

Montana Water Court  
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41H-0322-R-2021

September 16, 2021

## Montana Water Court

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

\* \* \* \* \*

CLAIMANTS: Gallatin County Solid Waste District; 7 Bar  
LLC; DJR Holdings LLC

**CASE: 41H-0322-R-2021**

41H 132201-00  
41H 132202-00  
41H 132212-00  
41H 132213-00  
41H 132193-00

### 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**

### **FINDINGS OF FACT**

1. Claims 1H 132201-00, 41H 132202-00, 41H 132212-00, 41H 132213-00, 41H 132193-00 were decreed with the following DNRC issue remark:

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 132212-00, 41H 132213-00, 41H 132201-00, 41H 132202-00, 41H 132193-00.

2. No objections were filed during the Preliminary Decree.

3. Based on the record, it appears all the claims in this Case are based on the April 18, 1938 Ivan H. Beall filed right for 75.00 miner's inches for various uses from an Unnamed Tributary of the Gallatin River.

4. Except for claim 41H 132202-00, the claims in this Case were decreed with multiple use information remarks.

5. On April 20, 2021, the court issued an Order Setting Filing Deadline explaining that based on this Master's analysis, claim 41H 132202-00 should be added to the multiple use relationship with the other claims; this would resolve the over-filed notice of appropriation issue remark appearing on the claims. A deadline was set for the Claimants to agree or disagree that claim 41H 132202-00 be added to the multiple use information remark appearing on claims 41H 132201-00, 41H 132212-00, 41H 132213-00, and 41H 132193-00.

6. On June 22, 2021, Abigail R. Brown filed a Notice of Appearance for Gallatin County Solid Waste District along with Comment in Response to the Order. The Comment indicated all parties in the Case agree claim 41H 132202-00 should be added to the multiple use information remark, resolving the issue remark.

### **CONCLUSIONS OF LAW**

1. The Water Court is required to address all issue remarks that appear on a claim as well as any objections the claim receives. Sections 85-2-233,-247,--248, MCA. The issue remarks have been addressed.

2. A properly filed Statement of Claim for an existing water right is prima facie proof of its content. Section 85-2-227, MCA. This prima facie validity may be overcome by evidence showing that one or more elements of the claim are incorrect. This standard of proof applies to objectors or claimants objecting to their own water right claims. Rule 19, W.R.Adj.R.; *Nelson v. Brooks*, 2014 MT 120, 375 Mont.86, 95, 329 P.3d 558, 564.

### RECOMMENDATIONS

1. Claim 41H 132202-00 should be added to the multiple use information remark appearing on the other claims in this Case; the multiple use information remark should be added to claim 41H 132202-00.

2. The issue remark should be removed from the claims.

Post Decree Abstracts of Water Right Claims are served with the Report to confirm that the recommended changes have been made in the DNRC's water rights database.

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Anika M. Stern  
Senior Water Master

### Service via USPS Mail:

Gallatin County Solid Waste District  
PO Box 461  
Three Forks, MT 59752  
406.582.2492  
406.209.3565  
Chris.Gray@Gallatin.MT.Gov  
**(Last Order)**

7 Bar LLC  
PO Box 3445  
Bozeman, MT 59772-3445  
  
DJR Holdings LLC  
203 N. Ewing St  
Helena, MT 59601-4202

### Service Via Electronic Mail:

**Abigail R. Brown**  
**ARB Law Group**  
**PO Box 1182**  
**Helena, MT 59624**  
**(406) 457-5494**  
**office@mtwaterlaw.com**  
**abby@mtwaterlaw.com**

**Service List updated: 7.1.21**

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

**Water Right Number:** **41H 132193-00** STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** GALLATIN COUNTY SOLID WASTE DISTRICT  
PO BOX 461  
THREE FORKS, MT 59752

**Priority Date:** APRIL 18, 1938

**Type of Historical Right:** FILED

**Purpose (Use):** DOMESTIC

**Flow Rate:** 26.93 GPM

**Volume:** 1.50 AC-FT

**Households:** 1

**Maximum Acres:** 0.25

**Source Name:** SPRING, UNNAMED TRIBUTARY OF GALLATIN RIVER

**Source Type:** GROUNDWATER

**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		NWSESW	31	2N	3E	GALLATIN

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

**Diversion Means:** PIPELINE

**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	0.25		SESW	31	2N	3E	GALLATIN
<b>Total:</b>	0.25						

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**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.

