



WATER-RIGHT DOCKET

Big Hole National Battlefield

Docket No: 1

NAMELESS SPRING.

Preliminary Docket Information

00-00-0000: water right record; s230217a f01

WATER RIGHT RECORD

Park: BIHO

Docket Number:
Federal 1

IDENTIFICATION NO: BIHO S,23,02,17A F,01

DITCH/WATER SYSTEM:

SOURCE OF SUPPLY: Nameless Spring

LOCATION: N40°E535.16 ft. of the NE $\frac{1}{4}$ Cor. of Sec. 23, T2S, R17W, MPM

WATER RIGHT:

Appropriator:

Application/Permit Number:

Certificate Record Number:

Date of Priority: December 31, 1909

Quantity of Water: 0.025 c.f.s.

Purpose: Domestic, irrigation

Irrigated Land Description:

SUMMARY OF STATUS: This is a Federal water right consisting of a spring collecting system, pipe line and a 2,000 gallon reservoir. This National Monument was established by reservation of unappropriated public lands of the United States under Executive Order #1216 of June 23, 1910 and by Proclamation #2339 of June 29, 1939, and the water system is entirely on Federal land.

DOCKET INFORMATION SHEET

Docket Identity	3140 S 23 T2S R17W A F 01
Region	ROCKY MOUNTAIN
Area	BIG HOLE NATIONAL BATTLEFIELD
Site	NAMBLESS SPRINGS
State	MONTANA
County	BEAVERHEAD
Docket	3140 WATER RIGHT DOCKET 1
Location	T2S R17W SEC23 NE1/4
Acquired by	APPROPRIATION
Application	76872
Permit	
Certificate	
Priority	DECEMBER 31 1909-0.025 CFS
Reservation	JUNE 23 1910
Status	ACTIVE FEDERAL
Source	GROUND WATER
Use	DOMESTIC RECREATIONAL IRRIGATION
Quantity	0.025 CFS
Hydrologic Unit	10020004
Remarks	FEDERAL WATER RIGHT CONSISTING OF A SPRING COLLECTING SYSTEM PIPELINE AND A 2000 GALLON RESERVOIR

NOTICE OF APPROPRIATION OF WATER RIGHT

STATE OF MONTANA,)
County of Beaverhead,) ss.

KNOW ALL MEN BY THESE PRESENTS, That the United States of America did on or before the 31st day of December, 1909, appropriate and claim, and does by these presents appropriate, locate and claim the total flow, not to exceed 0.025 cubic feet per second of time legal measurement, of the waters of a nameless spring in the County of Beaverhead, State of Montana.

The said water is claimed for domestic, recreational, irrigation, and other useful and beneficial purposes, and the place of intended use is at Big Hole Battlefield National Monument, in the NW $\frac{1}{4}$ Section 24, T. 2 S., R. 17 W., MPM.

Said water is diverted and conveyed to said place by means of a spring collecting system and G. I. pipe line, said pipe line having a diameter of 1 inch, and a grade of 14.2 feet per 1000 feet between the spring and a 2000-gallon distribution reservoir, whence the water is conveyed to the places of use by 3/4 inch G. I. pipe.

That the stream from which said diversion is to be made is more particularly described as follows, to-wit: Spring, tributary to North Fork of Big Hole River or Ruby Creek, which is tributary to the Missouri River through the Jefferson River, in the NE $\frac{1}{4}$ Section 23, T. 2 S., R. 17 W., MPM, in Big Hole Battlefield National Monument, and measured from said point of diversion as an initial point, the northeast corner of said Section 23, T. 2 S., R. 17 W., MPM, bears N. 40° 00' E. 535 feet.

That said Big Hole Battlefield National Monument was established by reservation of unappropriated public lands of the United States under Executive Order No. 1216 of June 23, 1910, and by Proclamation No. 2339 of June 29, 1939, and that the water system is entirely on said reserved Federal land.

That said water system was started before the reservation of said land, and the water has been diverted and used ever since the establishment of said Big Hole Battlefield National Monument.

That this notice is given by the United States for informatory purposes only, and nothing herein shall be construed to abridge or adversely affect in any way the right, title or interest which the Federal Government may have in and to the waters covered by this notice, or in any other waters in the State of Montana.

That the right is also claimed to enlarge said water system, to provide better regulation and use of said 0.025 second foot of water.



That a map of said water system, as now constructed, and showing probable changes, being drawing NM-BHE-6950, is also hereby filed as part of this record at the Office of the County Recorder and at Yellowstone National Park.

And the undersigned hereby claims a right of way over and title to all lands of the United States, through which said pipe line shall pass, together with the right to repair and enlarge said pipe line whenever and wherever the same may be necessary to convey the water hereby appropriated.

