

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

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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 26 2N 4E

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
+ 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
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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

<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:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSEW	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

<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 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		NWSEW	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

<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>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
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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>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

**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

**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:**

<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:** 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:**

<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	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.