

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

* * * * *

CLAIMANT: Douglas R. Hamilton

NOTICE OF INTENT TO APPEAR: Frank DeHaan

CASE 41H-0644-R-2022

41H 132258-00

41H 132260-00

41H 132261-00

41H 132262-00

41H 30002025

ORDER ADOPTING MASTER'S REPORT AND AMENDING ABSTRACTS

Pursuant to Montana Code Annotated, § 85-2-233(5), the above-titled case was assigned to Water Master Julia Nordlund. The Water Master filed a report containing Findings of Fact and Conclusions of Law with the Clerk of Court. Copies of the report were served upon the parties on October 6, 2023. Both parties jointly objected to the Master's Report on October 10, 2023.

The Objection points out errors in the post-decree abstract for claim 41H 132258-00 that was attached to the Master's Report. The following changes should have been included with this claim as stated in the Master's Report:

Point of Diversion and Means of Diversion:	ADD POD 1 NWSESW SEC 28 2N 4E					
<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
4 SECONDARY		NWSWSW	35	2N	4E	GALLATIN
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	HEADGATE					
Reservoir:	OFFSTREAM					
	ADD CMDI: A CHANNEL OF DRY CREEK, KNOWN LOCALLY AS HORSE CREEK IS USED AS A NATURAL CARRIER TO A SECONDARY POINT OF DIVERSION IN THE NWSWSW OF SECTION 35, T2N, R4E.					

The Court has reviewed the Water Master's Findings and Conclusions. Pursuant to Rule 53(e), Montana Rules of Civil Procedure, the Court **ADOPTS** the October 6, 2023 Master's Report, and

ORDERS that **Post Decree Abstract of Water Right Claims** be served with this Order to confirm that the changes in the Master's Report are adopted.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service Via Electronic Mail:

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

Water Right Number: 41H 132258-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: DOUGLAS R HAMILTON
PO BOX 560
THREE FORKS, MT 59752 0560

Priority Date: APRIL 30, 1866

Type of Historical Right: DECREED

Purpose (use): COMMERCIAL

Flow Rate: 192.98 GPM

Volume: 156.04 AC-FT

THE USE OF THIS WATER APPEARS TO BE LARGELY NONCONSUMPTIVE.

Source Name: DRY 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		NWSESW	26	2N	4E	GALLATIN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: HEADGATE

2 - SECONDARY NWSWSW 35 2N 4E GALLATIN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: HEADGATE

A CHANNEL OF DRY CREEK, KNOWN LOCALLY AS HORSE CREEK IS USED AS A NATURAL CARRIER TO A SECONDARY POINT OF DIVERSION IN THE NWSWSW OF SECTION 35, T2N, R4E.

Reservoir: OFFSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	N2SWSW	35	2N	4E	GALLATIN

Diversion to Reservoir: DIVERSION # 1

Dam Height: 28.00 FEET

Depth: 25.00 FEET

Surface Area: 5.50 ACRES

Capacity: 55.00 ACRE-FEET

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			N2SWSW	35	2N	4E	GALLATIN

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

Water Right Number: **41H 132260-00 STATEMENT OF CLAIM**

Version: 4 -- POST DECREE

Status: ACTIVE

Owners:
DOUGLAS R HAMILTON
PO BOX 560
THREE FORKS, MT 59752 0560

Priority Date: MAY 31, 1867

Type of Historical Right: DECREED

Purpose (use): COMMERCIAL

***Flow Rate:** 35.90 GPM

Volume: 71.04 AC-FT

THE USE OF THIS WATER APPEARS TO BE LARGELY NONCONSUMPTIVE.

Source Name: DRY CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		NWSESW	26	2N	4E	GALLATIN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: HEADGATE

2 - SECONDARY NWSWSW 35 2N 4E GALLATIN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: HEADGATE

A CHANNEL OF DRY CREEK, KNOWN LOCALLY AS HORSE CREEK IS USED AS A NATURAL CARRIER TO A SECONDARY POINT OF DIVERSION IN THE NWSWSW OF SECTION 35, T2N, R4E.

Reservoir: OFFSTREAM

Govt Lot	Qtr Sec	Sec	Twp	Rge	County
	N2SWSW	35	2N	4E	GALLATIN

Diversion to Reservoir: DIVERSION # 1

Dam Height: 28.00 FEET

Depth: 25.00 FEET

Surface Area: 5.50 ACRES

Capacity: 55.00 ACRE-FEET

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1			N2SWSW	35	2N	4E	GALLATIN

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

Water Right Number: 41H 132261-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: DOUGLAS R HAMILTON
PO BOX 560
THREE FORKS, MT 59752 0560

Priority Date: APRIL 30, 1866

Type of Historical Right: DECREED

Purpose (use): COMMERCIAL

Flow Rate: 192.98 GPM

Volume: 156.04 AC-FT

THE USE OF THIS WATER APPEARS TO BE LARGELY NONCONSUMPTIVE.