United States of America,
Department of the Interior,
National Park Service,

By: *A. van V. Dunn*
A. van V. Dunn,
Chief, Water Resources Branch,

Appropriator and claimant.

STATE OF MONTANA } ss. *76872*
County of Beaverhead }

I hereby certify that the within instrument was filed in my office on the *8* day of *July*, A. D. 19*49* at *40* min. past *11* o'clock, *P.* M. and recorded on page *357-8* of Book *73* of *Water Rights* Records of Beaverhead Co., Montana.

Attest my hand and seal,

MARGARET THOMPSON

County Recorder.

By: *Patty Ann Mussetter*
Deputy.

Fees \$ *1.25*

IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF MONTANA,
BUTTE DIVISION

United States of America,

Plaintiff

v.

Civil No. _____

175.718 acres of land, more or
less, in the County of Beaverhead,
State of Montana, Mark Clemow
Ranches, Inc., a corporation,
et al.,

Defendants

In the matter of the acquisition by
the United States of America of
certain lands situate in the County
of Beaverhead, State of Montana,
for use in connection with the Big
Hole National Battlefield of the
National Park Service, United States
Department of the Interior

DECLARATION OF TAKING

Pursuant to the authority delegated on February 17, 1959, by
the Secretary of the Interior under subparagraphs (6) and (7) of 210.2.2
Departmental Manual of the Department of the Interior (24 F. R. 1348) to
the Solicitor of the Department of the Interior, I do hereby make and cause
to be filed this Declaration of Taking under and in accordance with the act
of Congress approved February 26, 1931 (46 Stat. 1421; 40 U.S.C., sec. 258a),
and acts supplementary thereto and amendatory thereof, and declare that:

FIRST: (a) The lands and interests therein described in
Schedule A (Tract 1 also known as Parcel 1) attached hereto are taken
pursuant to and under the authority of the act of August 25, 1916 (39 Stat.
535; 16 U.S.C., sec. 1, et seq.), as amended and supplemented; the act of
May 17, 1963 (77 Stat. 18); and the Department of the Interior and Related
Agencies Appropriation Act, 1964 (77 Stat. 96).

(b) The lands and interests therein shown on Schedule B
(Tract 1 also known as Parcel 1) attached hereto have been selected by me
for acquisition by the United States for use in the administration, protec-
tion, and development of the Big Hole National Battlefield and are required
for immediate use.

(c) In my opinion it is necessary, advantageous, and in the interest of the United States that said lands and interests therein be acquired by judicial proceedings as authorized by the act of Congress approved August 1, 1888 (25 Stat. 357), as amended (40 U.S.C., sec. 257).

(d) The public use for which such lands and interests therein are taken is as follows:

These lands and interests therein, situate within the boundaries of the Big Hole National Battlefield, are needed for the proper administration, preservation, and development of that area for the benefit and enjoyment of the people.

SECOND: Pursuant to law, I have selected for acquisition for the purpose of the foregoing acts of Congress certain lands and interests therein situate in the County of Beaverhead, State of Montana, described and delineated in Schedules A and B annexed hereto and made a part hereof, together with all and singular the water rights and other rights, tenements, hereditaments, and appurtenances thereunto belonging, or in anywise appertaining.

Ostensible Owners: Mark Clemow Ranches, Inc.
c/o Mark Clemow
Beaverhead County, Montana

Bruce A. Risley (mineral rights
on portion of 175.718 acres)
Dillon, Montana

THIRD: The estate taken for said use is the full fee simple title in and to the said lands and interests therein, subject to easements for streets, highways, alleys, sewer, gas and water pipelines, telephone and power lines, and other public utilities, if any, and subject further to existing rights-of-way for irrigation ditches and the continued use and maintenance thereof for the irrigation of land under existing conditions and circumstances, through the use and maintenance of irrigation ditches now located and situated on said lands, more particularly designated as Ditch No. 1 in the lower meadow used by Mark Clemow Ranches, Inc.; Ditch No. 2 at the Ruby Bench not presently used, but formerly used by the

Trail Creek Water Company; Ditch No. 3 located just above Ditch No. 2, now used by Fred Elise; and Ditch No. 5 east of the Mark Clemow Ranches, Inc., entrance road and used by Mark Clemow to irrigate lands belonging to Mark Clemow Ranches, Inc.

