

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

* * * * *

CLAIMANT: Stephen Bateman Sr.

OBJECTOR: State of Montana Department of Fish Wildlife & Parks

41G-0400-R-2020

41G 95628-00

41G 167426-00

41G 167427-00

41G 167428-00

41G 167429-00

41G 167430-00

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

The above-captioned water right claims appeared in the Preliminary Decree for the Jefferson River (Basin 41G) issued on February 15, 2018. Each claim received an objection from the State of Montana Department of Fish Wildlife & Parks (DFWP) and issue remarks from the Department of Natural Resources and Conservation (DNRC). The claims were consolidated into case 41G-0400-R-2020 to address the objections and issue remarks.

FINDINGS OF FACT

1. DFWP filed objections to each of the above-captioned claims. On March 31, 2021, Claimant Stephen Bateman and DFWP's Water Conservation Specialist Stephen Begley conducted a site visit to establish historical and ongoing water use under the claims. On June 2, 2021, DFWP submitted a Settlement Stipulation signed by Claimant Stephen Bateman and Kevin Rechkoff on behalf of DFWP (Stipulation). The Stipulation states that it is consistent with the findings of the site visit and that DFWP's objections shall be deemed withdrawn subject to its terms.

2. The Court requested additional information regarding the issue remarks on the claims, and on July 21, 2021, DFWP submitted its Filing of Additional Information. While this additional information was signed only by DFWP, the filing represents that it is submitted by DFWP and the Claimant, and the Claimant did not object to the filing. The Stipulation and Filing of Additional information request the modifications described below.

41G 167427-00:

3. The Stipulation states that the Claimant agrees to withdraw water right claim 41G 167427-00.

41G 95628-00 and 41G 167426-00:

4. DFWP objected to all elements of claim 41G 95628-00 and 41G 167426-00. The Stipulation and Filing of Additional Evidence request the following modifications to reflect historical use of the claims:

Maximum Acres: ~~100.00~~ **50.00**

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	56.00 <u>6.00</u>		SW <u>SESE</u>	28	3N	4W	Jefferson
2	4.00		N2N2NW NWSE	33 28	3N	4W	Jefferson
3	40.00		W2SE <u>SWSE</u>	28	3N	4W	Jefferson

Volume: ~~1,638.78 AC FT~~

The total volume of this water right shall not exceed the amount put to historical and beneficial use.

5. The proposed place of use modification is supported by DFWP's site visit and an aerial photograph showing the claimed place of use. The volume modification is also supported by the site visit, which, according to the Filing of Additional Information, confirmed that the Claimant was not utilizing storage for the purpose of irrigating from Fitz Creek. The addition of the information remark in place of the claimed volume is consistent with DNRC examination procedures for irrigation systems without storage components. See, e.g., 2013 Water Rights Claim Examination Manual at p. 429.

6. The claims also received the following issue remarks:

41G: 95628-00:

THIS CLAIM MAY BE DUPLICATED BY CLAIM NO. 41G 167427-00.

THE CLAIMED VOLUME EXCEEDS THE MAXIMUM FEASIBLE VOLUME. BASED ON THE FLOW RATE AND PERIOD OF USE, THE MAXIMUM VOLUME POSSIBLE IS 1638.67 ACRE-FEET PER YEAR.

THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. THE CLAIMED VOLUME EQUALS 3035 TIMES THE CAPACITY OF THE RESERVOIR.

THIS CLAIM PRESENTS ISSUES OF FACT AND LAW THAT MAY BE ADDRESSED AT THE OBJECTION STAGE. THERE MAY BE PROBLEMS WITH VOLUME.

THE WATER COURT CANNOT DECREE THIS RIGHT WITHOUT FURTHER PRESENTATION OF EVIDENCE CONCERNING THE CLAIMED POINTS OF DIVERSION AND THE ACTUAL IRRIGATION OF THE CLAIMED PLACE OF USE BEFORE JULY 1,

1973. THE CLAIM INDICATES THAT POINT OF DIVERSION NO. 2 WAS NOT USED TO IRRIGATE THE PLACE OF USE UNTIL 1979.

41G: 167426-00:

THE CLAIMED VOLUME EXCEEDS THE MAXIMUM FEASIBLE VOLUME. BASED ON THE FLOW RATE AND PERIOD OF USE, THE MAXIMUM VOLUME POSSIBLE IS 1638.67 ACRE-FEET PER YEAR.

THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. THE CLAIMED VOLUME EQUALS 3035 TIMES THE CAPACITY OF THE RESERVOIR.

THIS CLAIM DOES NOT APPEAR TO REFLECT THE WATER RIGHT AS IT WAS BEFORE JULY 1, 1973.

7. The duplicate claim remark on claim 41G 95628-00 is addressed by the withdrawal of claim 41G 167427-00, and the volume-related issue remarks are addressed by the Stipulation's request to replace the quantified volumes with an informational remark.

8. The remaining issue remarks listed above pertaining to pre-1973 use appear to question the historical use of point of diversion ID No. 2 (in the SWNWSW of Section 28) on the claimed place of use. These remarks stem from a March 15, 1985 Interview Report from a meeting between DNRC and the original claimants, Fred and Deloris Forcella, which states in relevant part, "Div. Mns. – pump (1979 Diversion added)."

9. Claims 41G 95628-00 and 41G 167426-00 are filed rights based on a July 16, 1908 and May 11, 1909 notices of appropriation, respectively. They appeared in the Preliminary Decree with their Point of Diversion ID No. 2 describing a headgate in the SWNWSW of Section 28, T3N, R4W. According to maps in the claim file, this diversion is at Collins Ditch No. 2, which was also used by several other claims prior to July 1, 1973 (including 41G 167428-00 and 41G 167429-00).

10. The Stipulation's proposed place of use modification excludes the portion of the claimed place of use in the SWSW and SESW of Section 28 where water appears to be pumped for sprinkler irrigation. Therefore, while a pump may have been installed in 1979, that does not suggest that the headgate diversion described by claims 41G 95628-00 and 41G 167426-00 was not used on the place of use (as corrected by the Stipulation) prior to July 1, 1973.

11. Each of the claims in this case also received one or more issue remark providing notice of a DNRC modification to the source name, point of diversion, ditch name, and/or reservoir record during its review in preparation of the Preliminary Decree (notice-type remarks).

PRINCIPLES OF LAW

1. The Montana Water Court has the authority to determine the extent of all water rights in the state as they existed prior to July 1, 1973. *Fellows v. Saylor*, 2016 MT 45, ¶ 25, 382 Mont. 298, 367 P.3d 732; §§ 85-2-233, -102(12), MCA.

2. The Water Court is not bound by settlement agreements, and all such agreements are subject to review and approval by the Court. Rule 17(a), W.R.Adj.R.

3. A statement of claim for an existing water right or an amended claim of an existing right constitutes prima facie proof of its content until the issuance of a final decree. § 85-2-227(1), MCA. Anyone seeking to modify a claim or amended claim has the burden of showing by a preponderance of the evidence that the elements of the claim are incorrect. Preponderance of the evidence is a relatively modest standard that requires a party to prove the existence of a particular fact is more probable than not. *Hohenlohe v. State*, 2010 MT 203, ¶ 33, 357 Mont. 438, 248 P.3d 628. This is the applicable burden of proof for every assertion that a claim is incorrect, regardless of whether the party seeking the modification is an adverse party or the claimant objecting to its own claim. Rule 19 W.R.Adj.R.; *Nelson v. Brooks*, 2014 MT 120, ¶ 34, 375 Mont. 86, 329 P.3d 558.

4. In addition to the specific water right elements that must be included in a final decree, the Water Court also may include "any other information necessary to fully define the nature and extent of the right." § 85-2-234(6)(i), MCA. This information typically takes the form of an "information remark." The purpose of an information remark is to "provide facts regarding prior use of a right that are critical to its administration in accord with historical use." Order Adopting Master's Report in Part, Water Court Case 76G-A8, ¶10 (Oct. 29, 2014).

