

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: Blackwood Dry Creek LP

OBJECTOR: Blackwood Dry Creek LP

CASE 41H-0972-R-2023

41H 126848-00
41H 126849-00
41H 126850-00
41H 126852-00
41H 126853-00
41H 126854-00
41H 126855-00
41H 126858-00

NOTICE OF FILING OF MASTER'S REPORT

This Master's Report was filed with the Montana Water Court on the above stamped date. 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, conclusions 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 serve 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

The claims in this case appeared in the Preliminary Decree for Basin 41H with Montana Department of Natural Resources and Conservation (DNRC) issue remarks questioning the point of diversion. The claims received objections from Claimant Blackwood Dry Creek LP ("Blackwood"). Blackwood filed a Proposed Corrections to Claims on July 24, 2023.

FINDINGS OF FACT

1. Blackwood submitted a Memorandum prepared by DMS Natural Resources, LLC as well as maps, aerial photographs, and excerpts from each claim's respective claims files to support its requested changes. The Memorandum also contains photographs of the claims from a site visit.

2. Claim 41H 126848-00 is a stock claim from an unnamed tributary of South Dry Creek. Blackwood requests the point of diversion and means of diversion be corrected as follows:

ID	GovtLot	QtrSec	Sec	Twp	Rge	County
1		E2SE	19	2S	5E	GALLATIN
Period of Diversion: January 1 to December 31						
Means of Diversion: Livestock Direct from Source						
2		W2NE	19	2S	5E	GALLATIN
Period of Diversion: January 1 to December 31						
Means of Diversion: Livestock Direct from Source						

3. Blackwood also requests the place of use ID No. 3 for claim 41H 126848-00 be removed.

4. The requested modifications are based on the claim file map and historical aerial photographs as well as the claim's on-the-ground locations on Blackwood's property.

5. Claim 41H 126849-00 is a stock claim from a spring to an unnamed tributary of South Dry Creek. Blackwood requests corrections to the place of use as follows:

- a. POU ID No. 1 should be refined from the NW to the E2NW, Section 19, Twp 2S, Rge 5E, Gallatin County.
- b. POU ID No. 2 should be added in the SWNE, Section 19, Twp 2S, Rge 5E, Gallatin County.

6. The requested modifications are based on the claim file map and historical aerial photographs as well as the claim's on-the-ground locations on Blackwood's property.

7. Claim 41H 126850-00 is a stock claim from South Dry Creek. Blackwood requests corrections to the point of diversion and place of use as follows:

- a. The POD and Means of Diversion should be corrected to:

ID	GovtLot	QtrSec	Sec	Twp	Rge	County
1		NENWSE	19	2S	5E	GALLATIN
Period of Diversion: January 1 to December 31						
Means of Diversion: Headgate						
2		NWSESW	29	2S	5E	GALLATIN
Period of Diversion: January 1 to December 31						
Means of Diversion: Headgate						
3		NENENE	30	2S	5E	GALLATIN
Period of Diversion: January 1 to December 31						
Means of Diversion: Headgate						
4			19	2S	5E	GALLATIN
Period of Diversion: January 1 to December 31						
Means of Diversion: Livestock Direct from Source						
5		N2N2NE	30	2S	5E	GALLATIN
Period of Diversion: January 1 to December 31						
Means of Diversion: Livestock Direct from Source						

- b. POU should be corrected to:

ID	Acres	GovtLot	QtrSec	Sec	Twp	Rge	County
1				19	2S	5E	GALLATIN
2		N2N2NE	30	2S	5E		GALLATIN

8. The requested modifications are based on the claim file map and discussion with the owner of Blackwood who states that stock have historically utilized both the natural channel of South Dry Creek as well as the South Dry Creek Ditches. The original statement of claim filing was submitted for stock use from South Dry Creek with POD and POU legal land descriptions of all of Section 19, T2S R5E. Means of diversion was claimed as “Direct.” Stock use in ditches is not explicitly stated on the original statement of claim filing. However, the claimant identified three separate headgate PODs on the map enclosed with the original statement of claim filing.

