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**FILED**  
and ENTERED  
MAR 24 2000

LOU ALEKSICH, JR. Clerk  
*[Signature]*  
Deputy Clerk

**LODGED**

MAR 24 2000

IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF MONTANA  
BILLINGS DIVISION

LOU ALEKSICH, JR. CLERK  
BY *[Signature]*

(3)

5 UNITED STATES OF AMERICA, )  
 6 Plaintiff, )  
 7 v. )  
 8 ROOSEVELT COUNTY, MONTANA; )  
 9 DEAN HARMON, FERRIS A. TOAVS, )  
 10 and GARY A. MACDONALD, in their )  
 11 official capacities as members )  
 12 of the Roosevelt County Board of )  
 13 Commissioners; and CHERYL HANSEN, )  
 14 in her official capacity as Clerk )  
 15 and Recorder and Superintendent of )  
 16 Elections for Roosevelt County, )  
 17 Montana, )  
 18 Defendants. )

Civil Action No. 00-50-BLG-JDS

CONSENT DECREE

The United States filed this action to enforce Section 2 of the Voting Rights Act of 1965, as amended 42 U.S.C. §1973 ("Section 2"). The complaint alleges that the current at-large system for electing the members of the Roosevelt County Commission results in American Indian citizens having less opportunity than non-Indian citizens to participate in the political process and to elect candidates of their choice to the county commission in violation of Section 2.

FACTUAL STIPULATION OF THE PARTIES

The parties stipulate as follows:

1. Defendant Roosevelt County is a political and geographical subdivision of the State of Montana established under the laws of that State.

1           2.     Roosevelt County is governed by a three-member county  
2 commission, elected to six-year, staggered terms with one  
3 position on the County Commission open for election every two  
4 years. Elections for positions on the County Commission are  
5 partisan with the party primaries held in June and general  
6 elections held in November of even numbered years. Candidates for  
7 the County Commission qualify to run from one of three districts  
8 in which the candidates must reside, but voting in both the  
9 primary and the general election is at large, §7-3-401-  
10 422,(1999), M.C.A.

11           3.     The three members of the Roosevelt County Commission  
12 are party-Defendants in their official capacities.

13           4.     Defendant-Clerk and Recorder and Superintendent of  
14 Elections for Roosevelt County is the official under the laws of  
15 the State of Montana responsible for the preparation and conduct  
16 of elections for the Roosevelt County Commission, §7-4-2601-2635,  
17 M.C.A. This county official is a party-defendant in her official  
18 capacity.

19           5.     According to the 1990 Census, Roosevelt County has a  
20 total population of 10,999 persons, of whom 5,355 persons (48.6  
21 percent) are Indians. The total voting age population of the  
22 county is 7,123 persons, of whom 3,023 (42.4 percent) are  
23 Indians.

24           6.     The parties agree that there is a substantial factual  
25 and legal basis for Plaintiff's claims and a strong likelihood  
26 that Plaintiff could present evidence sufficient to establish a  
27 prima facie showing that the Indian population in Roosevelt  
28

1 County is sufficiently numerous and geographically compact to  
2 constitute a majority of the voting age population in at least  
3 one reasonably compact voting district under a commission plan  
4 that contains three single member voting districts.

5 7. The Parties agree that there is a strong likelihood  
6 that Plaintiff could present evidence sufficient to establish a  
7 prima facie showing that in elections involving Indian preferred  
8 candidates and non-Indian candidates in Roosevelt County, Indian  
9 voters vote for Indian preferred candidates and non-Indian voters  
10 usually vote sufficiently as a bloc to defeat the Indian voters'  
11 candidates of choice.

12 8. Plaintiff could present evidence sufficient to  
13 establish a prima facie showing the Indian citizens in Montana  
14 and Roosevelt County have suffered from a history of racial  
15 discrimination in voting and other areas. There is a likelihood  
16 that Plaintiff could show that in Roosevelt County, the effects  
17 of this past discrimination continue to hinder Indian citizens'  
18 present-day ability to participate effectively in the political  
19 process.

20 9. The parties agree there is a substantial basis in  
21 evidence sufficient to establish a showing that under the  
22 totality of the circumstances, the existing at-large election  
23 system for the members of the Roosevelt County Commission results  
24 in Indian citizens having less opportunity than non-Indian  
25 citizens to participate in the political process and elect  
26 candidates of their choice to the county commission.