5. Section 85-2-248(2), MCA requires the Water Court to resolve all issue remarks that are not resolved through the objection process. The Montana Water Court

has the authority to resolve issue remarks when the claim file and information available to the Court provide a sufficient basis to do so. § 85-2-248(3), MCA.

6. The Water Court may correct a clerical mistake or a mistake arising from oversight or omission where one is found in a part of the record. Rule 60(a), M.R.Civ.P.

CONCLUSIONS OF LAW

1. The Claimant has agreed to withdraw claim 41G 167427-00. The Withdrawal is unambiguous and is accepted by the Court. The claim should be dismissed. This dismissal resolves the duplicate claim issue remark on claim 41G 95628-00.

2. The modifications requested in the Stipulation and Filing of Additional Information are supported by a preponderance of the evidence and overcome the prima facie status of the claims. Implementation of these modifications resolves DFWP's objections in this matter.

3. The Filing of Additional Information states that claims 41G 95628-00 and 41G 167426-00 do not utilize reservoirs but the parties do not specifically request the removal of the reservoir records for these claims. The Court concludes that the parties' omission regarding removal of reservoir information was a mistake that should be corrected pursuant to Rule Rule 60(a), M.R.Civ.P. If the parties disagree with this conclusion, they may object to this Master's Report.

4. The volume and place of use modifications to claims 41G 95628-00 and 41G 167426-00 resolve the volume and historical use issue remarks on those claims. The notice-type remarks have served their notice purpose.

RECOMMENDATIONS

Based on the foregoing Findings of Fact and Conclusions of Law, this Master recommends that the Court dismiss claim 41G 167427-00, modify claims 41G 95628-00 and 41G 167426-00 as described in Finding of Fact No. 4 and remove the reservoir information from those claims, and remove the issue remarks from the claims.

A copy of the Stipulation, Filing of Additional Evidence, and a post-decree abstract of each water right claim reflecting the recommended changes is attached to this Report.

Eyvind Ostrem
Water Master

Service via USPS Mail

Stephen Bateman Sr
PO Box 712
Whitehall, MT 59759-0712

Aimee Hawkaluk
Kevin Rechkoﬀ
Agency Legal Counsel
Department of Fish, Wildlife and Parks
PO Box 200701
Helena MT 59620-0701
(406) 444-4045
ahawkaluk@mt.gov

June 2, 2021

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5. Claimant Frederick L. Bateman is deceased. Stephen Bateman is the current owner of claim numbers 41G 95628-00, 41G 167426-00, 41G 167427-00, 41G 167428-00, 41G 167429-00 and 41G 167430-00.

6. On March 31, 2021, Claimant's successor Stephen Bateman and DFWP's Water Conservation Specialist Stephen Begley conducted a site visit to establish the historic and ongoing use of water under claims 41G 95628-00, 41G 167426-00, 41G 167427-00, 41G 167428-00, 41G 167429-00 and 41G 167430-00. The findings of that visit are consistent with the terms of this settlement agreement.

7. Claimant's successor and Objector DFWP desire and intend to settle all of their respective objections to claim numbers 41G 95628-00, 41G 167426-00, 41G 167427-00, 41G 167428-00, 41G 167429-00 and 41G 167430-00, as set forth in this Stipulation.

AGREEMENTS

The parties to this Stipulation hereby stipulate and agree as follows:

8. Claimant's successor agrees to withdraw water right claim 41G 167427-00.

9. The maximum acres for water rights claims 41G 95628-00 and 41G 167426-00 shall be amended from 100 acres to 50 acres.

10. The place of use shall be amended to read as follows:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	40.00		SWSE	28	3N	4W	JEFFERSON
2	4.00		NWSE	28	3N	4W	JEFFERSON
<u>3</u>	<u>6.00</u>		SESE	28	3N	4W	JEFFERSON
Total: 50.00							

11. Objector DFWP agrees that its objections to claims 41G 95628-00, 41G 167426-00, 41G 167427-00, 41G 167428-00, 41G 167429-00 and 41G 167430-00 shall be deemed withdrawn subject to the terms of this Stipulation.

