BASIN 40G

ORDER AND WATER MASTER REPORT

IN THE WATER COURTS OF THE STATE OF MONTANA

LOWER MISSOURI DIVISION

SAGE CREEK

IN THE MATTER OF THE ADJUDICATION
OF THE EXISTING RIGHTS TO THE USE
OF ALL THE WATER, BOTH SURFACE AND
UNDERGROUND, WITHIN THE SAGE
CREEK DRAINAGE AREA INCLUDING ALL
TRIBUTARIES OF SAGE CREEK IN LIBERTY
AND HILL COUNTIES, MONTANA.

ORDER

After having reviewed the Water Master's Report of existing rights in the Sage Creek Basin, the Court finds that the Report meets the requirements for the Preliminary Decree set forth in 85-2-231(1) MCA 1978. The Court being satisfied with the Findings of Fact and Conclusions of Law contained in the Report, hereby

ORDERS that the Water Master's Report (attached herein) and the abstracts of the individual water rights in the Sage Creek Basin be adopted as the Preliminary Decree for that Basin pursuant to Section 85-2-231(3) MCA 1978.

DATED this som day of The thinky, 1983.

BERNARD W. THOMAS

Water Judge

Lower Missouri Division

IN THE WATER COURTS OF THE STATE OF MONTANA

LOWER MISSOURI DIVISION -

SAGE CREEK

IN THE MATTER OF THE ADJUDICATION OF THE EXISTING RIGHTS TO THE USE OF ALL THE WATER, BOTH SURFACE AND UNDERGROUND, WITHIN THE SAGE CREEK DRAINAGE AREA, INCLUDING ALL TRIBUTARIES OF SAGE CREEK IN LIBERTY AND HILL COUNTIES, MONTANA.

Report of the Water Master on the

Sage Creek Basin

This Report is submitted to the Honorable Bernard W.

Thomas, Water Judge of the Lower Missouri Water Division of the Water Courts of the State of Montana, by Sarah Arnott, Water Master for the Sage Creek Basin.

FINDINGS OF FACT

1. Description of Basin

Sage Creek forms on the eastern slope of the Sweetgrass Hills, 2,500 feet above the surrounding glaciated plains. The creek and its tributaries flow southeasterly through hilly timber and rough and broken land into the wheat and cattle country of the Montana Triangle area, where it becomes a slow meandering stream. Reservoirs are prevalent and water availability is highly dependent upon local

snowfall and the caprice of "chinook" winds and rate of spring thaw.

905 claims of existing water rights were filed.

A map of the Sage Creek Basin is attached as part of this Preliminary Decree.

2. Compacts

The determination of water rights in the Sage Creek
Basin is subject to the contents of any future compact
negotiations by the Reserved Rights Compact Commission and
Montana Indian Tribes or the United States Government
concerning reserved water rights.

3. Authority to Act

This Decree is issued by a Water Judge as authorized by Chapter 697, Session Laws 1979 (85-2-201) as amended.

4. Pre-1973 Water Rights

The general adjudication of water rights is to cover rights exercised before 1973.

An existing water right includes those rights which would be protected under the law as it existed prior to July 1, 1973, pursuant to 85-2-102(7) MCA.

Specifics of Procedure

The Court outlined and supervised the procedure of processing the claims to existing rights. A claim is examined for incomplete or inaccurate information. It is then reviewed for actual and beneficial use. The Court ordered the Department of Natural Resources and Conservation to assist in the processing of claims.

The extent of each individual water right claim is further defined by these Findings of Fact and Conclusions of Law. Where a claimant filed two or more water rights on the same claim form, each right was separated and assigned an individual water right number. If the claim did not include all the information required by 85-2-224 MCA and the information was not available, the right was decreed within the limits of the information submitted.

The specifics of each individual claim is defined by an abstract of the water right. Each individual abstract of the claimed right includes (where possible):

- The name and post office address of the owner of the right;
- The amount of water, rate, and volume included in (b) the right;
- The date of priority of the right;
- (d) The purpose for which the water included in the right is used;
- The place of use and a description of the land,
- if any, to which the right is appurtenant; The source of water included in the right; (£)
- The place and means of diversion; The inclusive dates during which the water is used {**R**} each year;
- (i) Any other information necessary to fully define the nature and extent of the right.

All persons under the jurisdiction and adjudication of the Sage Creek Basin "shall be required to have suitable headgates at the point wherein a ditch taps a stream and shall also, at some suitable place on the ditch and as near the head thereof as practicable, place and maintain a proper measuring box, weir, or other appliance for the measurement of the waters flowing in such ditch." 85-5-302 MCA.

Early in our State's history (March 12, 1885) we were concerned about measurement of Montana water.

Now as we move into the present and future of water and its management, measurement of that water is most important.

6. Historical Use

The numerical amount of water decreed is always subject to the paramount principle of historical use and actual water need and use. In no way does the decreed amount increase the extent of this historical right.

In keeping with that principle, the Court finds that if at any future time, the duty of water be proven different from that reported herein, the abstract of the decreed right will be corrected to conform to historical and actual beneficial use.

Claims to existing water rights are supposed to reflect

the historical use of the right; especially as it existed before July 1, 1973. Some claims, however, are filed showing water use as it currently exists. The water right is decreed as claimed, unless there is sufficient evidence of a different historical use.

7. Water Right Owner

Generally, the Court issues a water right to the appropriator, who is usually the claimant. If there is evidence that a change of ownership has occurred and the Court was not informed, the correct name can be added at a later date.

Some water rights are claimed by more than one person on separate claim forms. When both claimants insist on ownership, each is decreed the right but a remark is added to each decree noting the conflict.

8. Priority Date

The priority date claimed is recognized as prima facie and so decreed except where it is incomplete; or it would result in a clearly erroneous interpretation of the law; or the claim's supporting documentation contradicts the claimed priority date.

Priority dates were decreed in accord with the following:

Where a claimed priority date included only a year, or a year and a month, the last day of the year and the last day of the month are decreed as the priority date.

Priority dates for groundwater rights after 1961 are reviewed for compliance with the Groundwater Act. Priority dates are not changed if it appeared that the wrong form had been used.

If a claim to groundwater after 1961 is based on use, the priority date is decreed as the date o: filing the claim to the existing right.

9. Domestic Use

Flow Rate. The average flow rate from a groundwater source in the State of Montana is approximately 25 gallons per minu. However, a flow rate of 40 gallons per minute is acceptable. As a result, those domestic rights with a claimed flow rate of 40 gallons per minute or less are so decreed. Where the claimed flow rate and the accompanying documentation does not substantiate a flow rate, the right is decreed a flow rate of 25 gallons per minute. When a flow rate claimed had been previously decreed, the flow rate is not changed.

<u>Volume</u>. A reasonable volume of water for domestic use is calculated at 1.0 acre-feet per household with an additional .5 acre-foot for each quarter acre of yard.

Flow rates and volumes are measured at the point of diversion.

Place of Use. Land irrigated as part of the domestic use is decreed as part of the place of use. If a claim for domestic use included irrigation separate from the domestic use, the irrigated land was decreed separately.

<u>Period of Use</u>. The period of use claimed is the period of use decreed.

10. Stockwater

Volume. Stockwater is a beneficial use of water. The limit of the right is based on a consumptive use of 30 gallons per day per animal unit. An animal unit is described as a cow/calf pair or equivalent. The number of animal units is in most instances limited to the reasonable carrying capacity of the area historically serviced by the water source. In those cases when historically the source is utilized more intensively, for instance in the case of a confined stockyard, the right increases based on the number of animal units. Finally, where the stockwater is impounded in a reservoir, a right to reasonable carryover for use in future years is acknowledged.

Flow Rate. The flow rates for groundwater developments for stockwatering purposes were governed by the same principles on domestic groundwater sources. Those rights

involving stock drinking directly from instream surface water sources do not reflect a specific flow rate. The instream flow rate shall be reasonable and shall not exceed the extent of the right as historically outlined.

Place of Use. Where stock drink directly from the surface water source, the point of diversion and place of use seek to show all land adjacent to the source.

11. Irrigation

Irrigation is a beneficial use of water. The limits of irrigation rights are guided by reliance on crop requirements and the overall efficiency of the irrigation system.

Flow Rates. Flow rates are decreed in gallons per minute (gpm) or in cubic feet per second (cfs) instead of the traditional miner's inches. Eleven gpm is equivalent to one miner's inch; forty miner's inches is equivalent to one cubic foot per second.

The flow rates of all previously decreed water rights are unchanged and issued in accord with the flow rate decreed in the original adjudication. When different claimants claimed water rights based on decrees and the total flow rate claimed between the claimants exceeded the amount on the document, a remark is entered on each decree noting those decreed uses of the earlier decreed right.

Flow rates based on a "filed notice of appropriation" or "use" right shall not exceed a reasonable application rate. A reasonable application rate for flood, sprinkling and pump systems which is in keeping with the general requirement of most users in the Easin shall not exceed 17 gpm per acre (1.5 miner's inches). The Court has decreed all claimed flow rates of 17 gpm per acre or less on such systems. However, if the submitted documentation clearly documents a larger claimed flow rate, it was so decreed.

Water spreading, subirrigation and natural overflow and other irrigation systems not subject to quantification do not generally have a constant or consistent flow rate. The extent of the right is limited by the decreed volume. While the water rights for subirrigation and natural overflow are decreed, the owner of the right does not have a right to demand continued right of the water by these means of diversion.

Flow rates are measured at the point of diversion.

Yolume. Volume is decreed in acre-feet beneficially used in one year. An acre-foot of water will cover one acre to a depth of one foot. Net crop consumption requirements are considered to be the total amount of irrigation water a crop will use during an average growing season. Water usage is dependent on the efficiency of the irrigation system. General maximum requirements of

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differing systems are outlined in the following table:

	Flood Systems (diversion ditch) Volumes (AF/A)	Volumes	Water Spreading Systems, Sub- irrigation and Natural Overflow Volumes (AF/A)
I	5.7	3.8	2.3
II	5.3	3.5	2.1
III	5.0	3.3	2.0
IA	4.6	3.1	1.9
V	4.4	3.0	1.8

Climatic areas are delineated by reliance on the designation of <u>Irrigation Guide for Montana</u>, USDA, S.C.S., 1973.

Volumes are measured at the point of diversion.

Any claimed volume not exceeding those designated in the table are decreed as claimed. Those exceeding the volume designated in the table are reduced in accord with those standards. In any case, where the documentation clearly supports a greater amount, it was so decreed.

Place of Use.

A. Verification of Place of Use. Irrigation rights are decreed to a defined place of use. In delineating the place of use, the claim is verified by the use of aerial photographs, field investigation and data submitted by the Department of Natural Resources and Conservation and the claimant. The place of use for irrigation is accepted as claimed except when the land did not appear irrigated or irrigable.

The place of use is designated by legal land description and can be further defined by reference to the maps and referenced aerial photographs included in the Court records.

B. Supplemental Water Rights and Place of Use. In many cases, several water rights with differing priority dates or different sources are combined to supplement the irrigation requirements of all or part of the same acreage. Each water right is decreed a specific place of use, flow rate and volume. Where these rights are used jointly, the combined volume and flow rate cannot exceed the amount of water necessary for the designated beneficial use.

The water user has the right to determine the volume contribution of each source or priority up to the maximum volume.

Period of Use. Because the period of use can vary widely for each individual user, the period of use is accepted as claimed unless the claimed period of use contradicts a previously decreed or documented period of use.

If a period of use was not designated by the claimant, a period of use for irrigation claims was assigned in accord with reasonable irrigation season for the climatic area. Those seasons are as follows:

Clima	tic Area	Period of Use
	I	3-15 to 11-15
	II	4-01 to 10-30
	III	4-15 to 10-15
A -	· IV	4-20 to 10-10
	V	4-25 to 10-05

Place and Means of Diversion. The place and means of diversion are designated. The place of diversion is specifically designed by legal land description.

Secondary points of diversion are noted when possible; however, the claim and claimant's map in many cases will more specifically define the point of diversion.

When a point of diversion is found on a source other than the one claimed, the other source points of diversion are decreed when that source is determined to be an incidental part of the original source. A remark will appear with the other source points of diversion that identifies the incidental source. If the other source is not considered incidental, a separate claim is created.

12. Reservoirs and Storage of Water

A storage right can exist for water that would otherwise go to waste. This right is dependent upon the lack of interference with other rights.

The right to appropriate water by storage in a reservoir is a right separate from a water right. Actual beneficial use of stored water creates a water right. The Court decrees the limits of that right.

13. Standards

Standards accepted by the Water Court can be made more accurate upon objection.

14. Other Uses

In the Sage Creek Basin, claims for agricultural spraying, fish and wildlife, fish pond, fish raceways, recreation, industrial and erosion control uses were submitted.

The Court finds that erosion control and instream fish, wildlife and recreation are not beneficial uses of water.

"Murphy Rights". Section 1 of Chapter 345 of the 1969 Session Laws provided for the appropriation of water in designated streams to maintain fish and wildlife habitat. The Court subjects these rights to all prior existing rights pursuant to 29-801 RCM 1947. The flow rate and volume of these rights are subject to change should the Court determine the waters are needed for a use determined to be more beneficial to the public.

Flow Rates. Flow rates are decreed as claimed unless the documentation accompanying the claim supported a different amount. The Court could not, however, determine a flow rate for the minimal amount necessary to sustain fishing, wildlife, recreation and navigation. Flow rates for mining, power generation and fish raceways were

accepted when it is determined that the amount claimed is less than the average annual stream flow. Rates in excess of the average annual stream flow are reduced to that average rate.

<u>Yolumes</u>. Volumes are decreed as claimed unless the documentation accompanying the claim supported a different amount.

Commercial and industrial use are limited to a volume based on a twelve hour day unless documentation supports a higher volume based on an extended period of use.

Agricultural spraying was limited to a reasonable volume of five acre-feet unless documentation supported a higher volume.

Incidental Use. Many purposes, especially fish, wildlife and recreation, are incidental to another beneficial use of water. The extent of the water right for an incidental use is no more than the extent of the primary use of the water.

Non-Consumptive Use. The Court recognizes that several uses do not consume water. A remark is added to these uses declaring the use to be non-consumptive.

15. Multiple Uses of a Water Right
Usually, a water right is decreed and the uses of the
right are noted. In this general adjudication, the

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claimants filed separate claims for each use of the water right. Special claim forms were used for irrigation, stockwatering, domestic use and a catch-all form for all other uses. As a result of this unique filing, each use of a water right will be decreed separately. Therefore, a water right might be represented by two or more decreed uses.

A remark notation of the multiple use of a water right appears in the following instances:

- 1. Whenever an irrigation and an "other use" are for the same water right.
- 2. Whenever a water right has two or more "other uses."

In all cases where any multiple use of right occurs, the combined flow rate and volume cannot exceed the original appropriation. The use of the right for several purposes does not increase the extent of the right, rather it decrees the right to alternate and interchange the use (purpose) of the water in accord with historical practices.

16. Source Name

Although some sources of surface water in the Sage

Creek Basin were claimed under several names, the source is

generally designated in the Decree by the name listed in

the United States Geological Survey. If the source has not

been designated by the U.S.G.S., the source name of most common recognition in the locality has been used.

Commonly recognized reservoir and lake names will appear as source names. Those lakes and reservoirs that have no commonly recognized name are generally decreed under the name of the outflowing stream. The source name index of the Preliminary Decree cross-indexes any such source names for easy access.

When more than one source is claimed for a water right, the Court determines the major source and lists that source in the Decree. If more than one source is determined to be major, a separate claim is made for the claimant.

17. Terminated Claim

The Water Court takes judicial notice of water claims that have been terminated during this adjudication process. Instances are:

- 1. A claim filed with the adjudication Field Office and withdrawn and terminated by the claimant because of self-confessed errors and filed anew.
- 2. Claims filed and then withdrawn at claimant's request.
- 3. Claims that appear in the abstracts of water rights as part of the Preliminary Decree because they were assigned a "number" by the Helena, Montana, office, and

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later returned to the forwarding Field Office; and these claims have a remark on the abstract of their termination for one reason or another from claimant. (These claims are "alphabetized" and stored in the archives of the Department of Natural Resources and Conservation by the Field Offices.)

The claims are printed in both decrees. The "0" prefix will tell the computer to print a statement saying, "The Court finds no right for this claim, as it has been withdrawn at the request of the claimant."

4. Claims terminated by the Field Offices and the DNRC before an Order of this Court of April 22, 1982, ordering that these claims were not to be terminated but stamped at the time of filing and processed as all other claims, even though there was a failure of payment of fees. All claims terminated because of lack of payment will be considered specially by the Court at the time of Preliminary Decree hearings.

Based on the Findings of Fact, the Water Master makes the following:

CONCLUSIONS OF LAW

1.

This Report meets the requirements for a Preliminary Decree as required by 85-2-231 MCA 1979.

For each person who claims an existing water right in this Basin, there is attached to this Preliminary Decree a statement defining the nature and extent of his claimed right, as found by the Water Courts and as requested by 85-2-231 MCA and 85-2-234 MCA; these Conclusions make all these attached statements a part of this Report.

3.

All notices, all substantive and procedural requirements of court adjudication of water claims and requirements for hearing and decision have been fulfilled.

4.

The water adjudicated in this cause is a water use that is of a beneficial use and is the property of the State of Montana and for the use of these named water claimants, subject to their appropriative rights as specified in this Report.

5.

All Findings are merged with these Conclusions of Law to give them the force of law in this Report.

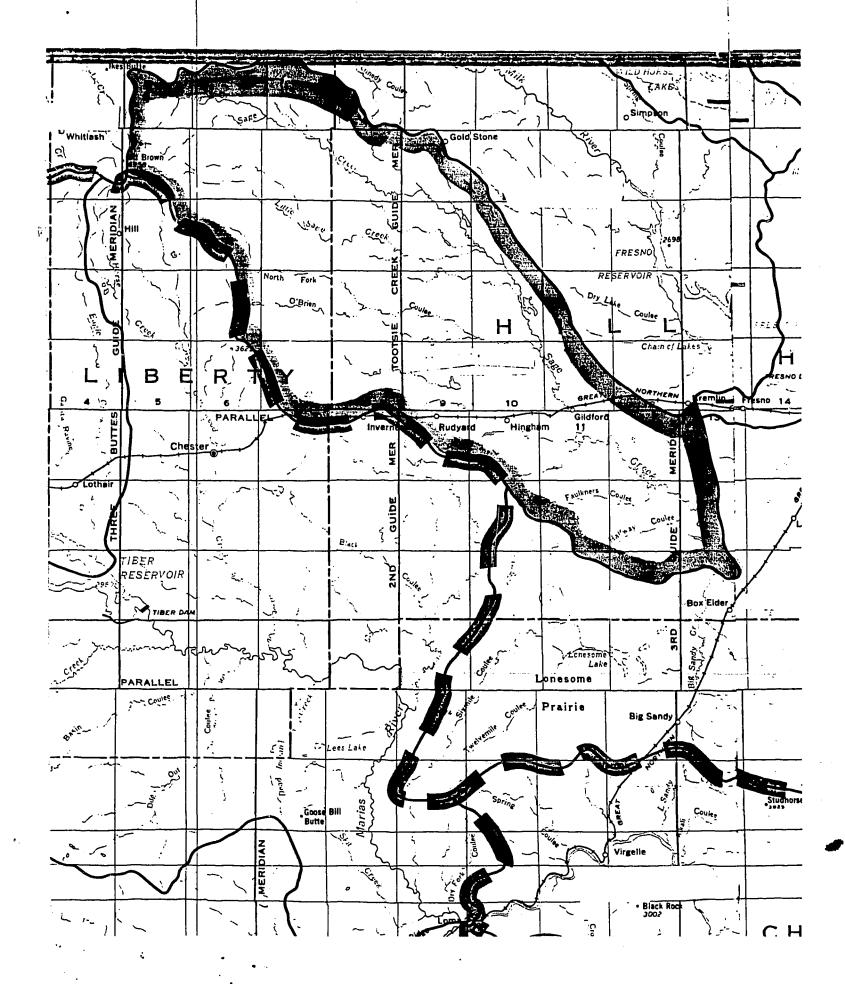
DATED this 15th day of December, 1983.

