding the remaining useful life of the power system as a whole, or not exceeding fifty years from January 1, 1950, whichever period is the lesser. The reimbursable costs hereafter incurred for the construction of the power system shall be added to the schedule of repayments established pursuant to this subsection by increasing the amount or the number, or both, of the annual installments maturing after the incurrence of such costs, in a manner which will provide for their liquidation within a period not exceeding the useful life of the works involved, or not exceeding fifty years from the time when the additional costs are incurred, whichever period is the lesser. Each annual installment shall be repaid to the United States solely out of the revenues from the power system.

(g) Electric energy available for sale through the power system shall be sold at the lowest rates which, in the judgment of the Secretary of the Interior, will produce net revenues sufficient to liquidate the annual installments of the power system construction costs established pursuant to subsection (f) of this section, and (for the purpose of reducing the irrigation system construction costs chargeable against the lands embraced within the project and of insuring the carrying out of the intent and purpose of legislation and repayment contracts applicable to the project) to yield a reasonable return on the unliquidated portion of the power system construction costs, and (for the same purpose) to yield such additional sums as will cover the amount by which the wholesale value of the electric energy sold exceeds the cost thereof where such excess is the result of the electric energy having been obtained on a special basis in return for water rights or other grants.

(h) All net revenues hereafter accumulated from the power system shall be applied annually to the following purposes, in the following order of priority:

(1) To liquidate all matured installments of the schedule of repayments for construction costs of the power system;

(2) To liquidate all matured installments of the schedule of repayments for construction costs of the irrigation system of each division, on an equal per acre basis for all irrigable lands within the division;

(3) To liquidate unmatured installments of the schedule of repayments for construction costs of the power system which will mature at a date not later than the maturity of any unliquidated installment of irrigation system construction costs;

(4) To liquidate unmatured installments of the schedule of repayments for construction costs of the irrigation system of each division which will mature at a date prior to the maturity of any unliquidated installment of power system construction costs, on an equal per acre basis for all irrigable lands within the division;

(5) To liquidate construction costs chargeable against Indian-owned lands the collection of which is deferred under the Act of July 1, 1932 (47 Stat. 564; 25 U. S. C., sec. 386a); and

(6) To liquidate the annual operation and maintenance costs of the irrigation system.

(i) In applying net revenues from the power system to the annual installments of irrigation system construction costs for any division of the project under the preceding subsection, allowance shall be made for any construction costs deferred under the Act of July 1, 1932 (47 Stat. 564; 25 U. S. C., sec. 386a), or already repaid to the United States which have been deducted from such installments under subsection (e) of this section, by distributing the net revenues available for such application over all irrigable lands within the division on an equal per acre basis, and by applying the net revenues distributed to the lands chargeable with the construction costs that have been so deferred or repaid, in amounts proportionate to the deductions made on account of such costs, to any then unpaid or subsequently assessed costs of operating and maintaining the irrigation system which are chargeable against the same lands.

(j) Any matured installment of irrigation system construction costs, or portion thereof, which is not liquidated at or before its maturity through the application thereto of net revenues from the power system under subsection (h) of this section shall be repaid to the United States by an assessment against the lands chargeable with the construction costs included in the installment. Such repayment shall be deferred for any period of time that may be requisite to provide for the assess-

ment and collection of such costs in conformity with the laws of the State of Montana, but shall be completed within two years after the maturity of the installment concerned.

"Sec. 3. The repayment adjustments provided for in sections 1 and 2 of this Act shall not become effective unless, within two years after the approval of this Act, the irrigation districts embracing lands within the project not covered by trust or restricted patents have entered into contracts satisfactory to the Secretary of the Interior, whereby such districts (1) obligate themselves for the repayment of the construction costs chargeable against all irrigable lands embraced within the districts contracting (exclusive of Indian-owned lands on which the collection of construction costs is deferred) to the extent and in the manner prescribed by sections 1 and 2 of this Act; (2) consent to such revisions in the limits of cost for the project, or any division thereof, as the Secretary and the districts contracting may mutually agree upon in order to facilitate the making of needed improvements and extensions to the irrigation and power systems; (3) provide for redetermination by the Secretary of the irrigable area of the project, or any division thereof, and for the exclusion of lands from the project, with the consent of the holder of any water rights that would be canceled by such exclusion; and (4) make such other changes in the existing repayment contracts as the Secretary and the districts contracting may mutually agree upon for accomplishment of the purposes of this Act. In order to facilitate the commencement of repayment at the earliest practicable time, such contracts may provide for adjusting the maturity dates or amounts of the annual installments in a manner which will ultimately place the repayment schedules on substantially the same basis as though such contracts had been entered into prior to their actual execution, but not earlier than January 1, 1949.

"Sec. 4. Unpaid charges for operation and maintenance of the irrigation system which were assessed prior to May 10, 1926, against any lands within the project, amounting to a sum not exceeding \$40,549.89, and unpaid charges due from consumers for electric energy sold through the power system between July 1, 1931, and June 30, 1942, amounting to a sum not exceeding \$2,195.16, are hereby canceled. The cancellation of the operation and maintenance charges shall be reported in the reimbursable accounts rendered to the Comptroller General of the United States, pursuant to the Act of April 14, 1910 (36 Stat. 269, 270; 25 U. S. C., sec. 145), as deductions from the total indebtedness of the project without regard to the fiscal years in which, or the appropriations from which, the expenditures were made.

"Sec. 5. There is hereby authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, the following sums, for the following purposes, to be reimbursed to the United States as hereinafter provided:

(a) The sum of \$64,161.18, with interest thereon at the rate of 4 per centum per annum from May 18, 1916, and the sum of \$409.38, with interest thereon at the same rate from December 1, 1925, to be used to repay the Confederated Salish and Kootenai Tribes of the Flathead Reservation in Montana the balance remaining due them under the Act of May 18, 1916 (39 Stat. 123, 141). The aggregate principal amount of \$64,570.56 so repaid shall be added to the construction costs of the project and shall be reimbursable.

(b) The sum of \$400,000 to be deposited in the United States Treasury to the credit of the Confederated Salish and Kootenai Tribes of the Flathead Reservation in Montana; of which sum one-half shall be in full settlement of all claims of said tribes on account of the past use of tribal lands for the physical works and facilities of the irrigation and power systems of the project, or for wildlife refuges; and the other one-half shall be in full payment to said tribes for a permanent easement to the United States, its grantees and assigns, for the continuation of any and all of the foregoing uses, whether heretofore or hereafter initiated, upon the tribal lands now used or reserved for the foregoing purposes. The said tribes shall have the right to use such tribal lands, and to grant leases or concessions thereon, for any and all purposes not inconsistent with such permanent easement. The amount deposited in the Treasury pursuant to this subsection shall be added to the construction costs of the project and shall be reimbursable.

(c) The sum of \$1,000,000 to continue the construction of the irrigation and power systems of the project. Amounts expended pursuant to this subsection shall be added to the construction costs of the project and shall be reimbursable.

(d) No expenditure shall be made from any appropriation granted under the authorizations contained in this section until the repayment of all reimbursable construction costs incurred through such expenditure has been secured by contracts conforming to the requirements of section 3 of this Act.

"Sec. 6. In each fiscal year commencing after the approval of this Act for which an appropriation of the power revenues from the project is made in an indefinite amount pursuant to section 3 of the Act of August 7, 1946 (60 Stat. 895; 31 U. S. C., sec. 725s-3), the power revenues so appropriated shall be available, to the extent of not to exceed \$75,000, for the purpose, in addition to those other purposes now required or permitted by law, of making such improvements and extensions to the pow-

er system as the Secretary of the Interior may deem requisite for the provision of electric service to persons whose applications for such service could not otherwise be complied with in due course of business. Amounts so expended shall be added to the unmatured portion of the reimbursable construction costs of the power system in accordance with subsection 2 (f) of this Act, so as not to reduce the net power revenues available for application under subsection 2 (h) of this Act.

"Sec. 7. Consistent with the terms of the repayment contracts heretofore or hereafter executed, the Secretary of the Interior is hereby authorized to issue such public notices fixing construction costs and apportioning construction charges, to enter into such contracts, to make such determinations, to effect such adjustments in project accounts, to prescribe such regulations, and to do such other acts and things as may be necessary or appropriate to accomplish the purposes of this Act.

"Sec. 8. All Acts or parts thereof inconsistent with the provisions of this Act are hereby repealed."

3. **WHEREAS**, the District desires to obtain the benefit of the repayment adjustments provided for in sections 1 and 2 of said Act of May 25, 1948; desires to secure the repayment of its appropriate share of the reimbursable construction costs of the project that are incurred under the authorizations contained in section 5 of said Act, in addition to its appropriate share of all other reimbursable construction costs heretofore or hereafter incurred for the benefit of the project; desires to facilitate the making of needed improvements and extensions to the irrigation and power systems of the project and to promote the more effective utilization of these systems in the interest of the water and power users served or capable of being served therefrom, through revisions in the limits of cost applicable to the portions of the project embraced within the District, through the redetermination from time to time of the irrigable area of such portions of the project, and through other appropriate measures in conformity with the provisions of said Act and other laws applicable to the project; and desires to consolidate in this amendatory contract such provisions of the first supplemental contract, second supplemental contract, and third supplemental contract as need to be retained in effect in order to provide for the payment, as required by existing laws, of those past-due operation and maintenance obligations covered by such supplemental contracts that are not authorized to be consolidated with construction costs or cancelled by said Act of May 25, 1948, and

4. **WHEREAS**, the United States desires to provide for the accomplishment of the purposes of said Act of May 25, 1948, in cooperation with the District and with the other irrigation districts that have contracted for repayment of the costs of the project.

**NOW THEREFORE**, in consideration of the covenants herein contained, it is mutually agreed by the District and by the United States as follows:

5. Section 11 of the original repayment contract is hereby amended to read as follows:

"(a) The reimbursable costs of the project shall comprise all expenses of whatever kind heretofore or hereafter incurred by the United States on account of the project, including the cost of labor, material, equipment, engineering, legal work, superintendence, administration, overhead, rights-of-way, property, electrical energy, and damages of all kinds, as well as all other proper costs and expenses, but excluding any expenses made from funds not subject to a requirement for repayment imposed by law or action taken pursuant to law. The reimbursable costs of the project shall be divided into construction costs and operation and maintenance costs. The construction costs shall comprise all expenses incurred for, or in connection with, the construction or acquisition of the physical works and facilities of the project, and the replacement or repair of substantial portions of such works and facilities in a manner calculated to increase materially their useful life, including the past-due construction charges provided for in the Act of March 4, 1929 (45 Stat. 1623, 1639-40) and such other construction charges as may have become due under the provisions of the public notice referred to in section 28 of this contract or under the provisions of orders or determinations of the Secretary of the Interior made prior to the first day of January, 1949. The construction costs shall also comprise such operation and maintenance costs, and such interest and penalties on past-due operation and maintenance charges, as the Congress has authorized or may in the future authorize to be consolidated with construction costs, including the undistributed operation and maintenance costs provided for in the Act of March 7, 1928 (45 Stat. 200, 212-213), the operation and maintenance costs for the irrigation season of 1928 (to the extent chargeable against lands within the District and lands held by Indians under trust or restricted patents within the portion of the Mission Valley division of the project north of Post Creek and the Camas division) provided for in said Act, and the unpaid operation and maintenance charges for the irrigation seasons of 1926 and 1927, together with the interest and penalties thereon, provided for in the Act of May 25, 1948 (Public Law 554—80th Congress). The operation and maintenance costs shall comprise all other expenses incurred by the United States on account of the project, except those cancelled by section 4 of said Act of May 25, 1948, and those heretofore or hereafter cancelled pursuant to other provisions of law. All costs incurred for, or in connection with, the irrigation system of the project shall be allocated to that system; all costs incurred for, or in connection with, the power system of the project shall be allocated to that system; and any joint costs incurred

on account of both systems shall be divided between them on a basis that will reflect, as accurately as is practicable, the extent of the intended benefits to each from the expenses involved. The construction costs of the irrigation system of the project shall be allocated among the several divisions and irrigation districts of the project, and shall be charged against the lands therein designated by the Secretary of the Interior as irrigable and assessable for construction costs, in a manner consistent with the applicable provisions of law and this contract; and the operation and maintenance costs of the irrigation system of the project shall be allocated among the several divisions and irrigation districts of the project, and shall be charged against the lands therein designated by the Secretary of the Interior as irrigable and assessable for operation and maintenance costs, in a manner consistent with the applicable provisions of law and this contract.

"(b) The amount of the construction costs of the power system of the project at the date of the enactment of said Act of May 25, 1948 (exclusive of costs repaid through credits from the revenues of the power system made prior to that date), is hereby determined to be \$941,793.79; the amount of the construction costs of the irrigation system of the project at that date is hereby determined to be \$9,226,811.87; and the amount of the irrigation system construction costs at that date incurred for the benefit of each division of the project is hereby determined to be: for the Mission Valley division \$7,116,178.82, for the Jocko division \$672,450.87, and for the Camas division \$1,438,182.18, of which last-specified sum the amount of \$598,839.90 constitutes the deferred obligation for repayment of the excess costs of the Camas division established by the Act of May 10, 1926 (44 Stat. 453, 464-466). Subject to the foregoing determinations, the amount of the various classes of costs of the project, whether heretofore or hereafter incurred, and their proper allocation to the various classes of land within the project, whether owned by Indians or non-Indians, and whether within or without the irrigation districts contracting for the repayment of such costs, shall be determined by the Secretary of the Interior, and such decisions, together with the books and records in which they are entered, shall be accepted as final and conclusive."

6. Section 12 of the original repayment contract is hereby amended to read as follows:

"(a) The District hereby obligates itself for the repayment to the United States of the construction costs chargeable against all irrigable lands embraced within the District (exclusive of Indian-owned lands on which the collection of construction costs is deferred) to the extent and in the manner prescribed by sections 1 and 2 of said Act of May 25, 1948. The District hereby agrees that the construction costs of the project, repayment of which is secured by this contract, shall include the amounts of \$64,570.56 and \$400,000 provided for in

section 5 of said Act, whenever such amounts are appropriated by the Congress for payment to, or deposit to the credit of, the Confederated Salish and Kootenai Tribes of the Flathead Reservation in Montana, and the further amount of \$1,000,000 provided for in section 5 of said Act, to the extent that such amount at any time may have been appropriated by the Congress and expended for the benefit of the project, together with all other amounts now or hereafter comprised within the construction costs of the project, as defined in section 11 of this contract. The District, however, shall not be obligated (unless and until higher limits of costs are agreed to by later contracts) for the repayment of any construction costs incurred by the United States on account of the irrigation system of the project in excess of the following limits for each acre of land within the several divisions of the project (inclusive of Indian-owned lands on which the collection of construction costs is deferred): for the Mission Valley division \$82.00 per acre, for the Jocko division \$68.00 per acre, and for the Camas division \$82.00 per acre, after the deduction of the deferred obligation for the excess costs of that division from its construction costs. The foregoing limits of cost shall be revised at the end of five years from January 1, 1950, and at the end of each succeeding period of five years, by adding to each such limit one-half of the amount, computed on a per acre basis, by which the construction costs of the irrigation system allocated to the division concerned have been liquidated out of power revenues accumulated subsequent to the enactment of said Act of May 25, 1948. The construction costs of the power system of the project shall be repaid to the United States solely out of the net revenues from the power system, as provided in said Act, and shall not be subject to the foregoing limits of cost.

"(b) The net revenues from the power system of the project shall be applied to liquidate or reduce the repayment obligations or requirements for the construction costs, or operation and maintenance costs, of the project to the extent and in the manner prescribed by sections 1, 2, and 6 of said Act of May 25, 1948. For the purposes of subsection 2 (i) of said Act any allowances made by the Secretary of the Interior on account of individually constructed ditches under the authority of the Act of April 23, 1904 (33 Stat. 302), as amended and supplemented by the Act of May 18, 1916 (39 Stat. 123, 139-142), or on account of other works or facilities acquired in accordance with law from the holders of lands chargeable with construction costs of the project, shall, to the extent that such allowances have not been discharged through prior credits against operation and maintenance charges, be treated as repayments of construction costs and be made the basis for operation and maintenance credits from the net revenues of the power system in the manner authorized by that subsection. The gross revenues of the power system, from which the net revenues are to be computed in accordance with said Act of May 25, 1948, shall

include those derived from the sale of electrical energy by the project, from the operation by the project of facilities for the generation, transmission or distribution of electrical energy that have been constructed or acquired by the project with reimbursable funds, from the rental of such facilities, from the rental of rights-of-way, property or water rights held by the project for present or future use in connection with the generation, transmission or distribution of electrical energy, and from power development of any sort made by or on account of the project; but shall not include those derived from the rental of Indian lands for power development which are payable to the Indians of the Flathead Reservation as a tribe under the Act of March 7, 1928 (45 Stat. 200, 212-213), or those otherwise provided for by or pursuant to law. The expenses of operating and maintaining the power system, to be used in computing the net revenues under said Act of May 25, 1948, shall include those actually incurred during the period covered by the computation, and those estimated to be incurred during subsequent accounting periods for the performance of such current or deferred operation and maintenance work as necessitates, in the judgment of the Secretary of the Interior, the making of advance provision therefor out of the accumulated net revenues, but such estimated expenses shall be adjusted to conform to the actual expenses as these are incurred. The net revenues from the power system accumulated at the date of the enactment of said Act, after all necessary deductions for current or deferred operation and maintenance and for appropriate reserves, are hereby determined to be \$971,388.79. The proper application of such accumulated net revenues under said Act is hereby determined to be as follows: for liquidation in full of the deferred obligation for the excess costs of the Camas division, \$598,839.90; for reduction of the repayment requirements for the construction costs of the power system, \$36,509.79; and for reduction of the repayment obligations for the construction costs of the irrigation system, \$336,039.10, of which last-specified sum \$277,176.37 is hereby allocated to the Mission Valley division, \$26,078.43 to the Jocko division, and \$32,784.30 to the Camas division. The amount and proper application of the net revenues from the power system accumulated after the date of the enactment of said Act, after all necessary deductions for current or deferred operation and maintenance and for appropriate reserves, shall be determined by the Secretary of the Interior as of the first day of January in each and every year, beginning with the year 1950, and such decisions, together with the books and records in which they are entered, shall be accepted as final and conclusive.

"(c) The repayment obligations for the construction costs of the irrigation system of the project at the date of the enactment of said Act of May 25, 1948, as reduced through the crediting against such obligations of the net revenues from the power system accumulated at that date, are hereby determined to be: for the Mission Valley

division \$6,839,002.45, for the Jocko division \$646,372.44, and for the Camas division \$806,557.98. The construction costs covered by such reduced irrigation repayment obligations shall be repaid in fifty annual installments one of which shall mature on the first day of January in each and every year, commencing with the year 1950 and continuing until the construction costs included in such obligations have been repaid in full. The first annual installment for the Mission Valley division shall be in the amount of \$150,502.45, and the remaining annual installments for that division shall be in the amount of \$136,500 each. The first annual installment for the Jocko division shall be in the amount of \$14,272.44, and the remaining annual installments for that division shall be in the amount of \$12,900 each. The first annual installment for the Camas division shall be in the amount of \$17,657.98, and the remaining annual installments for that division shall be in the amount of \$16,100 each. All sums paid to, or deposited to the credit of, the Confederated Salish and Kootenai Tribes of the Flathead Reservation in Montana under section 5 of said Act of May 25, 1948, shall be allocated among the several divisions of the project in proportion to their respective shares of the reduced repayment obligations for the past construction costs of the irrigation system as specified in this paragraph, and shall be added to the annual installments maturing more than one year after the appropriation of these sums, in approximately equal amounts which will provide for the full repayment of these sums within the initial repayment period of fifty years, ending on the first day of January, 1999, hereinabove established. Subject to the limitations contained in subsection 2 (e) of said Act, all other construction costs of the irrigation system of the project incurred after the date of the enactment of said Act shall be added to the foregoing schedule of repayments by increasing the amount or the number, or both, of the annual installments as the Secretary of the Interior may prescribe, but no annual installments shall be increased to an amount higher than \$162,000 for the Mission Valley division, \$15,800 for the Jocko division, and \$19,100 for the Camas division, unless the Secretary of the Interior determines that it is necessary to exceed these limits in order to comply with the provisions of said Act. The repayment requirements for the construction costs of the power system of the project at the date of the enactment of said Act, as reduced through the crediting against such requirements of the net revenues from the power system accumulated at that date, are hereby determined to be \$905,284.00. The construction costs covered by such reduced power repayment requirements shall be repaid in twenty-five annual installments one of which shall mature on the first day of January in each and every year, commencing with the year 1950 and continuing until the construction costs included in such requirements have been repaid in full. The first annual installment shall be in the amount of \$39,844.00, and the remaining annual installments shall be in the

amount of \$36,060 each. Subject to the limitations contained in subsection 2 (f) of said Act, the construction costs of the power system of the project incurred after the date of the enactment of said Act shall be added to the foregoing schedule of repayments by increasing the amount or the number, or both, of the annual installments as the Secretary of the Interior may prescribe. Changes in the schedules of repayments established by this paragraph shall be effected by orders of the Secretary of the Interior, and the District shall be furnished with a copy of each such order.