FOURTH: The sum estimated by me as just compensation for the lands and interests therein taken hereunder is the sum of fourteen thousand, five hundred and one dollars (\$14,501), which sum I hereby deposit in the Registry of the Court for the use and benefit of the parties entitled thereto as follows:

<u>Tract or Parcel No.</u>	<u>Ostensible Owner</u>	<u>Acres</u>	<u>Deposit</u>
1	Mark Clemow Ranches, Inc. c/o Mark Clemow	175.718	\$14,500
Mineral	Bruce A. Risley	(Mineral Rights) 175.718	1
		175.718	\$14,501

I am of the opinion that the ultimate award for such lands and interests in lands will probably be within the limits of allocations and allotments made and provided for the purpose of acquiring said lands and interests therein.

the City of Washington, District of Columbia

September 1964.

9th

(sgd) FRANK J. BARRY

Solicitor of the Department
of the Interior of the
United States of America

Land Situated in Beaverhead County, Montana

Description

Parcel 1

The South Half of the Northeast Quarter of the Southwest Quarter (S½NE¼SW¼), the South Half of the Northwest Quarter of the Southeast Quarter (S½NW¼SE¼), the East Half of the Southwest Quarter of the Southwest Quarter (E½SW¼SW¼), the Southeast Quarter of the Southwest Quarter (SE¼SW¼), the Southwest Quarter of the Southeast Quarter (SW¼SE¼) of Section Twenty-four (24), Township Two (2) South, Range Seventeen (17) West, Principal Meridian Montana; and also a tract of land situated in the Northeast Quarter of the Northwest Quarter (NE¼NW¼) and the Northwest Quarter of the Northeast Quarter (NW¼NE¼) of Section Twenty-five (25), Township Two (2) South, Range Seventeen (17) West, Principal Meridian Montana, more particularly described as follows: Beginning at the North Quarter Corner of Section Twenty-five (25), Township Two (2) South, Range Seventeen (17) West, Principal Meridian Montana; thence North Eighty-nine Degrees Forty-three Minutes Fifty-four Seconds East (N.89°43'54"E.), along the North line of said Section Twenty-five (25), One Thousand Three Hundred Twenty-one and Forty-two Hundredths (1321.42) feet; thence South Zero Degrees One Minute Fifty-two Seconds East (S.0°01'52"E.), along the East line of the Northwest Quarter of the Northeast Quarter (NW¼NE¼) of said Section Twenty-five (25), Nine Hundred Eight and Fifty Hundredths (908.50) feet, to a point on the North Right-of-way boundary of Highway 43; thence North Seventy-six Degrees Forty-eight Minutes Thirty-two Seconds West (N.76°48'32"W.), along the North Right-of-way boundary of Highway 43, Two Thousand Three Hundred Seventy-five and Ninety-one Hundredths (2375.91) feet; thence North Thirteen Degrees Eleven Minutes Twenty-eight Seconds East (N.13°11'28"E.) along the North Right-of-way boundary of Highway 43, Twenty (20) feet; thence North Seventy-six Degrees Forty-eight Minutes Thirty-two Seconds West (N.76°48'32"W.) along the North Right-of-way boundary of Highway 43, Three Hundred Four and no Hundredths (304.00) feet; thence along a curve to the left of the radius of Five Thousand Seven Hundred Twenty-nine and Fifty-eight Hundredths (5729.58) feet along the North Right-of-way boundary of Highway 43, Thirty-nine and Sixty-one Hundredths (39.61) feet; thence North Zero Degrees Two Minutes Forty-seven Seconds West (N.0°02'47"W.), along the West line of the Northeast Quarter of the Northwest Quarter (NE¼NW¼) of said Section Twenty-five (25), Two Hundred Fifty-six and Eighty-two Hundredths (256.82) feet; thence North Eighty-nine Degrees Forty-two Minutes Four Seconds East (N.89°42'04"E.) along the North line of said Section Twenty-five (25), One Thousand Three Hundred Twenty-one and Eighty-eight Hundredths (1321.88) feet to the point of beginning and containing One Seventy-five and Seven Hundred Eighteen Thousandths (175.718) acres, more or less.

