



MEMORANDUM

Date: March 27, 2018
To: Ray Swenson, Chairman Mission Irrigation District
Paul Guenzler, Chairman, Flathead Irrigation District
Boone Cole Chairman, Jocko Irrigation District
From: Kurt Hafferman, P.E.
Re: Review of the Flathead, Mission and Jocko Boards Meeting March 12 and 13, 2018

After our Monday March 12th and Tuesday March 13th with the Flathead, Mission and Jocko Boards, Hafferman Engineering Inc (HEI) was asked to summarize the meetings, provide direction and advice for progress on water right claims, communicate with Matt Williams and obtain any feedback he can provide on claims examination progress, offer advice on a legal name if it needs to be changed on the Water Right Abstracts and provide a summary of other work projects the Board has contemplated.

Meeting Summary:

The meetings went well, there were no issues, they both stuck closely to the agenda I provided. All the Districts made a clear statement that they wanted HEI to continue to assist their Boards with the claims examination and Water Court process. I reiterated that there are decisions that will need to be made on or near the first week in April to assure we complete our work in advance of any upcoming Water Court or US Congress activity. The decisions are detailed below

Discussion with Matt Williams

I had a discussion with Matt Williams last week. I briefed him on our meetings and the status of the irrigation Boards. Matt first stated that we need to ask the Water Court Judge for a stay on the summary report, so the Board is not forced into decisions before the US Congress acts. It is both Matt and my opinion that because the Compact has not been ratified by Congress and there is no clear indication when or if it will be included in legislation the Judge will not be able to move forward. Until they know whether it will be a compacted water right or a claimed water right there remains a hole in the summary report and they can't move forward. It seems fairly obvious that he must continue to wait until Congress does something or fails to do something with the Compact. Matt has agreed to file a motion to intervene on behalf of the Flathead, Mission and Jocko Boards and ask to continue the stay.

Our discussion went to continuing to defend the FJBC claim filing with the DNRC. At the conclusion of our discussion we had developed a consensus that if the Compact passes in the US Congress, it is clear that is what you will have, and the State filed water rights are immaterial. But, if the Compact fails, you must be sure you are represented in the adjudication of basin 76L. To that end you must preserve a placeholder in the State Water rights claims records now. Although our conversations with you recently indicated that the BIA could likely be the owner of the water right you would not be well advised to concede that decision as you can't be assured that the BIA wouldn't withdraw those claims and leave you with no placeholder if the Compact fails. Therefore, it's our opinion that the Boards must keep the claims field with the DNRC; with an amended name if necessary.

Even if we complete the work contemplated following the meeting, that is individual claims responses or service area responses, it was felt that it was not appropriate to file amendments at the DNRC at this point because we can't resolve the ownership issue remark and we can open the issue remarks response without addressing it.

As we have stated, it is unlikely the Water Court Judge will leave us with no notice and will likely strive to give us sufficient advance notice of issuance of a summary report or other major activity leaving adequate time to file any amendments.

Following our meetings and my discussion with Matt Williams I am gain requesting the Boards respond to the following;

- I. Your advice and consent to have Matt Williams file a motion to intervene on behalf of the Flathead, Mission and Jocko Boards and request the Water Court stay the issuance of the summary report is requested.
- II. Should HEI continue to respond to issue remarks on claims.
 - a. Should HEI respond to individual issue remarks on each claim and resolve the exact number of irrigated acres and their associated place of use.
 - I. Deliver detailed reports for each claim before June 1, 2018
 - b. Should HEI prepare the issue remarks to the claims that request the Water Court grant a service area.
 - I. Deliver a service area map that can identify the outer boundaries of the total acres served and those historically irrigated for each the separate and for the whole district.

Irrigation District Legal Name on Water Right Claims

We have been asked again to advise the Boards on possible issue with the name as shown on the claims. As we have discussed, it will be important to determine the name to be used soon rather than have the DNRC contact you and or you miss a particular notification. In my opinion the name can be changed through the DNRC administrative claim amendment process. I have been asked by the three Chairman to provide mock claim amendment that could be contemplated for a common name for the Flathead, Mission and Jocko Irrigation districts.

I have attached three draft amendments. The first would amend the water rights to be the Flathead, Mission and Jocko Irrigation Districts as was originally filed on the parent claim for the irrigation district. One that is for the Flathead Irrigation Project as was originally filed. Lastly as the Flathead Agency Irrigation Division as is shown on the current Montana DNRC BIA claim files. The copies are attached.

