

41H-0165-R-2021

September 9, 2021

Montana Water Court

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

CLAIMANTS: Richard A. Breffeilh; Robert A. Breffeilh;
William A. Breffeilh

CASE 41H-0165-R-2021
41H 32975-00

OBJECTOR: United States of America (USDA Forest Service)

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 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 Master'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

INTRODUCTION

Multiple use water rights claims 41H 32975-00 and 41H 32977-00, owned by Richard, Robert, and William Breffeilh, appeared in the Preliminary Decree for the Gallatin

River (Basin 41H). The claim's preliminary decree abstract indicates the multiple-use claims are for surface water direct from the West Gallatin River in the SW of Section 20, Township 4S, Range 4E, Gallatin County, Montana.

The United States Forest Service (USFS) filed an objection to the water right claim's place of use and point of diversion as it appeared in the preliminary decree, stating: "The claimed point of diversion and place of use includes federal land in the National Forest System. The point of diversion and place of use should be refined to exclude federal land and a remark should be added that states that the point of diversion and place of use are entirely on private lands."

To discuss the objection, the Water Court consolidated the water right claim into Water Court case 41H-0165-R-2021 and held a status conference attended by counsel Romney Philpott for the USFS and Robert and William Breffeilh. The parties indicated they were close to resolving the issue and that a settlement filing deadline was appropriate. On July 21, 2021, the parties filed a Stipulation to Resolve Objections with the court resolving the issue. Because water rights claims 41H 32975-00 and 41H 32977-00 are multiple uses of the same originally filed water right, the Water Court calls claim 41H 32977-00 in on motion to resolve the issue consistently between the multiple-use water rights.

The Water Court presently resolves the issue in this case.

ISSUES

1. *Whether the Water Court approves the stipulation filed by the parties and adds the requested information remark to the claims' decree abstracts.*

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 and adds the requested information remark to the claims' decree abstracts.*

The claim's preliminary decree abstract indicates multiple-use water rights claims 41H 32975-00 (stock) and 41H 32977-00 (domestic) are use rights for surface water from the West Gallatin River in Gallatin County, Montana.

The United States Forest Service filed an objection to the place of use and point of diversion for water right claim 41H 32975-00, stating: "The claimed point of diversion and place of use includes federal land in the National Forest System. The point of diversion and place of use should be refined to exclude federal land and a remark should be added that states that the point of diversion and place of use are entirely on private lands."

The signed Stipulation Resolving Objections asks the Water Court to add the following information remark to the post-decree abstracts for both multiple-use water rights claims 41H 32975-00 and 41H 32977-00:

THE PLACE OF USE AND POINT OF DIVERSION ARE LOCATED ENTIRELY ON PRIVATE LANDS AND DO NOT INCLUDE THE NATIONAL FOREST LANDS LOCATED IN THE SWSW OF SECTION 20, TOWNSHIP 4 SOUTH, RANGE 4 EAST.

Based on the court's review, the stipulation is not contrary to law, court rule, or public policy. The stipulation does not propose modifications enlarging any element of water right claim 41H 32975-00 or water right claim 41H 32977-00. The Water Court approves the stipulation filed by the parties and modifies the claims' decree abstracts by adding the requested information remarks. Approval of the stipulation resolves the objection filed by USFS.

RECOMMENDATIONS

This Water Master recommends the Water Court to add the following information remark to the decree abstracts for multiple-use water rights claims 41H 32975-00 and 41H 32977-00:

THE PLACE OF USE AND POINT OF DIVERSION ARE LOCATED ENTIRELY ON PRIVATE LANDS AND DO NOT INCLUDE THE NATIONAL FOREST LANDS LOCATED IN THE SWSW OF SECTION 20, TOWNSHIP 4 SOUTH, RANGE 4 EAST.

The Water Court attaches post-decree abstracts for water rights claims 41H 32975-00 and 41H 32977-00 to this Master's Report to reflect the changes made.

