

Montana Water Court
 PO Box 1389
 Bozeman, MT 59771-1389
 (406) 586-4364
 1-800-624-3270
watercourt@mt.gov

41H-0923-R-2021

September 21, 2021

Montana Water Court

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

CLAIMANTS: Stephanie L. Anton; Robert L. Bettey;
 Frederick W. Brokaw III; Nancy W. Brokaw;
 Bruce L. Haugland

CASE 41H-0923-R-2021
 41H 140950-00
 41H 30111273
 41H 30111276
 41H 30111277

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 rights claims 41H 140950-00, 41H 30111273, 41H 30111276 and 41H 30111277 appeared in the Preliminary Decree for the Gallatin River (Basin 41H) with issue remarks received during the Department of Natural Resources and Conservation's (DNRC) review in preparation of the preliminary decree.

The Water Court consolidated the water rights claims into Water Court case 41H-0923-R-2021 and set filing deadlines for the claims' owners to file information resolving the issue remarks. On September 8, 2021, the claims' owners, Stephanie Anton and Robert Bettey, filed a response with the court, including an attached DNRC Claimant Assistance Letter (DNRC Letter) resolving the issue remarks.

The Water Court presently resolves the issues in this case.

ISSUES

1. *Whether a preponderance of the evidence supports correcting the legal land description identifying Point of Diversion ID No. 2 associated with water right claim 41H 140950-00.*
2. *Whether the issue remark regarding Haugland Ditch is resolved and can be removed.*
3. *Whether a preponderance of the evidence supports instating a 35 GPM flow rate for both water rights claims 41H 30111276 and 41H 30111277.*

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.

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, including a claimant objecting to his or her own claim, bears the burden of proof. *Nelson v. Brooks*, 2014 MT 120, ¶¶ 34, 37, 375 Mont. 86, 329 P.3d 558.

The Water Court may correct a clerical mistake found in a judgment, order, or other part of the record on motion or on its own, with or without notice. Rule 60(a), M.R.Civ.P.

DISCUSSION

1. *Whether a preponderance of the evidence supports correcting the legal land description identifying Point of Diversion ID No. 2 associated with water right claim 41H 140950-00.*

Water right claim 41H 140950-00 is a decreed sprinkler/flood-irrigation claim for surface water from Pass Creek in Gallatin County, Montana. Three points of diversion are associated with the water right claim: (1) a headgate on Haugland Ditch in the SENENE of Section 33, Township 3N, Range 5E, Gallatin County; (2) a headgate in the NWNENW of Section 33, Township 3N, Range 5E, Gallatin County; and (3) a headgate in the NENWNE of Section 33, Township 3N, Range 5E, Gallatin County. An issue remark appearing on the claim's preliminary decree abstract states:

THE LEGAL LAND DESCRIPTION FOR POINT OF DIVERSION NO. 2
COULD NOT BE REFINED FROM INFORMATION IN THE FILE. THIS
CLAIMED POINT OF DIVERSION CANNOT BE CONFIRMED.

The DNRC Letter indicates the claim owners walked Pass Creek to locate Point of Diversion ID No. 2 and identified its location on an aerial map inserted in DNRC's letter. Thus, the DNRC Letter recommends the Water Court to resolve the issue remark by correcting the legal land description identifying Point of Diversion ID No. 2 from the NWNENW to the NENENW of Section 33, Township 3N, Range 5E, Gallatin County.

A preponderance of the evidence supports the headgate associated with Point of Diversion ID No. 2 is in the NENENW of Section 33, Township 3N, Range 5E, Gallatin County. The issue remark is therefore resolved and removed. The correction does not have the potential to impact other water users and additional notice is not required.

2. *Whether the issue remark regarding Haugland Ditch is resolved and can be removed.*

The preliminary decree abstract for water right claim 41H 140950-00 indicates Haugland ditch diverts water from the headgate identified as Point of Diversion ID No. 1 to the associated place of use. An issue remark additionally appearing on the claim's preliminary decree abstract states: "THERE IS NO HAUGLAND DITCH ON WRS FOR PERIOD OF DIVERSIONS 1 AND 3."

