

2018 Regional Water Extensions WWDC Grant Funding Agreements

City of Gillette

City Council Workshop

July 24, 2018

Presentation Format

Mike Cole, Utilities Director, City of Gillette

- Background and History
- City Concerns
- Staff Recommendation / Council Action

Pat Davidson, City Administrator, City of Gillette

- City Administrator Remarks

Background and History (1 of 11)

- 2006 – City of Gillette (COG) applied for grant funding for the \$226 million new (expanded) water supply project.
- 2006/2007 – COG hired Morrison-Maierle to complete a [Long Term Water Supply Level II Study](#) which recommended an expanded Madison Well Field and parallel treated water transmission pipeline. WWDC reviewed the Study and accepted the findings.
- 2007/2008 – WWDC and State Legislature directed COG to provide water service to a much larger regional water service area when compared to the original 2006 grant request, which was to provide water service to the City limits only.
- 2008 – State Legislature appropriated WWDC funding to perform a Level I Master Plan to identify the potential Regional Water Service Area.

Background and History (2 of 11)

- October 10, 2009 – HDR Engineering Inc. completed the [Gillette Regional Water Master Plan Level I Study](#) that identified existing water districts and a potential water service area.

- Section 6.2 on Page 35 of this study states the following:

“Based on the above water demand projections, the maximum day demand that was used to size the Gillette regional water system was 34.24 MGD or 23,778 gpm. This demand included providing water supply to all potential participants in the probable service area, but did not include Crook County demands. WWDC had decided during the preparation of the analysis that Crook County would be served separately from the Gillette regional water system, so should not be included in the demands used for sizing the system.”

- The Final Design for the Gillette Madison Pipeline Project **DID NOT** include provisions to serve entities in Crook County, based on direction received from WWDC.

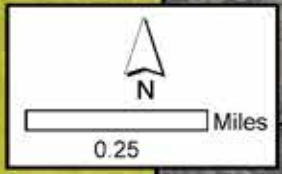
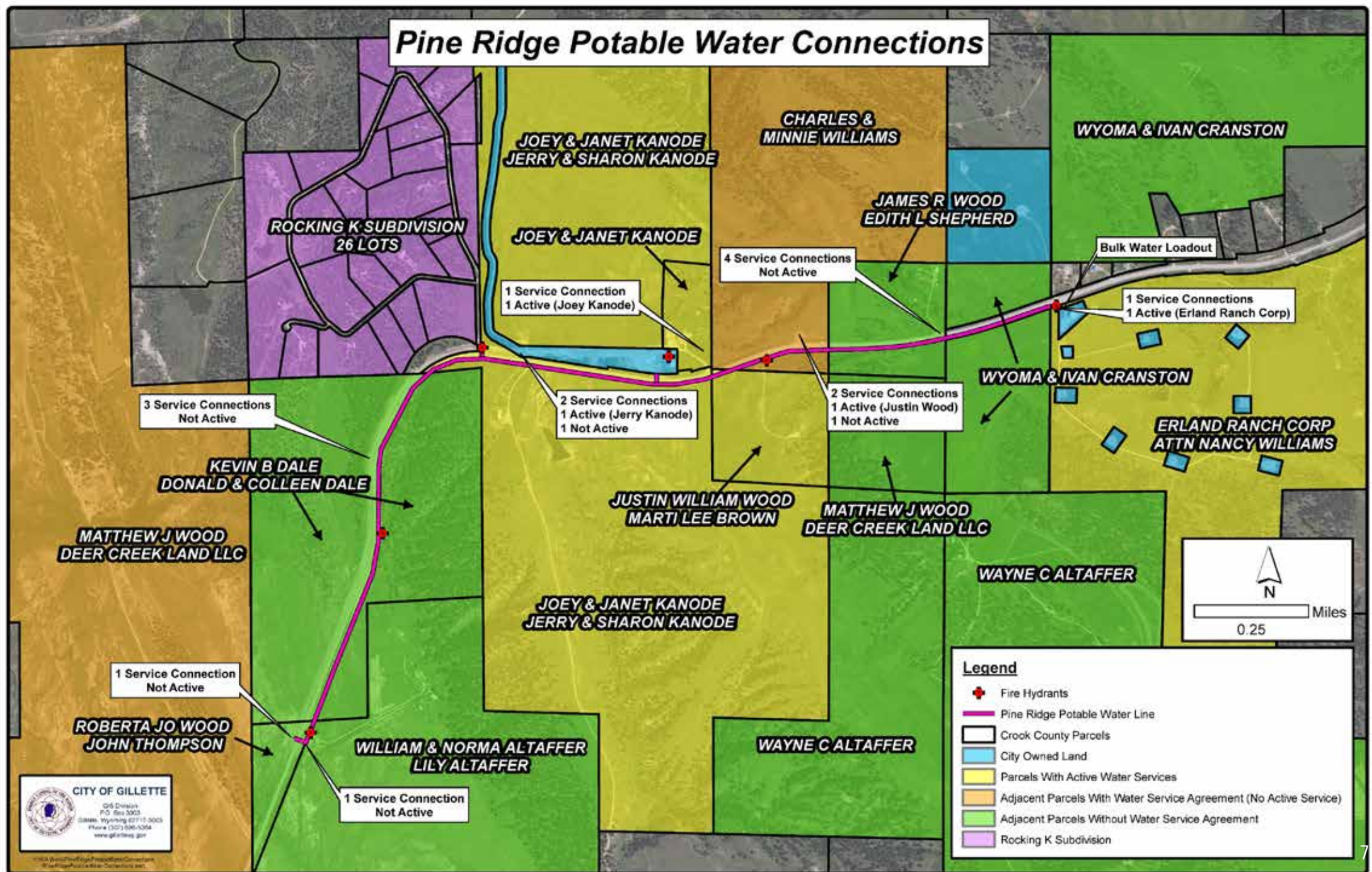
Background and History (3 of 11)

- May 5, 2010 – HDR Engineering Inc. completed the [Regional Participant Level II Connection Study](#).
- The COG retained HDR to complete a “Level II” Study to provide cost estimates for regional water extensions to serve the existing water districts in Campbell County, generally located within the Donkey Creek and Stonepile Creek drainage basin(s).
- Due to the pressing need to complete this study for future grant funding, the COG decided to expedite the completion of this study, rather than wait for a grant from the WWDC and the State Legislature through their regular Omnibus Water Planning Bill process.
- The study was funded entirely by the COG, with help from Campbell Co.
- WWDC did not contribute funding for this study, but did accept the recommendations from this study for future Level III design and construction budget purposes.

Background and History (4 of 11)

- Based on the May 5, 2010 HDR Regional Participant Level II Connection Study, the COG and Campbell County executed a [Regional Water Joint Powers Agreement](#) to address ownership, funding and governance of the regional water system, outside the incorporated limits of the COG.
- Development of the JPA was facilitated by the WWDC.
- The JPA was approved by the Attorney General's Office on January 4, 2011.
- Section 7.1 on Page 6 of the JPA states:
“. . .the Project will continue to fulfill agreements and service obligations of the City to existing wholesale customers in Crook County. . . .”
- As of 01/2011, the COG provided stand-by, emergency back-up water service for the Town of Moorcroft (*since the early 1980's*) and executed individual water service agreements with approximately 9-10 individual property owners for domestic water use in the vicinity of Pine Ridge in Crook Co. (*in the mid 2000's*), near the City's existing Madison Well Field.

