

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

**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**

**FINDINGS OF FACT**

This case involves five water right claims owned by West Gallatin Canal Co.

(“WGCC”). The claims are in Basin 41H. The Water Court issued a Temporary Preliminary Decree for Basin 41H on September 26, 1985. The claims also appeared in the Preliminary Decree issued October 11, 2018.

WGCC filed a Motion to Amend these claims and Briefs in support on October 30, 2024. The Court ordered Publication of Notice to Amend Water Right Claims pursuant to MCA 85-2-233(6). WGCC published Notice in the Bozeman Daily Chronicle and Belgrade News. No objections were filed.

WGCC states it did not file objections to these claims during the previous two decrees because it did not realize it could. As the body of law surrounding service areas has evolved significantly over the past 5+ years, the Court accepts this Amendment request after the issuance of the 41H Decrees.

The relevant facts to amend the claims are as follows:

1. WGCC moved to amend the place of use for claims 41H 33129-00, 41H 33130-00, 41H 33131-00, and 41H 33133-00, as a public service corporation, to a service area as follows:

**PLACE OF USE:**

<b>POU ID</b>	<b>QTR</b>	<b>SEC</b>	<b>TWP</b>	<b>RGE</b>
1		13	T2S	R4E
2		24	T2S	R4E
3		25	T2S	R4E
4		26	T2S	R4E
5		35	T2S	R4E
6		36	T2S	R4E
7	N2SW	9	T2S	R5E
8	S2S2	9	T2S	R5E
9		14	T2S	R5E
10		15	T2S	R5E
11		16	T2S	R5E
12		17	T2S	R5E
13		18	T2S	R5E
14		19	T2S	R5E
15		20	T2S	R5E
16		21	T2S	R5E
17		22	T2S	R5E
18		23	T2S	R5E
19		26	T2S	R5E
20		27	T2S	R5E
21		28	T2S	R5E

22		29	T2S	R5E
23		30	T2S	R5E
24		31	T2S	R5E
25		32	T2S	R5E
26		33	T2S	R5E
27	N2	34	T2S	R5E
28		1	T3S	R4E
29		2	T3S	R4E
30	E2SESE	10	T3S	R4E
31		11	T3S	R4E
32		12	T3S	R4E
33		13	T3S	R4E
34		14	T3S	R4E
35	E2	15	T3S	R4E
36	E2SESW	15	T3S	R4E
37		22	T3S	R4E
38		23	T3S	R4E
39	SW	24	T3S	R4E
40	NW	25	T3S	R4E
41		26	T3S	R4E
42		27	T3S	R4E
43	E2E2	28	T3S	R4E
44	E2SWSE	28	T3S	R4E
45	E2	33	T3S	R4E
46	E2W2	33	T3S	R4E
47	W2SW	33	T3S	R4E
48		34	T3S	R4E
49	NW	35	T3S	R4E
50	N2N2SW	35	T3S	R4E
51	SWSWNE	35	T3S	R4E
52	W2NWSE	35	T3S	R4E
53	N2SWSE	35	T3S	R4E
54	N2	5	T3S	R5E
55		6	T3S	R5E
56		7	T3S	R5E
57	N2	18	T3S	R5E
58	N2S2	18	T3S	R5E
59	NW	3	T4S	R4E
60	NWNWNE	3	T4S	R4E
61	N2	4	T4S	R4E
62	N2NESW	4	T4S	R4E
63	E2E2NE	5	T4S	R4E
64	N2SE	5	T4S	R4E

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

2. In 1883, a group of individual irrigators formed an association to appropriate water and construct an irrigation canal. The canal was finished by Abert Kleinschmidt in 1889.

3. WGCC acquired the canal system and water rights around 1901 with the purpose:

to furnish and supply to farmers and farming neighborhoods in said County of Gallatin, and especially to the respective stockholders of this corporation [WGCC] and to carry, conduct and convey to, into and upon the respective farms and tract of lands of the said stockholders and other within the vicinity of the canal hereinafter mentioned, water for the irrigating of said farms and lands in said county, and for other lawful, beneficial and useful purposes in said County and to that end and for that purpose to acquire purchase, hold, possess, own, control, maintain, use and enjoy the rights to use and to the use and flow of the water of that flowing river or stream in said County of Gallatin, named and known as The West Gallatin River, and particularly the rights heretofore acquired, held, used and possessed by the Gallatin Canal Company and its grantees and successors and any further right that may be acquired by this corporation

\* \* \*

and to lease, sell and supply the said waters or any part thereof to parties other than the stockholders of said [WGCC] for the irrigation of lands in the vicinity of said Canal in said County and of other lawful, useful or beneficial purposes therein, when said water shall not be needed by the said stockholders for their uses and purposes aforesaid.

4. In 1923 WGCC reincorporated and filed new articles of incorporation restating that the purpose was for

conveying of said waters to the lands of any of the stockholders of this corporation, or to the lands of any person who becomes the purchaser from said corporation of water hereinafter acquired or owned by it for any useful or beneficial purpose.

5. The 1939 Bylaws continue to contemplate providing water to “the lands of any person who becomes the purchaser from said corporation of water.”

