

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

41F-4002-S-2021

May 13, 2021

Montana Water Court

IN THE WATER COURT OF THE STATE OF MONTANA  
UPPER MISSOURI DIVISION  
MADISON RIVER BASIN (41F)

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CLAIMANTS: ~~CJB Trust; United States of America (Bureau of Land Management);~~ Workman Trust; **Robert Nagy; Dianne Nagy**

**41F-4002-S-2021**  
41F 148518-00  
**Split Claim:**  
**41F 30151539**

**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 the 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 the Master’s Report was filed and mailed. Rule 23 of the Water Right Adjudication Rules requires written objections to the Master’s Report must be filed within 10 days of the date of the Master’s Report. Because the Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. This means your objection must be received no later than **13 days** from the above stamped date.

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 the 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**  
**PROCEDURAL HISTORY**

On March 26, 2021, the Department of Natural Resources and Conservation processed a Water Right Ownership Update for claim 41F 148518-00. The Ownership Update transferred the ownership interest of the CJB Trust in claim 41F 148518-00 to Robert Nagy and Dianne Nagy. The caption of this report is updated to reflect the ownership update. CJB Trust remains on the mailing list for notice purposes.

The Department of Natural Resources and Conservation database identifies the Workman Trust, Robert Nagy and Dianne Nagy, and the United States of America (Bureau of Land Management) as the owners of livestock direct from source claim 41F 148518-00.

On January 26, 2021, the Bozeman Regional Office of the Montana Department of Natural Resources and Conservation (DNRC) submitted a memorandum regarding a split request for claim 41F 148518-00. The memorandum was based upon a DNRC Form 641 “DNRC Ownership Update Divided Interest.” The Form 641 was signed by Kendra L. Hartman, Trustee of the Workman Trust and Thomas J. Stusek and Orville Halverson, co-Trustees of the CJB Trust.

The Form 641 identified with detail the proposed division of the points of diversion and place of use for the livestock direct from source claim to the Workman Trust and the CJB Trust. The Form 641 was supported by a Trustee’s Deed from Kendra L. Hartman, Trustee of the Workman Trust to Thomas J. Stusek and Orville Halverson, co-Trustees of the CJB Trust. The Trustee’s Deed memorialized an “Order Partitioning the Property, dated May 15, 2019, by the Fifth Judicial District, Cause No. DV-29-2018-27.” The Trustee’s Deed states, “Water Right No. 41F 148518-00 (stock water direct from source) will be split between Grantor and Grantee, in so much as each will have access to the Madison River from her/his own property.” Included with the Form 641 was a copy of Certificate of Survey No. 2519-CO, Document No. 183267 depicting the point of diversion and place of use for each Trust.

These documents supported and identified with detail the proposed division of the points of diversion and place of use for the livestock direct from source claim 41F

148518-00. A copy of the certificate of survey is attached to this report and will be placed in the claim file for future reference.

### **FINDINGS OF FACT**

1. The court issued an order for comment in an attempt to understand how: 1) the United States of America (Bureau of Land Management) fit into the split request, and 2) how the number of animal units should be represented on each abstract. The order included language that if no comments or additional information was filed by the deadline, the following information remark would be added to the parent claim and split claim.

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE LIMITED TO THE SERVICE OF 20 CATTLE OR 10 HORSES. 41F 148518-00, 41F 30151539.

No comments were received by the filing deadline.

2. According to the Montana Cadastral Database located at <https://svc.mt.gov/msl/mtcadastral>, the United States of America (Bureau of Land Management) owns property north of the Madison River and north of Certificate of Survey No. 2519-CO in Section 35, Township 2 South, Range 1 East, and property to the south of Certificate of Survey No. 2519-CO in Section 2, Township 3 South, Range 1 East.

The United States of America (Bureau of Land Management) is not mentioned by the Trustee's Deed or included on Certificate of Survey No. 2519-CO.