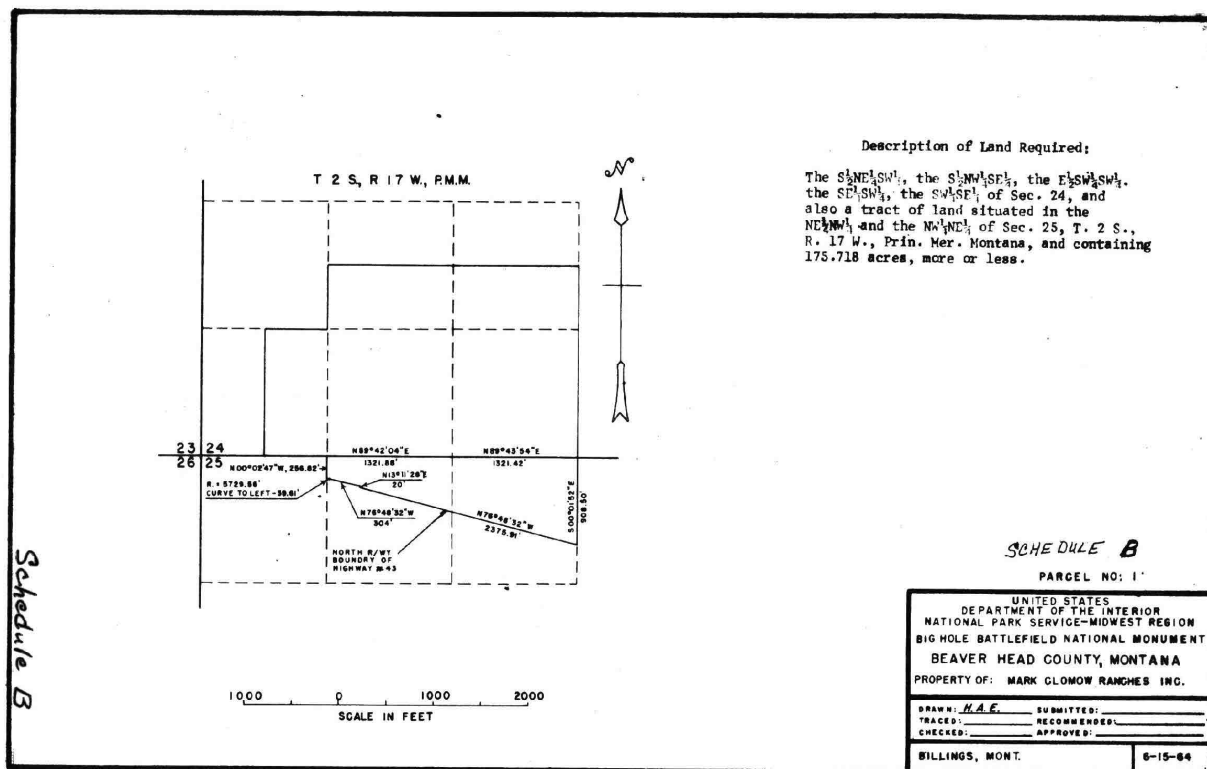
Checked for Engineering Data

Date June 13, 1964

[SEAL]

Name /s/ Roy M. HammondTitle Registered Land Surveyor

Schedule A



HAMMOND-EVERLY ENGINEERING CO.

MANAGEMENT
EXAMINATIONS
REPORTS
PLANT DESIGN
SURVEYS

CONSULTING ENGINEERS

CIVIL
MECHANICAL
MINING
STRUCTURAL

PHONE 792-1738 • BUTTE, MONTANA • P. O. BOX 201

PROPOSED ADDITIONS TO THE BIG HOLE BATTLEFIELD NATIONAL MONUMENTTRACT NO. 1 - 175.718 ACRE TRACT OF LAND SITUATED IN SECTION 24 AND SECTION 25, T. 2 S., R. 17 W., P.M.M.

The South one-half of the North East one-quarter of the South West one-quarter ($S. \frac{1}{2}$, N.E. $\frac{1}{4}$, S.W. $\frac{1}{4}$) of said Section 24. The South one-half of the North West one-quarter of the South East one-quarter ($S. \frac{1}{2}$, N.W. $\frac{1}{4}$, S.E. $\frac{1}{4}$) of said Section 24. The East one-half of the South West one-quarter of the South West one-quarter ($E. \frac{1}{2}$, S.W. $\frac{1}{4}$, S.W. $\frac{1}{4}$) of said Section 24. The South East one-quarter of the South West one-quarter ($S.E. \frac{1}{4}$, S.W. $\frac{1}{4}$) of said Section 24. The South West one-quarter of the South East one-quarter ($S.W. \frac{1}{4}$, S.E. $\frac{1}{4}$) of said Section 24. ALSO the following described tract of land situated in Section 25, T. 2 S., R. 17 W., P.M.M.