SARAH ARNOTT Water Master

P.O. Box 879

Bozeman, MT 59715

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IN THE WATER COURTS OF THE STATE OF MONTANA LOWER MISSOURI DIVISION SAGE CREEK

NOTICE OF ENTRY OF PRELIMINARY DECREE AND NOTICE OF AVAILABILITY

You filed a water right claim. We are sending with this Notice an abstract of your claim entered on the Sage Creek Basin. This Notice is being sent to others as required in Section 85-2-232 MCA.

What is a Preliminary Decree?

A Preliminary Decree decides the water rights in the Sage

Creek Basin and lists those water rights.

If you don't agree with what it decides as to your right or any other water right which may affect your water right claims, you may file an objection, request a hearing and the Water Courts will hear it.

IF A RIGHT IS NOT OBJECTED TO, IT SHALL REMAIN UNCHANGED AND BE ENTERED IN THE FINAL DECREE.

How You File an Objection and Request a Hearing AN OBJECTION MUST BE FILED PURSUANT TO WATER COURTS RULE #6 AND ON THE FORMS PROVIDED BY THE WATER COURTS.

ALL OBJECTIONS MUST BE FILED AND RECEIVED BY THE 23rd DAY March , 1984. Objections must be sent to the Montana Water Courts, P.O. Box 879, Bozeman, MT 59715.

Can You Get an Extension?

Extension for filing objections may be granted by the Water Judge. Requests must be received by the Water Courts on or before the 23rd day of March 1984. USE THE FORM FURNISHED BY THE WATER COURTS AND FOLLOW WATER COURT RULE #7.

Where You Can See or Get the Preliminary Decree for the Sage Creek Basin

See it at:

- Water Courts Office, P.O. Box 879, 601 Haggerty Lane, Bozeman, MT 59715
- Department of Natural Resources, Water Rights Bureau, 32 South Ewing, Helena, MT 59620
- 3. Department of Natural Resources Field Office, P.O. Box 1828, Old Highway 2, Havre, MT 59501
- Clerk of the District Court, Liberty County, Chester,
- MT 59522 Clerk and Recorder's Office, Liberty County, Chester, MT 59522
- Clerk of the District Court, Hill County, Havre, MT
- Clerk and Recorder's Office, Hill County, Havre, MT 59501

(Over Please)

Microfilm of the existing water claimed and the abstract as reviewed by DNRC at:

- Water Courts Office, P.O. Box 879, 601 Haggerty Lane, Bozeman, MT 59715
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- Department of Natural Resources Field Office, P.O. Box 1828, Old Highway 2, Havre, MT 59501
- 4. Clerk of the District Court, Liberty County, Chester, MT 59522
- 5. Clerk of the District Court, Hill County, Havre, MT 59501

You can buy a copy of the Preliminary Decree at the Department of Natural Resources, Water Rights Bureau, 32 South Ewing, Helena, MT 59620.
Any questions? Call the Water Courts Office at (406)

Any questions? Call the Water Courts Office at (406) 586-4364.

After Objections are Filed
After the time for filing objections has passed, the Water
Courts will notify each party named in the Decree that hearings
have been requested and set a date for all interested parties to
notify the Water Courts of their intent to participate in any of
those hearings.

THE WATER COURT RULES AND FORMS CAN BE FOUND AT THE OFFICES LISTED BELOW:

- 1. Water Courts Office, P.O. Box 879, 601 Haggerty Lane,
- Bozeman, MT 59715 2. Clerk of the District Court, Liberty County, Chester,
- MT 59522 3. Clerk of the District Court, Hill County, Havre, MT 59501

DATED this 20th day of December, 1983.

BERNARD W. THOMAS

Water Judge

Lower Missouri Division

IN THE WATER COURTS OF THE STATE OF MONTANA LOWER MISSOURI DIVISION SAGE CREEK

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Can You Get an Extension? Extension for filing objections may be granted by the Water Judge. Requests must be received by the Water Courts on or before the 23rd day of March 1984. USE THE FORM FURNISHED BY THE WATER COURTS AND FOLLOW WATER COURT RULE #7. 198<u>4</u>. USE THE FORM

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- Department of Natural Resources, Water Rights Bureau, 32 South Ewing, Helena, MT 59620 2.
- Department of Natural Resources Field Office, P.O. Box 1828, Old Highway 2, Havre, MT 59501
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(Over Please)

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- Water Courts Office, P.O. Box 879, 601 Haggerty Lane, 1.
- Bozeman, MT 59715 Clerk of the District Court, Liberty County, Chester,
- Clerk of the District Court, Hill County, Havre, MT З.

DATED this 20th day of December, 1983.

BERNARD W. THOMAS

Water Judge

Lower Missouri Division

BASIN 40G

ACCEPTABLE LAKEAND RESERVOIR NAMES

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

WATER RESOURCES DIVISION

TED SCHWINDEN, GOVERNOR

OLD HIGHWAY 2 - SOUTH OF FAIRGROUNDS P.O. BOX 1828

- STATE OF MONTANA

(406) 265-5516

HAVRE, MONTANA 59501

MEMORANDUM

TO: Mike McLane Adjudication Program Manager

FROM: Roy C. Jones

Water Rights Analyst Supervisor

RE: 40G Source Names and Interbasin Transfers.

August 8, 1983

RECEIVED

INUG 9 1983

MONT. DEPT. OF NATURAL

RESOURCES & CONSERVATION

There is only one lake (and no reservoirs) in the Sage Creek Drainage, Basin 40G, which we consider acceptable as a valid source. That is <u>Bingham Lake</u> in Sections 7, 8, and 17, T37N, R5E. It is fed by an unnamed coulee and normally has no surface outlet. The people in the area have never seen it overflow, but if it ever did, it would drain into Laird Creek. This lake is on the Bingham Lake USGS Topographic Quadrangle.

This also happens to be the area where Nelson C. Bingham takes water from Police Coulee, Basin 40F, and runs it around the hill to irrigate land in 40G just above the Bingham Lake inlet. See claim number 40F-w-138569-00. If you're interested in looking at the situation you'll want the Hawley Hill and Bingham Lake Quads.

Also, for your information, there are several new townships valid for basin 40G. These have been specified on the basin line check printout.

RCJ:tp Enclosure

cc: John Chaffin, Water Master Lower Missouri River Division Josh's Rower July 1.

AN EQUAL OPPORTUNITY EMPLOYER

BASIN 40G

INTERBASIN TRANSFERS

INTERBASIN TRANSFER or POTENTIAL INTERBASIN GROUNDWATER AFFECT

Claim #	POD Basin	POU Basin	S/G	Owner(s) Name & Address
40F-W-138569	40F	406	S	Nelson C. Bingham, Whitlash, MT. 59545
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BASIN 40G

CERTIFICATE OF MAILING

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

WATER RESOURCES DIVISION



TED SCHWINDEN. GOVERNOR

32 SOUTH EWING

- STATE OF MONTANA

(406) 449-2872 ADMINISTRATOR (406) 449-2864 ENGINEERING BUREAU (406) 449-3760 WATER DEVELOPMENT BUREAU (406) 449-2872 WATER MANAGEMENT BUREAU (406) 449-5556 WATER RIGHTS BUREAU (406) 444-6610

January 4, 1984

Ms Chris Jenson Water Courts Box 879 Bozeman, MT 59715

Dear Chris:

Enclosed is the certificate of mailing for the Sage Creek River Basin (Basin 40G). This mailing was completed December 20, 1983.

Sincerely,

ISNK

Jim Kindle, Supervisor Records Section Water Rights Bureau Water Resources Division

Enclosure JK/pg

AN EQUAL OFPORTUNITY EMPLOYER

SAGE CREEK BASIN (Basin 40G)

CERTIFICATE OF MAILING

The Notice of Entry of Preliminary Decree and Notice of Availability for the Sage Creek Basin (Basin 40G)

State of Montana) : ss.
County of Lewis and Clark)

- I, JAMES E. KINDLE, Records Supervisor for the Water Resources

 Division of the Department of Natural Resources and Conservation of the State

 of Montana, hereby certify that:
- A. The Notice of Entry of Preliminary Decree, Notice of Availability, and abstracts showing dispositions of each person filing a claim for the Bage Creek Basin (Basin 40G) has been placed in the United States Mail, postage prepaid and addressed to each party as per the records of the Water Rights Bureau, Department of Natural Resources and Conservation, December 20, 1983.
- B. The Notice of Entry of Preliminary Decree and Notice of Availability for the Sage Creek Basin (Basin 40G) has been placed in the United States Mail, postage prepaid and addressed to each party as per the records of the Water Rights Bureau, Department of Natural Resources and Conservation, November 2, 1983 for (1) all parties in the Sage Creek Basin issued permits for water use in that Basin pursuant to 85-2-301 MCA 1978 or their successor in interest, if known; (2) all parties who have applied for permits for use of water in the Sage Creek Basin pursuant to 85-2-301 MCA 1978; (3) all parties who have been granted a reservation in the Sage Creek Basin pursuant to 85-2-316 MCA 1978; (4) all parties in the Sage Creek Basin who have received

certificates of water rights pursuant to 85-2-306 MCA 1978 for wells under 100 gallons per minute; (5) all federal land management agencies in the Lower Missouri Water Division; (6) all Indian Tribes in the Lower Missouri Water Division; (7) all neighboring states of the Lower Missouri Water Division; (8) the County Clerk of Court and Clerk and Recorder of Liberty and Hill Counties, Montana; (9) any other persons who have requested service of notice from the Water Judge.

- C. The Department of Natural Resources and Conservation sent to the Clerk of Court and Clerk and Recorder of Liberty and Hill Counties entire copies of the Preliminary Decree for the Sage Creek Basin, indexes thereto, and microfilm copies of prima facia claims and department records for all claims submitted in the Sage Creek Basin.
- D. The Department of Natural Resources and Conservation sent to the Clerk and Recorder of Liberty and Hill Counties entire copies of the Preliminary Decree for the Sage Creek Basin, and indexes thereto.

This mailing and distribution was made under my direction and control on December 20, 1983.

Dated this 3 day of Jan, 1984.

JAMES E. KINDLE, Supervisor

Records Section, Water Rights Bureau

Water Resources Division

Department of Natural Resources and Conservation

State of Montana

State of Montana

: SS.

County of Lewis & Clark)

On this 3 day of ANUREY 1984 before me, a Notary Public in and for said state, personally appeared James E. Kindle, known to me to be a Supervisor for the Water Resources Division of the Department of Natural Resources and Conservation, and acknowledges to me that he, in his official capacity, executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed by official seal, the day and year in this certificate first above written.

Notary Public for the State of Montana Pesiding at HeleuA

My Commission expires 1-21-1984

IN THE WATER COURTS OF THE STATE OF MONTANA LOWER MISSOURI DIVISION

SAGE CREEK

IN THE MATTER OF THE ADJUDICATION OF THE EXISTING RIGHTS TO THE USE OF ALL THE WATER, BOTH SURFACE AND UNDERGROUND, WITHIN THE SAGE CREEK DRAINAGE AREA INCLUDING ALL TRIBUTARIES OF SAGE CREEK IN LIBERTY AND HILL COUNTIES, MONTANA.

ORDER

After having reviewed the Water Master's Report of existing rights in the Sage Creek Basin, the Court finds that the Report meets the requirements for the Preliminary Decree set forth in 85-2-231(1) MCA 1978. The Court being satisfied with the Findings of Fact and Conclusions of Law contained in the Report, hereby

ORDERS that the Water Master's Report (attached herein) and the abstraces of the individual water rights in the Sage Creek Basin be adopted as the Preliminary Decree for that Basin pursuant to Section 85-2-231(3) MCA 1978.

DATED this day of _____, 1983.

JUE-layers BERNARD W. THOMAS

Water Judge

Lower Missouri Division

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IN THE WATER COURTS OF THE STATE OF MONTANA

LOWER MISSOURI DIVISION -

SAGE CREEK

IN THE MATTER OF THE ADJUDICATION OF THE EXISTING RIGHTS TO THE USE OF ALL THE WATER, BOTH SURFACE AND UNDERGROUND, WITHIN THE SAGE CREEK DRAINAGE AREA, INCLUDING ALL TRIBUTARIES OF SAGE CREEK IN LIBERTY AND HILL COUNTIES, MONTANA.

Report of the Water Master on the

Sage Creek Basin

This Report is submitted to the Honorable Bernard W.

Thomas, Water Judge of the Lower Missouri Water Division of the Water Courts of the State of Montana, by Sarah Arnott, Water Master for the Sage Creek Basin.

FINDINGS OF FACT

1. Description of Basin

Sage Creek forms on the eastern slope of the Sweetgrass Hills, 2,500 feet above the surrounding glaciated plains. The creek and its tributaries flow southeasterly through hilly timber and rough and broken land into the wheat and cattle country of the Montana Triangle area, where it becomes a slow meandering stream. Reservoirs are prevalent and water availability is highly dependent upon local

snowfall and the caprice of "chinook" winds and rate of spring thaw.

905 claims of existing water rights were filed.

A map of the Sage Creek Basin is attached as part of this Preliminary Decree.

2. Compacts

The determination of water rights in the Sage Creek

Basin is subject to the contents of any future compact

negotiations by the Reserved Rights Compact Commission and

Montana Indian Tribes or the United States Government

concerning reserved water rights.

3. Authority to Act

This Decree is issued by a Water Judge as authorized by Chapter 697, Session Laws 1979 (85-2-201) as amended.

4. Pre-1973 Water Rights

The general adjudication of water rights is to cover rights exercised before 1973.

An existing water right includes those rights which would be protected under the law as it existed prior to July 1, 1973, pursuant to 85-2-102(7) MCA.

5. Specifics of Procedure

The Court outlined and supervised the procedure of processing the claims to existing rights. A claim is examined for incomplete or inaccurate information. It is then reviewed for actual and beneficial use. The Court ordered the papartment of Natural Resources and Conservation to assist in the processing of claims.

The extent of each individual water right claim is further defined by these Findings of Fact and Conclusions of Law. Where a claimant filed two or more water rights on the same claim form, each right was separated and assigned an individual water right number. If the claim did not include all the information required by 85-2-224 MCA and the information was not available, the right was decreed within the limits of the information submitted.

. The specifics of each individual claim is defined by an abstract of the water right. Each individual abstract of the claimed right includes (where possible):

- (a) The name and post office address of the owner of the right;
- (b) The amount of water, rate, and volume included in the right;
- (c) The date of priority of the right;
- (d) The purpose for which the water included in the right is used;
- (e) The place of use and a description of the land, if any, to which the right is appurtenant;
- (f) The source of water included in the right;
- (g) The place and means of diversion;(h) The inclusive dates during which the water is used
- each year;(i) Any other information necessary to fully define the nature and extent of the right.

All persons under the jurisdiction and adjudication of the Sage Creek Basin "shall be required to have suitable headgates at the point wherein a ditch taps a stream and shall also, at some suitable place on the ditch and as near the head thereof as practicable, place and maintain a proper measuring box, weir, or other appliance for the measurement of the waters flowing in such ditch." 85-5-302 MCA.

Early in our State's history (March 12, 1885) we were concerned about measurement of Montana water.

Now as we move into the present and future of water and its management, measurement of that water is most important.

6. Historical Use

The numerical amount of water decreed is always subject to the paramount principle of historical use and actual water need and use. In no way does the decreed amount increase the extent of this historical right.

In keeping with that principle, the Court finds that if at any future time, the duty of water be proven different from that reported herein, the abstract of the decreed right will be corrected to conform to historical and actual beneficial use.

Claims to existing water rights are supposed to reflect

the historical use of the right; especially as it existed before July 1, 1973. Some claims, however, are filed showing water use as it currently exists. The water right is decreed as claimed, unless there is sufficient evidence of a different historical use.

7. Water Right Owner

Generally, the Court issues a water right to the appropriator, who is usually the claimant. If there is evidence that a change of ownership has occurred and the Court was not informed, the correct name can be added at a later date.

Some water rights are claimed by more than one person on separate claim forms. When both claimants insist on ownership, each is decreed the right but a remark is added to each decree noting the conflict.

8. Priority Date

The priority date claimed is recognized as prima facie and so decreed except where it is incomplete; or it would result in a clearly erroneous interpretation of the law; or the claim's supporting documentation contradicts the claimed priority date.

Priority dates were decreed in accord with the following:

Where a claimed priority date included only a year, or a year and a month, the last day of the year and the last day of the month are decreed as the priority date.

Priority dates for groundwater rights after 1961 are reviewed for compliance with the Groundwater Act. Priority dates are not changed if it appeared that the wrong form had been used.

If a claim to groundwater after 1961 is based on use, the priority date is decreed as the date of filing the claim to the existing right.

9. Domestic Use

Flow Rate. The average flow rate from a groundwater source in the State of Montana is approximately 25 gallons per minute. However, a flow rate of 40 gallons per minute is acceptable. As a result, those domestic rights with a claimed flow rate of 40 gallons per minute or less are so decreed. Where the claimed flow rate and the accompanying documentation does not substantiate a flow rate, the right is decreed a flow rate of 25 gallons per minute. When a flow rate claimed had been previously decreed, the flow rate is not changed.

<u>Volume</u>. A reasonable volume of water for domestic use is calculated at 1.0 acre-feet per household with an additional .5 acre-foot for each quarter acre of yard.

Flow rates and volumes are measured at the point of diversion.

Place of Use. Land irrigated as part of the domestic use is decreed as part of the place of use. If a claim for domestic use included irrigation separate from the domestic use, the irrigated land was decreed separately.

Period of Use. The period of use claimed is the period of use decreed.

10. Stockwater

Volume. Stockwater is a beneficial use of water. The limit of the right is based on a consumptive use of 30 gallons per day per animal unit. An animal unit is described as a cow/calf pair or equivalent. The number of animal units is in most instances limited to the reasonable carrying capacity of the area historically serviced by the water source. In those cases when historically the source is utilized more intensively, for instance in the case of a confined stockyard, the right increases based on the number of animal units. Finally, where the stockwater is impounded in a reservoir, a right to reasonable carryover for use in future years is acknowledged.

Flow Rate. The flow rates for groundwater developments for stockwatering purposes were governed by the same principles on domestic groundwater sources. Those rights

involving stock drinking directly from instream surface water sources do not reflect a specific flow rate. The instream flow rate shall be reasonable and shall not exceed the extent of the right as historically outlined.

Place of Use. Where stock drink directly from the surface water source, the point of diversion and place of use seek to show all land adjacent to the source.

11. Irrigation

Irrigation is a beneficial use of water. The limits of irrigation rights are guided by reliance on crop requirements and the overall efficiency of the irrigation system.

Flow Rates. Flow rates are decreed in gallons per minute (gpm) or in cubic feet per second (cfs) instead of the traditional miner's inches. Eleven gpm is equivalent to one miner's inch; forty miner's inches is equivalent to one cubic foot per second.

The flow rates of all previously decreed water rights are unchanged and issued in accord with the flow rate decreed in the original adjudication. When different claimants claimed water rights based on decrees and the total flow rate claimed between the claimants exceeded the amount on the document, a remark is entered on each decree noting those decreed uses of the earlier decreed right.

Flow rates based on a "filed notice of appropriation" or "use" right shall not exceed a reasonable application rate. A reasonable application rate for flood, sprinkling and pump systems which is in keeping with the gereral requirement of most users in the Basin shall not exceed 17 gpm per acre (1.5 miner's inches). The Court has decreed all claimed flow rates of 17 gpm per acre or less on such systems. However, if the submitted documentation clearly documents a larger claimed flow rate, it was so decreed.

Water spreading, subirrigation and natural overflow and other irrigation systems not subject to quantification do not generally have a constant or consistent flow rate. The extent of the right is limited by the decreed volume. While the water rights for subirrigation and natural overflow are decreed, the owner of the right does not have a right to demand continued right of the water by these means of diversion.

Flow rates are measured at the point of diversion.