Pine Ridge Potable Water Connections



Legend

- Fire Hydrants
- Pine Ridge Potable Water Line
- Crook County Parcels
- City Owned Land
- Parcels With Active Water Services
- Adjacent Parcels With Water Service Agreement (No Active Service)
- Adjacent Parcels Without Water Service Agreement
- Rocking K Subdivision

CITY OF GILLETTE
 GIS Division
 P.O. Box 3003
 Gillette, Wyoming 82717-3003
 Phone (307) 686-4354
 www.gillette.wy.gov

Background and History (5 of 11)

- Based on cost estimates provided in the May 5, 2010 HDR Regional Participant Level II Connection Study, among other information, the COG, Campbell Co. and Town of Wright approved a Resolution and Ballot Proposition.
- On May 3, 2011, Campbell County voters approved a [Specific Purpose Excise Tax \(Cap Tax\)](#) to raise \$20.0 million to be used as a 33% match for the \$60 million Regional Extensions Project.
- As part of this Cap Tax, \$75 million was also approved by Campbell County voters to fund the City's 33% match for the separate, Gillette Madison Pipeline Project.
- \$15 million was also approved for water projects in Wright.

Background and History (6 of 11)

- On August 11, 2011, the COG applied for a \$40 million grant from the Wyoming Water Development Commission to fund 67% of the total estimated costs of the Gillette Regional Extensions Project.
- The August 11, 2011 [Grant Application](#) only included projects to extend pipelines to serve regional water customers with domestic water in the Designated Service Area in Campbell County established by the Joint Powers Agreement.
- The WWDC asked the City to “prioritize” the projects included in the grant application.
- The COG provided a prioritized list of projects to be funded over a five-year period. (~ \$8M per year x 5 yrs = \$40M grant funds)

Background and History (7 of 11)

- Since the August 11, 2011 Grant Application, the City of Gillette, on behalf of Water Districts within the Designated Service Area in Campbell County, have executed numerous Grant Funding Agreements and Amendments with the WWDC for “Priority 1” and “Priority 2” regional extension projects.
- None of the prior executed grant funding agreements or amendments contain any provisions that direct the City to provide “Livestock” or “Miscellaneous” water service to anyone.

Background and History (8 of 11)

- In 2010/11, the WWDC and the State Legislature changed the terms and project scope for the separate Gillette Madison Pipeline Project.
 - ü The total price for the project was reduced from \$226M to \$217.6M.
 - ü The scope was adjusted to reflect 5 new Madison wells instead of the original 10.
 - ü The loan term was reduced from 30 years to 5 years upon approval of the Cap Tax.
 - ü The project scope was expanded to extend pipelines to serve the Sleepy Hollow, Antelope Valley and SW Gillette (Force Road Area).
- All of these changes were made as part of Amendment 1 and Amendment 2 to the [Project Agreement](#) for the Gillette Madison Pipeline Project, in 2010 and 2011, respectively.

Background and History (9 of 11)

In September/October 2017, the City submitted a Grant Funding Request for Priority 3 and Priority 4 Regional Extensions Project(s). The WWDC recommended grant funding approval for the following Gillette Regional Water Extensions:

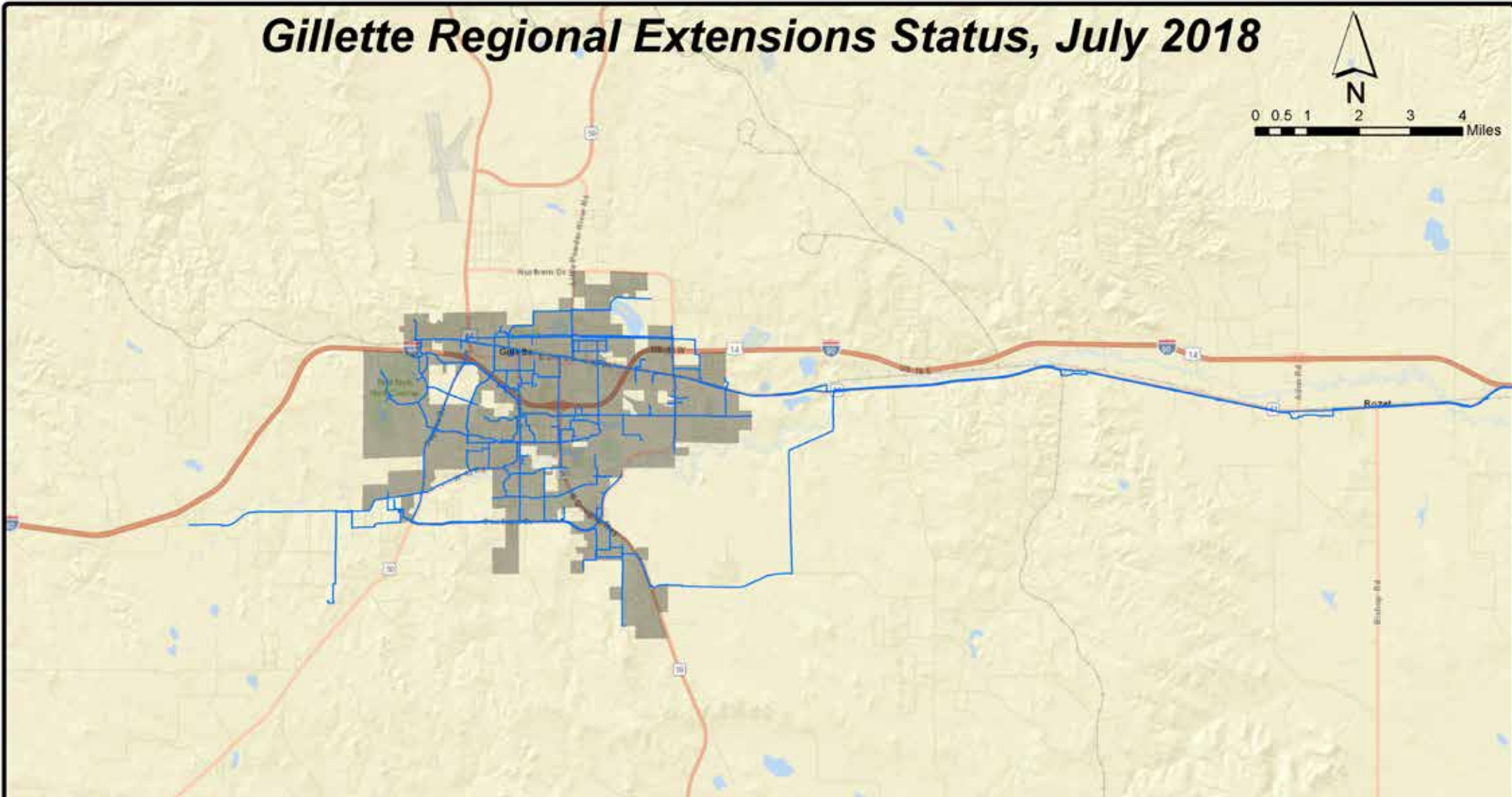
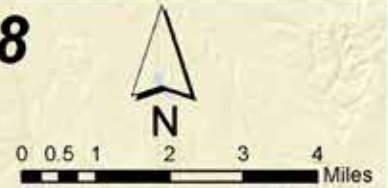
- \$1,809,000 for Engineering Design, Permitting and Right-of-Way Acquisition AND Construction Funding for (1) Fox Ridge (*South of Red Hills*), (2) Rozet Ranchettes, and (3) Buckskin (*Gurley & Kluver Area*).
 - ü COG was not expecting the construction funding as part of the 2017 request.
 - ü This amount is the State's 67% grant portion.
 - ü COG to use the District Extension Cap Tax (*approximately \$891,000*) for the 33% match.
 - ü The total project amount is \$2.7M.
- \$2,391,000 for Construction Funding for (1) Crestview, (2) Freedom Hills, (3) American Road, and (4) Meadow Springs.
 - ü COG received \$361,000 funding for Engineering Design, Permitting and Right-of-Way Acquisition as part of the 2017 Legislative Session.
 - ü This amount is the State's 67% grant portion.
 - ü COG to use the District Extension Cap Tax (*approximately \$1,356,300*) for the 33% match.
 - ü The total project amount, when considering the 2017 grant, is \$4.11M.

