

41H-0196-R-2020

September 14, 2021

Montana Water Court

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

* * * * *

CLAIMANT: Gene E. Cook

OBJECTOR: Farmers Canal Co.

CASE 41H-0196-R-2020

41H 141012-00

41H 141013-00

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 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

Water right claims 41H 141012-00 and 41H 141013-00, owned by Gene Cook, appeared in the Preliminary Decree for the Gallatin River (Basin 41H) with issue remarks

from the Montana Department of Natural Resources and Conservation's (DNRC) review in preparation of the preliminary decree.

Farmers Canal Co. (Farmers) filed objections to elements of the claims. On April 10, 2020, William Fanning filed notices of appearance for objector Farmers in the proceedings resolving the objections.

The Water Court consolidated the water rights claims into Water Court case 41H-0196-R-2020 and held a January 6, 2021 status conference attended by William Fanning for Farmers Canal, and Karl Cook—son and co-conservator for Gene Cook. Fanning explained the basis for Farmers' objection. The court set a settlement filing deadline but did not receive information or a status report from the parties. The Water Court then issued a Scheduling Order initiating formal court proceedings. However, on August 18, 2021, Farmers Canal filed a notice of withdrawal of its objections to the consolidated water rights, and an attached Stipulation and Water Delivery Agreement to be filed in the claims' files. The Water Court vacated its previous Scheduling Order deadlines and presently resolves the issue in this case.

ISSUES

1. Whether the Water Court approves the stipulation filed by the parties resolving Farmers' objections to the consolidated water rights.

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 Farmers’ objections to the consolidated water rights.*

The Notice of Filing of Withdrawal of Objections filed by Farmers states Farmers “fully withdraws its objections filed on the water rights in this case” subject to the court’s approval of the attached signed Stipulation and Water Delivery Agreement. Farmers additionally requests the court to file the agreement in the claims’ files and to add the following informational remark to the claims’ decree abstracts: “THIS WATER RIGHT IS SUBJECT TO A PRIVATE AGREEMENT LOCATED IN THE CASE AND CLAIM FILES.”

The Stipulation indicates the parties agree:

4. The period of use/period of diversion for this claim is as claimed. Terms of water distribution during this period of use/period of diversion are provided for in the Distribution Agreement referenced herein.
5. The period of use/period of diversion for these water rights are subject to a private agreement between the parties, in the form of a Distribution Agreement, and the following information remark shall be added to the [claims’ decree abstracts]:

THIS WATER RIGHT IS SUBJECT TO A PRIVATE AGREEMENT
LOCATED IN THE CASE AND CLAIM FILES.

The Water Court has reviewed the signed Water Delivery Agreement attached to the Stipulation.

Based on the court’s review, the Stipulation and Water Delivery Agreement are not contrary to law, court rule, or public policy. The Stipulation does not propose modifications enlarging any element of the water rights claims. The Water Court approves the Stipulation filed by the parties, files the Stipulation and Water Delivery Agreement in the consolidated claims’ files, and adds the stipulated information remark to the claims’ decree abstracts. Accordingly, Farmers’ objections are hereby resolved.

Water rights claims additionally received issue remarks stating: THE PLACE OF USE OF THIS RIGHT WAS ALSO CLAIMED BY THE CLAIMANT OF FILE NO. 132209-00. THE WATER COURT DECREES THIS RIGHT AND MAKES BOTH CLAIMS A MATTER OF RECORD.” The issue remarks do not raise unresolved issue and are removed from the claims’ decree abstracts.

RECOMMENDATIONS

This Water Master recommends the Water Court to remove the resolved issue remarks and to add the following information remark to the decree abstracts for water rights claims:

**THIS WATER RIGHT IS SUBJECT TO A PRIVATE AGREEMENT
LOCATED IN THE CASE AND CLAIM FILES.**

The Water Court post-decree abstract for each water right claim to this Master's Report, as well as the Stipulation and Water Delivery Agreement filed by the parties.