Kirsa Shelkey
Water Master
she/her/hers

Service via USPS Mail:

Richard A. Breffeilh
Robert A. Breffeilh, % Richard Breffeilh
William A. Breffeilh, % Richard Breffeilh
1551 Smugglers Cove
Vero Beach, FL 32963

Service Via Electronic Mail:

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DOJ-ENRD
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(303) 844-1810
Romney.Philpott@usdoj.gov
Carla.Valentino@usdoj.gov
Amber.Engelkes@usdoj.gov
MontanaBasins.ENRD@USDOJ.GOV
william.bridges@usdoj.gov
efile_nrs.enrd@usdoj.gov

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

Water Right Number: **41H 32975-00** STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: RICHARD A BREFFEILH
 1551 SMUGGLERS COVE
 VERO BEACH, FL 32963

ROBERT A BREFFEILH
% RICHARD BREFFEILH
1551 SMUGGLERS COVE
VERO BEACH, FL 32963

WILLIAM A BREFFEILH
% RICHARD BREFFEILH
1551 SMUGGLERS COVE
VERO BEACH, FL 32963

Priority Date: OCTOBER 7, 1919

Type of Historical Right: USE

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.

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		SW	20	4S	4E	GALLATIN

Period of Diversion: MAY 1 TO OCTOBER 1

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Period of Use: MAY 1 TO OCTOBER 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			SW	20	4S	4E	GALLATIN

Remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

32975-00

32977-00

THE PLACE OF USE AND POINT OF DIVERSION ARE LOCATED ENTIRELY ON PRIVATE LANDS AND DO NOT INCLUDE THE NATIONAL FOREST LANDS LOCATED IN THE SWSW OF SECTION 20, TOWNSHIP 4 SOUTH, RANGE 4 EAST.

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

Water Right Number: 41H 32977-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: RICHARD A BREFFEILH
1551 SMUGGLERS COVE
VERO BEACH, FL 32963

ROBERT A BREFFEILH
% RICHARD BREFFEILH
1551 SMUGGLERS COVE
VERO BEACH, FL 32963

WILLIAM A BREFFEILH
% RICHARD BREFFEILH
1551 SMUGGLERS COVE
VERO BEACH, FL 32963

Priority Date: OCTOBER 7, 1919

Type of Historical Right: USE

Purpose (Use): DOMESTIC

Flow Rate: 15.00 GPM

Volume: 2.00 AC-FT

Households: 1

Maximum Acres: 0.50

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		SWNWSW	20	4S	4E	GALLATIN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: PUMP

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	0.50		SWNWSW	20	4S	4E	GALLATIN

Total: 0.50

Remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

32975-00

32977-00

THE PLACE OF USE AND POINT OF DIVERSION ARE LOCATED ENTIRELY ON PRIVATE LANDS AND DO NOT INCLUDE THE NATIONAL FOREST LANDS LOCATED IN THE SWSW OF SECTION 20, TOWNSHIP 4 SOUTH, RANGE 4 EAST.

LEIF M. JOHNSON
Acting U.S. Attorney, District of Montana

41H-0165-R-2021

JEAN E. WILLIAMS
Acting Assistant Attorney General
Romney S. Philpott, Attorney
U.S. Department of Justice
Environment and Natural Resources Division
Natural Resources Section
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(303) 844-1810
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July 21, 2021

Montana Water Court

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

CLAIMANTS:	Richard A. Breffeilh; Robert A. Breffeilh; William A. Breffeilh	CASE 41H-165-R-2021 41H 32975-00 41H 32977-00
OBJECTOR:	United States of America (USDA Forest Service)	

STIPULATION TO RESOLVE OBJECTIONS

This Stipulation, entered into by Objector United States of America (USDA Forest Service) (“United States”) and Claimants Richard A. Breffeilh; Robert A. Breffeilh; William A. Breffeilh (“Claimants”), is for the purpose of resolving the United States’ objection as to Water Right Claim No. 41H 32975-00, and to address a similar circumstance with respect to 41H 32977-00. This Stipulation is entered into as of the last date accompanying the signatures below.