Summary of Other Work Projects to be Authorized

Lastly, other work tasks that may been important to the Boards that were not contemplated in the original HEI proposal include;

- II. Identify which water rights are associated to the various districts and split the water right claims.
- III. Assist the Boards with interpretation of the CSKT Water Right Compact and how implementation will impact the irrigation project.

AMENDMENT TO STATEMENT OF CLAIM

Claim Number(s): 76F166696 AND 76L166594 TO 166695

Owner(s): FLATHEAD, MISSION AND JOCKO IRRIGATION DISTRICTS

I make the following amendment(s) to the above statement of claim(s):

(Complete only those sections that require amendment.)

1. **Purpose (use):** _____

- a. If irrigation, method of irrigation use Sprinkler Flood Water spreading
 Subirrigation Natural Overflow

b. If domestic, number of households served: _____

c. If stock, total number and type of livestock served: _____

2. **Source of Water:** _____ **Tributary of** _____

3. **Point of Diversion:** County - _____ See attachment

_____ Lot	_____ Block	_____ 1/4	_____ 1/4	_____ 1/4	Section _____	T _____	R _____
_____ Lot	_____ Block	_____ 1/4	_____ 1/4	_____ 1/4	Section _____	T _____	R _____
_____ Lot	_____ Block	_____ 1/4	_____ 1/4	_____ 1/4	Section _____	T _____	R _____
Subdivision _____							

- Replaces claimed information Supplements claimed information Addendum included

If the P.O.D is being amended, attach a map showing all points of diversion for this water right.

4. **Period of Diversion:** _____

(Month/Day TO Month/Day)

5. **Means of Diversion:** Well Instream Use Dam
 Headgate Pump: Capacity - _____ gpm
 Other - _____

6. **Means of Conveyance:** Ditch Pipeline Instream Use
 Other - _____

7. **Place of Use:** County - _____ See attachment

_____ acres	_____ Lot	_____ Block	_____ 1/4	_____ 1/4	_____ 1/4	Section _____	T _____	R _____
_____ acres	_____ Lot	_____ Block	_____ 1/4	_____ 1/4	_____ 1/4	Section _____	T _____	R _____
_____ acres	_____ Lot	_____ Block	_____ 1/4	_____ 1/4	_____ 1/4	Section _____	T _____	R _____
_____ acres	_____ Lot	_____ Block	_____ 1/4	_____ 1/4	_____ 1/4	Section _____	T _____	R _____
_____ acres	_____ Lot	_____ Block	_____ 1/4	_____ 1/4	_____ 1/4	Section _____	T _____	R _____

_____ **Total Acres** Subdivision _____

- Replaces claimed information Supplements claimed information Addendum included

If the P.O.U. is being amended, attach a map showing entire place of use for this water right.

AMENDMENT TO STATEMENT OF CLAIM

Claim Number(s): 76F166696 AND 76L-166594 TO 76L-166695

Owner(s): FLATHEAD IRRIGATION PROJECT DISTRICT

I make the following amendment(s) to the above statement of claim(s):

(Complete only those sections that require amendment.)

1. **Purpose (use):** _____

a. If irrigation, method of irrigation use Sprinkler Flood Water spreading

Subirrigation Natural Overflow

b. If domestic, number of households served: _____

c. If stock, total number and type of livestock served: _____

2. **Source of Water:** _____ **Tributary of** _____

3. **Point of Diversion:** County - _____ See attachment

____ Lot ____ Block ____ $\frac{1}{4}$ ____ $\frac{1}{4}$ ____ $\frac{1}{4}$ Section ____ T ____ R ____

____ Lot ____ Block ____ $\frac{1}{4}$ ____ $\frac{1}{4}$ ____ $\frac{1}{4}$ Section ____ T ____ R ____

____ Lot ____ Block ____ $\frac{1}{4}$ ____ $\frac{1}{4}$ ____ $\frac{1}{4}$ Section ____ T ____ R ____

Subdivision _____

Replaces claimed information Supplements claimed information Addendum included

If the P.O.D is being amended, attach a map showing all points of diversion for this water right.