27 Based on the foregoing, the parties agree that while there  
28

1 is a very strong basis in law and fact to support a prima facie  
2 case under Section 2 of the Voting Rights Act, the interests of  
3 the parties and of the citizens of Roosevelt County are best  
4 served by entering into this consent decree and thus avoiding  
5 protracted, costly and potentially divisive litigation, See e.g.  
6 Lawyer v. Dept. of Justice, 117 S.Ct.2186,2193 (1997).

7 Accordingly, the parties have entered into the following  
8 agreement in accordance with federal law and as an appropriate  
9 resolution of this action.

10 Accordingly, it is hereby ORDERED, ADJUDGED and DECREED  
11 that:

12 1. This Court has jurisdiction of this action pursuant to  
13 42 U.S.C. §§ 1973j(f) and 28 U.S.C. 1345.

14 2. There is a strong likelihood that Plaintiff would  
15 prevail if this matter were forced to trial, i.e. that Plaintiff  
16 could show the at-large method of electing the Roosevelt County  
17 Commission operating in the totality of circumstances described  
18 above, violates Section 2.

19 3. The defendants, their agents and successors in office,  
20 and all persons acting in concert with them, are permanently  
21 enjoined from administering, implementing or conducting future  
22 elections for the Roosevelt County Board of Commissioners under  
23 the current at-large election method.

24 4. Beginning with the 2000 elections, elections for the  
25 Roosevelt County Commission will be held on the basis of a  
26 single-member district plan. Only voters residing in a particular  
27 voting district will be allowed to cast a ballot in the primary  
28

1 and general election for the county commissioner from that  
2 voter's district. All candidates for commissioner must reside in  
3 the district in which they run for commissioner.

4 5. Nothing in this consent decree will be construed as  
5 prohibiting state or local officials from reapportioning the  
6 commission voting districts after receipt of the 2000 census data  
7 or after receipt of any other decennial census data to comply  
8 with the one-person, one-vote requirement of the United States  
9 and Montana Constitutions or any other legitimate purpose under  
10 state and federal law. Future redistricting shall not cause a  
11 dilution of Indian or other minority voting strength.

12 6. Plaintiff and Defendants have stipulated that Plaintiff  
13 could present evidence which more likely than not would be found  
14 by this Court sufficient to establish a prima facie case of a  
15 violation of Section 2 of the Voting Rights Act. The parties have  
16 indicated their desire to settle this lawsuit without further  
17 litigation by adopting a new method of single member district  
18 elections for the Board of County Commissioners. Single member  
19 districting is the usual and appropriate remedy for Section 2  
20 violations where existing voting is at large.

21 7. The Court recognizes that the defendants have the  
22 authority to settle litigation in good faith where further  
23 expenditure of public funds in defense thereof is not likely to  
24 be in the best interest of the public, and that this Court has  
25 the power to impose a remedy otherwise contrary to applicable  
26 state statute under the Supremacy Clause of Article VI of the  
27 Constitution of the United States, without requiring a full  
28

1 adjudication that the current method of election of county  
2 commissioners is unlawful. Lawyer v. Department of Justice, U.S.  
3 117 S. Ct. 2186, 2193 (1997).

4 8. Defendants have a substantial interest in avoiding  
5 continued litigation to establish liability under Section 2.  
6 Although the defendants have not admitted liability, all parties  
7 have concurred that there is a legal basis for Plaintiff's claim.

8 9. There is a reasonable or strong basis for concluding  
9 that the factors identified in Thornburg v. Gingles, 478 U.S. 30  
10 (1986) as probative of a 'vote dilution claim under Section 2 of  
11 the Voting Rights Act could be shown, i.e., that Indians are  
12 sufficiently numerous and geographically compact that they can  
13 form an effective voting majority in a single member district,  
14 that Indian voters generally vote for Indian preferred candidates  
15 and non-Indian voters generally vote for non-Indian candidates.  
16 Therefore, under Section 2 of the Voting Rights Act, Roosevelt  
17 County has a compelling interest in the implementation of a plan  
18 for the election of its County Commissioner that does not dilute  
19 Indian voting strength.

20 10. In full and final settlement of this lawsuit, the  
21 parties have agreed to implement a remedial single-member  
22 districting plan for the 2000 elections.