6. The statements of claim for water rights 41H 33129-00, 41H 33130-00, and 41H 33131-00 were claimed as use rights for irrigation with priority of April 15, 1883, from Wilson Creek, Big Bear Creek, and South Cottonwood Creek respectively (Tributary Claims). The POU for each of the three Tributary Claims overlaps portions of the POU claimed for the West Gallatin River rights described in the statements of claim for 41H 33132-00 and 41H 33133-00.

7. The statements of claim for water rights 41H 33132-00 and 41H 33133-00 are for decreed irrigation rights from the West Gallatin River with priority of April 15, 1883, and June 25, 1901, respectively. The SOC for each of the two decreed West Gallatin River rights identifies the same historic POU for irrigation by shareholders.

8. The maps and historical aerial photographs show that the completed canal, pumps, natural conveyances and streams have been used consistently, historically over 8,895 acres.

9. Historically, WGCC shareholders used their water for irrigation and stockwater, but when the shareholders no longer used the share water, they can transfer, sell, or lease water to other irrigators within WGCC's historical service footprint.

10. WGCC Company records show the assignment, transfer, and movement of shares between and among landowners in the vicinity of the WGCC canal. This distribution system is proposed as the Company's service area.

#### CONCLUSIONS OF LAW

1. 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.

2. In *Curry v. Pondera County Canal & Reservoir Company*, 2016 MT 77, 383 Mont. 93, 370 P.3d 440, relying on *Bailey v. Tintinger* (1912), 45 Mont. 154, 122 P. 575 (1912), the Montana Supreme Court affirmed a determination by the Montana Water Court that a water supply company providing water to multiple individual landowners for irrigation purposes was entitled to a service area encompassing the boundaries of the project as opposed to a specified historical place of use. In both cases, water supply companies acquired water rights and constructed water distribution systems pursuant to the federal Carey Land Act to supply settlers with water primarily for irrigation purposes.

3. In response to Curry's argument that the Water Court's interpretation of *Bailey* removed the requirement that water used for sale or rental must be limited by historic beneficial use, the Montana Supreme Court reasoned that:

Whether an appropriation is made for a beneficial or useful purpose is a question for the courts to determine based on the appropriator's intent, and

contemplated and actual use. *Toohey v. Campbell* (1900), 24 Mont. 13, 17-18, 60 P. 396. 397. The appropriation of water for sale has long been accepted as a beneficial use. *Bailey*, 45 Mont. at 175, 122 P. at 582; *Sherlock v. Greaves* (1938), 106 Mont. 206, 208, 76 P.2d 87, 91-92; *State v. Norville v. Cooney* (1935), 100 Mont. 391, 408, 47 P.2d 637, 645-646; Mont. Const. art. III, § 3 (1972). Our first Constitution in 1889 explicitly recognized the right to sell and rent water to others as a beneficial use. Mont. Const. art. III, § 15 (1889). The verbiage used in the 1889 Constitution referencing the sale of water was imported almost verbatim nearly one hundred years later into the 1972 Constitution. *Compare* Mont. Const. art. IX, § 3 (1972) *with* Mont. Const. art. III, § 15 (1889). This constitutional provision, along with its interpretations in our case law, clearly shows a steadfast commitment to recognizing the ability to appropriate water for its ultimate use by a third party.

4. The Court in *Curry* went on to point out that in *Bailey*: “We held in certain circumstances water possession can either be actual or symbolized by the completion of preparatory work necessary to take actual possession,” *Curry*, at ¶ 29, citing *Bailey*, 45 Mont. at 174, 122 P. at 582 (emphasis added); and that the “right thus obtained may be lost by abandonment or nonuse (1 *Wiel*, sec. 569) but cannot be made to depend upon the voluntary acts of third parties – strangers to its undertaking.” *Curry*, at ¶ 29, citing *Bailey*, 45 Mont. At 177-178, 122 P. at 583. (Emphasis added.)

5. “The water rights developed in this manner were perfected upon completion of the water distribution system, and thus deemed to satisfy the beneficial use requirement at that time.” *Curry*, at ¶ 46, quoting *Bailey*, 45 Mont. at 170-171, 122 P. at 580-581.

6. More recently, in *Parrot Ditch Co. v. Ashcraft*, 2024 MT 272, 419 Mont. 93, 558 P.3d 1183, the Montana Supreme Court examined where the Water Court, “looked to the record to determine if PDC had presented evidence bearing on whether the proposed service area was “actual or contemplated use at the time the water was decreed.” E. Bench, ¶ 58. PDC’s Articles of Incorporation were merely indicia that the additional acreage was beyond the scope the Company contemplated at its outset. Rather, it looked to the record to determine if PDC had presented evidence bearing on whether the proposed service area was “actual or contemplated use at the time the *water was decreed.*” *Parrot Ditch* citing *In re E. Bench Irrigation Dist.*, 2021 MT 319, 406 Mont.

502, 501 P.3d 380.