Kirsa Shelkey
Water Master
she/her/hers

Service via USPS Mail:

Gene E. Cook
1276 N 15th Ave, Apt 103
Bozeman, MT 59715

Service Via Electronic Mail:

William Fanning
Fanning Law PLLC
300 N. Willson Ave.
Suite 3007
Bozeman, MT 59715
(406) 220-2805
william@fanninglawpllc.com
becki@fanninglawpllc.com
accounts@fanninglawpllc.com

William C. Fanning
FANNING LAW PLLC
300 N. Willson Ave., Ste. 3007
Bozeman, MT 59715
(406) 220.2805
william@fanninglawpllc.com

41H-0196-R-2020

August 18, 2021

Montana Water Court

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

CLAIMANT: Gene E. Cook	CASE 41H-0196-R-2020
OBJECTOR: Farmers Canal Co.	41H 141012-00 41H 141013-00

NOTICE OF FILING OF WITHDRAWAL OF OBJECTIONS

Objector Farmers Canal Co. ("FCC"), by and through its undersigned counsel, provides notice to this Court and the parties that it fully withdraws its objections filed on the water rights in this case. Attached is a signed Stipulation and Conveyance Agreement which resolve the objections in this case. FCC also requests the Court add a copy of the stipulation to the claim and case files and add the information remark identified in the Stipulation ("THIS WATER RIGHT IS SUBJECT TO A PRIVATE AGREEMENT LOCATED IN THE CASE AND CLAIM FILES") to the water rights.

RESPECTFULLY SUBMITTED this 18th day of August 2021.

By: /s/ William Fanning
William C. Fanning
Counsel for FCC

CERTIFICATE OF SERVICE

I hereby certify that on August 18, 2021 a copy of the foregoing document was served on the following persons by the following means:

☐ Hand Delivery
☒ U.S. Mail
☐ Overnight Delivery
☐ Fax
☒ E-Mail (if email address is provided below)

Gene E. Cook
1276 N 15th Ave, Apt 103
Bozeman, MT 59715
Karl@cookdevelopmentmt.com

William C. Fanning
By /s/ William C. Fanning
FANNING LAW PLLC

William C. Fanning
FANNING LAW PLLC
300 N. Willson Ave., Ste. 3007
Bozeman, MT 59715
(406) 220.2805
william@fanninglawpllc.com
Counsel for Farmers Canal Co.

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

CLAIMANT: Gene E. Cook	41H 141012-00
OBJECTOR: Farmers Canal Company	41H 141013-00

STIPULATION

Claimant, Gene E. Cook and Objector Farmers Canal Company (FCC), stipulate as set forth below:

1. Pursuant to Mont. Code Ann. § 85-2-221, a valid Statement of Claim was filed for the water right claim numbers identified above.
2. Pursuant to Mont. Code Ann. § 85-2-227, the Statements of Claim for these water rights constitute prima facie evidence of their content.
3. Pursuant to Mont. Code Ann. § 85-2-233, FCC timely filed Notice(s) of Objection to these water rights based on the elements of period of use/period of diversion.

The parties further agree that:

4. The period of use/period of diversion for this claim is as claimed. Terms of water distribution during this period of use/period of diversion are provided for in the Distribution Agreement referenced herein.
5. The period of use/period of diversion for these water rights are subject to a private agreement between the parties, in the form of a Distribution Agreement, and the following information remark shall be added to the Statements of Claim:

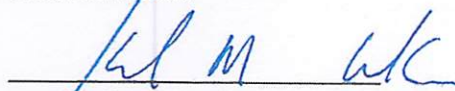
THIS WATER RIGHT IS SUBJECT TO A PRIVATE AGREEMENT
LOCATED IN THE CASE AND CLAIM FILES.

6. The parties agree that upon the Court's acceptance of this Stipulation in a Master's Report and Order Adopting Master's Report, FCC's objection, and any objections, counterobjections and notices of intent to appear between the parties are resolved and thus deemed withdrawn.
7. A copy of this Stipulation may be executed by each party separately, and when each has executed a copy thereof, the copies, taken together shall be deemed a full and complete document. A facsimile or scanned signature shall be treated as an original.

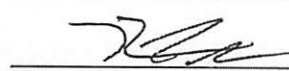
I/We declare under penalty of perjury and under the laws of the state of Montana that the foregoing is true and correct.

IN WITNESS WHEREOF, each of the parties sign this Agreement intending to be bound by it.

Gene E. Cook


By: Karl M. Cook, co-conservator for
Gene E. Cook, a protected person
May 2021

Farmers Canal Company


William Tatarka, President

May 2021

By: Kevin G. Cook, co-conservator for
Gene E. Cook, a protected person
May 2021

**WATER DELIVERY AGREEMENT
FARMERS CANAL COMPANY OF GALLATIN COUNTY
AND GENE E. COOK**

This Water Delivery Agreement ("Agreement") is entered into this ____th day of _____, 2021, (the "Effective Date") by and between Farmers Canal Company of Gallatin County, a Montana not for profit corporation and Gene E. Cook ("Cook"), (collectively the "Parties").

