

IN THE WATER COURT OF THE STATE OF MONTANA
UPPER MISSOURI DIVISION
GALLATIN RIVER BASIN (41H)
PRELIMINARY DECREE

* * * * *

CLAIMANTS: Kughen Ditch Company Inc.

NOTICE OF INTENT TO APPEAR: Four Corners County
Water & Sewer District

CASE: 41H-0302-R-2021

41H 7040-00

41H 7041-00

41H 7042-00

41H 7043-00

41H 7044-00

41H 7045-00

41H 7046-00

NOTICE OF FILING OF MASTER'S REPORT

This Master's Report was filed with the Clerk of the Montana Water Court. Please review this Report carefully.

You may file a written objection to this Master's Report if you disagree or find errors with the Master's Findings of Fact, Conclusions of Law, or Recommendations. The above stamped date indicates the date this Master's Report was filed and mailed. Rule 23 of the Water Right Adjudication Rules requires written objections to a Master's Report be filed within 10 days of the date of the Master's Report. Because this Master's Report was mailed to you, Rule 6(d) of the Montana Rules of Civil Procedure provides an additional 3 days to the 10-day objection period.

If you file an objection, you must mail a copy of the objection to all parties on the Service List found at the end of this Master's Report. The original objection and a certificate of mailing to all parties on the Service List must be filed with the Water Court.

If you do not file a timely objection, the Water Court will conclude that you agree with the content of this Master's Report.

MASTER'S REPORT

FINDINGS OF FACT

1. Kughen Ditch Company Inc. (Kughen Ditch) claims 41H 7040-00, 41H 7041-00, 41H 7042-00, 41H 7043-00, 41H 7044-00, 41H 7045-00, and 41H 7046-00 were decreed with the following DNRC issue remark:

A LATE OBJECTION HAS BEEN FILED TO THE ACRES IRRIGATED AND PLACE OF USE OF THIS WATER RIGHT CLAIM. IT WILL BE RESOLVED DURING THE ADJUDICATION OF OBJECTIONS TO THE PRELIMINARY DECREE.

Claims 41H 7045-00 and 41H 7056-00 were also decreed with a remark indicating:

THE PERIOD OF USE OF THIS RIGHT WAS EXTENDED BY CLAIMANT'S AMENDMENT AFTER ISSUANCE OF THE TEMPORARY PRELIMINARY DECREE. ANY OBJECTIONS TO THIS EXTENSION MAY BE FILED AT THE PRELIMINARY DECREE STAGE.

2. On July 26, 1994, George Alberda filed an Affidavit on behalf of the Kughen Ditch indicating if the place of use is changed to include an additional 15.00 acres in the SESW of Section 10, Township 2 South, Range 4 East, Gallatin County, Kughen Ditch's Late Objection will be resolved. The proposed change would increase the maximum acres from 5,000.00 acres to 5,015.00 acres.

3. Four Corners County Water & Sewer District (Four Corners) filed Notices of Intent to Appear for claims 41H 7040-00, 41H 7041-00, 41H 7042-00, 41H 7043-00, 41H 7044-00 and 41H 7045-00.

4. An Order Setting Filing Deadline was issued ordering Kughen Ditch to file a statement indicating whether adding an additional 15.00 acres in the SESW of Section 10, Township 2 South, Range 4 East, Gallatin County to each of the claims in this Case resolves the Late Objections. The Order also set a deadline for Four Corners to file a statement indicating how it intends to prosecute the Notices of Intent to Appear. The Order indicated that if nothing is filed by the deadline, this Master would conclude Kughen Ditch agrees with the proposed changes and Four Corners does not intend to

pursue the Notices of Intent to Appear. The following language was included in the Order:

Failure to comply with the terms of this Order may result in sanctions, up to and including entry of default and termination of a water right claim or dismissal of objections. Rule 22, W.R.Adj.R.

5. On June 23, 2021, Four Corners filed a Statement:

The District does not oppose the water rights in this case being corrected to add 15.00 acre in the SESW of Section 10, Township 2 South, Range 4 East, Gallatin County. Should the Ditch Company seek additional modifications be made to the claims, the District will evaluate these modifications and determine whether it will prosecute the modifications.