"(d) Whenever any annual installment of the construction costs of the irrigation system of the project, as established by or pursuant to the preceding paragraph, is not liquidated in full at or before its maturity through the application thereto of net revenues from the power system of the project, as provided for in the second preceding paragraph, the portion of such installment which has not been so liquidated, or the whole of such installment if none of it has been so liquidated, shall be repayable to the United States by an assessment against the lands chargeable with the construction costs included in such installment. In this event the Secretary of the Interior, as soon after the maturity of such installment as he deems practicable, shall cause a statement showing the amount that has not been liquidated out of power revenues and that is chargeable against any lands within the corporate area of the District to be furnished to the latter. Thereupon the District shall promptly proceed to assess and levy such sums as may be necessary for the payment to the United States of the amount so specified. One-half of such amount shall become payable on the first day of February and one-half on the first day of July in the year following the year at the beginning of which such wholly or partially unliquidated installment matured."

7. Section 14 of the original repayment contract is hereby amended to read as follows:

"All lands so conveyed to the United States shall be subject to disposition by the Secretary of the Interior in farm units at the appraised price, to which shall be added such amount as may be necessary to cover any accruals against the land and other costs arising from conditions and requirements prescribed by said Secretary. Indian-owned lands held under trust or restricted patents shall not be subject to the provisions of the irrigation district laws of the State of Montana. Indian-owned lands for which a fee patent is issued shall, upon their inclusion within the District as provided in Section 7 of this contract, be accorded the same rights and privileges and be subject to the same obligations as other lands within the District, except that such fee patented lands, so long as title thereto remains in an Indian or Indians, shall not be subject to assessment for any construction costs of the project during any period while the collection of construction costs on these lands is deferred under the Act of July 1, 1932 (47 Stat. 564), or by or pursuant to any other Act of the Con-

gress. All construction costs heretofore or hereafter incurred by the United States on account of the irrigation system of the project (after deduction of the amounts discharged through the application of the net power revenues accumulated on May 25, 1948, as provided in section 12 of this contract) and all uncanceled operation and maintenance costs heretofore or hereafter incurred by the United States on account of the irrigation system of the project shall be, and are hereby made, a first lien under the Act of May 10, 1926 (44 Stat. 453, 464-466), against all lands within the project, including those not yet designated as irrigable, and the existence of such lien is hereby recognized and acknowledged by the District. After the total amount covered by such lien which is chargeable against any particular farm unit or other separately bounded land-holding has been paid, and all rights of the United States to incur costs, impose assessments, enforce charges or collect repayments with respect to the lands included in such farm unit or landholding have terminated, the lien against such parcel of lands shall be released by the Secretary of the Interior, and a recital of the existence of the lien shall be made in any patent or other instrument of title issued by said Secretary prior to such release. The Secretary of the Interior shall issue such public notice or notices as he may deem necessary for the purpose of giving effect to said Act of May 25, 1948, in a manner consistent with this contract, but no such notice or notices shall be requisite in order to make the provisions of said Act and this contract applicable to lands embraced within the District, and such provisions shall become effective with respect to such lands forthwith. The District hereby agrees that it will faithfully perform all of the provisions of this contract and of the Acts of the Congress applicable to the project that pertain to any matter within its jurisdiction; and particularly that it will pay to the United States all sums now due, or that may become due in the future, under this contract which are chargeable against or relate to any lands within the corporate area of the District, at such times as are specified in this contract for the making of these payments or, if no definite date be fixed by this contract for the making of particular payments, at such times, not inconsistent with this contract or any applicable provisions of law, as may be specified by order of the Secretary of the Interior. The said Secretary annually shall have prepared and furnished to the District a financial statement showing the costs and revenues of the irrigation and power systems of the project for the preceding calendar year, and showing the balances on hand in the construction accounts and the operation and maintenance accounts as of the end of such year."

8. The original repayment contract is hereby amended by adding the following new section, to be numbered section 27:

"(a) All interest and penalties accruing up to May 9, 1935, on delinquent charges for the operation and maintenance of the irrigation system assessed prior to May 10, 1926, where such interest and

penalties remain unpaid on May 9, 1935, shall be paid by the District, to the extent that such past-due obligations are chargeable against lands within its corporate area, in the manner prescribed by the Act of May 9, 1935 (49 Stat. 176, 187-188). The amount of the interest and penalties to be included in such past-due obligations shall be determined by adding together the following items as of May 9, 1935: (1) the interest and penalties attaching to the operation and maintenance charges described in this section and chargeable against the various farm units and other landholdings within the District which are shown by the books and records of the project to have been outstanding on December 31, 1928, or at the time when the lands involved were included within the District, if subsequent to that date; and (2) the simple interest at the rate of six per cent per annum on the unpaid principal balance of such operation and maintenance charges authorized by the Act of March 7, 1928 (45 Stat. 200, 212-213), as modified by the Act of February 17, 1933 (47 Stat. 820, 830-831), and owing by the District in accordance with said Acts for the period from December 31, 1928, or the date of the inclusion of the lands involved, to May 9, 1935, as computed in accordance with the accounting practices of the project. The total amount of the past-due obligations payable under this section shall be divided into seventy semi-annual installments of approximately equal amount; the first semi-annual installment shall mature on June 30, 1949; the second semi-annual installment shall mature on December 31, 1949; and the remaining semi-annual installments shall mature on each succeeding 30th day of June and 31st day of December, respectively, until such past-due obligations have been paid in full to the United States. The payments required by this section shall be made through assessments against the individual farm units and other separately bounded landholdings chargeable with the past-due obligations remaining to be paid, or through such supplemental assessments against other lands within the District as may be necessary to prevent or remove deficiencies in such payments.

“(b) In order to reflect the elimination from the past-due obligations covered by this section of those delinquent obligations formerly payable under said Act of May 9, 1935, which have since been covered into construction costs or cancelled, the Secretary of the Interior shall cause to be prepared a revised schedule of the payments required by this section. Such schedule shall set forth in conformity with the provisions of the preceding paragraph the amount and maturity date of each of the seventy semi-annual installments in which the past-due obligations remaining subject to this section are to be paid, shall credit against these installments in the order of their respective maturities all payments made since May 9, 1935, on account of the past-due obligations remaining subject to this section, and shall show the nature and amount of the sums chargeable against the various farm units and other landholdings embraced within the

District on account of such past-due obligations. Such revised schedule shall be furnished to the District within four months after the taking effect of the amendments to this contract made in pursuance of said Act of May 25, 1948. The District shall thereupon proceed to assess and levy sums sufficient to liquidate in full any semi-annual installments shown by such schedule to be unpaid that have matured, or that will mature within one year after the taking effect of such amendments, and shall pay to the United States the amount due under such installments within two years after the taking effect of such amendments. On or before each 15th day of June after the taking effect of such amendments the Secretary of the Interior shall cause the District to be furnished with a list of any changes in the foregoing schedule necessitated by reason of payments made to him by the holders of the lands chargeable with such past-due obligations or by reason of the inclusion or exclusion of lands within or from the District. Upon the basis of such schedule and any lists of changes so furnished, the District shall annually assess and levy sums sufficient to liquidate the remaining semi-annual installments as they mature, and shall pay to the United States the amount of each such installment on or before its maturity date. The District, however, may, at its option, pay to the United States at any time the full amount then outstanding on account of the past-due obligations covered by this section, in lieu of liquidating them by installments, and may, at its option, pay out of general funds of the District any sums due or to become due under this section, in lieu of levying separate assessments for such sums.

“(c) The provisions of this section shall not be effective if the Comptroller General of the United States determines that the interest and penalties on delinquent operation and maintenance charges assessed prior to May 10, 1926, were cancelled by section 4 of said Act of May 25, 1948, or if the Congress enacts legislation expressly cancelling such interest and penalties. The United States, however, shall not be obligated to refund any payment on account of such interest and penalties made prior to the date of such determination or enactment, as the case may be.”

9. Section 20 of the original repayment contract is hereby amended to read as follows:

“The Secretary of the Interior shall, if funds are available therefor, cause the area of the project and the irrigability of the several portions thereof to be redetermined at intervals of approximately five years, and may cause the same to be done at such other times as he deems appropriate, the expenses of such redeterminations to be treated as operation and maintenance costs of the project. He may establish land classification boards, composed in part of water users on the project, to assist in this work with respect to the project as a whole or with respect to any portions thereof he may deem to be in particular need of reexamination. Any lands within the project to

which water can be delivered through the irrigation system of the project as actually constructed, except unentered public lands and vacant unsold state school lands, may be designated by the Secretary of the Interior as irrigable for the purposes of this contract, either in connection with the periodic redeterminations required by this section or in such other manner as he deems appropriate, but all such designations shall be subject to revision from time to time. If the Secretary of the Interior shall find any lands within the project to be permanently incapable of successful cultivation under irrigation, on account of seepage, alkaline conditions, unavailability of water, or for any other reason, he may, in his discretion, exclude these lands from the project, with the consent of the holder of any water rights that may appertain to the lands by reason of their inclusion within the project or of any water rights that would be otherwise cancelled by such exclusion; whereupon any water rights appertaining to the lands by reason of their inclusion within the project shall be severed from them and shall be available for transfer by said Secretary to any other lands theretofore or thereafter brought within the project. If the Secretary of the Interior shall find any lands not within the project to be capable of successful cultivation under irrigation through existing or prospective works of the project, and that a water supply can be made available for them without prejudice to the water supply of the areas already within the project, he may, in his discretion, include these lands within the project upon such terms and conditions, not inconsistent with law or this contract, as he deems appropriate. No lands shall be excluded from or included within the project under the foregoing authorizations if the effect of such action would be to decrease or increase by more than five percent the existing area of any division wherein lands embraced within the District are situated, unless the exclusion or inclusion of such lands has been consented to by the District. For the purposes of this contract the existing area of the project shall be considered to be the area of 138,194.55 acres included in classes 1, 2, and 3 of the project land classification dated October 7, 1930, and approved by the First Assistant Secretary of the Interior on March 28, 1931, whereof 111,659.65 acres are within the Mission Valley division, 13,364.87 acres are within the Jocko division, and 13,170.03 acres are within the Camas division. The liability of the District for the payments required by this contract shall not be increased or reduced by reason of any alterations in the area of the project (except that the basis for applying to such liability the limits of cost established by section 12 shall be the area of the several divisions of the project as diminished or enlarged by such alterations), or by reason of any alterations in the area of the lands designated as irrigable from works of the project, or by reason of any alterations in the area of the lands made assessable for particular charges of the project, provided such alterations are made in pursuance of and in accordance with said Act of May 25, 1948, or this contract. No sus-

pension of any charges shall be made by the District without the consent of the Secretary of the Interior."

10. The original repayment contract is hereby amended by adding the following new section, to be numbered section 28:

"Any provision of this contract which is in conflict with said Act of May 25, 1948, or with the amendments to this contract made in pursuance of said Act, is hereby amended to conform to said Act or to such amendments, as the case may be. The provisions of the public notice fixing construction charges for the project issued on November 1, 1930, as amended and supplemented on April 20, 1931, insofar as those provisions relate to construction charges against lands embraced within the District, shall be superseded by this contract, and shall be deemed to have become inapplicable to such lands as of the first day of January, 1949, when the deferment of the construction charges fixed by such notice terminates pursuant to the Act of July 26, 1947 (61 Stat. 494). The Secretary of the Interior may, where not inconsistent with law, delegate any of the functions placed in him or in the United States by this contract to the Project Engineer for the Flathead Indian Irrigation Project or to such other official as he may designate."

11. The first supplemental contract, the second supplemental contract, and the third supplemental contract are hereby rescinded and cancelled.

12. Nothing contained in this amendatory contract shall be construed to require the refund of any payments made to the United States prior to the taking effect of this amendatory contract, or to require the refund of any collections made by the District prior to such time, or to invalidate any assessment imposed or any other act or thing done prior to such time, under those provisions of the original repayment contract, the first supplemental contract, the second supplemental contract, or the third supplemental contract which are amended or cancelled by this amendatory contract.

13. The execution of this amendatory contract shall be authorized by qualified holders of title or evidence of title to lands embraced within the District as provided by the laws of the State of Montana. The Board of Commissioners of the District shall thereupon proceed, in accordance with said laws, to provide for the annual levy and collection of a special tax or assessment upon all lands then included within the District, or subsequently brought therein, that are not covered by trust or restricted patents and are subject to taxation or assessment for the obligations imposed or continued by this contract; such special tax or assessment to be sufficient in amount to meet all payments due or to become due to the United States from the District under the original repayment contract, as amended by this contract, at the times when such payments become due to the United States and payable by the District under such original repayment contract, as so amended. In addition, the Board of Commissioners of the Dist-

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RICT shall prosecute an action in a court of competent jurisdiction for a judicial confirmation, under the laws of the State of Montana, of the validity of the proceedings had relative to the making of this amendatory contract and to the imposition of the special tax or assessment required to be levied and collected annually for its performance. Certified copies of such proceedings and their judicial confirmation shall be furnished by the District to the United States for its files. This amendatory contract shall not become binding upon the United States until the Secretary of the Interior shall be satisfied that all conditions requisite for the validity and enforceability of the obligations imposed or continued thereby have been met, nor until he shall be satisfied that the other irrigation districts embracing lands within the project not covered by trust or restricted patents have entered into valid and enforceable contracts conforming to the provisions of said Act of May 25, 1948. Such satisfaction shall be evidenced by the final execution of this amendatory contract by the Secretary of the Interior, and its provisions shall take effect upon the date of such final execution.

14. No Member of or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this contract or to any benefits that may arise therefrom, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

15. This agreement shall inure to the benefit of and be binding upon the District and its successors and assigns, and the United States and its assigns.

IN WITNESS WHEREOF, the respective parties hereto have caused this agreement to be executed by the District on the day and year first above written, and by the United States on the ..... day of ....., 19.....

THE UNITED STATES OF AMERICA

By ..... Secretary of the Interior.

FLATHEAD IRRIGATION DISTRICT

By ..... President.

Attest:

..... Secretary Flathead Irrigation District

Approved as to form September 15, 1949 by: MASTIN G. WHITE Acting Assistant Secretary

PETITION

IN THE MATTER OF THE PROPOSED REPAYMENT CONTRACT UNDER THE PROVISIONS OF THE ACT OF MAY 25, 1948 (PUBLIC LAW 554, 80TH CONGRESS).

TO THE BOARD OF COMMISSIONERS OF THE FLATHEAD IRRIGATION DISTRICT, MONTANA.

Greetings:

We, the undersigned, holders of title or evidence of title to lands within the Flathead Irrigation District, Montana, do petition your Board of Commissioners, and authorize you, to execute, and authorize your officers to sign, one certain form of repayment contract between the United States of America and the Flathead Irrigation District, Montana which was approved as to form by the Secretary of the Interior on September 15, 1949 and by your board on September 24, 1949, and which is designed to put into effect the provisions of the Act of May 25, 1948 (Public Law 554, 80th Congress) which law, when put into effect by the execution of said contract, provides for the continuation of construction and the operation and maintenance, by the United States, of the power and irrigation systems of the Flathead Indian Irrigation Project, and for the continued assumption by the district of certain indebtedness on account of said project, and for the repayment to the United States of operation and maintenance and construction costs expended by the United States upon said project for the benefit of district lands. A copy of Public Law 554, 80th Congress, as well as a copy of the form of contract referred to above, is hereto attached.

(Signatures)

(Signatures)

Table with two columns for signatures and multiple rows of dotted lines for writing.



1 IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
2 OF THE STATE OF MONTANA,  
3 IN AND FOR THE COUNTY OF LAKE

4  
5 IN THE MATTER OF THE PETITION )  
6 OF THE BOARD OF COMMISSIONERS ( )  
7 OF FLATHEAD IRRIGATION )  
8 DISTRICT TO DETERMINE AND ( )  
9 CONFIRM THE VALIDITY OF THE )  
10 PROCEEDINGS HAD RELATIVE TO ( )  
11 THE EXECUTION OF THE AMENDATORY )  
12 REPAYMENT CONTRACT BETWEEN )  
13 THE UNITED STATES OF AMERICA ( )  
14 AND THE FLATHEAD IRRIGATION )  
15 DISTRICT. ( )

FILED MAR 14 1950 *J. J. J.*  
~~MADEIRA~~, Clerk District Court  
Deputy  
CASE No. 3720  
PETITION

16 Come now L. A. Thomas, D. A. Dellwo, I. A.  
17 Robertson, George W. Slack and L. G. Dondanville,  
18 constituting the Board of Commissioners of Flathead  
19 Irrigation District, and respectfully represent:

20 I.

21 That at all of the times hereinafter mentioned  
22 the petitioners herein have been, and now are, the  
23 duly elected, qualified and acting Commissioners of  
24 the Flathead Irrigation District, a public corporation  
25 of the State of Montana, and that said petitioners  
26 constitute the entire Board of Commissioners of said  
27 irrigation district.

28 II.

29 That the said Flathead Irrigation District  
30 at all of the times hereinafter mentioned has been,  
31 and now is, duly created, established and organized  
32 as an irrigation district under the laws of the State  
of Montana, and that heretofore and on the 26th day  
of August, 1926, the decree and order of the above

1 named Court was duly given, made and entered establish-  
2 ing the said district and creating and organizing the  
3 same, and that since said date the said irrigation  
4 district has duly function<sup>ed</sup> and acted as such.

5 III.

6 That on the 10<sup>th</sup> day of March, 1950, a  
7 petition addressed to the Board of Commissioners of  
8 said Flathead Irrigation District was duly filed with  
9 the Secretary of said Board of Commissioners, petition-  
10 ing and authorizing and requesting the said Board of  
11 Commissioners to execute the amendatory repayment  
12 contract between the Flathead Irrigation District and  
13 the United States of America, the form of which contract  
14 was approved by the Department of the Interior on  
15 September 15, 1949, and by the Board of Commissioners on  
16 September 24, 1949, and which contract is designed to  
17 put into effect the provisions of the Act of May 25, 1948,  
18 (Public Law 554, 80th Congress), which law, when put into  
19 effect by the execution of said contract, provides for  
20 the continuation of construction and the operation and  
21 maintenance, by the United States, of the power and irri-  
22 gation systems of the Flathead Indian Irrigation Project,  
23 and for the continued assumption by the district of  
24 certain indebtedness on account of said project, and for  
25 the repayment to the United States of operation and  
26 maintenance and construction costs expended by the United  
27 States upon said project for the benefit of district lands.  
28 That said petition was duly signed by more than sixty per  
29 cent in number and acreage of the holders of title or  
30 evidence of title to the lands included within said  
31 district, and said petition had attached thereto

1 affidavits duly verifying the signatures contained in  
2 and appended to said petition, and that a certified  
3 copy of said petition so filed as aforesaid is attached  
4 hereto, marked Exhibit "A", and made a part hereof.

5 IV.

6 That thereafter, and on the 10<sup>th</sup> day of  
7 ~~February~~ March, 1950, the said Board of Commissioners of  
8 Flathead Irrigation District, in regular meeting duly  
9 assembled, duly adopted a resolution authorizing and  
10 directing the Board of Commissioners of Flathead  
11 Irrigation District to execute said contract between  
12 the United States and the Flathead Irrigation District  
13 as specified in the aforesaid petition, and providing  
14 for the levy of a special tax or assessment as provided  
15 by law, on all the lands in the district for the irri-  
16 gation and benefit of which said district was organized,  
17 and said contract is proposed, to be made sufficient  
18 in amount to pay all amounts to be paid to the United  
19 States under said contract between the Flathead Irri-  
20 gation District and the United States, and which said  
21 resolution further provided for the confirmation of  
22 all proceedings had in connection therewith in the  
23 above named Court as provided by law. That a certified  
24 copy of the said resolution is attached hereto, marked  
25 Exhibit "B", and made a part hereof.

26 V.

27 That the office of said Board of Commissioners  
28 and the greater portion of the lands within said  
29 irrigation district are situated and located in the  
30 said County of Lake and within the judicial district  
31 aforesaid.

1           WHEREFORE, your petitioners pray that upon  
2 the hearing hereof the proceedings of the said Board  
3 of Commissioners of the Flathead Irrigation District  
4 as stated in the foregoing petition, together with  
5 the execution of the proposed contract aforesaid, and  
6 the said special tax or assessment may be confirmed  
7 and determined and held to be valid for all and every  
8 purpose.