It appears the United States of America (Bureau of Land Management) does not own any property identified by stock claim 41F 148518-00 and should be removed from the ownership of claim 41F 148518-00. The ownership of stock claim 41F 148518-00 should be corrected.

**If the United States of America (Bureau of Land Management) disagrees with its removal from the ownership of the claim it should file an objection to this report.**

3. Stock claims are quantified by volume. The volume is quantified by a formula: 30 gallons per day per animal unit. The total number of animal units served is identified by the statement of claim.<sup>1</sup> The total number of livestock served by each parent claim,

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<sup>1</sup> Statement of claim 41F 148518-00 identifies 20 cattle or 10 horses.

and the split claim generated from it, cannot exceed the original number of livestock identified by the statement of claim. Therefore, the following information remark should be added to the abstract of the parent and the split claim.

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE LIMITED TO THE SERVICE OF 20 CATTLE OR 10 HORSES. 41F 148518-00, 41F 30151539.

4. The following modifications should be made to livestock direct from source claim 41F 148518-00.

**Parent Claim 41F 148518-00** (Owned by Workman Trust)

**VOLUME:**

THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATER PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE LIMITED TO THE SERVICE OF 20 CATTLE OR 10 HORSES. 41F 148518-00, 41F 30151539.

**ADD REMARKS AT END OF ABSTRACT:**

THE POINT OF DIVERSION AND PLACE OF USE ARE LOCATED IN TRACT C, COS NO. 2519-CO, DOCUMENT NO. 183267.

SPLIT CLAIM NO. 41F 30151539 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM.

**Split Claim 41F 30151539** (Owned by ~~CJB Trust~~ Robert Nagy and Dianne Nagy)

**VOLUME:**

THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATER PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE LIMITED TO THE SERVICE OF 20 CATTLE OR 10 HORSES. 41F 148518-00, 41F 30151539.

**ADD REMARKS AT END OF ABSTRACT:**

THE POINT OF DIVERSION AND PLACE OF USE ARE LOCATED IN TRACTS A AND B, COS NO. 2519-CO, DOCUMENT NO. 183267.

THIS SPLIT CLAIM WAS AUTHORIZED BY THE WATER COURT BASED ON INFORMATION IN CLAIM NO. 41F 148518-00.

**CONCLUSIONS OF LAW**

1. The Montana Water Court is permitted to use information submitted by the Department of Natural Resources and Conservation, the statement of claim, information from approved compacts, and any other data obtained by the Court to evaluate water right

claims. Section 85-2-231(2), MCA.

2. The Water Court may split claims upon request of the claimants. Rule 26, W.R.Adj.R.

### **RECOMMENDATIONS**

Based upon the above Findings of Fact and Conclusions of Law, this Master recommends that the Court make the changes specified in the Findings of Fact to correct the Temporary Preliminary Decree for this Basin. Post Decree Abstracts of Water Right Claim accompany this Report to confirm that the recommended changes have been made in the state's centralized record system.

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Anna M. Stradley  
Senior Water Master

**Service via USPS Mail**

CJB Trust  
2115 Durston Rd, Ste 110  
Bozeman, MT 59718

Workman Trust  
PO Box 2835  
Norris, MT 59745

**Robert Nagy**  
**Dianne Nagy**  
**902 Pine Valley Rd**  
**Billings, MT 59101-7242**

**Last Order:**  
**United States of America**  
**Bureau of Land Management**  
**5001 Southgate Dr**  
**Billings, MT 59101-4669**

**Service via Electronic Mail**

**Last Order (Courtesy Copy):**

**Roselyn Rennie**  
**Special Assistant U.S. Attorney**  
**Office of the Solicitor**  
**2021 4th Ave. North, Suite 112**  
**Billings, MT 59101**  
**(406) 247-7545**  
**roselyn.rennie@sol.doi.gov**

**Note: Caption and Service List Updated 5/11/2021**

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
MADISON RIVER  
BASIN 41F**

**Water Right Number:** 41F 148518-00 STATEMENT OF CLAIM  
**Version:** 2 -- POST DECREE  
**Status:** ACTIVE

**Owners:** WORKMAN TRUST  
PO BOX 2835  
NORRIS, MT 59745

**Priority Date:** JUNE 3, 1936

**Type of Historical Right:** FILED

**Purpose (Use):** STOCK

**Flow Rate:**

**Volume:** THIS WATER RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCKWATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE LIMITED TO THE SERVICE OF 20 CATTLE OR 10 HORSES. 41F 148518-00, 41F 30151539.