Background and History (10 of 11)

Project	Funding	Water Service District Affected
Gillette Regional Extensions Phase III 2017	2017 HB 41 \$361,800 Grant PLUS 2018 HB 78 \$2,391,900 Amendment	American Road W&SD
		Freedom Hills I&SD
		Meadow Springs I&SD
		Crestview Estates I&SD
Gillette Regional Extensions Phase IV 2018	2018 HB 78 \$1,809,000 Grant	Fox Ridge I&SD
		Rozet Ranchettes I&SD
		Buckskin I&SD

\$4.2M Total Grant Funding affected by 2018 HB 78

Gillette Regional Extensions Status, July 2018



Project	Cost	Cost Summary		
		Grant (67%)	Cap Tax (33%)	Cap Tax Cumulative Total
Complete (Phase 1)	\$7,620,972.33	\$5,106,051.46	\$2,514,920.87	\$2,514,920.87
Funded (Phase 2)	\$2,337,647.20	\$1,566,223.62	\$771,423.58	\$3,286,344.45
Funding Pending (Phase 3)	\$4,089,613.25	\$2,740,040.88	\$1,349,572.37	\$4,635,916.82
Funding Pending (Phase 4)	\$2,694,842.00	\$1,805,544.14	\$889,297.86	\$5,525,214.68
Future Phases (No Funding)	\$28,569,687.35	\$19,141,690.53	\$9,427,996.82	\$14,953,211.50
Total	\$45,312,762.13	\$30,359,550.63	\$14,953,211.50	

Legend

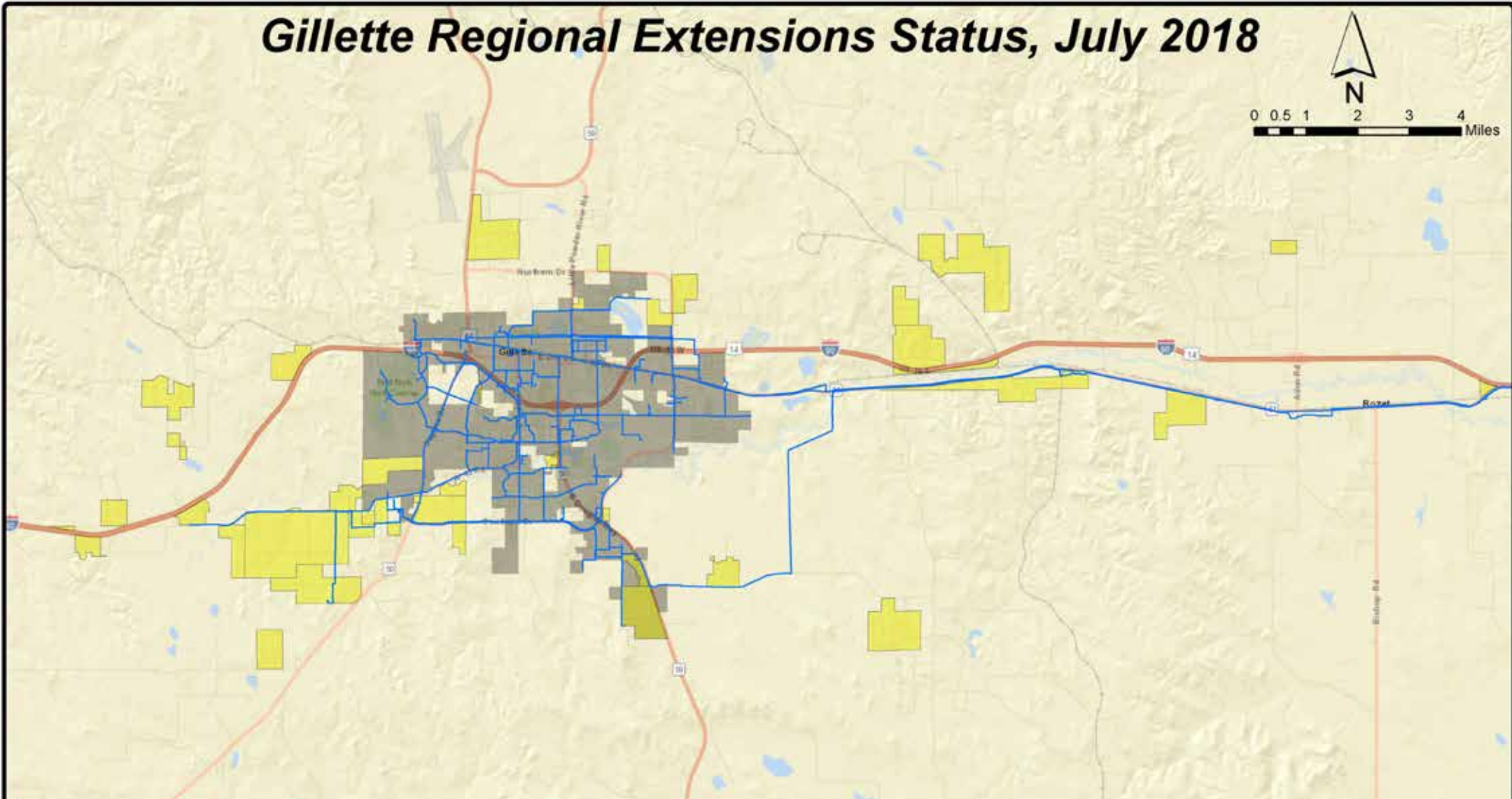
- City Distribution System
- City of Gillette

Sources: Esri, HERE, DeLorme, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), MapmyIndia, NGCC, © OpenStreetMap contributors, and the GIS User Community