9 *J. Robertson*

10 *M. Miller*

11 *L. R. Thomas*

12 *L. Donlonville*

13 *How Seale*

14  
15  
16 The Board of Commissioners  
17 of Flathead Irrigation  
18 District.

19 *Smith, Bacon & Rindel*  
20 First National Bank Building  
21 Missoula, Montana.  
22 Attorneys for Petitioners.  
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STATE OF MONTANA, )  
County of Missoula. ) ss

D. A. DELLWO, being first duly sworn, on his oath, deposes and says: That he is one of the members of the Board of Commissioners of the Flathead Irrigation District, the petitioners herein, and makes this verification for and on behalf of said petitioners; that he has read the foregoing petition and knows the contents thereof, and that the matters and facts therein stated are true of his own knowledge.

D. A. Dellwo

SUBSCRIBED AND SWORN TO before me this 11<sup>th</sup> day of March, 1950.

G. A. Ramsley  
Notary Public for the State of Montana, residing at Chaulo, Montana.  
My Commission expires July 22 1952.

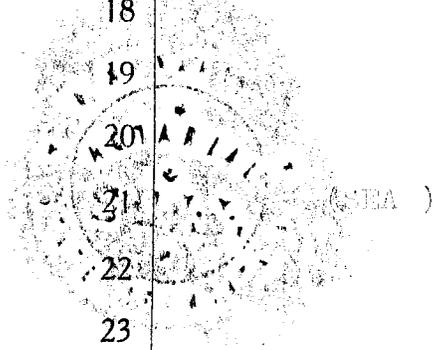


Exhibit "H."

P E T I T I O N

IN THE MATTER OF THE PETITION TO THE BOARD OF COMMISSIONERS OF THE FLATHEAD IRRIGATION DISTRICT.

TO THE BOARD OF COMMISSIONERS OF THE FLATHEAD IRRIGATION DISTRICT IN LAKE AND SANDERS COUNTIES,

MONTANA:

Gentlemen:

We, the undersigned, holders of title or evidence of title to lands within the Flathead Irrigation District, do petition and authorize your Honorable Board to Execute the Contract between the Flathead Irrigation District and the United States of America, the form of which was approved by the Department of the Interior on the 15th day of September, 1949, and by your Board on the 24th day of September, 1949, a copy of which is hereto attached, and which is designed to put into effect the provisions of the Act of May 25, 1948 (Public Law 554, 80th Congress) which law, when put into effect by the execution of said contract, provides for the continuation of construction and the operation and maintenance, by the United States, of the power and irrigation systems of the Flathead Indian Irrigation Project, and for the continued assumption by the district of certain indebtedness on account of said project, and for the repayment to the United States of operation and maintenance and construction costs expended by the United States upon said project for the benefit of district lands.



Oscar Lundval  
 Joe Harper  
 L.A. Thomas  
 Helen Toelke  
 Gladys C Nelson  
 Harold D Brown  
 Glen A Rosenbaum  
 Myrtle G Faw  
 Laura Olson  
 Georgie Jensen  
 Marl Coleman  
 Everett White  
 Andrea B Howell  
 C.M. Sutherland  
 Mrs Charlotte Sheneman  
 Fred A Voss  
 Cora M Stiles  
 James F Fleming Jr  
 Lois Fleming  
 Amelia Gipe  
 G.R. Deffenbaugh  
 John R Borden  
 Ramond J Mattson  
 Fred F Linse  
 Ella B Dimon  
 Frank Brumwell  
 H.F. Morrison  
 Dr R.D. Read  
 Frank Borg  
 H.T. Williamson  
 Ray L Wohlschlager  
 Ebba Webb  
 Helen J Perrin

Esther Rogers  
 Mrs Holger Johnson  
 Benny? H Boring  
 Philip B Nelson  
 Clay Carter  
 Lila M Brown  
 Tom Faw  
 Randolph Olson  
 Marjorie E Rosenbaum  
 Mrs James Kerns  
 Mary Coleman  
 Ralph Buchanan  
 Gladys Fritz  
 Mrs Ida Sutherland  
 Charles Grenier  
 Lou F Vincent  
 Paul Fleming  
 Wilma Fleming  
 James W Peace  
 Mildred Lind  
 Esther Deffenbaugh  
 Iris M Borden  
 Elva Mattson  
 John Dimon  
 Mrs Frank Brumwell  
 F.L. Fletcher  
 Mrs H. F. Morrison  
 Bertha L Bartel  
 Grace Linse  
 George Huleva  
 Isaac Webb  
 Mrs Leo Mountjoy  
 Sarah Crismore

Arnold Thraeshel  
 Mrs Tom Mattix  
 Floyd Adams  
 Laura E Axtell  
 Robert Carson  
 A.G. Stubblefield  
 W.L. Rader  
 Alva O Turner  
 Jesse H Swainston  
 Glen Bingham  
 Mary Bingham  
 R.B. Mortensen  
 John Stumvall  
 W.H. Maughan  
 Anton Molzhon  
 A.M. Snyder  
 Anna Mangels  
 F.D. Whisler Est  
 June Carson  
 Ruth Miller  
 E.G. Sherman  
 Emmett Taylor  
 Alice Symington

Mrs Cordelia Francis Adm  
 Mrs Fern Adams  
 Hugo Carlson  
 ? H Rasmussen  
 Edward C Carpenter  
 A.L. Allen  
 E.B. Winter  
 Wm J Soucie  
 Margaret Lieshman Clauson  
 Edwin Bingham  
 Donald Mortensen  
 Maude West  
 Maude Stumvall  
 Ardis Maughan  
 Adella Molzhon  
 Ruby H Pratt  
 Walter Mangels  
 Robert Carson  
 Robert Miller  
 Nannie O Buchanan  
 Pauline Sherman  
 Robert Symington

Copy of names on petition for contract

A.L.Fryberger  
W.D.McDaniel  
August A Hertz  
Raymond Felton  
Thomas Felton  
Ed Turnbull  
J.R.Evans  
John M Sullivan  
S.R.Logan  
Harold A Oliver  
John B Conne  
Blanche Hendricksen  
Doris M Conne  
Nick Herak Jr  
H.D.Brown  
Mary Eldridge  
Gladys Owen  
Helga L Brandjord  
Stanley Seearce Inc by S.S  
Nick Herak Sr  
A.W.Lake  
Mabel E Violette  
Helen C Needham  
C.H.McNees  
Geo R West  
R.C.Peterson  
Frances Logan  
I.D.Zobell  
Katherine Vaughan  
Annie M Rosenbaum  
Anne M McLeod  
A.M. Sterling Co. by Bob  
Lavinna Drake  
Verlin Long  
Kate Quinn  
Thos Wm Roberts  
Neltie Perkins  
Nick DeGrand  
William O Evans  
John N Roberts  
Clarence Savik  
Margaret MD Roberts  
Margaret M Felton  
J.O.Erickson  
W.E.Schmidt  
Natheleen Felton  
W.F.Dilworth  
Gunderson Lillie N  
Frances Daugherty  
Blanche M Olson  
James K Thomson  
Roy F Harding  
Eva Jensen  
Dorathy Adamson  
Vernon L Dennis  
Maude E Palmer  
Faye W Homer  
Bernice Royslance  
John Hunt  
Derlin West  
Jeanne Normandeau  
E.J.Cahoon  
Annie Kent  
Blanche M Hunt  
H.M.Perry  
Herbert Krahn  
J.J.Hendricksen  
John W Foy  
Albert Royslance  
Mary J Burbank  
D.A.Dellwo  
Stanley Driscoll  
Henry Hendricksen  
Thomas Coburn  
Paul Carey  
L.L.Fryberger  
Lila Evans  
Albertine Hertz  
H.M.Hendricksen  
Orvill E Rogers  
Sherman Mow  
Clifford Hendricksen  
Ruth Oliver  
W.E.Montgomery  
Wm Eldridge  
Harry M Owen  
Iver M Bzandjord  
Forest Ray  
Mrs John Sullivan(Velma)  
Catherine J Roberts  
Katherine M O'Reilly  
D.A.Palmer  
Asia L Morris  
Maude L Mc Nees  
Frank Middleton  
R.D.Gilchrist  
Melvin Fitzgerald  
Gerald Vaughan  
Alfred Rosenbaum  
Alfred Bauer  
Frances Groom  
Arpha Drake  
Virginia Jensen  
Thos P Quinn  
Eugene Sullivan  
James Perkins  
Pat J Murphy  
Clarence E Evans  
A.N.Roberts  
Herbert C Thompson  
D. C Rider  
Lewis Rose  
Mabel Erickson  
W.W.Esterby  
Faye P Schmidt  
Sarah Dilworth  
Lester Tibke  
Harrison Eleanor  
Everett White  
Lester R Olson  
H.R.Ness  
Orla Jensen  
Adamson Wesley  
E.M.Hoskins  
Evelyn C Dennis  
R.Kent Homer  
Charles Cahoon  
D.H.Morris  
C.B.Resner  
James Normandeau  
N.E.Hall  
Elsie C Wall  
R.N.Madson  
Lydia C Perry  
H.J.Perry  
Susie Krahn  
Coryl Hendricksen  
Clara M Foy  
Nellie B Bauer  
D.A.Veitch

D.M. Palmer	Adeline Esterby
J.D. Harrah	Bessie R Harrah
Erl W Atchley	Ethan Atchley
Feistner John	Lydia Feistner
Ralph-Brower	J.C. Weber
Ara Weber	Russel Wilson
Mrs D.C. Rider	E.W. Groom
Wm Dennis	Erla M Dennis
Darrel D Tvaruzek	Mrs Darrel Tvaruzek
Mrs J.K. Thomson	Olive F Palmer
George Everson	Letha A Higinbotham
John E Rowley	Florella Rowley
R.A. Mackenzie	J.A. Palmer
H.A. Christianson	A.M. Christianson
Tom Mattix	Elmer J Ness Sr
James Mullins	Mary Ann Christianson (Olson)
Joe S Lewis Jr	Elaine M Lewis
Frank Gallagher	Michael Jaten
Leah Welch	Harriet Spielvogel
Joanna Joyce	Anna V Eckley
Mrs R.D. Read	Phillis B Scott
Walter Cooper	Russel Scott Dr
Jess Wilson	Seumas Gallagher (Shamus)
Irene Peterson	Harvey Beaver
Amelia Palmer	Angus West
M.E. Udall	Ruth L Udall
Geo Sukovsky	Mrs Geo Sukovsky
Theama Bennett	Hattie Meingasner
M.L. Daily	Emma Bailey
Everett Krudde	L.E. Trout
Nora C Smock	Emanuel Bellon
Otto Bauer	Bert Eldridge
Nettie Eldridge	Leona Olson
Wm A Olson	Elwin P Miller
Velma Miller	Myron Spielvogel
Stanley E Stipe	Hazel G Stipe
Beatrice Mattix	Floyd or Fern Adams ?
Wm F Blue	Cecilia Blue
Frank A Cleland	Gladys M Cleland
A.A. Coulter	O. Fay Coulter
Margaret E Coulter	Neal Coulter
George J Hogge	Harold Beck
Jeanette Beck	Andrea B Howell
E.E. Hogge	Viola Hogge
Mrs Katie Discoll	J.U. Stuchi
R x A Cole	A.M. Stenseth
Mrs O.M. Stenseth	Oswell K Owen
Mrs Oswell K Owen	Frank Tryon
James B Jenson	Minnie Thomsheim
Alvin Pederson	Olin W Baker
Grover C Cochran	Russel Anderson
Agnes Anderson	Bessie Berns
Frank A Nelson	D.E. Wilkerson
Edith Wilkerson	A.J. Kershman
Ann Hershman	Alfred J Deis
Maber Tryon	Thos B Williamson
Lucile Williamson	Holger Johnson
Gillam Loan Co by Vincent	W.C. Vincent
Charles E Caffrey Jr .?	Jack R Caffrey
D.D. Caffrey	Adrian Henningsen
Percy Jennison	Clarence Hein
Ralph Fite	E.C. Fritz
Security State Bank by Hanson	W.F. Emory
Lake Co Imp Co	Geo W Slack

Mary D Peterson	Finley Mocabee
Ruby I Mocabee	Esther Zini
Henry A Zini	Nellie Johnson
E.E.Lacy	Lula Lacy
Dorathy Devoe	Elizabeth E Jones
I.C.Jones	Anna E Erickson
Frank G Erickson	Mamie Bond
Norman C Bond	Molly Fuqua
Laurence E Fuqua	Grace E Smith
Lillis O Smith	Julia McCauley
Hazen McCauley	Robert R Peterson
Dixie Kerr	Blanche Faust
W.H.f Faust	Harold Moore
Jacob E Wood	Bertha C Wood
L.W.Burrel	M.E.Schoonover
Agnes R McDaniel	Ethel Palmer
E.S.Willoughby	Eben Russell
Grace V Kingery	H.E.Ward
Gordon J Geiger	Mrs L.V.Bond
Paddy B Snyder	Roy G Snyder
Paul B Stipe	Bonnie F Stipe
Ralph Stipe	Wesley Coleman
Vivian Coleman	L.R.Burns
Wilma E Burns	Earl K Harley
Mrs Ivy Johnson	Kenneth Johnson
Geo Devoe	Harold Fowler
Mae Fowler	Thomas Patelizek
O.C.Wellington	James H Schoonover
F.L.Largent	Mary A Howell
L.J.Howell	A.F.Lott
Ralph L Hough	George A Spear
Frances Spear	Viola Burrel
Joyce Beryl Lott	Hazel A Willoughby
Muriel E Balfour	Margaret Largent
Anna Kuntz	Clarence P Johnson
Royal C Brown	Lester R Hansen
Mrs Theresa Hanson	Cecil E Jonson
Margaret H Johnson	J.A.Johnson
Roy E Largent	Agnes C Thomas
M.L.Kingery	A.J.Balfour
Lucille Bray	Ellory E Bray
Chris Kuntz	John L Moore
-----Beekman	Nellie Beekman
D.M.Kennedy	James Bowler
W.W.Francis	Marion Holliday
Leroy Cozad	Mrs L.V Cozad
Herbert H Leishman	Christena Lieshman
Arlie Storm	Jennie H Storm
Almon Hocker	P.J.Becker
Philip Becker	Clyde Clary
Eva E Boreman	M.C.Bowman
P.F Nowmardaau	Earl H Koester
Edward Piedalue	Georgia E Koester
Mary Davenport	Burton M Davenport
Esta E Pendergraft	C.E.Pendergraft
Joe Piedalue	V.J.Simms
Wayne Snyder	Melva Snyder
O.C.Irish	Ralph Whitlock
Bruce Richwine	Herbert Bocksnik
Thomas C Moore	M ry Grace Moore
Joseph Priest	Jennie McAllister
Noel Tougas	Veldon J DeSaussure
Richard M Carlyle	LaDosca D Burton?
Gladys G Irish	Emma E Priest
Robert M Spencer	Ruth E Spencer
David H Burton	Thomas A Salomon
Gertrude M Salomon	John L Morrison
Minnie I Morrison	Ivan A Forman
Peter Lulow	Charles L Brown

Albert Seifert	N.K.Boice	
Howard Lulow	Lyle D Lulow	
Floyd Hartley	Lester Hartley	
Barbara Mayers	Geo A Kelly	
Nora F Kelly	Archie Forman	
Alvah H Christensen	Bill Hamilton	
Andrew Olson	Clara H Olson	
Le Roy E Sturm	Vashti A Forman	
Louis Muffle	Dollie D Rung	
Niels A Christensen	Earl Hartley	
Gomer D Davis	G.A.Norris	
Joe Weigel	Clarence D Rung	
A.W.Ledgerwood	Jeanie Ledgerwood	
Peter Lind	John A Riley	
Clarence E Trudgeon	Gertrude Trudgeon	en
Willard Nelson	John R Gould	
Charles E Crouch	C.D.Bachler	
Edgar Brower	Dellw A Peace	
Pat Foley	R.B.Grey	
Alta Grey	Bonnie Foley	
Olive Noble	Minnie Moerke	
Art Bailey	Morley B Lamp	
A.A.Lamp	Marshal A Riley	
Hannah Moore	Oscar E Lind	
Edith G Lind	William E Palmer	
Ralph Gipe	L.Floyd Double	
Thomas E Thompson	Daniel E Stevens	
Virgy R Stevens	Ted Landgan	
Max Mahler	John Sizemore	
Emmett Evans	Vainer Rose	
Christine Rose	Dale Bailey	
Homer G Bailey	Henry Streets	
Ethel Streets	Gertrude E Stimson	
Walter CStimson	Clarence H Voss	
Ida A Johnson	J.A.Johnson	
Thelman Herman	J.Robert Mayers	
J.W.Leverich	Peter Wolchuck	
Carl Frolander	Creighton W Redenbo	Redenbo
Lulu M Redenbo	Creighton G Redenbo	
Annie P Redenbo	Ralph H Buchanan	
Flonence E Johnson	B.F.Johnson	
Margaret E Mahoney	Em H Mahoney Jr	
E.C.Steindorf	Mildred P Priest	
Merlin Priest	G.F.Fryberger	
D.E.Olson	Lial Stonehocker	
Emma M Stonehocker	Anton A Anderson	
Louise Bilile	Clarence Bilile	
Jessie M Anderson	Austin Green	
Mrs Ava Green	Fred S Lancaster	
Mrs Alvina Lancaster	Mrs N.P.Christensen	
Lawrence Christensen	H.L.Pettit	
Mary Pettit	N.P.Christensen	
E.A.Arlint	Em Arlint	
Hazel Arlint	Pat Padilla	
Patricius Padella Jr	Wade Wheeler	
Edith R Wheeler	Ed F Bartell	
Clatius Parrish	Weltha Parrish	
A.A.Stevens	Maude Stevens	
W.A.Wheeler	Leslie Dennis	
Paul H Axtell	Joe W Cernik	
Herbert Elfers	Mary E Elfers	
Brainerd Horner	Sam P Cisney	
F.A.Niles	Ray T Stiles	
Ota May Johnson	G.L.Sperry	
Edith W Sperry	Edna Whitney	
J.E.Emerson	Jean S Emerson	
Nattie E Scheele	William Scheele	

Agatha Butcher	Mrs Marietta Artis
F.O.Artis	A.M.Hanson
Mrs Odhild Hanson	James M Baker
Gertrude A Baker	Max Garbe
C.E.Mutchler	Mrs C.E.Mutchler
Frederick C Garbe	Ethel M Garbe
W.N.Dietrich	Mrs W N Dietrich
John Unger	Minnie M Unger
Mrs Richard Carlyle	Frank S Graham
Casper Plotski	Lee Larson
Elizabeth Larson	J.A.Davies
Marie Davies	Ray R Miller
Lela Miller Turnquist	L.H.Horner
Charles Gutman	Forest Pulis
C.A.MCCready	Alice L McCready
Marjorie(Abbey) Mc Cready	Lorena Normandaau
Jessie Aylesworth	Ernest Aylesworth
Mrs Lippo Apends	Joe Orchard
Oscar B Johnson	Wm Sommers
Elmer E Voth	Lana Mae Voth
Foster Carpenter	Mae E Carpenter
Garth Leishman	Howard Sandberg
Leonard Toothman	Floyd Leishman
Osker Lundvall	Glenn Richard
Floyd F Bennett	Dorothy Sandberg
Elbert Gann	Kenneth Disbrow
Herb Toelke	Frank Weskamp
Lucille Weskamp	W.A.Pearson
Leona E Pearson	Hubert Rinke
Ray Johns	Dora Johns
L.E.Cullen	Robert McKnight
Leelar? McKnight	F.E.Ganieny
L.E.Goertz	Mrs L.E.Goertz
R.H.Noble	Mrs R.H.Noble
Mrs L.E.Toothman	Chester Klink
Elmo N? Pringle	Elizabeth H Pringle
Jack Schmidt	Maurice Robertson
E.C.Crawford	Lakodia LDotz
Gertrude Reinloder	A.J.Reinloder
Theo Freiburger	Othilie Freiburger
Agolph Trausch	Carl Vigen
Essie H Jackson	Gladys S ines
John Seines	Floyd A Darlington
I.A.Robertson	Pearl Robertson
W.R.Grund	Ida Grund
Mathias Jager	Fay Johns Jager
A.J.Pfaff	Bosie Pfaff
Clarence Bick	Evelyn Bick
Edith Henderson	D.PRobertson
W.L.Alfred	Edwin Broholm
Margaret S Orr	Horace G Orr
John H Cornelius	Adoleen Cornelius
Albert J Swanson	Bertha Swanson
Harold Roe	Kenneth K Boyd
Lester A Boyd	A.L.Atkinson
Kermit Hopkins	Mary S Hopkins
Mae E Kaiser	L.M.Kaiser
Paul L Gardner	Isabelle Gardner
Earl Barnes	Oscar Baertsch
Roscoe Marks	Clara L Sparks
H.A.Guenzler	E.A.Johnson
Nenry C Padilla	Noah Perry
Harry Stonehocker	Helen L Bratton
Eugene E Piedalue	Mrs W.L.Alfred
Hilbert B Seines	August Hansen
Philip L Maxwell	Peter Cornelius
Lyman Turnquist	Mary E Elfefs
Hergert Elfers	Brainard Horner
Margaret Brooke	D.A.hern
Elmer Geiger	Mrs L.E.Trout
Everett Krude	Albert Fisher

