

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

* * * * *

CLAIMANT: Allegro Ranch IV LLC

OBJECTORS: Allegro Ranch IV LLC; Frank DeHaan; Vera
DeHaan; Frank DeHaan Inc.; Randy Bryant; Robert
DeHaan

CASE 41H-0144-R-2020

41H 27678-00

41H 27679-00

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 within **10 days** of the stamped date appearing on the Master's Report if you disagree or find errors with the Master's findings of fact, conclusion of law, or recommendations. Rule 23, W.R.Adj.R. If the Maser's 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. 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

Water rights claims 41H 27678-00 and 41H 27679-00, owned by Allegro Ranch IV, LLC (Allegro), appeared in the Preliminary Decree for the Gallatin River (Basin 41H), and

received late objections, issue remarks from the Montana Department of Natural Resources and Conservation's (DNRC) preparation of the Preliminary Decree, and objections.

Specifically, the claims received unresolved late objections from Randy Bryant and Robert DeHaan to the ownership and place of use/maximum acres elements stated by the Preliminary Decree abstract for claim 41H 27679-00. Both DeHaan and Bryant indicated their late objections remained the same.

Allegro, represented by attorney Colleen Coyle, filed May 9, 2019 objections to clarify the points of diversion and to resolve the issue remarks appearing on claims 41H 27678-00 and 41H 27679-00.

The Water Court consolidated claims 41H 27678-00 and 41H 27679-00 into Water Court case 41H-0144-R-2020 and set various deadlines for the parties to resolve the issues.

On April 22, 2021, Robert DeHaan (Pine Angus Ranch Inc.) and Sandra Bryant filed a Status Report and Stipulation and Agreement with the court. On May 10, 2021, Allegro Ranch signed the Stipulation and Agreement and filed its signature on the document with the court. The court requested additional information regarding the stipulated addition of a secondary source to the decree abstract for water right claim 41H 27679-00 but did not receive substantiating information from the parties.

The Water Court presently resolves the issue in this case.

ISSUES

1. Whether the Water Court approves the stipulation filed by the parties resolving the issue remarks and objections.

APPLICABLE LAW

"The Montana [W]ater [C]ourt has a statutory obligation and the exclusive authority to adjudicate claims of existing water rights." Rule 1(a), W.R.Adj.R. The Water Court resolves issue remarks before issuance of a final decree and may use information submitted by the DNRC, the statement of claim, and any other data obtained by the court to evaluate a water right. Sections 85-2-227, -231(2), MCA.

After the Water Court issues a preliminary decree in a basin, an objection period provides parties with an ownership interest in water or its use the opportunity to raise issues regarding their own water rights or other water rights in the preliminary decree. Section

85-2-233(1)(b); *Mont. Trout Unlimited v. Beaverhead Water Co.*, 2011 MT 151, ¶ 33, 361 Mont. 77, 255 P.3d 179.

A properly filed statement of claim for an existing water right is prima facie proof of its content. Section 85-2-227, MCA; Rule 10, W.R.Adj.R. Prima facie proof may be contradicted and overcome by a preponderance of the evidence. Rule 19, W.R.Adj.R. A preponderance of the evidence is evidence that shows a fact is “more probable than not.” *Hohenlohe v. State*, 2010 MT 203, ¶ 33, 357 Mont. 438, 240 P.3d 628. The party seeking to overcome the prima facie status of a statement of claim bears the burden of proof. *Nelson v. Brooks*, 2014 MT 120, ¶¶ 34, 37, 375 Mont. 86, 329 P.3d 558.

In Water Court proceedings, the parties may file settlements stipulating the terms under which the parties contractually agree to resolve decree objections. A settlement may include a claimant’s legally binding commitment to modify water right claims to resolve objections and issue remarks and an objector’s agreement to withdraw objections conditioned upon the court’s acceptance of the claim modifications. *E.g.*, *In re Pondera Cty. Canal & Reservoir Co.*, Case 41M-202, 2020 Mont. Water LEXIS 19 (Jan. 9, 2020).