However, per the claim owners' contact with DNRC and the subsequent DNRC Letter, "the DNRC no longer considers the absence of the Haugland Ditch in the 1953

WRS an issue. The DNRC recommends the remark be removed.” The DNRC further states: “The Haugland ditch name was added to the water right per a motion to amend filed by the claimants. While the ditch name is not in the 1953 WRS, the Affidavit filed by Ray Haugland specifies that he has watered from Haugland ditch since 1955.”

Accordingly, the court removes the resolved issue remark regarding Haugland Ditch.

3. *Whether a preponderance of the evidence supports instating a 35 GPM flow rate for both water rights claims 41H 30111276 and 41H 30111277.*

Water rights claims 41H 30111276 and 41H 30111277 are previously exempt stock use water rights for groundwater from a developed spring hydrologically related to an unnamed tributary of Pass Creek in Gallatin County, Montana. The water rights claims received issue remarks stating: “NO QUANTIFIED FLOW RATE HAS BEEN CLAIMED.” The DNRC Letter states: “The flow rate of the spring is 35 GPM” for both water rights claims.

A preponderance of the evidence supports instating the 35 GPM flow rate. The flow rate issue remarks are resolved and hereby removed.

Theses water rights claims, as well as water right claim 41H 30111273, additionally received “notice-only” providing notice that the previously exempt claims did not appear in the September 26, 1985 temporary preliminary decree for Basin 41H. The water rights claims appeared in the October 11, 2018 preliminary decree for Basin 41H with the exempt-claim issue remarks. Thus, the exempt-claim issue remarks have served their notice purposes and are hereby removed.

RECOMMENDATIONS

This Water Master recommends the Water Court to remove the resolved issue remarks, to modify the legal land description identifying Point of Diversion ID No. 2 associated with water right claim 41H 140950-00 from the NWNENW to the **NENENW** of Section 33, Township 3N, Range 5E, Gallatin County, and to instate **35 GPM** as the flow rates for water rights claims 41H 30111276 and 41H 30111277. The court attaches a

post-decree abstract to this Master's Report to reflect the changes made, as well as the DNRC letter for future reference and convenience.

Kirsa Shelkey
Water Master
she/her/hers

Service via USPS Mail:

Stephanie L. Anton
Robert L. Bettey
26102 Spur Branch Ln
Laguna Hills, CA 92653

Frederick W. Brokaw III
294 Southern Cross Rd
Anaconda, MT 59711

Nancy W. Brokaw
3400 Pass Creek Rd
Belgrade, MT 59714

Bruce L. Haugland
3635 Pass Creek Rd
Belgrade, MT 59714

ELECTRONICALLY FILED

From: [Robert Bettey](#)
To: [Watercourt \(Bozeman\)](#)
Subject: [EXTERNAL] 41-H-0923-R-2021.
Date: Wednesday, September 8, 2021 4:45:14 PM
Attachments: [DNRC Final Water 41H 0923 R 2021.pdf](#)

41H-0923-R-2021

September 8, 2021

To Whom It May Concern:

Montana Water Court

We have met with the DNRC regarding court case 41-H-0923-R-2021, and the DNRC prepared this Pdf attachment to help resolve the issue remarks.

Please let us know if further action is needed. Thank you.

Respectfully,

Stephanie Anton
Robert Bettey
(406) 539-3133

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

Water Right Number: **41H 140950-00** STATEMENT OF CLAIM

Version: 5 -- POST DECREE

Status: ACTIVE

Owners:

STEPHANIE L ANTON
26102 SPUR BRANCH LN
LAGUNA HILLS, CA 92653

ROBERT L BETTEY
26102 SPUR BRANCH LN
LAGUNA HILLS, CA 92653

FREDERICK W BROKAW III
294 SOUTHERN CROSS RD
ANACONDA, MT 59711

NANCY W BROKAW
3400 PASS CREEK RD
BELGRADE, MT 59714

BRUCE L HAUGLAND
3635 PASS CREEK RD
BELGRADE, MT 59714

Priority Date: APRIL 30, 1867

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 1.25 CFS

Volume: 405.00 AC-FT

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 135.00

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		SENE	33	3N	5E	GALLATIN
Period of Diversion:	APRIL 1 TO NOVEMBER 4					
Diversion Means:	HEADGATE					
Ditch Name:	HAUGLAND DITCH					
2		NENENW	33	3N	5E	GALLATIN
Period of Diversion:	APRIL 1 TO NOVEMBER 4					
Diversion Means:	HEADGATE					