12. The parties agree and understand that the law of continuous beneficial use still applies to claims 41G 95628-00, 41G 167426-00, 41G 167427-00, 41G 167428-00, 41G 167429-00 and 41G 167430-00 and that abandonment issues may arise if there is a prolonged period of nonuse after the filing of this Stipulation with the Montana Water Court.

13. This Stipulation is the compromise of disputed water claims and is not to be construed as an admission against the interests of any party.

14. The parties agree that upon issuance of a Master's Report, Order Adopting Master's Report, and Final Decree that incorporates the changes and amendments to claim numbers 41G 95628-00, 41G 167426-00, 41G 167427-00, 41G 167428-00, 41G 167429-00 and 41G 167430-00 set forth in this Stipulation, the Water Court shall deem the Notices of Objections filed by DFWP to claim 41G 95628-00, 41G 167426-00, 41G 167427-00, 41G 167428-00, 41G 167429-00 and 41G 167430-00 withdrawn.

15. The terms of this Stipulation are binding on the parties, their successors, heirs, and assigns.

16. Each party represents that it has the authority to execute this Stipulation and is bound by the terms herein.


17. Each undersigned party entered into and executed this Stipulation voluntarily, in good faith, and without any fraud, misunderstanding, misrepresentation, overreaching, duress, or undue influence.

18. Each party agrees to bear its own costs and attorney fees arising from the negotiation and execution of this Stipulation and the proceedings before the Montana Water Court.

19. Each party represents that their execution of the Stipulation is knowing and voluntary, and that they had the opportunity, if so desired, to consult with legal counsel before executing this document.

20. This Stipulation may be executed by the parties in several counterparts, each of which when executed and delivered shall be an original, but all of which together shall constitute one instrument. Facsimile or electronically transmitted copies of signatures will be deemed the equivalent of original signatures.