Settlement agreements do not bind the Water Court and are subject to the court’s review and approval. Rule 17(a), W.R.Adj.R. The court may rely on the stipulated facts and agreements of a settlement that are “not contrary to law, court rule, or public policy.” *In re Marriage of Hill*, 265 Mont. 52, 58, 874 P.2d 705, 708 (1994). When a stipulation proposes modifications to water right claim elements, the court must evaluate each proposed modification to ensure the modification is supported by the evidence and within the court’s authority to adjudicate. *In re Argabright*, Case 41I-265, 2014 Mont. Water LEXIS 9, (December 12, 2014) (affirming rejection of stipulation); *In re Dana Ranch Co.*, Case 41J-265, 2017 Mont. Water LEXIS 13 (rejecting stipulation). The water right adjudication rules require settlement agreements enlarging an element of a water right to meet the applicable burden of proof. Rule 17(b), W.R.Adj.R. The rules do not require settlement agreements reducing an element of a water right to meet the applicable burden of proof. Rule 17(c), W.R.Adj.R.

DISCUSSION

1. Whether the Water Court approves the stipulation filed by the parties resolving the issue remarks and objections.

Water right claim 41H 27678-00 is a filed flood-irrigation claim for surface water from Pass Creek in Gallatin County, Montana. The claim received issue remarks and objections. The Stipulation and Agreement filed by the parties requests the court to dismiss water right claim 41H 27678-00, which is hereby granted. Dismissal of the water right claim resolves the issue remarks and objections.

Water right claim 41H 27679-00 is a flood-irrigation use right for surface water from an unnamed tributary of Pass Creek in Gallatin County. The Stipulation and Agreement further requests the court to modify the claim's source to reflect surface-water use from an unnamed tributary of Pass Creek as well as waste-and-seepage use from an unnamed tributary of Pass Creek. The court requested additional information from the parties regarding addition of a secondary source to the claim's decree abstract. The court's previous order stated: "[I]f the parties do not show cause by **September 23, 2021**, the source for water right claim 41H 27679-00 will appear as surface water from an unnamed tributary of Pass Creek." The court did not receive information from the parties supporting addition of the secondary source.

The Water Court approves the Stipulation and Agreement filed by the parties as it relates to water right claim water right claim 41H 27678-00, but not as it relates to water right claim 41H 27679-00. Thus, the Water Court dismisses water right claim 41H 27678-00 and decrees the source for water right claim 41H 27679-00 as a single source claim for surface water use from an unnamed tributary of Pass Creek.

Finally, during its reexamination of claim 41H 27679-00, DNRC placed an issue remark on the claim stating, "the point of diversion legal land description could not be refined from information in the claim file." The record further indicates Lucille Knadler, former owner of claim 41H 27679-00, requested to amend the claim's point of diversion in the past. Knadler asserted the accurate historical point of diversion was:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>QtrSec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			S2S2	28	3N	5E	GALLATIN
2			N2NWNW	33	3N	5E	GALLATIN

The Preliminary Decree abstract, consistent with the original statement of claim, states the legal land description for the point of diversion is in the SWNENW of Section 28, Township 3N, Range 5E, Gallatin County.

No information before the court supports the assertion made by Knadler regarding the point of diversion. The parties had the opportunity to review the point of diversion as it appears on the claim's preliminary decree abstract and did not indicate the point of diversion required modification. The information before the court does not overcome the prima facie status the court affords to the originally claimed element. Therefore, the point of diversion will remain as it appeared in the preliminary decree.

RECOMMENDATIONS

This Water Master recommends the Water Court to remove the resolved issue remarks, dismiss water right claim 41H 27678-00 by request.

The Water Court attaches post-decree abstracts for the water rights claims to this Master's Report, as well as the Stipulation and Agreement filed by the parties.

Kirsa Shelkey
Water Master
she/her/hers

Service via USPS Mail:

Vera V. DeHaan
Frank DeHaan
Frank DeHaan Inc.
6800 Dry Creek Rd
Belgrade, MT 59714

Randy Bryant
15977 Theisen Rd
Belgrade, MT 59714

Service Via Electronic Mail:

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41H-0144-R-2020

April 22, 2021

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Montana Water Court

Attorneys for Robert A. DeHaan & Pine Ridge Angus Ranch, Inc.