7. The Montana Supreme Court stated that PDC's Articles of Incorporation were merely indicia that the additional acreage was beyond the scope the Company contemplated at its outset. PDC "did not prove the existence of a service area boundary larger than 6,710.78 acres within which water delivered to its shareholders historically was moved around from year to year." *Parrot Ditch Co. v. Ashcraft*, 2024 MT 272, ¶ 39, 419 Mont. 93, ¶ 39, 558 P.3d 1183, ¶ 39.

8. WGCC is a public service corporation within the meaning of *Curry* and *Bailey*. Similar to Pondera County Canal & Reservoir Company, WGCC operates much like an irrigation district, where it uses no water itself and its sole purpose is to supply water to other users along the WGCC system, who pay for shares of WGCC's water rights. *See, Curry*, 2016 MT 77 at ¶ 38.

9. The historical record of WGCC's origins indicates that the current extent of the WGCC system was contemplated by the original appropriators and diligently pursued by the board and stockholders of the WGCC.

10. Upon review of current and historical maps, the areas served by WGCC water have remained fairly consistent. WGCC has used and delivered water to a maximum of 8,895 acres within the historic service area and is not seeking to increase the number of acres to be irrigated under its water rights.

11. 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.

12. WGCC is entitled to a service area with 8,895 maximum acres irrigated.

13. An informational remark stating that only the total maximum acres may be irrigated during any given irrigation season within the historic service area should be added to WGCC's irrigation claims.

14. For the above-mentioned reasons, the claims in this case should be modified as shown on the attached abstracts to resolve all issue remarks and 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 Claim 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:**

Peter G. Scott  
Attorney at Law  
peter@scott-law.com  
office@scott-law.com



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

**Water Right Number:** 41H 33129-00 STATEMENT OF CLAIM

**Version:** 4 -- POST DECREE

**Status:** ACTIVE

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

**Priority Date:** APRIL 15, 1883

**Type of Historical Right:** USE

**Purpose (Use):** IRRIGATION

**Irrigation Type:** SPRINKLER/FLOOD

**Flow Rate:** 12.50 CFS

FLOW RATE FOR THIS RIGHT IS LIMITED TO THE HISTORIC CAPACITY OF THE  
DIVERSION STRUCTURE AND THE CONVEYANCE SYSTEM.

**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:** 8,895.00

**Source Name:** WILSON 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		NWSESE	27	3S	4E	GALLATIN

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

**Diversion Means:** HEADGATE

**Ditch Name:** WEST GALLATIN CANAL

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

**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

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**Remarks:**

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

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

**Water Right Number:** 41H 33130-00 STATEMENT OF CLAIM

**Version:** 4 -- POST DECREE

**Status:** ACTIVE

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

**Priority Date:** APRIL 15, 1883

**Type of Historical Right:** USE

**Purpose (Use):** IRRIGATION

**Irrigation Type:** SPRINKLER/FLOOD

**Flow Rate:** 37.50 CFS

FLOW RATE FOR THIS RIGHT IS LIMITED TO THE HISTORIC CAPACITY OF THE  
DIVERSION STRUCTURES AND THE CONVEYANCE SYSTEM.

**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:** 8,895.00

**Source Name:** BIG BEAR 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		NWNENW	26	3S	4E	GALLATIN

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

**Diversion Means:** HEADGATE

**Ditch Name:** WEST GALLATIN CANAL #1

2		SESESW	23	3S	4E	GALLATIN
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**Period of Diversion:** APRIL 15 TO NOVEMBER 1

**Diversion Means:** HEADGATE

**Ditch Name:** WEST GALLATIN CANAL #2

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

**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

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**Remarks:**

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

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

**Water Right Number:** 41H 33131-00 STATEMENT OF CLAIM

**Version:** 4 -- POST DECREE

**Status:** ACTIVE

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

**Priority Date:** APRIL 15, 1883

**Type of Historical Right:** USE

**Purpose (Use):** IRRIGATION

**Irrigation Type:** SPRINKLER/FLOOD

**Flow Rate:** 50.00 CFS

FLOW RATE FOR THIS RIGHT IS LIMITED TO THE HISTORIC CAPACITY OF THE  
DIVERSION STRUCTURES AND THE CONVEYANCE SYSTEM.

**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:** 8,895.00

**Source Name:** SOUTH COTTONWOOD 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	12	3S	4E	GALLATIN

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

**Diversion Means:** HEADGATE

**Ditch Name:** WEST GALLATIN (KLEINSCHMIDT) CANAL

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

**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

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**Remarks:**

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

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

**Water Right Number:** 41H 33132-00 STATEMENT OF CLAIM

**Version:** 4 -- POST DECREE

**Status:** ACTIVE

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

**Priority Date:** APRIL 15, 1883

**Type of Historical Right:** DECREED

**Purpose (Use):** IRRIGATION

**Irrigation Type:** SPRINKLER/FLOOD

**Flow Rate:** 75.00 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:** 30,000.00 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

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**Remarks:**

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

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

**Water Right Number:** 41H 33133-00 STATEMENT OF CLAIM

**Version:** 3 -- 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	E2E2SE	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.

33129-00                      33130-00                      33131-00                      33132-00                      33133-00

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