6. Nothing was filed by Kughen Ditch.

PRINCIPLES AND CONCLUSIONS OF LAW

1. The Water Court is required to address all issue remarks that appear on a claim as well as any objections the claim receives. Sections 85-2-233, 85-2-247, and 85-2-248, MCA.

2. A properly filed Statement of Claim for an existing water right is prima facie proof of its content. Section 85-2-227, MCA. This prima facie validity may be overcome by evidence showing that one or more elements of the claim are incorrect. This standard of proof applies to objectors or claimants objecting to their own water right claims. Rule 19, W.R.Adj.R.; *Nelson v. Brooks*, 2014 MT 120, 375 Mont.86, 95, 329 P.3d 558, 564.

3. Pursuant to Rule 22, W.R.Adj.R., if a claimant, objector, or intervenor fails to appear at a scheduled conference or hearing or fails to comply with an order issued by the Water Court, the Water Court may issue such orders of sanction with regard thereto as are just.

Kughen Ditch failed to respond to this Master's April 20, 2021 Order, indicating agreement with the proposed changes.

4. The period of use issue remark appearing on claims 41H 7045-00 and 41H 7046-00 are notice-type issue remarks. As no objections were filed, no further proceedings are required.

RECOMMENDATIONS

1. The maximum acres and place of use for the claims in this case should be changed to include an additional 15.00 acres in the SESW of Section 10, Township 2 South, Range 4 East, Gallatin County, increasing the maximum acres from 5,000.00 acres to 5,015.00 acres.

2. The issue remarks should be removed from the claims.

3. The Notices of Intent to Appear filed by Four Corners should be dismissed as resolved.

Post Decree Abstracts of Water Right Claims are served with the Report to confirm that the recommended changes have been made in the DNRC's water rights database.

Anika M. Stern
Senior Water Master

Service via USPS Mail:

Kughen Ditch Company Inc.
C/O George Alberda
27027 Norris Rd
Bozeman, MT 59718

Susan B. Swimley
1807 West Dickerson St.
Bozeman, MT 59715

Service Via Electronic Mail:

Dana Pepper
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(406) 599-7424
bina@riverandrangelaw.com
dana@riverandrangelaw.com
office@riverandrangelaw.com

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
GALLATIN RIVER
BASIN 41H**

Water Right Number: 41H 7040-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: KUGHEN DITCH CO INC
% GEORGE ALBERDA
27027 NORRIS RD
BOZEMAN, MT 59718

Priority Date: JUNE 1, 1874

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 8.20 CFS

COMBINED FLOW RATE FOR CLAIMS NO. 41H 7040-00, 41H 7041-00, 41H 7042-00, 41H 7043-00, 41H 7044-00, 41H 7045-00, 41H 7046-00 IS LIMITED TO THE HISTORIC CAPACITY OF THE DIVERSION STRUCTURE AND CONVEYANCE SYSTEM.

***Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 5,015.00

Source Name: WEST GALLATIN RIVER

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSEW	23	2S	4E	GALLATIN

***Period of Diversion:** APRIL 1 TO NOVEMBER 1

Diversion Means: HEADGATE

Ditch Name: KUGHEN DITCH

***Period of Use:** APRIL 1 TO NOVEMBER 1

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	292.00		E2	13	1S	3E	GALLATIN
2	5.00		SESW	13	1S	3E	GALLATIN
3	14.00		SWNW	18	1S	4E	GALLATIN
4	12.00		SWSE	18	1S	4E	GALLATIN
5	147.00		SW	18	1S	4E	GALLATIN
6	469.00			19	1S	4E	GALLATIN
7	60.00		S2NW	20	1S	4E	GALLATIN
8	295.00		S2	20	1S	4E	GALLATIN