Volume. Volume is decreed in acre-feet beneficially used in one year. An acre-foot of water will cover one acre to a depth of one foot. Net crop consumption requirements are considered to be the total amount of irrigation water a crop will use during an average growing season. Water usage is dependent on the efficiency of the irrigation system. General maximum requirements of

differing systems are outlined in the following table:

	Flood Systems (diversion ditch) Volumes (AF/A)	Sprinkler & Pumped Diver-sion Systems Volumes (AF/A)	Water Spreading Systems, Sub- irrigation and Natural Overflow Yolumes (AF/A)
I	5.7	3.8	2.3
II	5.3	3.5	2.1
III	5.0	3.3	2.0
IV	4.6	3.1	1.9
V	4.4	3.0	1.8

Climatic areas are delineated by reliance on the designation of <u>Irrigation Guide for Montana</u>, USDA, S.C.S., 1973.

Volumes are measured at the point of diversion.

Any claimed volume not exceeding those designated in the table are decreed as claimed. Those exceeding the volume designated in the table are reduced in accord with those standards. In any case, where the documentation clearly supports a greater amount, it was so decreed.

Place of Use.

A. Verification of Place of Use. Irrigation rights are decreed to a defined place of use. In delineating the place of use, the claim is verified by the use of aerial photographs, field investigation and data submitted by the Department of Natural Resources and Conservation and the claimant. The place of use for irrigation is accepted as claimed except when the land did not appear irrigated or irrigable.

The place of use is designated by legal land description and can be further defined by reference to the maps and reserved aerial photographs included in the Court records.

B. Supplemental Water Rights and Place of Use. In many cases, several water rights with differing priority dates or different sources are combined to supplement the irrigation requirements of all or part of the same acreage. Each water right is decreed a specific place of use, flow rate and volume. Where these rights are used jointly, the combined volume and flow rate cannot exceed the amount of water necessary for the designated beneficial use.

The water user has the right to determine the volume contribution of each source or priority up to the maximum volume.

Period of Use. Because the period of use can vary widely for each individual user, the period of use is accepted as claimed unless the claimed period of use contradicts a previously decreed or documented period of use.

If a period of use was not designated by the claimant, a period of use for irrigation claims was assigned in accord with reasonable irrigation season for the climatic area. Those seasons are as follows:

Climatic Area	Period of Use
I	3-15 to 11-15
II	4-01 to 10-30
III	4-15 to 10-15
IV	4-20 to 10-10
Λ	4-25 to 10-05

Place and Means of Diversion. The place and means of diversion are designated. The place of diversion is specifically designed by legal land description.

Secondary points of diversion are noted when possible; however, the claim and claimant's map in many cases will more specifically define the point of diversion.

When a point of diversion is found on a source other than the one claimed, the other source points of diversion are decreed when that source is determined to be an incidental part of the original source. A remark will appear with the other source points of diversion that identifies the incidental source. If the other source is not considered incidental, a separate claim is created.

12. Reservoirs and Storage of Water

A storage right can exist for water that would otherwise go to waste. This right is dependent upon the lack of interference with other rights.

The right to appropriate water by storage in a reservoir is a right separate from a water right. Actual beneficial use of stored water creates a water right. The Court decrees the limits of that right.

13. Standards

Standards accepted by the Water Court can be made more accurate upon objection.

14. Other Uses

In the Sage Creek Basin, claims for agricultural spraying, fish and wildlife, fish pond, fish raceways, recreation, industrial and erosion control uses were submitted.

The Court finds that erosion control and instream fish, wildlife and recreation are not beneficial uses of water.

"Murphy Rights". Section 1 of Chapter 345 of the 1969 Session Laws provided for the appropriation of water in designated streams to maintain fish and wildlife habitat. The Court subjects these rights to all prior existing rights pursuant to 89-801 RCM 1947. The flow rate and volume of these rights are subject to change should the Court determine the waters are needed for a use determined to be more beneficial to the public.

Flow Rates. Flow rates are decreed as claimed unless the documentation accompanying the claim supported a different amount. The Court could not, however, determine a flow rate for the minimal amount necessary to sustain fishing, wildlife, recreation and navigation. Flow rates for mining, power generation and fish raceways were

accepted when it is determined that the amount claimed is less than the average annual stream flow. Rates in excess of the average annual stream flow are reduced to that average rate.

<u>Volumes</u>. Volumes are decreed as claimed unless the documentation accompanying the claim supported a different amount.

Commercial and industrial use are limited to a volume based on a twelve hour day unless documentation supports a higher volume based on an extended period of use.

Agricultural spraying was limited to a reasonable volume of five acre-feet unless documentation supported a higher volume.

Incidental Use. Many purposes, especially fish, wildlife and recreation, are incidental to another beneficial use of water. The extent of the water right for an incidental use is no more than the extent of the primary use of the water.

Non-Consumptive Use. The Court recognizes that several uses do not consume water. A remark is added to these uses declaring the use to be non-consumptive.

Usually, a water right is decreed and the uses of the right are noted. In this general adjudication, the

claimants filed separate claims for each use of the water right. Special claim forms were used for irrigation, stockwatering, domestic use and a catch-all form for all other uses. As a result of this unique filing, each use of a water right will be decreed separately. Therefore, a water right might be represented by two or more decreed uses.

A remark notation of the multiple use of a water right appears in the following instances:

- 1. Whenever an irrigation and an "other use" are for the same water right.
- 2. Whenever a water right has two or more "other uses."

In all cases where any multiple use of right occurs, the combined flow rate and volume cannot exceed the original appropriation. The use of the right for several purposes does not increase the extent of the right, rather decrees the right to alternate and interchange the use approaches) of the water in accord with historical practices.

16. Source Name

Although some sources of surface water in the Sage Creek Basin were claimed under several names, the source is generally designated in the Decree by the name listed in the United States Geological Survey. If the source has not

been designated by the U.S.G.S., the source name of most common recognition in the locality has been used.

Commonly recognized reservoir and lake names will appear as source names. Those lakes and reservoirs that have no commonly recognized name are generally decreed under the name of the outflowing stream. The source name index of the Preliminary Decree cross-indexes any such source names for easy access.

When more than one source is claimed for a water right, the Court determines the major source and lists that source in the Decree. If more than one source is determined to be major, a separate claim is made for the claimant.

17. Terminated Claim

The Water Court takes judicial notice of water claims that have been terminated during this adjudication process. Instances are:

- 1. A claim filed with the adjudication Field Office and withdrawn and terminated by the claimant because of self-confessed errors and filed anew.
- 2. Claims filed and then withdrawn at claimant's request.
- 3. Claims that appear in the abstracts of water rights as part of the Preliminary Decree because they were assigned a "number" by the Helena, Montana, office, and

later returned to the forwarding Field Office; and these claims have a remark on the abstract of their termination for one reason or another from claimant. (These claims are "alphabetized" and stored in the archives of the Department of Natural Resources and Conservation by the Field Offices.)

The claims are printed in both decrees. The "0" prefix will tell the computer to print a statement saying, "The Court finds no right for this claim, as it has been withdrawn at the request of the claimant."

4. Claims terminated by the Field Offices and the DNRC before an Order of this Court of April 22, 1982, ordering that these claims were not to be terminated but stamped at the time of filing and processed as all other claims, even though there was a failure of payment of fees. All claims terminated because of lack of payment will be considered specially by the Court at the time of Preliminary Decree hearings.

Based on the Findings of Fact, the Water Master makes the following:

CONCLUSIONS OF LAW

1.

This Report meets the requirements for a Preliminary Decree as required by 85-2-231 MCA 1979.

For each person who claims an existing water right in this Basin, there is attached to this Preliminary Decree a statement defining the nature and extent of his claimed right, as found by the Water Courts and as requested by 85-2-231 MCA and 85-2-234 MCA; these Conclusions make all these attached statements a part of this Report.

All notices, all substantive and procedural requirements of court adjudication of water claims and requirements for hearing and decision have been fulfilled.

The water adjudicated in this cause is a water use that is of a beneficial use and is the property of the State of Montana and for the use of these named water claimants, subject to their appropriative rights as specified in this Report.

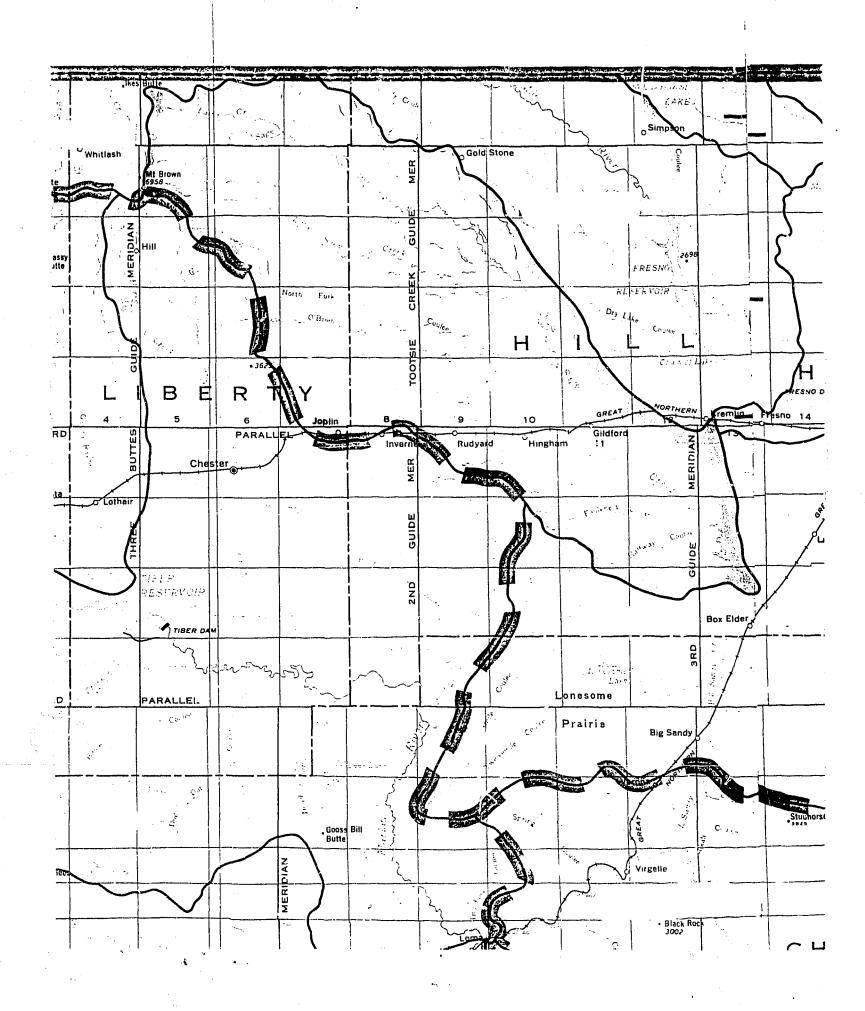
5.

All Findings are merged with these Conclusions of Law to give them the force of law in this Report.

DATED this 15th day of December, 1983.

SARAH ARNOTT Water Master

P.O. Box 879 Bozeman, MT 59715



IN THE WATER COURTS OF THE STATE OF MONTANA LOWER MISSOURI DIVISION SAGE CREEK

NOTICE OF ENTRY OF PRELIMINARY DECREE AND NOTICE OF AVAILABILITY

You filed a water right claim. We are sending with this Notice an abstract of your claim entered on the Sage Creek Basin. This Notice is being sent to others as required in Section 85-2-232 MCA.

What is a Preliminary Decree?

A Preliminary Decree decides the water rights in the Sage Creek Basin and lists those water rights.

If you don't agree with what it decides as to your right or any other water right which may affect your water right claims, you may file an objection, request a hearing and the Water Courts will hear it.

IF A RIGHT IS NOT OBJECTED TO, IT SHALL REMAIN UNCHANGED AND BE ENTERED IN THE FINAL DECREE.

How You File an Objection and Request a Hearing AN OBJECTION MUST BE FILED PURSUANT TO WATER COURTS RULE #6 AND ON THE FORMS PROVIDED BY THE WATER COURTS.

ALL OBJECTIONS MUST BE FILED AND RECEIVED BY THE OF March , 1984. Objections must be sent to the Montara Water Courts, P.O. Box 879, Bozeman, MT 59715.

Can You Get an Extension?

Extension for filing objections may be granted by the Water Judge. Requests must be received by the Water Courts on or before the 23rd day of March 1984. USE THE FORM FURNISHED BY THE WATER COURTS AND FOLLOW WATER COURT RULE #7.

Where You Can See or Get the Preliminary Decree for the Sage Creek Basin

See it at:

- Water Courts Office, P.O. Box 879, 601 Haggerty Lane, Bozeman, MT 59715 l.
- Department of Natural Resources, Water Rights Bureau, 32 South Ewing, Helena, MT 59620
- Department of Natural Resources Field Office, P.O. Box 1828, Old Highway 2, Havre, MT 59501 Clerk of the District Court, Liberty County, Chester,
- MT 59522 Clerk and Recorder's Office, Liberty County, Chester, MT 59522
- 6. Clerk of the District Court, Hill County, Havre, MT
- Clerk and Recorder's Office, Hill County, Havre, MT 59501

(Over Please)

Microfilm of the existing water claimed and the abstract as reviewed by DNRC at:

Wat r Courts Office, P.O. Box 879, 601 Haggerty Lane, Bozeman, MT 59715

- Department of Natural Resources, Water Rights Bureau, 32 South Ewing, Helena, MT 59620 2.
- Department of Natural Resources Field Office, P.O. Box 1828, Old Highway 2, Havre, MT 59501
- Clerk of the District Court, Liberty County, Chester, MT 59522 4.
- Clerk of the District Court, Hill County, Havre, MT

You can buy a copy of the Preliminary Decree at the Department of Natural Resources, Water Rights Bureau, 32 South

Ewing, Helena, MT 59620.
Any questions? Call the Water Courts Office at (406)

586-4364.

After Objections are Filed

After the time for filing objections has passed, the Water

Courts will notify each party named in the Decree that hearings have been requested and set a date for all interested parties to notify the Water Courts of their intent to participate in any of those hearings.

THE WATER COURT RULES AND FORMS CAN BE FOUND AT THE OFFICES LISTED BELOW:

- Water Courts Office, P.O. Box 879, 601 Haggerty Lane,
- Bozeman, MT 59715 Clerk of the District Court, Liberty County, Chester, 2.
- $\ensuremath{\text{MT}}$ 59522 Clerk of the District Court, Hill County, Havre, MT 59501

DATED this 20th day of December,

BERNARD W. THOMAS

Water Judge

Lower Missouri Division

Basin 40G

County Officials: (B(8)

Mrs. Maryhelen Habeger Clerk of the District Court Hill County Courthouse

Havre, MT 59501

Mr. Darby O'Brien
Clerk of the District Court
Liberty County Courthouse
Chester, MT 59522

Mrs. Diane Mellem
Clerk and Recorder
Hill County Courthouse
Havre, MT 59501

Mrs. Alma Soper
Clerk and Recorder
Liberty County Courthouse
Chester, MT 59522

B(9)

Other Interested Parties:

Department of Natural Resources Water Rights Bureau Field Office P.O. Box 1828 Havre, MT 59501

John C. Chaffin
Natural Resources Section
Dept. of Interior
18th and C Streets NW
Washington, D.C. 20240

Regional Engineer U.S. Fish and Wildlife Service P.O. Box 25486, Denver Fed. Center Denver, CO 80225 U.S. Attorney General Dept of Justice Building Washington, D.C. 20530

U.S. Attorney Federal Building Great Falls, MD 59401

William Coldiron Solicitor Dept. of Interior 18th and C Streets NW Washington, D.C. 20240

B(7)

State Engineers of Neighboring States:

Vernon Fahy State Engineer North Dakota State Water Commission 900 East Boulevard Bismark, ND 58505

B(5)

All Federal Land Management Agencies in Lower Missouri Division:

Area Director, Forest Service Federal Building Missoula, MT 59807

Director
Bureau of Land Management
P.O. Box 30157
Billings, MT 59107

Supervisor, USDA Forest Service Box 2556 Billings, MT 59103

Director
Water and Power Resources
Service
P.O. Box 2553
Billings, MT 59103



Division Engineer
U.S. Army Corps of Engineers
P.O. Box 103
Downtown Station
Omaha, NE 68101

Area Soil Conservationist 1629 Avenue D Building A, Suite 7 Billings, MT 59103 Area Manager
U.S. Fish & Wildlife Service
316 North 26th Street
Room 3035
Billings, MT 59101

Soil Conservation Office P.C. Box 689 Havre, MT 59501 Soil Conservation Office 4 Adams Ave. E, Box 669 Chester, MT 59522



All Indian Tribes in the Lower Missouri Water Division:

Mr. Earl Old Person Chairman Blackfeet Tribal Business Council Browning, MT 59417

Mr. Norman Hollow Chairman Fort Peck Tribal Executive Board Assiniboine & Sioux Tribes Poplar, MT 59255

Mr. John Windy Boy Chairman Chippewa Cree Business Comm. Box Elder, MT 59521

Mr. Henry Brockie, Sr. President Fort Belknap Community Council Gros Ventre & Assiniboine Tribes Harlem, MT 59526

Mr. Michael Fairbanks Superintendent Blackfeet Agency Browning, MT 59417

Mr. Dennis Whiteman Superintendent Fort Pack Agency P.O. Box 637 Poplar, MT 59255

Mr. John Pereau Superintendent Rocky Boy's Agency Box Elder, MT 59521

Mr. Elmer Main Superintendent Fort Belknap Agency P.O. Box 80 Harlem, MT 59526

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*** Janko Elica ***

HOAN BENEFIT OF THE CO HADRING AVECTOR Hadi NOP VXX m. GH ROH ROM GU GU GU SENGSTRON NORTH AT BOX 41 RUDYARD PHITLASE BENGHAR AUASELLE . 1. 32 FT 65 C1 24515 ALVIN AELSON ₹. -4 ---. : -네 % --1 -. ---{ <u>-</u>i ۲. 54530 54552 59545 59530 59540 59540 59540 (A) (A) (A) (A) 12365 いせいもい

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PRELIMINARY WICHER ON CAGE CHEEK MASIN WHS

**** OWMER LIST ****

HINADLE OX 233 INGHAM	ALLEH	∠T	J 59324
THINADLE BOX 245 HINGHAM	MARJOR I	g 81	39522
CHINADLE BOX 245 HINGHAM	PATRICS	K MT	59523
CHVILICES BOX 27 GILDFORD	LEOVAR	o KT	94575
CICON BOX 541 CHASTER	1047	ΥT	59522
CICON BOX 541 CHESTER	RUDY	мŤ	S 59522
CICUN RANCHES PO BOX 191 CHESTER	INC	νŢ	59522
CLINK INVEPNESS	GEORG	ë NT	59530
COLBRY CHESTER	EKPL	٧ ٢	T 39522
COLBRY RR Chester	<u>E</u> A « L	v T	T 59532
COLBRY CHESTER	3 E O A	iGë MT	T 59532

PRILIMINARY DECREE DW SAGE CREEK SAGIN 408

**** OWNER LIST #***

' ;	COLBRY RR CHESTER	6 E C R S 3 V 7	T 54522
,	COLBRY RR CHESTER	THOMAS VT	y 5 √322
S N	CORBITT 611 TRANSIT ST BUTTE	DANIEL	; 59701
e: 4	CORBITT 611 TRANSIT ST BUTTE	JUNE MT	59701
જે પ્ર	D 3 J FARAS BOX 85 KR 20 KREMLIN	. 7	59502
€° A	DAFOE RANCH INC BOX 33 CHESTER	. T	59522
ijiraa Ijiraa	DAFOE/ JR BOX 35 CHESTER	90588T *T	N 54522
t/ami	DAHL 710 HANSEN CT ONALASKA	MARIE WI	34550
diprod	DAUER 1129 16TH ST HAVRE	GLADYS	5950 ⁴
(mg	0 d E 5 B 0 X 7 3 K R E M L 1 N	ARNOLD AT	5 54552
(Carry	DEES BOX 16 KREMLIN	CHARLES MT	\$ 59532

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PRECINITARY DECREE ON DAVE CREEK