Source Name: DRY 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		NWSESW	26	2N	4E	GALLATIN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: HEADGATE

2 - SECONDARY NWSWSW 35 2N 4E GALLATIN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: HEADGATE

A CHANNEL OF DRY CREEK, KNOWN LOCALLY AS HORSE CREEK IS USED AS A NATURAL CARRIER TO A SECONDARY POINT OF DIVERSION IN THE NWSWSW OF SECTION 35, T2N, R4E.

Reservoir: OFFSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	N2SWSW	35	2N	4E	GALLATIN

Diversion to Reservoir: DIVERSION # 1

Dam Height: 28.00 FEET

Depth: 25.00 FEET

Surface Area: 5.50 ACRES

Capacity: 55.00 ACRE-FEET

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			N2SWSW	35	2N	4E	GALLATIN

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

Water Right Number: 41H 132262-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners:
DOUGLAS R HAMILTON
PO BOX 560
THREE FORKS, MT 59752 0560

Priority Date: MAY 31, 1865

***Type of Historical Right:** DECREED

***Purpose (use):** COMMERCIAL

THIS USE IS FOR A PAY-TO-FISH FACILITY KNOWN AS PARADISE LAKE.

***Flow Rate:** 170.54 GPM

FLOW RATE EQUALS 15 MINER'S INCHES.

***Volume:** 90.72 AC-FT

THE USE OF THIS WATER APPEARS TO BE LARGELY NONCONSUMPTIVE.

Source Name: DRY CREEK

Source Type: SURFACE WATER

THE SOURCE IS A CHANNEL OF DRY CREEK, KNOWN LOCALLY AS HORSE CREEK.

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	26	2N	4E	GALLATIN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: HEADGATE

2 - SECONDARY		NWSWSW	35	2N	4E	GALLATIN
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Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: HEADGATE

A CHANNEL OF DRY CREEK, KNOWN LOCALLY AS HORSE CREEK IS USED AS A NATURAL CARRIER TO A SECONDARY POINT OF DIVERSION IN THE NWSWSW OF SECTION 35, T2N, R4E.

***Reservoir:** OFFSTREAM **Reservoir Name:** PARADISE LAKE

<u>Govt Lot</u>	<u>Otr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	N2SWSW	35	2N	4E	GALLATIN

Diversion to Reservoir: DIVERSION # 1

Period of Use: JANUARY 1 TO DECEMBER 31

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			N2SWSW	35	2N	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.

132262-00 30002025

SPLIT CLAIM NO. 41H 30002025 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM.

AUTHORIZATION TO CHANGE THE POINT OF DIVERSION, PLACE OF USE, PURPOSE AND PLACE OF STORAGE ISSUED 11/16/1992. NOTICE OF COMPLETION DUE 11/30/1994 SEE 41H 132259-00.

WHENEVER THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE COMBINED TO SUPPLY WATER FOR THE CLAIMED PURPOSE, EACH IS LIMITED TO THE HISTORICAL 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. 41H 132258-00, 41H 132260-00, 41H 132261-00, 41H 132262-00.

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

Water Right Number: **41H 30002025** STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners:
DOUGLAS R HAMILTON
PO BOX 560
THREE FORKS, MT 59752 0560

***Priority Date:** MAY 31, 1865

***Type of Historical Right:** DECREED

***Purpose (use):** IRRIGATION

Irrigation Type: SPRINKLER

***Flow Rate:** 56.00 GPM

THE FLOW RATE EQUALS 5 MINER'S INCHES.

***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:** 6.00

***Source Name:** DRY CREEK

Source Type: SURFACE WATER

THE SOURCE IS A CHANNEL OF DRY CREEK, KNOWN LOCALLY AS HORSE CREEK.

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

ID	Govt Lot	Otr Sec	Sec	Twp	Rge	County
1		NWSESW	26	2N	4E	GALLATIN

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

Diversion Means: HEADGATE

2 - SECONDARY	NWSWSW	35	2N	4E	GALLATIN
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***Period of Diversion:** APRIL 1 TO OCTOBER 15

Diversion Means: PUMP

A CHANNEL OF DRY CREEK, KNOWN LOCALLY AS HORSE CREEK IS USED AS A NATURAL CARRIER TO A SECONDARY POINT OF DIVERSION IN THE NWSWSW OF SECTION 35, T2N, R4E.

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

***Place of Use:**

ID	Acres	Govt Lot	Otr Sec	Sec	Twp	Rge	County
1	6.00		SWSW	35	2N	4E	GALLATIN
Total:	6.00						

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.

132262-00 30002025

THIS SPLIT CLAIM WAS AUTHORIZED BY THE WATER COURT BASED ON INFORMATION IN CLAIM NO. 41H 132262-00.