9	40.00	SWNW	21	1S	4E	GALLATIN
10	40.00	SWSE	21	1S	4E	GALLATIN
11	160.00	SW	21	1S	4E	GALLATIN
12	3.00	NWNW	27	1S	4E	GALLATIN
13	8.00	SWNW	27	1S	4E	GALLATIN
14	70.00	W2SW	27	1S	4E	GALLATIN
15	574.00		28	1S	4E	GALLATIN
16	286.00	E2	29	1S	4E	GALLATIN
17	32.00	NENW	29	1S	4E	GALLATIN
18	7.00	NWNW	29	1S	4E	GALLATIN
19	20.00	SENW	29	1S	4E	GALLATIN
20	241.00	N2	32	1S	4E	GALLATIN
21	635.00		33	1S	4E	GALLATIN
22	266.00	W2	34	1S	4E	GALLATIN
23	100.00	NE	3	2S	4E	GALLATIN
24	80.00	SE	3	2S	4E	GALLATIN
25	315.00	W2	3	2S	4E	GALLATIN
26	160.00	NE	4	2S	4E	GALLATIN
27	90.00	NW	4	2S	4E	GALLATIN
28	125.00	SE	4	2S	4E	GALLATIN
29	35.00	E2NE	9	2S	4E	GALLATIN
30	53.00	W2NE	10	2S	4E	GALLATIN
31	156.00	NW	10	2S	4E	GALLATIN
32	75.00	W2SE	10	2S	4E	GALLATIN
33	53.00	E2SW	10	2S	4E	GALLATIN
34	10.00	NWSW	10	2S	4E	GALLATIN
35	15.00	SESW	10	2S	4E	GALLATIN
36	6.00	SWNW	14	2S	4E	GALLATIN
37	35.00	NENE	15	2S	4E	GALLATIN
38	3.00	NWNE	15	2S	4E	GALLATIN
39	28.00	SENE	15	2S	4E	GALLATIN
Total:	<hr/> 5,015.00					

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
GALLATIN RIVER
BASIN 41H**

Water Right Number: 41H 7041-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: KUGHEN DITCH CO INC
% GEORGE ALBERDA
27027 NORRIS RD
BOZEMAN, MT 59718

Priority Date: AUGUST 25, 1885

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 1.50 CFS

COMBINED FLOW RATE FOR CLAIMS NO. 41H 7040-00, 41H 7041-00, 41H 7042-00, 41H 7043-00, 41H 7044-00, 41H 7045-00, 41H 7046-00 IS LIMITED TO THE HISTORIC CAPACITY OF THE DIVERSION STRUCTURE AND CONVEYANCE SYSTEM.

***Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 5,015.00

Source Name: WEST GALLATIN RIVER

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSEW	23	2S	4E	GALLATIN

***Period of Diversion:** APRIL 1 TO NOVEMBER 1

Diversion Means: HEADGATE

Ditch Name: KUGHEN DITCH

***Period of Use:** APRIL 1 TO NOVEMBER 1

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	292.00		E2	13	1S	3E	GALLATIN
2	5.00		SESW	13	1S	3E	GALLATIN
3	14.00		SWNW	18	1S	4E	GALLATIN
4	147.00		SW	18	1S	4E	GALLATIN
5	12.00		SWSE	18	1S	4E	GALLATIN
6	469.00			19	1S	4E	GALLATIN
7	60.00		S2NW	20	1S	4E	GALLATIN
8	295.00		S2	20	1S	4E	GALLATIN

9	40.00	SWNW	21	1S	4E	GALLATIN
10	160.00	SW	21	1S	4E	GALLATIN
11	40.00	SWSE	21	1S	4E	GALLATIN
12	3.00	NWNW	27	1S	4E	GALLATIN
13	8.00	SWNW	27	1S	4E	GALLATIN
14	70.00	W2SW	27	1S	4E	GALLATIN
15	574.00		28	1S	4E	GALLATIN
16	286.00	E2	29	1S	4E	GALLATIN
17	32.00	NENW	29	1S	4E	GALLATIN
18	7.00	NWNW	29	1S	4E	GALLATIN
19	20.00	SENW	29	1S	4E	GALLATIN
20	241.00	N2	32	1S	4E	GALLATIN
21	635.00		33	1S	4E	GALLATIN
22	266.00	W2	34	1S	4E	GALLATIN
23	100.00	NE	3	2S	4E	GALLATIN
24	315.00	W2	3	2S	4E	GALLATIN
25	80.00	SE	3	2S	4E	GALLATIN
26	160.00	NE	4	2S	4E	GALLATIN
27	90.00	NW	4	2S	4E	GALLATIN
28	125.00	SE	4	2S	4E	GALLATIN
29	35.00	E2NE	9	2S	4E	GALLATIN
30	75.00	W2SE	10	2S	4E	GALLATIN
31	53.00	W2NE	10	2S	4E	GALLATIN
32	156.00	NW	10	2S	4E	GALLATIN
33	53.00	E2SW	10	2S	4E	GALLATIN
34	10.00	NWSW	10	2S	4E	GALLATIN
35	6.00	SWNW	14	2S	4E	GALLATIN
36	35.00	NENE	15	2S	4E	GALLATIN
37	3.00	NWNE	15	2S	4E	GALLATIN
38	28.00	SENE	15	2S	4E	GALLATIN
39	15.00	SESW	10	2S	4E	GALLATIN
Total:	<hr/> 5,015.00					