**** JWNER LIST ****

DEES 1195 1718 ST HAVRE	PARROLL V	· Ŧ	sv501
DEES FART INC 1195 17TH ST HAVRE	:	٠ ٣	59501
DIGHIN 901 7TH AVE N SHEAT FALLS	Хάργ	" T	59401
DITMAR N.RT. BOX 12 RUDYARD	RICHAPD	17	59540
DOUPH HINGHAM	H044 80	мТ	5952%
DOLPH HINGHAM	BRYDAR	×1	59523
DOMIRE SOX 34 RUDYARD	A (41)	~ / T'	a 5 954 0
DUNCAN DOPLIN	Califeo	TWE.	3 50531
DUNCAN JOPLIN	MERLS	٧Τ	.1 59531
OUNCAN JOPLIN	ROBER	T '' T	4 39531
DUNCAN RANCH RT 1 BOX 35 JOPLIN	c 0	ΥŢ	5453

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PRELIMINARY DECREE ON LAGE CREEK

f1	**** OWMER LIST	ye je ye e	;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;
12-14	DUTCHER	MARGUERITE	
	MELROSE	Se I	54642
\$12-iq	EFFINGER	VIVIAN	*
	1009 3RD AVE HAVRE	4.1	59301
street	ENGEBRETSON FARM	SINC	
lymain	1025 leth st HAVRE	A. I.	59591
	ENGSTROM	MARGARET	A
MA	13829 SE IST BELLEVUE	₩ A	¥2005
(dens	EPPERLY	_ELNORA	
	2937 RIVER HEIGH ROCK ISLAND	17 40	51201
e(me	FABLAN 215 E 75RD ST AP	JERALD	••
	215 E 73RD ST AP NEW YORK	T 5F ∿Y	15921
(4)(1)	FINIELLO	CHARLENS	ú
949	219 ÄDAMS NE Albuquerque	*45	57100
	FRICK	PHYLLIS	Ë
	6928 N 45TH PL CRYSTAL	W 4.1	ララ4と:
	CTILET	ueler	7
(C)	GILLET 1800-18T AVE 3 GREAT FALLS	HELEA MT	7 59403
•			
177	GILLET 1800 1ST AVE S GREAT FALLS	ROPERT MT	€ 5.4405
(1)	OSCAT FALCS	* 1	(440)
	GOLDBERG	OSCAR	
	INVERNESS	ИT	5 3 5 3 9

PROLITIONARY OCCREE ON SAGE CREEK

*** OWNER LIST ***

GOMKE BOX 34 KREMLIN	DONALO	דא	, 20532
GRAY 1023 7TH AVE N GREAT FALLS	NARGAR	ет : ИТ	9 3 24 () 1
GRIESHAUM JOPLIN	AL1CE	* T	52431
GUNDERSON	ELLEN		
JOPLIN		STOCOS	59531
GUNDERSON 26211 KENTIA PAL HOMELAND	PAULIN M DR	∺ CA	92343
SUTCHER INC RR 1 BOX 4 JOPLIN		;° T	57531
HAALAND BOX 164 RUDYARD	SUSAR	ж Т	52560
HAALAND BOX 164	WILBUR		
RUDYARD		os T	59540
HAALAND LAND 8 L BOX 832 INVERNESS	.ivestoc	. К - **Т	59556
HAISETH HOX 132 GILDFORD	OSCAR	чт	5 7 5 2 5
HALL RUDYARÐ	JIM	∀ T	4 5°540

PRELITERARY DECISE ON SHAE CREEK HASIN 403

	**** OWNER LIST	* * * *		
n 1g	HANSEN BOX 225 GILDFORD	€ V # Y	e.T	8 59525
r :•	HANSON PO BOX 171 ONALASHA	HAN5	તા ધ્	n 96370
grave and	HANSON PO BOX 171	намѕ		0
Monay	ONALAŜKA		ÄΑ	716 7 0
Érand	HARRELL 3215 HARRISON AVE BUTTE	УЧРҮ	·: T	59701
Henry	HARRISON BUX 123 RUDYARD	2199CN	24 T	W 59540
(rised	HARRISON BOX 126 RUDYARD	Sear	мπ	0 525∓0
HD4	HARRISON BOX 128 RUDYARD	ROBERT	л. Д	54540
34 669	HARRISON BOX 128 RUDYARD	ROPERT	N T	o 59540
thin	HAU LA TRUSTEE PU DOX 1472 HAVRE	LESTER	мт	n 59301
iss(Q)(Q)	HAUPT PU BOX 1564 MINOT	MARY	N D	s ≤ 7 ⊕ 1
CIRC)	HEATH PO BOX 1340 MINOT	МДЯҮ	"I b	A 5 3 7 0 1

- PRELIMINARY DECREE DV SAGE CREEK BASIN 408

**** JWHER LIST ****

HERITAGE FARMS BOX 869 INVERNESS		ИΤ		59530
HERMAN GEN DEL RUDYARD	FLOYD	PΥ		59540
HEYDON FARMS INC BOX 25 JOPLIN		ia 1		5 7 5 3 1
HI LINE FARMS IN BOX 224 JUPLIN	С	Y T		59531
HIETALA 1675 SKENTON WAY AURORA	DONALD	C O	W	×0012
HIETALA 1675 SKENTON WAY AURORA	DUANCO	(MRS)	•'	ε υ 11 2
HODGES BOX 87 JOPLIN	LELAND	'nТ	Ð	59531
HOLDORF 3215 HARRISON AV BUTTE	, E	я Т	Ŋ	5 2 7 0 1
HORINEK FARMS IN HINGHAM	10	4. Τ		59523
HYBNER BOX 217 RUDYAHD	NARY	" T	L	59549
HYBNER FARMS IN(BOX 217 RUDYARD	:	хү		59540

ABBAS PARAS NO SERVICE YEARINISED OF SAGE CREEK

**** OWNER LIST FR**

	JACKSON RUDYARD	RICHARD TN	59540
	J A C K S O N RUDY A R D	SHIRLEY MT	59540
	JAMES FARMS IN BOX 221 JOPLIN	√С М Т	59531
	JENSEN HILL RT CHESTER	Я 430∟5 ∀Т	54527
	JENSEN HILL RT CHESTER	ous mm	59522
	JOCHIM PO BOX 306 INVERNESS	ANTOT	86530 8
.,	JOCHIM PO BOX 306 INVERNESS	AUDREY	ч 59530
vid	JOHNSON BOX 94 JOPLIN	AMELIA MT	R 59531
Ų	JOHNSON EOX 67 KREMLIN	қатче ү м мт	J 59532
**	JOHNSON GILDFORD	MABEL 7T	C 59525
	TORNSON	MAYNAFO	y
	CHESTER	i i	59522

PROLIMINARY PROVES ON SAGE CREEK BASIN 40G

**** OWNER LIGT ****

JOHNSON PO BOX 21	7	LIVE	C
JUPLIÑ 21	(1	59551
JOHNSON N 6927 CO SPUKANE	CHRAN	61-0 m Y 4 A X	4420a
JOHNSON, BOX 217 JUPLIN	JERGER S	SOUS INC	59531
JOHNSON, 217 AIJOOL	BERGER A	FAMILY LAND	LTD PARTNERSH
KAPPERUD BOX 142 GILDFOPD	FARM INC	ν, τ	39525
KISSOCK 3215 HARI BUTTE	RISON AVE	я∄ТТΥ ∀Ү	н 5 27 01
KISSOCK 3215 HAR BUTTE	RISON AVE	1085PH MT	4 59701
KOEFOD/ PO BOX 1 HAVRE	TRUSTEE (472	оомацо Мт	c 59501
KRUEGER PO BOX 9 RUDYARD		ř V Ţ	6 59540
KRUEGER PO BOX 9 RUDYARD		AVE O E MAK	59540
KULTGEN BOX SO WAITLASH		KAREN Y T	L 59545

PRILIMINARY DECREE ON SAME CREEK BASIN 408

*** OWNER LIST ***

KULTGEN BOX 85 WHITLASH	UROAN UT	8 59545
KURTZ PO BOX 89 G1LDFORD	J FRAMCIC	59525
LAIRD BUX 616 CHESTER	JAMES MT	K 59522
LAIRD JOPLIN	K0852T YT	5 9 5 3 1
LAKE BOX 53 JOPLIN	BLANCHE MT	м 59531
LAKE 13 LAVENDER LN JOPLIN	ROBERT MT	A 59551
LALUM BOX 32 JOPLIN	JEAN MT	A 54531
LALUM BOX 32 JOPLIN	JEAN MT	8 39531
LANGEL RR BOX 31 RUDYARD	АЦЮЕКТА МТ	1 59540
LANGEL RR BOX 31 RUDYARD	RICHARD PT	J 59540
LANGEL RR BOX 32 RUDYARD	STANLEY	w 59540

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POPLINIMARY DECREE DW DAGE CREEK PASIN 400

ARRY OWNER LIST WARE

LAUENES OHAIRE MAMOR APT SHELBY	HELEN 1	ΥT	ૅં	59474
LAVALLEY JOPLIN	DIVAC	W.T	J	59531
LAVALLEY BOX 74 JOPLIN	GLENN	s.T	,:	59531
LAVALLEY BOX 74 JOPLIN	THELMA	ΥΤ	٧	59531
LAZY D X RANCH BOX 272 HINGHAM		ΥT		59528
LINCHON MAYSVILLE	REBECC	A N O		54469
LINCULN BOX 177 RUDYARD	JOSEPH	۲۲	14	59540
LINCOLN BOX 30 GILDFORD	ROGER	ד א		59525
LINCOLN BOX 177 RUDYARD	SANDRA	7 V.	Ą	57540
LINEWEAVER RANCH BOX 770 INVERNESS	ES INC	MT		59530
LOSKOT 1197 DLIVE BRANC SAN JOSE	NICTOR	CA	ŕ	95120

PRILIMINARY DECREE ON BAGE CREEK JASIM 400

**** DWNER LIGT ****

	LUMLEY 5201 W CAMELBACK PROENTX	EARL RD SPAC	£ A-7	W	85031
	LUMLEY 2020 GARFIELD AVE DUBUQUE		I A	W	52001
	LUND 3100 LINCOLN WAY COSTA MESA	ALLAM	CA	5.	92525
	LUND 3100 LINCOEN WAY COSTA MESA	ALLAN ((YRS)	i.	4252o
	LYBECK LAIRD AT CHESTER	CLIFFOR	€D 		59522
,	LYBECK	CLIFFOR	м. В 5	ò	59531
,	LYBECK JOPLIN	DELIA	мТ	F	59531
,	LYBECK LAIRD RT CHESTER	SHIRLEY	Y .PT	М	59522
•	MANGOLD BOX 191 HINGHAM	AMELIA	νΤ		\$9 5 23
•	MARBLE PO BOX 649 CHESTER	DONALD	ν γ .	;	59522
Đ M	MARCO WATER ST APT 200 BLACK RIVER FALE:	ALBERT S	A .*		p4015

PRESENTING PROREE ON SAGE CREEK SASE CREEK

**** OWNER LIST ****

K	IARCO 3 BAIRD AVE BURLINGTON	APTHUR	Nu	J3015
:	AARCO 4808 52ND AVE MOLINE	DEWAYN	E I L	61 255
1	MARCO RR 2 BOX 233 MELROSE	EARL	wI	54642
	MARÇO RR 2 MELROSE	MARILY	N Wl	54642
	MARCO BOX 156 MELROSE	NCPYAS	VI VI	54542
	MARCO RR 2 MELROSE	RODNEY	, WI	54642
)	MARÇO RR 2 MELROSE	ROGER	WI	54042
. ;	MARCO W 5992 BUCKLIN ONALASKA	RUTH	wI	54634
	MARCO W-5992 BUCKLIN ONALASKA	RUT!! RD	I W	54650
. 1	MARET % MONICA SMITH RT 1 bOX 37 CHESTER	LAURA	o T	L 59522
و . چيرت	MATTSON BOX 583 CHESTER	JENNI	. L . L	a 59522

PROLIBINARY DECREE ON SAGE CREEK

	**** OWNER LIST	***	, t
68	MATISON BOX 583 CHESTER	MICHAEL	4 59522
(IIII)	MATTSON BOX 533 CHESTER	OLGA #T	59522
tanig	MATTSON BOX 563 CHESTER	CLGA	E 59522
Älmiğ	MATTSON BROS INC BOX 338 CHESTER	у т	59522
årnes	MAY FARMS INC BOX 173 JOPLIN	's T	59522
fa∞ 4	MCCANN BOX 7 NORTH PT JOPLIN	HELENA	59531
Granist Spanist	MCDANIEL 16 BEAVER CREEK HAVRE	CLARENCE DLVD MT	c 59501
i sa	MCDANIEL RT 1 SOX 7 COLUMBUS	EARL MT	F 59019
٠. ٠	MCDANIEL BOX 606 CHESTER	М. А हे 5 % 0.1	J 54528
. •	MCDOWELL BOX 113 CHESTER	LANCE	ə 5952:
الاست. مود	MCFADDEN PARTNS INVERNESS	ERSHIP NT	· 5482

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PRELIBINARY BECREE ON SARE CREEK MASTN 406

**** OWNER LIST ****

M	MCGRATH 11675 SE FEDERAL HOBE SOUND	MUREL HVY	۴Ĺ	J	33455
,	MCNAIR BOX 765 Inverness	008015	Υſ	٧	39330
	MCNAIR BOX 705 INVERNESS	MARGARE	ΕΤ 7' Τ	W	59530
	MCQUIGG 13405 H SANTA TEC LAMIRADA	HORACE CLA AVE	C'n	Q	90 5 33
	MCQUIGG 222 GRAND AVE MUNROVIA	СЯРИОН	C A	J	41016
	MCQUIGG 222 GRAND AVE MONROVIA	RUTH	C A	٧	91016
	MEISS MANCHES		NT		59522
	MELBY PO BOX 65 KREMLIN	CHARLE	3 *T	Ç	59532
	MELONAS 2105 NW 88TH ST VANCOUVER	RITA	% A	1-1	93505
	MEYER Inverness	DONALD	4 T	Ĝ	59530
*	MEYER INVERNESS	FLOREN	w.L C.E	I	57530

POLITIMARY DECREE ON SAGE CREEK WASIN 405

**** TRIL HONNO **** MICHELS HAROLD SOX ELDER Y.T 59521 MICHELS RT 1 BOX ELDER CLOSARP 59521 &ICHELS JOYUE 3.7 BOX ELDER 54521 MICHELS RT 1 BCX ELDER SOYCE 59521 MILLER SOX 145 GILDFORD DIANE W.L 59525 MILLER BOX 146 GILDFORD DONALD 4.5 59525 MILLER BOX 185 GILDFORD LOWFLE M. f 59525 MLINAR FARMS INC BOX 135 JOPLIN 59531 MONTANA, STATE OF BOARD OF LAND COMMISSIONER DEPARTMENT OF STATE LANDS CAPITOL STATION RT 59620 MORGENWECK MARY 2219 1/2 MARKET ST LA CROSSE 1 1/ MOSHER 7506 OAKLANE FORT WAYNE CLAYTO'.

PRELIMINARY DECREE ON SASS CREEK
SASIN 400

6	**** OWNER LIST	98 JE A. V.		:
(%)	MOSHER PINEWOOD MOBILE P TREMPEALEAU	JOHA HOME CT	FOT 91	545 o 1
	MOSHER 2124 E AVE S LA CROSSE	HILTON	w I	54601
/ · ·	MOSHER 2814 N 57TH ST MILWAUKEE	MYRON	WI	53210
	MOSHER, PETER HE 2045 S 31ST ST LA CROSSE	IRS OF	1.8	54691
	MUZATKO N 6927 COCHRAN SPOKANE	INA	WA	L 99206
	NEIL 2053 FONTAINE RD LEXINGTON	MINNIE	~ Υ	40502
	NELSON 6928 N 45TH PL CRYSTAL	PHYLLI	इ.स.	û 55428
	NELSON FARMS INC BOX 163 JOPLIN		* T	59531
	NIEDEREGGER BOX 335 HARLEM	PAUL	х, Т	39 52 0
	NIEDEREGGER 30X 335 HARLEM	VICKI	» ;	F 59525
	NORDRUMA SE	PERCY		٤

***	7.4	V E. A	L131	***
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NORENGERG FARMS BOX 155 RUDYARD		ΥŢ		59540
NYSTROM BOX 238 MONMOUTH	PEGJY	U R	C	97361
OBRIEN PO BOX 649 CHESTER	DARBY	v T		59522
OLYN WOLERY INC BOX 83 INVERNESS		v 7 [.]		59530
OSLER Chester	EDMUND	ST.	J	59522
05%000 B0X 420 CHESTER	FRANK	νŢ	С	59522
OSWOOD BOX 420 CHESTER	OLNEY	e r		57522
OUS BOX 34 GILDFORD	ARVID	МТ	3	57528
OWENS STAR RT BOX 81 INVERNESS	CLIVE	· . T	Ð	5453)
OWENS STAR RT 90% 51 INVERNESS	LILLIAN	* T	!	5 2730
PACKARD 322 N 55TH ST MESA	MARY	n, 2	ί	15247

**** OWNER LIST ****

here	PACKARD	THU RMAM		Ą	
	322 N 65TH ST MESA		¢Ζ		15207
· ·	PACKER, BRUCE	Som			
: .	INVERNESS		प्र म		59530
	PAPPAS 912 2ND ST HAVRE	ANGELIK	CI yt		59501
	PAPPAS BOX 131 GILDFORD	CHRIST	.4 . ¶	۴	59825
	PATCO FARMS 8761 ISLAND HEIG MERCER ISLAND	GHTS LN	w A		98040
	PATRICK 8761 ISLAND HEI MERCER ISLAND	LARRY GHTS LN	/ _A A/	Ð	იკოლე
	PATRICK 8761 ISLAND HTS MERCER ISLAND	LARRY	k A	(۱	93040
	PETERSEN 30X 152 RUDYARD	ROURAK	II WT	ð	59541
	PETERSEN PO BOX 152 RUDYARD	M A R J O R	4T	0	55540
	PETERSEN BOX 152 RUDYARD	STAHLE	EY WT	<u> </u>	54540
	PETERSEN PO BOX 152 RUDYARD	STANL	€ Υ ≪Τ	j	3954]

PRELIMINARY DECREE ON DAGE CREEK BASIN 406

**** OUNER LIST ***

PETERSON B226 RIDGE DR ME SEATTLE	ELIZAB	문지병	F	
SEATTLE		4, 14		2 / 115
PETERSON BOX 784	JAFES		L	
BOX 784 INVERNESS		7.1		54530
PETERSON	PAEPH		J	
INVERNESS		.: T		59530
PIMLEY BOX 75	LOREEN		~	
JOPLIN		C.T		59531
PIMLEY JOPLIN	VERN		÷	
JOPLIN		MT		59531
PIMLEY BROS INC BOX 122 JOPLIN				* * * * * * * * * * * * * * * * * * * *
JOPLIN		11		59531
POETZL	неязей		J	r . c 3 4
JOPLIN		"T		59531
RAMBERG BOX 73	RAY		F	
ÎNVERÑESS		K T		5×530
RAMBO GRAIN % CA BOX 112	TTLE CO			5 0 5 0 F
ĞĬĹDĖĊŸD		;· T		59525
REUM BOX 28 KREHLIN	CUPTIS		7	5 M 7 2
N N THILLEN		<i>u</i> Ţ		5 25 D C
RICHARDSON 241 N BUNKER HIL	LAURA	. 7		7 7 7 4 7
TUCSON		¥ 7,		35710

PRELIMINARY DESCRIPTION DASE CREEK

***4	RICHTER 30X 85 Jopelin	FRANCIS	м Т	L 59531
is ma	RICHTER BOX 85 JOPLIN	5 P A C E	ут	F 59531
* •	RIGGS 27207 SE RIU V15 BONITA SPRINGS	MILDHE) FL	33423
	RINEHART BOX 67 KREMLIN	ROSERT	7 T	59532
	RODENSERG RR 2 BOX 243 MELROSE	MAPIE	WI	54548
	ROLSTON BOX 37 KREMLIN	HAZEL	۷ Ţ	5 05 3 2
	ROLSTON BOX 37 KREMLIN	WILSUR	× 1	W 59332
	RUDOLPH PR 1 BOX 1 CHINOCK	CARROL	.L ./ r	p 59823
	RUDOLPH RR 1 BOX 1 CHINOOK	CARROL	.t. ~ T	8 59531
	RUDOLPH RR 1 BOX 24 JOPLIN	CARROL	-L in 7	ə 59531
	RUDOLPH RR 1/ BOX 24 JOPLIN	CARRO	_L "T	9 59531