RECITALS

A. Pursuant to Mont. Code Ann. § 85-2-221, Claimants’ predecessors timely filed Statements of Claim for Water Right Claim Nos. 41H 32975-00 and 41H 32977-00 with the Department of Natural Resources and Conservation (“DNRC”).

B. Claimants are owners of the Water Right Claim Nos. 41H 32975-00 and 41H 32977-00.

C. Pursuant to Mont. Code Ann. § 85-2-233, the United States timely filed a Notice of Objection to Statement of Claim for Water Right Claim No. 41H 32975-00 with DNRC.

D. Water Right Claim Nos. 41H 32975-00 and 41H 32977-00 were included in the Basin 41H Preliminary Decree with the following information remarks:

THE WATER RIGHTS LISTED FOLLOWING THE STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT, RATHER IT DECREES THE RIGHT TO ALTERNATIVE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PURPOSES.

32975-00 32977-00

E. Water Right Claim Nos. 41H 32975-00 is a filed right for stock use of water from the West Gallatin River with a diversion means of “livestock direct from source.” Water Right Claim Nos. 41H 32975-00 identifies the point of diversion and place of use as occurring in the SW ¼ of Section 20, Township 4 South, Range 4 East, in Gallatin County. As described, the descriptions of the point of diversion and place of use are overbroad and could be interpreted as inaccurately encompassing certain federal lands in the National Forest System. Claimants do not divert water or use water under this claim on any federal lands.

F. Water Right Claim Nos. 41H 32977-00 is for a domestic water right, and identifies the point of diversion and place of use as occurring in the SW ¼ of the NW ¼ of the SW ¼ of Section 20, Township 4 South, Range 4 East, in Gallatin County. As described, the descriptions of the point of diversion and place of use are overbroad and could be interpreted as inaccurately encompassing certain federal lands in the National Forest System. Claimants do not divert water or use water under this claim on any federal lands.

G. In the interest of resolving this case without the need for further litigation, the parties have executed this Stipulation.

AGREEMENTS

The parties stipulate as follows:

1. **Water Right Claim Nos. 41H 32975-00**

1.1 The place of use and point of diversion for Water Right Claim No. 41H 32975-00 are located solely on private lands, and do not include those National Forest System lands located in the SW ¼ SW ¼ of Section 20, Township 4 South, Range 4 East.

1.2 The following information remark should be therefore added to the decree abstract for this claim:

THE PLACE OF USE AND POINT OF DIVERSION ARE LOCATED ENTIRELY ON PRIVATE LANDS AND DO NOT INCLUDE THE NATIONAL FOREST SYSTEM LANDS LOCATED IN THE LOCATED IN THE SW ¼ SW ¼ OF SECTION 20, TOWNSHIP 4 SOUTH, RANGE 4 EAST.

A proposed abstract reflecting this change is attached hereto as Exhibit 1.

2. **Water Right Claim Nos. 41H 32977-00**

2.1 The place of use and point of diversion for Water Right Claim No. 41H 32977-00 are located solely on private lands, and do not include the National Forest System lands located in the SW ¼ SW ¼ of Section 20, Township 4 South, Range 4 East.

2.2. The following information remark therefore should be added to the decree abstract for this claim:

THE PLACE OF USE AND POINT OF DIVERSION ARE LOCATED ENTIRELY ON PRIVATE LANDS AND DO NOT INCLUDE THE NATIONAL FOREST SYSTEM LANDS LOCATED IN THE LOCATED IN THE SW ¼ SW ¼ OF SECTION 20, TOWNSHIP 4 SOUTH, RANGE 4 EAST.

A proposed abstract reflecting this change is attached hereto as Exhibit 2.