SUCCESSOR TO CLAIMANT FREDERICK L. BATEMAN AND CURRENT OWNER



Stephen Bateman

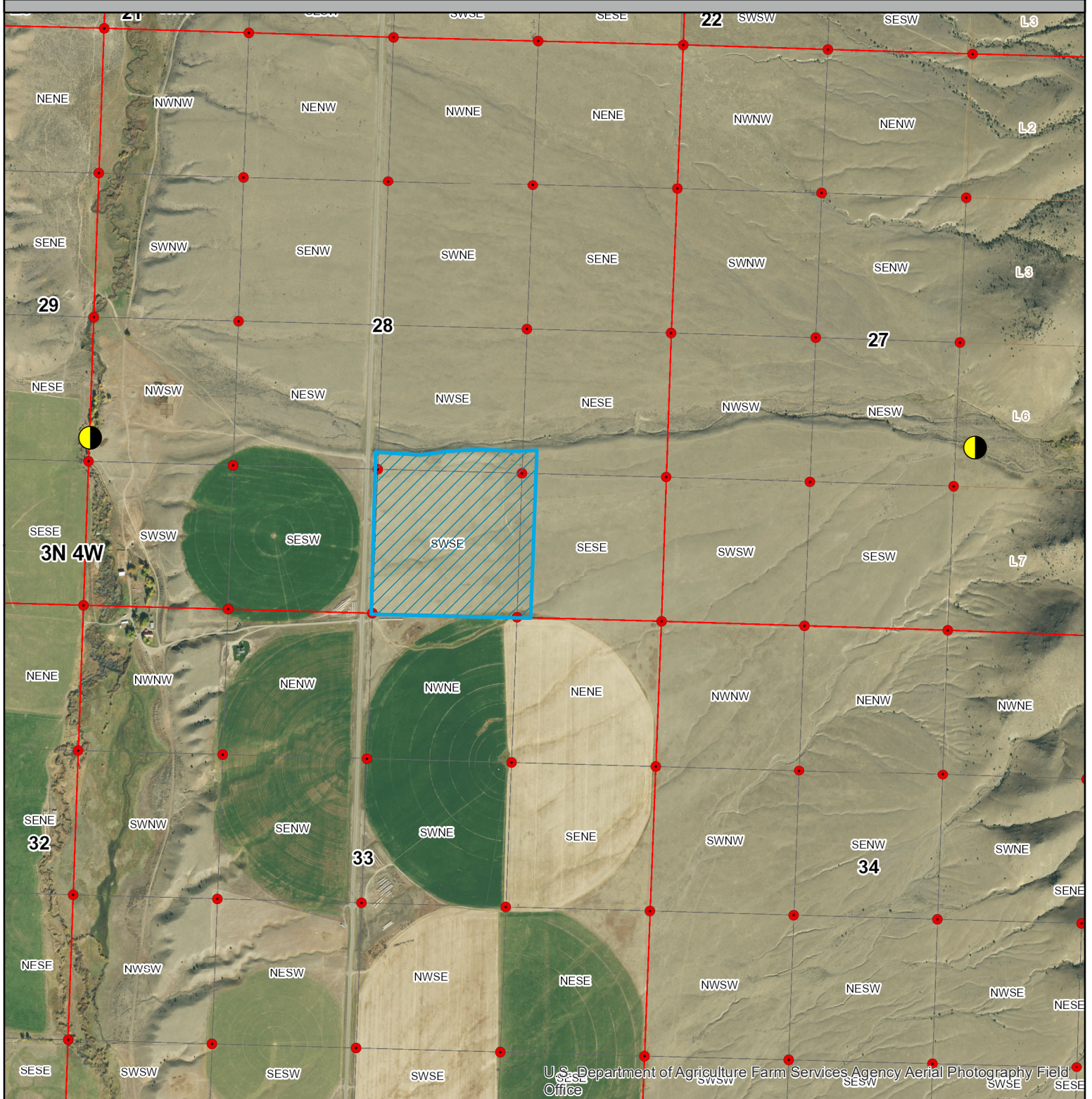
Date: 5-28-21



OBJECTOR MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS



Kevin Rechhoff,
Agency Legal Counsel
Montana Department of Fish, Wildlife and Parks

Date: 6-1-2021



-  WR_95628_167426_ClaimedPOD
-  WR_95628_167426_Amended_POU



Area of Interest



0 0.15 0.3
Miles

Kevin Rechkoff
Agency Legal Counsel
1420 East Sixth Avenue
P.O. Box 200701
Helena, MT 59620-0701
(406) 444-3312
Kevin.rechkoff@mt.gov
Attorney for Department of Fish, Wildlife and Parks

July 21, 2021

Montana Water Court

**IN THE WATER COURT OF THE STATE OF MONTANA
UPPER MISSOURI DIVISION
JEFFERSON RIVER BASIN (41G)
PRELIMINARY DECREE**

OBJECTOR: State of Montana Department of Fish, Wildlife and Parks

41G 167430-00

FILING OF ADDITIONAL INFORMATION

Objector Montana Department of Fish, Wildlife and Parks (DFWP) and Claimant Stephen Bateman submit this Filing of Additional Information to aid the Court in resolving outstanding issue remarks not addressed by the parties Settlement Stipulation.

RECITALS

1. Claimant or his predecessor timely filed Statements of Claim 41G 95628-00, 41G 167426-00, 41G 167427-00, 41G 167428-00, 41G 167429-00 and 41G 167430-00 with the Montana Department of Natural Resources and Conservation (DNRC).
2. On or about February 15, 2018 the Montana Water Court (Court) issued a Preliminary Decree in Basin 41G for claims 41G 95628-00, 41G 167426-00, 41G 167427-00, 41G 167428-00, 41G 167429-00 and 41G 167430-00.
3. On February 11, 2019, Objector DFWP filed timely objections to claim numbers 41G 95628-00, 41G 167426-00, 41G 167427-00, 41G 167428-00, 41G 167429-00 and 41G 167430-00.

4. On April 30, 2020, DNRC issued an Ownership Update Notice listing Stephen Bateman as owner of claim numbers 41G 95628-00, 41G 167426-00, 41G 167427-00, 41G 167428-00, 41G 167429-00 and 41G 167430-00.