BEGINNING at the one-quarter corner common to said Sections 24 and 25, THENCE N. $89^{\circ} 43' 54''$ East for a distance of 1321.42 ft. along the North boundary of said Section 25; THENCE S. $00^{\circ} 01' 52''$ East for a distance of 908.50 ft. along the East boundary of the North West one-quarter of the North East one-quarter (N.W. $\frac{1}{4}$, N.E. $\frac{1}{4}$) of said Section 25 to a point on the North right-of-way boundary of Highway 43; THENCE N. $76^{\circ} 48' 32''$ West for a distance of 2375.91 ft. along the North right-of-way boundary of Highway 43; THENCE N. $13^{\circ} 11' 28''$ East for a distance of 20 ft. along the North right-of-way boundary of Highway 43; THENCE N. $76^{\circ} 48' 32''$ West for a distance of 304.00 ft. along the North right-of-way boundary of Highway 43; THENCE to the left along the arc of a curve of radius 5729.58 ft. for a distance of 39.61 ft. along the North right-of-way boundary of Highway 43; THENCE N. $00^{\circ} 02' 47''$ West for a distance of 256.82 ft. along the West boundary of the North East one-quarter of the North West one-quarter (N.E. $\frac{1}{4}$, N.W. $\frac{1}{4}$) of said Section 25; THENCE N. $89^{\circ} 42' 04''$ East for a distance of 1321.88 ft. along the North boundary of said Section 25 to the one-quarter corner common to said Sections 24 and 25, the point of beginning, containing a total of 175.718 Acres.

TRACT NO. 2.Tract No. 2 - 119.894 ACRE TRACT SITUATED IN SECTION 24, T. 2 S., R. 17 W. P.M.M.

The North one-half of the North East one-quarter of the South West one-quarter (N. $\frac{1}{2}$, N.E. $\frac{1}{4}$, S.W. $\frac{1}{4}$) of said Section 24; The North one-half of the North West one-quarter of the South East one-quarter (N. $\frac{1}{2}$, N.W. $\frac{1}{4}$, S.E. $\frac{1}{4}$) of said Section 24; The West one-half of the North East one-quarter (W. $\frac{1}{2}$, N.E. $\frac{1}{4}$) of said Section 24, containing a total of 119.894 Acres.

TRACT NO. 1 PLUS TRACT NO. 2.TRACT No. 1 PLUS TRACT No. 2 - 295.612 ACRES SITUATED IN SECTIONS 24 and 25, T. 2 S., R. 17 W., P.M.M.

The West one-half of the North East one-quarter (W. $\frac{1}{2}$, N.E. $\frac{1}{4}$) of said Section 24; The West one-half of the South East one-quarter (W. $\frac{1}{2}$, S.E. $\frac{1}{4}$) of said Section 24; The East one-half of the South West one-quarter (E. $\frac{1}{2}$, S.W. $\frac{1}{4}$) of said Section 24; The East one-half of the South West one-quarter of the South West one-quarter (E. $\frac{1}{2}$, S.W. $\frac{1}{4}$, S.W. $\frac{1}{4}$) of said Section 24.

EXHIBIT I

HAMMOND-EVERLY ENGINEERING CO.MANAGEMENT
EXAMINATIONS
REPORTS
PLANT DESIGN
SURVEYS

CONSULTING ENGINEERS

CIVIL
MECHANICAL
MINING
STRUCTURAL

PHONE 782-1738 • BUTTE, MONTANA • P. O. BOX 201

PAGE 2....TRACT NO. 1 PLUS TRACT NO. 2 CONTINUED :

ALSO the following described tract of land situated in Section 25,
T. 2 S., R. 17 W., P. M. M.

BEGINNING at the one-quarter corner common to said Section 24 and 25; THENCE North $89^{\circ} 43' 54''$ East for a distance of 1321.42 ft. along the North boundary of said Section 25; THENCE South $00^{\circ} 01' 52''$ East for a distance of 908.50 ft. along the East boundary of the North West one-quarter of the North East one-quarter (N.W. $\frac{1}{4}$, N.E. $\frac{1}{4}$) of said Section 25 to a point on the North right-of-way boundary of Highway 43; THENCE North $76^{\circ} 48' 32''$ West for a distance of 2375.91 ft. along the North right-of-way boundary of Highway 43; THENCE North $13^{\circ} 11' 28''$ East for a distance of 20 ft. along the North right-of-way boundary of Highway 43; THENCE North $76^{\circ} 48' 32''$ West for a distance of 304.00 ft. along the North right-of-way boundary of Highway 43; THENCE to the left along the arc of a curve of radius 5729.58 ft. for a distance of 39.61 ft. along the North right-of-way boundary of Highway 43; THENCE North $00^{\circ} 02' 47''$ West for a distance of 256.82 ft. along the West boundary of the North East one-quarter of the North West one-quarter (N.E. $\frac{1}{4}$, N.W. $\frac{1}{4}$) of said Section 25; THENCE North $89^{\circ} 42' 04''$ East for a distance of 1321.88 ft. along the North boundary of said Section 25 to the one-quarter corner common to said Sections 24 and 25, the point of beginning, containing a total of 295.612 Acres.

