

Missouri Heights-Mountain Meadows Irrigation Company

c/o Leavenworth & Karp, P.C.

P.O. Drawer 2030

Glenwood Springs, Colorado 81602

(970) 945-2261

KNOW ALL MEN BY THESE PRESENTS

1. The Missouri Heights-Mountain Meadows Irrigation Company ("MHMMIC") operates a water storage reservoir known as the Spring Park Reservoir and related direct-flow water rights from Cattle Creek near El Jebel, Colorado; and

2. The MHMMIC owns prescriptive easements and/or rights of way for ditches running to and from the Spring Park Reservoir and for maintenance of such ditches, including the Mountain Meadow Ditch which supplies water to the reservoir from Cattle Creek, the Outlet Ditch leading from the reservoir to other ditches, and lateral ditches known as the Fender lateral, the Highline lateral, and the Middle lateral, all as depicted on the map included in "Exhibit 1" attached hereto and described as follows:

Generally located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 1; SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 2, SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 10, NE $\frac{1}{4}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$, Section 11; NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 12; NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 14, SE $\frac{1}{4}$, Section 16, E $\frac{1}{2}$, Section 21; Section 22; Section 27 and E $\frac{1}{2}$, Section 28 all in Township 7 South, Range 87 West, 6th P.M., Eagle County, Colorado and in the W $\frac{1}{2}$, Section 16, Section 17, Section 20, W $\frac{1}{2}$, Section 21, W $\frac{1}{2}$ Section 28 and Section 29 all in Township 7 South, Range 87 West, 6th P.M. in Garfield and Eagle Counties, Colorado;

and

4. The MHMMIC has adopted certain Rules and Regulations regarding required plans and specifications for bridges, culverts, utility lines, fences and other structures in, over, and crossing the MHMMIC's ditches and easements; and

5. The Rules and Regulations prohibit bridges and ditch crossings not approved and installed in compliance with MHMMIC specification culverts and utility lines and facilities crossing not approved and installed in compliance with MHMMIC specifications; and

6. The MHMMIC has further adopted Rules and Regulations regarding any structures within its easements and rights of way which provide, among other things, that all such structures must be approved in writing by the MHMMIC and must not interfere with the MHMMIC's access, operation, maintenance, repair or replacement activities regarding such easements and rights of way; and

**RULE AND REGULATION 1-2001
MISSOURI HEIGHTS-MOUNTAIN MEADOWS IRRIGATION COMPANY**

**I.
REQUIRED PLANS AND SPECIFICATIONS
FOR CULVERTS, UTILITIES, AND STRUCTURES
IN OR NEAR COMPANY DITCHES**

A. **Scope and Applicability.** This Part I shall apply to any culvert, utility line or facility or other structure that crosses, encroaches upon, or is located in or over ditches and/or maintenance and access easements of the Missouri Heights-Mountain Meadows Irrigation Company ("Company") including the Mountain Meadow Ditch, the Outlet Ditch, the Fender Lateral, the Highline Lateral, and the Middle Lateral as shown on the attached Exhibit A (hereinafter the "MHMMIC ditches").

B. **Property Owner Defined.** For purposes of this Part I, a "property owner" shall mean the owner of real property on which any bridge, culvert, utility line or facility or other structure subject to this Rule and Regulation is located. In cases where the MHMMIC holds fee title to the ditch itself, then "property owner" shall mean the owner of real property that is appurtenant to the MHMMIC ditch at the location of the bridge, culvert, utility facility or other structure.

C. **Crossings Prohibited Without Approval.**

1. **Ditch Crossings Without Culverts Prohibited.** All structures crossing MHMMIC ditches shall utilize only Company-approved culverts complying with this Rule and Regulation. Bridges and other structures not utilizing culverts are prohibited.
2. **Utility Crossings Prohibited Without Approval.** All crossings of MHMMIC ditches by utility lines and facilities are prohibited unless they comply with the provisions of this Rule and Regulation.
3. **Removal for Non-Compliance.** Non-conforming bridges, structures, utility lines and facilities may be removed by the Company without notice at the property owner's expense.

D. **Specifications for Culverts.** All culverts shall consist of a pipe arch large enough to accommodate the following flows but in no event smaller than the following dimensions:

1. **Mountain Meadow Ditch:**
Design Flow = 100 cfs
Minimum Size = 112" x 75" CMP arch
2. **Outlet Ditch:**
Design Flow = 45 cfs
Minimum Size = 83" x 57" CMP arch
3. **Lateral Ditches (Fender, Middle, and Highline):**
Design Flow = 15 cfs
Minimum Size = 57" x 38" CMP arch

All culverts shall have flared-end sections on the inlet and outlet ends, and culverts must extend at least 6 feet from the shoulder of the fill on each side. The gradient and the alignment of the culvert shall match the flowline of the existing ditch. Typical plans, profiles, and cross sections with installation specifications for culverts are attached hereto as "Exhibit B."

