

Montana Water Court
PO Box 1389
Bozeman, MT 59771-1389
(406) 586-4364
1-800-624-3270
watercourt@mt.gov

ELECTRONICALLY FILED

41H-0341-R-2021

July 7, 2021

Montana Water Court

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

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CLAIMANTS: Bradley J. Bean; Kristal T. Hebert; Thomas P.
Hebert Jr.; Jackie K. Snyder; Stan L. Snyder

CASE: 41H-0341-R-2021
41H 113257-00

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. Irrigation claim 41H 113257-00 was decreed with a single DNRC issue remark:

THE TIMELY FILED OBJECTION OF ETHEL L BARNES WAS AMENDED BY ETHEL L BARNES TO INCLUDE FLOW RATE AND PLACE OF USE. BECAUSE THESE ELEMENTS WERE NOT INCLUDED ON THE OBJECTION LIST, ANY WATER USER WHOSE RIGHTS MAYBE ADVERSELY AFFECTED BY ENFORCEMENT OF THESE CHANGES MAY PETITION THE APPROPRIATE COURT FOR RELIEF OR MAY FILE AN OBJECTION AT THE PRELIMINARY DECREE.

No objections were filed.

2. On August 8, 2018, DNRC employee Kara McCarver filed a Memorandum requesting claim 41H 113257-00 be split. The information provided with the Memorandum was incomplete. To determine if the Claimants wanted claim 41H 113257-00 split and to obtain the necessary complete information from the Claimants, an Order Setting Filing Deadline was issued on April 21, 2021. The Order stated that if the Claimants decide to split claim 41H 113257-00, proposed abstracts showing elements of the claims were to be filed by the deadline. The Order stated that if proposed abstracts were not provided showing the required elements *for each party*, this Master would conclude the parties decided not to split the claim and proceedings in this Case will be closed.

3. On May 26, 2021, Kristal Hebert filed a statement:

I am writing on behalf of Richman Road LLC, at 4000 Richman Road, Belgrade MT for a water right claim. I would like this claim split and our very own water right. Please see the abstract attached to this email.

4. The split posed some issues that had to be addressed before the Court proceeded. First, Richman Road, LLC is not a co-owner of claim 41H 113257-00. The current co-owners of claim 41H 113257-00 are: Thomas P. Hebert Jr., Kristal T. Hebert, Stan L. Snyder, Jackie K. Snyder, and Bradley Bean. Claim 41H 113257-00 can only be split among co-owners. Second, the proposed abstract filed by Kristal Hebert was not the reexamination abstract used by the Court. While it is *almost* identical, there are slight differences that would prevent this Water Master from making recommendations to split the historical place of use. Third, the proposed abstract filed by Kristal Hebert showed a proposed 20.00-acre place of use for the Hebert portion of the split but did not describe

the elements for the remaining Claimants (Snyder and Bean). All portions of split claims must be described to provide for a clear and accurate split process.

5. To provide additional time for Kristal Hebert, or other Claimants, to determine if they wish to pursue a split of claim 41H 113257-00, an Order Setting Filing Deadline was issued. The Order set a deadline for the Claimants to confirm they wish to split claim 41H 113257-00 and indicated that if the Claimants did wish to split the claim, they must return abstracts showing proposed abstracts for each party showing various elements of the claim by the deadline. The Order also stated that if Richman Road, LLC should be a co-owner of the claim, a DNRC water right ownership update should be filed. The Order indicated that if nothing was filed by the deadline, this Master would conclude that the parties do not wish to split the claims at this time. 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.

Nothing was filed.

PRINCIPLES AND CONCLUSIONS OF LAW

1. Pursuant to Rule 26, W.R.Adj.R. the Water Court may split claims into separate claim at any time prior to final decree upon request of the claimants, or on its own initiative.

2. In the present Case, the parties have not provided the Court with the documentation to split claim 41H 113257-00.

3. The objection issue remarks appearing on claim 41H 113257-00 is a notice-type issue remark. As no objections were filed, no further proceedings are required.

RECOMMENDATION

1. No changes should be made to claim 41H 113257-00.

A Post Decree Abstract of Water Right Claim is served with the Report to confirm the terms of the claim in the state's centralized record system.

Anika M. Stern
Senior Water Master

Service via USPS Mail:

Bradley J. Bean
1627 W. Main St. #368
Bozeman, MT 59715

Kristal T. Hebert
Thomas P. Hebert Jr.
15981 Rocky Mountain Rd.
Belgrade, MT 59714

Jackie K. Snyder
Stan L. Snyder
537 E. Cameron Bridge Rd.
Bozeman, MT 59718

Potential owners:

Jerry W. Johnson and Mary J. Johnson
710 Bulltail Rd
Belgrade, MT 59714-8858

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

Water Right Number: **41H 113257-00** STATEMENT OF CLAIM

Version: 5 -- POST DECREE

Status: ACTIVE

Owners:

BRADLEY J BEAN
1627 W MAIN ST, #368
BOZEMAN, MT 59715

KRISTAL T HEBERT
15981 ROCKY MOUNTAIN RD
BELGRADE, MT 59714

THOMAS P HEBERT JR
15981 ROCKY MOUNTAIN RD
BELGRADE, MT 59714

JACKIE K SNYDER
537 E CAMERON BRIDGE RD
BOZEMAN, MT 59718

STAN L SNYDER
537 E CAMERON BRIDGE RD
BOZEMAN, MT 59718

Priority Date: MAY 15, 1889

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER

***Flow Rate:** 14.00 CFS

***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:** 343.50

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		SESENE	16	1S	4E	GALLATIN

Period of Diversion: MARCH 1 TO DECEMBER 1

Diversion Means: HEADGATE

Ditch Name: D. N. HOFFMAN DITCH

Period of Use: MARCH 1 TO DECEMBER 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>
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1	130.50	SW	28	1N	4E	GALLATIN
2	28.00	W2SE	28	1N	4E	GALLATIN
3	152.00	NW	33	1N	4E	GALLATIN
4	33.00	W2NE	33	1N	4E	GALLATIN
Total:	<hr/> 343.50					