4. **Period of Diversion:** _____

(Month/Day TO Month/Day)

5. **Means of Diversion:** Well Instream Use Dam

Headgate Pump: Capacity - _____ gpm

Other - _____

6. **Means of Conveyance:** Ditch Pipeline Instream Use

Other - _____

7. **Place of Use:** County - _____ See attachment

____ acres ____ Lot ____ Block ____ $\frac{1}{4}$ ____ $\frac{1}{4}$ ____ $\frac{1}{4}$ Section ____ T ____ R ____

____ acres ____ Lot ____ Block ____ $\frac{1}{4}$ ____ $\frac{1}{4}$ ____ $\frac{1}{4}$ Section ____ T ____ R ____

____ acres ____ Lot ____ Block ____ $\frac{1}{4}$ ____ $\frac{1}{4}$ ____ $\frac{1}{4}$ Section ____ T ____ R ____

____ acres ____ Lot ____ Block ____ $\frac{1}{4}$ ____ $\frac{1}{4}$ ____ $\frac{1}{4}$ Section ____ T ____ R ____

____ acres ____ Lot ____ Block ____ $\frac{1}{4}$ ____ $\frac{1}{4}$ ____ $\frac{1}{4}$ Section ____ T ____ R ____

Total Acres Subdivision _____

Replaces claimed information Supplements claimed information Addendum included

If the P.O.U. is being amended, attach a map showing entire place of use for this water right.

AMENDMENT TO STATEMENT OF CLAIM

Claim Number(s): 76F-166696 AND 76L-166594 to 76L-166695

Owner(s): FLATHEAD AGENCY IRRIGATION DIVISION

I make the following amendment(s) to the above statement of claim(s):

(Complete only those sections that require amendment.)

1. **Purpose (use):** _____

- a. If irrigation, method of irrigation use Sprinkler Flood Water spreading
 Subirrigation Natural Overflow

b. If domestic, number of households served: _____

c. If stock, total number and type of livestock served: _____

2. **Source of Water:** _____ **Tributary of** _____

3. **Point of Diversion:** County - _____ See attachment

____ Lot	____ Block	____ 1/4	____ 1/4	____ 1/4	Section _____	T _____	R _____
____ Lot	____ Block	____ 1/4	____ 1/4	____ 1/4	Section _____	T _____	R _____
____ Lot	____ Block	____ 1/4	____ 1/4	____ 1/4	Section _____	T _____	R _____

Subdivision _____

Replaces claimed information Supplements claimed information Addendum included

If the P.O.D is being amended, attach a map showing all points of diversion for this water right.

4. **Period of Diversion:** _____
(Month/Day TO Month/Day)

5. **Means of Diversion:** Well Instream Use Dam
 Headgate Pump: Capacity - _____ gpm
 Other - _____

6. **Means of Conveyance:** Ditch Pipeline Instream Use
 Other - _____

7. **Place of Use:** County - _____ See attachment

____ acres	____ Lot	____ Block	____ 1/4	____ 1/4	____ 1/4	Section _____	T _____	R _____
____ acres	____ Lot	____ Block	____ 1/4	____ 1/4	____ 1/4	Section _____	T _____	R _____
____ acres	____ Lot	____ Block	____ 1/4	____ 1/4	____ 1/4	Section _____	T _____	R _____
____ acres	____ Lot	____ Block	____ 1/4	____ 1/4	____ 1/4	Section _____	T _____	R _____
____ acres	____ Lot	____ Block	____ 1/4	____ 1/4	____ 1/4	Section _____	T _____	R _____

____ **Total Acres** Subdivision _____

Replaces claimed information Supplements claimed information Addendum included

If the P.O.U. is being amended, attach a map showing entire place of use for this water right.

8. Flow Rate Claimed: _____
 cubic feet per second
 gallons per minute
 miner's inches

9. Volume Claimed: _____ acre-feet per year

10. Period(s) of Use: _____
(Month/Day TO Month/Day)

11. Priority Date: (date of first use) _____
(Month/Day/Year)

12. Type of Historical Right: Deceaded Right
 Filed Appropriation Right
 Use Right

Please attach proof of
priority date or type of right.

13. Reasons for Amendment: THE FLATHEAD JOINT BOARD OF CONTROL HAS BEEN DISSOLVED BY ORDER OF DISTRICT COURT.

14. Comments: _____

15. Statement Signed by Owner: See attachment
I declare under penalty of perjury (§ 45-7-201, MCA) under the laws of the state of Montana that the foregoing content of this form is true and correct. I further declare that I have the authority to sign this document for myself as an individual or in representational capacity as an officer of a corporation, member of a limited liability company, general partner of a limited partnership, trustee for a trust or other official capacity for an entity as defined under "person" in §85-2-102, MCA. **(All current owners of the right as listed in the DNRC centralized record system are required to sign. Please attach DNRC's Amendment Agreement form if additional owner signatures are needed.)**

Typed or Printed Name Office/Title

Signature Date

Typed or Printed Name Office/Title

Signature Date

Typed or Printed Name Office/Title

Signature Date