**Source Name:** MADISON 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		SE	35	2S	1E	MADISON

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** LIVESTOCK DIRECT FROM SOURCE

**Period of Use:** JANUARY 1 TO DECEMBER 31

**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				35	2S	1E	MADISON

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**Remarks:**

THE POINT OF DIVERSION AND PLACE OF USE ARE LOCATED IN TRACT C, COS NO. 2519-CO, DOCUMENT NO. 183267.

STARTING IN 2008, PERIOD OF DIVERSION WAS ADDED TO MOST CLAIM ABSTRACTS, INCLUDING THIS ONE.

SPLIT CLAIM NO. 41F 30151539 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM.

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
MADISON RIVER  
BASIN 41F**

**Water Right Number:** 41F 30151539 STATEMENT OF CLAIM  
**Version:** 1 -- ORIGINAL RIGHT  
**Status:** ACTIVE

**Owners:** DIANNE NAGY  
902 PINE VALLEY RD  
BILLINGS, MT 59101  
  
ROBERT NAGY  
902 PINE VALLEY RD  
BILLINGS, MT 59101 7242

**Priority Date:** JUNE 3, 1936

**Type of Historical Right:** FILED

**Purpose (Use):** STOCK

**Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

**Volume:** THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE LIMITED TO THE SERVICE OF 20 CATTLE OR 10 HORSES.  
41F 148518-00, 41F 30151539.

**Source Name:** MADISON 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		SE	35	2S	1E	MADISON

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** DIRECT FROM SOURCE

**Period of Use:** JANUARY 1 TO DECEMBER 31

**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				35	2S	1E	MADISON

**Remarks:**

THE POINT OF DIVERSION AND PLACE OF USE ARE LOCATED IN TRACTS A AND B, COS NO. 2519-CO, DOCUMENT NO. 183267.

THIS SPLIT CLAIM WAS AUTHORIZED BY THE WATER COURT BASED ON INFORMATION IN CLAIM NO. 41F 148518-00.

# CERTIFICATE OF SURVEY No. 2519-CO BA

A TRACT OF LAND BEING TRACTS A, B & C OF CERTIFICATE OF SURVEY RECORDED IN PLAT BOOK 5, PAGE 97, RECORDS OF MADISON COUNTY, SITUATED IN THE SE1/4 SECTION 35, T2S, R1E, PMM, MADISON COUNTY, MONTANA

FOR: WORKMAN TRUST  
BY: GASTON ENGINEERING & SURVEYING

REASON FOR SURVEY - TO RELOCATE COMMON BOUNDARIES BETWEEN EXISTING TRACTS A, B AND C PURSUANT TO FIFTH JUDICIAL DISTRICT COURT, MADISON COUNTY MONTANA, CAUSE No: DV-29-2018-27, DATED MAY 15, 2019