RECITALS

WHEREAS Farmers Canal Company operates and maintains an irrigation delivery system known as the Farmers Canal, which diverts and distributes water from the West Gallatin River and other sources in Gallatin County, Montana, and

WHEREAS the Farmers Canal is the historical and contemporary means of water conveyance for Farmers Canal Company water rights which are diverted from the West Gallatin River into the Farmers Canal headgate located in the SWNWNW Section 11, Township 3 South, Range 4 East, and delivered to Farmers Canal Company shareholders (called "Share Water" in this Agreement), and

WHEREAS in addition to Farmers Canal Company shares, Cook also holds the following individually owned water rights to use water from the West Gallatin River, diverted at the Farmers Canal headgate: 41H 141012-00 and 41H 141013-00 ("Cook's Privately Owned Water Rights"), and

WHEREAS Farmers recognizes the long and continual use of the above referenced private decreed water rights in Farmers Canal and seeks through this agreement to formalize the relationship between the decreed water rights listed above and its conveyance system.

WHEREAS the Farmers Canal is the historical and contemporary means of water conveyance for other water rights not owned by Farmers Canal Company, including but not limited to, Cook's Privately Owned Water Rights, which are also diverted from the West Gallatin River into the Farmers Canal headgate located in the SWNWNW Section 11, Township 3 South, Range 4 East.

NOW THEREFORE the Parties agree as follows:

Section 1: PURPOSE

- A. Recitals Incorporated. The Recitals set forth above are incorporated herein by reference.
- B. Delivery Agreement. The purpose of this Agreement is to provide for the diversion and delivery of water under the Cook's Privately Owned Water Rights water through the Farmers Canal.
- C. No Water Rights Created. Nothing under this Agreement shall be construed to create a water right where one does not legally exist. Similarly, nothing under this Agreement shall entitle either of the Parties to assert a claim to or interest in either's water shares, contract water rights, or individually held water rights.

Section 2: TERM

- A. Term and Renewal. The initial term of this Agreement shall run from the Effective Date through December 31, 2025. Thereafter, this Agreement shall renew annually on January 1 and continue on a year-to-year basis unless terminated in accordance with the Termination section below.

Section 3: WATER MEASUREMENT AND ADMINISTRATION

- A. Good Faith/ Best Efforts. Farmers Canal Company consents and agrees to exercise good faith and reasonable best efforts to divert and convey Cook's Privately Owned Water Rights through Farmers Canal provided that such diversion and conveyance is consistent with Company policies, Cook's Privately Owned Water Rights, and all other applicable laws. Farmers Canal Company recognizes Cook has the legal right to fully exercise its Privately Owned Water Rights and that such rights shall be conveyed, when requested pursuant to the parameters of the Privately Owned Water Right and Section 3.F., below, if capacity is available in the Farmers Canal.

- B. Record Keeping. Farmers Canal Company shall record diversion of Cook's Privately Owned Water Rights diverted at the Farmers Canal Company headgate.
- C. Direction from Court. Pursuant to any court or administrative order requiring enforcement or administration of any source that is the source of any of Cook's Privately Owned Water Rights is in effect during the time Farmers Canal Company is carrying out its obligations under this Agreement, Farmers Canal Company shall carry out its obligations hereunder pursuant to the court's direction.
- D. Conveyance Loss Calculation. Cook recognizes that the amount diverted at the West Gallatin River under its Privately Owned Water Rights is subject to a deduction of conveyance losses. Conveyance losses from Cook's Diversion Point to Cook's Delivery Point shall be subtracted by the Superintendent or Ditch Tender appointed by Farmers Canal Company as necessary. Conveyance losses shall be subtracted equitably from Cook's Privately Owned Water Rights, all other privately owned water rights conveyed in the canal, and stored water from Hyalite Reservoir (by virtue of shares in Middle Creek Water Users Association) in the same manner losses are applied to all other water conveyed in the canal, including delivery of Share Water to shareholders.
- E. Water Delivery Season. Farmers Canal Company shall have sole control to make operational decisions as to when it will turn water on and off in the Farmers Canal based on the irrigation needs of its shareholders (the "Water Delivery Season").
- F. Delivery Rights. Cook shall enjoy the same right of any shareholder to request the delivery of its water outside of Farmers Canal Company's Water Delivery Season, as provided for in Article VII, Section 8, of the Farmers Canal Company bylaws (as the same may be amended from time to time, or pursuant to its successor provision(s)). Such delivery shall be consistent with the parameters of Cook's Privately Owned Water Rights, all other applicable laws, and upon Farmers Canal having capacity to make the requested delivery.
- G. Compliance with Laws. The Parties agree to comply with all state, federal, and local laws, rules, regulations, and permit conditions.