Other Supporting Information

OPTIONAL FORM NO. 10

NATIONAL PARK SERVICE

Office Memorandum • UNITED STATES GOVERNMENT

TO : The Superintendent, *Big Hole* BATTLESTONE NATIONAL PARK

DATE: August 18, 1962

FROM : Acting Superintendent - Big Hole Battlefield

SUBJECT: Water Rights, Big Hole Battlefield National Monument

Reference is made to my memorandum of August 11 on the above subject. Have just located the following jotted in ink and appears to be in Sam Beal's hand which may cast some bearing on Mr. Dunn's request.

Water Rights

On July 7, 1949, Breyton R. Finch posted a notice of appropriation of water at the point of diversion on the B-H-B-Nat'l. Monument.

The said water was dammed for domestic, recreational, irrigation and other useful purposes.

File No. 660-05.7

The flow of water is from 10 to 15 gallons per minute.

W.E. Robertson
Regional Engineer

Jack
Jack R. Williams
Acting Superintendent
BHBNM

*Packet,
Big Hole Battlefield*

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
REGION TWO
OMAHA, NEBRASKA

In reply refer to:
L54

Added Reply to
Regional Director, Region Two
National Park Service
9:31

*W. E. Robertson
Dunn*

AUG 17 1955

Memorandum

To: Director
From: Acting Regional Chief of Operations
Subject: Water Right Acquisition by Appropriation - Big Hole Battlefield

Reference is made to Mr. Garrison's memorandum of July 29 in regard to Water Right Acquisition by Appropriation for Region Two areas.

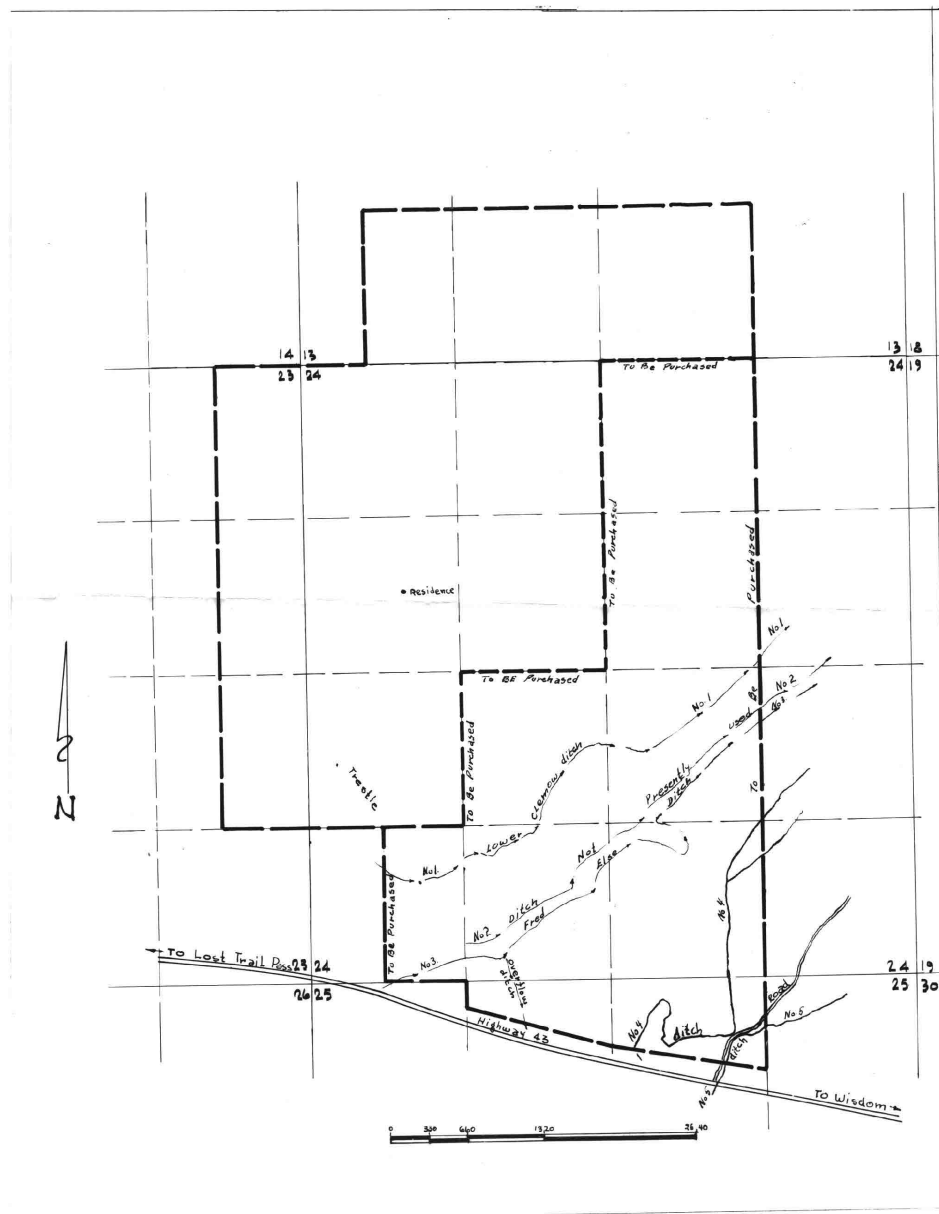
As regards water rights for Big Hole Battlefield, the Notice of Appropriation of Water Rights filed in Docket 1, does cover the existing system and claims the right to enlarge the system. The map that was filed in connection with this application, Drawing No. NM-BHR-6950, shows the present system and the proposed enlargement including a 40,000 gallon reservoir. We believe Mr. Dunn has all of this information.