23 11. A map showing the boundaries of the three new districts  
24 is attached hereto as Exhibit A and descriptions of the three  
25 districts are attached hereto as Exhibit B. If there is any  
26 conflict between the district voting boundaries shown on Exhibit  
27 A and the descriptions of those boundaries set forth on Exhibit  
28

1 B, the descriptions in Exhibit B shall control.

2 12. These boundaries are reasonably compact and are not in  
3 derogation of traditions redistricting principles. The local  
4 deviations in populations are less than 10 percent, and therefore  
5 these districts comply with the one person, one vote requirement  
6 of federal law. Reynolds v. Simms, 377 U.S. 533 (1964).

7 13. Each of the commissioners will reside in his or her  
8 district. The terms of the commissioners will be six years, and  
9 the elections will take place in the following districts at the  
10 following times:

- 11 a. District 2 (Poplar), presently represented by  
12 Commissioner Macdonald, will be open for election in 2000;  
13 b. District 1 (Culbertson), presently represented by  
14 Commissioner Harmon, will be open for election in 2002;  
15 c. District 3 (Wolf Point), presently represented by  
16 Commissioner Toavs, will be open for election in 2004.

17 14. To assure fullest participation in the elections, the  
18 defendants assure that full notice and disclosure will be made to  
19 all voters of the new districts, so that each voter will have  
20 adequate notice of any change in his or her district, the polling  
21 places, and the schedule of elections.

22 15. In order that candidates who wish to qualify to run in  
23 the June 6, 2000 primary elections in Commissioner District 2  
24 shall have an opportunity to qualify to run in the up-coming  
25 primary, the qualification period for that position only shall  
26 not close on March 23, 2000, as provided in Montana law, but  
27 instead shall be extended until 5:00 p.m. on the tenth business  
28

1 day after this consent decree is approved by the District Court  
2 Judge and filed by the Clerk of this Court. Persons who  
3 previously qualified to run in the June 6, 2000 primary for the  
4 open seat on the Roosevelt County Commission who satisfy the  
5 residency requirement for County Commission position, as set  
6 forth in paragraph 4, page 4 supra, and in Montana law, shall not  
7 be required to re-qualify for the June 6 primary. Persons who  
8 previously qualified to run in the June 6, 2000 primary for the  
9 open seat on the Commission and who do not satisfy the residency  
10 requirement for Commissioner District 2 shall not have their  
11 names placed on the June 6 primary ballot.

12 16. Defendant Superintendent of Elections for Roosevelt  
13 County is to make a good-faith effort to comply with all of the  
14 other deadlines under Montana law pertaining to the June 6, 2000  
15 primary, including, but not limited to, the April 21, 2000  
16 deadline for having absentee ballots available for voters for the  
17 June 6 primary. However, in the event the extension of the  
18 deadline for qualifying to run for Commissioner in District 2, as  
19 provided in paragraph 15 supra, results in any election deadline  
20 applicable to the June 6 primary not being complied with  
21 notwithstanding the good-faith efforts of Defendant  
22 Superintendent of Elections, such a failure to meet election  
23 deadlines shall not be a grounds to challenge the validity of the  
24 June 6 primary as long as the activity required by the missed  
25 deadline is carried out in sufficient time so as not to interfere  
26 with the opportunity of voters to participate in the June 6  
27 primary.



1           17. Based upon the inherent equitable powers of this Court  
2 of the United States, and with the knowing and informed consent  
3 of the parties, the Court finds that the agreed upon plan and  
4 schedule of elections is a fair, adequate, and full settlement of  
5 the Plaintiff's claims, and upon acceptance of this decree and  
6 entry of judgment thereon, this case is decreed closed with  
7 prejudice, except as provided in paragraph 22 infra.

8           18. Except as specifically altered by the terms of this  
9 consent decree, all state law shall continue to govern the method  
10 of elections for the County Commissioners of Roosevelt County.  
11 Nothing in this consent decree shall proscribe or alter in any  
12 way the validity of any action taken by the Board of County  
13 Commissioners. The present members of the County Commissioners  
14 shall continue to serve their terms as set forth in the schedule  
15 above, and they shall continue to serve in their offices until  
16 they are succeeded pursuant to the terms of this Order. And  
17 during their tenure they shall possess and exercise all the powers  
18 and duties conferred upon them by State law.