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

CLAIMANTS: Randy Bryant; Sandra Bryant; Allegro Ranch IV LLC; Pine Ridge Angus Ranch Inc.	41H-0143-R-2020 41H 11550-00 41H 11551-00 41H 11554-00 41H 27677-00
OBJECTORS: Allegro Ranch IV LLC; Robert A. DeHaan	

CLAIMANTS: Allegro Ranch IV LLC	41H-0144-R-2020 41H 27678-00 41H 27679-00
OBJECTORS: Allegro Ranch IV LLC; Randy Bryant; Robert DeHaan	

STATUS REPORT

Robert A. DeHaan and Pine Ridge Angus Ranch Inc. provide this Status Report to inform the Water Court that the parties have reached an agreement resolving all issues and objections in this case. All parties have agreed to the terms and Randy Bryant, Sandra Bryant, Pine Ridge Angus Ranch, Inc. and Robert A. DeHaan have signed the agreement. Although Allegro Ranch IV, LLC has informed the other parties it agrees, Robert A. DeHaan and Pine Ridge Angus Ranch, Inc. are still waiting for a signature page from Allegro Ranch IV, LLC. It

is this undersigned counsel's understanding that counsel for Allegro Ranch IV, LLC intends to provide a signature page, but has not yet done so.

Attached is the agreement reached between the parties and the signature pages of all other parties besides Allegro Ranch IV, LLC.

RESPECTFULLY submitted this 22nd day of April, 2021.

River and Range Law, PLLC
By: /s/ Bina R. Peters

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was duly served via email or U.S. first class mail, postage prepaid, on this 22nd day of April, 2020, upon the following:

Colleen Coyle
Coyle Law Firm
PO Box 1326
Bozeman, MT 59771
colleen@coylelawmt.com

Randy Bryant
Sandra Bryant
15977 Theisen Rd
Belgrade, MT 59714

River and Range Law, PLLC
By: /s/ Kate A. Jaworski

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Attorneys for Robert A. DeHaan and Pine Ridge Angus Ranch, Inc.

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

CLAIMANTS: Randy Bryant; Sandra Bryant; Allegro Ranch IV LLC; Pine Ridge Angus Ranch Inc.	41H-0143-R-2020 41H 11550-00 41H 11551-00 41H 11554-00
OBJECTORS: Allegro Ranch IV LLC; Robert A. DeHaan	41H 27677-00
CLAIMANTS: Allegro Ranch IV LLC	41H-0144-R-2020 41H 27678-00
OBJECTORS: Allegro Ranch IV LLC; Frank DeHaan; Vera DeHaan; Frank DeHaan Inc.; Randy Bryant; Robert DeHaan	41H 27679-00

STIPULATION AND AGREEMENT

Robert A. DeHaan (“DeHaan”), Pine Ridge Angus Ranch, Inc. (“Pine Ridge”), Randy and Sandra Bryant (“Bryant”), and Allegro Ranch IV LLC (“Allegro Ranch”), collectively, “the Parties” stipulate and agree as follows:

RECITALS

- A. Pursuant to § 85-2-221, MCA, statements of claim for the above captioned claims were timely filed with the Montana Department of Natural Resources and Conservation.

- B. Claims 41H 11550-00, 41H 11551-00, and 41H 11554-00 are owned by Pine Ridge (an entity owned by DeHaan). Bryant is a co-owner of claims 41H 11550-00 and 41H 11554-00.
- C. No objections were filed to claims 41H 11550-00, 41H 11551-00, 41H 11554-00.
- D. Claims 41H 27677-00, 41H 27678-00, and 41H 27679-00 are owned by Allegro Ranch.
- E. DeHaan and Allegro Ranch filed objections to claims 41H 27677-00 and 27679-00. Allegro Ranch also filed objections to claims 41H 27678-00.
- F. The Parties mutually desire to resolve the objections and issue remarks as described in the Agreement set forth below.