E. **Specifications for Utility Crossings.** Any property owner's plan to place any utility line or other facility within the MHMMIC ditch easement submitted as provided in Subpart I.G below shall provide for the burial of utility lines to a depth of at least 2 feet below the existing grade of the ditch across the ditch easement, which depth may be increased in the discretion of the Board of Directors based upon specific local conditions. The plan must provide that the disruption within the ditch from the installation of such utility line or facility will be sealed across the ditch and for 50 feet in the ditch on either side of the work area with a bentonite/clay mixture compacted into the impacted area, the mixture and compaction to be approved by MHMMIC. Upon approval of such plan and application by the Board of Directors, the property owner shall complete the installation consistent with the plan as approved, bearing all responsibility therefor and scheduling the work with MHMMIC at such times when the work will not disrupt or interfere with the delivery of water by MHMMIC. The property owner shall secure the approval of MHMMIC of the completion of the work in accordance with its approved plan within 10 days after the substantial completion of its work.

F. **Property Owner's Additional Responsibilities and Liabilities.**

1. In connection with any installation and operation of improvements by a property owner pursuant to this Part I, the property owner, for itself and its heirs, successors, executors, administrators and assigns, shall assume full responsibility for the maintenance and safety of such improvements, and shall indemnify and hold harmless MHMMIC from any and all

liabilities claims or damages arising from or related to such improvement and its construction and maintenance. The property owner specifically hereby assumes such responsibility for any leakage from or failure of the MHMMIC ditch within or associated with the location of the property owner's work.

2. The property owner shall be responsible for all maintenance and repair of the bridge, culvert, or structure. Such bridges, culverts, and structures shall be maintained so as not to interfere with the flow of water through the MHMMIC ditches or the MHMMIC's maintenance of the ditches. This obligation on the part of the landowner includes the duty to keep such structures free and clear of trash or other debris. Any culvert, bridge, utility line or facility, fencing or other structure subject to this Rule and Regulation that does cause interference with the MHMMIC ditches, or the Company's maintenance thereof, may be removed, altered, or repaired by the Company at the property owner's expense.

3. If any bridge, culvert, utility facility or structure subject to this Part I causes interference with the MHMMIC ditches, the delivery of water, or the Company's maintenance of the ditches or otherwise causes harm or damage to the Company, its customers or shareholders, or to any third party (whether due to the structure's design, installation, lack of proper maintenance, or any other reason) the property owner shall be liable for all such harm or damage. Should the Company be subjected to any claim, demand, or litigation as a result of such harm or damage, the property owner shall be responsible to reimburse the Company for the amount of any such claim, judgment, or settlement thereof, including the Company's reasonable costs and attorney fees.

G. **Written Approval of Plans.** The property owner shall apply for approval of plans or specifications of any structure subject to this Rule and Regulation. Such approval must be obtained in writing and may consist of a standard form as approved by the Board of Directors from time to time. All applicants shall pay an administrative fee of \$250. Applicants should send a letter describing the structure, copies of plans and specifications, a location map, and a \$250.00 check payable to the Missouri Heights-Mountain Meadow Irrigation Company to P.O. Box 548, Carbondale, CO 81623. A property owner may submit alternate plans or specifications not conforming with those attached hereto. The applicant for approval of alternate plans and specifications shall pay for the costs of review of any such proposed plans by the attorneys of the Company and by an engineer of the Company's choosing. Approval by the Company pursuant to this section shall not operate to relieve the applicant of potential liability to third parties pursuant to Subpart I.F above, nor shall such approval be construed as a promise,

representation or warranty by the Company that any third party will not be damaged by such structure.

II. PROHIBITION AGAINST INTERFERING STRUCTURES AND ACTIVITIES WITHIN EASEMENTS AND RIGHTS-OF-WAY

A. **Scope and Applicability.** This Part II shall apply to any bridge, structure, fencing, or other improvement or activity of any type whatsoever within the Company's easements or rights-of-way for operation, maintenance, repair and replacement of the MHMMIC ditches and the Spring Park Reservoir.

B. **Property Owner Defined.** For purposes of this Part II, a "property owner" shall mean the owner of real property subject to or appurtenant to the Company's easements and rights of way for operation, maintenance, repair and replacement of the MHMMIC ditches and the Spring Park Reservoir.

C. **Prohibition Against Interference.** There shall be no fencing, structure, improvement or activity within the Company's easements and rights of way that causes any interference with the Company's operation, maintenance, repair or replacement of MHMMIC ditches or the Spring Park Reservoir. Any structure, improvement or activity that does cause such interference shall be removed or ceased immediately, and may be removed, halted, or remedied by the Company without notice at the property owner's expense.