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
GALLATIN RIVER
BASIN 41H**

Water Right Number: 41H 7042-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: KUGHEN DITCH CO INC
% GEORGE ALBERDA
27027 NORRIS RD
BOZEMAN, MT 59718

Priority Date: JUNE 1, 1886

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 10.00 CFS

COMBINED FLOW RATE FOR CLAIMS NO. 41H 7040-00, 41H 7041-00, 41H 7042-00, 41H 7043-00, 41H 7044-00, 41H 7045-00, 41H 7046-00 IS LIMITED TO THE HISTORIC CAPACITY OF THE DIVERSION STRUCTURE AND CONVEYANCE SYSTEM.

***Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 5,015.00

Source Name: WEST GALLATIN RIVER

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSEW	23	2S	4E	GALLATIN

***Period of Diversion:** APRIL 1 TO NOVEMBER 1

Diversion Means: HEADGATE

Ditch Name: KUGHEN DITCH

***Period of Use:** APRIL 1 TO NOVEMBER 1

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	292.00		E2	13	1S	3E	GALLATIN
2	5.00		SESW	13	1S	3E	GALLATIN
3	14.00		SWNW	18	1S	4E	GALLATIN
4	12.00		SWSE	18	1S	4E	GALLATIN
5	147.00		SW	18	1S	4E	GALLATIN
6	469.00			19	1S	4E	GALLATIN
7	60.00		S2NW	20	1S	4E	GALLATIN
8	295.00		S2	20	1S	4E	GALLATIN

9	40.00	SWNW	21	1S	4E	GALLATIN
10	40.00	SWSE	21	1S	4E	GALLATIN
11	160.00	SW	21	1S	4E	GALLATIN
12	3.00	NWNW	27	1S	4E	GALLATIN
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14	70.00	W2SW	27	1S	4E	GALLATIN
15	574.00		28	1S	4E	GALLATIN
16	286.00	E2	29	1S	4E	GALLATIN
17	32.00	NENW	29	1S	4E	GALLATIN
18	7.00	NWNW	29	1S	4E	GALLATIN
19	20.00	SENW	29	1S	4E	GALLATIN
20	241.00	N2	32	1S	4E	GALLATIN
21	635.00		33	1S	4E	GALLATIN
22	266.00	W2	34	1S	4E	GALLATIN
23	100.00	NE	3	2S	4E	GALLATIN
24	80.00	SE	3	2S	4E	GALLATIN
25	315.00	W2	3	2S	4E	GALLATIN
26	160.00	NE	4	2S	4E	GALLATIN
27	90.00	NW	4	2S	4E	GALLATIN
28	125.00	SE	4	2S	4E	GALLATIN
29	35.00	E2NE	9	2S	4E	GALLATIN
30	53.00	W2NE	10	2S	4E	GALLATIN
31	156.00	NW	10	2S	4E	GALLATIN
32	75.00	W2SE	10	2S	4E	GALLATIN
33	53.00	E2SW	10	2S	4E	GALLATIN
34	10.00	NWSW	10	2S	4E	GALLATIN
35	15.00	SESW	10	2S	4E	GALLATIN
36	6.00	SWNW	14	2S	4E	GALLATIN
37	35.00	NENE	15	2S	4E	GALLATIN
38	3.00	NWNE	15	2S	4E	GALLATIN
39	28.00	SENE	15	2S	4E	GALLATIN
Total:	<u>5,015.00</u>					

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
GALLATIN RIVER
BASIN 41H**

Water Right Number: 41H 7043-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: KUGHEN DITCH CO INC
% GEORGE ALBERDA
27027 NORRIS RD
BOZEMAN, MT 59718

Priority Date: JUNE 1, 1889

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 2.45 CFS

COMBINED FLOW RATE FOR CLAIMS NO. 41H 7040-00, 41H 7041-00, 41H 7042-00, 41H 7043-00, 41H 7044-00, 41H 7045-00, 41H 7046-00 IS LIMITED TO THE HISTORIC CAPACITY OF THE DIVERSION STRUCTURE AND CONVEYANCE SYSTEM.

***Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 5,015.00

Source Name: WEST GALLATIN RIVER

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSEW	23	2S	4E	GALLATIN

***Period of Diversion:** APRIL 1 TO NOVEMBER 1

Diversion Means: HEADGATE

Ditch Name: KUGHEN DITCH

***Period of Use:** APRIL 1 TO NOVEMBER 1

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	292.00		E2	13	1S	3E	GALLATIN
2	5.00		SESW	13	1S	3E	GALLATIN
3	14.00		SWNW	18	1S	4E	GALLATIN
4	147.00		SW	18	1S	4E	GALLATIN
5	12.00		SWSE	18	1S	4E	GALLATIN
6	469.00			19	1S	4E	GALLATIN
7	60.00		S2NW	20	1S	4E	GALLATIN
8	295.00		S2	20	1S	4E	GALLATIN

9	40.00	SWNW	21	1S	4E	GALLATIN
10	160.00	SW	21	1S	4E	GALLATIN
11	40.00	SWSE	21	1S	4E	GALLATIN
12	3.00	NWNW	27	1S	4E	GALLATIN
13	8.00	SWNW	27	1S	4E	GALLATIN
14	70.00	W2SW	27	1S	4E	GALLATIN
15	574.00		28	1S	4E	GALLATIN
16	286.00	E2	29	1S	4E	GALLATIN
17	32.00	NENW	29	1S	4E	GALLATIN
18	7.00	NWNW	29	1S	4E	GALLATIN
19	20.00	SENW	29	1S	4E	GALLATIN
20	241.00	N2	32	1S	4E	GALLATIN
21	635.00		33	1S	4E	GALLATIN
22	266.00	W2	34	1S	4E	GALLATIN
23	100.00	NE	3	2S	4E	GALLATIN
24	315.00	W2	3	2S	4E	GALLATIN
25	80.00	SE	3	2S	4E	GALLATIN
26	160.00	NE	4	2S	4E	GALLATIN
27	90.00	NW	4	2S	4E	GALLATIN
28	125.00	SE	4	2S	4E	GALLATIN
29	35.00	E2NE	9	2S	4E	GALLATIN
30	75.00	W2SE	10	2S	4E	GALLATIN
31	53.00	W2NE	10	2S	4E	GALLATIN
32	156.00	NW	10	2S	4E	GALLATIN
33	53.00	E2SW	10	2S	4E	GALLATIN
34	10.00	NWSW	10	2S	4E	GALLATIN
35	6.00	SWNW	14	2S	4E	GALLATIN
36	35.00	NENE	15	2S	4E	GALLATIN
37	3.00	NWNE	15	2S	4E	GALLATIN
38	28.00	SENE	15	2S	4E	GALLATIN
39	15.00	SESW	10	2S	4E	GALLATIN
Total:	<u>5,015.00</u>					

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
GALLATIN RIVER
BASIN 41H**

Water Right Number: 41H 7044-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: KUGHEN DITCH CO INC
% GEORGE ALBERDA
27027 NORRIS RD
BOZEMAN, MT 59718

Priority Date: JUNE 1, 1890

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 2.40 CFS

COMBINED FLOW RATE FOR CLAIMS NO. 41H 7040-00, 41H 7041-00, 41H 7042-00, 41H 7043-00, 41H 7044-00, 41H 7045-00, 41H 7046-00 IS LIMITED TO THE HISTORIC CAPACITY OF THE DIVERSION STRUCTURE AND CONVEYANCE SYSTEM.

***Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 5,015.00

Source Name: WEST GALLATIN RIVER

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSEW	23	2S	4E	GALLATIN

***Period of Diversion:** APRIL 1 TO NOVEMBER 1

Diversion Means: HEADGATE

Ditch Name: KUGHEN DITCH

***Period of Use:** APRIL 1 TO NOVEMBER 1

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	292.00		E2	13	1S	3E	GALLATIN
2	5.00		SESW	13	1S	3E	GALLATIN
3	14.00		SWNW	18	1S	4E	GALLATIN
4	12.00		SWSE	18	1S	4E	GALLATIN
5	147.00		SW	18	1S	4E	GALLATIN
6	469.00			19	1S	4E	GALLATIN
7	60.00		S2NW	20	1S	4E	GALLATIN
8	295.00		S2	20	1S	4E	GALLATIN