AGREEMENT

THEREFORE, in mutual consideration of the covenants and conditions set forth below, the Parties stipulate and agree as follows:

1. Claim 41H 27677-00 shall be amended as shown below and as reflected on the attached proposed abstract:

Flow Rate: ~~7.50 CFS~~

3.75 CFS
2. Claim 41H 27678-00 is withdrawn and shall be terminated as shown on the attached proposed abstract.
3. Claim 41H 27679-00 shall be amended as shown below and as reflected on the attached proposed abstract:

Flow Rate: ~~7.50 CFS~~ 3.75 CFS

Source: Unnamed Tributary of Pass Creek AND
Waste and Seepage, Unnamed Tributary of Pass Creek

4. The elements of claims 41H 11550-00 and 41H 11551-00 and 41H 11554-00 shall remain as they appeared in the Preliminary Decree and as shown on the attached proposed abstracts.
5. Allegro Ranch and DeHaan's objections are resolved subject to the Water Court's adoption of this Stipulation and Agreement. If the Stipulation and

Agreement is not adopted in full by the Water Court, this Stipulation and Agreement shall be deemed void and the objections shall not be resolved.

6. Pursuant to amendments made to the claims as set forth this Agreement, the Parties agree the issue remarks are resolved, with the exception of the issue remark concerning refining the point of diversion on claims 41H 27677-00, 41H 27678-00 (which has been withdrawn), and 41H 27679-00.
7. This Stipulation and Agreement is entered into in compromise and settlement of the Parties' differences with respect to the adjudication of existing water right claims as set forth in this Stipulation and Agreement. Nothing stated in this Stipulation and Agreement shall be construed or interpreted as any admission against interest by any of the Parties.
8. This Stipulation and Agreement shall be construed and interpreted according to the laws of the State of Montana, and any litigation over this Stipulation and Agreement must be venued in the State of Montana.
9. It is mutually understood and agreed between the Parties that this Stipulation and Agreement sets forth the entire agreement between the Parties pertaining to the resolution of their objections to the above captioned claims in the Preliminary Decree.
10. Each of the Parties executes this Stipulation and Agreement fully understanding it, with the legal capacity to enter into it, represented by legal counsel, and after having the opportunity to obtain any desired independent professional or other advice pertaining to it.
11. Each of the Parties represents and affirms that each of their respective signatories to this Stipulation and Agreement have been duly authorized to execute and bind each of the Parties to this Stipulation and Agreement.
12. This Stipulation and Agreement is binding upon each of the Parties and all of the Parties' respective heirs, assigns, representatives, agents, and successors in interest. Nothing stated in this Stipulation and Agreement

shall create any rights in any third party with respect to the subject matter of this Stipulation and Agreement.

13. Each of the Parties are solely responsible for all of their own attorneys' or consultants' fees and expenses incurred with respect to this matter prior to the execution of this Stipulation and Agreement.
14. This Stipulation and Agreement may be executed in counterparts, which together shall constitute one agreement. Facsimile or electronically transmitted copies of signatures shall be deemed the equivalent of original signatures.

Pine Ridge Angus Ranch, Inc.

Signed: _____

Date: _____

Printed Name: _____

Robert DeHaan

Signed: _____

Date: _____

Printed Name: _____

Randy Bryant

Signed: Randy Bryant

Date: 3-24-21

Printed Name: RANDY S BRYANT

shall create any rights in any third party with respect to the subject matter of this Stipulation and Agreement.

13. Each of the Parties are solely responsible for all of their own attorneys' or consultants' fees and expenses incurred with respect to this matter prior to the execution of this Stipulation and Agreement.
14. This Stipulation and Agreement may be executed in counterparts, which together shall constitute one agreement. Facsimile or electronically transmitted copies of signatures shall be deemed the equivalent of original signatures.

Pine Ridge Angus Ranch, Inc.