Mrs L.E.Cullen	Omer Knight
Frank Parker	Mrs Frank Parker
Hugh E Fay	Jack Fay
Harry Anderson	Grover Lewis
Stephen Bennett	E.O.Mentor
Myrtle Mentor	Rupert Normandeau
John Dotz	Peter S. arkel
Victor Starkel	Philip Schmidt
Pearl Walchuck	Julia Leverich
J.R.Jackson	Bernice Paulson
Archie Paulson	O Stonehocker
Margarite I Orr	Wm M Orr
Harold E Haegg	Lily E Lavis
Jane Gardner	T.L.Gardner
Jack Anderson	Thomas A Wright
Fred E Turner	Mulia Turner
Well Dondanville	Ellie Freed Mrs York
Arthur Julesberg	Christia Mc Millan
James Sweeney	Maude E Barry
Leo M Mountjoy	Eugene Hyre
Edward Shiltz	Clarence H Keirn
A?E Keirn	Lavern G Dondanville
Sayles D Johnston	Charles E Cannon
W.G.Stellmen	Mary J S. ellman
Echoneal I Cannon	Harold G. Stellman
Dorothy J Stellman	Donald L Perrin
Charles A Prongua	Charles E Baxter
Ethel M Johnston	Raymond R Murray
Quanda Murray	D.O.Stellman
Jack Gaston	Oscar C Smith
Marjorie G Smith	Betty Martin
Elmer Maddux	Edith Maddux
Henry L Baxter	Grace D Prongua
Oscar Blixt	Harold A Perkins
Mrs Grace Caroline Sampson	Walter W Peters ,
James R Peters	James M Bauer
Clara Mae Bauer	G? J Bras
Hazel Bras	H.E.Smith
W.A.Welton	Grace Welton
Thomas C Martin	Lucille F Martin
Lucile Taylor	George Taylor
John Rhone	Angie E Rhone
Harvey Schultz	Betty J Schultz
Victor Benson	Gail Henry
Elbert Sampson	Henry J Cook
Arthur D <i>fulshing</i>	Elsie K Denny
John R Welch	T.F.Ward
Tanie Ward	Pztricia Managhan
Everett Managhan	Gordon Holt
John Hooley	Edna Hooley
John H Bras	Lyda J Bras
Leonard ? Christie	Ann Christie
Freeman L Halverson	Mrs D.O.Stellmen
Kenneth Fox	Eunice Fox
Glen A Johnson	Mrs Glen A Johnson
Martha E Cook Taylor	James C Howser
Klonda Howser	Paul Howser
Nette Howser	Nora King
Herman Crismore	Lewis McLeary
Roy J Bras	W.S.Hoskinson
Charles O Bras	Chas L Andrews
Lloyd W Ulvick	Irene Ulvick
John King	Lula King
Robert D McHenry	Ruth McHenry
Hilda L Timlick	
William R Timlick	

list of names of signers on contract petition as of Feb 23--50

Frank M Hillman	T.E.Van Der Ende
H Daniels	Claud P Howser
Elizabeth D Howser	James Cook
Wm W? Meuli	Kathy Meuli
D ? Perrin	C.J.Patton
Jessie H Patton	Tom King
Leslie Stallman	Martha L Stellman
Elfrieda Taylor	H ? Sampson
F.J.Ratcliff	Millie H Ratcliff
N.C.Larue	Herbert F York
Maude Elizabeth York	L.C.James
Retta James	George W Wells
Bertha B Wells	Mrs R.L.Managhan
Eugene Zelezny	Ernest Woods
Harold J Pederson	Hallis G Harrison
Tillie E Sampson	Mary D Pederson
Andrews Steve A	John Christensen
H.L.Andrews	Mrs H.L.Andrews
James R Andrews	Violet G Andrews
Mrs Nellie F Patton	Justin F Patton
Charles Kent Vonsegen	Chas Duane Patton
Arthur Cluzen	Gerald Sutton
Bernice Sutton	Frank C Lee
D.V.Sampson	Luther E Page
May C Page	Carl E Hyre
Zelmer Martin	Mary A Crouch
Mrs Ludie Taylor	R.P.Taylor
Harold Adams	Twila Adams
Chris R Sheldon	Lila M Sheldon
Edmo Magera	Ed Magera
Chester F Taylor	Martine Ekrein
Harold J Murray	Nellie Murray

Camas Division 3-6-50

Mary B Daniels	Fred Halvorson
R.A.Ruenauer	A.S.Ainsworth
Helen Alvord	Betty Lou Andrews
Mack Lee	G.O.Dahl
Alrich Ekblad	E Albertta Johnson
Earl G Johnson	Mrs Carrie Livingston
Carol E Livingston	Mary Lee LaRue
Carl R Christensen	G.A.Guenther
Mrs Ruby Detienne	Iva L Christensen
G.S.Livingston	Irene Ekblad
Martin I Twedt	Tillie Twedt
Halvor Halvorson	Hartvig M Larson
Jenny Larson	Staffia <del>Schreiber</del> Schreiber
Gilbert Schreiber	Leonard Franklin
<del>Ediz</del> Grover Fritz	J.E.Cluzen
Effie Ann Patton(Maddox)	John Karlen
Margaret B George	Herbert H George
M C Willis	Oscar Amble
Sadie Egolf	Fred V Kopp
Glen Wahl	John A Walch

Chrisly Francesco  
Arthur Schrorer  
C. D. Vanness  
Leo V. & Rosa L. Doppler  
Louie Moore  
M. M. Francesco  
Mary Schrorer  
Minnie Vanness  
Thomas  
Willard A Maughan  
Paul Peschell  
Marie Peschel  
Arthur Garbe  
Floyd C. Rice  
Alice S. Crawford  
H. J. Soucie  
Alva V. Johnson  
Ralph A. Maxwell  
Bertha V. Maxwell  
Leslie R. Maughan  
Leona W. Maughan  
Ardis W. Maughan  
H. W. Maughan  
Walter Peschel  
Walteen Milner  
Lena Milner  
H. A. Pierson  
Nora L. Pierson  
John Clark  
Mrs. Harry Bowing  
Frank Kable  
Mary E. Thomas  
William J. Ledgerwood

C E R T I F I C A T E

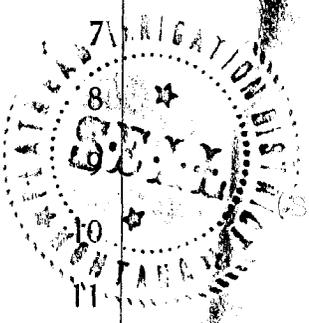
STATE OF MONTANA,        )  
County of Lake.            ) ss

I, the undersigned, D. A. Dellwo, do hereby certify that I am the duly elected, qualified and acting Secretary of the Board of Commissioners of the Flathead Irrigation District, a public corporation of the State of Montana; that the foregoing copy of petition, which is marked Exhibit "A", is a true, exact and correct copy of the original petition addressed to the Board of Commissioners of the Flathead Irrigation District and filed with me and in my office on the 10th day of ~~February~~ March, 1949, and petitioning said Board to execute a certain contract between said District and the United States; that appended to said petition is a full, true and exact copy of the proposed contract referred to therein, copy of which is attached to the Resolution, Exhibit "B", appended hereto; and I certify that the said original petition so filed with me and in my office is, signed by the names and signatures above set forth and in the manner hereinbefore set forth, and that the foregoing list of names is a list of the names of the persons and corporations executing said petition, and that each and all of said names and signatures are duly verified by affidavits attached thereto and with the said affidavits verifying said signatures thereto attached was duly filed in the office of the Board of Commissioners of said Flathead Irrigation

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District on the 10th day of ~~February~~ March, 1950.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said District this 10th day of ~~February~~ March, 1950.



D. A. DEL. *D. A. Del.*

Secretary of the Board of Commissioners of the Flathead Irrigation District.

# Exhibit "B"

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## R E S O L U T I O N

WHEREAS, there has been filed with the Secretary of the Board of Commissioners of the Flathead Irrigation District a duly verified petition addressed to said Board of Commissioners purporting to be signed by holders of title or evidence of title to lands included in said district, in which said petition the said Board of Commissioners of the Flathead Irrigation District is petitioned and authorized and requested to execute the amendatory repayment contract between the Flathead Irrigation District and the United States of America, the form of which was approved by the Department of the Interior on September 15, 1949, and by said Board of Commissioners on September 24, 1949, and which is designed to put into effect the provisions of the Act of May 25, 1948 (Public Law 554, 80th Congress) which law, when put into effect by the execution of said contract, provides for the continuation of construction and the operation and maintenance, by the United States, of the power and irrigation systems of the Flathead Indian Irrigation Project, and for the continued assumption by the district of certain indebtedness on account of said project, and for the repayment to the United States of Operation and maintenance and construction costs expended by the United States upon said project for the benefit of district lands, a copy of which contract is attached hereto, marked Exhibit "C", and made a part of this resolution;

1           AND WHEREAS, the aforesaid petition has been  
2 duly presented to and examined by the said Board of  
3 Commissioners of the Flathead Irrigation District,  
4 and evidence has been heard with relation to the same,  
5 and the Board being fully advised in the premises  
6 finds that the said petition has been duly signed by  
7 more than sixty per cent in number and acreage of the  
8 holders of title or evidence of title to the lands  
9 included within said district, and that said petition  
10 is in all respects sufficient to warrant action thereon  
11 by said Board,

12           NOW THEREFORE, BE IT RESOLVED by the Board of  
13 Commissioners of the Flathead Irrigation District in  
14 regular meeting duly assembled this 10<sup>th</sup> day of  
15 ~~February~~, 1950, that the prayer of said petition as  
16 aforesaid be granted, and that said contract be made  
17 and executed as prayed for therein, and the said Board  
18 of Commissioners hereby authorizes and directs the  
19 execution of said contract between the United States  
20 and the said Flathead Irrigation District, by the  
21 President and Secretary of the Board of Commissioners  
22 of said district;

23           AND BE IT FURTHER RESOLVED that there shall  
24 be levied annually a special tax or assessment upon  
25 all irrigible lands included in the district and all  
26 lands subsequently included which are chargeable under  
27 the provisions of the laws of the United States and  
28 of the State of Montana, for the purpose of making all  
29 payments due or to become due the United States  
30 under said contract between said district and the  
31 United States, accompanying which bonds of the district  
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1 have not been deposited with the United States as in  
2 Section 7174 of the Revised Codes of Montana of 1935,  
3 and acts amendatory thereof provided, and said tax or  
4 assessment shall be sufficient in amount to meet all  
5 payments due, or to become due, the United States  
6 under said contract between the district and the United  
7 States, and all irrigible lands of the district shall  
8 be and remain liable to be taxed and assessed for the  
9 purpose of making all payments due or to become due  
10 the United States under the contract above described  
11 between the United States and the Flathead Irrigation  
12 District;

13 AND BE IT FURTHER RESOLVED that within ten  
14 days after the adoption of this resolution, said Board  
15 of Commissioners shall file a petition in the District  
16 Court of the Judicial District wherein is located the  
17 office of the Board, to determine the validity of the  
18 proceedings had relative to the making and execution  
19 of said contract and to the levy of said special tax  
20 or assessment as provided in Section 7211 of the  
21 Revised Codes of Montana of 1935, and acts amendatory  
22 thereof, and such proceedings shall be prosecuted  
23 without delay to final decree for the purpose of pro-  
24 curing a decree ratifying and confirming the execution  
25 of said contract, and the proceedings had and taken  
26 with reference thereto;

27 AND BE IT FURTHER RESOLVED that this Board  
28 shall do all acts and things necessary to be done,  
29 and shall take all steps necessary to be taken, to  
30 procure the due execution and confirmation of the  
31 contract hereinbefore referred to, to the end that all  
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STATE OF MONTANA,            )  
                                  ) ss  
COUNTY OF LAKE.            )

I, the undersigned, D. A. Dellwo, DO HEREBY CERTIFY that I am the duly elected, qualified and acting Secretary of the Board of Commissioners of the Flathead Irrigation District, a public corporation of the State of Montana, and that the foregoing Resolution, with the Exhibit "C" attached thereto, is a true and correct copy of the resolution duly adopted by the unanimous vote of the Board of Commissioners of the Flathead Irrigation District in a meeting duly assembled on the 10th day of March, ~~February~~, 1950.

D. A. Dellwo

Secretary of the Board of Commissioners of the Flathead Irrigation District.



1 IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
2 OF THE STATE OF MONTANA,  
3 IN AND FOR THE COUNTY OF LAKE.

4 ~~FILED~~

MAR 14 1950

*James Stewart* Clerk District Court

Case No. 3720

5 IN THE MATTER OF THE PETITION)  
6 OF THE BOARD OF COMMISSIONERS(  
7 OF FLATHEAD IRRIGATION )  
8 DISTRICT TO DETERMINE AND ( )  
9 CONFIRM THE VALIDITY OF THE )  
10 PROCEEDINGS HAD RELATIVE TO ( )  
11 THE EXECUTION OF THE AMENDA- )  
12 TORY REPAYMENT CONTRACT ( )  
13 BETWEEN THE UNITED STATES OF )  
14 AMERICA AND THE FLATHEAD ( )  
15 IRRIGATION DISTRICT. )

ORDER FIXING DAY  
FOR CONFIRMATION  
OF PROCEEDINGS.

16 L. A. Thomas, D. A. Dellwo, I. A. Robertson,  
17 George W. Slack and L. G. Dondanville, the Board of  
18 Commissioners of the Flathead Irrigation District, a  
19 public corporation of the State of Montana, having  
20 filed herein their duly verified petition to determine  
21 the validity of proceedings had relative to the  
22 execution of an amendatory contract between the United  
23 States of America and the Flathead Irrigation District  
24 proposed to be executed by said Board of Commissioners  
25 of said District, and for the confirmation of all pro-  
26 ceedings taken by them with reference to the execution  
27 of said contract and relative to the levy of a special  
28 tax in connection therewith for the repayment of the  
29 construction costs and other payments due or to become  
30 due the United States, and it appearing to the Court  
31 therefrom that the office of the said Board of Commis-  
32 sioners of the Flathead Irrigation District is located  
within the Fourth Judicial District of the State of  
Montana, and in the County of Lake, and that said  
petition is in the form and sets forth the facts re-  
quired by law,

RECORDED

*Court Orders*

VOL. 2 PAGE 73

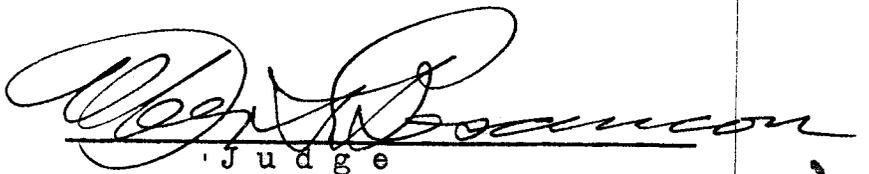
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1 NOW THEREFORE, upon application of counsel for  
2 said petitioners, IT IS HEREBY ORDERED that the 4<sup>th</sup>  
3 day of ~~March~~ <sup>April</sup>, 1950, at 10 o'clock, A. M., at the Court  
4 Room of this Court, in the Court House, at Polson,  
5 Lake County, Montana, be, and the same is hereby, fixed  
6 as the time and place when and where the hearing upon  
7 said petition shall be held by this Court.

8 IT IS FURTHER ORDERED that the Clerk of the  
9 above entitled Court shall give notice of the filing of  
10 said petition, and of the date of said hearing as  
11 hereby fixed, by publication of the notice thereof at  
12 least once a week for two calendar weeks in the  
13 FLATHEAD COURIER, a newspaper of general circulation in  
14 Lake County, Montana, published at Polson, Montana, and  
15 in the county in which the office of the said Board of  
16 Commissioners is situated, and also by posting written  
17 or printed copies of such notice in at least three  
18 public places in each division of the said Flathead  
19 Irrigation District, and said Clerk is further ordered  
20 to cause the first of such publications to be made, and  
21 also to post said notices as aforesaid, upon a date not  
22 less than fifteen (15) days prior to the date fixed for  
23 said hearing as required by statute.

24 DONE this 14<sup>th</sup> day of March,  
25 1950.

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29 W. J. Beaman  
30 Judge  
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IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF MONTANA,  
IN AND FOR THE COUNTY OF LAKE.

IN THE MATTER OF THE PETITION )  
OF THE BOARD OF COMMISSIONERS )  
OF FLATHEAD IRRIGATION )  
DISTRICT TO DETERMINE AND )  
CONFIRM THE VALIDITY OF THE )  
PROCEEDINGS HAD RELATIVE TO )  
THE EXECUTION OF THE AMENDA- )  
TORY REPAYMENT CONTRACT BE- )  
TWEEN THE UNITED STATES OF )  
AMERICA AND THE FLATHEAD )  
IRRIGATION DISTRICT. )

FILED MAR 14 1950  
*James Harbut* Clerk District Court  
Case No. 3720

NOTICE OF HEARING ON PETITION FOR CONFIRMATION  
OF PROCEEDINGS HAD BY FLATHEAD IRRIGATION  
DISTRICT WITH REFERENCE TO EXECUTION OF  
AMENDATORY REPAYMENT CONTRACT BETWEEN THE  
UNITED STATES OF AMERICA AND THE FLATHEAD  
IRRIGATION DISTRICT

NOTICE IS HEREBY GIVEN that the Board of Com-  
missioners of the Flathead Irrigation District, a public  
corporation of the State of Montana, has filed a  
petition in the above named Court to determine the  
validity of proceedings had relative to the execution  
of a certain contract between the United States and the  
Flathead Irrigation District and the levy of a special  
tax in connection therewith, from which petition it  
appears in substance as follows:

That the said Flathead Irrigation District was  
duly organized and established by a decree of this  
Court on the 26th day of August, 1926.

That on the 10<sup>th</sup> day of ~~February~~ <sup>March</sup>, 1950,  
there was duly filed with the Secretary of the Board of



1 Commissioners of said District a duly verified petition  
2 signed as provided by law by more than sixty per cent  
3 in number and acreage of the holders of title or evidence  
4 of title to the lands included within said irrigation  
5 district, which said petition was addressed to the said  
6 Board of Commissioners and requested and authorized  
7 said Board to execute an amendatory contract between  
8 the United States and the Flathead Irrigation District,  
9 and which contract is designed to put into effect the  
10 provisions of the Act of May 25, 1948, (Public Law 554,  
11 80th Congress), which law, when put into effect by the  
12 execution of said contract provides for the continuation  
13 of construction and the operation and maintenance, by  
14 the United States, of the power and irrigation systems  
15 of the Flathead Indian Irrigation Project, and for the  
16 continued assumption by the district of certain indebted-  
17 ness on account of said project, and for the repayment  
18 to the United States of operation and maintenance and  
19 construction costs expended by the United States upon  
20 said project for the benefit of district lands.

21 That upon the filing of said petition, the Board  
22 of Commissioners of said irrigation district by reso-  
23 lution authorized and directed the execution of said  
24 contract and directed the filing in the above named  
25 Court of said petition to determine the validity of the  
26 proceedings had relative to the execution of said  
27 contract, and to the levy of a special tax in connection  
28 therewith.

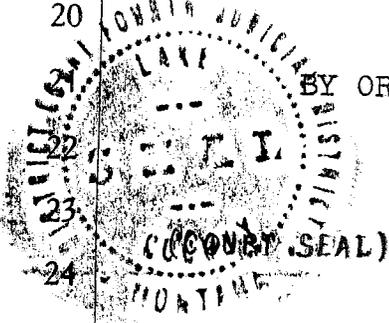
29 That said petition prays for the confirmation  
30 of the proceedings of said Board as stated in said  
31 petition.  
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1 That certified copies of the said petition  
2 filed with the Secretary of said Board of Commissioners  
3 and of the resolution adopted by the Board are annexed  
4 to the petition filed in the above entitled matter.

5 NOTICE IS HEREBY GIVEN that the said petition  
6 has been set for hearing at 10 o'clock A. M., on  
7 the 4<sup>th</sup> day of ~~March~~ <sup>April</sup>, 1950, at the Court Room  
8 in the Court House, at Polson, Lake County, Montana, and  
9 that any person interested in, or whose rights may be  
10 affected by the execution of the said contract, or the  
11 levy of said special tax or assessment, or the proceed-  
12 ings had or to be had by the said Board of Commissioners  
13 with respect to said matters, may, on or before the  
14 day so fixed for the hearing of said petition, demur to  
15 or answer said petition, and may appear at said hearing  
16 and contest the granting of the prayer of said petition  
17 and the entry of any order or confirmation pursuant  
18 thereto.