3 NENWNE 33 3N 5E GALLATIN

Period of Diversion: APRIL 1 TO NOVEMBER 4

Diversion Means: HEADGATE

Period of Use: APRIL 1 TO NOVEMBER 4

***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	95.00		N2	33	3N	5E	GALLATIN
2	40.00		SE	28	3N	5E	GALLATIN
Total:	135.00						

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

Water Right Number: 41H 30111273 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: STEPHANIE L ANTON
26102 SPUR BRANCH LN
LAGUNA HILLS, CA 92653

ROBERT L BETTEY
26102 SPUR BRANCH LN
LAGUNA HILLS, CA 92653

Priority Date: APRIL 30, 1867

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: GALLOP 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		NENWNE	33	3N	5E	GALLATIN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

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			NENWNE	33	3N	5E	GALLATIN

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

Water Right Number: **41H 30111276** STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: STEPHANIE L ANTON
 26102 SPUR BRANCH LN
 LAGUNA HILLS, CA 92653

 ROBERT L BETTEY
 26102 SPUR BRANCH LN
 LAGUNA HILLS, CA 92653

Priority Date: APRIL 30, 1867

Type of Historical Right: USE

Purpose (Use): STOCK

Flow Rate: 35.00 GPM

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: SPRING, UNNAMED TRIBUTARY OF PASS CREEK

Source Type: GROUNDWATER

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		SWNWNE	33	3N	5E	GALLATIN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DEVELOPED SPRING

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			SWNWNE	33	3N	5E	GALLATIN

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

Water Right Number: 41H 30111277 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: STEPHANIE L ANTON
26102 SPUR BRANCH LN
LAGUNA HILLS, CA 92653

ROBERT L BETTEY
26102 SPUR BRANCH LN
LAGUNA HILLS, CA 92653

Priority Date: APRIL 30, 1867

Type of Historical Right: USE

Purpose (Use): STOCK

Flow Rate: 35.00 GPM

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: SPRING, UNNAMED TRIBUTARY OF PASS CREEK

Source Type: GROUNDWATER

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		SWNWNE	33	3N	5E	GALLATIN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DEVELOPED SPRING

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			SWNWNE	33	3N	5E	GALLATIN

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

Water Resources Division • Bozeman Regional Office

2273 Boot Hill Ct, Suite 110, Bozeman, MT 59715 Phone: (406) 586-3136 Fax: (406) 587-9726



GREG GIANFORTE, GOVERNOR

1539 ELEVENTH AVENUE

STATE OF MONTANA

DIRECTOR'S OFFICE: (406) 444-2074
FAX: (406) 444-2684

PO BOX 201601
HELENA, MONTANA 59620-1601

CLAIMANT ASSISTANCE LETTER

DATE: September 8, 2021

CASE HEADING: **CASE: 41H-0923-R-2021**

*Claims: 41H 140950-00
41H 30111273
41H 30111276
41H 30111277*

FOR: Robert Bettey and Stephanie Anton, *Claimants*

FROM: Mary Crable, *Water Resource Specialist*

CLAIMANTS: Stephanie L. Anton; Robert L. Bettey; Frederick W. Brokaw III; Nancy W. Brokaw; Bruce L. Haugland

INTRODUCTION:

On June 9, 2021, the Montana Water Court ordered claimants Stephanie L. Anton, Robert L. Bettey, Frederick W. Brokaw III, Nancy W. Brokaw and Bruce L. Haugland to resolve pre-decree examination issue remarks placed on claims 41H 140950-00, 41H 30111276 and 41H 30111277.

Stephanie Anton and Robert Bettey contacted to DNRC to receive assistance resolving the issue remarks. The DNRC prepared this letter with information provided by Robert Bettey and Stephanie Anton with the goal of providing a resolution to the issue remarks.