Signed: Robert DeHaan president

Date: 3-23-2021

Printed Name: Robert DeHaan

Robert DeHaan

Signed: Robert DeHaan

Date: 3-23-2021

Printed Name: Robert DeHaan

Randy Bryant

Signed: _____

Date: _____

Printed Name: _____

Sandra Bryant

Signed: Sandra Bryant

Date: 3-24-21

Printed Name: Sandra Bryant

Allegro Ranch IV LLC

Signed: _____

Date: _____

Printed Name: _____

STATE OF MONTANA

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

1424 9TH AVENUE P.O.BOX 201601 HELENA, MONTANA 59620-1601

GENERAL ABSTRACT

Water Right Number:

41H 11550-00 STATEMENT OF CLAIM

Version:

2 -- REEXAMINED

Version Status:

ACTIVE

Owners:

SANDRA BRYANT
15977 THEISEN RD
BELGRADE, MT 59714

RANDY BRYANT
15977 THEISEN RD
BELGRADE, MT 59714

PINE RIDGE ANGUS RANCH INC
987 RD 545
OLIVE, MT 59343-9600

TRANSFER PROCESSED TO ADD OWNERS ONLY. INDIVIDUAL PORTIONS WILL BE
RECORDED AFTER FINAL DECREE.

Priority Date:

APRIL 20, 1881

Enforceable Priority Date:

APRIL 20, 1881

Type of Historical Right:

FILED

Purpose (use):

IRRIGATION

Irrigation Type:

FLOOD

Maximum Flow Rate:

3.75 CFS

Maximum 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:

70.00

Source Name:

PASS 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		NWNWNE	33	3N	5E	GALLATIN

Period of Diversion: APRIL 15 TO AUGUST 15

Diversion Means: DIKE

Period of Use:

APRIL 15 to AUGUST 15

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	24.00		SENW	32	3N	5E	GALLATIN
2	7.00		SESWNW	32	3N	5E	GALLATIN
3	6.00		SWNWSW	32	3N	5E	GALLATIN
4	12.00		N2NWSW	32	3N	5E	GALLATIN
5	8.00		NWNESW	32	3N	5E	GALLATIN
6	13.00		E2SE	31	3N	5E	GALLATIN
Total:	70.00						

Geocodes/Valid:

06-1211-31-1-01-10-0000 - Y06-1211-32-2-01-01-0000 - Y06-1211-32-2-01-10-0000 - Y

Remarks:

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

DIVIDED INTEREST TRANSFER FOR 2 WAY SPLIT 96%-4%

NOTICE OF WATER RIGHT TRANSFER RECEIVED 06/07/1988.

NOTICE OF WATER RIGHT TRANSFER RECEIVED 01/16/1989.

NOTICE OF WATER RIGHT TRANSFER RECEIVED 12/12/1996.

OWNERSHIP UPDATE RECEIVED

OWNERSHIP UPDATE TYPE DOR # 207915 RECEIVED 03/05/2020.

Remarks:

~~THE TYPE OF HISTORICAL RIGHT, PRIORITY DATE, AND FLOW RATE MAY BE QUESTIONABLE. THE CLAIMS FOLLOWING THIS STATEMENT USE THE SAME FILED APPROPRIATION TO DOCUMENT THE RIGHT. THE COMBINED FLOW RATE FOR THIS GROUP OF CLAIMS EXCEEDS THE TOTAL OF THE ORIGINAL APPROPRIATION. 41H 11550-00, 41H 11551-00, 41H 27677-00.~~

~~A LATE OBJECTION HAS BEEN FILED TO THE POINT OF DIVERSION, SOURCE, ABANDONMENT AND NON-PERFECTION OF THIS WATER RIGHT CLAIM. IT WILL BE RESOLVED DURING THE ADJUDICATION OF OBJECTIONS TO THE PRELIMINARY DECREE.~~

~~THE PRIORITY DATE MAY BE QUESTIONABLE. THIS CLAIM IS FOR A FILED APPROPRIATION ON PASS CREEK WITH A PRIORITY DATE PREDATING CASE NO. 751, GALLATIN COUNTY.~~

GENERAL ABSTRACT

Version Status: ACTIVE

Geocodes/Valid: 06-1211-31-1-01-10-0000 - Y 06-1211-32-2-01-10-0000 - Y

~~THE PRIORITY DATE MAY BE QUESTIONABLE. THIS CLAIM IS FOR A FILED APPROPRIATION ON PASS CREEK WITH A PRIORITY DATE PREDATING CASE NO. 751 GALLATIN COUNTY.~~