The enlargement of the system is covered by PCP Form U-1-3 for Big Hole Battlefield National Monument. The project is not on the present Regional Office priority list and we cannot, at this time, estimate when it will be included on such a list.

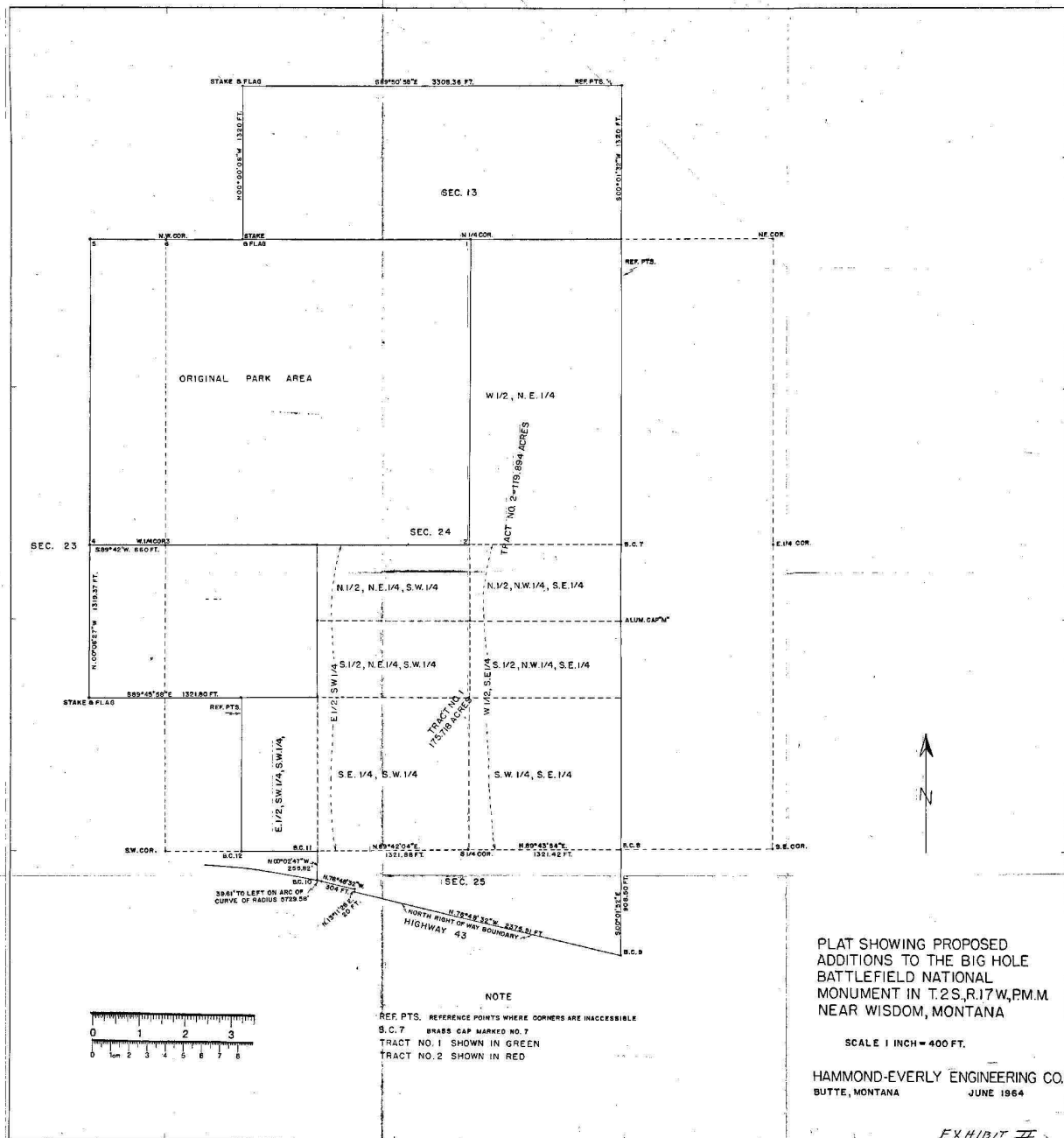
William E. Robertson
William E. Robertson
Acting Regional Chief of Operations