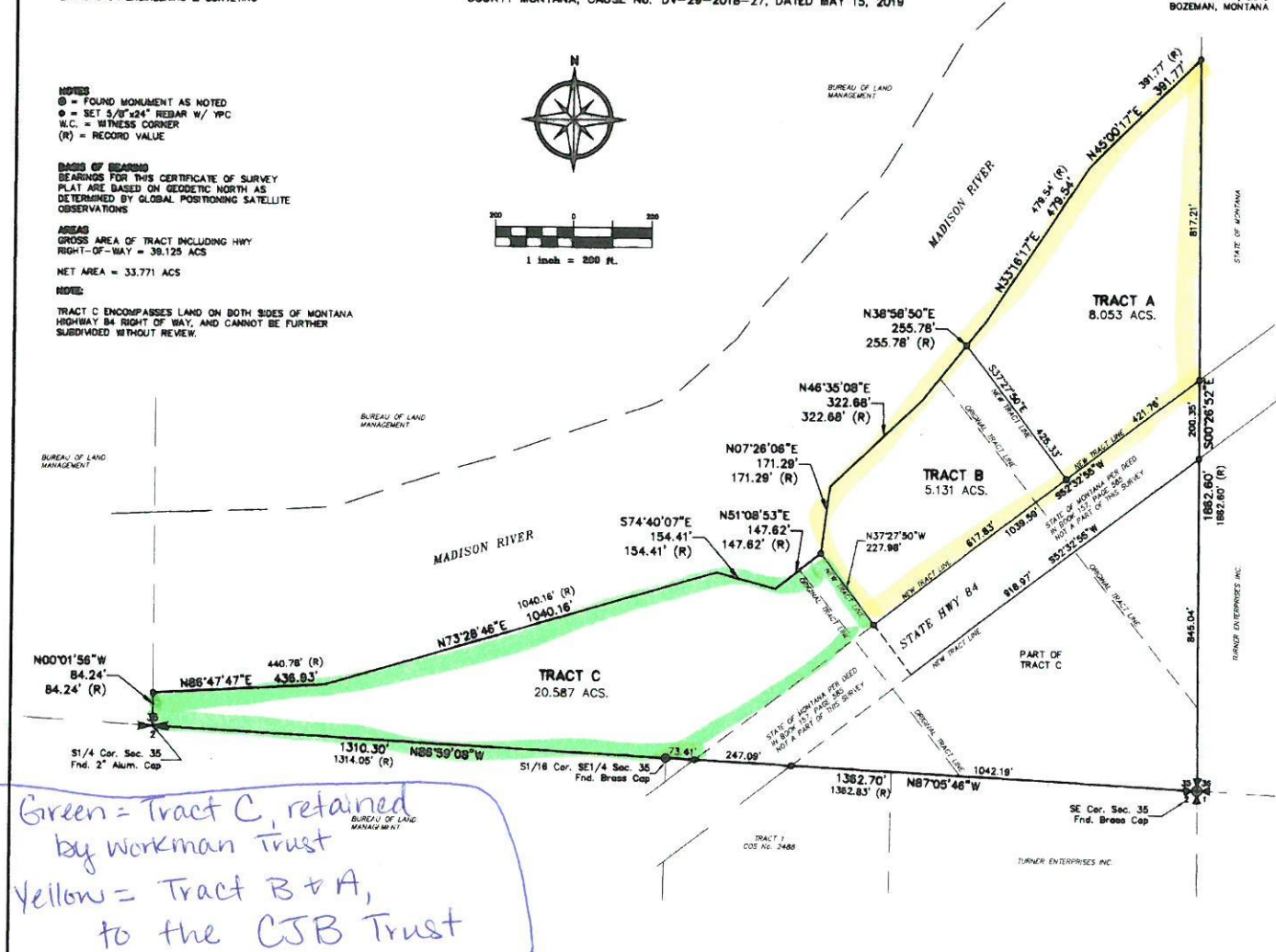
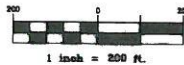
FEBRUARY, 2019  
BOZEMAN, MONTANA

**NOTES**  
 ○ = FOUND MONUMENT AS NOTED  
 ⊙ = SET 3/8" x 24" REBAR W/ YPC  
 W.C. = WITNESS CORNER  
 (R) = RECORD VALUE

**BASIS OF BEARING**  
 BEARINGS FOR THIS CERTIFICATE OF SURVEY PLAT ARE BASED ON GEODETIC NORTH AS DETERMINED BY GLOBAL POSITIONING SATELLITE OBSERVATIONS

**AREAS**  
 GROSS AREA OF TRACT INCLUDING HWY RIGHT-OF-WAY = 38.125 ACS  
 NET AREA = 33.771 ACS

**NOTE:**  
 TRACT C ENCOMPASSES LAND ON BOTH SIDES OF MONTANA HIGHWAY 84 RIGHT OF WAY, AND CANNOT BE FURTHER SUBDIVIDED WITHOUT REVIEW.