9. Claim 41H 126852-00 is an irrigation claim from the waste and seepage of an unnamed tributary of South Dry Creek. Blackwood requests the following changes to the place of use:

- a. POU ID No. 4 should be corrected and POU ID No. 5 should be added, as follows:

<u>ID</u>	<u>Acres</u>	<u>GovtLot</u>	<u>QtrSec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
4	<u>36.00</u>	<u>72.00</u>	<u>ESE</u>	<u>24</u>	<u>2S</u>	<u>4E</u>	<u>GALLATIN</u>
5	<u>8.00</u>	<u>Lot 2</u>	<u>SWNW</u>	<u>19</u>	<u>2S</u>	<u>5E</u>	<u>GALLATIN</u>

10. These changes to the place of use would increase the maximum acres irrigated to 560.

11. Blackwood requests these modifications because, based on the map provided with the original statement of claim, Gallatin County Water Resource Survey maps, and historical aerials, historical irrigation under 41H 126856-00 also included 8 acres in the SWNW, Lot 2, of Section 19, T2S R5E. However, the claimant appears to have inadvertently omitted this legal land description from the original statement of claim filing. Instead, the claimant appears to have inadvertently included the 8 acres of irrigation in the SWNW of Section 19 within the 80 acres of irrigation claimed in the E2NW of Section 19 on the original statement of claim form.

12. Claim 41H 126853-00 is an irrigation claim from South Dry Creek. Blackwood requests changes to the volume and place of use as follows:

- a. The Volume should be removed from this claim and should be replaced with the following information remark:

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

- b. The Maximum Acres irrigated should be reduced from 240.00 to 191.00 acres.

- c. POU should be corrected to:

ID	Acres	GovtLot	QtrSec	Sec	Twp	Rge	County
1	81.47		SE	19	2S	5E	GALLATIN
2	71.03		W2NE	19	2S	5E	GALLATIN
3	38.50		E2NW	19	2S	5E	GALLATIN
Total: 191.00							

13. Blackwood requests these modifications to resolve the issue remarks on this claim which state the claimed place of use and acres irrigated may be questionable and flow rate and volume may require modification based on resolution of acres irrigated remark.

14. During 2017 review, DNRC added the POU / acres irrigated issue remark listed above. The issue remark does not point to any specific information or arials, and it is unclear if the issue remark was added based on 2017 review of aerial imagery or based on the prior comment in the claim file from the DNRC's original 1983 review. Based on the claim file map, historic aerial imagery, and the WRS maps, a total of 191 acres have been historically irrigated, and are currently irrigated, within the claimed legal land descriptions and area shown on the claim file map.

15. Blackwood states the claimant over-estimated the number of acres within the claimed POU on the original statement of claim filing. Additionally, the claimed POU includes acres throughout the SE of Section 19, T2S R5E, but the claimant inadvertently omitted the W2SE of Section 19, T2S R5E, from the claimed legal land descriptions. 41H 126853-00 should be decreed with a POU of 191 acres in the SE, E2NW, and W2NE of Section 19, T2S R5E.

16. Blackwood further requests a standard volume remark be used on claim 41H 126853-00 in lieu of a specified numerical volume as this is a direct-flow irrigation claim.

17. Claim 41H 126854-00 is an irrigation claim from South Dry Creek. Blackwood requests changes to the volume and place of use as follows:

- a. The Volume should be removed from this claim and should be replaced with the following information remark:

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

- b. The Maximum Acres irrigated should be reduced from 266.00 to 242.00 acres.

- c. POU should be corrected to:

ID	Acres	GovtLot	QtrSec	Sec	Twp	Rge	County
1	135.93		SW	19	2S	5E	GALLATIN
2	52.14		W2NE	19	2S	5E	GALLATIN
3	28.00		S2NW	19	2S	5E	GALLATIN
4	00.80		SWNE	19	2S	5E	GALLATIN
5	25.13		E2SE	24	2S	4E	GALLATIN
Total: 242.00							

18. Blackwood requests these modifications to resolve the issue remarks on this claim which state the claimed place of use and acres irrigated may be questionable and flow rate and volume may require modification based on resolution of acres irrigated remark.

19. During 2017 review, DNRC added the POU / acres irrigated issue remark listed above. The issue remark does not point to any specific information or arials, and it is unclear if the issue remark was added based on 2017 review of aerial imagery or based on the prior comment in the claim file from the DNRC's original 1983 review. Based on the claim file map, historic aerial imagery, and the WRS maps, a total of 242 acres have been historically irrigated, and are currently irrigated, within the claimed legal land descriptions and area shown on the claim file map.

20. The claimant over-estimated the number of acres within the claimed POU on the original statement of claim filing. Additionally, the claimed POU includes acres throughout the SW, W2SE, SWNE, and S2NW of Section 19, T2S R5E, but the claimant inadvertently omitted the S2NW and SWNE of Section 19, T2S R5E, from the claimed legal land descriptions. 41H 126854 00 should be decreed with a POU of 242 acres in the SW, W2SE, SWNE, and S2NW of Section 19, T2S R5E, and the E2SE of Section 24, T2S R4E.