9	40.00	SWNW	21	1S	4E	GALLATIN
10	40.00	SWSE	21	1S	4E	GALLATIN
11	160.00	SW	21	1S	4E	GALLATIN
12	3.00	NWNW	27	1S	4E	GALLATIN
13	8.00	SWNW	27	1S	4E	GALLATIN
14	70.00	W2SW	27	1S	4E	GALLATIN
15	574.00		28	1S	4E	GALLATIN
16	286.00	E2	29	1S	4E	GALLATIN
17	32.00	NENW	29	1S	4E	GALLATIN
18	7.00	NWNW	29	1S	4E	GALLATIN
19	20.00	SENW	29	1S	4E	GALLATIN
20	241.00	N2	32	1S	4E	GALLATIN
21	635.00		33	1S	4E	GALLATIN
22	266.00	W2	34	1S	4E	GALLATIN
23	100.00	NE	3	2S	4E	GALLATIN
24	80.00	SE	3	2S	4E	GALLATIN
25	315.00	W2	3	2S	4E	GALLATIN
26	160.00	NE	4	2S	4E	GALLATIN
27	90.00	NW	4	2S	4E	GALLATIN
28	125.00	SE	4	2S	4E	GALLATIN
29	35.00	E2NE	9	2S	4E	GALLATIN
30	53.00	W2NE	10	2S	4E	GALLATIN
31	156.00	NW	10	2S	4E	GALLATIN
32	75.00	W2SE	10	2S	4E	GALLATIN
33	53.00	E2SW	10	2S	4E	GALLATIN
34	10.00	NWSW	10	2S	4E	GALLATIN
35	15.00	SESW	10	2S	4E	GALLATIN
36	6.00	SWNW	14	2S	4E	GALLATIN
37	35.00	NENE	15	2S	4E	GALLATIN
38	3.00	NWNE	15	2S	4E	GALLATIN
39	28.00	SENE	15	2S	4E	GALLATIN
Total:	<hr/> 5,015.00					

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
GALLATIN RIVER
BASIN 41H**

Water Right Number: 41H 7045-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: KUGHEN DITCH CO INC
% GEORGE ALBERDA
27027 NORRIS RD
BOZEMAN, MT 59718

Priority Date: AUGUST 25, 1882

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 38.28 CFS

COMBINED FLOW RATE FOR CLAIMS NO. 41H 7040-00, 41H 7041-00, 41H 7042-00, 41H 7043-00, 41H 7044-00, 41H 7045-00, 41H 7046-00 IS LIMITED TO THE HISTORIC CAPACITY OF THE DIVERSION STRUCTURE AND CONVEYANCE SYSTEM.

***Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 5,015.00

Source Name: WEST GALLATIN RIVER

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSEW	23	2S	4E	GALLATIN

***Period of Diversion:** APRIL 1 TO NOVEMBER 1

Diversion Means: HEADGATE

Ditch Name: KUGHEN DITCH

***Period of Use:** APRIL 1 TO NOVEMBER 1

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	292.00		E2	13	1S	3E	GALLATIN
2	5.00		SESW	13	1S	3E	GALLATIN
3	14.00		SWNW	18	1S	4E	GALLATIN
4	12.00		SWSE	18	1S	4E	GALLATIN
5	147.00		SW	18	1S	4E	GALLATIN
6	469.00			19	1S	4E	GALLATIN
7	60.00		S2NW	20	1S	4E	GALLATIN
8	295.00		S2	20	1S	4E	GALLATIN