MATERIALS REVIEWED:

- Claim files 41H 140950-00, 41H 30111276, 41H 30111277

ATTACHMENTS:

- Zoomed-out aerial photo with POD 2 for water right 41H 140950-00
- Red-marked abstract of 41H 140950-00

DISCUSSION:

CLAIM 41H 140950-00: 1867 IRRIGATION out of PASS CREEK

DITCH (CONVEYANCE) NAME ISSUE, CXIS:

THERE IS NO HAUGLAND DITCH ON WRS FOR PERIOD OF DIVERSIONS 1 AND 3.

The Haugland ditch name was added to the water right per a motion to amend filed by the claimants. While the ditch name is not in the 1953 WRS, the Affidavit filed by Ray Haugland specifies that he has watered from Haugland ditch since 1955. Based upon this statement in

the affidavit, the DNRC no longer considers the absence of the Haugland Ditch in the 1953 WRS an issue. The DNRC recommends the remark be removed.

POINT OF DIVERSION ISSUE, P37:

THE LEGAL LAND DESCRIPTION FOR POINT OF DIVERSION NO. 2 COULD NOT BE REFINED FROM INFORMATION IN THE FILE. THIS CLAIMED POINT OF DIVERSION CANNOT BE CONFIRMED.

Ray Haugland's affidavit from the Motion to Amend lists POD 2 in the NWNENW of Section 33, Township 3 North, Range 5 East, Gallatin County. POD 2 is also marked in the bottom left hand corner of the map labeled Exhibit B in the Motion to Amend.