21. Blackwood further requests a standard volume remark be used on claim 41H 126854-00 in lieu of a specified numerical volume as this is a direct-flow irrigation claim.

22. Claim 41H 126855-00 is an irrigation claim from an unnamed tributary of South Dry Creek. Blackwood requests changes to the flow rate and point of diversion as follows:

a. The Flow Rate for this claim should be corrected from 1.25 CFS to 2.5 CFS.

b. Additional POD ID Nos. 2 and 3 should be added as follows:

ID	GovtLot	QtrSec	Sec	Twp	Rge	County
2		SWSENE	19	2S	5E	GALLATIN
Period of Diversion: April 1 to October 31						
Means of Diversion: Headgate						
3		NESWNE	19	2S	5E	GALLATIN
Period of Diversion: April 1 to October 31						
Means of Diversion: Headgate						

23. The requested modifications to the points of diversion are based on the claim file map and historical aerial photographs as well as the claim's on-the-ground locations on Blackwood's property.

24. To support the increase in flow rate to claim 41H 120855-00, Blackwood states Original statement of claim was filed with a flow rate of "50 plus" MI. To support the filing, the claimant provided three affidavits supporting the Blackwood Property's senior use of water from Foster Spring Creek, and a 1964 agreement regarding water use from Foster Spring Creek. According to the 1964 agreement, Foster Spring Creek flows

“approximately one hundred miner’s inches of waters which can and is used for irrigation of the lands owned by the parties hereto.”

25. The agreement also states that the predecessor of Blackwood Dry Creek LP, Edward D. and June B. Blackwood, have first rights to the “use of said water.” It appears that the claimant described the flow rate on the original statement of claim filing as “50 plus” MI to reflect variable diversions of at least 50 MI based on variable flows in Foster Spring Creek. However, as described in the 1964 agreement, Blackwood Dry Creek LP has first rights to all water in Foster Spring Creek, and Foster Spring Creek typically flows at 100 MI. No additional irrigation water rights were claimed for irrigation from Foster Spring Creek on the Blackwood Dry Creek LP property.

26. Claim 41H 126858-00 is a fish and wildlife claim from an unnamed tributary of South Dry Creek. Blackwood requests the following changes to the point of diversion and reservoir record:

- a. ~~POD ID No. 1 should be removed from the claim.~~
- b. ~~The measurements of the Onstream Reservoir in POD ID No. 2 should be~~
~~corrected as follows:~~
 - i. ~~Dam Height: 9.00 feet~~
 - ii. ~~Depth: 7.00 feet~~
 - iii. ~~Surface Area: 0.66 Acres~~
 - iv. ~~Capacity: 1.85 Acre-Feet~~

27. Blackwood requests modifications to resolve the issue remarks on this claim which state that there has been a post 1973 expansion of the water right.

28. Blackwood requests these changes based on information provided in the claim file. The second (northern) dam and reservoir on claim 41H 126858-00 was not constructed until sometime in 1976. Thus, the claimant should not have included the second, northern reservoir under the 41H 126858 00 statement of claim. The northern reservoir (Reservoir Record #1) and corresponding POD (POD ID #1) should be removed from 41H 126858 00 to accurately reflect the historic pre-1973 water use.

29. Blackwood further states DNRC appears to have misinterpreted the information on the 1986 reservoir questionnaire, and thus the reservoir record for the

southern, pre-1973 pond is inaccurate. Based on the 1986 reservoir questionnaire, GIS mapping of the pond based on historic aerials, and site visit, the southern, pre-1973 pond has a dam height of 9 feet, a maximum depth of approximately 7 feet, a surface area of 0.66 acres, and a capacity of 1.85 AF.

30. Any remaining issue remarks on these claims are for notice purposes only and can be removed.

CONCLUSIONS OF LAW

1. The Montana Water Court has the authority to resolve issue remarks when the claim file and information available to the Court provide a sufficient basis to do so. Section 85-2-248(3), MCA.

2. A properly filed Statement of Claim for Existing Water Right is prima facie proof of its content. Section 85-2-227, MCA. This prima facie proof may be contradicted and overcome by other evidence that proves, by a preponderance of the evidence, that an element of the prima facie claim is incorrect. This is the burden of proof for every assertion that a claim is incorrect. Rule 19, W.R.Adj.R.