19           19. This consent decree shall be binding upon the parties  
20 and their successors. Future redistricting as required by state  
21 law to comply with one person, one vote requirement, shall be  
22 done in a manner that complies with the terms and intent of this  
23 consent decree, continue to provide for single members  
24 districting and comply with the Voting Rights Act. Further,  
25 future redistricting shall not cause a diminution of Indian  
26 voting strength in Roosevelt County from the voting strength  
27 enjoyed by Indian voters under the plan provided for in this  
28


1 consent decree, unless demographic changes in Roosevelt County  
2 reasonably require that such a diminution in minority voting  
3 strength occur.

4 20. Defendant-county officials shall request their Montana  
5 legislators to amend Montana's Code to permit the County to adopt  
6 single-member district voting for the Roosevelt County  
7 Commissioners.

8 21. The defendants shall take all steps necessary and  
9 proper to implement the terms of this consent decree.

10 22. The Court shall retain jurisdiction over this matter to  
11 enforce the provisions of this consent decree and for such  
12 further relief as may be appropriate, until the implementations  
13 of the redistricting after the receipt of the 2000 census.

14 Entered this 24<sup>th</sup> day of March, 2000.

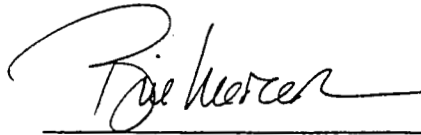
15  
16  
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18 JACK D. SHANSTROM  
19 Chief Judge  
20 United States District Court  
21 for the District of Montana

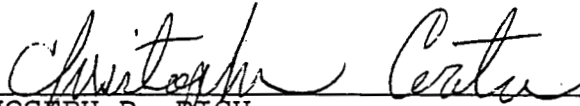
22 APPROVED AS TO FORM AND CONTENT:

23 ATTORNEYS FOR THE UNITED STATES:

24 By: BILL LANN LEE  
25 Acting Assistant Attorney General  
26 Civil Rights Division  
27  
28

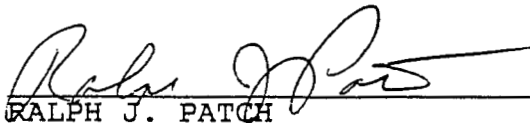
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AND ITS OFFICIALS:



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User: Salvatore LiCausi  
Room: 937  
Plan: ROOSEVELT\_12A

Date: 03/06/00  
Time: 12:12 PM  
Report: popsum12a.rep

Population Summary Report

Dist :	TOTAL DEVIATION	DEV%	WHITE%	WHITE18+%	AMERIND%	AMIND18+%	
1 :	3621	-45	-1.23	62.00	67.21	37.42	32.37
2 :	3728	62	1.69	34.66	40.34	64.78	59.19
3 :	3650	-16	-0.44	55.67	61.99	43.42	37.27

Total Population : 10999  
Ideal Population : 3666  
Mean Deviation is : 0  
Mean Percent Deviation is : 0  
  
Largest Positive Deviation is : 62  
Largest Negative Deviation is : -45  
Overall Range in Deviation is : 107  
Overall Range in Deviation% is : 2.92