19 Dated this 14<sup>th</sup> day of ~~February~~ <sup>March</sup>, 1950.

20 BY ORDER OF THE COURT.

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J. M. Stahl  
Clerk of the above named Court

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IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF MONTANA,  
IN AND FOR THE COUNTY OF LAKE.

IN THE MATTER OF THE PETITION )  
OF THE BOARD OF COMMISSIONERS ( )  
OF FLATHEAD IRRIGATION )  
DISTRICT TO DETERMINE AND )  
CONFIRM THE VALIDITY OF THE )  
PROCEEDINGS HAD RELATIVE TO )  
THE EXECUTION OF THE AMENDA- )  
TORY REPAYMENT CONTRACT BETWEEN )  
THE UNITED STATES OF AMERICA )  
AND THE FLATHEAD IRRIGATION )  
DISTRICT/ )

**APR 4 1950**  
**FILED**  
JAMES HARBERT, Clerk District Court  
By Maude E. Veltie Deputy  
CASE No. 3720

STATE OF MONTANA, )  
 )  
COUNTY OF MISSOULA. ) ss. AFFIDAVIT OF POSTING

D. A. DELLWO, being first duly sworn, deposes  
and says: That he is Secretary of the Flathead Irrigation  
District, and that he did, on the 16th day of March,  
1950, post copies of the adjoined notice in at least  
three public places in each division of the Flathead  
Irrigation District; that said notices were posted more  
than fifteen days prior to the date fixed for hearing,  
and that the public places at which the said notices were  
posted are as follows:

DIVISION NUMBER ONE

- One in the store of E. J. Wamsley, at Moiese,  
Montana,
- One on the power pole close to the Moiese  
Club House,
- One in the covered entryway of the Grange  
Hall at D'Aste.

DIVISION NUMBER TWO

- One on the door of the Farmer's Union Hall  
(formerly Ridgeway school house)  
Charlo, Montana,
- One in the driveway of the Grain Elevator  
at Charlo, Montana,
- One in the Co-op Store at Charlo, Montana.

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DIVISION NUMBER THREE

One in the Co-op Service Station at  
Ronan, Montana;  
One in the east store at Round Butte,  
Montana;  
One in the west store at Round Butte,  
Montana.

DIVISION NUMBER FOUR

One in the Post Office at Pablo, Montana,  
One in the Valley View Club House,  
One at the place of business of the  
Board of Commissioners of Flathead  
Irrigation District in the Power Building  
at Polson, Montana.

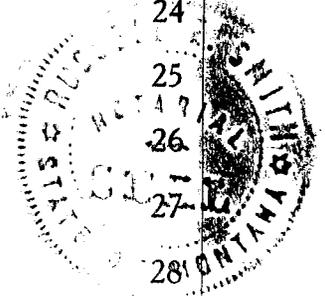
DIVISION NUMBER FIVE

One in the entryway of the Lonepine  
Club House,  
One in the Post Office at Lonepine,  
Montana.  
One in the post office at Hot Springs,  
Montana.

*A. D. Miller*

SUBSCRIBED AND SWORN TO before me this 4<sup>th</sup> day of  
April, 1950.

*Russell E. Smith*  
Notary Public for the State of  
Montana, residing at Missoula,  
Montana. My Commission expires  
December 15, 1951.



# Affidavit of Publication

FILED APR 4 1950

STATE OF MONTANA, }  
COUNTY OF LAKE, } ss.

JAMES HARBERT, Clerk District Court

By Maebel E. Viola Deput

CASE No. 3720

Janice Hardy

, being duly

sworn, deposes and says, that she is Printer, Principal Clerk, Foreman, of The Flathead Courier, a newspaper of general circulation, published and printed in Polson, Lake County, Montana, and that the attached notice has been correctly published in the regular and entire issue of every number of said paper for

3 successive weeks, commencing on the 16<sup>th</sup> day of March, 1950,

and published on the following dates thereafter:

March 23, 1950,

and March 30, 1950,

and \_\_\_\_\_, 19\_\_\_\_,

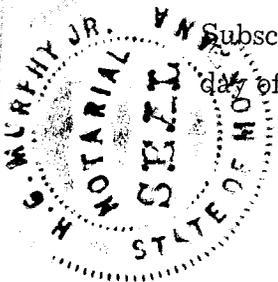
and \_\_\_\_\_, 19\_\_\_\_.

Signed Janice Hardy

Subscribed and sworn to before me this 3<sup>rd</sup> day of April, 1950.

H. Murphy  
Notary Public for the State of Montana, residing at Polson

My commission expires \_\_\_\_\_  
NOTARY PUBLIC for the State of Montana  
Residing at Polson, Montana  
My Commission Expires March 16, 1951



By \_\_\_\_\_  
District Court  
State of Montana,  
County of Lake  
IN WITNESS WHEREOF, the PETITIONER OF COMMISSIONERS OF IRRIGATION DISTRICT TO AND CONFIRM THE VALID PROCEEDINGS HAD RELATIVE TO THE AMENDATORY CONTRACT BETWEEN THE UNITED STATES OF AMERICA AND THE IRRIGATION DISTRICT.  
I, JAMES HARBERT, Clerk of the Flathead Irrigation District, a public corporation of Montana, has filed a petition in the Court to determine the validity of proceedings had relative to the execution of a certain contract between the United States and the Flathead Irrigation District and the levy of a special tax in connection therewith. The petition it appears in substance as follows:  
That the said Flathead Irrigation District was duly organized and established by the act of this Court on the 10th day of August, 1926.  
That on the 10th day of March, 1950, a petition was duly filed with the Secretary of the Board of Commissioners of said district a duly verified petition signed by more than ten percent in number and acreage of the owners of title or evidence of title to the lands included within said irrigation district, which said petition was addressed to the said Board of Commissioners and requested and authorized said board to execute an amendatory contract between the United States and the Flathead Irrigation District, and which contract is designed to put into effect the provisions of the act of May 25, 1943, (Public Law 554, 80th Congress), which law, when put into effect by the execution of said contract provides for the continuation of construction and the operation and maintenance of the Flathead Indian Irrigation Project, and for the continued assumption by the United States of certain indebtedness on account of said project, and the payment to the United States of the operation and maintenance and construction costs expended by the United States upon said project for the benefit of said district.  
That upon the filing of said petition, the Board of Commissioners of said irrigation district by resolution authorized and directed the execution of said contract and directed the filing in the above named Court of said petition to determine the validity of the proceedings had relative to the execution of said contract, and to the levy of a special tax in connection therewith.  
That said petition prays for the confirmation of the proceedings of said Board as stated in said petition.  
That certified copies of the said petition filed with the Secretary of said Board of Commissioners and of the resolution adopted by the Board are annexed to the petition filed in the above entitled matter.  
NOTICE IS HEREBY GIVEN that the said petition has been set for hearing at 10 o'clock A. M., on the 4th day of April, 1950, in the Court Room in the Court House at Polson, Lake County, Montana, and that any person interested in, or whose rights may be affected by the execution of the said contract, or the levy of said special tax or assessment, or the proceedings had or to be had by the said Board of Commissioners with respect to said matters, may, on or before the day so fixed for the hearing of said petition, demand or answer said petition, and may appear at said hearing and contest the validity of the prayer of said petition and the entry of any order or confirmation thereon.  
Witness my hand and seal of office on this 4th day of March, 1950.  
JAMES HARBERT  
Clerk of the above named Court  
(Sub. March 15, 23, 30, 1950)

1 IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
 2 OF THE STATE OF MONTANA, IN AND FOR THE COUNTY  
 3 OF LAKE.

APR 4 1950

FILED  
 JAMES Harbert Clerk District Court  
 By Mabel E. Vahlte Deputy  
 CASE No - 372D

5 IN THE MATTER OF THE PETITION )  
 6 OF THE BOARD OF COMMISSIONERS ( )  
 7 OF FLATHEAD IRRIGATION ( )  
 8 DISTRICT TO DETERMINE AND ( )  
 9 CONFIRM THE VALIDITY OF THE ( )  
 10 PROCEEDINGS HAD RELATIVE TO ( )  
 11 THE EXECUTION OF THE AMENDA- ( )  
 12 TORY REPAYMENT CONTRACT BETWEEN ( )  
 13 THE UNITED STATES OF AMERICA ( )  
 14 AND THE FLATHEAD IRRIGATION ( )  
 15 DISTRICT. )

DECREE

12 This matter came on regularly to be heard on  
 13 the 4th day of April, 1950, before the Honorable  
 14 Albert Besancon, sitting without a jury. The petitioners  
 15 were represented by their counsel, Messrs. Smith, Boone  
 16 & Rimel. No person, either before the date of hearing  
 17 or at the time thereof, filed any demurrer or answer  
 18 to the petition, and no person appeared at the hearing  
 19 to contest the granting of the prayer of said petition,  
 20 and no appearances of any kind in opposition to said  
 21 petition were made either at the time of or prior to  
 22 the date of the hearing.

23 Thereupon evidence, both oral and documentary,  
 24 in support of the petition was introduced, and the  
 25 Court being now fully advised in the premises finds  
 26 as follows:

27 I.

28 That by reason of the fact that none of the  
 29 holders of title or evidence of title to lands included  
 30 within the district have answered or demurred to the  
 31 petition, or made any appearance whatsoever, the holders  
 32 of title or evidence of title to lands included within

1.



1 the district are deemed to have admitted as true all  
2 of the material statements of the petition.

3 II.

4 The Court, after an examination of the notices  
5 given, finds that notice was given in all respects as  
6 required by law, and that the Court has jurisdiction  
7 to examine and determine the regularity, legality and  
8 validity of the proceedings preliminary and relative  
9 to the execution of the amendatory repayment contract  
10 attached to the petition.

11 III.

12 The Court finds that at all of the times herein  
13 mentioned L. A. Thomas, D. A. Dellwo, I. A. Robertson,  
14 George W. Slack and L. G. Dondanville were the duly  
15 elected, qualified and acting Commissioners of the  
16 Flathead Irrigation District, a public corporation  
17 of the State of Montana, and that said petitioners con-  
18 stituted the entire Board of Commissioners of said  
19 district.

20 IV.

21 The Court finds that the said Flathead Irriga-  
22 tion District at all of the times hereinafter mentioned  
23 has been, and now is, duly created, established and  
24 organized as an irrigation district under the laws of  
25 the State of Montana, and that heretofore and on the  
26 26th day of August, 1926, the decree and order of the  
27 above named Court was duly given, made and entered  
28 establishing the said district and creating and organiz-  
29 ing the same, and that since said date the said  
30 irrigation district has duly functioned and acted as  
31 such.  
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V.

The Court finds that on the 10th day of March, 1950, a petition addressed to the Board of Commissioners of said Flathead Irrigation District was duly filed with the Secretary of said Board of Commissioners, petitioning and authorizing and requesting the said Board of Commissioners to execute the amendatory repayment contract between the Flathead Irrigation District and the United States of America, the form of which contract was approved by the Department of the Interior on September 15, 1949, and by the Board of Commissioners on September 24, 1949, and which contract is designed to put into effect the provisions of the Act of May 25, 1948, (Public Law 554, 80th Congress), which law, when put into effect by the execution of said contract, provides for the continuation of construction and the operation and maintenance, by the United States, of the power and irrigation systems of the Flathead Indian Irrigation Project, and for the continued assumption by the district of certain indebtedness on account of said project, and for the repayment to the United States of operation and maintenance and construction costs expended by the United States upon said project for the benefit of district lands. That said petition was duly signed by more than sixty per cent in number and acreage of the holders of title or evidence of title to the lands included within said district, and said petition had attached thereto affidavits duly verifying the signatures contained in and appended to said petition.

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VI.

That thereafter, and on the 10th day of March, 1950, the said Board of Commissioners of Flathead Irrigation District, in regular meeting duly assembled, duly adopted a resolution authorizing and directing the Board of Commissioners of Flathead Irrigation to execute said contract between the United States and the Flathead Irrigation District as specified in the aforesaid petition, and providing for the levy of a special tax or assessment as provided by law, on all the lands in the district for the irrigation and benefit of which said district was organized, and said contract is proposed, to be made sufficient in amount to pay all amounts to be paid to the United States under said contract between the Flathead Irrigation District and the United States, and which said resolution further provided for the confirmation of all proceedings had in connection therewith in the above named Court as provided by law.

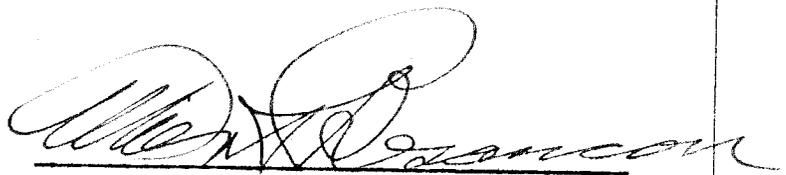
VII.

That the office of said Board of Commissioners, and the greater portion of the lands within said irrigation district, are situated and located in the said County of Lake, and within the judicial district aforesaid.

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED, and this does ORDER, ADJUDGE AND DECREE, that the proceedings of the Board of Commissioners of Flathead Irrigation District had preliminary and relative to the execution of the amendatory repayment contract between the Flathead Irrigation District and the United

1 States of America, [a copy of which is annexed hereto,  
2 and marked Exhibit "A", are, and] were in all respects  
3 regular, legal and valid, and IT IS HEREBY ORDERED,  
4 ADJUDGED AND DECREED that the acts of the said Board  
5 of Commissioners of said Flathead Irrigation District,  
6 and resolution of said Board of Commissioners direct-  
7 ing the execution of said amendatory repayment contract  
8 are in all respects ratified, approved and confirmed;  
9 and IT IS FURTHER ORDERED, ADJUDGED AND DECREED that  
10 the levy of a special tax or assessment upon all irrigable  
11 lands included within said district, and all lands  
12 subsequently to be included, which are chargeable under  
13 the provisions of the laws of the United States and  
14 the State of Montana for the purpose of making all pay-  
15 ments due, or to become due, the United States under  
16 said amendatory repayment contract, is hereby declared  
17 to be regular, legal and valid, and is in all respects  
18 ratified, approved and confirmed.

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21 DONE IN OPEN COURT this 4th day of April, 1950.

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25 J u d g e  
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IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE  
OF MONTANA, IN AND FOR THE COUNTY OF LAKE.

IN THE MATTER OF THE PETITION )  
OF THE BOARD OF COMMISSIONERS )  
OF MISSION IRRIGATION DISTRICT )  
TO DETERMINE AND CONFIRM THE )  
VALIDITY OF THE PROCEEDINGS )  
HAD RELATIVE TO THE EXECUTION )  
OF THE AMENDATORY REPAYMENT )  
CONTRACT BETWEEN THE UNITED )  
STATES OF AMERICA AND THE )  
MISSION IRRIGATION DISTRICT. )

FILED MAY 17 1951  
JAMES HARRERT, Clerk District Court  
By *Malcolm E. V. White* Deputy  
CASE No. 2884

DECREE

This matter came on regularly to be heard on the 15th. day of May, 1951, before the Honorable Albert Besancon, sitting without a jury. The petitioners were represented by their counsel, Edward T. Dussault, and certain individual landowner petitioners by their counsel, Lloyd Wallace. No person, either before the date of hearing or at the time thereof, filed any demurrer or answer to the petition, but two landowners, Sidney Strong, and Louis Cottrell, appeared personally, without counsel, at the hearing to contest the granting of the prayer of said petition, and a withdrawal petition containing 14 signatures was filed at said hearing, wherein the landowners therein requested that their names be withdrawn from the original petition filed with the Board of Commissioners.

Thereupon evidence, both oral and documentary, in support of the petition, and in opposition thereto, was introduced, and the Court being now fully advised in the premises, finds as follows:

I.

That more than sixty (60) per cent in number and acreage of

RECORDED *Judgment* VOL. 4 PAGE 125  
*Rec'd*

the holders of title or evidence of title to the lands included within the District have signed a petition requesting that the Board of Commissioners execute the Amendatory Repayment Contract between the District and the United States.

## II.

The Court, after an examination of the notices given, finds that notice was given in all respects as required by law, and that the Court has jurisdiction to examine and determine the regularity, legality and validity of the proceedings preliminary and relative to the execution of the Amendatory Repayment Contract attached to the petition.

## III.

The Court finds that at all of the times herein mentioned A. J. Ribbert, W. K. Phillips and Robert Strong, were duly elected, qualified and acting Commissioners of the Mission Irrigation District, a public corporation of the State of Montana, and that said petitioners constitute the entire Board of Commissioners of said District.

## IV.

The Court finds that the said Mission Irrigation District at all of the times hereinafter mentioned has been, and now is, duly created, established and organized as an irrigation district under the laws of the State of Montana, and that theretofore and on the 26th day of August, 1926, the decree and order of the abovenamed Court was duly given, made and entered establishing the said district and creating and organizing the same, and that since said date the said irrigation district has duly functioned and acted as such.

V.

The Court finds that on the 18th day of April, 1951, a petition addressed to the Board of Commissioners of said Mission Irrigation District was duly filed with the Secretary of said Board of Commissioners, petitioning and authorizing and requesting the said Board of Commissioners to execute the amendatory repayment contract between the Mission Irrigation District and the United States of America, the form of which contract was approved by the Department of the Interior on September 15, 1949, and by the Board of Commissioners on April 11, 1951, and which contract is designed to put into effect the provisions of the Act of May 25, 1948, (Public Law 554, 80th Congress), which law, when put into effect by the execution of said contract, provides for the continuation of construction and the operation and maintenance, by the United States, of the power and irrigation systems of the Flathead Indian Irrigation Project, and for the continued assumption by the district of certain indebtedness on account of said project, and for the repayment to the United States of operation and maintenance and construction costs expended by the United States upon said project for the benefit of district lands. That said petition was duly signed by more than sixty per cent in number and acreage of the holders of title or evidence of title to the lands included within said district, and said petition had attached thereto affidavits duly verifying the signatures contained in and appended to said petition.

VI.

That thereafter, and on the 18th day of April, 1951, the said Board of Commissioners of Mission Irrigation District, in regular meeting duly assembled, duly adopted a resolution authorizing and directing the Board of Commissioners of Mission Irrigation to execute said contract between the United States and the Mission Irrigation District as specified in the aforesaid petition, and providing for the levy of a special tax or assessment as provided by law, on all the lands in the district for the irrigation and benefit of which said district was organized, and said contract is proposed, to be made sufficient in amount to pay all amounts to be paid to the United States under said contract between the Mission Irrigation District and the United States, and which said resolution further provided for the confirmation of all proceedings had in connection therewith in the above named Court as provided by law.

VII.

That the office of said Board of Commissioners, and all of the lands within said irrigation district, are situated and located in the said County of Lake, and within the judicial district aforesaid.

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED, and this does ORDER, ADJUDGE AND DECREE, that the proceedings of the Board of Commissioners of Mission Irrigation District had preliminary and relative to the execution of the amendatory repayment contract between the Mission Irrigation District and the United States of America, a copy of which is annexed hereto, and marked Exhibit "A",

are, and were in all respects regular, legal and valid, and IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the acts of the said Board of Commissioners of said Mission Irrigation District, and resolution of said Board of Commissioners directing the execution of said amendatory repayment contract are in all respects ratified, approved and confirmed; and IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the levy of a special tax or assessment upon all irrigable lands included within said district, and all lands subsequently to be included, which are chargeable under the provisions of the laws of the United States and the State of Montana for the purpose of making all payments due, or to become due, the United States under said amendatory repayment contract, is hereby declared to be regular, legal and valid, and is in all respects ratified, approved and confirmed.

DONE IN OPEN COURT this 15th day of May, 1951.

  
Judge.

**EXHIBIT "A"**

AMENDATORY REPAYMENT CONTRACT

Mission Irrigation District

Flathead Indian Irrigation Project

This amendatory contract, made this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, in pursuance of the Act of April 23, 1904 (33 Stat. 302), and acts amendatory thereof or supplementary thereto, and especially the Act of May 25, 1948 (Public Law 554-80th Congress), by and between the United States of America (hereinafter called the United States), acting by and through the Secretary of the Interior, and the Mission Irrigation District (hereinafter called the District), a public corporation duly organized and existing under the laws of the State of Montana, their respective successors and assigns, Witnesseth:

1. WHEREAS, in pursuance of said Act of April 23, 1904, and acts amendatory thereof or supplementary thereto, the parties to this amendatory contract have entered into a repayment contract (hereinafter called the original repayment contract), executed by the District as of the 9th day of January, 1931, and by the United States as of the 21st day of April, 1931, with respect to certain portions of the lands, costs, charges and benefits of the Flathead Indian Irrigation Project (hereinafter called the project); and have entered into a supplemental contract (hereinafter called the first supplemental contract), executed by the District as of the 2d day of June, 1934, and by the United States as of the 23d day of July, 1934, which modified certain provisions of the original repayment contract; and have entered into another

supplemental contract (hereinafter called the second supplemental contract), executed by the District as of the 6th day of June, 1936, and by the United States as of the 26th day of August, 1936, which also modified certain provisions of the original repayment contract.