132193-00 132194-00 132201-00 132202-00 132212-00 132213-00

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

**Water Right Number:** **41H 132201-00** STATEMENT OF CLAIM

**Version:** 5 -- POST DECREE

**Status:** SEVERED

**Owners:**  
7 BAR LLC  
PO BOX 3445  
BOZEMAN, MT 59772 3445

DJR HOLDINGS LLC  
203 N EWING ST  
HELENA, MT 59601 4202

**Priority Date:** APRIL 18, 1938

**Type of Historical Right:** FILED

**Purpose (Use):** STOCK

**Flow Rate:** NO FLOW RATE HAS BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM.

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

**Source Name:** SPRING, UNNAMED TRIBUTARY OF GALLATIN RIVER

**Source Type:** SURFACE WATER

ALSO KNOWN AS LOGAN SPRING #1

**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		NWSESW	31	2N	3E	GALLATIN

**Period of Diversion:** APRIL 15 TO OCTOBER 1

**Diversion Means:** LIVESTOCK DIRECT FROM SOURCE

**Period of Use:** APRIL 15 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			S2	31	2N	3E	GALLATIN
2				1	1N	2E	GALLATIN

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**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.

132193-00 132194-00 132201-00 132202-00 132212-00 132213-00

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

**Water Right Number:** **41H 132202-00** STATEMENT OF CLAIM

**Version:** 5 -- POST DECREE

**Status:** SEVERED

**Owners:**  
7 BAR LLC  
PO BOX 3445  
BOZEMAN, MT 59772 3445

DJR HOLDINGS LLC  
203 N EWING ST  
HELENA, MT 59601 4202

**Priority Date:** APRIL 18, 1938

**Type of Historical Right:** FILED

**Purpose (Use):** STOCK

**Flow Rate:** NO FLOW RATE HAS BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM.

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

**Source Name:** UNNAMED TRIBUTARY OF GALLATIN RIVER

**Source Type:** SURFACE WATER

ALSO KNOWN AS LOGAN SPRING #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		NWSESW	31	2N	3E	GALLATIN

**Period of Diversion:** APRIL 15 TO OCTOBER 1

**Diversion Means:** LIVESTOCK DIRECT FROM SOURCE

**Period of Use:** APRIL 15 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			S2	31	2N	3E	GALLATIN
2				1	1N	2E	GALLATIN

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**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.

132193-00 132194-00 132201-00 132202-00 132212-00 132213-00

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

**Water Right Number:** **41H 132212-00** STATEMENT OF CLAIM

**Version:** 6 -- POST DECREE

**Status:** SEVERED

**Owners:**  
7 BAR LLC  
PO BOX 3445  
BOZEMAN, MT 59772 3445

DJR HOLDINGS LLC  
203 N EWING ST  
HELENA, MT 59601 4202

**Priority Date:** APRIL 18, 1938

**Type of Historical Right:** FILED

**Purpose (Use):** IRRIGATION

**Irrigation Type:** SPRINKLER

**Flow Rate:** 1.88 CFS

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

**Climatic Area:** 3 - MODERATE

**Maximum Acres:** 60.00

**Source Name:** SPRING, UNNAMED TRIBUTARY OF GALLATIN RIVER

**Source Type:** SURFACE WATER

ALSO KNOWN AS LOGAN SPRING #1

**Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Otr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSESW	31	2N	3E	GALLATIN

**Period of Diversion:** APRIL 15 TO OCTOBER 1

**Diversion Means:** PUMP/HEADGATE W/DITCH OR PIPELINE

**Period of Use:** APRIL 15 TO OCTOBER 1

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Otr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	60.00		W2NE	1	1N	2E	GALLATIN
<b>Total:</b>	60.00						

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**Remarks:**

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FILE REFLECTS AUTHORIZATION TO CHANGE THE POINT OF DIVERSION AND PLACE OF USE OF A  
PORTION OF THIS WATER RIGHT, COMPLETED 3-19-84.

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

**Water Right Number:** **41H 132213-00** STATEMENT OF CLAIM

**Version:** 6 -- POST DECREE

**Status:** SEVERED

**Owners:**  
7 BAR LLC  
PO BOX 3445  
BOZEMAN, MT 59772 3445

DJR HOLDINGS LLC  
203 N EWING ST  
HELENA, MT 59601 4202

**Priority Date:** APRIL 18, 1938

**Type of Historical Right:** FILED

**Purpose (Use):** IRRIGATION

**Irrigation Type:** SPRINKLER

**Flow Rate:** 1.88 CFS

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

**Climatic Area:** 3 - MODERATE

**Maximum Acres:** 60.00

**Source Name:** SPRING, UNNAMED TRIBUTARY OF GALLATIN RIVER

**Source Type:** GROUNDWATER

ALSO KNOWN AS LOGAN SPRING #2

**Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Otr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSESW	31	2N	3E	GALLATIN

**Period of Diversion:** APRIL 15 TO OCTOBER 1

**Diversion Means:** PUMP/HEADGATE W/DITCH OR PIPELINE

**Period of Use:** APRIL 15 TO OCTOBER 1

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Otr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	60.00		E2NE	1	1N	2E	GALLATIN
<b>Total:</b>	60.00						

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**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.

FILE REFLECTS AUTHORIZATION TO CHANGE THE POINT OF DIVERSION AND PLACE OF USE OF A  
PORTION OF THIS WATER RIGHT, COMPLETED 3-19-84.