Gillette Regional Extensions Status, July 2018



0 0.5 1 2 3 4 Miles



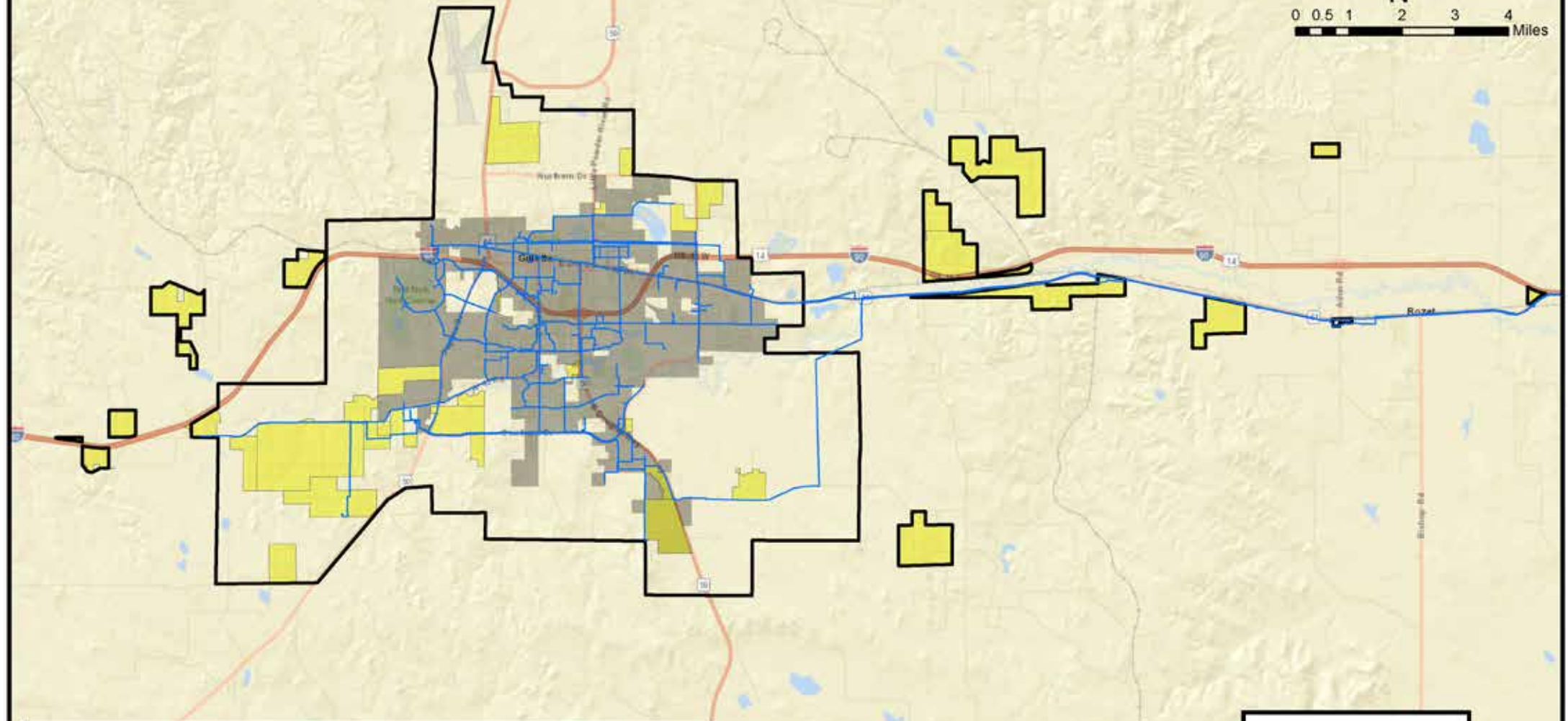
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Legend

- City Distribution System
- Water District
- City of Gillette

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Gillette Regional Extensions Status, July 2018



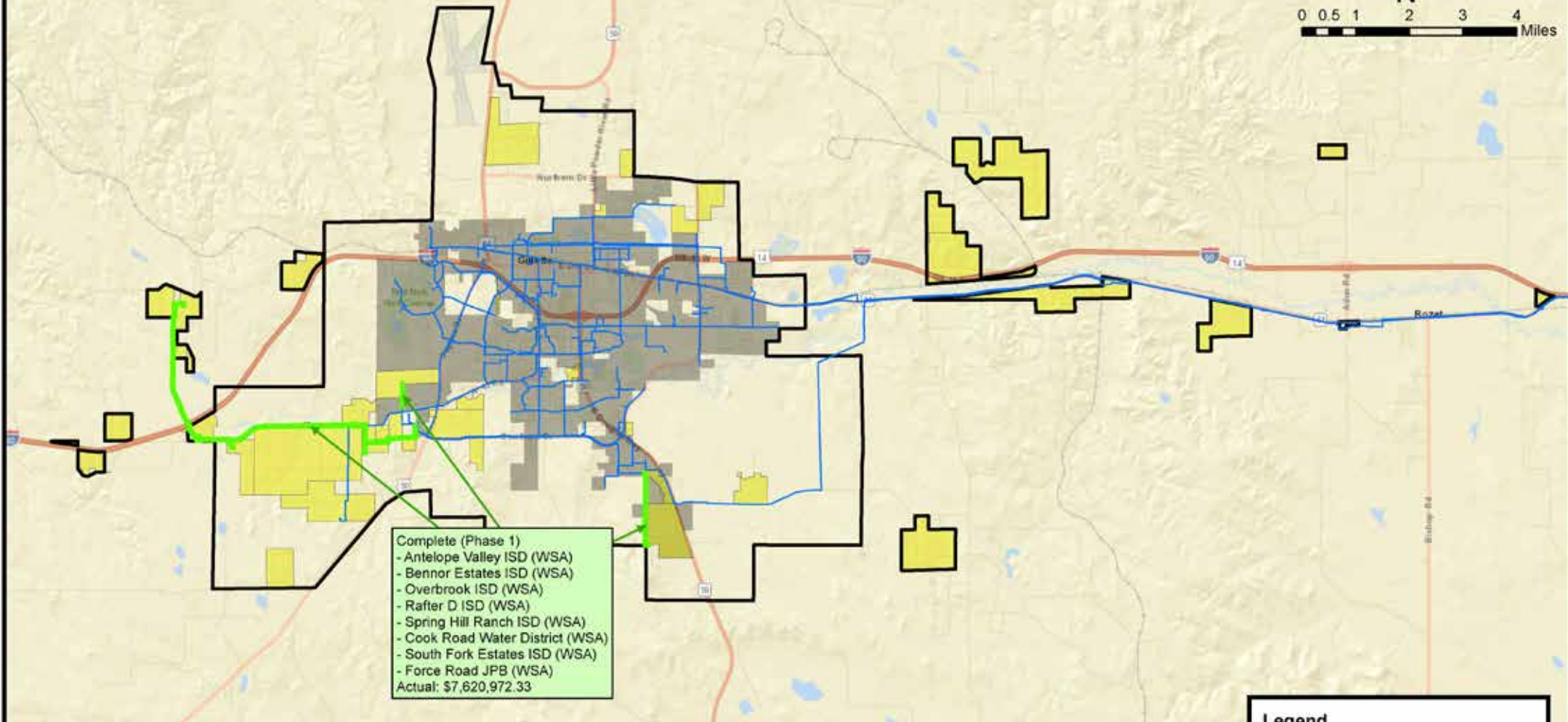
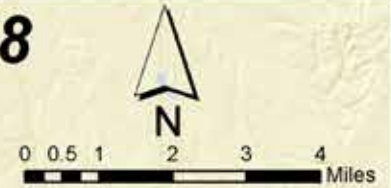
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Legend

- City Distribution System
- Designated Service Area
- Water District
- City of Gillette

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Gillette Regional Extensions Status, July 2018