2. 'WHEREAS, said Act of May 25, 1948, entitled "An Act To provide for adjustment of irrigation charges on the Flathead Indian irrigation project, Montana, and for other purposes," provides as follows:

"That the repayment to the United States of all reimbursable costs heretofore or hereafter incurred for the construction of the irrigation and power systems of the Flathead Indian irrigation project in Montana (hereinafter called the project), including such operation and maintenance costs as have been covered into construction costs under the Act of March 7, 1928 (45 Stat. 200,212-213), and supplemental Acts, and including the unpaid operation and maintenance costs for the irrigation seasons of 1926 and 1927 which are hereby covered into construction costs, shall be accomplished as prescribed by this Act, notwithstanding any provision of law to the contrary.

"Sec. 2. (a) All costs heretofore or hereafter incurred for the construction of the irrigation system shall be allocated to the Mission Valley, Camas, and Jocko divisions of the project in proportion to the amount of such costs incurred for the respective benefit of each of these divisions.

(b) The net revenues heretofore and hereafter accumulated from the power system shall be determined by deducting from the gross revenues the expenses of operating and maintaining the power system, and the funds necessary to provide for the creation and maintenance of appropriate reserves in accordance with section 3 of the Act of August 7, 1946 (60 Stat. 895; 31 U.S.C., sec. 725s-3).

(c) The deferred obligation established by the Act of May 10, 1926 (44 Stat., 453,464-466), for repayment of the per acre costs of the Camas division in excess of the per acre costs of the Mission Valley division shall be determined on the basis of the costs heretofore incurred for the construction of those divisions, and shall be liquidated from the net revenues heretofore accumulated from the power system.

(d) The remainder of the net revenues heretofore accumulated from the power system shall be applied to reduce

the reimbursable costs heretofore incurred for the construction of the power system, and the reimbursable costs heretofore incurred for the construction of the irrigation system (exclusive of the deferred obligation for the excess costs of the Camas division) as allocated among the several divisions pursuant to subsection (a) of this section, in proportion to the respective amounts of each of the foregoing categories of costs.

(e) The reimbursable costs heretofore incurred for the construction of the irrigation system of each division of the project and not repaid through the credits provided for in subsections (c) and (d) of this subsection shall be scheduled for repayment in annual installments of approximately equal amount, in a manner which will provide for liquidation of such costs over a period of fifty years from January 1, 1950. The reimbursable costs hereafter incurred for the construction of the irrigation system shall be added to the schedule of repayments established pursuant to this subsection by increasing the amount or the number, or both, of the annual installments maturing after the incurrence of such costs, in a manner which will provide for their liquidation within a period not exceeding the useful life of the works involved, or not exceeding fifty years from the time when the additional costs are incurred, whichever period is the lesser. Each annual installment shall be distributed over all irrigable lands within the division on an equal per acre basis, and the costs so charged against any parcel of lands within the division shall constitute a first lien thereon under the Act of May 10, 1926 (44 Stat. 453, 464-466). Upon the maturity or prepayment of any annual installment, the amount of the installment shall be reduced by deducting any sums included therein which are chargeable to lands on which the collection of construction costs is then deferred under the Act of July 1, 1932 (47 Stat. 564; 25 U.S.C., sec.386a), or which are chargeable to other lands and have been already repaid to the United States.

(f) The reimbursable costs heretofore incurred for the construction of the power system and not repaid through the credits provided for in subsections (c) and (d) of this subsection, or through other credits from the revenues of the power system, shall be scheduled for repayment in annual installments of approximately equal amount, in a manner which will provide for liquidation of such costs over a period not exceeding the remaining useful life of the power system as a whole, or not exceeding fifty years from January 1, 1950, whichever period is the lesser. The reimbursable costs hereafter incurred for the construction of the power system shall be added to the schedule of repayments established pursuant to this subsection by increasing the amount or the number, or both, of the annual installments maturing after the incurrence of such costs, in a manner which will provide for their liquidation within

a period not exceeding the useful life of the works involved, or not exceeding fifty years from the time when the additional costs are incurred, whichever period is the lesser. Each annual installment shall be repaid to the United States solely out of the revenues from the power system.

(g) Electric energy available for sale through the power system shall be sold at the lowest rates which, in the judgment of the Secretary of the Interior, will produce net revenues sufficient to liquidate the annual installments of the power system construction costs established pursuant to subsection (f) of this section, and (for the purpose of reducing the irrigation system construction costs chargeable against the lands embraced within the project and of insuring the carrying out of the intent and purpose of legislation and repayment contracts applicable to the project) to yield a reasonable return on the unliquidated portion of the power system construction costs, and (for the same purpose) to yield such additional sums as will cover the amount by which the wholesale value of the electric energy sold exceeds the cost thereof where such excess is the result of the electric energy having been obtained on a special basis in return for water rights or other grants.

(h) All net revenues hereafter accumulated from the power system shall be applied annually to the following purposes, in the following order of priority:

(1) To liquidate all matured installments of the schedule of repayments for construction costs of the power system;

(2) To liquidate all matured installments of the schedule of repayments for construction costs of the irrigation system of each division, on an equal per acre basis for all irrigable lands within the division;

(3) To liquidate unmatured installments of the schedule of repayments for construction costs of the power system which will mature at a date not later than the maturity of any unliquidated installment of irrigation system construction costs;

(4) To liquidate unmatured installments of the schedule of repayments for construction costs of the irrigation system of each division which will mature at a date prior to the maturity of any unliquidated installment of power system construction costs, on an equal per acre basis for all irrigable lands within the division;

(5) To liquidate construction costs chargeable against Indian-owned lands the collection of which is deferred under the Act of July 1, 1932 (47 Stat. 564; 25 U.S.C., sec. 386a); and

(6) To liquidate the annual operation and maintenance costs of the irrigation system.

(i) In applying net revenues from the power system to the annual installments of irrigation system construction costs for any division of the project under the preceding subsection, allowance shall be made for any construction costs deferred under the Act of July 1, 1932 (47 Stat. 564; 25 U.S.C., 386a), or already repaid to the United States which have been deducted from such installments under subsection (e) of this section, by distributing the net revenues available for such application over all irrigable lands within the division on an equal per acre basis, and by applying the net revenues distributed to the lands chargeable with the construction costs that have been so deferred or repaid, in amounts proportionate to the deductions made on account of such costs, to any then unpaid or subsequently assessed costs of operating and maintaining the irrigation system which are chargeable against the same lands.

(j) Any matured installment of irrigation system construction costs, or portion thereof, which is not liquidated at or before its maturity through the application thereto of net revenues from the power system under subsection (h) of this section shall be repaid to the United States by an assessment against the lands chargeable with the construction costs included in the installment. Such repayment shall be deferred for any period of time that may be requisite to provide for the assessment and collection of such costs in conformity with the laws of the State of Montana, but shall be completed within two years after the maturity of the installment concerned.

"Sec. 3. The repayment adjustments provided for in sections 1 and 2 of this Act shall not become effective unless, within two years after the approval of this Act, the irrigation districts embracing lands within the project not covered by trust or restricted patents have entered into contracts satisfactory to the Secretary of the Interior, whereby such districts (1) obligate themselves for the repayment of the construction costs chargeable against all irrigable lands embraced within the districts contracting (exclusive of Indian-owned lands on which the collection of construction costs is deferred) to the extent and in the manner prescribed by sections 1 and 2 of this Act; (2) consent to such revisions in the limits of cost for the project, or any division thereof, as the Secretary and the districts contracting may mutually agree upon in order to facilitate the making of needed improvements and extensions to the irrigation and power systems; (3) provide for redetermination by the Secretary of the irrigable area of the project, or any division thereof, and for the exclusion of lands from the

project, with the consent of the holder of any water rights that would be canceled by such exclusion; and (4) make such other changes in the existing repayment contracts as the Secretary and the districts contracting may mutually agree upon for accomplishment of the purposes of this Act. In order to facilitate the commencement of repayment at the earliest practicable time, such contracts may provide for adjusting the maturity dates or amounts of the annual installments in a manner which will ultimately place the repayment schedules on substantially the same basis as though such contracts had been entered into prior to their actual execution, but not earlier than January 1, 1949.

"Sec. 4. Unpaid charges for operation and maintenance of the irrigation system which were assessed prior to May 10, 1926, against any lands within the project, amounting to a sum not exceeding \$40,549.89, and unpaid charges due from consumers for electric energy sold through the power system between July 1, 1931, and June 30, 1942, amounting to a sum not exceeding \$2,195.16, are hereby canceled. The cancellation of the operation and maintenance charges shall be reported in the reimbursable accounts rendered to the Comptroller General of the United States, pursuant to the Act of April 14, 1910 (36 Stat. 269,270; 25 U.S.C., sec. 145), as deductions from the total indebtedness of the project without regard to the fiscal years in which, or the appropriations from which, the expenditures were made.

"Sec. 5. There is hereby authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, the following sums, for the following purposes, to be reimbursed to the United States as hereinafter provided:

(a) The sum of \$64,161.18, with interest thereon at the rate of 4 per centum per annum from May 18, 1916, and the sum of \$409.38, with interest thereon at the same rate from December 1, 1925, to be used to repay the Confederated Salish and Kootenai Tribes of the Flathead Reservation in Montana the balance remaining due them under the Act of May 18, 1916 (39 Stat. 123, 141). The aggregate principal amount of \$64,570.56 so repaid shall be added to the construction costs of the project and shall be reimbursable.

(b) The sum of \$400,000 to be deposited in the United States Treasury to the credit of the Confederated Salish and Kootenai Tribes of the Flathead Reservation in Montana; of which sum one-half shall be in full settlement of all claims of said tribes on account of the past use of tribal lands for the physical works and facilities of the irrigation and power systems of the project, or for wildlife refuges; and the other one-half

shall be in full payment to said tribes for a permanent easement to the United States, its grantees and assigns, for the continuation of any and all of the foregoing uses, whether heretofore or hereafter initiated, upon the tribal lands now used or reserved for the foregoing purposes. The said tribes shall have the right to use such tribal lands, and to grant leases or concessions thereon, for any and all purposes not inconsistent with such permanent easement. The amount deposited in the Treasury pursuant to this subsection shall be added to the construction costs of the project and shall be reimbursable.

(c) The sum of \$1,000,000 to continue the construction of the irrigation and power systems of the project. Amounts expended pursuant to this subsection shall be added to the construction costs of the project and shall be reimbursable.

(d) No expenditure shall be made from any appropriation granted under the authorizations contained in this section until the repayment of all reimbursable construction costs incurred through such expenditure has been secured by contracts conforming to the requirements of section 3 of this Act.

"Sec. 6. In each fiscal year commencing after the approval of this Act for which an appropriation of the power revenues from the project is made in an indefinite amount pursuant to section 3 of the Act of August 7, 1946 (60 Stat. 895; 31 U.S.C., sec. 725s-3), the power revenues so appropriated shall be available, to the extent of not to exceed \$75,000, for the purpose, in addition to those other purposes now required or permitted by law, of making such improvements and extensions to the power system as the Secretary of the Interior may deem requisite for the provision of electric service to persons whose applications for such service could not otherwise be complied with in due course of business. Amounts so expended shall be added to the unmaturred portion of the reimbursable construction costs of the power system in accordance with subsection 2 (f) of this Act, so as not to reduce the net power revenues available for application under subsection 2 (h) of this Act.

"Sec. 7. Consistent with the terms of the repayment contracts heretofore or hereafter executed, the Secretary of the Interior is hereby authorized to issue such public notices fixing construction costs and apportioning construction charges, to enter into such contracts, to make such determinations, to effect such adjustments in project accounts, to prescribe such regulations, and to do such other acts and things as may be necessary or appropriate to accomplish the purposes of this Act.

"Sec. 8. All Acts or parts thereof inconsistent with the provisions of this Act are hereby repealed."

3. WHEREAS, the District desires to obtain the benefit of the repayment adjustments provided for in sections 1 and 2 of said Act of May 25, 1948; desires to secure the repayment of its appropriate share of the reimbursable construction costs of the project that are incurred under the authorizations contained in section 5 of said Act, in addition to its appropriate share of all other reimbursable construction costs heretofore or hereafter incurred for the benefit of the project; desires to facilitate the making of needed improvements and extensions to the irrigation and power systems of the project and to promote the more effective utilization of these systems in the interest of the water and power users served or capable of being served therefrom, through revisions in the limits of cost applicable to the portions of the project embraced within the District, through the redetermination from time to time of the irrigable area of such portions of the project, and through other appropriate measures in conformity with the provisions of said Act and other laws applicable to the project; and desires to consolidate in this amendatory contract such provisions of the first supplemental contract and the second supplemental contract as need to be retained in effect in order to provide for the payment, as required by existing laws, of those past-due operation and maintenance obligations covered by such supplemental contracts that are not authorized to be consolidated with construction costs or cancelled by said Act of May 25, 1948, and

4. WHEREAS, the United States desires to provide for the accomplishment of the purposes of said Act of May 25, 1948, in cooperation with

the District and with the other irrigation districts that have contracted for repayment of the costs of the project.

Now Therefore, in consideration of the covenants herein contained, it is mutually agreed by the District and by the United States as follows:

5. Section 13 of the original repayment contract is hereby amended to read as follows:

"(a) The reimbursable costs of the project shall comprise all expenses of whatever kind heretofore or hereafter incurred by the United States on account of the project, including the cost of labor, material, equipment, engineering, legal work, superintendence, administration, overhead, rights-of-way, property, electrical energy, and damages of all kinds, as well as all other proper costs and expenses, but excluding any expenses made from funds not subject to a requirement for repayment imposed by law or action taken pursuant to law. The reimbursable costs of the project shall be divided into construction costs and operation and maintenance costs. The construction costs shall comprise all expenses incurred for, or in connection with, the construction or acquisition of the physical works and facilities of the project, and the replacement or repair of substantial portions of such works and facilities in a manner calculated to increase materially their useful life, including the past-due construction charges provided for in the Act of March 4, 1929 (45 Stat. 1623, 1639-40) and such other construction charges as may have become due under the provisions of the public notice referred to in section 31 of this contract or under the provisions of orders or determinations of the Secretary of the Interior made prior to

the first day of January, 1949. The construction costs shall also comprise such operation and maintenance costs, and such interest and penalties on past-due operation and maintenance charges, as the Congress has authorized or may in the future authorize to be consolidated with construction costs, including the undistributed operation and maintenance costs provided for in the Act of March 7, 1928 (45 Stat. 200,212-213), the operation and maintenance costs for the irrigation season of 1931 (to the extent chargeable against lands within the District and lands held by Indians under trust or restricted patents within the portion of the Mission Valley division of the project south of Post Creek) provided for in the Act of February 14, 1931 (46 Stat. 1115, 1127), and the unpaid operation and maintenance charges for the irrigation seasons of 1926 and 1927, together with the interest and penalties thereon, provided for in the Act of May 25, 1948 (Public Law 554- 80th Congress). The operation and maintenance costs shall comprise all other expenses incurred by the United States on account of the project, except those cancelled by section 4 of said Act of May 25, 1948, and those heretofore or hereafter cancelled pursuant to other provisions of law. All costs incurred for, or in connection with, the irrigation system of the project shall be allocated to that system; all costs incurred for, or in connection with, the power system of the project shall be allocated to that system; and any joint costs incurred on account of both systems shall be divided between them on a basis that will reflect, as

accurately as is practicable, the extent of the intended benefits to each from the expenses involved. The construction costs of the irrigation system of the project shall be allocated among the several divisions and irrigation districts of the project, and shall be charged against the lands therein designated by the Secretary of the Interior as irrigable and assessable for construction costs, in a manner consistent with the applicable provisions of law and this contract; and the operation and maintenance costs of the irrigation system of the project shall be allocated among the several divisions and irrigation districts of the project, and shall be charged against the lands therein designated by the Secretary of the Interior as irrigable and assessable for operation and maintenance costs, in a manner consistent with the applicable provisions of law and this contract.

"(b) The amount of the construction costs of the power system of the project at the date of the enactment of said Act of May 25, 1948 (exclusive of costs repaid through credits from the revenues of the power system made prior to that date), is hereby determined to be \$941,793.79; the amount of the construction costs of the irrigation system of the project at that date is hereby determined to be \$9,226,811.87; and the amount of the irrigation system construction costs at that date incurred for the benefit of each division of the project is hereby determined to be: for the Mission Valley division \$7,116,178.82, for the Jocko division \$672,450.87, and for the Camas division \$1,438,182.18, of which last-specified sum the amount of \$598,839.90 constitutes the deferred obligation for repayment of the excess costs of the Camas

division established by the Act of May 10, 1926 (44 Stat. 453,464-466). Subject to the foregoing determinations, the amount of the various classes of costs of the project, whether heretofore or hereafter incurred, and their proper allocation to the various classes of land within the project, whether owned by Indians or non-Indians, and whether within or without the irrigation districts contracting for the repayment of such costs, shall be determined by the Secretary of the Interior, and such decisions, together with the books and records in which they are entered, shall be accepted as final and conclusive."

6. Section 14 of the original repayment contract is hereby amended to read as follows:

"(a) The District hereby obligates itself for the repayment to the United States of the construction costs chargeable against all irrigable lands embraced within the District (exclusive of Indian-owned lands on which the collection of construction costs is deferred) to the extent and in the manner prescribed by sections 1 and 2 of said Act of May 25, 1948. The District hereby agrees that the construction costs of the project, repayment of which is secured by this contract, shall include the amounts of \$64,570.56 and \$400,000 provided for in section 5 of said Act, whenever such amounts are appropriated by the Congress for payment to, or deposit to the credit of, the Confederated Salish and Kootenai Tribes of the Flathead Reservation in Montana, and the further amount of \$1,000,000 provided for in section 5 of said Act, to the extent that such amount at any time may have been appropriated by the Congress and expended for the benefit of the project, together with

all other amounts now or hereafter comprised within the construction costs of the project, as defined in section 13 of this contract. The District, however, shall not be obligated (unless and until higher limits of costs are agreed to by later contracts) for the repayment of any construction costs incurred by the United States on account of the irrigation system of the project in excess of the following limits for each acre of land within the several divisions of the project (inclusive of Indian-owned lands on which the collection of construction costs is deferred): for the Mission Valley division \$82.00 per acre, for the Jocko division \$68.00 per acre, and for the Camas division \$82.00 per acre, after the deduction of the deferred obligation for the excess costs of that division from its construction costs. The foregoing limits of cost shall be revised at the end of five years from January, 1 1950, and at the end of each succeeding period of five years, by adding to each such limit one-half of the amount, computed on a per acre basis, by which the construction costs of the irrigation system allocated to the division concerned have been liquidated out of power revenues accumulated subsequent to the enactment of said Act of May 25, 1948. The construction costs of the power system of the project shall be repaid to the United States solely out of the net revenues from the power system, as provided in said Act, and shall not be subject to the foregoing limits of cost.

"(b) The net revenues from the power system of the project shall be applied to liquidate or reduce the repayment obligations or requirements for the construction costs, or operation and maintenance costs,

of the project to the extent and in the manner prescribed by sections 1, 2, and 6 of said Act of May 25, 1948. For the purposes of subsection 2(i) of said Act any allowances made by the Secretary of the Interior on account of individually constructed ditches under the authority of the Act of April 23, 1904 (33 Stat. 302), as amended and supplemented by the Act of May 18, 1916 (39 Stat. 123, 139-142), or on account of other works or facilities acquired in accordance with law from the holders of lands chargeable with construction costs of the project, shall, to the extent that such allowances have not been discharged through prior credits against operation and maintenance charges, be treated as repayments of construction costs and be made the basis for operation and maintenance credits from the net revenues of the power system in the manner authorized by that subsection. The gross revenues of the power system, from which the net revenues are to be computed in accordance with said Act of May 25, 1948, shall include those derived from the sale of electrical energy by the project, from the operation by the project of facilities for the generation, transmission or distribution of electrical energy that have been constructed or acquired by the project with reimbursable funds, from the rental of such facilities, from the rental of rights-of-way, property or water rights held by the project for present or future use in connection with the generation, transmission or distribution of electrical energy, and from power development of any sort made by or on account of the project; but shall not include those derived from the rental of Indian lands for power development which are payable to the Indians of the Flathead Reservation

as a tribe under the Act of March 7, 1928 (45 Stat. 200,212-213), or those otherwise provided for by or pursuant to law. The expenses of operating and maintaining the power system, to be used in computing the net revenues under said Act of May 25, 1948, shall include those actually incurred during the period covered by the computation, and those estimated to be incurred during subsequent accounting periods for the performance of such current or deferred operation and maintenance work as necessitates, in the judgment of the Secretary of the Interior, the making of advance provision therefor out of the accumulated net revenues, but such estimated expenses shall be adjusted to conform to the actual expenses as these are incurred. The net revenues from the power system accumulated at the date of the enactment of said Act, after all necessary deductions for current or deferred operation and maintenance and for appropriate reserves, are hereby determined to be \$971,388.79. The proper application of such accumulated net revenues under said Act is hereby determined to be as follows: for liquidation in full of the deferred obligation for the excess costs of the Camas division, \$598,839.90; for reduction of the repayment requirements for the construction costs of the power system, \$36,509.79; and for reduction of the repayment obligations for the construction costs of the irrigation system, \$336,039.10, of which last-specified sum \$277,176.37 is hereby allocated to the Mission Valley division, \$26,078.43 to the Joeko division, and \$32,784.30 to the Camas division. The amount and proper application of the net revenues from the power system accumulated after the date of the enactment of said Act, after all necessary deductions

for current or deferred operation and maintenance and for appropriate reserves, shall be determined by the Secretary of the Interior as of the first day of January in each and every year, beginning with the year 1950, and such decisions, together with the books and records in which they are entered, shall be accepted as final and conclusive.