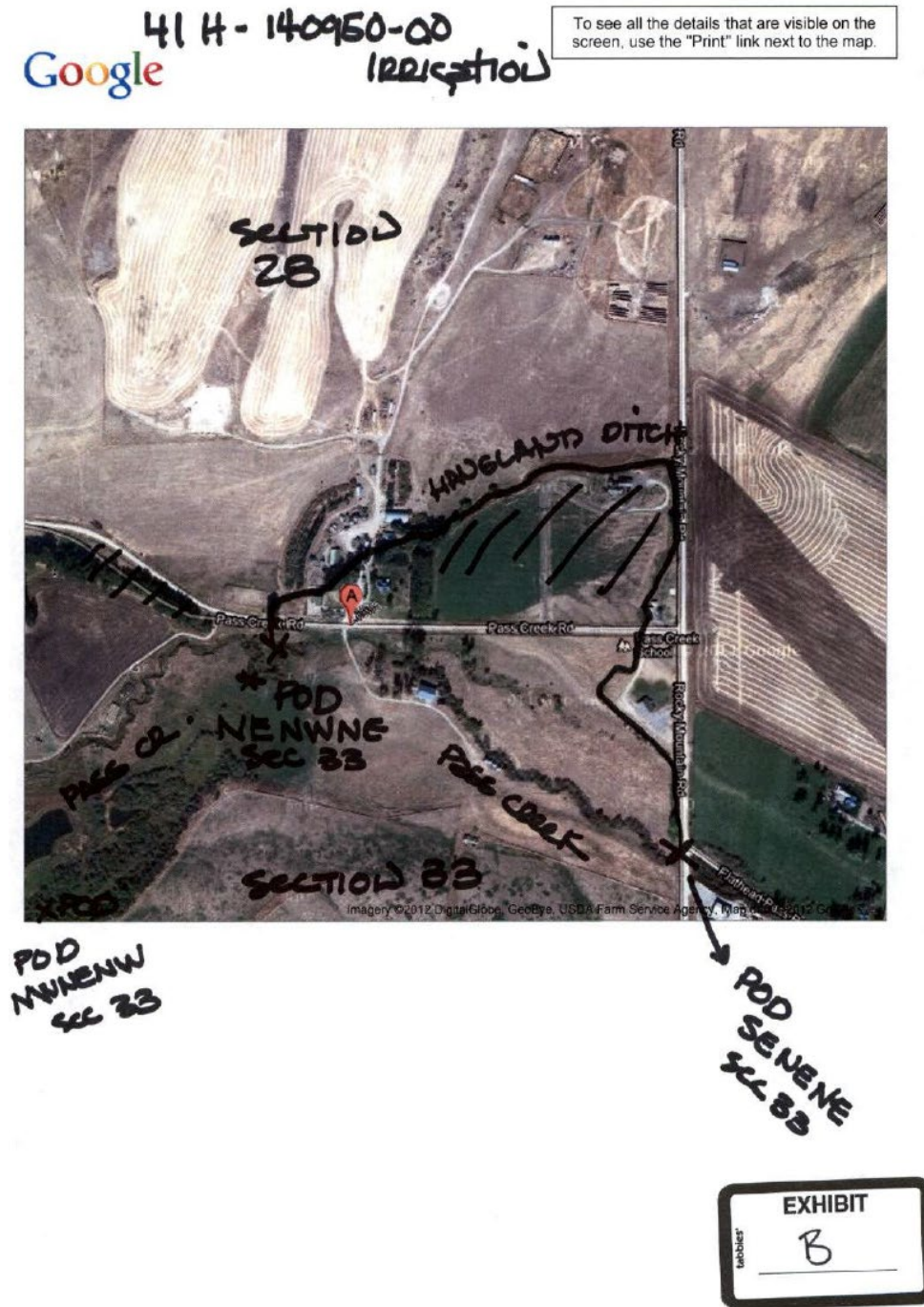


Figure 1. Exhibit B from page 11 of the Motion to Amend filed with the Water Court on May 16, 2012.

However, the location marked on Exhibit B places POD 2 in the NESENW. Bob Bettey confirmed that there is not a diversion at the location marked in Exhibit B of the Motion to amend.

Instead, to find the historic location of POD 2, the map from the Statement of Claim filing was referenced (figure 2) and Robert Bettey walked Pass Creek to locate the historic diversion.