Complete (Phase 1)
 - Antelope Valley ISD (WSA)
 - Bennor Estates ISD (WSA)
 - Overbrook ISD (WSA)
 - Rafter D ISD (WSA)
 - Spring Hill Ranch ISD (WSA)
 - Cook Road Water District (WSA)
 - South Fork Estates ISD (WSA)
 - Force Road JPB (WSA)
 Actual: \$7,620,972.33

Project	Cost Summary			
	Cost	Grant (67%)	Cap Tax (33%)	Cap Tax Cumulative Total
Complete (Phase 1)	\$7,620,972.33	\$5,106,051.46	\$2,514,920.87	\$2,514,920.87
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Legend

- Regional Water Phase 1 (Complete)
- City Distribution System
- Designated Service Area
- Water District
- City of Gillette

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Gillette Regional Extensions Status, July 2018



0 0.5 1 2 3 4 Miles

Funded (Phase 2)
 - Rock Road ISD (WSA)
 - Eight Mile ISD (WSA)
 - Stone Gate Estates ISD (WSA)
 Actual: \$2,337,647.20

Complete (Phase 1)
 - Antelope Valley ISD (WSA)
 - Bennor Estates ISD (WSA)
 - Overbrook ISD (WSA)
 - Rafter D ISD (WSA)
 - Spring Hill Ranch ISD (WSA)
 - Cook Road Water District (WSA)
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 - Force Road JPB (WSA)
 Actual: \$7,620,972.33

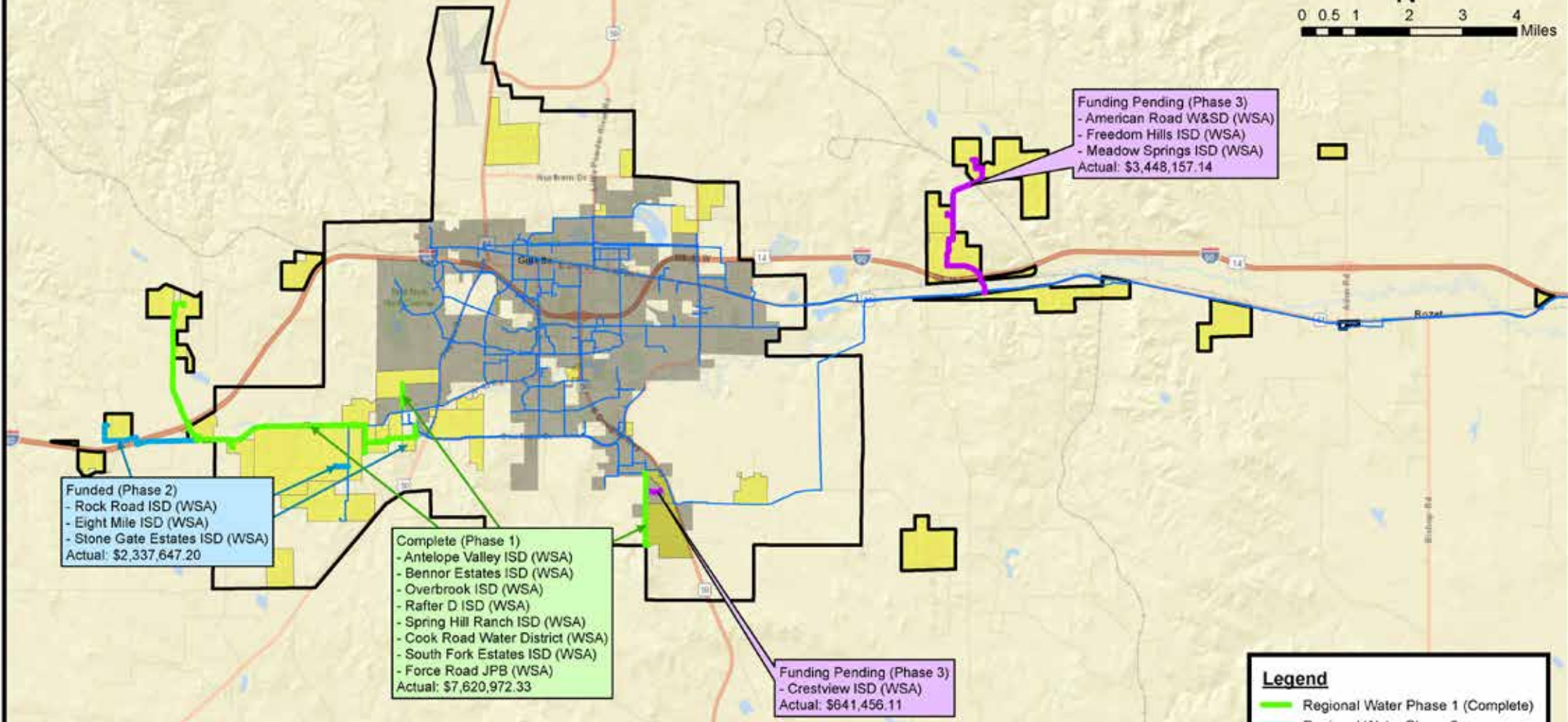
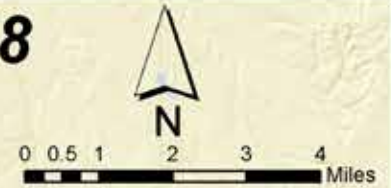
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Legend

- Regional Water Phase 1 (Complete)
- Regional Water Phase 2
- City Distribution System
- Designated Service Area
- Water District
- City of Gillette

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Gillette Regional Extensions Status, July 2018



Funded (Phase 2)
 - Rock Road ISD (WSA)
 - Eight Mile ISD (WSA)
 - Stone Gate Estates ISD (WSA)
 Actual: \$2,337,647.20

Complete (Phase 1)
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 - Bennor Estates ISD (WSA)
 - Overbrook ISD (WSA)
 - Rafter D ISD (WSA)
 - Spring Hill Ranch ISD (WSA)
 - Cook Road Water District (WSA)
 - South Fork Estates ISD (WSA)
 - Force Road JPB (WSA)
 Actual: \$7,620,972.33

Funding Pending (Phase 3)
 - American Road W&SD (WSA)
 - Freedom Hills ISD (WSA)
 - Meadow Springs ISD (WSA)
 Actual: \$3,448,157.14

Funding Pending (Phase 3)
 - Crestview ISD (WSA)
 Actual: \$641,456.11

Legend

- Regional Water Phase 1 (Complete)
- Regional Water Phase 2
- Regional Water Phase 3
- City Distribution System
- Designated Service Area
- Water District
- City of Gillette