"(c) The repayment obligations for the construction costs of the irrigation system of the project at the date of the enactment of said Act of May 25, 1948, as reduced through the crediting against such obligations of the net revenues from the power system accumulated at that date, are hereby determined to be: for the Mission Valley division \$6,839,002.45, for the Jocko division \$646,372.44, and for the Camas division \$806,557.98. The construction costs covered by such reduced irrigation repayment obligations shall be repaid in fifty annual installments one of which shall mature on the first day of January in each and every year, commencing with the year 1950 and continuing until the construction costs included in such obligations have been repaid in full. The first annual installment for the Mission Valley division shall be in the amount of \$150,502.45, and the remaining annual installments for that division shall be in the amount of \$136,500 each. The first annual installment for the Jocko division shall be in the amount of \$14,272.44, and the remaining annual installments for that division shall be in the amount of \$12,900 each. The first annual installment for the Camas division shall be in the amount of \$17,657.98, and the remaining annual installments for that division shall be in the amount of \$16,100 each.

All sums paid to, or deposited to the credit of, the Confederated Salish and Kootenai Tribes of the Flathead Reservation in Montana under section 5 of said Act of May 25, 1948, shall be allocated among the several divisions of the project in proportion to their respective shares of the reduced repayment obligations for the past construction costs of the irrigation system as specified in this paragraph, and shall be added to the annual installments maturing more than one year after the appropriation of these sums, in approximately equal amounts which will provide for the full repayment of these sums within the initial repayment period of fifty years, ending on the first day of January, 1999, hereinabove established. Subject to the limitations contained in subsection 2(e) of said Act, all other construction costs of the irrigation system of the project incurred after the date of the enactment of said Act shall be added to the foregoing schedule of repayments by increasing the amount or the number, or both, of the annual installments as the Secretary of the Interior may prescribe, but no annual installment shall be increased to an amount higher than \$162,000 for the Mission Valley division, \$15,800 for the Jocko division, and \$19,100 for the Camas division, unless the Secretary of the Interior determines that it is necessary to exceed these limits in order to comply with the provisions of said Act. The repayment requirements for the construction costs of the power system of the project at the date of the enactment of said Act, as reduced through the crediting against such requirements of the net revenues from the power system accumulated at that date, are hereby determined to be \$905,284.00. The construction costs covered by such reduced

power repayment requirements shall be repaid in twenty-five annual installments one of which shall mature on the first day of January in each and every year, commencing with the year 1950 and continuing until the construction costs included in such requirements have been repaid in full. The first annual installment shall be in the amount of \$39,844.00, and the remaining annual installments shall be in the amount of \$36,060 each. Subject to the limitations contained in subsection 2(f) of said Act, the construction costs of the power system of the project incurred after the date of the enactment of said Act shall be added to the foregoing schedule of repayments by increasing the amount or the number, or both, of the annual installments as the Secretary of the Interior may prescribe. Changes in the schedules of repayments established by this paragraph shall be effected by orders of the Secretary of the Interior, and the District shall be furnished with a copy of each such order.

"(d) Whenever any annual installment of the construction costs of the irrigation system of the project, as established by or pursuant to the preceding paragraph, is not liquidated in full at or before its maturity through the application thereto of net revenues from the power system of the project, as provided for in the second preceding paragraph, the portion of such installment which has not been so liquidated, or the whole of such installment if none of it has been so liquidated, shall be repayable to the United States by an assessment against the lands chargeable with the construction costs included in such installment. In this event the Secretary of the Interior, as soon after the maturity of such installment as he deems practicable, shall cause a statement showing

the amount that has not been liquidated out of power revenues and that is chargeable against any lands within the corporate area of the District to be furnished to the latter. Thereupon the District shall promptly proceed to assess and levy such sums as may be necessary for the payment to the United States of the amount so specified. One-half of such amount shall become payable on the first day of February and one-half on the first day of July in the year following the year at the beginning of which such wholly or partially unliquidated installment matured."

7. Section 16 of the original repayment contract is hereby amended to read as follows:

"All lands so conveyed to the United States shall be subject to disposition by the Secretary of the Interior in farm units at the appraised price, to which shall be added such amount as may be necessary to cover any accruals against the land and other costs arising from conditions and requirements prescribed by said Secretary. Indian-owned lands held under trust or restricted patents shall not be subject to the provisions of the irrigation district laws of the State of Montana. Indian-owned lands for which a fee patent is issued shall, upon their inclusion within the District as provided in section 9 of this contract, be accorded the same rights and privileges and be subject to the same obligations as other lands within the District, except that such fee patented lands, so long as title thereto remains in an Indian or Indians, shall not be subject to assessment for any construction costs of the project during any period while the collection of construction

costs on these lands is deferred under the Act of July 1, 1932 (47 Stat. 564), or by or pursuant to any other Act of the Congress. All construction costs heretofore or hereafter incurred by the United States on account of the irrigation system of the project (after deduction of the amounts discharged through the application of the net power revenues accumulated on May 25, 1948, as provided in section 14 of this contract) and all uncanceled operation and maintenance costs heretofore or hereafter incurred by the United States on account of the irrigation system of the project shall be, and are hereby made, a first lien under the Act of May 10, 1926 (44 Stat. 453,464-466), against all lands within the project, including those not yet designated as irrigable, and the existence of such lien is hereby recognized and acknowledged by the District. After the total amount covered by such lien which is chargeable against any particular farm unit or other separately bounded landholding has been paid, and all rights of the United States to incur costs, impose assessments, enforce charges or collect repayments with respect to the lands included in such farm unit or landholding have terminated, the lien against such parcel of lands shall be released by the Secretary of the Interior, and a recital of the existence of the lien shall be made in any patent or other instrument of title issued by said Secretary prior to such release. The Secretary of the Interior shall issue such public notice or notices as he may deem necessary for the purpose of giving effect to said Act of May 25, 1948, in a manner consistent with this contract, but no such notice or notices shall be requisite in order to make the provisions of said Act and this contract

applicable to lands embraced within the District, and such provisions shall become effective with respect to such lands forthwith. The District hereby agrees that it will faithfully perform all of the provisions of this contract and of the Acts of the Congress applicable to the project that pertain to any matter within its jurisdiction; and particularly that it will pay to the United States all sums now due, or that may become due in the future, under this contract which are chargeable against or relate to any lands within the corporate area of the District, at such times as are specified in this contract for the making of these payments or, if no definite date be fixed by this contract for the making of particular payments, at such times, not inconsistent with this contract or any applicable provisions of law, as may be specified by order of the Secretary of the Interior. The said Secretary annually shall have prepared and furnished to the District a financial statement showing the costs and revenues of the irrigation and power systems of the project for the preceding calendar year, and showing the balances on hand in the construction accounts and the operation and maintenance accounts as of the end of such year."

8. Section 17 of the original repayment contract is hereby amended to read as follows:

"(a) All delinquent charges for the operation and maintenance of the irrigation system which became due during the period commencing on May 10, 1926, and ending on April 21, 1931, and which remained unpaid on May 9, 1935, and all interest and penalties accruing up to May 9, 1935, on such charges, or on delinquent operation and maintenance

charges assessed prior to May 10, 1926, where such interest and penalties remained unpaid on May 9, 1935 (exclusive of the unpaid operation and maintenance charges for the irrigation seasons of 1926 and 1927, together with the interest and penalties thereon, and the operation and maintenance costs for the irrigation season of 1931, all of which have been covered into construction costs, and exclusive of the operation and maintenance charges against Indian-owned lands, which have been cancelled by the Secretary of the Interior pursuant to the Act of July 1, 1932 (47 Stat. 564)) shall be paid by the District, to the extent that such past-due obligations are chargeable against lands within its corporate area, in the manner prescribed by the Act of May 9, 1935 (49 Stat. 176, 187-188). The amount of the interest and penalties to be included in such past-due obligations shall be determined by adding together the following items as of May 9, 1935: (1) the interest and penalties attaching to the operation and maintenance charges described in this section and chargeable against the various farm units and other landholdings within the District which are shown by the books and records of the project to have been outstanding on December 31, 1930, or at the time when the lands involved were included within the District, if subsequent to that date; and (2) the simple interest at the rate of six per cent per annum on the unpaid principal balance of such operation and maintenance charges authorized by the Act of March 7, 1928 (45 Stat. 200, 212-213), as modified by the Act of February 17, 1933 (47 Stat. 820, 830-831), and owing by the District in accordance with said Acts for the period from December 31, 1930, or the date of the inclusion of the lands

involved, to May 9, 1935, as computed in accordance with the accounting practices of the project. The total amount of the past-due obligations payable under this section shall be divided into seventy semi-annual installments of approximately equal amount; the first semi-annual installment shall mature on June 30, 1949; the second semi-annual installment shall mature on December 31, 1949; and the remaining semi-annual installments shall mature on each succeeding 30th day of June and 31st day of December, respectively, until such past-due obligations have been paid in full to the United States. The payments required by this section shall be made through assessments against the individual farm units and other separately bounded landholdings chargeable with the past-due obligations remaining to be paid, or through such supplemental assessments against other lands within the District as may be necessary to prevent or remove deficiencies in such payments.

"(b) In order to reflect the elimination from the past-due obligations covered by this section of those delinquent obligations formerly payable under said Act of May 9, 1935, which have since been covered into construction costs or cancelled, the Secretary of the Interior shall cause to be prepared a revised schedule of the payments required by this section. Such schedule shall set forth in conformity with the provisions of the preceding paragraph the amount and maturity date of each of the seventy semi-annual installments in which the past-due obligations remaining subject to this section are to be paid, shall credit against these installments in the order of their respective maturities all payments made since May 9, 1935, on account of the past-due

obligations remaining subject to this section, and shall show the nature and amount of the sums chargeable against the various farm units and other landholdings embraced within the District on account of such past-due obligations. Such revised schedule shall be furnished to the District within four months after the taking effect of the amendments to this contract made in pursuance of said Act of May 25, 1948. The District shall thereupon proceed to assess and levy sums sufficient to liquidate in full any semi-annual installments shown by such schedule to be unpaid that have matured, or that will mature within one year after the taking effect of such amendments, and shall pay to the United States the amount due under such installments within two years after the taking effect of such amendments. On or before each 15th day of June after the taking effect of such amendments the Secretary of the Interior shall cause the District to be furnished with a list of any changes in the foregoing schedule necessitated by reason of payments made to him by the holders of the lands chargeable with such past-due obligations or by reason of the inclusion or exclusion of lands within or from the District. Upon the basis of such schedule and any lists of changes so furnished, the District shall annually assess and levy sums sufficient to liquidate the remaining semi-annual installments as they mature, and shall pay to the United States the amount of each such installment on or before its maturity date. The District, however, may, at its option, pay to the United States at any time the full amount then outstanding on account of the past-due obligations covered by this section, in lieu of liquidating them by installments, and may, at

its option, pay out of general funds of the District any sums due or to become due under this section, in lieu of levying separate assessments for such sums.

"(c) The provisions of this section shall not apply to interest and penalties on delinquent operation and maintenance charges assessed prior to May 10, 1926, if the Comptroller General of the United States determines that such interest and penalties were cancelled by section 4 of said Act of May 25, 1948, or if the Congress enacts legislation expressly cancelling such interest and penalties. The United States, however, shall not be obligated to refund any payment on account of such interest and penalties made prior to the date of such determination or enactment, as the case may be."

9. Section 24 of the original repayment contract is hereby amended to read as follows:

"The Secretary of the Interior shall, if funds are available therefor, cause the area of the project and the irrigability of the several portions thereof to be redetermined at intervals of approximately five years, and may cause the same to be done at such other times as he deems appropriate, the expenses of such redeterminations to be treated as operation and maintenance costs of the project. He may establish land classification boards, composed in part of water users on the project, to assist in this work with respect to the project as a whole or with respect to any portions thereof he may deem to be in particular need of reexamination. Any lands within the project to which water can be delivered through the irrigation system of the project as actually

constructed, except unentered public lands and vacant unsold state school lands, may be designated by the Secretary of the Interior as irrigable for the purposes of this contract, either in connection with the periodic redeterminations required by this section or in such other manner as he deems appropriate, but all such designations shall be subject to revision from time to time. If the Secretary of the Interior shall find any lands within the project to be permanently incapable of successful cultivation under irrigation, on account of seepage, alkaline conditions, unavailability of water, or for any other reason, he may, in his discretion, exclude these lands from the project, with the consent of the holder of any water rights that may appertain to the lands by reason of their inclusion within the project or of any water rights that would be otherwise cancelled by such exclusion; whereupon any water rights appertaining to the lands by reason of their inclusion within the project shall be severed from them and shall be available for transfer by said Secretary to any other lands theretofore or thereafter brought within the project. If the Secretary of the Interior shall find any lands not within the project to be capable of successful cultivation under irrigation through existing or prospective works of the project, and that a water supply can be made available for them without prejudice to the water supply of the areas already within the project, he may, in his discretion, include these lands within the project upon such terms and conditions, not inconsistent with law or this contract, as he deems appropriate. No lands shall be excluded from or included within the project under the foregoing authorizations

if the effect of such action would be to decrease or increase by more than five percent the existing area of any division wherein lands embraced within the District are situated, unless the exclusion or inclusion of such lands has been consented to by the District. For the purposes of this contract the existing area of the project shall be considered to be the area of 138,194.55 acres included in classes 1, 2, and 3 of the project land classification dated October 7, 1930, and approved by the First Assistant Secretary of the Interior on March 28, 1931, whereof 111,659.65 acres are within the Mission Valley division, 13,364.87 acres are within the Jocko division, and 13,170.03 acres are within the Camas division. The liability of the District for the payments required by this contract shall not be increased or reduced by reason of any alterations in the area of the project (except that the basis for applying to such liability the limits of cost established by section 14 shall be the area of the several divisions of the project as diminished or enlarged by such alterations), or by reason of any alterations in the area of the lands designated as irrigable from works of the project, or by reason of any alterations in the area of the lands made assessable for particular charges of the project, provided such alterations are made in pursuance of and in accordance with said Act of May 25, 1948, or this contract. No suspension of any charges shall be made by the District without the consent of the Secretary of the Interior."

10. The original repayment contract is hereby amended by adding the following new section, to be numbered section 31:

"Any provision of this contract which is in conflict with said Act of May 25, 1948, or with the amendments to this contract made in pursuance of said Act, is hereby amended to conform to said Act or to such amendments, as the case may be. The provisions of the public notice fixing construction charges for the project issued on November 1, 1930, as amended and supplemented on April 20, 1931, insofar as those provisions relate to construction charges against lands embraced within the District, shall be superseded by this contract, and shall be deemed to have become inapplicable to such lands as of the first day of January, 1949, when the deferment of the construction charges fixed by such notice terminates pursuant to the Act of July 20, 1947 (61 Stat. 494). The Secretary of the Interior may, where not inconsistent with law, delegate any of the functions placed in him or in the United States by this contract to the Project Engineer for the Flathead Indian Irrigation Project or to such other official as he may designate."

11. The first supplemental contract, the second supplemental contract, and section 18 of the original repayment contract are hereby rescinded and cancelled.

12. Nothing contained in this amendatory contract shall be construed to require the refund of any payments made to the United States prior to the taking effect of this amendatory contract, or to require the refund of any collections made by the District prior to such time, or to invalidate any assessment imposed or any other act or thing done prior to such time, under those provisions of the original repayment contract, the first supplemental contract, or the second supplemental

contract which are amended or cancelled by this amendatory contract.

13. The execution of this amendatory contract shall be authorized by qualified holders of title or evidence of title to lands embraced within the District as provided by the laws of the State of Montana. The Board of Commissioners of the District shall thereupon proceed, in accordance with said laws, to provide for the annual levy and collection of a special tax or assessment upon all lands then included within the District, or subsequently brought therein, that are not covered by trust or restricted patents and are subject to taxation or assessment for the obligations imposed or continued by this contract; such special tax or assessment to be sufficient in amount to meet all payments due or to become due to the United States from the District under the original repayment contract, as amended by this contract, at the times when such payments become due to the United States and payable by the District under such original repayment contract, as so amended. In addition, the Board of Commissioners of the District shall prosecute an action in a court of competent jurisdiction for a judicial confirmation, under the laws of the State of Montana, of the validity of the proceedings had relative to the making of this amendatory contract and to the imposition of the special tax or assessment required to be levied and collected annually for its performance. Certified copies of such proceedings and their judicial confirmation shall be furnished by the District to the United States for its files. This amendatory contract shall not become binding upon the United States until the Secretary of the Interior shall be satisfied that all conditions requisite for the validity and

enforceability of the obligations imposed or continued thereby have been met, nor until he shall be satisfied that the other irrigation districts embracing lands within the project not covered by trust or restricted patents have entered into valid and enforceable contracts conforming to the provisions of said Act of May 25, 1948. Such satisfaction shall be evidenced by the final execution of this amendatory contract by the Secretary of the Interior, and its provisions shall take effect upon the date of such final execution.

14. No Member of or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this contract or to any benefits that may arise therefrom, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

15. This agreement shall inure to the benefit of and be binding upon the District and its successors and assigns, and the United States and its assigns.

In Witness Whereof , the respective parties hereto have caused this agreement to be executed by the District on the day and year first above written, and by the United States on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

The United States of America

By \_\_\_\_\_  
Secretary of the Interior

Mission Irrigation District

By \_\_\_\_\_  
President

Attest:

\_\_\_\_\_  
Secretary

SEP 15 1949

Approved as to form:

Maxtin G. White  
Acting Assistant Secretary

October 19, 2006  
76L 122918 00

Page 1 of 4  
NEW STORAGE  
Ownership Update ID#: 42262

STATE OF MONTANA  
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

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

## ACKNOWLEDGEMENT OF WATER RIGHT OWNERSHIP UPDATE

WE HAVE RECEIVED A WATER RIGHT OWNERSHIP UPDATE IN WHICH YOU WERE NAMED AS A PARTY. THE RECORDS MAINTAINED BY THE WATER RIGHTS BUREAU HAVE BEEN CHANGED TO REFLECT THE NEW OWNERSHIP ACCORDING TO THE WATER RIGHT OWNERSHIP UPDATE. THE ABSTRACT BELOW SHOWS THE CURRENT WATER RIGHT INFORMATION. BOTH BUYER AND SELLER HAVE BEEN SENT THIS ACKNOWLEDGEMENT. IF YOU HAVE FURTHER QUESTIONS, PLEASE CONTACT YOUR LOCAL WATER RESOURCES REGIONAL OFFICE.

KALISPELL REGIONAL OFFICE 406-752-3267

Water Right Number: 76L 122918 00 STATEMENT OF CLAIM  
Version: 1 -- ORIGINAL RIGHT  
Version Status: ACTIVE

Owners:

BRIAN NIEUWENHUIS  
PO BOX 396  
PLENTYWOOD, MT 59254

RENITA NIEUWENHUIS  
PO BOX 396  
PLENTYWOOD, MT 59254

FLORENCE E SCHMITZ  
% CHERYL TAYLOR  
8422 DIAMOND SPRINGS DR  
HELENA, MT 59602

PHILLIP J SCHMITZ  
\*\*\*DECEASED\*\*\*  
RT 1 BOX 40  
RONAN, MT 59864

OWNERSHIP UPDATE PROCESSED TO ADD NEW OWNERS. THE WATER RIGHT MAY BE SPLIT INTO SEPARATE WATER RIGHTS AFTER FINAL DECREE UPON REQUEST OF THE OWNERS.