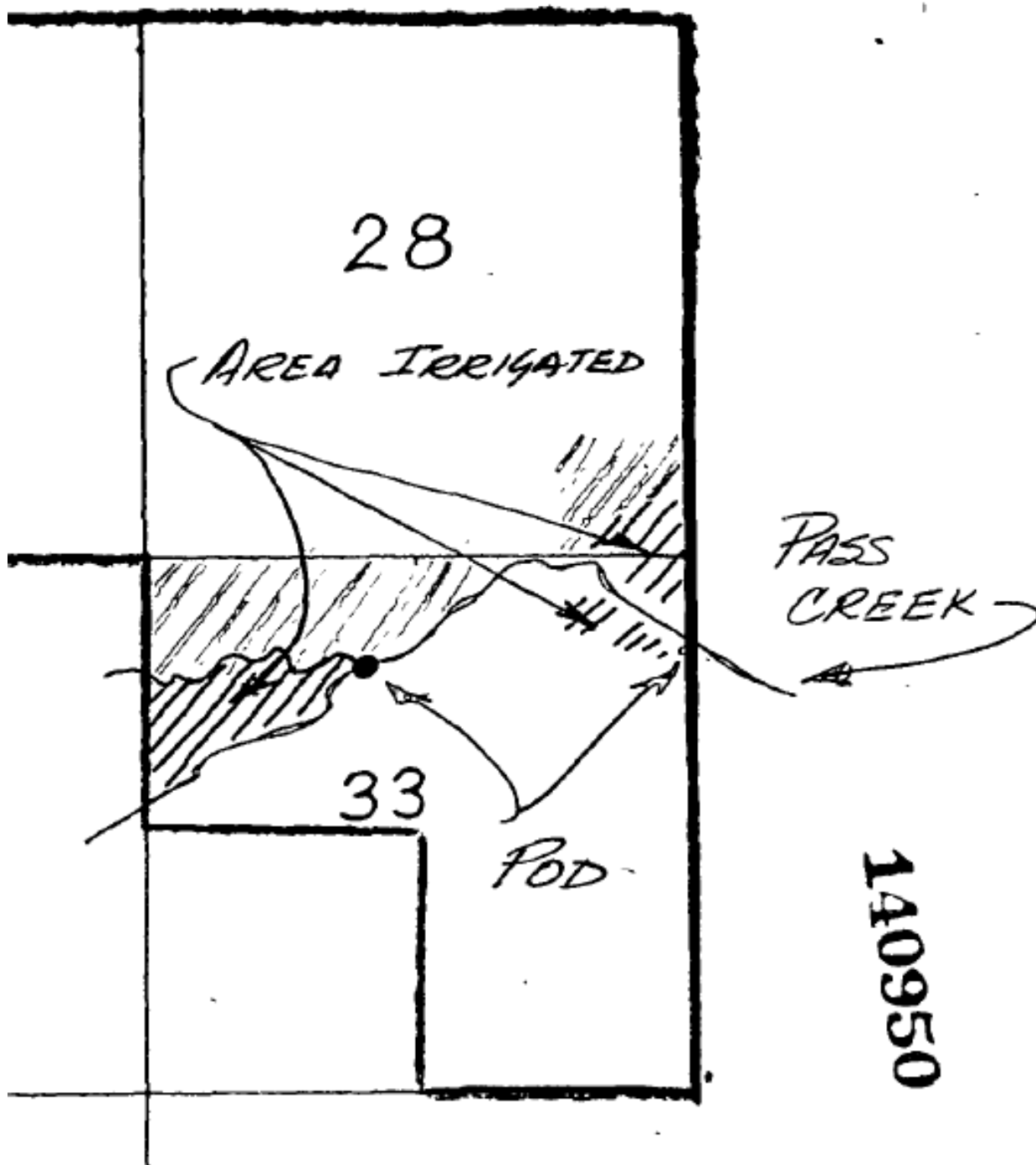


Figure 2. Map with diversions marked. POD 2 is the black dot in the NW quarter of Section 33.

Mr. Bettey marked the historic diversion on the aerial image in figure 3. Mr. Betty noted that there is a culvert under the road that diverts water from the stream to flood irrigate the field north of the road.



Figure 3. Clarified 41H 140950-00 POD 2 in the NENENW of Section 33, Township 3 North, Range 5 East, Gallatin County

While the information provided by Mr. Betty aligns well with the map in the claim filing, the legal land description of the diversion needs clarification. POD 2 should read NENENW of Section 33, Township 3 North, Range 5 East, Gallatin County. A zoomed-out aerial is provided in the attachments. The DNRC accepts this clarification to the historic point of diversion and recommends the issue remark be removed. See attached re-marked abstract for how POD 2 should read on water right 41H 140950-00.

CLAIM 41H 30111276-00: 1867 STOCK out of SPRING, UNNAMED TRIBUTARY of PASS CREEK

FLOW RATE ISSUE, F190:

NO QUANTIFIED FLOW RATE HAS BEEN CLAIMED.

The flow rate of the spring is 35 gpm. The DNRC accepts 35 gpm as the flowrate for this claim and recommends the issue remark be removed.

CLAIM 41H 30111277-00: 1867 STOCK out of SPRING, UNNAMED TRIBUTARY of PASS CREEK

FLOW RATE ISSUE, F190:

NO QUANTIFIED FLOW RATE HAS BEEN CLAIMED.

The flow rate of the spring is 35 gpm. The DNRC accepts 35 gpm as the flowrate for this claim and recommends the issue remark be removed.

SIGNATURES:

Signed and dated this 8th day of September, 2021

by /s/Mary Crable
Mary Crable, Water Resource Specialist
(406)556-4501
Mary.crable@mt.gov

Reviewed, signed and dated this 8th day of September, 2021

by /s/Kerri Strasheim
Kerri Strasheim, Regional Manager

SERVICE LIST:

Kirsa Shelkey
1123 Research Dr
Bozeman, MT 59718
watercourt@mt.gov

Stephanie L. Anton
Robert L. Bettey
26102 Spur Branch Ln
Laguna Hills, CA 92653

Frederick W. Brokaw III
294 Southern Cross Rd
Anaconda, MT 59711

Nancy W. Brokaw
3400 Pass Creek Rd
Belgrade, MT 59714

Bruce L. Haugland
3635 Pass Creek Rd
Belgrade, MT 59714

ATTACHMENTS

This is a zoomed-out aerial of POD 2 for water right 41H 140950-00. This claimant assistance letter recommends POD 2 be clarified from the NWNENW to the NENENW of Section 33, Township 3 North, Range 5 East, Gallatin County.