PRILIPINARY DECYES ON DASS CREEK BROIN 408

**** OWNER LIST ****

	RUDOLPH RR 1 30X 24 JOPLIN	DUPNO D TY	£ 59531
	RUDOLPH RR 1/ BOX 24 JUPLIN	00haEb TY	5.953 1
· : 'i	RUDOLPH PO BOX 15 JOPLIN	HARLEY MT	₩ 59531
a es	RUDOLFH PO BOX 15 JOPLIN	МАВҮ Т Ч	E 59531
∜्व	SAGE CREEK COLO CHESTER	У Т	34522
PP SEE	SANVIR HOX 614 HOT SPRINGS	ALICE	5 50345
innes	SANVIK BOX 614 HOT SPRINGS	TRBEO	59945
4 - 4	SCHAEFER BOX 535 CHESTER	ВАРНАРА МТ	a 54522
e d	SEUSER PO BOX 130 RUDYARD	ADELINE TM	ê 59540
	SEUSER PO BOX 196 RUDYARO	LOUIS:	59540
	SHINING STAR IN PO BOX 141 JOPLIN	VC MT	39531

PRELIMINARY DECREE ON SASE CREEK 3431% 403

(\$)	SIELER 1075 ALPINE ST MCMINNVILLE	WILLOW	F 97123
	SMITH RT 1 BOX 37 CHESTER	CHARLES	£ 57522
- 4	SMITH MAYSVILLE	DAPHNE	54+59
	SMITH RT 1 BOX 37 CHESTER	MONICA FT	g 59520
	SOLUMA O K & SON BOX 30 RUDYARD	; ~ T	59540
	SURENSON 2231 FOOTHILL BL CALISTOGA	HARRY VD CA	\$4515
	SORENSON 2231 FOOTHILL SL CALISTOGA	MARGARET VD C4	P 94515
	SORENSON FARMS I PO BOX 117 KREMLIN	N C	59532
	SPICHER BUX 255 HINGHAM	DOUGLAS	5 2 5 2 5
	SPICHER SOX 23 JOPLIN	MARLIN	c 59531
	SPICHER BOX 255 HINGHAM	MARLIN	£ 59523
-		·	27.7.0

**** OWNER LIST ****

PRELIMINARY DECREE ON GAGE CREEK PASIN AGE

**** OWNER LIST ****

SPICHER BOX 23 JOPLIN	RONALD	, T		59551
SPICHER BOX 23 JOPLIN	RONALD	νŢ	ŧ.	5 9551
SPICHER INVERNESS	BMYAW	N T	Ċ	59550
SPINLER FARMS CO BOX 96 HINGHAM		पπ		59528
SPRINGER BOX 194 KREMLIN	FRED	~ 1	С	59532
STANBERRY PO BOX 45 RUDYARD	ELWIN	γт	.1.	59540
STANBERRY THERMOPOLIS	MELVIN	ΆY		32445
STANBERRY JOPLIN	RAYEON	У Т		5 2 5 3 1
STANDIFORD, G P PO BOX 358 CHESTER	INC	٧ ٢		59522
STEVENSON BOX 272 HINGHAM	JOHN	iv Ţ	Т	59525
STEVENSON BOX 272 HINGHAM	MARY	ут	نتر	59523

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PRELIMINARY DECREE ON SAGE CREEK PASIN 406

Name of Street	* /	k x	*	υ.	4.74	C.	 l_	ŗ,)	1	*	*.	*	7

SUNDGREN RR 1 20% 45 CHESTER	ELVIN MT	т 59522
SVENSON BOX 72 JOPLIN	ORVA MT	595 31
SVENSON RR BOX 72 JOPLIN	ORVA MT	€ 59531
SVENSON BOX 72 JOPLIN	R DONEY F T	£ 59531
SVENSON RR 60X 72 JOPLIN	REDMEY MT	K 59531
SWINNEY BOX 203 GILDFORD	ROBERT MT	w 59525
SWINNEY GILDFORD	VERA	5 2 5 2 5
TEMPEL BOX 35 JOPLIN	ELVINA *T	ल 5 ⊻ 5 3 1
TEMPEL RT 37 CHESTER	КЕНМЕТН МТ	8 59522
TEMPEL RT 37 CHESTER	LILLIAN MT	M 59520
TEMPEL BOX 35 JOPLIN	THEODORE KT	त ५ <u>५</u> ५५४१

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PROLIMINARY DECRFE ON SAGE CREEK BASIN 400

**** DWNER LIST **** TEMPEL FARM 59522 :4 T TOLLEFSON FARMS INC BOX 22 RUDYARD TRIPLE G FARMS INC BOX 398 CHESTER TURNER ROBERT 32 1/2 MILES NORTH CHESTER 59522 TWEDT PO BOX 252 HINGHAM LOWELL 41 TWEDTY LLOYD FAMILY PARTABRISHID BOX 256 HINGHAM XT 59523 VANDESSEL FARMS BOX 152 JOPLIN VAVRUSKA FARMING CORP 30X 83 HINGHAM 39528 VOSEN RT 2 BOX 34 KREMLIN AMME 41 VOSEN RT 2 BOX 34 KREMLIN L 5 0 H 59537 VOSEN NORA

KREMLIN

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59532

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PRELIMINARY FECREE ON SASE CHEEK MASIM 400

**** OWNER LIST ****

6.3	VOSEN	RICHARU	
` •	KREMLIN	УΤ	59532
7°4	WALKER 809 4TH 4VE HAVRE	CHRISTINA YY	59501
	WALTERS 2807 ONALASKA LA CROSSE	DORIS AVE WI	4 54001
	WARDELL BOX 514 CHESTER	JANELL VT	F 59522
	WARDELL BOX 514 CHESTER	M STERLING	59522
	WENDLAND BOX 124 RUDYARD	C DALE	59540
	WENDLAHD BOX 02 RUDYARD	НАЯШАМ УТ	4 5 954 ()
	WENDLAND BOX 122 RUDYARD	KATALEEN 9T	A 5≯5≒0
	WENDLAND BOX 62 RUDYARD	MICHAEL	£ 59540
	- WICHMANN RUDYARD	AMAMDA MT	· 50549
ī	WILSON 12414 COPPER HOUSTON	JEANNE RFIELD DR T)	, N c 77031

PRELITIONARY DECREE ON CARE CREEK PASIN 400

**** 12IJ 938%C ****

: N	WILSON 12414 COPPERFIELD HOUSTON	MARION Da	Τÿ	¥	77031
' ¬	WILSON BOX 132 GILDFORD	MARVIN	5° T	L	59575
g is Bous	WINTERFIELD LEVIS CREEK RD BLACK RIVER FALLS	IRENE	WI		5-615
ģ: -a.	WOLERY JOPLIN	зеттү	УΤ	ڼ	59531
jū →	WOLERY Joplin	YTTE6	۳.	J	59531
gernet	WOLERY BOX 21 RT 1 JOPLIN	FERN	ΥΤ	Ŋ	59531
الوسميز	WOLERY RT 1 BOX 21 JOPLIN	FERN	÷Τ	14	59531
iong	WOLERY BOX 21 RT 1 JOPLIN	LLOYD	ΥT	£.	59331
اف يا	WOLERY RT 1 EOX 21 JOPLIN	LLOYD	NT	£	59531
i nat	WOLERY BOX 280 RUDYARD	MERLIN	эr т	3	59040
	WOLERY SOX 33 INVERNISS	OLYN	МТ	Ç	50539

PRELIMINARY DECREE ON SAGE CREEK BASIN +96

**** OWNER LIST ****

	WOLERY BOX 26C RUDYARD	PATRICIA NT		59340
	WOLERY	STEPLING 2T	<i>:</i>	59531
Alema (i)	WOLERY JOPLIN	BMYAW TN	v/	59531
: .	WOODS LAIRD RT CHESTER	ARNIE	.,	59520
	WOODS BOX 796 INVERNESS	ROBERT YT	W	59550
•	WOODS BOX 3 RUDYARD	SHAROM MT	Y	59540
	WOODS BOX 799 INVERNESS	VIOLET	δ.	59530
V	WUDDS BOX 796 Inverness	VIRGINIA VIRGINIA	٩	59530
111	WOODS BOX 3 RUDYARD	WILLIAM MT	?	59540
ESSENIO .	WOODS BOX 799 INVERNESS	WILLIAM	r)	39530
HEN	WOOSLEY 921 AVE F BILLINGS	MIRIAM	0	59102

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PROLIMINARY DECREE ON SAGE CREEK PASIN 400

**** Office List ****

WOOSLEY 921 AVE F BILLINGS	TAMPANE AT	59102
YATES BOX 115 KREMLIN	HELEN :	£ 59535
YATES PO BOX 115 KREMLIN	HELDA MT	6 59535
YURMAN BOX BBZ CHESTER	21815 77	8 37572
YURMAN BOX 337 CHESTER	FLORENCE NT	S 34827
ZEIN 300 N 4TH ST ONALASKA	T+ YPTORUC	54.550
ZERNECKE 2046 S 31ST ST LA CROSSE	ELEANDE %I	54601

BASIN 40G

WATER COURT ORDERS

AND CORRESPONDENCE

PRELIMINARY DECREE



MONTANA WATER COURTS

STATE OF MONTANA

WATER JUDGES:

Upper Missouri River Basin Chief Judge W. W. Lessley P.O. Box 1568 Bozeman, MT 59715

Lower Missouri River Basin Judge Barnard W. Thomas P.O. Box 938 Chinook, MT 59523

Clark Fork River Basin Jude Tribert M. Holter Lincom County Courthouse Libby, MT 59923

Yellowstone River Basin Judge Roy C. Rodeghlero P.O. Box 448 Roundup, MT 59072 September 28, 1983

FECEIVED

SEP 29 1983 MONE LETE OF HATURAL DEMARKES & CONSERVATION

Jim Kindle
Records Section
Department of Natural Resources
32 South Ewing
Helena, MT 59620

Re: Orders Designating DNRC to Mail Notice of Availability for Basins #40P and #40G

Dear Jim:

Enclosed are copies of the signed Orders designating you to mail the Notices of Availability for these Basins.

Thanks.

Sincerely yours,

Chris Jensen Clerk

caj encls.

". . . to expedite and facilitate the adjudication of existing water rights." CH. 697 L. 1979

IN THE WATER COURTS OF THE STATE OF MONTANA

LOWER MISSOURI DIVISION -

* * * * * * * * *

SAGF CREEK

IN THE MATTER OF THE ADJUDICATION OF THE EXISTING RIGHTS TO THE USE OF ALL THE WATER, BOTH SURFACE AND UNDERGROUND, WITHIN THE SAGE CREEK DRAINAGE AREA, INCLUDING ALL TRIBUTARIES OF THE SAGE CREEK IN LIBERTY AND HILL COUNTIES, MONTANA.

ORDER

DESIGNATING THE DNRC TO MAIL NOTICE OF AVAILABILITY OF THE PRELIMINARY DECREE

This Order complies with the requirements of 85-2-232 MCA 1978.

ORDERED that the Department of Natural Resources and Conservation send by mail to each person and their successor in interest, if known, who has filed a claim of existing right in the Sage Creek Basin (Basin 40G), a copy of the Notice of Availability of the Preliminary Decree on that Basin and an abstract of the disposition of such person's claim of existing right.

ORDERED specifically that the Notice of Availability be mailed to: (1) all parties in the Sage Creek Basin issued permits for water use in that Basin pursuant to

85-2-301 MCA 1978 or their successor in interest, if known; (2) all parties who have applied for permits for use of water in the Sage Creek Basin pursuant to 85-2-301 MCA 1978; (3) all parties who have been granted a reservation in the Sage Creek Basin pursuant to 85-2-316 MCA 1978; (4) all parties in the Sage Creek Basin who have received certificates of water rights pursuant to 85-2-306 MCA 1978 for wells under 100 gallons per minute; (5) all federal 8 land management agencies in the Lower Missouri Water 9 Division; (6) all Indian Tribes in the Lower Missouri Water 10 Division; (7) all neighboring states of the Lower Missouri 11 Water Division; (8) the County Clerk of Court and Clerk and 12 Recorder of Liberty and Hill Counties, Montana; (9) any 13 other persons who have requested service of notice from the 14 Water Judge. 15

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ORDERED that the Department of Natural Resources and Conservation publish the Notice of Availability in newspapers of general circulation in the Sage Creek Basin, including the Great Falls Tribune, the Havre Daily News and the Liberty County Times.

ORDERED that the Department shall make a general certificate of mailing certifying that a copy of notice has been placed in the United States Mail, postage prepaid and addressed to each party required by this Order to be served notice of the Preliminary Decree.

FINALLY IT IS ORDERED that the original certificate of mailing be filed with the Montana State Water Courts.

DATED this Order day of interior, 1983.

9

BERNARD W. THOMAS

Water Judge Lower Missouri Division

Page Three



MONTANA WATER COURTS

RECEIVED

OCT 26 1983

MONT, DEPT. of NATURAL RESOURCES & CONSERVATION

WATER JUDGES:

Upper Missouri River Basin Chief Judge W. W. Lessley PO. Box 1568 Bozeman, MT 59715

Lower Missouri River Basin Judge Bernard W. Thomas P.O. Box 938 Chinook, MT 59523

Clark Fork River Basin Judge Robert M. Holter Lincoln County Courthouse Libby, MT 59923

Yallowstone River Baxin Judge Roy C. Rouechiero PO. Box 448 Roundup, f.17 59072

October 25, 1983

Mike McLane Water Rights Bureau Department of Natural Resources 32 South Ewing Helena, MT 59620

Dear Mike:

Enclosed are copies of the Orders amending the Orders designating DRNC to mail the Notice of Availability. The Water Courts, instead of DNRC, will be sending the Notice to the newspapers for publication.

Thanks, Mike. Please let Jim Kindle know that you have received these Orders.

Sincerely yours,

Chris Jensen Clerk

caj encls.

IN THE WATEL COURTS OF THE STATE OF MONTANA LOWER MISSOURI DIVISION

SAGE CREEK

IN THE MATTER OF THE ADJUDICATION OF THE EXISTING RIGHTS TO THE USE OF ALL THE WATER, BOTH SURFACE AND UNDERGROUND, WITHIN THE SAGE CREEK DRAINAGE AREA, INCLUDING ALL TRIBUTARIES OF SAGE CREEK IN LIBERTY AND HILL COUNTIES, MONTANA.

ORDER

This Order amends the Order issued September 23, 1983 Designating the DNRC to Mail Notice of Availability of the Preliminary Decree by striking the words "Department of Natural Resources and Conservation" from lines 16 and 17 of page two and replacing them with "Montana State Water Courts."

DATED this 21 day of October, 1983.

BERNARD W. THOMAS

Water Judge Lower Missouri Division



MONTANA WATER COURTS

STATE OF MONTANA

WATER JUDGES:

Upper Missouri River Basin Chief Judge W. W. Lessley PO. Box 879 Bozeman, MT 59715

Lower Missouri Siver Basin Judge Bernard W. Thomas P.O. Box 938 Chinook, MT 59523

Clark Fork River Basin Judge Robert M. Hoiter Lincoln County Courticuse Libby, MT 59923

Yellowstone River Basin Judge Roy C. Rodeghiero 90. Box 448 Roundup, MT 59072 March 15, 1984

RECEIVED

MAR 19 1984

MONTANA DEPT. OF NATURAL RESOURCES & CONSERVATION

Mike McLane Water Rights Bureau Department of Natural Resources 32 South Ewing Helena, MT 59620

Re: State Land Claims

Dear Mike:

I spoke to Ron Roman and he and the Department of State Lands are agreeable to having "runoff" deleted from all claims, including those on which they requested runoff and on Final Decrees in Sage, O'Fallon and Redwater Basins.

Thank you.

Sincerely,

Sarah Arnott Water Master

SA/caj

cc: Roman Roman

Suzanne Called 3-19-84 & said to take off in off"
for one stake hand claim in 38H also.

U. m. Kindhe

BASIN 40G

CERTIFICATE OF MAILING

October 15.1984

DEPARTMENT OF NATURAL RESOURCES. AND CONSERVATION

WATER RESOURCES DIVISION



TED SCHWINDEN, GOVERNOR

32 SOUTH EWING

(406) 444-6603 ADMINISTRATOR (406) 444-6646 ENGINEERING BUREAU (406) 444-6668 WATER DEVELOPMENT DUREAU (406) 444-6601 WATER MANAGEMENT BUREAU (406) 444-6610 WATER RIGHTS BUREAU

HELENA, MONTANA 59620

October 15, 1984

Ms. Chris Jenson Water Courts Box 879 Bozeman, MT 59715

Dear Chris:

Enclosed is the certificate of mailing for the hearing notice for the Sage Creek Basin (Basin 40G) sent on May 2, 1984.

Sincerely,

Jim Kindle Records Section Supervisor Water Rights Bureau

Enclosure JK/jg

AN EQUAL OPPORTUNITY EMPLOYER

SAGE CREEK BASIN (Basin 40G)

CERTIFICATE OF MAILING

The Notice of Objection and Request for Preliminary Hearing on the Sage Creek Basin Preliminary Decree (Basin 40G)

- I, JAMES E. KINDLE, Records Supervisor for the Water Resources
 Division of the Department of Natural Resources and Conservation of the State
 of Montana, hereby certify that:
- A. The Notice of Objection and Request for Preliminary Hearing for each person filing a claim for the Sage Creek Basin (Basin 40G) has been placed in the United States Mail, postage prepaid and addressed to each party as per the records of the Water Rights Bureau, Department of Natural Resources and Conservation, May 2, 1984, and updated records of December 20, 1984.
- B. The Notice of Objection and Request for Preliminary Hearing for the Sage Creek Basin (Basin 40G) has been placed in the United States Mail, postage prepaid and addressed to each party as per the records of the Water Rights Bureau, Department of Natural Resources and Conservation, May 2, 1984, and updated records of December 20, 1983, for (1) all parties in the Sage Creek issued permits for water use in that basin pursuant to 85-2-301 MCA 1978 or their successor in interest, if know; (2) all parties who have applied for permits for use of water in the Sage Creek Basin pursuant to 85-2-301 MCA 1978; (3) all parties who have been granted a reservation in the Sage Creek Basin pursuant to 85-2-316 MCA 1978; (4) all parties in the Sage Creek Basin who have received certificates of water rights pursuant to 85-2-306 MCA 1978 for wells under 100 gallons per minute; (5) all federal land management

agencies in the Lower Missouri Water Division; (6) all Indian Tribes in the Lower Missouri Water Division; (7) all neighboring states of the Lower Missouri Water Division; (8) the County Clerk of Court and Clerk and Recorder of Hill and Liberty Counties, Montana; (9) any other persons who have requested service of notice from the Water Judge.

Whis mailing and distribution was made under my direction and control on May 2, 1984.

Dated this 15th day of OC7013ER, 1984.