Section 4: BYLAWS

- A. Observance of Bylaws. Cook shall abide by the Farmers Canal Company bylaws. A copy of the Farmers Canal Company bylaws may be obtained by contacting the Farmers Canal Company representative at the address provided in the Notice section below.

Section 5: COMPENSATION AND INVOICE

- A. Compensation and Invoicing. Cook shall pay Farmers Canal Company an annual fee per miner's inch. Fees shall be invoiced and paid annually in advance of the irrigation season based on the number of miner's inches that are reflected on Cook's Privately Owned Water Rights abstracts as being diverted through the Farmers Canal. Consistent with the Bylaws, water shall not be delivered to users with delinquent accounts.
- B. Fees/ Rate Setting. Fees shall be assessed on a per Miner's Inch (MI) basis. Fees per MI for delivery of Cook's Privately Owned Water Rights shall not exceed rates charged per MI for Share Water for Shareholders. Said fee is set at \$2.50 per inch for the 2021 season with a \$50.00 minimum and like Share Water, is subject to periodic adjustment as noticed and adopted at the annual meeting. Rates charged per inch for Cook's privately owned water rights will not exceed rates charged per inch for share water.
- C. Notice of Meeting. Cook shall be provided notice of the annual meeting at the address listed on its water rights abstract. Cook shall have the right to attend the annual meeting.
- D. Notice of Yearly Rate. The rate per Miner's Inch shall be determined by the Directors of Farmers Canal Company at the annual meeting. Farmers Canal Company has no obligation to deliver water to Cook if they are in arrears on their account.

Section 6: RECIPROCAL INDEMNIFICATION / HOLD HARMLESS

- A. Water User Indemnity. Cook shall indemnify, defend, and hold Farmers Canal Company, and Farmers Canal Company's officers, directors, employees,

shareholders, contractors, and agents harmless from and against all claims, losses, damages, liabilities, and expenses (including reasonable attorneys' fees and costs) arising from the delivery or non-delivery of water for Cook's Privately Owned Water Rights under this Agreement. The Cook's agreement to hold harmless, defend and indemnify shall not apply to the negligence or willful misconduct of Farmers Canal Company or Farmers Canal Company's officers, directors, employees, shareholders, contractors, and agents.

- B. **Farmers Indemnity.** Farmers Canal Company shall indemnify, defend, and hold Cook harmless from all claims, losses, damages, liabilities, and expenses (including reasonable attorneys' fees and costs) arising from ownership, operation and maintenance of the Farmers Canal system, or relating to the negligence or willful misconduct of Farmers Canal Company or Farmers Canal Company's officers, directors, employees, shareholders, contractors, and agents. Farmers Canal Company's agreement to hold harmless, defend and indemnify shall not apply to the negligence or willful misconduct of Cook or Cook's officers, directors, employees, contractors, and agents.

Section 7: FORCE MAJEURE

- A. **Definition.** For the purposes of this Agreement an event of force majeure is an event or circumstance which is beyond the control and without the fault or negligence of the party affected and which by the exercise of reasonable diligence the party affected was unable to prevent, including, without limitation the following events and circumstances: earthquakes, flood, fire or other physical natural disaster, but excluding weather conditions regardless of severity.
- B. **No Responsibility.** Neither party is responsible for any failure to perform its obligations under this Agreement if it is prevented or delayed in performing those obligations by an event of force majeure.
- C. **Notification.** Where there is an event of force majeure, the party prevented from or delayed in performing its obligations under this Agreement must immediately notify the other party describing the event of force majeure and the reasons for the event of force majeure preventing that party from, or delaying that party in performing its obligations under this Agreement and that party must use its reasonable efforts to mitigate the effect of the event of

force majeure upon its performance of the Agreement and to fulfill its obligations under the Agreement.

- D. Recommence Performance. Upon completion of the event of force majeure the party affected must as soon as reasonably practicable recommence the performance of its obligations under this Agreement.
- E. Prior Liability Intact. An event of force majeure does not relieve a party from liability for an obligation which arose, and should have been performed, before the occurrence of that event, nor does that event affect the obligation to pay money in a timely manner which matured prior to the occurrence of that event.