Exhibit A, p. 4

## ROOSEVELT COUNTY COMMISSIONER DISTRICT NO. 1

Beginning at the Northeast corner of Roosevelt County, at the Northeast corner of Section 4, Township 30 N, Range 59 E, thence in a Southerly direction to the Southeast corner of Section 14, Township 26 N, Range 59 E being the Southerly Point of Roosevelt County, thence following the Missouri River West to the intersection of the North bank Missouri River with the East boundary line of Lot 6, of Section 18, Township 27 N, Range 51 E, thence North along the easterly boundary line of said Section 18 and Section 7, Township 27 N, Range 51 E to the railroad tracks, thence West to the Southeast corner of 5<sup>th</sup> Avenue East, Walking Eagle Addition to Poplar, thence North to the Southwest corner of Block 18, Walking Eagle Addition to Poplar, thence East to the Southeast corner of 6<sup>th</sup> Avenue East, thence North along 6<sup>th</sup> Avenue to its intersection with D Street, thence proceed Easterly along said D Street to 9<sup>th</sup> Avenue East and North to U.S. Highway #2, thence East along said U. S. Highway #2 to the Southern most corner of County Road #1054, thence North approximately 3/5 of a mile, thence in a Northwesterly direction to County Road #C 102, thence West along County Road #C 118 approximately 1 mile, thence proceed Northerly along Section line 7 miles North to beginning point of County Road #2053, follow said Road to South ¼ corner of Section 30, Township 29 N, Range 50 E, proceed Northerly on County Road #1056, 1 mile to County Road #2052 which is the North ¼ corner of said Section 30, Township 29 N, Range 50 E, thence West on County Road #2052 approximately 2 miles to the North ¼ corner of Section 26, Township 29 N, Range 49 E, thence South 1 mile to creek bed, thence Westerly along said creek bed ½ mile to road crossing in Section 35, Township 29 N, Range 49 E, thence in a Southerly direction along said creek bed to County Road B 135 E, thence following said road Westerly to County Road #1060, thence in a Southerly direction 5 ½ miles to U.S. Highway #2, thence West along said highway approximately 5 miles to Southwest corner of Section 31, Township 28 N, Range 49 E, thence North 6 miles to Northwest corner of Section 6, Township 28 N, Range 49 E, thence East 2 miles to Southeast Corner of Section 36, Township 29 N, Range 48 E, thence North 24 miles to Northwest corner of Section 1, Township 32 N, Range 48 E, which is also Northerly County boundary, thence East along said County line 30 miles to Northeast corner of Section 1, Township 32 N, Range 53 E, thence South along County line 6 miles to the Northeast corner of Section 1, Township 31 N, Range 53 E, thence East 6 miles to Northeast corner of Section 1, Township 31 N, Range 54 E, thence South 6 miles to Northeast corner of Section 1, Township 30, Range 54 E, thence East 27 miles to point of beginning.

*Exhibit B, p. 1*

## ROOSEVELT COUNTY COMMISSIONER DISTRICT NO. 2

Beginning at the intersection of the North bank Missouri River with the East boundary line of Lot 6, of Section 18, Township 27 N, Range 51 E, thence North along the easterly boundary line of said Section 18 and Section 7, Township 27 N, Range 51 E, to the railroad tracks, thence West to the Southeast corner of 5<sup>th</sup> Avenue East, Walking Eagle Addition to Poplar, thence North along 6<sup>th</sup> Avenue to its intersection with D Street, thence proceed Easterly along said D Street to 9<sup>th</sup> Avenue East and North to U.S. Highway #2, thence East along said U. S. Highway #2 to the Southern most corner of County Road #1054, thence North approximately 3/5 of a mile, thence in a Northwesterly direction to County Road #C 102, thence West along County Road #C118 approximately 1 mile, thence proceed Northerly along Section line 7 miles North to beginning point of County Road #2053, follow said Road to South ¼ corner of Section 30, Township 29 N, Range 50 E, proceed Northerly on County Road #1056, 1 mile to County Road #2052 which is the North ¼ corner of said Section 30, Township 29 N, Range 50 E, thence West on County Road #2052 approximately 2 miles to the North ¼ corner of Section 26, Township 29 N, Range 49 E, thence South 1 mile to creek bed, thence Westerly along said creek bed ½ mile to road crossing in Section 35, Township 29 N, Range 49 E, thence in a Southerly direction along said creek bed to County Road B135 E, thence following said road Westerly to County Road #1060, thence in a Southerly direction 5 ½ miles to U.S. Highway #2, thence West along said highway approximately 5 miles to Southwest corner of Section 31, Township 28 N, Range 49 E, thence North 6 miles to Northwest Corner of Section 6, Township 28 N, Range 49 E, thence West 2 miles to U.S. Highway #13, thence South along said highway approximately 4 miles to County Road #2058, thence West 3 miles to County Road #1070, thence North on said County Road #1070, 2 miles, thence 2 miles West to County Road #1072, thence South approximately 5 ½ miles to Southeast corner of Section 2, Township 27 N, Range 47 E, thence following WAPA Electric Easement line in a Southwesterly direction to the South 1/8 corner on the Western boundary of Section 10, Township 27 N, Range 47 E, thence South approximately ¼ mile to 6<sup>th</sup> Avenue North in Wolf Point city limits, thence East 1 Block to Northeast corner of Burke Ball Field, thence South to Northwest corner of Block 14, Johnson First Addition to Wolf Point, thence East 1 block to North beginning point of 4<sup>th</sup> Avenue North, thence South to Indian Street, proceed Easterly 2 blocks to 2<sup>nd</sup> Avenue North, thence South 1 block to Hill Street, thence East 1 block to 1<sup>st</sup> Avenue North, thence North 1 block to Indian Street, continuing East on Indian Street to the Northwest corner of the "Tribal Enterprise" Tract, being a point 1,528.6 feet more or less, from the Northeast corner of Section 15, Township 27 N, Range 47 E, thence proceeding South to U.S. Highway #2 which is on the Southwest corner of said "Tribal Enterprise" Tract. Proceed Southwesterly along U.S. Highway #2 to the Southeast corner of the North Addition to Wolf Point, proceed Southerly to the Southeast corner of City limits in First Addition to Wolf Point, thence Westerly to 5<sup>th</sup> Avenue South, thence South to the intersection of Jackson Street and 5<sup>th</sup> Avenue South, thence west along Jackson Street to its intersection with the extended 5<sup>th</sup> Ave South, thence South along said extended 5<sup>th</sup> Ave between Blocks 2 and 3, Fifth Addition to Wolf Point to the Southerly end of said extended 5<sup>th</sup> Avenue South, thence along the Southern boundary of Block 10, Fifth Addition, Wolf Point, to 4<sup>th</sup> Avenue South, thence South to the Northern bank of Missouri River, thence Easterly along said Northern bank of Missouri River to point of beginning.