5. Claimant Frederick L. Bateman is deceased. Stephen Bateman is the current owner of claim numbers 41G 95628-00, 41G 167426-00, 41G 167427-00, 41G 167428-00, 41G 167429-00 and 41G 167430-00.

6. On March 31, 2021, Claimant's successor Stephen Bateman and DFWP's Water Conservation Specialist Stephen Begley conducted a site visit to establish the historic and ongoing use of water under claims 41G 95628-00, 41G 167426-00, 41G 167427-00, 41G 167428-00, 41G 167429-00 and 41G 167430-00. The findings of that visit are consistent with the terms of this settlement agreement.

7. On June 2, 2021, DFWP and Claimant filed a Settlement Stipulation, resolving FWP's objections in this case.

8. On June 22, 2021, the Court issued an Order Setting Filing Deadline. The Court's Order noted remaining unresolved issue remarks. The Court requested additional information or evidence from the Claimant addressing the issue remarks.

9. DFWP and Claimant now submit this Filing of Additional Information attempting to address the Court's request.

ADDITIONAL INFORMATION TO RESOLVE REMAINING ISSUE REMARKS

10. In an effort to resolve some of the issue remarks identified in the Order Setting Filing Date dated June 22, 2021. FWP presents the following information.

11. The volume issue remarks identified in the abstracts of Water Right Claims 41G 95628 00 and 41G 167426 00 read as follows:

THE CLAIMED VOLUME EXCEEDS THE MAXIMUM FEASIBLE VOLUME. BASED ON THE FLOW RATE AND PERIOD OF USE. THE MAXIMUM VOLUME POSSIBLE IS 1,687 ACRE FEET PER YEAR.

THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. THE CLAIMED VOLUME EQUALS 3,035 TIMES THE CAPACITY OF THE RESERVOIR.

12. To resolve its objections to Claimants water right claims, FWP conducted a site visit on March 31, 2021. During this site visit, it was confirmed that Claimant was no longer utilizing storage for the purpose of irrigating from Fitz Creek. Thus, the reservoir record that is associated with the claim and the estimated measurements of the reservoir that DNRC added during the reexamination of these two claims no longer apply. Therefore, FWP recommends that the volume

should be removed, and the following information remark be added to the abstracts of Water Right Claims 41G 95628 00 and 41G 167426 00:

THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORIC AND BENEFICIAL USE.

13. Two additional issue remarks were identified by the Court:

THE WATER COURT CANNOT DECREE THIS RIGHT WITHOUT FURTHER PRESENTATION OF EVIDENCE CONCERNING THE CLAIMED POINTS OF DIVERSION AND THE ACTUAL IRRIGATION OF THE CLAIMED PLACE OF USE BEFORE JULY 1, 1973. THE CLAIM INDICATES THAT POINT OF DIVERSION NO. 2 WAS NOT USED TO IRRIGATE THE PLACE OF USE UNTIL 1979.

And,

THE CLAIM DOES NOT APPEAR TO REFLECT THE WATER RIGHT AS IT WAS BEFORE JULY 1, 1973.

14. During its site visit on March 31, 2021, FWP confirmed the points of diversion that were claimed for Water Right Claims 41G 95628 00 and 41G 167426 00. The claims indicate that the second point of diversion (Collins Ditch No. 2) utilizes Whitetail Deer Creek, serving as a natural carrier to convey water from Fitz Creek. Shortly after water from Fitz Creek enters into Whitetail Deer Creek, it is then intercepted by the Collins Ditch No. 2 and conveyed to the claimed place of use.

15. Collins Ditch No. 2 is identified as the point and means of diversion for Water Right Claims 41G 167428 00, 41G 167429 00 and 41G 167430 00. All three of these water rights are decreed with claimed priority dates of April 3, 1906, April 1, 1865 and June 13, 1911, respectively. In addition, water right claims 41G 95628 00 and 41G 167426 00 are identified in the above-named water rights' abstracts as being supplemental with the following information remark:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATION ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL BENEFICIAL USE.