STATE OF MONTANA

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

1424 9TH AVENUE P.O.BOX 201601 HELENA, MONTANA 59620-1601

GENERAL ABSTRACT

Water Right Number:

41H 11554-00 STATEMENT OF CLAIM

Version:

2 -- REEXAMINED

Version Status:

ACTIVE

Owners:

SANDRA BRYANT
15977 THEISEN RD
BELGRADE, MT 59714

RANDY BRYANT
15977 THEISEN RD
BELGRADE, MT 59714

PINE RIDGE ANGUS RANCH INC
987 RD 545
OLIVE, MT 59343-9600

TRANSFER PROCESSED TO ADD OWNERS ONLY. INDIVIDUAL PORTIONS WILL BE
RECORDED AFTER FINAL DECREE.

Priority Date:

DECEMBER 31, 1917

Enforceable Priority Date:

DECEMBER 31, 1917

Type of Historical Right:

USE

Purpose (use):

STOCK

Maximum 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.

Maximum 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.

Source Name:

PASS CREEK

Source Type:

SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWNWNE	33	3N	5E	GALLATIN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DITCH

Period of Use:

JANUARY 1 to DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			E2	31	3N	5E	GALLATIN
2			W2	32	3N	5E	GALLATIN

Geocodes/Valid:

06-1211-31-1-01-10-0000 - Y

06-1211-32-2-01-01-0000 - Y

06-1211-32-2-01-10-0000 - Y

06-1211-32-3-40-20-0000 - Y

Remarks:

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

NOTICE OF WATER RIGHT TRANSFER RECEIVED 01/16/89.

NOTICE OF WATER RIGHT TRANSFER RECEIVED 06/07/88.

NOTICE OF WATER RIGHT TRANSFER RECEIVED 06/12/95.

NOTICE OF WATER RIGHT TRANSFER RECEIVED 12/12/96.

OWNERSHIP UPDATE RECEIVED

OWNERSHIP UPDATE TYPE DOR # 207915 RECEIVED 03/05/2020.

Remarks:

~~A LATE OBJECTION HAS BEEN FILED TO THE POINT OF DIVERSION AND ABANDONMENT/NON-
PERFECTION OF THIS WATER RIGHT CLAIM. IT WILL BE RESOLVED DURING THE ADJUDICATION OF
OBJECTIONS TO THE PRELIMINARY DECREE.~~

STATE OF MONTANA

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

1424 9TH AVENUE P.O.BOX 201601 HELENA, MONTANA 59620-1601

GENERAL ABSTRACT

Water Right Number:

41H 27677-00 STATEMENT OF CLAIM

Version:

2 -- REEXAMINED

Version Status:

ACTIVE

Owners:

ALLEGRO RANCH IV LLC
4560 SOURDOUGH RD
BOZEMAN, MT 59715-8040

Priority Date:

APRIL 20, 1881

Enforceable Priority Date:

APRIL 20, 1881

Type of Historical Right:

FILED

Purpose (use):

IRRIGATION

Irrigation Type:

FLOOD

Maximum Flow Rate:

7.50 CFS 3.75 CFS

Maximum 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:

35.00

Source Name:

PASS CREEK

Source Type:

SURFACE WATER

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		NESWNW	33	3N	5E	GALLATIN

Period of Diversion:

APRIL 1 TO OCTOBER 1

Diversion Means:

HEADGATE

Period of Use:

APRIL 1 to OCTOBER 1

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	33.00		NE	32	3N	5E	GALLATIN
2	2.00		NWNWSE	32	3N	5E	GALLATIN
Total:	35.00						

Geocodes/Valid:

06-1211-32-1-01-01-0000 - Y06-1211-32-4-01-01-0000 - Y

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.

27677-0027678-0027679-00

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

NOTICE OF WATER RIGHT TRANSFER RECEIVED 08/01/90.