3. Upon entry of a ruling and final order in this case reflecting the changes specified above and in the Abstracts attached hereto as Exhibits 1 and 2, the objections of the United States of America on behalf of the U.S. Forest Service shall be deemed resolved, provided that such order(s) do not expand or change other substantive elements of the claims.

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

5. The terms of this Stipulation are binding on the parties, their successors, and assigns. Nothing in this Stipulation shall create any right, claim, cause of action, objection, defense, or other remedy in any person not a party to the Stipulation.

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

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

8. The parties hereto represent and affirm that the signatories to this Stipulation are legally authorized to bind the party to this matter.

9. This Stipulation may be executed by the parties in counterparts, each of which when executed and filed with the Montana Water Court shall be an original, but all of which together shall constitute one instrument.

10. The parties agree that this document (§§ 1-10) embodies the entire stipulation of the parties.

IT IS SO AGREED AND STIPULATED on the date last entered below.

Date: 7/2/21



RICHARD A. BREFFEILH

Date: _____

ROBERT A. BREFFEILH

Date: _____

WILLIAM A. BREFFEILH

JEAN E. WILLIAMS
ACTING ASSISTANT ATTORNEY GENERAL

Date: _____

ROMNEY S. PHILPOTT, TRIAL ATTORNEY
U.S. DEPARTMENT OF JUSTICE
ENVIRONMENT & NATURAL RESOURCES
DIVISION
NATURAL RESOURCES SECTION

ATTORNEYS FOR UNITED STATES OF AMERICA

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

8. The parties hereto represent and affirm that the signatories to this Stipulation are legally authorized to bind the party to this matter.

9. This Stipulation may be executed by the parties in counterparts, each of which when executed and filed with the Montana Water Court shall be an original, but all of which together shall constitute one instrument.

10. The parties agree that this document (§§ 1-10) embodies the entire stipulation of the parties.

IT IS SO AGREED AND STIPULATED on the date last entered below.

Date: _____

RICHARD A. BREFFEILH

Date: July 7, 2021



ROBERT A. BREFFEILH

Date: _____

WILLIAM A. BREFFEILH

JEAN E. WILLIAMS
ACTING ASSISTANT ATTORNEY GENERAL

Date: _____

ROMNEY S. PHILPOTT, TRIAL ATTORNEY
U.S. DEPARTMENT OF JUSTICE
ENVIRONMENT & NATURAL RESOURCES
DIVISION
NATURAL RESOURCES SECTION

ATTORNEYS FOR UNITED STATES OF AMERICA

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

8. The parties hereto represent and affirm that the signatories to this Stipulation are legally authorized to bind the party to this matter.

9. This Stipulation may be executed by the parties in counterparts, each of which when executed and filed with the Montana Water Court shall be an original, but all of which together shall constitute one instrument.

10. The parties agree that this document (§§ 1-10) embodies the entire stipulation of the parties.

IT IS SO AGREED AND STIPULATED on the date last entered below.

Date: _____

RICHARD A. BREFFEILH

Date: _____

ROBERT A. BREFFEILH

Date: 7 July 2021



WILLIAM A. BREFFEILH

JEAN E. WILLIAMS
ACTING ASSISTANT ATTORNEY GENERAL

Date: _____

ROMNEY S. PHILPOTT, TRIAL ATTORNEY
U.S. DEPARTMENT OF JUSTICE
ENVIRONMENT & NATURAL RESOURCES DIVISION

NATURAL RESOURCES SECTION

ATTORNEYS FOR UNITED STATES OF AMERICA

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

8. The parties hereto represent and affirm that the signatories to this Stipulation are legally authorized to bind the party to this matter.

9. This Stipulation may be executed by the parties in counterparts, each of which when executed and filed with the Montana Water Court shall be an original, but all of which together shall constitute one instrument.

10. The parties agree that this document (§§ 1-10) embodies the entire stipulation of the parties.

IT IS SO AGREED AND STIPULATED on the date last entered below.