Exhibit B, p. 2

### ROOSEVELT COUNTY COMMISSIONER DISTRICT NO. 3

Beginning at the Northeast corner of Section 1, Township 32 N, Range 48 E, being the Northerly boundary of Roosevelt County, thence proceed Southerly along Range line approximately 24 miles, thence West 4 miles to U.S. Highway #13. Proceed South 4 miles along said U.S. Highway #13 to County Road #2058, thence West approximately 3 miles to County Road #1070, thence North along said County Road 2 miles, thence West 2 miles to County Road #1072, thence South approximately 5½ miles to the Southeast corner of Section 2, Township 27 N, Range 47 E, thence in a Southwesterly direction along WAPA Electric Easement line to the South 1/8 corner on the Western boundary of Section 10, Township 27 N, Range 47 E, thence South approximately ¼ mile to 6<sup>th</sup> Avenue North in Wolf Point city limits, thence East 1 block to the Northeast corner of Burke Ball Field, thence South to Northwest corner of Block 14, Johnson First Addition to Wolf Point, thence East 1 block to North beginning point of 4<sup>th</sup> Avenue North, thence South to Indian Street, proceed Easterly 2 blocks to 2<sup>nd</sup> Avenue North, thence South 1 block to Hill Street, thence East 1 block to 1<sup>st</sup> Avenue North, thence North 1 block to Indian Street, continuing East on Indian Street to the Northwest Corner of the "Tribal Enterprise" Tract, being a point 1,528.6 feet more or less, from the Northeast corner of Section 15, Township 27 N, Range 47 E, thence proceeding South to U.S. Highway #2 which is on the Southwest Corner of Tribal Enterprise Tract. Proceed Southwesterly along U.S. Highway #2 to the Southeast corner of the North Addition to Wolf Point, proceed Southerly to the Southeast corner of City limits in First Addition to Wolf Point, thence Westerly to 5<sup>th</sup> Avenue South, thence South to the intersection of Jackson Street and 5<sup>th</sup> Avenue South, thence west along Jackson Street to its intersection with the extended 5<sup>th</sup> Ave South, thence South along said extended 5<sup>th</sup> Ave between Blocks 2 and 3, Fifth Addition to Wolf Point to the Southerly end of said extended 5<sup>th</sup> Avenue South, thence along the Southern boundary of Block 10, Fifth Addition, Wolf Point, to 4<sup>th</sup> Avenue South, thence South to the Northern bank of Missouri River, thence West along said riverbank to Southwest corner of said County, thence North to the Northwest corner of Section 6, Township 28 N, Range 46 E, thence East approximately 2 miles to the Southwest corner of Section 31 Township 28 N, Range 46 E, thence North approximately 24 miles to the Northwest corner of Section 6, Township 32 North, Range 46 East, thence East approximately 18 miles to the point of beginning.

Exhibit B, p. 3