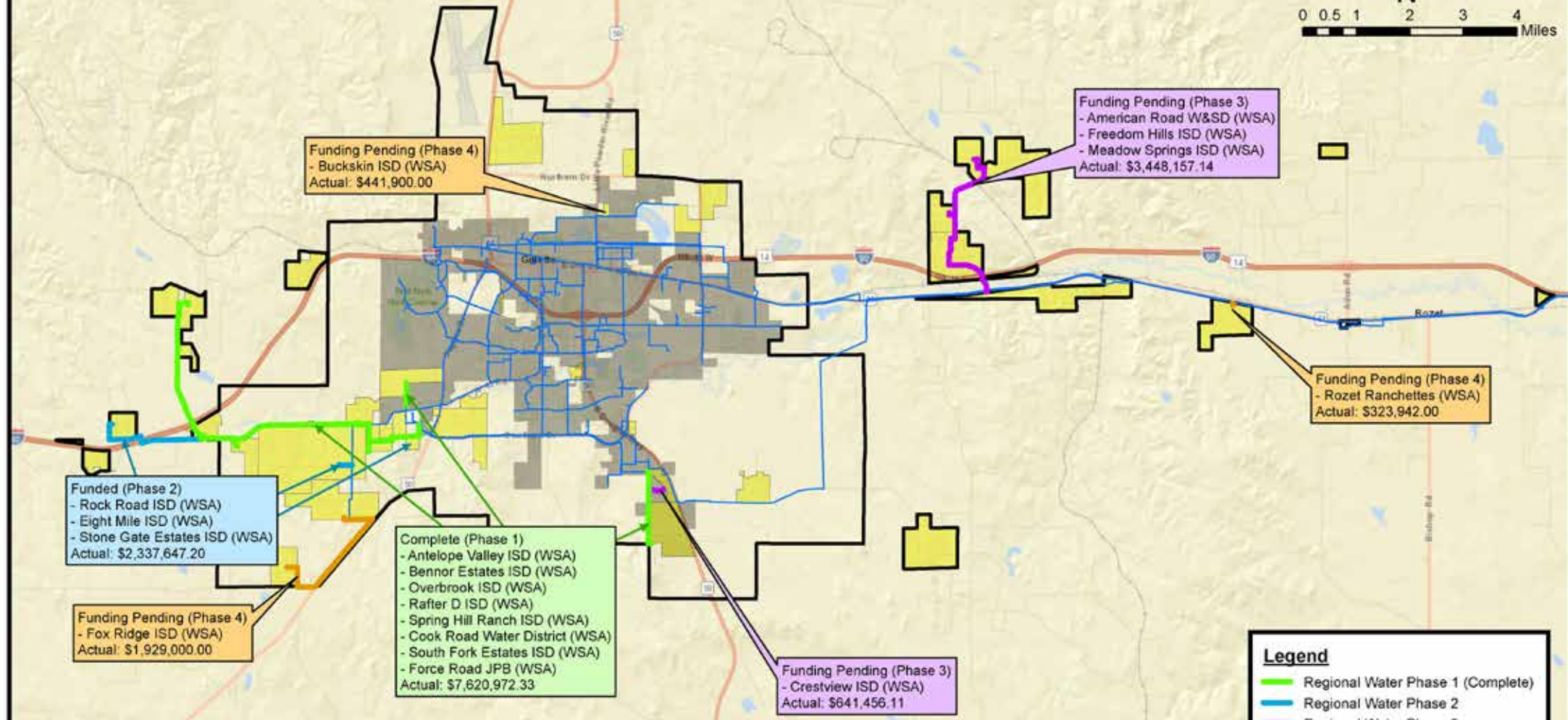
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Gillette Regional Extensions Status, July 2018



0 0.5 1 2 3 4 Miles



Funding Pending (Phase 4)
- Buckskin ISD (WSA)
Actual: \$441,900.00

Funding Pending (Phase 3)
- American Road W&SD (WSA)
- Freedom Hills ISD (WSA)
- Meadow Springs ISD (WSA)
Actual: \$3,448,157.14

Funding Pending (Phase 4)
- Rozel Ranchettes (WSA)
Actual: \$323,942.00

Funded (Phase 2)
- Rock Road ISD (WSA)
- Eight Mile ISD (WSA)
- Stone Gate Estates ISD (WSA)
Actual: \$2,337,647.20

Complete (Phase 1)
- Antelope Valley ISD (WSA)
- Bennor Estates ISD (WSA)
- Overbrook ISD (WSA)
- Rafter D ISD (WSA)
- Spring Hill Ranch ISD (WSA)
- Cook Road Water District (WSA)
- South Fork Estates ISD (WSA)
- Force Road JPB (WSA)
Actual: \$7,620,972.33

Funding Pending (Phase 3)
- Crestview ISD (WSA)
Actual: \$641,456.11

Funding Pending (Phase 4)
- Fox Ridge ISD (WSA)
Actual: \$1,929,000.00

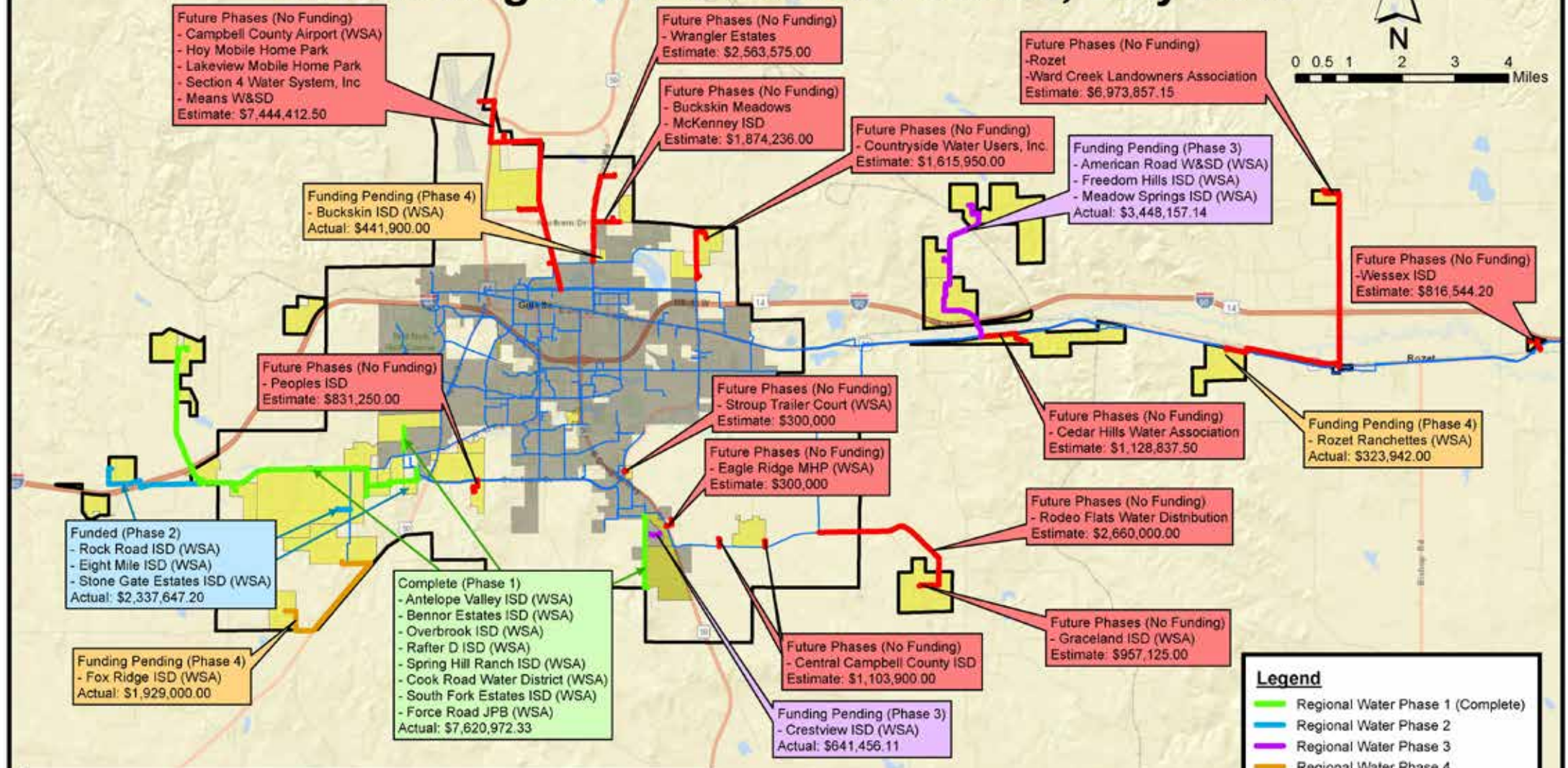
Legend

- Regional Water Phase 1 (Complete)
- Regional Water Phase 2
- Regional Water Phase 3
- Regional Water Phase 4
- City Distribution System
- Designated Service Area
- Water District
- City of Gillette