16. Therefore, since the Collins Ditch No. 2 serves as the main point of diversion for the three water rights on Whitetail Deer Creek, and serves as a natural carrier of water from Fitz Creek as described in the claim, and the water rights subject to this Stipulation are supplemental to other decreed water rights held by the claimant on Whitetail Deer Creek, it is reasonable to suggest that these water rights have been perfected and utilized as claimed prior to July 1, 1973.

Respectfully submitted this 21st day of July, 2021.



Kevin Rechkoff, Agency Legal Counsel
Montana Fish, Wildlife and Parks

Certificate of Service

I, Kaedy Gangstad, Paralegal for the Montana Department of Fish, Wildlife and Parks, certify that I did, on the 21st day of July 2021, serve a copy of the foregoing *Filing of Additional Information*, by mail, postage prepaid, upon the following:

Stephen Bateman
PO Box 712
Whitehall, MT 59759-0712



Kaedy Gangstad
Paralegal

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
JEFFERSON RIVER
BASIN 41G**

Water Right Number: 41G 95628-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: STEPHEN BATEMAN SR
PO BOX 712
WHITEHALL, MT 59759 0712

Priority Date: JULY 16, 1908

Type of Historical Right: FILED

Purpose (Use): IRRIGATION
Irrigation Type: FLOOD

Flow Rate: 3.79 CFS

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

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 50.00

Source Name: FITZ CREEK
Source Type: SURFACE WATER
ALSO KNOWN AS FITCHES CREEK
WHITETAIL CREEK IS USED AS A NATURAL CARRIER TO CONVEY WATER FROM FITZ CREEK TO POINT OF DIVERSION NO.2.

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		SWNWSE	27	3N	4W	JEFFERSON
Period of Diversion:	APRIL 1 TO NOVEMBER 1					
Diversion Means:	HEADGATE					
2		SWNWSW	28	3N	4W	JEFFERSON
Period of Diversion:	APRIL 1 TO NOVEMBER 1					
Diversion Means:	HEADGATE					
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	6.00		SESE	28	3N	4W	JEFFERSON
2	4.00		NWSE	28	3N	4W	JEFFERSON
3	40.00		SWSE	28	3N	4W	JEFFERSON
Total:	50.00						

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

95628-00

167426-00

167427-00

167428-00

167429-00

167430-00

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
JEFFERSON RIVER
BASIN 41G**

Water Right Number: 41G 167426-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: STEPHEN BATEMAN SR
PO BOX 712
WHITEHALL, MT 59759 0712

Priority Date: MAY 11, 1909

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 3.79 CFS

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

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 50.00

Source Name: FITZ CREEK

Source Type: SURFACE WATER

LITTLE WHITETAIL CREEK IS USED AS A NATURAL CARRIER TO CONVEY WATER FROM FITZ CREEK TO THE SECONDARY POINT(S) OF DIVERSION, DIVERSION NO(S). NO.2.

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		SWNWSE	27	3N	4W	JEFFERSON
Period of Diversion: APRIL 1 TO NOVEMBER 1						
Diversion Means: HEADGATE						
2		SWNWSW	28	3N	4W	JEFFERSON
Period of Diversion: APRIL 1 TO NOVEMBER 1						
Diversion Means: HEADGATE						
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	6.00		SESE	28	3N	4W	JEFFERSON
2	4.00		NWSE	28	3N	4W	JEFFERSON
3	40.00		SWSE	28	3N	4W	JEFFERSON
Total:	50.00						

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

95628-00

167426-00

167427-00

167428-00

167429-00

167430-00

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
JEFFERSON RIVER
BASIN 41G**

Water Right Number: **41G 167427-00** STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: **DISMISSED**

Owners: STEPHEN BATEMAN SR
 PO BOX 712
 WHITEHALL, MT 59759 0712

Priority Date:

Type of Historical Right:

Purpose (Use): IRRIGATION

Flow Rate:

Volume:

Source Name: FITZ CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

Remarks:

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
JEFFERSON RIVER
BASIN 41G**

Water Right Number: 41G 167428-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: STEPHEN BATEMAN SR
PO BOX 712
WHITEHALL, MT 59759 0712