Date: _____

RICHARD A. BREFFEILH

Date: _____


ROBERT A. BREFFEILH

Date: _____

WILLIAM A. BREFFEILH

JEAN E. WILLIAMS
ACTING ASSISTANT ATTORNEY GENERAL

Date: July 20, 2021



ROMNEY S. PHILPOTT, TRIAL ATTORNEY
U.S. DEPARTMENT OF JUSTICE
ENVIRONMENT & NATURAL RESOURCES
DIVISION
NATURAL RESOURCES SECTION

ATTORNEYS FOR UNITED STATES OF AMERICA

Exhibit 1

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 32975-00 STATEMENT OF CLAIM

Version: 2 -- REEXAMINED

Version Status: ACTIVE

Owners: WILLIAM A BREFFEILH
% RICHARD BREFFEILH
1551 SMUGGLERS COVE
VERO BEACH, FL 32963

ROBERT A BREFFEILH
% RICHARD BREFFEILH
1551 SMUGGLERS COVE
VERO BEACH, FL 32963

RICHARD A BREFFEILH
1551 SMUGGLERS COVE
VERO BEACH, FL 32963

Priority Date: OCTOBER 7, 1919

Enforceable Priority Date: OCTOBER 7, 1919

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: 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		SW	20	4S	4E	GALLATIN

Period of Diversion: MAY 1 TO OCTOBER 1

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Period of Use: MAY 1 to OCTOBER 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			SW	20	4S	4E	GALLATIN

Geocodes/Valid: 06-0602-20-3-01-01-0000 - Y

Remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME
RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF
THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE
(PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

32975-00 32977-00

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

OWNERSHIP UPDATE RECEIVED

OWNERSHIP UPDATE TYPE 608 # 42942 RECEIVED 11/27/2006.

THE PLACE OF USE AND POINT OF DIVERSION ARE LOCATED ENTIRELY ON PRIVATE LANDS AND DO
NOT INCLUDE THE NATIONAL FOREST SYSTEM LANDS LOCATED IN THE LOCATED IN THE SW ¼ SW ¼
OF SECTION 20, TOWNSHIP 4 SOUTH, RANGE 4 EAST.

Exhibit 2

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 32977-00 STATEMENT OF CLAIM
Version: 2 -- REEXAMINED

Version Status: ACTIVE

Owners: ROBERT A BREFFEILH
% RICHARD BREFFEILH
1551 SMUGGLERS COVE
VERO BEACH, FL 32963

WILLIAM A BREFFEILH
% RICHARD BREFFEILH
1551 SMUGGLERS COVE
VERO BEACH, FL 32963

RICHARD A BREFFEILH
1551 SMUGGLERS COVE
VERO BEACH, FL 32963

Priority Date: OCTOBER 7, 1919
Enforceable Priority Date: OCTOBER 7, 1919

Type of Historical Right: USE

Purpose (use): DOMESTIC
Maximum Flow Rate: 15.00 GPM
Maximum Volume: 2.00 AC-FT

Households: 1
Maximum Acres: 0.50
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</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SWNWSW	20	4S	4E	GALLATIN

Period of Diversion: JANUARY 1 TO DECEMBER 31
Diversion Means: PUMP

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	0.50		SWNWSW	20	4S	4E	GALLATIN

Total: 0.50

Geocodes/Valid: 06-0602-20-3-01-01-0000 - Y

Remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

32975-00 32977-00

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

OWNERSHIP UPDATE RECEIVED

OWNERSHIP UPDATE TYPE 608 # 42942 RECEIVED 11/27/2006.

THE PLACE OF USE AND POINT OF DIVERSION ARE LOCATED ENTIRELY ON PRIVATE LANDS AND DO NOT INCLUDE THE NATIONAL FOREST SYSTEM LANDS LOCATED IN THE LOCATED IN THE SW ¼ SW ¼ OF SECTION 20, TOWNSHIP 4 SOUTH, RANGE 4 EAST.