3. The degree or weight of evidence needed to contradict or overcome the prima facie proof statute is a preponderance of the evidence. *Burkhartsmeier et al. v. Burkhardtmeier et al.*, Case 40G-2, (MT Water Court Memorandum Opinion and Order Adopting Master's Report, Mar. 11, 1997). The Montana Supreme Court has defined preponderance as "a relatively modest standard that the statutory criteria are 'more probable than not' to have been met." *Hohenlohe v. State*, 2010 MT 203 ¶ 33, 357 Mont. 438, 240 P.3d 628.

4. The Montana Water Court is permitted to use information submitted by the Department of Natural Resources and Conservation, the statement of claim, information from approved compacts, and any other data obtained by the Court to evaluate water right claims. Section 85-2-231(2), MCA.

5. The Objection List issued in this basin gave all water users notice of the possible correction of the elements addressed in this Master's Report. This notice is reasonably calculated to inform parties of proceedings affecting their water rights.

6. For the above-mentioned reasons, the claims in this case should be modified as shown on the attached abstracts to accurately reflect historical use.

RECOMMENDATIONS

Based upon the above Findings of Fact and Conclusions of Law, this Master recommends that the Court make the changes specified above to correct the Preliminary Decree for this Basin. Post Decree Abstracts of Water Right Claims are served with this Report to confirm that the recommended changes have been made in the state's centralized record system.

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 126848-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: BLACKWOOD DRY CREEK LP
2603 BLACKWOOD RD
BOZEMAN, MT 59718

Priority Date: DECEMBER 31, 1870

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:** UNNAMED TRIBUTARY OF SOUTH 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		E2SE	19	2S	5E	GALLATIN
Period of Diversion:		JANUARY 1 TO DECEMBER 31				
Diversion Means:		LIVESTOCK DIRECT FROM SOURCE				
2		W2NE	19	2S	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			E2SE	19	2S	5E	GALLATIN
2			W2NE	19	2S	5E	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.

126848-00 126855-00

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

Water Right Number: 41H 126849-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: BLACKWOOD DRY CREEK LP
2603 BLACKWOOD RD
BOZEMAN, MT 59718

Priority Date: DECEMBER 31, 1920

Type of Historical Right: USE

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 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 SOUTH DRY 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		SWSWNE	19	2S	5E	GALLATIN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: MULTIPLE

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			E2NW	19	2S	5E	GALLATIN
2			SWNE	19	2S	5E	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.

126849-00

126851-00

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

Water Right Number: 41H 126850-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: BLACKWOOD DRY CREEK LP
2603 BLACKWOOD RD
BOZEMAN, MT 59718

Priority Date: DECEMBER 31, 1872

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:** SOUTH 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		NENWSE	19	2S	5E	GALLATIN
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	HEADGATE					
2		NWSESW	29	2S	5E	GALLATIN
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	HEADGATE					
3		NENENE	30	2S	5E	GALLATIN
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	HEADGATE					
4			19	2S	5E	GALLATIN
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
5		N2N2NE	30	2S	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				19	2S	5E	GALLATIN
2			N2N2NE	30	2S	5E	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.

126850-00

126853-00

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

Water Right Number: 41H 126852-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: BLACKWOOD DRY CREEK LP
2603 BLACKWOOD RD
BOZEMAN, MT 59718

Priority Date: AUGUST 5, 1898

Type of Historical Right: FILED

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: 560.00

Source Name: WASTE & SEEPAGE, UNNAMED TRIBUTARY OF SOUTH DRY CREEK
Source Type: SURFACE WATER
THE SOURCE INCLUDES UNNAMED TRIBUTARIES OF SOUTH DRY 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	29	2S	5E	GALLATIN
Period of Diversion:		APRIL 1 TO OCTOBER 31				
Diversion Means:		HEADGATE				
2		NENENE	30	2S	5E	GALLATIN
Period of Diversion:		APRIL 1 TO OCTOBER 31				
Diversion Means:		HEADGATE				
3		NENWSE	19	2S	5E	GALLATIN
Period of Diversion:		APRIL 1 TO OCTOBER 31				
Diversion Means:		HEADGATE				
Period of Use:		APRIL 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	320.00		S2	19	2S	5E	GALLATIN
2	80.00		W2NE	19	2S	5E	GALLATIN
3	80.00		E2NW	19	2S	5E	GALLATIN
4	72.00		E2SE	24	2S	4E	GALLATIN
5	8.00	2	SWNW	19	2S	5E	GALLATIN
Total:		560.00					

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.