Priority Date: NOVEMBER 15, 1895  
Enforceable Priority Date: NOVEMBER 15, 1895

Type of Historical Right: FILED

Purpose (use): STOCK  
Maximum Flow Rate: 2,715.00 GPM  
Maximum Volume: 2.20 AC-FT

Source Name: NORTH CROW CREEK  
Source type: SURFACE WATER

Point of Diversion and Means of Diversion:

Govt Lot      Qtr Sec      Sec      Twp      Rge      County

October 19, 2006

76L 122918 00

Page 2 of 4

NEW STORAGE

Ownership Update ID#: 42262

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SESWNW	21	21N	19W	LAKE

Period of Diversion:

Diversion Means: FLOWING

Purpose (Use): STOCK

Volume: 2.20 AC-FT

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>Rge</u>	<u>County</u>
1			S2S2NW	29	21N	19W	LAKE

Remarks:

**OWNERSHIP UPDATE RECEIVED**

OWNERSHIP UPDATE ID # 32893 RECEIVED 01/30/2006.

October 19, 2006

76L 122919 00

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NEW STORAGE

Ownership Update ID#: 42262

**STATE OF MONTANA  
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION**

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

## ACKNOWLEDGEMENT OF WATER RIGHT OWNERSHIP UPDATE

WE HAVE RECEIVED A WATER RIGHT OWNERSHIP UPDATE IN WHICH YOU WERE NAMED AS A PARTY. THE RECORDS MAINTAINED BY THE WATER RIGHTS BUREAU HAVE BEEN CHANGED TO REFLECT THE NEW OWNERSHIP ACCORDING TO THE WATER RIGHT OWNERSHIP UPDATE. THE ABSTRACT BELOW SHOWS THE CURRENT WATER RIGHT INFORMATION. BOTH BUYER AND SELLER HAVE BEEN SENT THIS ACKNOWLEDGEMENT. IF YOU HAVE FURTHER QUESTIONS, PLEASE CONTACT YOUR LOCAL WATER RESOURCES REGIONAL OFFICE.

KALISPELL REGIONAL OFFICE 406-752-3267

**Water Right Number:** 76L 122919 00 STATEMENT OF CLAIM

**Version:** 1 -- ORIGINAL RIGHT

**Version Status:** ACTIVE

**Owners:**

BRIAN NIEUWENHUIS  
PO BOX 396  
PLENTYWOOD, MT 59254

RENITA NIEUWENHUIS  
PO BOX 396  
PLENTYWOOD, MT 59254

FLORENCE E SCHMITZ  
% CHERRYL TAYLOR  
8422 DIAMOND SPRINGS DR  
HELENA, MT 59602

PHILLIP J SCHMITZ  
\*\*\*DECEASED\*\*\*  
RT 1 BOX 40  
RONAN, MT 59864

OWNERSHIP UPDATE PROCESSED TO ADD NEW OWNERS. THE WATER RIGHT MAY BE SPLIT INTO SEPARATE WATER RIGHTS AFTER FINAL DECREE UPON REQUEST OF THE OWNERS.

**Priority Date:** NOVEMBER 15, 1895

**Enforceable Priority Date:** NOVEMBER 15, 1895

**Type of Historical Right:** DECREED

**Purpose (use):** IRRIGATION

**Maximum Flow Rate:** 2,715.00 GPM

**Maximum Volume:** 100.00 AC-FT

**Maximum Acres:** 40.00

**Source Name:** NORTH CROW CREEK

**Source type:** SURFACE WATER

October 19, 2006  
76L 122919 00

Page 4 of 4  
NEW STORAGE  
Ownership Update ID#: 42262

**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		SESWNW	21	21N	19W	LAKE

**Period of Diversion:**

Source Name: NORTH CROW CREEK  
Diversion Means: HEADGATE

**Purpose (Use):** IRRIGATION

Irrigation Type: FLOOD  
Climatic Area: 3 - MODERATE  
Volume: 100.00 AC-FT  
Period of Use: MAY 1 to OCTOBER 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>Rge</u>	<u>County</u>
1	40.00		S2S2NW	29	21N	19W	LAKE

Total: 40.00

**Remarks:**

**OWNERSHIP UPDATE RECEIVED**

OWNERSHIP UPDATE ID # 32893 RECEIVED 01/30/2006.

October 19, 2006  
76L 122917 00

Page 1 of 2  
NEW STORAGE  
Ownership Update ID#: 42264

**STATE OF MONTANA  
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION**

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

**ACKNOWLEDGEMENT OF WATER RIGHT  
OWNERSHIP UPDATE**

WE HAVE RECEIVED A WATER RIGHT OWNERSHIP UPDATE IN WHICH YOU WERE NAMED AS A PARTY. THE RECORDS MAINTAINED BY THE WATER RIGHTS BUREAU HAVE BEEN CHANGED TO REFLECT THE NEW OWNERSHIP ACCORDING TO THE WATER RIGHT OWNERSHIP UPDATE. THE ABSTRACT BELOW SHOWS THE CURRENT WATER RIGHT INFORMATION. BOTH BUYER AND SELLER HAVE BEEN SENT THIS ACKNOWLEDGEMENT. IF YOU HAVE FURTHER QUESTIONS, PLEASE CONTACT YOUR LOCAL WATER RESOURCES REGIONAL OFFICE.

KALISPELL REGIONAL OFFICE 406-752-3267

**Water Right Number:** 76L 122917 00 STATEMENT OF CLAIM  
**Version:** 1 -- ORIGINAL RIGHT  
**Version Status:** ACTIVE

**Owners:** BRIAN NIEUWENHUIS  
PO BOX 396  
PLENTYWOOD, MT 59254  
  
RENITA NIEUWENHUIS  
PO BOX 396  
PLENTYWOOD, MT 59254

**Priority Date:** JUNE 4, 1951  
**Enforceable Priority Date:** JUNE 4, 1951

**Type of Historical Right:** USE

**Purpose (use):** FISH AND WILDLIFE  
**Maximum Flow Rate:** 20.00 GPM  
**Maximum Volume:** 32.20 AC-FT

**Source Name:** NORTH CROW CREEK  
**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		SESWNW	21	21N	19W	LAKE

**Period of Diversion:**  
**Diversion Means:** HEADGATE

**Purpose (Use):** FISH AND WILDLIFE  
**Volume:** 32.20 AC-FT  
**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>Rge</u>	<u>County</u>
1			S2S2NW	29	21N	19W	LAKE

# BASIC MONTANA WATER LAW

By Ted J. Doney, Esq.  
May 31, 1990

Modified and Updated by  
C. Bruce Loble, Chief Water Judge  
1999, 2003, and 2010

## I. THE PRIOR APPROPRIATION SYSTEM

### A. GENERALLY

Montana is a Prior Appropriation state, as are most of the Western states. Under the Prior Appropriation Doctrine, one must have a water right to appropriate water from a stream or other source. Municipal water supply users and other water users who buy their water from a water supply system do not need to have a water right, although the municipality or water supply system owner must have a water right in order to divert water for the system users.

### B. ORIGINS

The Prior Appropriation Doctrine originated in the Western states to accommodate the irrigation and mining needs of a developing west. Eastern states use the Riparian Doctrine.

### C. BENEFICIAL USE AND PRIORITY

Beneficial use and priority of the right are the two key attributes of a water right acquired under the Prior Appropriation Doctrine. For the water right to be valid, it must be used for a beneficial purpose. Each right carries a priority date based on first use. The right having an earlier priority date can be used first - "first in time is first in right."

### D. LEGALLY PROTECTED PROPERTY RIGHTS

Water rights in Montana are property rights. They are afforded the protection of the United States and Montana Constitutions just like any other property right. Water rights have value and water users cannot be deprived of their property without due process of law.

A water right is a right to use the water. It is not an ownership right in the water itself. In legalese, this is called a "usufructuary" right.

### E. EFFECT OF 1973 WATER USE ACT

Until July 1, 1973, Montana's law regulating water right acquisition, or use, was not constrained by strict statutory limitations. As a practical matter, merely diverting water from a source and applying it to a beneficial use obtained a water right. With a few exceptions, the filing of a document with a governmental entity to give notice of the appropriation was optional.

On July 1, 1973, the Montana Water Use Act became effective. The Act did not alter basic water right concepts, but the procedure for acquiring and changing water rights became an administrative process overseen by the Montana Department of Natural Resources and Conservation.

## **F. WATERS SUBJECT TO APPROPRIATION**

A water right can be appropriated from almost any source of water. This includes surface water flowing in streams, groundwater, seepage, drainage and wastewater, and floodwater.

## **G. USES FOR WHICH WATER CAN BE APPROPRIATED**

### **1. Beneficial Use is the Basis, Measure and Limit of the Right.**

Under the Prior Appropriation Doctrine, water can be appropriated for nearly any beneficial use. It has been said many times that "beneficial use is the basis, measure and limit of the right." This means that if one cannot use the water beneficially, even if one has an existing water right, one cannot exercise the right. For example, if a rainstorm provides adequate moisture for crops, there is no need to irrigate or use the water right because there would be no beneficial use in doing so.

The following general rules have been developed in Montana to describe the limits of a water right:

- a. The right is limited to the capacity of the water delivery system;
- b. The right is limited to the amount actually put to a beneficial use, even though the capacity of the system might be larger;
- c. The right is limited to the amount of water reasonably necessary for the particular use (this is called the "duty" of water); and
- d. The right is limited to the period of actual need. For example, one cannot normally have an irrigation water right for wintertime use.

All these rules help define the extent of one's water right.

### **2. Duty**

A water right is limited to the amount of water reasonably needed for a particular use. In Montana, the early courts developed a rule of thumb for irrigation of 1 miner's inch of water per acre. The courts deviated from this duty standard when the evidence demonstrated a greater or lesser need. The Water Court's rule of thumb is 17 gallons per minute (1½ miner's inches) per acre.

## **H. DIVERSION REQUIREMENT**

Most water rights have some kind of diversion or development associated with them. However, non-diversionary rights for instream beneficial uses (such as stock watering, recreation, fish and wildlife uses) are recognized as valid, existing rights.

## **I. PREFERRED USES**

Water rights under the Prior Appropriation Doctrine are exercised according to their order of priority, first in time being first in right. Generally, there is no such thing as a preferred use; meaning one kind of use is preferred over another. Although many people believe that domestic use of water has an unqualified right of first use, regardless of priority date, neither the legislature nor any Montana court has adopted such a principle.

## **II. TYPES OF WATER RIGHTS IN MONTANA**

### **A. GENERALLY**

There are many types of water rights in Montana, which were acquired in accordance with particular rules that applied at the time. Each right is just as valid and legal as the next, and just as enforceable, in accordance with its priority date, as the next.

### **B. USE WATER RIGHTS**

Use rights are water rights that were acquired by merely appropriating and beneficially using the water. No recording, approval from a government agency, or other written record of the right was required. Approximately 67% of the water rights filed in Montana's statewide adjudication are use rights. Since July 1, 1973, it became impossible under the Water Use Act to get a new water right in this manner, but existing use rights were not affected. The priority date of use rights is generally the date the water was first put to beneficial use.

### **C. FILED RIGHTS**

These are water rights that were filed with the local county Clerk and Recorder's Office under an optional system that was first statutorily recognized in 1885 and which continued until the July 1, 1973 effective date of the Water Use Act of 1973. The process involved posting a notice at the point of diversion, filing a notice of appropriation with the local county Clerk and Recorder, proceeding with the construction of the diversion facility, and putting the water to use with "due diligence." If one followed all the steps exactly (they are too detailed to describe here), one got a water right with a priority date relating back to the date the notice was posted at the point of diversion. If the steps were not exactly followed, the priority date would be the date of first use of the water. ✓

### **D. DECREED RIGHTS**

These are water rights, initially use or filed rights that have been adjudicated (decreed) by a district court. These rights are more certain in their existence, because a district court previously reviewed the evidence and decided, at least at the time of the decree, that a water right existed. Today, water rights are adjudicated in the Water Court. ✓

### **E. COURT APPROVED RIGHTS ON ADJUDICATED STREAMS**

These are rights approved by a district court after 1921 on an adjudicated stream. The 1921 legislature required water users on adjudicated streams to petition the district court for new appropriations. The petition process was not always followed.

#### **F. GROUNDWATER RIGHTS FROM 1962 TO JULY 1, 1973**

In 1961, the Montana Legislature set up an exclusive method for acquiring a right to appropriate groundwater. It was much like the 1885 filing method described earlier, except it was mandatory. If it wasn't done right, acquisition of a water right was questionable. On July 1, 1973, the groundwater code was repealed and the Water Use Act now governs groundwater appropriations.

#### **G. FEDERAL AND INDIAN RESERVED RIGHTS**

When the United States withdraws land from the public domain and reserves it for a federal purpose, the United States, either explicitly or by implication, reserves appurtenant water then unappropriated to the extent needed to accomplish the primary purpose of the reservation. The United States acquires a reserved right in unappropriated water which vests on the date of the reservation and is superior to the rights of future appropriators. The doctrine applies to Indian reservations and other federal enclaves, encompassing water rights in navigable and non-navigable streams.

#### **H. MURPHY RIGHTS**

In 1969, the Montana Legislature enacted legislation granting the Montana Fish and Game Commission authority to appropriate unappropriated waters on twelve streams to maintain instream flows for the preservation of fish and wildlife habitat. Rep. James E. Murphy was the sponsor. The Legislature established specific reaches of the following sources: Big Spring Creek in Fergus County; Blackfoot River in Missoula and Powell counties; Flathead River and Middle Fork Flathead River in Flathead County; South Fork Flathead River in Flathead and Powell counties; Gallatin River and West Gallatin River in Gallatin County; Madison River in Madison and Gallatin counties; Missouri River in Broadwater, Lewis and Clark and Cascade counties; Rock Creek in Granite and Missoula counties; Smith River in Cascade and Meagher counties; and the Yellowstone River in Stillwater, Sweetgrass and Park Counties. The priority dates are 1970 or 1971.

#### **I. PERMITS**

From and after July 1, 1973, a right to use surface water, and groundwater exceeding 35 gallons per minute, requires an application to be filed with the Department of Natural Resources and Conservation (DNRC) for a permit. The priority date is the date the DNRC receives the application.

#### **J. CERTIFICATES**

Except in controlled groundwater areas, no application for a permit is needed for appropriations of groundwater for amounts of 35 gallons per minute or less, not to exceed 10 acre-feet per year. Water users simply drill a well and then file a Notice of Completion with the DNRC. The date the notice is filed becomes the assigned priority date.

#### **K. STATE WATER RESERVATIONS**

The Water Use Act of 1973 authorized state and federal agencies to apply to the DNRC to acquire a state water reservation for existing or future beneficial uses. Several reservations have been granted.

## **L. INSTREAM USE AND LEASING**

The Department of Fish, Wildlife & Parks is authorized to lease water rights and has several leases in place.

## **III. PRIORITY**

### **A. GENERALLY**

The priority of a water right in a Prior Appropriation state is probably the most important part of the right. Water rights are exercised in accordance with their order of priority, starting with the earliest (senior) rights and progressing to the later (junior) rights, until the water is all appropriated. The earlier the priority date, the better the water right. Priority dates are extremely important as water gets low in the summer.

### **B. RIGHTS OF SENIOR AND JUNIOR APPROPRIATORS**

When water is in short supply, senior water right holders are entitled to use their water right first. They can "call" the water right of a junior appropriator. A junior water right user can only use water if it does not "adversely affect" the water right usage of senior water users. If senior water right users can reasonably obtain their water, even though the junior's use affects the senior's use in insignificant ways, the senior cannot demand that the junior appropriator stop using the water. However, if a junior appropriator is upstream from a senior, and the water is insufficient for use by both, the junior must let the water go by for the senior's use.

In theory, both senior and junior appropriators are entitled to a continuation and maintenance of the stream conditions that were in existence when the appropriations were initiated. If senior water users decide to make a change in an appropriation (such as moving the point of diversion or building a reservoir), they cannot do so if it will change the stream conditions and "adversely affects" junior appropriators. So juniors have rights as against seniors too.

Determining when an appropriator is "adversely affected" can be extremely complicated. Such a determination can involve detailed stream flow measurements, measurements of return flow, calculations of evaporation and other losses, etc. Many water right disputes have involved conflicts over "adverse affects."

Before July 1, 1973, any party adversely affected by another's change in their water right usage was required to file a lawsuit in district court. Now, the Water Use Act of 1973 requires water users planning a change to file an application with the DNRC and to satisfy legislative criteria before making any changes.

## **IV. TRANSFER OF WATER RIGHTS**

Water rights are generally "appurtenant" to the land upon which they are beneficially used. This usually means that water rights automatically transfer with the land when the land is conveyed to someone else. However, water rights can be reserved from such conveyances and they can be freely

bought and sold and made appurtenant to other land. If a water right is reserved, DNRC approval is required before the right can be moved and used on another place of use.

The DNRC is required to maintain an accurate water right ownership record system. The Water Court uses the DNRC computer database to mail notices to water users. Whenever property is transferred, any appurtenant water right is transferred to the new owner, unless the right is specifically reserved and withheld from the sale. In the past, the DNRC ownership update process required the filing of a DNRC Ownership Update form. Today, the update process is integrated with the Department of Revenue's use of geocodes and tax records and the water right ownership update process is more automatic.

## V. CHANGES IN WATER RIGHTS

Changes in a water right include a change in the point of diversion, the place of use, the purpose of use, or the place of storage. A change in a water right can be made so long as there is no "adverse affect" to other appropriators. Before any change can be initiated, approval from the DNRC must be obtained.

There are many ways in which a change in a water right can "adversely affect" other water rights. Each case must be looked at individually. However, some examples can be listed:

1. Changing a water right to use more water from the stream than the original appropriation used increases the "burden" on the stream. Such an increase might not be allowed if it takes more water away from junior appropriators. Changing from a flood irrigation system to a sprinkler system could also increase the burden if the change reduces the amount of return flow to the stream and thereby deprives other appropriators of water for their water rights. Increasing the amount of water consumed from a stream really amounts to a new appropriation of water and a new water right should be obtained for that increased use.
2. Moving a point of diversion upstream and ahead of other points of diversion may adversely affect water rights associated with those points of diversion. In many cases, there will be less water available for the downstream appropriators as a result of such a change.

## VI. DITCH RIGHTS

Ditch rights are separate from water rights. One can have a water right, without having a ditch right, and vice versa, although this doesn't often occur. If water users want to use water on their land, and need to bring the water through a ditch across another's land, they can do so only if they have a ditch easement across the other person's land. Ditch easements are created by agreement, by condemnation proceedings and resulting compensation, or by prescriptive use. Most ditches in Montana have no recorded document evidencing the creation of an easement and probably are unrecorded prescriptive easements. *See e.g., Boz-Lew Builders v. Smith* (1977), 174 Mont. 448.

Owners of ditch easements generally also have a secondary easement to repair and maintain a ditch on another's land. However, the access must be reasonable and necessary for maintenance of the ditch and cannot exceed the historical access. *See* § 72-17-112, MCA. In many cases, several water right holders have common ditch rights in a single ditch. Each is then supposed to maintain their respective share of the ditch or cost share for all maintenance.

Liability over irrigation ditches is limited. *See* § 85-7-2212, MCA.

## VII. ADJUDICATION OF WATER RIGHTS

Montana has embarked upon a massive, statewide adjudication of nearly all the water rights in the state having priority dates before July 1, 1973. The purpose of the adjudication is to bring some certainty to the number and extent of water rights in Montana. Even water rights that were previously decreed by district courts are included in the statewide adjudication. Claims for all existing rights were required to be filed with the DNRC by April 30, 1982. Over 201,000 claims were filed by the deadline. Failure to file a claim resulted in forfeiture of the water right.

Indian and federal reserved water rights are included in this adjudication. The Montana Reserved Water Rights Compact Commission is negotiating with federal and tribal authorities in an effort to reach an agreement on the scope of the federal and Indian reserved water rights in Montana. Several agreements have been reached.

The only water rights not included in the adjudication effort are "exempt" claims for existing rights for livestock and individual as opposed to municipal domestic uses based upon instream flow or ground water sources. These claims were exempt from the mandatory filing deadline, but they could be voluntarily filed, and many were.

Almost 5,000 claims missed the filing deadline and were considered to be forfeited. In 1993, the Montana Legislature provided for the conditional remission of forfeited water rights, but required payment of a \$150.00 processing fee and required assessment of reasonable administrative costs and expenses incurred by the Water Court due to the filing of a late claim. The filing deadline for late claims was July 1, 1996. Thereafter, no further claims were accepted.

All late claims are subordinate to Indian and federal reserved water rights. If late claims were not postmarked or executed by April 30, 1982 and received by the DNRC by May 7, 1982, then they are also subordinate to rights represented in all valid, timely filed claims, and potentially subordinate to permits or state reservations of water.

The claim filing system established for the adjudication effort has created a reasonably accessible computer record of the claims for water rights on any stream in Montana. Contact the DNRC to access the database.