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Gillette Regional Extensions Status, July 2018



Future Phases (No Funding)
 - Campbell County Airport (WSA)
 - Hoy Mobile Home Park
 - Lakeview Mobile Home Park
 - Section 4 Water System, Inc
 - Means W&SD
 Estimate: \$7,444,412.50

Future Phases (No Funding)
 - Wrangler Estates
 Estimate: \$2,563,575.00

Future Phases (No Funding)
 - Rozet
 - Ward Creek Landowners Association
 Estimate: \$6,973,857.15

Future Phases (No Funding)
 - Buckskin Meadows
 - McKenney ISD
 Estimate: \$1,874,236.00

Future Phases (No Funding)
 - Countryside Water Users, Inc.
 Estimate: \$1,615,950.00

Funding Pending (Phase 3)
 - American Road W&SD (WSA)
 - Freedom Hills ISD (WSA)
 - Meadow Springs ISD (WSA)
 Actual: \$3,448,157.14

Funding Pending (Phase 4)
 - Buckskin ISD (WSA)
 Actual: \$441,900.00

Future Phases (No Funding)
 - Wessex ISD
 Estimate: \$816,544.20

Future Phases (No Funding)
 - Peoples ISD
 Estimate: \$831,250.00

Future Phases (No Funding)
 - Stroup Trailer Court (WSA)
 Estimate: \$300,000

Future Phases (No Funding)
 - Cedar Hills Water Association
 Estimate: \$1,128,837.50

Funding Pending (Phase 4)
 - Rozet Ranchettes (WSA)
 Actual: \$323,942.00

Future Phases (No Funding)
 - Eagle Ridge MHP (WSA)
 Estimate: \$300,000

Future Phases (No Funding)
 - Rodeo Flats Water Distribution
 Estimate: \$2,660,000.00

Funded (Phase 2)
 - Rock Road ISD (WSA)
 - Eight Mile ISD (WSA)
 - Stone Gate Estates ISD (WSA)
 Actual: \$2,337,647.20

Complete (Phase 1)
 - Antelope Valley ISD (WSA)
 - Bennor Estates ISD (WSA)
 - Overbrook ISD (WSA)
 - Rafter D ISD (WSA)
 - Spring Hill Ranch ISD (WSA)
 - Cook Road Water District (WSA)
 - South Fork Estates ISD (WSA)
 - Force Road JPB (WSA)
 Actual: \$7,620,972.33

Future Phases (No Funding)
 - Central Campbell County ISD
 Estimate: \$1,103,900.00

Future Phases (No Funding)
 - Graceland ISD (WSA)
 Estimate: \$957,125.00

Funding Pending (Phase 4)
 - Fox Ridge ISD (WSA)
 Actual: \$1,929,000.00

Funding Pending (Phase 3)
 - Crestview ISD (WSA)
 Actual: \$641,456.11

Legend

- Regional Water Phase 1 (Complete)
- Regional Water Phase 2
- Regional Water Phase 3
- Regional Water Phase 4
- Regional Water Future
- City Distribution System
- Designated Service Area
- Water District
- City of Gillette

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Sources: Esri, HERE, DeLorme, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), MapmyIndia, NGCC, © OpenStreetMap contributors, and the GIS User Community

Background and History (11 of 11)

The 2018 Wyoming Legislature approved the grant funding for the previously mentioned regional extension projects ("Grant Legislation"), but added the following condition(s) ("Driskill Amendment") to both projects at the end of the legislative session:

" D. SPONSOR shall allow for domestic, livestock and miscellaneous water use for applicants in Crook County applying for taps from existing eight (8) inch transmission lines as provided in this subsection. The eight (8) inch transmission line may be extended by Crook County, or by water districts in Crook County, to allow for taps. Not more than two hundred (200) taps shall be allowed. Taps shall be installed within one hundred eighty (180) days of receipt of a complete application and fees which shall not exceed the residential rate for tap fees. Taps shall be billed at a rate equal to the local base residential rate charged by the regional water system regardless of use of location plus the local consumption rate. The maximum consumption from any one (1) tap shall not exceed one million (1,000,000) gallons per year.

E. SPONSOR shall apply for all necessary permits to allow for domestic, livestock and miscellaneous use of Gillette Madison pipeline water in Crook County."

("Driskill Amendment")

The Driskill Amendment is incompatible with the Grant Legislation; existing Madison agreements and amendments; and contrary to Wyoming law, as more fully described in the following slides.

Concerns (1 of 8) – *Conflicts w/ State Statutes*

The City has full authority and control of the Madison Project. The City is charged with providing water services, as well as constructing, purchasing, extending, maintaining, and regulating the Madison. As such, the City must charge the users of the Madison to pay for the above services. See *Coulter v. City of Rawlins*, 662 P.2d 888, 888-900 (1983).

The City may enter into water service agreements outside the corporate limits as contemplated in the provision of the grant legislation above. Under Wyoming law, the City is specifically authorized to charge customers outside the corporate limits:

- 1) *A one-time connection fee reasonably calculated to permit recovery of a proportionate share of the City's infrastructure cost necessary to treat and convey the water;*
- 2) *A one-time fee to recover reasonable expenses incurred by the City in determining the actual costs of treating and delivering water to the point of connection; and*
- 3) *Any charges for special services such as customer's line maintenance.*

The above charges are in addition to the water rates. See WYO. STAT. § 15-7-602(a)₂₃

Concerns (1 of 8) – *Conflicts w/ State Statutes*

The water rate is limited to the actual costs of providing and delivering water. The *“actual costs of providing and delivering water”* shall include a proportionate share of the following costs:

- (A) Fees, interest charges and principal payments on all bonds issued and other indebtedness incurred to construct, purchase or improve the utility;*
- (B) Salaries and wages of employees;*
- (C) The cost of materials, supplies, utilities and outside services;*
- (D) Other costs directly related to the delivery system;*
- (E) The cost for providing and maintaining a depreciation fund, a fund for emergencies and a fund for acquisition and development of new water rights and water sources;*
- (F) Administrative and overhead expenses; and*
- (G) The cost of acquiring, transporting, processing and treating water.*

WYO. STAT. §§ 15-7-602(a)(i)-(ii).

Concerns (1 of 8) – *Conflicts w/ State Statutes*

The Driskill Amendment is contrary to the stated purpose of the Madison Project. The Omnibus Water Bill states,

"[t]he designated project purposes are municipal and rural domestic water supply."