Section 8: CHOICE OF LAW AND DISPUTE RESOLUTION

- A. Choice of Law. This Agreement shall be construed under the laws of the State of Montana.
- B. Dispute Resolution. If a dispute arises as to the terms or conditions of this Agreement, the dispute shall be submitted to the Board of Directors of Farmers Canal Company in writing at the address provided in the most current bylaws. The Board shall place issues raised in this manner on the next Board meeting agenda and provide notice to the parties in the dispute. The Parties agree to pursue mediation of any dispute that cannot be resolved through informal negotiations. In the event of any dispute, each party shall bear their own attorney's fees and costs.

Section 9: TERMINATION & REMEDIES

- A. Delivery Curtailment. Farmers Canal Company may refuse delivery of water if water delivery fees are delinquent for 60 days after billing or for any uncured violation of any other provision of this Agreement that threatens Farmers Canal Company deliveries to its shareholders, or poses a risk to Farmers Canal Company delivery system.
- B. Agreement Termination. Farmers Canal Company may terminate the Agreement if water delivery fees are more than 60 days in arrears or for any uncured violation of any other provision of this Agreement that threatens Farmers Canal Company deliveries to its shareholders, or poses a risk to Farmers Canal Company delivery system. Termination of this Agreement

shall occur only after Cook has received written notice followed by a 30 day period to cure the noticed deficiency.

- C. Referral to Board. Any disagreements with decisions to terminate may be brought to the Board of Directors of Farmers Canal Company.
- D. Right to Reinstate. Farmers Canal Company may make a determination not to terminate this Agreement if Cook can show full compliance or a time schedule for compliance that is satisfactory to Farmers Canal Company within the 30-day notice period.
- E. Water User's Right to Terminate. Cook may terminate this Agreement, if Cook's Privately Owned Water Rights are terminated, withdrawn, changed, or for other lawful reason, upon 30 days written notice to the Board of Directors of Farmers Canal Company.

Section 10: NOTICE

- A. All notices shall be provided to the PARTIES at the following addresses:

Farmers Canal Company
PO Box 10686
Bozeman, MT 59719

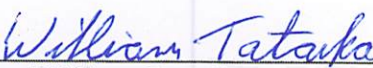
Gene E. Cook
1276 N 15th Ave Apt 103
Bozeman, MT 59715


All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if mailed, by certified mail, return receipt requested, or by overnight service having a record of receipt to the addresses indicated above.

IN WITNESS WHEREOF, each of the parties sign this Agreement intending to be bound by it.

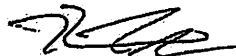
Farmers Canal Company

Gene E. Cook


By: William Tatarka
Its: President
May 2021


By: Karl M. Cook, co-conservator for Gene
E. Cook, a protected person
May 2021

**WATER DELIVERY AGREEMENT
FARMERS CANAL COMPANY AND GENE E. COOK.**



By: Kevin G. Cook, co-conservator for Gene
E. Cook, a protected person
May 2021

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

Water Right Number: **41H 141012-00** STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: GENE E COOK
 1276 N 15TH AVE, APT 103
 BOZEMAN, MT 59715

Priority Date: JUNE 15, 1866

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

***Flow Rate:** 0.70 GPM

***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: 10.00

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		SWNWNW	11	3S	4E	GALLATIN

Period of Diversion: MAY 1 TO OCTOBER 31

Diversion Means: HEADGATE

Ditch Name: FARMERS CANAL

Period of Use: MAY 1 TO OCTOBER 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	10.00		N2SENE	17	2S	5E	GALLATIN

Total: 10.00

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.

141012-00 141013-00

THIS WATER RIGHT IS SUBJECT TO A PRIVATE AGREEMENT LOCATED IN THE CASE AND CLAIM FILES.

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

Water Right Number: **41H 141013-00** STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: GENE E COOK
 1276 N 15TH AVE, APT 103
 BOZEMAN, MT 59715

Priority Date: OCTOBER 15, 1866

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

***Flow Rate:** 87.13 GPM

***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: 10.00

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		SWNWNW	11	3S	4E	GALLATIN

Period of Diversion: MAY 1 TO OCTOBER 31

Diversion Means: HEADGATE

Ditch Name: FARMERS CANAL

Period of Use: MAY 1 TO OCTOBER 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	10.00		S2SENE	17	2S	5E	GALLATIN

Total: 10.00

Remarks:

THIS WATER RIGHT IS SUBJECT TO A PRIVATE AGREEMENT LOCATED IN THE CASE AND CLAIM FILES.