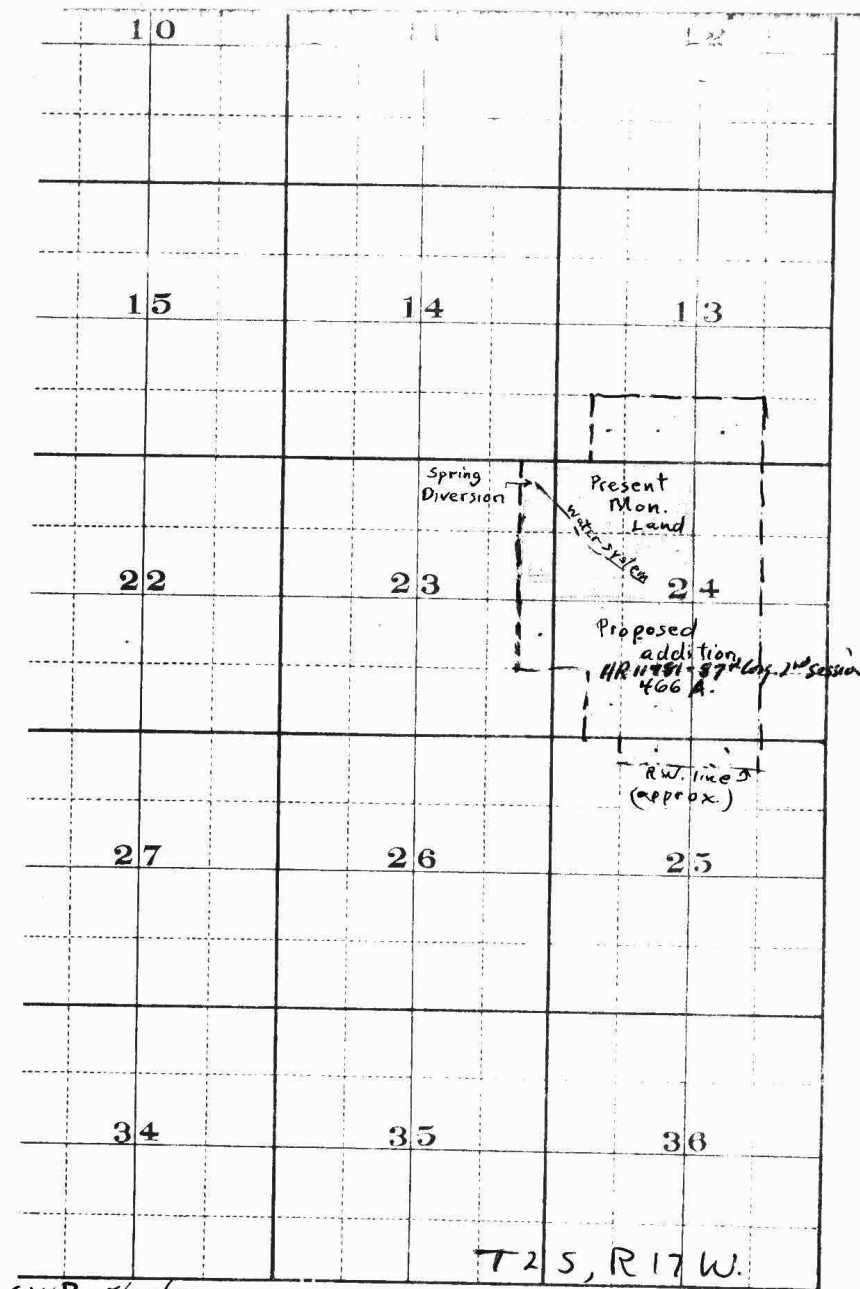
Copy to: Supt., Yellowstone NP, w/c memo from Mr. Garrison
Chief, WODC

Maps and Miscellaneous Information



B1H0





G.W.R. 5/23/62

Big Hole Battle field N.M.