WYO. STAT. § 99-3-2302(b)(ii).

The Driskill Amendment specifically contemplates other uses:

"[s]ponsor shall allow for domestic, livestock and miscellaneous water use for applicants in Crook County."

- The Driskill Amendment and corresponding proposed agreements with the WWDC limit the rates and fees the City is authorized to charge customers outside the corporate limits for water; and contradicts the stated purpose of the Madison Project in the Omnibus Water Bill.
- The State Legislature should revise the amendment to comply with Wyoming law.

Concerns (2 of 8) – *Conflicts w/ Prior Agmts*

- The proposed use of the water for “*Livestock and Miscellaneous*” water use directly conflicts with the “*Municipal*” and “*Rural Domestic*” water use(s) as defined within our [Project Agreement](#) for the Gillette Madison Pipeline Project that was executed between the COG and WWDC in 2009.
- If the COG were to execute the WWDC Grant Funding Agreement and Amendment for the latest regional extensions, the COG will be subjected to re-pay the \$145M grant that we have secured for the Gillette Madison Pipeline project, in addition to any other WWDC Grant Funds that COG has accepted for City water transmission supply, storage and transmission projects during the past 30 years.
- These projects might include: the re-drill of the Ft Union Wells in 2010; construction of water storage tanks in the early 2000’s at Southern Drive and Hidden Valley; construction of Water Wells M9 and M10 in the 1990’s; among other WWDC-funded projects.

Concerns (2 of 8) – *Conflicts w/ Prior Agmts*

The conflicting language for the Gillette Madison Pipeline Project is as follows:

“ V. The loan and grant are subject to the following conditions regarding management of the completed PROJECT, restrictions on the sale of water, restrictions on the sale of the PROJECT, and loan repayment:

(1) There shall be no lease, sale, assignment or transfer of ownership of water from the PROJECT for purposes other than the SPONSOR’s municipal and rural domestic use as determined by the COMMISSION in its sole and absolute discretion without written prior approval of the COMMISSION and approval of the State Engineer or Board of Control. If such a transaction is approved, the revenues generated by the lease, sale, assignment, or transfer or ownership of water from the PROJECT shall be utilized to retire principal on the loan described in Section 4.A.(2) of this agreement. After that loan is paid in full the SPONSOR shall receive thirty-three percent (33%) of the revenues generated by the lease, sale, assignment or transfer of ownership of water from the PROJECT for purposes other than municipal and rural domestic use and the State of Wyoming shall receive sixty-seven percent (67%) of the revenues generated by the lease, sale, assignment or transfer of ownership of water from the PROJECT. If the SPONSOR has any pre-existing contracts or commitments for the sale of water which might apply to these conditions, the SPONSOR shall submit evidence of such commitments to the COMMISSION within ten (10) days of the execution of this Agreement for review and declaration of exemption.”

Ironically, this same language is also included within the new Agreement for the District Extension(s) Projects that we recently received with the conflicting Crook County Livestock and Miscellaneous use language.

Concerns (3 of 8) – *No Water Available*

As a practical matter, which is separate and distinct from the various other issues with the Driskill Amendment, the City of Gillette simply DOES NOT have the water to provide Crook County residents requesting new service until our Madison Wells M11-M15 are complete and operational.

Concerns (4 of 8) – *Did not plan for 200 taps*

- Based on the prior Level I planning study that was performed by HDR and funded by the WWDC, the design for the City's new well field and pipeline *DID NOT ANTICIPATE* 200 new water tap connections using over 200 million gallons of water per year.
- The City's new water supply from the five new wells will support 7,000 gallons per minute when running simultaneously.
- If all five new wells run 24 hours per day, 365 days per year, this total capacity is 3,680 million gallons of water per year.
- By executing the Agreement/Amendment with the Crook County water condition(s), the City will instantly lose available capacity from the new water supply that was not anticipated in the original planning studies or included in the final design.

Concerns (5 of 8) – *No skin in the game*

- Unlike many Campbell County residents who reside in the COG or a legally-established Water District, residents in Crook County requesting water from one of the 200 taps have not established a water district and they have not paid into the project to acquire this desirable water supply.
- Campbell County residents will subsidize a new water system for Livestock and Miscellaneous uses for 200 new taps in Crook County.
- Campbell County residents cannot enjoy similar Livestock and Miscellaneous uses.

Concerns (6 of 8) – *Conflicts with JPA*

- The condition(s) within the Agreement/Amendment conflict with language within the [Regional Water Joint Powers Agreement](#).
- The JPA carefully describes the rate-making process for the Wholesale component of the City's Water Rates.
- It appears that the proposed condition(s) will conflict with the Regional Water Panel's ability to establish Wholesale water rates.

Concerns (7 of 8) – *Conflicts with WSA's*

- The condition(s) within the Agreement/Amendment directly conflicts with language in the executed “Water Service Agreements” (WSA's) for water districts and individuals in both Campbell County and Crook County.
- These WSA's specifically state that the water shall only be used for municipal and rural domestic purposes.

Concerns (8 of 8) – *Campbell County Funding*

- The Driskill Amendment is inconsistent with the requirements of the Campbell County specific purpose excise tax (“CAP TAX”).
- Wyoming law requires that the funds from the Cap Tax, *“be used in a specified amount for specific purposes authorized by the qualified electors.”* WYO. STAT. § 39-15-203(a)(iii)(B).
- The Resolution authorizing the Cap Tax does not contemplate providing water service in any form to Crook County residents.
- The Driskill Amendment is contrary to WYO. STAT. § 39-15-203, the City could not utilize the Cap Tax to fund any of the requirements of the Amendment.
- If the City signed the agreement with WWDC, the City would be required to pay from a source other than the Cap Tax approximately one third (1/3), or over \$1.5 million dollars, to fund 33% of the infrastructure costs to provide stock water to 200 taps for citizens of Crook County.

City Staff Recommendation

- Because the Grant Legislation and the Driskill amendment is not applicable to the City unless it accepts the funds by executing the WWDC Grant Funding Agreement and Amendment for the Regional Water Extension Project, City Staff recommended that the Governing Body of the City of Gillette *“not execute”* the WWDC Grant Funding Agreement and Amendment for the Regional Water Extension Project. This recommendation was based on the following:
 - *The City does not have the capacity to provide an additional 200,000,000 gallons per year.*
 - *The Driskill Amendment conflicts with Wyoming law, prior studies, agreements and policies enacted, performed, executed and implemented for the Gillette Regional Water System.*

Council Action

- Based on recommendations from the City Staff, the Governing Body of the City of Gillette prepared a letter and submitted it to affected State Agency Directors and State Elected Officials on June 15, 2018 during the Select Water Committee Meeting in Pinedale.
- The June 15, 2018, letter indicated that the City cannot execute the WWDC Grant Funding Agreement and Amendment for the Regional Water Extension Project, because of the conflicting 2018 grant funding legislation and the Driskill Amendment.
- *The City of Gillette looks forward to working with the effected State Agencies, the State Legislature, and State Elected and Appointed Officials to remove the Driskill Amendment from the Grant Funding legislation; or help pass the 2019 Omnibus Water Bill with a provision to remove the 2018 Amendment.*

2018 Regional Water Extensions WWDC Grant Funding Agreements

City of Gillette
City Council Workshop
July 24, 2018

Available at www.gillettewy.gov/gpa/