D. **Fencing.** Any property owner desiring to locate any fencing or other permanent or semi-permanent improvement or facility within the MHMMIC ditch easement must submit a plan and application for approval by the MHMMIC Board of Directors consistent with the provisions of Subpart I.G above. Such plan shall provide for the continued access by MHMMIC within its easement for the purposes of operation, maintenance, replacement and repair of the MHMMIC ditch, including the use of heavy equipment, chemical or other spraying and mowing. Such plan shall further provide that no livestock shall be allowed within the ditch easement and for the property owner's responsibility for any and all damage caused to the easement or third parties by livestock or otherwise. Upon approval of such plan and application by the Board of Directors, the property owner shall complete the plan as approved, bearing all responsibility therefor and scheduling the work with MHMMIC at such times when the work will not disrupt or interfere with MHMMIC's operations. The property owner shall secure the approval of

Resource Engineering, Inc.

909 Colorado Avenue
GLENWOOD SPRINGS, COLORADO 81601
(970) 945-6777

JOB Missouri Hts Irrigation Co.

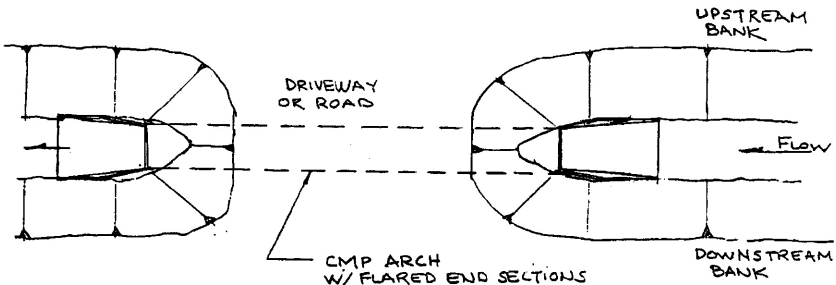
SHEET NO. 1 OF 2

CALCULATED BY PSB DATE 9-11-98

CHECKED BY REVISED DATE 12-2-98

SCALE N.T.S.

TYPICAL DITCH CULVERT
FOR ROAD CROSSING

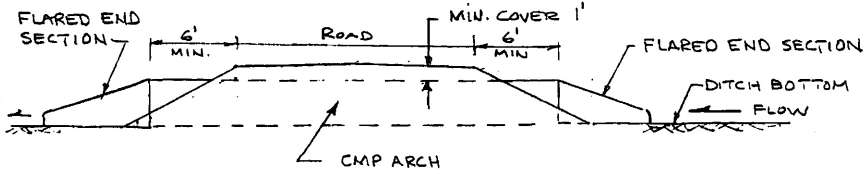


CMP ARCH
W/ FLARED END SECTIONS

PLAN VIEW
N.T.S.

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PROFILE
N.T.S.

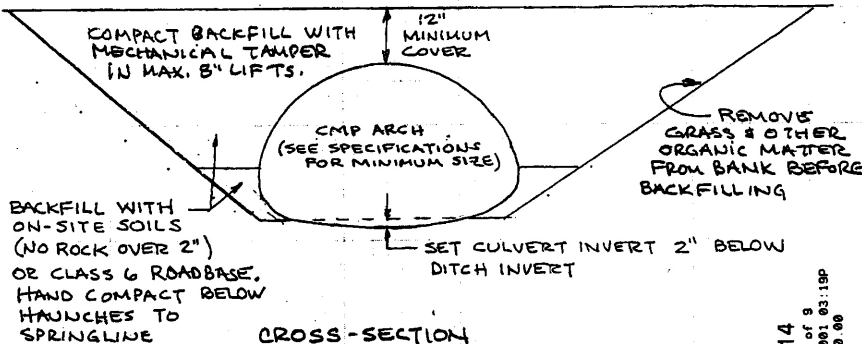
Resource Engineering, Inc.
909 Colorado Avenue
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JOB MISSOURI HTS IRRIGATION Co.
SHEET NO. 2 OF 2
CALCULATED BY PSB DATE 9-12-98
CHECKED BY REVISED DATE 12-2-98
SCALE N.T.S.

TYPICAL DITCH CULVERT
FOR ROAD CR



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CROSS-SECTION
BEDDING & BACKFILL DETAIL
N.T.S.

MINIMUM SIZE SPECIFICATIONS :

1. MOUNTAIN MEADOW DITCH
DESIGN FLOW = 100 CFS
MINIMUM SIZE 112" x 75" CMP ARCH
2. OUTLET DITCH
DESIGN FLOW = 45 CFS
MINIMUM SIZE 83" x 57" CMP ARCH
3. LATERAL DITCHES (FENCE, MIDDLE & HIGHLINE)
DESIGN FLOW = 15 CFS
MINIMUM SIZE 57" x 38" CMP ARCH

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