9	40.00	SWNW	21	1S	4E	GALLATIN
10	40.00	SWSE	21	1S	4E	GALLATIN
11	160.00	SW	21	1S	4E	GALLATIN
12	3.00	NWNW	27	1S	4E	GALLATIN
13	8.00	SWNW	27	1S	4E	GALLATIN
14	70.00	W2SW	27	1S	4E	GALLATIN
15	574.00		28	1S	4E	GALLATIN
16	286.00	E2	29	1S	4E	GALLATIN
17	32.00	NENW	29	1S	4E	GALLATIN
18	7.00	NWNW	29	1S	4E	GALLATIN
19	20.00	SENW	29	1S	4E	GALLATIN
20	241.00	N2	32	1S	4E	GALLATIN
21	635.00		33	1S	4E	GALLATIN
22	266.00	W2	34	1S	4E	GALLATIN
23	100.00	NE	3	2S	4E	GALLATIN
24	80.00	SE	3	2S	4E	GALLATIN
25	315.00	W2	3	2S	4E	GALLATIN
26	160.00	NE	4	2S	4E	GALLATIN
27	90.00	NW	4	2S	4E	GALLATIN
28	125.00	SE	4	2S	4E	GALLATIN
29	35.00	E2NE	9	2S	4E	GALLATIN
30	53.00	W2NE	10	2S	4E	GALLATIN
31	156.00	NW	10	2S	4E	GALLATIN
32	75.00	W2SE	10	2S	4E	GALLATIN
33	53.00	E2SW	10	2S	4E	GALLATIN
34	10.00	NWSW	10	2S	4E	GALLATIN
35	15.00	SESW	10	2S	4E	GALLATIN
36	6.00	SWNW	14	2S	4E	GALLATIN
37	35.00	NENE	15	2S	4E	GALLATIN
38	3.00	NWNE	15	2S	4E	GALLATIN
39	28.00	SENE	15	2S	4E	GALLATIN
Total:	<u>5,015.00</u>					

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
GALLATIN RIVER
BASIN 41H**

Water Right Number: 41H 7046-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: KUGHEN DITCH CO INC
% GEORGE ALBERDA
27027 NORRIS RD
BOZEMAN, MT 59718

Priority Date: JUNE 1, 1894

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 7.50 CFS

COMBINED FLOW RATE FOR CLAIMS NO. 41H 7040-00, 41H 7041-00, 41H 7042-00, 41H 7043-00, 41H 7044-00, 41H 7045-00, 41H 7046-00 IS LIMITED TO THE HISTORIC CAPACITY OF THE DIVERSION STRUCTURE AND CONVEYANCE SYSTEM.

***Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 5,015.00

Source Name: WEST GALLATIN RIVER

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSEW	23	2S	4E	GALLATIN

***Period of Diversion:** APRIL 1 TO NOVEMBER 1

Diversion Means: HEADGATE

Ditch Name: KUGHEN DITCH

***Period of Use:** APRIL 1 TO NOVEMBER 1

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	292.00		E2	13	1S	3E	GALLATIN
2	5.00		SESW	13	1S	3E	GALLATIN
3	14.00		SWNW	18	1S	4E	GALLATIN
4	12.00		SWSE	18	1S	4E	GALLATIN
5	147.00		SW	18	1S	4E	GALLATIN
6	469.00			19	1S	4E	GALLATIN
7	60.00		S2NW	20	1S	4E	GALLATIN
8	295.00		S2	20	1S	4E	GALLATIN

9	40.00	SWNW	21	1S	4E	GALLATIN
10	40.00	SWSE	21	1S	4E	GALLATIN
11	160.00	SW	21	1S	4E	GALLATIN
12	3.00	NWNW	27	1S	4E	GALLATIN
13	8.00	SWNW	27	1S	4E	GALLATIN
14	70.00	W2SW	27	1S	4E	GALLATIN
15	574.00		28	1S	4E	GALLATIN
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18	7.00	NWNW	29	1S	4E	GALLATIN
19	20.00	SENW	29	1S	4E	GALLATIN
20	241.00	N2	32	1S	4E	GALLATIN
21	635.00		33	1S	4E	GALLATIN
22	266.00	W2	34	1S	4E	GALLATIN
23	100.00	NE	3	2S	4E	GALLATIN
24	80.00	SE	3	2S	4E	GALLATIN
25	315.00	W2	3	2S	4E	GALLATIN
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31	156.00	NW	10	2S	4E	GALLATIN
32	75.00	W2SE	10	2S	4E	GALLATIN
33	53.00	E2SW	10	2S	4E	GALLATIN
34	10.00	NWSW	10	2S	4E	GALLATIN
35	15.00	SESW	10	2S	4E	GALLATIN
36	6.00	SWNW	14	2S	4E	GALLATIN
37	35.00	NENE	15	2S	4E	GALLATIN
38	3.00	NWNE	15	2S	4E	GALLATIN
39	28.00	SENE	15	2S	4E	GALLATIN
Total:	<hr/> 5,015.00					