

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

* * * * *

CLAIMANT: West Gallatin Canal Co.

CASE 41H-6007-A-2024

41H 33129-00
41H 33130-00
41H 33131-00
41H 33132-00
41H 33133-00

ORDER AMENDING MASTER'S REPORT AND CORRECTING ABSTRACT

Pursuant to Montana Code Annotated, § 85-2-233(5), the above entitled case was assigned to Senior Water Master Julia Nordlund. The Water Master filed a Report containing Findings of Fact and Conclusions of Law with the Clerk of Court. (Doc. 7.00). Copies of the Report were served on May 21, 2025.

On May 23, 2025, West Gallatin Canal Co. ("WGCC") filed an objection to the Master's Report. (Doc. 8.00). WGCC identified two clerical errors. WGCC also objected to the wording of paragraph #11 on page 7 of the Report.

The first clerical error identified by WGCC is that the post decree abstract of claim 41H 33133-00 has a typo in place of use ID #30. The place of use quarter section should be identified as E2SESE rather than E2E2SE. The place of use ID #30 should be amended on the post decree abstract of 41H 33133-00.

The second clerical error identified by WGCC is within the body of the Master's Report. Paragraph #1 of the Findings of Facts (Doc. 7.00 at 2) lists the claims addressed in WGCC's Motion to Amend. However, claim 41H 33132-00 was omitted from the list of amended claims. Therefore, paragraph #1 of the Report's Findings of Fact Report should be amended to include claim 41H 33132-00.

WGCC also objected to the wording of paragraph #11 of the Conclusions of Law in the Report. The paragraph states: “Unlike Parrot Ditch Company, WGCC has proved that the water was historically moved and utilized throughout the 8,895 acres footprint of the company’s ditches.” (Doc. 7.00 at 7). WGCC objects that this paragraph does not reflect the ultimate conclusion of the Master’s Report, which recommended the proposed service area be accepted and that the maximum acres irrigated within the service area each year is 8,895.00 acres.

WGCC proposed substitute language for paragraph #11. However, the proposed substitute language adds information. Therefore, paragraph 11 is amended as follows:

“Unlike in *Parrot Ditch Co. v. Ashcraft*, 2024 MT 272, 419 Mont. 93, 558 P.3d 1183, WGCC proved irrigated acres were shifted within the historical footprint.”

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 May 21, 2025 Master’s Report with the following Amendments.

ORDERED that the post decree abstract of 41H 33133-00 is amended to state the legal land description of place of use ID # as E2SESE of Section 19, Township 3 South, Range 4 East. A Post Decree Abstract of Water Right 41H 33133-00 is served with this Order to confirm that the abstract has been corrected in the state database.

ORDERED that Finding of Fact #1 on page 2 is amended to include claim 41H 33132-00.

ORDERED that Conclusion of Law #11 is amended to read, “Unlike in *Parrot Ditch Co. v. Ashcraft*, 2024 MT 272, 419 Mont. 93, 558 P.3d 1183, WGCC proved irrigated acres were shifted within the historical footprint.”

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 33133-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: WEST GALLATIN CANAL CO
PO BOX 553
GALLATIN GATEWAY, MT 59730-0553

Priority Date: JUNE 25, 1901

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 76.00 CFS

COMBINED FLOW RATE FOR CLAIM NOS. 41H 33132-00 AND 41H 33133-00 IS LIMITED TO THE HISTORIC CAPACITY OF THE DIVERSION STRUCTURE.

Volume: 30,895.14 AC-FT

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 8,895.00

Source Name: WEST GALLATIN RIVER

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		SWSWSE	5	4S	4E	GALLATIN

Period of Diversion: APRIL 10 TO OCTOBER 31

Diversion Means: HEADGATE

Ditch Name: WEST GALLATIN CANAL

Period of Use: APRIL 10 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				13	2S	4E	GALLATIN
2				24	2S	4E	GALLATIN
3				25	2S	4E	GALLATIN
4				26	2S	4E	GALLATIN
5				35	2S	4E	GALLATIN
6				36	2S	4E	GALLATIN
7			N2SW	9	2S	5E	GALLATIN
8			S2S2	9	2S	5E	GALLATIN
9				14	2S	5E	GALLATIN
10				15	2S	5E	GALLATIN
11				16	2S	5E	GALLATIN

12		17	2S	5E	GALLATIN
13		18	2S	5E	GALLATIN
14		19	2S	5E	GALLATIN
15		20	2S	5E	GALLATIN
16		21	2S	5E	GALLATIN
17		22	2S	5E	GALLATIN
18		23	2S	5E	GALLATIN
19		26	2S	5E	GALLATIN
20		27	2S	5E	GALLATIN
21		28	2S	5E	GALLATIN
22		29	2S	5E	GALLATIN
23		30	2S	5E	GALLATIN
24		31	2S	5E	GALLATIN
25		32	2S	5E	GALLATIN
26		33	2S	5E	GALLATIN
27	N2	34	2S	5E	GALLATIN
28		1	3S	4E	GALLATIN
29		2	3S	4E	GALLATIN
30	E2SESE	10	3S	4E	GALLATIN
31		11	3S	4E	GALLATIN
32		12	3S	4E	GALLATIN
33		13	3S	4E	GALLATIN
34		14	3S	4E	GALLATIN
35	E2	15	3S	4E	GALLATIN
36	E2SESW	15	3S	4E	GALLATIN
37		22	3S	4E	GALLATIN
38		23	3S	4E	GALLATIN
39	SW	24	3S	4E	GALLATIN
40	NW	25	3S	4E	GALLATIN
41		26	3S	4E	GALLATIN
42		27	3S	4E	GALLATIN
43	E2E2	28	3S	4E	GALLATIN
44	E2SWSE	28	3S	4E	GALLATIN
45	E2	33	3S	4E	GALLATIN
46	E2W2	33	3S	4E	GALLATIN
47	W2SW	33	3S	4E	GALLATIN
48		34	3S	4E	GALLATIN
49	NW	35	3S	4E	GALLATIN
50	N2N2SW	35	3S	4E	GALLATIN
51	SWSWNE	35	3S	4E	GALLATIN
52	W2NWSE	35	3S	4E	GALLATIN
53	N2SWSE	35	3S	4E	GALLATIN
54	N2	5	3S	5E	GALLATIN
55		6	3S	5E	GALLATIN
56		7	3S	5E	GALLATIN
57	N2	18	3S	5E	GALLATIN
58	N2S2	18	3S	5E	GALLATIN

59	NW	3	4S	4E	GALLATIN
60	NWNWNE	3	4S	4E	GALLATIN
61	N2	4	4S	4E	GALLATIN
62	N2NESW	4	4S	4E	GALLATIN
63	E2E2NE	5	4S	4E	GALLATIN
64	N2SE	5	4S	4E	GALLATIN

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.

33129-0033130-0033131-0033132-0033133-00

A TOTAL OF 8,895.00 ACRES MAY BE IRRIGATED DURING ANY GIVEN IRRIGATION SEASON WITHIN THE HISTORIC SERVICE AREA.