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

IMPORTANT NOTICE

YOUR WATER RIGHT AS SHOWN ON THIS ABSTRACT MAY HAVE CHANGES FROM YOUR WATER RIGHT AS CLAIMED OR AMENDED. AN ASTERISK (*) HAS BEEN PLACED NEXT TO EACH ITEM CHANGED BY THE MONTANA WATER COURT AFTER ISSUANCE OF THE TEMPORARY PRELIMINARY DECREE OR BY THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION (DNRC) DURING THE PREPARATION OF THIS PRELIMINARY DECREE. THESE CHANGES ARE AUTHORIZED BY THE MONTANA SUPREME COURT WATER RIGHT CLAIMS EXAMINATION RULES OR BY ORDER OF THE WATER COURT.

OBJECTIONS MAY BE FILED ACCORDING TO THE PROCEDURES OUTLINED IN THE DOCUMENT ENTITLED "NOTICE OF ENTRY OF PRELIMINARY DECREE AND NOTICE OF AVAILABILITY."

Water Right Number: 41H 140950-00 STATEMENT OF CLAIM

Version: 4 -- REEXAMINED

Status: ACTIVE

Owners:

FREDERICK W BROKAW III
3400 PASS CREEK RD
BELGRADE, MT 59714

NANCY W BROKAW
3400 PASS CREEK RD
BELGRADE, MT 59714

STEPHANIE L ANTON
26102 SPUR BRANCH LN
LAGUNA HILLS, CA 92653

BRUCE L HAUGLAND
3635 PASS CREEK RD
BELGRADE, MT 59714

ROBERT L BETTEY
26102 SPUR BRANCH LN
LAGUNA HILLS, CA 92653

OWNERSHIP UPDATE PROCESSED TO ADD NEW OWNERS. THE WATER RIGHT MAY BE SPLIT INTO SEPARATE WATER RIGHTS UPON REQUEST OF THE OWNERS.

Priority Date: APRIL 30, 1867

Type of Historical Right: DECREED

Purpose(use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 1.25 CFS

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

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 135.00
 Source Name: PASS CREEK
 Source Type: SURFACE WATER

*Point of Diversion and Means of Diversion:

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

Period of Diversion: APRIL 1 TO NOVEMBER 1

Diversion Means: HEADGATE

Ditch Name: HAUGLAND DITCH

2		NE NW	33	3N	5E	GALLATIN
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Period of Diversion: APRIL 1 TO NOVEMBER 1

Diversion Means: HEADGATE

3		NENW	33	3N	5E	GALLATIN
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Period of Diversion: APRIL 1 TO NOVEMBER 1

Diversion Means: HEADGATE

Period of Use: APRIL 1 TO NOVEMBER 1

*Place of Use:

ID	Acres	Govt Lot	Qtr	Sec	Twp	Rge	County
1	95.00		N2	33	3N	5E	GALLATIN
2	40.00		SE	28	3N	5E	GALLATIN
Total:	135.00						

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.

140949-00 140950-00

THE POINT OF DIVERSION AND PLACE OF USE WERE AMENDED BY THE WATER COURT PURSUANT TO SECTION 85-2-233(6), MCA.

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

THE FOLLOWING ISSUES WERE IDENTIFIED BY THE DNRC DURING ITS EXAMINATION OF THIS WATER RIGHT CLAIM.

~~THERE IS NO HAUGLAND DITCH ON WRS FOR PERIOD OF DIVERSIONS 1 AND 3.~~

~~THE LEGAL LAND DESCRIPTION FOR POINT OF DIVERSION NO. 2 COULD NOT BE REFINED FROM INFORMATION IN THE FILE. THIS CLAIMED POINT OF DIVERSION CANNOT BE CONFIRMED.~~

Remove
Remark

A BETTER UNDERSTANDING OF YOUR CLAIMED WATER RIGHT CAN BE OBTAINED BY COMPARING YOUR RIGHT WITH OTHER CLAIMS IN THE BASIN. FOR EXAMPLE, COMPARE PRIORITY DATES, FLOW RATES, VOLUMES, OR ACRES IRRIGATED. ALSO, YOUR WATER RIGHT MAY BE SUBJECT TO WATER RIGHTS IN ADJOINING SUBBASINS OR BASINS AS WELL AS BEING SUBJECT TO OTHER RIGHTS ON YOUR SOURCE OF SUPPLY. FINALLY, YOUR WATER RIGHT MAY BE SUBJECT TO INDIAN RESERVED AND FEDERAL RESERVED WATER RIGHTS.