JAMES E. KINDLE, Supervisor
Records Section, Water Rights Bureau
Water Resources Division
Dept. of Natural Resources and
Conservation
State of Montana

State of Montana)	
County of Lewis	: 9 & Clark)	S

IN WITNESS WHEREOF, I have hereunto set my hand and affixed by official seal, the day and year in this certificate first above written.

					of	Montana
Res	sidir	ng at _			 	
My	COM	nission	ехр	res	 	

NOTICE TO INTERESTED PARTIES

Notice of Objection and Request for Preliminary Hearings -Sage Creek Basin

All Federal Land Management 1. jencies in the Lower Missouri Division

Area Director U.S.D.A. Forest Service Federal Building Missoula, MT 59807

Division Engineer U.S. Army Corps of Engineers P.O. Box 103 Downcown Station Omaha, NE 68101

Soil Conservation Service 10 West Babcock Room 443, Federal Building Bozeman, MT 59715

Bureau of Land Management P.O. Box 38600 Billings, MT 59107

Regional Director Bureau of Reclamation 316 N. 26th Street Room 3035 Billings, MT 59101

All Neighboring States of the Lower Missouri Division

Vernon Fahy State Engineer North Dakota State Water Commission 900 East Boulevard Bismark, ND 58505

All Indian Tribes in the Lower Missouri Water Division

Mr. Earl Old Person Chairman Blackfeet Tribal Business Council Browning, MT 59417

Mr. Norman Hollow Chairman Fort Peck Tribal Executive Board Assiniboine & Sioux Tribes Poplar, MT 59255

Mr. John Windy Boy Chairman Chippewa Cree Business Comm. Box Elder, MT 59521

Mr. Henry Brockie, Sr. President Fort Belknap Community Council Gros Ventre & Assiniboine Tribes P.O. Box 80 Harlem, MT 59526

Mr. Michael Fairbanks Superintendent Blackfeet Agency Browning, MT 59417

Mr. Dennis Whiteman Superintendent Fort Peck Agency P.O. Box 637 Poplar, MT 59255

Mr. John Pereau Superintendent Rocky Boy's Agency Box Elder, MT 59521

Mr. Elmer Main Superintendent Fort Belknap Agency Earlem, MT 59526

County Officials

Mrs. Maryhelen Habeger Clerk of the District Court Hill County Courthouse Havre, MT 59501

Mr. Darby O'Brien Clerk of the District Court Liberty County Courthouse Chester, MT 59522

Other Interested Parties

Department of Natural Resources Field Office P.O. Box 1828 Havre, MT 59501

Pat Barry
Indian Resource Section
Land and Natural Resources Div.
U.S. Dept. of Justice
10th and Pennsylvania Ave. NW
Washington, D.C. 20530

U.S. Attorney General Department of Justice Building Washington, D.C. 20530

Field Solicitor Room 5931 Federal Building Billings, MT 59103

G. Steven Brown
Attorney for Mt. Dept.
of Fish, Wildlife & Parks
1313 11th Avenue
Helena, MT 59501

Ted Doney Attorney at Law 314 N. Last Chance Gulch Helena, MT 59601

David Moon Attorney at Law P.O. Box 1288 Bozeman, MT 59715

Leanne Schraudner Attorney at Law P.O. Box 1715 Bozeman, MT 59715 Mrs. Diane Mellem Clerk and Recorder Hill County Courthouse Havre, MT 59501

Mrs. Alma Soper Clerk and Recorder Liberty County Courthouse Chester, MT 59522

John C. Chaffin
Dept. of Interior
SOL/DER/6045
18th and C Streets NW
Washington, D.C. 20240

Regional Director
U.S. Fish and Wildlife Service
P.O. Box 25486
Denver Federal Center
Denver, CO 80225

U.S. Attorney Federal Building Great Falls, MT 59401

Aaron Hoseyk
U.S. Army Engineer District
Omaha
6014 U.S. Post Office and
Courthouse
Omaha, NE 68102

Tom Luebben
Attorney at Law
P.O. Box 25686
Albuquerque, NM 87125

Keith Tokerud Attorney at Law P.O. Box 2269 Great Falls, MT 59403

Lyle Manley Dept. of State Lands Capitol Station Helena, MT 59620 Sherry Matteucci Attorney at Law 490 N. 31st Billings, MT 59101

Ross and Rhonda Ritter Rudyard, MT 59540 William Madden Attorney at Law 35 North Grand Bozeman, MT 59715

Daniel and Janine Wolery Chester, MT 59522

BASIN 40 G

NOTICE OF OBJECTION AND REQUEST FOR PRELIMINARY HEARING

May 2, 1984

IN THE WATER COURTS OF THE STATE OF MONTANA

LOWER MISSOURI DIVISION - SAGE CREEK BASIN

NOTICE OF OBJECTION AND REQUEST FOR PRELIMINARY HEARING ON THE SAGE CREEK PRELIMINARY DECREE

THIS IS NOTICE THAT OBJECTIONS HAVE BEEN FILED AND HEARINGS HAVE BEEN REQUESTED ON SAVERAL OF THE WATER RIGHTS ISSUED IN THE SAGE CREEK PRELIMINARY DECREE.

WHAT HAPPENS NEXT?

A hearing will be held on those water rights that have been objected to. You are notified that an individual water right may be altered as a result of a hearing requested by another party. You are encouraged to review all objections to determine if you have an interest in appearing and participating in any future hearing.

HOW TO APPEAR AND PARTICIPATE IN HEARINGS OM OBJECTIONS

To participate in any hearing on objections filed in this Basin, you MUST file a Notice of Intent to Appear. 1MAT NOTICE MUST BE ON THE FORMS PROVIDED BY THE WATER COURTS AND PURSUANT TO WATER COURT RULE #8.

ALL NOTICES TO APPEAR MUST BE FILED AND RECEIVED BY THE 7th DAY OF JULY, 1984.

Notices to Appear must be sent to the Water Courts, P.O. Box 879, Bozeman, MT 59715.

The failure to file a Notice may, at the discretion of the Water Judge or Water Master, result in the exclusion of the party at further proceedings or in the continuance of the hearing if the party failing to file appears at the hearing. THOSE PARTINS WHO FILED THE ORIGINAL OBJECTION DO NOT NEED TO FILE A NOTICE OF INTENT TO APPEAR AND PARTICIPATE.

WHERE TO REVIEW THE OBJECTION

A listing of the objections is available for review at:

- Water Courts Office, P.O. Box 879, 601 Haggerty Lane, Bozeman, MT 59715
- Department of Natural Resources and Conservation, Water Rights Bureau, 32 South Ewing, Helena, MT 59620
- Department of Natural Resources and Conservation, Field Office, 1708 W. 2nd Street, Havre, MT 59501 Clerk of Court, Hill County Courthouse, Havre, MT 59501

- Clerk and Recorder, Hill County Courthouse, Havre, MT 59501 Clerk of Court, Liberty County Courthouse, Chester, MT 59522 Clerk and Recorder, Liberty County Courthouse, Chester, MT 59522

A copy of the objection in its entirety can be obtained from the Water Courts, P.O. Box 879, Bozeman, MT 59715; phone #586-4364. If you have other questions, you may call the Water Courts.

WHAT HAPPENS AFTER?

The Court shall not by thos parties who filed an objection or

(Over Please)

Notice to Appear in a particular preliminary hearing before the time any proceedings are set by the Water Courts.

THE WATER COURT RULES AND FORMS ARE AVAILABLE AT THE OFFICES LISTED BELOW:

- Water Courts Office, P.O. Box 879, 601 Haggerty Lane, Bozeman, MT 59715

Clerk of the Court, Hill County Courthouse, Havre, MT 59501
 Clerk of the Court, Liberty County Courthouse, Chester, MT 59522

DATED this 2nd day of May , 1984.

W. W. LESSLEY Chief Water Judge

Montana State Water Courts

P.O. Box 879 Bozeman, MT 59715

O'SJECTIONS TO THE SAGE CREEK PRELIMINARY DECREE

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	001499 Sage C	001498 Sage C	001497 Sage C	001496 Sage C	001495 Sage C	001495 Sage C	001494 Sage C	001493 Sage C	001492 Sage Creek		001491 0'Brie	001490 Sage Creek	Sage	001489 Sage C	Sage	Sage	Sage	001486 Sage C	Sage C	Sage C	
Creek	Creek	Creek	Creek	Creek	Creek	Creek	Creek	Creek		O'Brien Coulee	O'Brien Coulee	reek	Creek	Creek	Creek	Creek	C-eek	Creek	Creek Basin	Sage Creek Basin	•
Rambo Grain & Cattle Co.	Michael Burkhartsmeyer	Michael Burkhartsmeyer	Michael Burkhartsmeyer	Michael Burkhartsmeyer	Michael Burkhartsmeyer	Rambo Grain & Cattle Co.	Michael Burkhartsmeyer	Michael Burkhartsmeyer	Michael Burkhartsmeyer	Michael Burkhartsmeyer	Rambo Grain & Cattle Co.	Michael Burkhartsmeyer	Rambo Grain & Cattle Co.	Michael Burkhartsmeyer	Rambo Grain & Cattle Co.	Michael Burkhartsmeyer	Micheel Burkhartsmeyer	Michael Burkhartsmeyer	State Dept. of Fish, Wildlife & Parks	U.S. Dept. of Justice	
Burkhartsmeyer Land Co.	Burkhartsmeyer Land Co.	Burkhartsmeyer Land Co.		Land		Land	Burkhartsmeyer Land Co.	Burkhartsmeyer Land Co.	Burkhartsmeyer Land Co.	Burkhartsmeyer Land Co.	Burkhartsmeyer Land Co.	Burkhartsmeyer Land Co.	Burkhartsmeyer Land Co.	Burkhartsmeyer Land Co.	Burkhartsmeyer Land Co.	Burkhartsmeyer Land Co.	Burkhartsmeyer Land Co.	Burkhartsmeyer Land Co.			
Ownership, priority date, means of diversion and flow rate	h h	FLOW LACK	race brace or and constitution	3 1 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2	Flow rach	מדופר סדיסיי מינים דידה"	Flow rate	Priority date, place of use, acres 7.271831ed and flow rate	→ 1	Priority date, place of use, acres initgated and flow rate	Means of diversion and flow rate		Ownership, priority date, place of use, means of diversion and flow rate	Place of use, acres irrigated and flow rate	Place of use, acres irrigated, means of diversion and flow rate	Flow rate, place of use and acres irrigated	of use and acres		Objection to "Other Use" Finding; Objection withdrawn 2-16-84		because I die vichte located in Racin

** Volume may be questioned when objection is made to any flow rate

THESE OBJECTIONS TO THE SAGE CREEK PRELIMINARY DECREE DO NOT CONTAIN ALL OF THE INFORMATION FILED BY AN OBJECTING PAPTY. TO OBTAIN A COPY OF THE ENTIRE OBJECTION, CONTACT THE WATER COURTS AT P.O. BOX 879, BOZEMAN, MT 59715, (406) 586-4364

028421	028421	028421	028420	028420	028420	028414	028414	028414	028408	02840	018363	011761	001507	C01507	001504	001503	001503	001500	Water Right Number
Sage Creek	Sage Creek	Sage Creek	Sage Creek	Sage Creek	Sage Greek	Deer Guich	Deer Gulch	Deer Gulch	Laird Creek	Laird Creek	UT Sage Creek	Well	Sage Creek	Sage Creek	UT Sage Creek	O'Brien Coulee	J'Brien Coulse	Sage Creek	Source
John Stevenson	Michael Burkhartsmeyer	Rambo Grain & Cattle Co.	John Stevenson	Michael Burkhartsmeyer	Rambo Grain & Cattle Co.	John Steverson	Michael Burkhartsmeyer	Rambo Grain & Cattle Co.	John Stevenson	Michael Burkhartsmeyer	Montana Dept. of State Lands	Kathryn Johnson	Michael Burkhartsmeyer	Rambo Grain & Cattle Co.	Michael Burkhartsmeyer	Michael Burkhartsmeyer	Rambo Grain & Cattle Co.	Michael Burkhartsmeyer	Name of Party Objecting
Sage Creek Colony	Sage Creek Colony	Sage Creek Colony	Sage Creek Colony	Sage Creek Colony	Sage Creek Colony	Sage Creek Colony	Sage Creek Colony	Sage Creek Colony	Sage Creek Colony	Sage Creek Colony	Montana Dept. of State Lands	Kathryn Johnson	Burkhartsmeyer Land Co.	Furkhartsmeyer Land Co.	Burkhartsmeyer Land Co.	Burkhartsmeyer Land Co.	Burkhartsmeyer Land Co.	Burkhartsmeyer Land Co.	Party Right Issued to in Decree
Priority date, place if use, acres irrigated and flow rate	Priority date, place of use, acres irrigated and flow rate	Ownership, priority date, place of use, point of diversion, means of diversion and flow rate	Priority date, place of use, acres irrigated and flow rate	Pricrity date, place of use, acres irrigated and flow rate	Ownership, priority date, place of use, means of diversion a ! flow rate	Priority date, place of use, acres irrigated and flow rate	Priority date, place of use, acres irrigated and flow rate	Ownership, priority date, place of use, acres irrigated, point of diversion, means of diversion and flow rate	and flow		4	Flow rate	Flow rate	Priority date, purpose of right, means of diversion and flow rate	se and flow r	of use and	FLOW	Place of use and flow rate **	f Objection

Water Right Number	Source	Name of Party Objecting	Party Right Issued to in Decree	Nature of Objection	- '
028422	Sage Creek	Grain &	Sage Creek Colony	Ownership, priority date, place of use, means of diversion and flow rate **	
028422	Sage Creek	Michael Burkhartsmeyer	Sage Creek Colcay	Priority date, place of use, acres irrigated and flow rate	
028422	Sage Creek	John Stevenson	Sage Creek Colony	Priority date, place of use, acres irrigated and flow rate	
028424	Sage Creek	Rambo Grain & Cattle Co.	Sage Creek Colony	Ownership, priority date, place of use, source, means of diversion, point of diversion and flow rate	, ,
028424	Sage Creek	Michael Burkhartsmeyer	Sage Creek Colony	Priority date, place of use, acres irrigated and flow rate	
028424	Sage Creek	John Stevenson	Sage Creek Colony	Priority date, place of use, acres irrigated and flow rate	
028425	Sage Creek	Michael Burkhartsmeyer	Sage Creek Colony	Priority date, place of use, acres irrigated and flow rate	
028425	Sage Creek	John Stevenson	Sage Creek Colony	Priority date, place of use, acres irrigated, point of diversion, means of diversion and flow rate	
028426	Sage Creek	Rambo Grain & Cattle Co.	Sage Creek Colony	Ownership, priority date, place of use, means of diversion and flow rate	
028426	Sage Creek	Michael Burkhartsmeyer	Sage Creek Colony	Priority date, place of use, acmes irrigated and flow rate	
028426	Sage Creek	John Stevenson	Sage Creek Colony	Priority date, place of use, acres irrigated, means of diversion and flow rate	
030164	Bingham Lake	Montana Dept. of State Lands	Monvana Dept. of State Lands	Place of use and point of diversion	
034844	Sage Creek	Michael Burkhartsmeyer	Rambo Grain & Cattle Co.	place of use and flow	
034845	Spring, Trib. of Sage Creek	Michael Burkhartsmeyer	Rambo Grain & Cattle Co.	place of use and Ilo	
034851	Sage Creek	Michael Burkhartsmeyer	Rambo Grain & Cattle Co.	Priority date, place of use, acres irrigated and flow rate	
035823	Sage Creek	John Duncan	Vern and Loreen Pimley	date and excessive cattle	
040705	Sage Creek	John Stevenson	Duncan Ranch Co.	Priority date, place of use, acres irrigated, point of diversion, means of diversion and flow rate	
** Volume may	be questioned when objection is	ction is made to any flow rate			5.0

** Volume may be	044118	044118	044116	044114	044112	044107	044107	044106	044106	044105	044105	0441.05	044104	044104	044103	044103	044094	044094	044092	044091	Water Right Number
may be questioned when	Sage Creek	Sage Creek	Sage Creek	Sage Creek	Sage Creek	Lost Coulee	Lost Coulee	Bobcat Caulee	Bobcat Coulee	Sage Creek	Sage Creek	Sage Creek	Simminook Creek	Simminook Creek	Laird Creek	Laird Cre-k	Sage Creek	Se reek	Sage Creek	Sage Creek	Source
questioned when objection is made to any flow rate	Michael Burkhartsmeyer	Rambo Grain & Cattle Co.	John Stevenson	John Stevenson	John Stevenson	Michael Burkhartsmeyer	Rambo Grain & Cattle Co.	Michael Burkhartsmeyer	Rambo Grain & Cattle Co.	Montana Dept. 🔅 State Lands	Michael Burkhartsmeyer	Rambo Grain & Cattle Co.	Michaei Burkhartsmeyer	Rambo Grain & Cattle Co.	Michael Burkhartsmeyer	Rambo Grain & Cattle Co.	John Stevenson	Michael Burkhartsmeyer	John Stevenson	John Stevenson	Name of Party Objecting
4	Duncan Ranch Co.	Duncan Ranch Co.	Duncan Ranch Co.	Duncan Ranch Co.	Duncan Ranch Co.	Duncan Ranch Co.	Duncan Ranch Co.	Duncan Ranch Co.	Duncan Ranch Co.	Duncan Ranch Co.	Duncan Ranch Co.	Duncan Ranch Co.	Duncan Ranch Co.	Duncan Ranch Co.	Duncan Ranch Co.	Duncan Ranch Co.	Duncan Ranch Co.	Duncan Rar.ch Co.	Duncan Ranch Co.	Duncan Ranch Co.	Party Right Issued to in Decree
	Priority date, place o use, acres irrigated and flow rate	Ownership, priority date, place of use, means of diversion and flow rate	Priority date, place of use, acres irrigated, point of diversion, reans (f diversion and flow rate	Priority date, purpose of right, place of use, acres irrigated, point of diversion, means of diversion and flow rate	Priority date, place of use, acres irrigated, point of diversion, means of diversion and flow rate	place of use and flo	ow rate	Priority date, place of use and flow rate	date and flow late	Ownership, place of use and point of diversion	and flow)w rate		ow rate	Priority date, place of use and flow rate)w rate	Priority date, place of use, point of diversion and flow rate	Priority date, place of use and flow rate	Priority date, purpose of right, place (use, point of diversion and flow rate	Priority date, purpose of right, place of use, point of diversion and flow rate **	Nature of Objection

Water Right			1	Water of Orange in
<u>Number</u> 044118	Sage Creek	John Stevenson	Duncan Ranch Co.	Priority date, place of use, acres irriging point of diversion, means of diversion after the rate **
044119	Sage Creek	Michael Burkhartsmeyer	Duncan Ranch Co.	Priority date, place of use, acres irrigant and flow rate
044119	Sage Creek	John Stevenson	Duncan Ranch Co -	Priority date, place of use, acres irrigation point of diversion, means of diversion af the flow rate
044120	Sage Creek	John Stevenson	Duncan Ranch Co.	Priority date, place of use, acres irrig point of diversion, means of diversion flow rate
048191	IIT Sage Creek	Montana Dept. of State Lands	Olney and Frank Oswood	Ownership
110881	56 CT	John Duncan	Diane E. Miller	Prior., date
114847	Sage Creek	Montana Dept. of State Lands	Mary and John Stevenson	Place of use
114847		Mary and John Stevenson	Mary and John Stevenson	Place of use, acres irrigated, period of and flow rate
114848	Sage Creek	Montana Dept. of State Lands	Mary and John Stevenson	Place of use
114848		Mary and John Stevenson	Mary and John Stevenson	Place of usc, acres irrigated, period of and flow rate
114849	Sage Creek	Montana Dept. of State Lands	Mary and John Stevenson	
114849		Mary and John Stevenson	Mary and John Stevenson	Place of use, acres irrigated, period of and flow rate
114850	Sage Creek	Montana Dept. of State Lands	Mary and John Stevenson	
114850		Mary and John Stevenson	Mary and John Stevenson	Place of use, acres irrigated, period of and flow rate
114851	Sage Creek	Montana Dept. of State Lands	Mary and John Stevenson	
114851		Mary and John Stevenson	Mary and John Stevenson	Place of use, acres irrigated, period of and flow rate
114852	Sago eek	Montana Dept. of State Lands	Mary and John Stevenson	
114852		Ste	Mary and John Stevenson	Place of use, acres irrigated, period of and flow rate
114854	UT Schultz Coulee	Lazy DX Ranch	Lazy DX Ranch	Period of use
** Volume may	a) C	questioned when objection is made to any flow rate	U	

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John Stevenson
Rambo Grain & Cattle Co.
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Desert Coulee Montana Dept. of State
John Duncan
Montana Dept. of State
John Duncan
Sage Cr. Robert Lake and Judith
Montana Dept. of State
Schultz Coulee John Stevenson
Coulce Montana Dept. of State
Montana Dept. of State
Lazy Dx Ranch
Coulee Lazy DX Ranch
UT Schultz Coulee Lazy DX Ranch
Name of Party Objecting