126851-00	126852-00	126853-00	126854-00	126855-00	126856-00
126857-00					

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

Water Right Number: 41H 126853-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: BLACKWOOD DRY CREEK LP
2603 BLACKWOOD RD
BOZEMAN, MT 59718

Priority Date: DECEMBER 31, 1872

Type of Historical Right: USE

Purpose (use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 7.50 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: 191.00

Source Name: SOUTH 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		NENENE	30	2S	5E	GALLATIN
Period of Diversion:	APRIL 1 TO OCTOBER 31					
Diversion Means:	HEADGATE					
2		NWSESW	29	2S	5E	GALLATIN
Period of Diversion:	APRIL 1 TO OCTOBER 31					
Diversion Means:	HEADGATE					
3		NENWSE	19	2S	5E	GALLATIN
Period of Diversion:	APRIL 1 TO OCTOBER 31					
Diversion Means:	HEADGATE					

Period of Use: APRIL 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	81.47		SE	19	2S	5E	GALLATIN
2	71.03		W2NE	19	2S	5E	GALLATIN
3	38.50		E2NW	19	2S	5E	GALLATIN
Total:	191.00						

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.

126851-00	126852-00	126853-00	126854-00	126855-00	126856-00
126857-00					

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.

126850-00	126853-00
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**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
GALLATIN RIVER
BASIN 41H**

Water Right Number: 41H 126854-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: BLACKWOOD DRY CREEK LP
2603 BLACKWOOD RD
BOZEMAN, MT 59718

Priority Date: DECEMBER 31, 1872

Type of Historical Right: USE

Purpose (use): IRRIGATION
Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 7.50 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: 242.00

Source Name: SOUTH 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	29	2S	5E	GALLATIN

Period of Diversion: APRIL 1 TO OCTOBER 31

Diversion Means: HEADGATE

Period of Use: APRIL 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	135.93		SW	19	2S	5E	GALLATIN
2	52.14		W2NE	19	2S	5E	GALLATIN
3	28.00		S2NW	19	2S	5E	GALLATIN
4	0.80		SWNE	19	2S	5E	GALLATIN
5	25.13		E2SE	24	2S	4E	GALLATIN
Total:	242.00						

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.

126851-00	126852-00	126853-00	126854-00	126855-00	126856-00
126857-00					

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

Water Right Number: 41H 126855-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: BLACKWOOD DRY CREEK LP
2603 BLACKWOOD RD
BOZEMAN, MT 59718

Priority Date: DECEMBER 31, 1870

Type of Historical Right: USE

Purpose (use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 2.50 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: 117.00

Source Name: UNNAMED TRIBUTARY OF SOUTH 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		SENESE	19	2S	5E	GALLATIN
Period of Diversion:	APRIL 1 TO OCTOBER 31					
Diversion Means:	HEADGATE					
2		SWSENE	19	2S	5E	GALLATIN
Period of Diversion:	APRIL 1 TO OCTOBER 31					
Diversion Means:	HEADGATE					
3		NESWNE	19	2S	5E	GALLATIN
Period of Diversion:	APRIL 1 TO OCTOBER 31					
Diversion Means:	HEADGATE					

Period of Use: APRIL 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	17.00		NESE	19	2S	5E	GALLATIN
2	80.00		W2NE	19	2S	5E	GALLATIN
3	20.00		NENW	19	2S	5E	GALLATIN
Total:	117.00						

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.

126851-00	126852-00	126853-00	126854-00	126855-00	126856-00
126857-00					

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.

126848-00	126855-00
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**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
GALLATIN RIVER
BASIN 41H**

Water Right Number: 41H 126858-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: BLACKWOOD DRY CREEK LP
2603 BLACKWOOD RD
BOZEMAN, MT 59718

Priority Date: MAY 31, 1946

Type of Historical Right: USE

Purpose (use): FISH AND WILDLIFE

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS
ONSTREAM RESERVOIR.

Volume: 913.00 AC-FT

THE USE OF THIS WATER APPEARS TO BE LARGELY NONCONSUMPTIVE.

Source Name: UNNAMED TRIBUTARY OF SOUTH 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		SWNWNE	19	2S	5E	GALLATIN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DAM

Reservoir: ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SWNWNE	19	2S	5E	GALLATIN

Diversion to Reservoir: DIVERSION # 1

Dam Height: 9.00 FEET

Depth: 7.00 FEET

Surface Area: 0.66 ACRES

Capacity: 1.85 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			NWNE	19	2S	5E	GALLATIN