OWNERSHIP UPDATE RECEIVED

OWNERSHIP UPDATE TYPE 608 # 1790 RECEIVED 04/01/2002.

OWNERSHIP UPDATE TYPE 608 # 48885 RECEIVED 09/04/2007.

OWNERSHIP UPDATE TYPE DOR # 160590 RECEIVED 07/10/2013.

THE TYPE OF HISTORICAL RIGHT, PRIORITY DATE, AND FLOW RATE MAY BE QUESTIONABLE. THE CLAIMS FOLLOWING THIS STATEMENT USE THE SAME FILED APPROPRIATION TO DOCUMENT THE RIGHT. THE COMBINED FLOW RATE FOR THIS GROUP OF CLAIMS EXCEEDS THE TOTAL OF THE ORIGINAL APPROPRIATION. 41H 11550-00, 41H 11551-00, 41H 27677-00.

Remarks:

~~THE TIMELY FILED OBJECTION OF THE UNITED STATES OF AMERICA WAS AMENDED BY AGREEMENT OF THE PARTIES TO INCLUDE POINT OF DIVERSION . BECAUSE THIS ELEMENT WAS NOT INCLUDED ON THE OBJECTION LIST, ANY WATER USER WHOSE RIGHTS MAY BE ADVERSELY AFFECTED BY ENFORCEMENT OF THIS CHANGE MAY PETITION THE APPROPRIATE COURT FOR RELIEF OR MAY FILE AN OBJECTION AT THE PRELIMINARY DECREE.~~

THE POINT OF DIVERSION LEGAL LAND DESCRIPTION COULD NOT BE REFINED FROM INFORMATION IN THE CLAIM FILE.

~~THE PRIORITY DATE MAY BE QUESTIONABLE. THIS CLAIM IS FOR A FILED APPROPRIATION ON PASS CREEK WITH A PRIORITY DATE PREDATING CASE NO. 751, GALLATIN COUNTY.~~

STATE OF MONTANA

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

1424 9TH AVENUE P.O.BOX 201601 HELENA, MONTANA 59620-1601

GENERAL ABSTRACT

Water Right Number: 41H-27678-00 STATEMENT OF CLAIM

Version: 2 REEXAMINED

Version Status: ACTIVE

Owners: ALLEGRO RANCH IV LLC
4560 SOURDOUGH RD
BOZEMAN, MT 59715-8040

Priority Date: APRIL 20, 1881

Enforceable Priority Date: APRIL 20, 1881

Type of Historical Right: FILED

Purpose (use): IRRIGATION

Irrigation Type: FLOOD

Maximum Flow Rate: 8.34 CFS

Maximum 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: 35.00

Source Name: PASS CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
4		NESWNW	33	3N	5E	GALLATIN

Period of Diversion: APRIL 1 TO OCTOBER 1

Diversion Means: HEADGATE

Period of Use: APRIL 1 to OCTOBER 1

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
4	33.00		NE	32	3N	5E	GALLATIN
2	2.00		NWNWSE	32	3N	5E	GALLATIN
Total:	35.00						

Geocodes/Valid: 06-1211-32-1-01-01-0000-Y 06-1211-32-4-01-01-0000-Y

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.

27677-00 27678-00 27679-00

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

NOTICE OF WATER RIGHT TRANSFER RECEIVED 08/01/90.

OWNERSHIP UPDATE RECEIVED

OWNERSHIP UPDATE TYPE 608 # 1790 RECEIVED 04/01/2002.

OWNERSHIP UPDATE TYPE 608 # 48885 RECEIVED 09/04/2007.

OWNERSHIP UPDATE TYPE DOR # 160590 RECEIVED 07/10/2013.

THE TIMELY FILED OBJECTION OF THE UNITED STATES OF AMERICA WAS AMENDED BY AGREEMENT OF THE PARTIES TO INCLUDE POINT OF DIVERSION. BECAUSE THIS ELEMENT WAS NOT INCLUDED ON THE OBJECTION LIST, ANY WATER USER WHOSE RIGHTS MAY BE ADVERSELY AFFECTED BY ENFORCEMENT OF THIS CHANGE MAY PETITION THE APPROPRIATE COURT FOR RELIEF OR MAY FILE AN OBJECTION AT THE PRELIMINARY DECREE.