128299	128298	128297	128296	128295	128294	128293	128292	128291	128290	126289	128283	128287	128286	128284	128283	128282	128281	128280	128279	128278		141848	141197	139519	Water Right Number
		Sage Creek	Sage Creek	Sage Creek	Sage Creek	Little Sage Creek	Sage Creek	Sage Creek	Sage Creek	Sage Creek	Little Sage Creek	Sage Creek	Little Sage Creek	Little Sage Creek	Sage Creek	Sage Creek	Sage Creek	Sage Creek	Sage Creek	Little Sage Creek		W. Trib. Laird Creek	Sage Creek	Little Sage Creek	Source
Dept. of	Montana Dept. of State Lands	Montana Dept. of State Lands	Montana Dept. of State Lands	Montana Dept, of State Lands	Montana Dept. of State Lands	Montana Dept. of State Lands	Montana Dept. of State Lands	Montana Dept. of State Lands	Montana Dept. of State Lands	Montana Dept. of State Lands	Montana Dept. of State Lands	CLERICAL CORRECTIONS TO THE SAGE	John Stevenson	John Stevenson	Montana Dept. of State Lands	Name of Party Objecting									
Montana Dept. of State Lands	Montana Dept. of State Lands	Montana Dept. of State Lands	Montana Dept. of State Lands	Montana Dept. of State Lands	Montana Dept. of State Lands	Montana Dept. of State Lands	Montana Dept. of State Lands	Montana Dept. of State Lands	Montana Dept. of State Lands	Montana Dept. of State Lands	Montana Dept. of State Lands	Montana Dept. of State Lands	Montana Dept. of State Lands	Montana Dept. of State Lands	Montana Dept. of State Lands	Montana Dept. of State Lands	Montana Dept. of State Lands	Montana Dept. of State Lands	Montana Dept. of State Lands	Montana Dept. of State Lands	AGE CREEK PRELIMINARY DECREE	Robert S. Turner	Burlington Northern Railroad Co.	Cicon Ranches, Inc.	Party Right Issued to in Decree
Requesting deletion of runoff as flow rate	Requesting deletion of runcff as flow rate	as	of runoff as ilow	of runoff as flow	deletion of runoff as flow	of runoff as flow	of runoff as flow	of runoff as flow	runoff as flow	as	as flow	as flow	runoff as flow	Requesting deletion of runoff as flow rate	as tlow	of runoff as flow	f as flow		No priority date issued	Ownership, priority date, purpose of of right and flow rate **	diversi	Objection			

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Source Name of Party Objecting	Montana pept, or ota
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Sage Creek 40G

Objectors receiving Notice of Objection:

Bingham, Nelson G.	# 138566
Dafoe Ranches, Inc.	#139507
Lybeck, Clifford & Shirley	#126708, 126706
Meissner Ranches, Inc.	#131838, 131839, #131839, 131840
Oswood, Olney and Frank	#048191
Rambo Grain & Cattle	#034851, 034845
Sage Creek Colony	#028426, 028426, 028426, 028425, 028425, 028424, 028424, 028424, 028422, 028422, 028422, 028421, 028421, 028421, 028420, 028421, 028420, 028414, 028414, 028414, 028408, 028408
Dept. State Lands	#136042
Stevenson, John & Mary	#114852, 114851, 114850, 114849, 114848, 114847
Turner, Robert S.	#141848, 141197, 139519, 131883, 131876, 127912, 110881, 035823
Eurkhartsmeyer Land Co.	#001503, 001507, 001500, 001495, 001491, 001490, 001489
Duncan Ranch Co.	#040705, 044091, 044092, 044094, 044094, 044103, 044103, 044104, 044104, 044105, 044105, 044105, 044106, 044106, 044107, 044107, 044112, 044114, 044116, 044118, 044118, 044118, 044119, 044119, 044120, 131974, 131974

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AMENDED CERTIFICATE OF MAILING PRELIMINARY DECREE

oct. 22,1984

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

WATER RESOURCES DIVISION



TED SCHWINDEN, GOVERNOR

32 SOUTH EWING

HELENA, MONTANA 59620

(406) 444-6601 ADMINISTRATOR (406) 444-6646 ENGINEERING BUREAU (406) 444-6668 WATER DEVELOPMENT BUREAU (406) 444-6601 WATER MANAGEMENT BUREAU (406) 444-6610 WATER RIGHTS BUREAU

October 22, 1984

Ms. Chris Jenson Water Courts Box 879 Bozeman, MT 59715

Dear Chris:

Enclosed is the amended certificate of mailing for the Preliminary Decree for Sage Creek Basin (Basin 40G). This mailing was conducted between December 20, 1983 and May 2, 1984.

Sincerely,

- IIM

Jim Kindle Record: Section Supervisor Water Rights Bureau

Enclosure JK/jg

SAGE CREEK BASIN (Basin 40G)

AMENDED CERTIFICATE OF MAILING

Notice of Entry of Preliminary Decree and Notice of Availability for the Sage Creek Basin (Basin 40G)

State of Montana)
County of Lewis and Clark)

I, JAMES E. KINDLE, Records Supervisor for the Water Resources

Division of the Department of Natural Resources and Conservation of the State

of Montana, hereby certify that all return mail for the Notice of Entry of

Preliminary Decree and Notice of Availability for the Sage Creek Basin (Basin

40G) has been researched by the water rights field offices and that based on

their research the following has been sent, postage prepaid, first class,

United States Mail:

A. For persons filing claims;

- 1. owner address changes only. Based on research, all parties have been sent the Notice of Entry of Preliminary Decree and Notice of Availability of the Preliminary Decree. When address changes were confirmed by the Claimants to the Department, abstracts showing dispositions of each party's filings have also been sent;
- 2. transfered owners. Based on research, all apparent successors in interest for water rights concerning return mail have been sent the Notice of Entry of Preliminary Decree and Notice of Availability of the Preliminary Decree and Water Right Transfer Certificate forms.
 - B. For post July 1, 1973 water rights;
- 1. all parties in the Sage Creek issued permits for water use in that Basin pursuant to 85-2-301, MCA, 1978, or their successor in interest;

- 2. all parties who have applied for permits for the use of water in the Sage Creek Basin pursuant to 85-2-301, MCA, 1978;
- 3. all parties who have been granted a reservation in the Sage Creek Basin pursuant to 85-2-316, MCA, 1978;
- 4. all parties in the Sage Creek Basin who have received certificates of water rights pursuant to 85-2-306, MCA, 1978, for wells under 100 gallons per minute; the following has been sent:
- a. owner address changes only. Based on research, all parties have been sent the Notice of Entry of Preliminary Decree and Notice of Availability of the Preliminary Decree;
- b. transfered owners. Based on research, all apparent successor in interest for water rights concerning return mail have been sent the Notice of Entry of Preliminary Decree and Notice of Availability of the Preliminary Decree and Water Right Transfer Certificate forms.

This mailing and distribution was made under my direction and control from December 20, 1983 to May 2, 1984.

Dated this 22nd day of OCTOBER 1984.

JAMES E. KINDLE, Supervisor

Records Section, Water Rights Bureau

Water Resources Division

Dept. of Natural Resources and

Conservation State of Montana

attachments

1.) Original Affidavit of Service

2.) Copies of return mail envelopes

State of Montana

County of Lewis & Clark)

On this 72 day of <u>Detaber 1984</u>, before me, a Notary Public in and for said state, personally appeared James E. Kindle, known to me to be a Supervisor for the Water Resources Division of the Department of Natural Resources and Conservation, and acknowledges to me that he, in his

official capacity, executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed by official seal, the day and year in this certificate first above written.

Notary Public for the State of Montana Residing at Helena My commission expires 1 21-1707

Basin 40G File Nos. 40G-W139992-00 through 40G-W139994-00

AFFIDAVIT OF SERVICE

STATE OF MONTANA]
: s
County of Hill]

TERRI L. PETERSON. an employee of the Montana Department of Natural Resources and Conservation, being duly sworn on oath, deposes and says that on June 13, 1984, she deposited in the United States mail, first class mail, Notice of Objection and Request for Preliminary Hearing on the Sage Creek Preliminary Decree, an Address Change form. Abstracts of pertinent water rights, and a letter of inquiry concerning water right ownership address changes to the following persons or agencies:

Wilma A. Bitz Garrison Rest Home Garrison, North Dakota 58540

Department of Natural Resources and Conservation

By: Jone of Teleson

STATE OF MONTANA ; ss

County of Hill

On this 13th day of June. 1984, before me, a Notary Public in and for said state, personally appeared TERRI L. PETERSON, known to me to be the GENERAL OFFICE CLERK of the Department executed this instrument or the persons who executed the instrument on behalf of said Department, and acknowledged to me that such Department executed the same.

IN WITNESS WHEREOF. I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

(NOTARIAL SEAL)

Notary Public for the State of Montana

Residing at Havre, Montana

My Commission expires: April 6, 1987

RETURNED MAIL RESEARCH RECORD

Date: June 13, 1984

Water Right No.(s):

40G-W139992-00 through 40G-W139994-00

Owner(s) of Record:

H.H. Bitz and Wilma A. Bitz

RECEIVED

Address of Record:

Big Sandy, MT 59520 and Big Sandy, MT 59520

JUL 2 0 1984 MONTANA DEPT. OF NATURAL RESOURCES & CONSERVATION

Reason Returned:

Addressee (Wilma A. Bitz) Unknown and

Insufficient Address

Researched By:

Roy C. Jones, Water Rights Specialist

Research Findings:

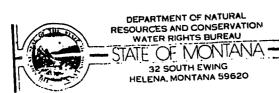
As of May 16, 1984, the Hill County Assessor's Office still lists H. H. and Wilma A. Bitz as owners of the property. Several attempts at calling H. H. Bitz at 378-2493 finally got his daughter on the phone on May 24, 1984. She said that Wilma A. Bitz lived out of state and she didn't think Wilma A. Bitz had any legal interest in "the form". She said she'd pass my information on the water rights and my request for Wilma's correct mailing address and have him get back to me.

5/29/84, 7:10 A.M. I phoned and spoke with Mr. H. H. Bitz requesting a current address for Wilma A. Bitz. He informed me that she is his former wife and is "unavailable" as she is "locked up" in a "rest home". He said he would stop by our office on Friday, June 1, 1984.

6/1/84, 4:05 P.M. Mr. H. H. Bitz came into our office. According to him, his wife is long divorced and is now in a nursing home in North Dakota and is incompetent. He does not know her address but will check with his daughter and phone it to me.

6/11/64. I phoned H. H. Bitz. The woman who answered said he has been hospitalized and just now came home. He came to the phone and said the best address he could come up with is Garrison Rest Home. Garrison, North Dakota. His daughter has not written to her, so does not have a better address.





Naturally Invitings

U S POSTAGE 17 E 0 17 E

BITZ/ BIG SANDY

Uncline T Au : Inv: . No such care : No such care : Do not remail A MT 59520 WILMA

MONTANA DEPT. OF NATURAL RESOURCES & CONSERVATION

75

CEIVE

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Basin 40G File Nos. C000714-00, and W046968-00 - W046970-00

AFFIDAVIT OF SERVICE

County of Hill	: SS 1			
County of Hill				
May 25 mail. Notice of Objection Preliminary Decree, an	ation, being duly s , 1984, she depo on and Request fo Address Change erning water righ	ee of the Montana Department of Natural sworn on oath, deposes and says that on osited in the United States mail, first class or Preliminary Hearing on the Sage Creek form, Abstracts of pertinent water rights, and t ownership address changes to the		
262	uline Gunderson 211 Kentia Palm I meland, CA 9234			
		Department of Natural Resources and Conservation		
		and Gonsel Validit		
	,	By: Sim & Italian		
•				
STATE OF MONTANA) : ss			
County of Hill	j			
and for said state, pers the GENERAL OFFICE the persons who execut	onally appeäred 1 : CLERK of the C :ed the instrumen	, 1984, before me, a Notary Public in TERRI L. PETERSON, known to me to be Department executed this instrument or t on behalf of said Department, and ent executed the same.		
IN WITNESS WHEREOF. I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written. $(1,1,1,1,1,1,1,1,1,1,1,1,1,1,1,1,1,1,1,$				
• •		α		
A Tarter		Notacy Public for the State of Montana		
(NOTARIAL SEAL)		Notary Public for the State of Montana Pesiding at Havre Montana		
(IVO I MINIME DEAL)		Residing at Havre, Montana, My Commission expires: <u>April 6,1487</u>		

RECEIVED

JUL 2 1984

CHANGE OF ADDRESS FORM

MONTANA D.N.R.C. HAVRE FIELD OFFICE

Water Right Nos. 40G-C-000714-00, 40G-W-046968-00 through W-046970-05

Present Owner(s): Pauline Gunderson Franklin 26211 Kentia Palm Drive

Homeland, CA 92348

Old Address:

Mailing address: Pauline Gunderson Franklin

Chester, MT 59522

New Address:

Mailing address: Pauline Gunderson Franklin 26211 Kentia Palm Drive

Homeland, CA 92348

Remarks:

If the above new address is not correct, please make any

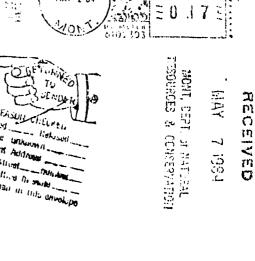
necessary corrections.

Pauline Gunderson Franklin 28211 Kentia Palm Drive Homeland, CA 92348

June 29,

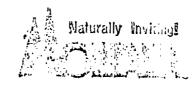
Return to:

D.N.R.C. - Water Rights Bureau P. O. Box 1828 Havre, Montana 59501



DEPARTMENT OF NATURAL
RESOURCES AND CONSCRIVATION
WATER RIGHTS BUREAU

SIALL F MONTANA
32 SOUTH EWING
HELENA MONTANA 59620



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GUNDELSON CHESTER

PAULINE

NT 59522

WRB

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Pasin 40G File Nos. W031990-00 and W031991-00

AFFIDAVIT OF SERVICE

STATE OF MONTANA

(NOTARIAL SEAL)

County of Hill	3				
Resources and Conservation, by an	eing duly 964. she o st for Pre light Tran quiry con	ee of the Montana Department of Natural sworn on oath, deposes and says that deposited in the United States mail, eliminary Hearing on the Sage Creek afer Certificate, Abstracts of pertinent cerning water right ownership address access			
Lowell Johnson Box 67, RR South Gildford, MT 59525	and	Mabel Johnson Box 66, RR South Gildford, MT 59525			
	•	Department of Natural Resources and Conservation By: Leternon			
STATE OF MONTANA County of Hill	} : 95				
On this 25 day of					
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.					

Notacy Public for the State of Montana Residing at Havre. Montana My Commission expires: Upil 6, 198

RETURNED MAIL RESEARCH RECORD

Date: May 24, 1981:

Water Right No.(s):

40G-W031990-00 and 40G-W031991-00

Owner(s) of Receird: Hans O. Hanson

Address of Record:

P. O. Box 171

Onalaska, WA 98570

Reason Returned:

Addressee Unknown

Researched By:

Roy C. Jones, Water Rights Specialist

Research Findings:

On May 16, 1984, I phoned and spoke with a woman at the Hill County Assessor's Office. Hans O. Hanson, P. O. Box 171, Onalaska, WA. 98570, is still on their records as owner of the pertinent property.

I next phoned Mrs. Mabel Johnson. Gildford, Montana. (376-3252) as she signed the affidavit accompanying the claims. She informed me that Hans had passed away and left his property to her (3/4) and her son(1/4). The 1/4 share bequeathed to one son was sold to another of her sons. Lowell Johnson. I let her know that Hans was still listed as owner of the property. She responded that Mr. Lester Hauge, Attorney, was handling the estate and should have filed all transfer papers, etc. long

I next phoned Mr. Lester Hauge (265-6747). He was unaware that there were any water rights in Hans O. Hanson's estate. He will follow up on this and also send me information concerning successors in interest. It appears that there was some "minor" complication in Hans' title to the property since his deceased wife was once co-owner and her estate was not thoroughly completed. The attached letter, etc. were subsequently mailed as indicated.

07-02-84

Sent a follow-up letter to Mrs. Mabel Johnson and Mr. Lowell Johnson.

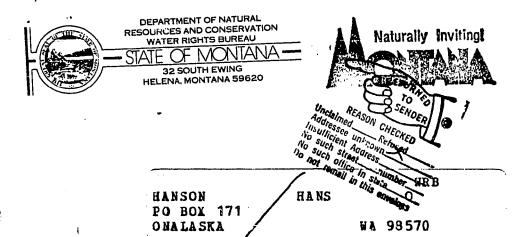
07- -84

Mrs. Mabel Johnson phoned and left the message that she took "the papers" to Mr. Hauge and he will fill them out and take them

to the Courthouse.

09-04-84

Sent file to D.N.R.C. Records Section Supervisor.





RECEIVED

MAY 07 1984

MONTANA DEPT. OF NATURAL RESOURCES & CONSERVATION

File Nos. W131833-00 and W131834-00

AFFIDAVIT OF SERVICE

STATE OF MONTANA	3	
	:	5
County of Hill)	

TERRI L. PETERSON, an employee of the Montana Department of Natural Resources and Conservation, being duly sworn on oath, deposes and says that on May 25. 1984, she deposited in the United States mail. Notice of Objection and Request for Preliminary Hearing on the Sage Creek Preliminary Decree, a Water Right Transfer Certificate, Abstracts of pertinent water rights, and a letter of inquiry concerning water right ownership address changes to the following persons or agencies:

Triple G. Farms Box 398 Chester, MT 59522

Department of Natural Resources and Conservation

By: Jerri J. Veterson

STATE OF MONTANA)
	: 5
County of Hill)

On this 25 day of Ma. 1984, before me, a Notary Public in and for said state, personally appeared TERRI L. PETERSON, known to me to be the GENERAL OFFICE CLERK of the Department executed this instrument or the persons who executed the instrument on behalf of said Department, and acknowledged to me that such Department executed the same.

IN WITNESS WHEREOF. I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

(NOAAKIAL BEAL)

Notary Public for the State of Muntana Residing at Havre, Montana

My Commission expires: \mathcal{A}

april 6,1987

RETURNED MAIL RESEARCH RECORD

Date: May 24, 1984

Water Right No.(s): 40G-W131833-00 and 40G-W131834-00

Owner(s) of Record: Edmund J. Osler

Earl T. Colbry

Address of Record:

Chester, MT 59522

Chester, MT 59522

Reason Returned:

Unclaimed by Edmund J. Osler (Earl T. Colbry's was not returned)

Researched By:

Roy C. Jones. Water Rights Specialist

Research Findings:

On May 16, 1984, I phoned the Liberty County Assessor's Office and spoke with Betty. The owner of record for the NW NW NW. Section 26. Township 36N, Range 6E is Triple G. Farms, Box 398, Chester, Montana, 59522. I had reason to call one of the persons connected with Triple G Farms, a Mrs. Josephine Gunderson, 292-3527, in connection with research into other return mail. I explained the significance of the attached letter, etc. and that it would be coming to her in the mail.

07-02-84

Sent a follow-up letter to Triple G. Farms.

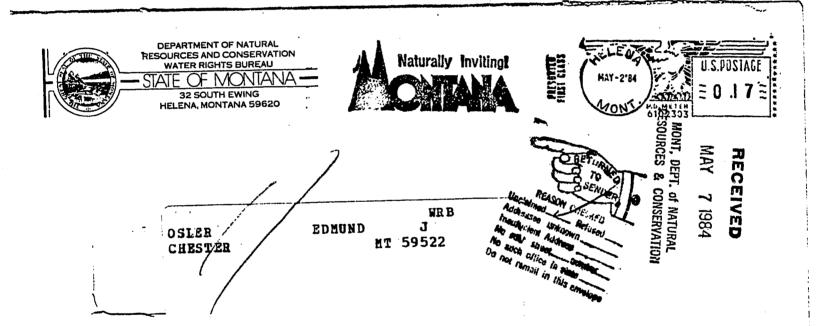
07-11-84

Received a phone call from Mrs. Josephine Gunderson. She's

"hounding" her son to get the transfer filed.