Priority Date: APRIL 3, 1906

Type of Historical Right: DECREEED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER

Flow Rate: 1.00 CFS

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

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 309.00

Source Name: WHITETAIL DEER CREEK

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		SWNWSW	28	3N	4W	JEFFERSON

Period of Diversion: APRIL 1 TO NOVEMBER 1

Diversion Means: HEADGATE

Ditch Name: COLLINS DITCH NO.2

2		SWNWSW	28	3N	4W	JEFFERSON
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Period of Diversion: APRIL 1 TO NOVEMBER 1

Diversion Means: HEADGATE

Ditch Name: COLLINS DITCH NO. 1

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	43.00		E2SE	29	3N	4W	JEFFERSON
2	60.00		E2NE	32	3N	4W	JEFFERSON
3	30.00		NESE	32	3N	4W	JEFFERSON
4	49.00		W2NW	33	3N	4W	JEFFERSON
5	19.00		NWSW	33	3N	4W	JEFFERSON
6	68.00		SW	28	3N	4W	JEFFERSON

7	40.00	W2SE	28	3N	4W	JEFFERSON
Total:	309.00					

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

95628-00	167426-00	167427-00	167428-00	167429-00	167430-00
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**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
JEFFERSON RIVER
BASIN 41G**

Water Right Number: 41G 167429-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: STEPHEN BATEMAN SR
PO BOX 712
WHITEHALL, MT 59759 0712

Priority Date: APRIL 1, 1865

Type of Historical Right: DECREEED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 1.25 CFS

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

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 309.00

Source Name: WHITETAIL DEER CREEK

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		SWNWSW	28	3N	4W	JEFFERSON

Period of Diversion: APRIL 1 TO NOVEMBER 1

Diversion Means: HEADGATE

Ditch Name: COLLINS DITCH NO.2

2		SWNWSW	28	3N	4W	JEFFERSON
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Period of Diversion: APRIL 1 TO NOVEMBER 1

Diversion Means: HEADGATE

Ditch Name: COLLINS DITCH NO. 1

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	43.00		E2SE	29	3N	4W	JEFFERSON
2	60.00		E2NE	32	3N	4W	JEFFERSON
3	30.00		NESE	32	3N	4W	JEFFERSON
4	49.00		W2NW	33	3N	4W	JEFFERSON
5	19.00		NWSW	33	3N	4W	JEFFERSON
6	68.00		SW	28	3N	4W	JEFFERSON

7	40.00	W2SE	28	3N	4W	JEFFERSON
Total:	309.00					

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

95628-00	167426-00	167427-00	167428-00	167429-00	167430-00
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**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
JEFFERSON RIVER
BASIN 41G**

Water Right Number: 41G 167430-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: STEPHEN BATEMAN SR
PO BOX 712
WHITEHALL, MT 59759 0712

Priority Date: JUNE 13, 1911

Type of Historical Right: DECREEED

Purpose (Use): IRRIGATION
Irrigation Type: SPRINKLER

Flow Rate: 2.50 CFS

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

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 309.00

Source Name: WHITETAIL DEER CREEK
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		SWNWSW	28	3N	4W	JEFFERSON

Period of Diversion: APRIL 1 TO NOVEMBER 1

Diversion Means: HEADGATE

Ditch Name: COLLINS DITCH NO.2

2		SWNWSW	28	3N	4W	JEFFERSON
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Period of Diversion: APRIL 1 TO NOVEMBER 1

Diversion Means: HEADGATE

Ditch Name: COLLINS DITCH NO. 1

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	43.00		E2SE	29	3N	4W	JEFFERSON
2	60.00		E2NE	32	3N	4W	JEFFERSON
3	30.00		NESE	32	3N	4W	JEFFERSON
4	49.00		W2NW	33	3N	4W	JEFFERSON
5	19.00		NWSW	33	3N	4W	JEFFERSON
6	68.00		SW	28	3N	4W	JEFFERSON

7	40.00	W2SE	28	3N	4W	JEFFERSON
Total:	309.00					

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

95628-00	167426-00	167427-00	167428-00	167429-00	167430-00
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