THE POINT OF DIVERSION LEGAL LAND DESCRIPTION COULD NOT BE REFINED FROM INFORMATION IN THE CLAIM FILE.

Remarks:

~~THE PRIORITY DATE MAY BE QUESTIONABLE. THIS CLAIM IS FOR A FILED APPROPRIATION ON PASS CREEK WITH A PRIORITY DATE PREDATING CASE NO. 751, GALLATIN COUNTY.~~

~~IT APPEARS THAT THE PRIORITY DATE MAY BE INCORRECT. THE PRIORITY DATE MAY BE 10/11/1880.~~

STATE OF MONTANA

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

1424 9TH AVENUE P.O.BOX 201601 HELENA, MONTANA 59620-1601

GENERAL ABSTRACT

Water Right Number: 41H 27679-00 STATEMENT OF CLAIM

Version: 2 -- REEXAMINED

Version Status: ACTIVE

Owners: ALLEGRO RANCH IV LLC
4560 SOURDOUGH RD
BOZEMAN, MT 59715-8040

Priority Date: JUNE 1, 1921

Enforceable Priority Date: JUNE 1, 1921

Type of Historical Right: USE

Purpose (use): IRRIGATION

Irrigation Type: FLOOD

Maximum Flow Rate: 3.75 CFS

Maximum 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: 120.00

Source Name: UNNAMED TRIBUTARY OF PASS CREEK & WASTE AND SEEPAGE, UT PASS CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SW	NENW	33	3N	5E GALLATIN

Period of Diversion: APRIL 15 TO SEPTEMBER 15

Diversion Means: HEADGATE

Period of Use: APRIL 15 to SEPTEMBER 15

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	120.00		NE	32	3N	5E	GALLATIN
Total:	120.00						

Geocodes/Valid: 06-1211-32-1-01-01-0000 - Y 06-1211-32-4-01-01-0000 - Y

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.

27677-00 27678-00 27679-00

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

NOTICE OF WATER RIGHT TRANSFER RECEIVED 08/01/90.

OWNERSHIP UPDATE RECEIVED

OWNERSHIP UPDATE TYPE 608 # 1790 RECEIVED 04/01/2002.

OWNERSHIP UPDATE TYPE 608 # 48885 RECEIVED 09/04/2007.

OWNERSHIP UPDATE TYPE DOR # 160590 RECEIVED 07/10/2013.

LATE OBJECTIONS HAVE BEEN FILED TO THE POINT OF DIVERSION, OWNERSHIP, PLACE OF USE, AND MAXIMUM ACRES OF THIS WATER RIGHT CLAIM. THEY WILL BE RESOLVED DURING THE ADJUDICATION OF OBJECTIONS TO THE PRELIMINARY DECREE.

THE POINT OF DIVERSION LEGAL LAND DESCRIPTION COULD NOT BE REFINED FROM INFORMATION IN THE CLAIM FILE.

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

Water Right Number: **41H 27678-00** STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: **DISMISSED**

Owners: ALLEGRO RANCH IV LLC
4560 SOURDOUGH RD
BOZEMAN, MT 59715 8040

Priority Date:

Type of Historical Right:

Purpose (Use): IRRIGATION

Flow Rate:

Volume:

Source Name: PASS 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
GALLATIN RIVER
BASIN 41H**

Water Right Number: 41H 27679-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: ALLEGRO RANCH IV LLC
4560 SOURDOUGH RD
BOZEMAN, MT 59715 8040

Priority Date: JUNE 1, 1921

Type of Historical Right: USE

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 3.75 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: 120.00

Source Name: UNNAMED TRIBUTARY OF PASS 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		SWNENW	33	3N	5E	GALLATIN

Period of Diversion: APRIL 15 TO SEPTEMBER 15

Diversion Means: HEADGATE

Period of Use: APRIL 15 TO SEPTEMBER 15

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	120.00		NE	32	3N	5E	GALLATIN

Total: 120.00

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.

27677-00 27678-00 27679-00