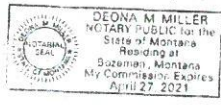
Green = Tract C, retained by Workman Trust  
 Yellow = Tract B + A, to the CJB Trust

**DESCRIPTION**  
 A tract of land being Tracts A, B, and C of Certificate of Survey Recorded in Plat Book 5, Page 97, Records of Madison County, Montana, situated in the SE1/4 of Section 35, T2S, R1E, PMM, Madison County, Montana. Said Tract being 33.771 acres, excluding Montana Hwy 84 right-of-way, and subject to any existing assessments.

**CERTIFICATE OF DESCRIPTION**  
 We, the undersigned landowners, do hereby certify that Tracts A, B and C are exempt from review pursuant to 78-3-201(1)(a), M.C.A., (Fifth Judicial District Court, Madison County, Montana, Cause No: DV-29-2018-27, Dated May 15, 2019) which allows for the creation by order of any court of record in this state or by operation of law or that, in absence of agreement between the parties to the sale, could be created by an order of any court in this state pursuant to the law of eminent domain, Title 70, Chapter 30. Tracts A, B and C are exempt from Montana Department of Environmental Quality review pursuant to 78-4-125(2)(c) which allows for exclusions cited in 78-3-201, 78-3-201(1)(a) allows for divisions created by order of any court of record in this state or by operation of law or that, in the absence of agreement between the parties to the sale, could be created by an order of any court in this state pursuant to the law of eminent domain, Title 70, Chapter 30.

Dated this 20th day of May, 2019.  
 Kendra L. Hartman, Trustee of the Workman Trust, Trust Declaration Establishing an Irrevocable Trust dated January 14, 2013

STATE OF MONTANA }  
 County of GALLATIN }  
 On this 20th day of May, 2019, before me, a Notary Public in and for the State of Montana, personally appeared Kendra L. Hartman, Trustee of the Workman Trust, Trust Declaration Establishing an Irrevocable Trust dated January 14, 2013, known to me to be the person whose name is subscribed to in the above instrument, and who acknowledged to me that (he)(she) executed the same.  
 WITNESS my hand and seal, the day and year above first written.  
 Notary Public for the State of Montana



**CERTIFICATE OF SURVEYOR**  
 I, Dennis L. Foreman, a Registered Land Surveyor, do hereby certify that I have performed the survey shown on the attached Plat that such survey was made in February, 2019; that said survey is true and complete as shown, and that the monuments found and set are of the character and occupy the positions shown thereon.  
 Dated this 16th day of May, 2019.

Dennis L. Foreman  
 Registration # 50065  
 P.O. Box 881  
 Bozeman, MT 59771



**CERTIFICATE OF COUNTY TREASURER**  
 I hereby certify, pursuant to Section 78-3-811(1)(b), M.C.A. that no real property taxes or special assessments assessed and levied on the land described above and encompassed by the title of this instrument.  
 Dated this 24th day of May, 2019.

Shelly Burke  
 Treasurer, Madison County, Montana



**CERTIFICATE OF CLERK & RECORDER**  
 I, Clerk & Recorder of Madison County, Montana, do hereby certify that the foregoing instrument was filed in my office at 10:30 a.m. (a.m. or p.m.) this 24th day of May, 2019 and recorded in Book \_\_\_\_\_ of Books on Public Records of the Clerk & Recorder, Madison County, Montana.  
 Dated this 24th day of May, 2019. Fees: \$ 260

Kathleen D. Munnich, by Allison Elam, Deputy Clerk & Recorder

Document Number 183247  
**GASTON ENGINEERING SURVEYING & SOILS TESTING**