09-04-84

File sent to D.N.R.C. Records Section Supervisor.



A STATE OF THE STA

Basin 40G File Nos. 40G-W139992-00 through 40G-W139994-00

AFFIDAVIT OF SERVICE

STATE OF MONTANA)
: s
County of Hill)

TERRI L. PETERSON, an employee of the Montana Department of Natural Resources and Conservation, being duly sworn on oath, deposes and says that on June 13, 1984, she deposited in the United States mail, first class mail. Notice of Objection and Request for Preliminary Hearing on the Sage Creek Preliminary Decree, an Address Change form. Abstracts of pertinent water rights, and a letter of inquiry concerning water right ownership address changes to the following persons or agencies:

Wilma A. Bitz Garrison Rest Home Garrison, North Dakota 58540

Department of Natural Resources and Conservation

By: A Trees

STATE OF MONTANA ; ss County of Hill ;

On this 13th day of June. 1984, before me, a Notary Public in and for said state, personally appeared TERRI L. PETERSON, known to me to be the GENERAL OFFICE CLERK of the Department executed this instrument or the persons who executed the instrument on behalf of said Department, and acknowledged to me that such Department executed the same.

IN WITNESS WHEREOF. I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

(NOTARIAL SEAL)

Notary Public for the State of Montana Residing at Havre. Montana My Commission expires: April 6, 1987

COPY

RETURNED MAIL RESEARCH RECORD

Date: June 13, 1984

Water Right No.(s):

40G-W139992-00 through 40G-W139994-00

Owner(s) of Record:

H.H. Bitz and Wilma A. Bitz

Address or Record:

Big Sandy, MT 59520 and Big Sandy, MT 59520

Reason Returned:

Addressee (Wilma A. Bitz) Unknown and

Insufficient Address

Researched By:

Roy C. Jones, Water Rights Specialist

Research Findings:

As of May 16, 1984, the Hill County Assessor's Office still lists H. H. and Wilma A. Bitz as owners of the property. Several attempts at celling H. H. Bitz at 378–2493 finally got his daughter on the phone on May 24, 1984. She said that Wilma A. Bitz lived out of state and she didn't think Wilma A. Bitz had any legal interest in "the form". She said she'd pass my information on the water rights and my request for Wilma's correct mailing address and have him get back to me.

5/29/84. 7:10 A.M. I phoned and spoke with Mr. H. H. Bitz requesting a current address for Wilma A. Bitz. He informed me that she is his former wife and is "unavailable" as she is "locked up" in a "rest home". He said he would stop by our office on Friday, June 1, 1984.

6/1/84, 4:05 P.M. Mr. H. H. Bitz came into our office. According to him, his wife is long divorced and is now in a nursing home in North Dakota and is incompetent. He does not know her address but will check with his daughter and phone it to me.

6/11/84. I phoned H. H. Bitz. The woman who answered said he has been hospitalized and just now came home. He came to the phone and said the best address he could come up with is Garrison Rest Home. Garrison, North Dakota. His daughter has not written to her, so does not have a better address.

06-19-84

Sent follow-up letter to Mrs. Bitz.

09-04-84

No response from claimant and letters have not been returned. File forwarded to D.N.R.C. Records Section Supervisor.

CHANGE OF ADDRESS FORM

Water Right Nos. 40G-W139992-00 through 40G-W139994-00

H. H. and Wilma A. Bitz Big Sandy, MT 59520 Present Owner(s):

Old Address:

Mailing address: Wilma A. Bitz

Big Sandy, MT 59520

New Address:

Mailing address: Wilma A. Bitz

Garrison Rest Home

Garrison, North Dakota 58540

If the above new address is not correct, please make any Remarks:

necessary corrections.

Wilma A. Bitz Garrison Rest Home Garrison, North Dakota 58540

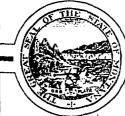
Signature

Date

RETURN TO:

D.N.R.C. - Water Rights Bureau P. O. Box 1828 Havre, Montana 59501

HAVRE FIELD OFFICE



TED SCHWINDEN, GOVERNOR

P. O. HOX 1828

- STATE OF MONTANA

(406) 265-5516

HAVRE, MONTANA 59501

June 13, 1984

Regarding: Water Right Nos. 40G-W139992-00 through 40G-W139994-00

Wilma A. Bitz Garrison Rest Home Garrison, North Dakota 58540

Dear Ms. Bitz:

Water Right documents have been returned to us because the U.S. Postal Service could not deliver them. Further research on our part shows that you are still the recorded owner, but your address was not updated in our records.

Please fill out the enclosed Change of Address form with your correct mailing address and return to this office.

Upon receipt of this address change, we will update our records. You will then receive any correspondence pertaining to your water rights. The enclosed Notice of Objection and Request for Preliminary Hearing on the Sage Creek Preliminary Decree is for your immediate information concerning adjudication proceedings in your area. Please be aware of specific deadlines that are set in this notice.

If you are not the present owner(s), or if you are aware of any other errors with your water rights, please forward that information also for our records.

Please contect this office at (406) 265-5516 if you need further information. Thank you for your cooperation.

Sincerely,

Roy C. Jones

Water Rights Specialist

Havre Water Rights * pau

RCJ:tp

Enclosures: Change of Address Form

Notice of Objection and Request for Preliminary Hearing on

the Sage Creek Preliminary Decree Abstracts of above water rights

per in sygn

AN EQUAL OPPORTUNITY EMPLOYER

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION HAVRE FIELD OFFICE





TED SCHWINDEN, GOVERNOR

P. O. BOX 1828 1708 WEST 2ND STREET

STATE OF MONTANA

(406) 265-5516

HAVRE, MONTANA 5950:

July 19, 1984

Ms, Wilma A. Bitz Garrison Rest Home Garrison, ND 58540

Dear Ms. Bitz:

This is a follow-up to my June 13th letter to you: a copy of which is attached.

Water rights are important and keeping the record straight on those rights is a responsibility we take seriously. Will you please contact us soon with any information you may have relevant to my June 13th letter? Thank you.

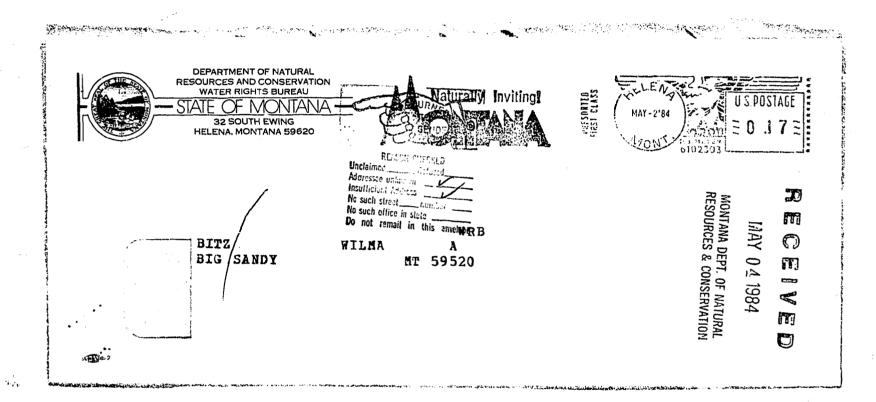
Sincerely.

Roy C. Jones Water Rights Specialist Havre Water Rights Bureau

RCJ:tp Enclosures - Copy of June 13, 1984 letter

Contago à anax

AN EQUAL OPPORTUNITY EMPLOYER



Basin 40G File Nos. C000714-00, and W046968-00 - W046970-00

AFFIDAVIT OF SERVICE

STATE OF MONTANA

(NOTARIAL SEAL)

	: ss	
County of Hill	, 3	
May 25 mail. Notice of Object Preliminary Decree, as	vation, being duly s , 1984, she depo ion and Request fo n Address Change cerning water righ	se of the Montana Department of Natural sworn on oath, deposes and says that on osited in the United States mail, first class or Preliminary Hearing on the Sage Creek form. Abstracts of pertinent water rights, and townership address changes to the
28	auline Gunderson 6211 Kentia Palm Iomeland, CA 923	
		Department of Natural Resources and Conservation
	,	By: Since of Ittenden?
•		
STATE OF MONTANA		
County of Hill	: ss)	
and for said state, per the GENERAL OFFIC the persons who execu	sonally appeäred 1 E CLERK of the C Ited the instrumen	, 1984, before me, a Notary Public in FERRI L. PETERSON, known to me to be Department executed this instrument or t on behalf of said Department, and ent executed the same.
IN WITNESS WI		ereunto set my hand and affixed my official

ن راتي ان در تاريخ

Notacy Public for the State of Montana Residing at Havre. Montana My Commission expires: 4,216,1987

:

MOSMOPANGUSEN
To: Jim K. From: Boy Bosses 2/2/84

Attached is an address correction and name change uncovered subsequent to a returned mail research.

Sul 40 6 d heart war Nother and Noth

HUGH B. BROWN

COUNSELLOR AT LAW

POST OFFICE BOX C - CHESTER, MT 59522 408-759-5174

RECEIVED

JUL 2 1984

June 29, 1984

MONTANA D.N.R.C. HAVRE FIELD OFFICE

Roy C. Jones Water Right Specialist P.O. Box 1828 Havre, Montana 59501

Re: DF80-2916; Water Right Nos. 40G-C000714-00, 40G-W046968-00, 40G-W046969-00 and 40G-W046970-00

Dear Roy:

Enclosed is a change of address form that I have signed on behalf of Pauline Gunderson. Mrs. Gunderson has remarried and her last names is now Franklin which I have added to the new mailing address and to the present owner.

Sincerely,

Hugh B. Brown

HBB/pms

Encl/

cc: Pauline Gunderson Franklin

CHANGE OF ADDRESS FORM

Water Right Nos. 40G-C-000714-90, 40G-W-046968-00 through W-046970-00

Present Owner(s): Pauline Gunderson

26211 Kentia Palm Drive Homeland, CA 92348

Old Address:

Mailing address: Pauline Gunderson

Chester, MT 59522

New Address:

Mailing address: Pauline Gunderson 26211 Kentia Palm Drive

Homeland, CA 92348

Remarks: If the above new address is not correct, please make any

necessary corrections.

Pauline Gunderson 26211 Kentia Palm Drive Homeland, CA 92348

Signature

Date

Return to:

D.N.R.C. - Water Rights Bureau P. O. Box 1828 Havre, Montana 59501

HAVRE FIELD OFFICE

TED SCHWINDEN, GOVERNOR

P. O. BOX 1828 1708 WEST 2ND STREET

STATE OF MONTANA

(406) 265-5516

HAVRE, MONTANA 59501

May 24, 1984

Regarding: Water Right Nos. 40G-C000714-00, 40G-W046968-00, 40G-W046969-00 and

40G-W046970-00

Pauline Gunderson 26211 Kentia Palm Drive Homeland, CA 92348

Dear Ms. Gunderson:

Water Right documents have been returned to us because the U.S. Postal Service could not deliver them. Further research on our part shows that you are still the recorded owner, but your address was not updated in our records.

Please fill out the enclosed Change of Address form with your correct mailing address and return to this office.

Upon receipt of this address change, we will update our records. You will then receive any correspondence pertaining to your water rights. The enclosed Notice of Objection and Request for Preliminary Hearing on the Sage Creek Preliminary Decree is for your immediate information concerning adjudication proceedings in your area. Please be aware of specific deadlines that are set in this notice.

If you are not the present owner(s), or if you are aware of any other errors with your water rights, please forward that information also for our records.

Please contact this office at (405) 265-5516 if you need further information. Thank you for your cooperation.

Sincerely,

Roy C. Jones

Water Rights Specialist Havre Water Rights Bureau

RCJ:tp

Enclosures: Change of Address Form

Notice of Objection and Request for Preliminary Hearing on

the Sage Creek Preliminary Decree Abstracts of above water rights

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RETURNED MAIL RESEARCH RECORD

Date:

40G-C000714-00, 40G-W0465J8-00 through W046970-00 Water Right No.(s):

Owner(s) of Record: Pauline Gunderson

Chester, MT 59522 Address of Record:

Unclaimed Resson Returned:

Roy C. Jones, Water Rights Specialist Researched By:

On May 16, 1984, I phoned the Liberty County Assessor's Office and Research Findings: spoke with Betty. Pauline Gunderson is still the owner of record for the properties covered and her address of record is still Chester. Montana. Betty said that Ms. Gunderson spends most of her time in California. She did not have a California address. Upon

questioning, she gave me Josephine Gunderson's name and phone number

as she and Pauline are sisters-in-law by marriage.

I next phoned Mrs. Josephine Gunderson who gave me Pauline's California address and the attached letters were subsequently sent.

RECEIVED

JUL 2 1984

CHANGE OF ADDRESS FORM

MONTANA D.N.R.C. HAVRE FIELD OFFICE

Water Right Nos. 40G-C-000714-00, 40G-W-046968-00 through W-046970-00

Present Owner(s): Pauline Gunderson Franklin 26211 Kentia Palm Drive

Homeland, CA 92348

Old Address:

Mailing address: Pauline Gunderson Franklin

Chester, MT 59522

New Address:

Mailing eddress: Pauline Gunderson Franklin 26211 Kentia Palm Drive

Homeland, CA 92348

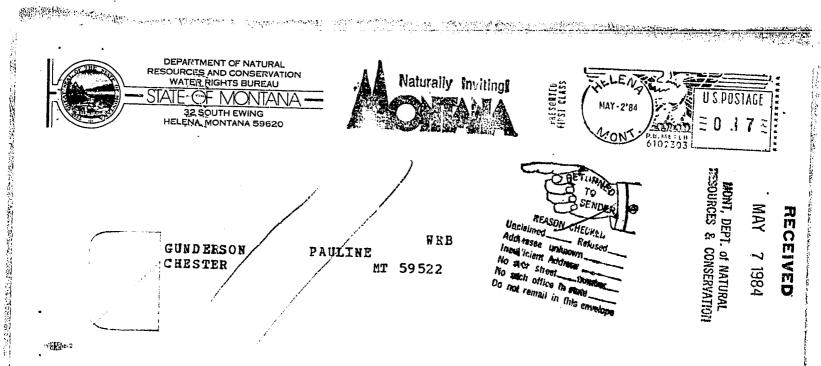
If the above new address is not correct, please make any necessary corrections.

Pauline Gunderson Franklin 26211 Kentia Palm Drive Homeland, CA 92348

___June Date

Return to:

D.N.R.C. - Water Rights Bureau P. O. Box 1828 Havre, Montana 59501



Basin 40G File Nos. W031990-00 and W031991-00

AFFIDAVIT OF SERVICE

STATE OF MONTANA)		
	: ss		
County of Hill)		
	I, an employee of the Montana Department of Natural		
Resources and Conservation	n, being duly sworn on oath, deposes and says that		
on May 25	, 1984, she deposited in the United States mail,		
	cuest for Preliminary Hearing on the Sage Creek		
Preliminary Decree, a Water Right Transfer Certificate, Abstracts of pertinent			
water rights, and a letter of inquiry concerning water right ownership address			
changes to the following persons or agencies:			

Lowell Johnson Box 67, RR South Gildford, MT 59525 and

Mabel Johnson Box 66, RR South Gildford, MT 59525

Department of Natural Resources and Conservation

STATE OF MONTANA

) : 55

County of Hill

On this 25 day of Ma. . 1984, hafore me, a Notary Public in and for said state, personally appeared TERRI L. PETERSON, known to me to be the GENERAL OFFICE CLERK of the Department executed this instrument or the persons who executed the instrument on behalf of said Department. and acknowledged to me that such Department executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

(NOTARIAL SEAL)

Notary Public for the State of Montana

Residing at Havre, Montana

My Commission expires: 4

HAVRE FIELD OFFICE



TED SCHWINDEN, GOVERNOR

P O BOX 1828

- STATE OF MONTANA

406) 265-5516

HAVRE, MONTANA 59501

May 24, 1984

Regarding: Water Right Nos. 40G-W031990-00

and 40G-W031991-00

Recorded Owner: Hans O. Hanson, PO Box 171.

Onalaska, WA 98570

Lowell Johnson Box 67, RR South Gildford, MT 59525

Mabel Johnson Box 66, RR South Gildford, MT 59525

Dear Mabel and Lowell:

Do you claim any interest to the above water rights? Water right documents have been returned to us because the U.S. Postal Service could not deliver them. Further research on our part shows that you may be the party who is the successor in interest to these water rights.

I understand from my conversations with Mrs. Mabel Johnson and Mr. Lester Hauge, Attorney, that proper water right transfer forms are in the process of being filed with the Hill County Clerk and Recorder as required by Montana law. (MCA 85-2-424) If this is not correct, please ill out the enclosed water right transfer form and send or take it to the Hill County Clerk and Recorder.

After the Clerk and Recorder has completed processing the water right transfer certificate, you will receive all documents pertaining to the water rights you have transferred. The enclosed Notice of Objection and Request for Preliminary Hearing on the Sage Creek Preliminary Decree is for your immediate information concerning adjudication proceedings in your area. Please be aware of specific deadlines that are set in this notice.

If you are not the present owner (successor in interest) or choose not to maintain entitled interest, we would appreciate having that information for our records.

Please contact this office at (406) 265-5516 if you need further information. Thank you for your attention to this matter.

Sincerely.

Boy C. Mare

Water Rights Specialist

Havre Water Rights Bureau

RCJ:tp

Enclosures: Water Right Transfer Certificate Form

Notice of Objection and Request for Preliminary Hearing on

the Sage Creek Preliminary Decree

Abstract of bove water rights

cc: Lester Hauge

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DESERBED & MADE

HAVRE FIELD OFFICE



TED SCHWINDEN, GOVERNOR

P. O. BOX 1828

STATE OF MONTANA

(406) 265-5516

HAVRE, MONTANA 59501

July 2, 1984

Ms. Mabel Johnson Box 66. RR South Glidford, MT 59525

Dear Ms. Johnson:

This is a follow-up to my May 24th letter to you: a copy of which is attached.

Water rights are important and keeping the record straight on those rights is a responsibility we take seriously. Will you please contact us soon with any information you may have relevant to my May 24th letter? Thank you.

Sincerely.

Roy C. Jones

Water Rights Specialist Hevre Water Rights Bureau

RCJ:tp Enclosures - Copy of May 24th letter

publications & yearned

AN EQUAL OPPORT NOTE EMPLOYER

RETURNED MAIL RESEARCH RECORD

Date: May 24, 1984

Water Right No.(s):

40G-W031990-00 and 40G-W031991-00

Owner(s) of Record: Hans O. Hanson

Address of Record:

P. O. Box 171

Onalaska, WA 98570

Reason Returned:

Addressee Unknown

Researched By:

Roy C. Jones, Water Rights Specialist

Research Findings:

On May 16, 1984, I phoned and spoke with a woman at the Hill County Assessor's Office. Hans O. Hanson, P. O. Box 171, Onalaska, WA. 98570, is still on their records as owner of the pertinent property.

I next phoned Mrs. Mabel Johnson. Gildford. Montara. (376-3252) as she signed the affidavit accompanying the claims. She informed me that Hans had passed away and left his property to her (3/4) and her son(1/4). The 1/4 share bequeathed to one son was sold to another of her sons. Lowell Johnson. : let her know that Hans was still listed as owner of the property. She responded that Mr. Lester Hauge, Attorney, was handling the estate and should have filed all transfer papers, etc. long

I next phoned Mr. Lester Hauge (265-6747). He was unaware that there were any water rights in Hans O. Hanson's estate. He will follow up on this and also send me information concerning successors in interest. It appears that there was some "minor" complication in Hans' title to the property since his deceased wife was once co-owner and her estate was not thoroughly completed. The attached letter, etc. were subsequently mailed as indicated.

07-02-84

Sent a follow-up letter to Mrs. Mabel Johnson and Mr. Lowell Johnson.

07- -84

09-04-84

Mrs. Mabel Johnson phoned and left the message that she took "the papers" to Mr. Hauge and he will fill them out and take them to the Courthouse.

Sent file to D.N.R.C. Records Section Supervisor.

HAVRE FIELD OFFICE



TED SCHWINDEN, GOVERNOR

P. O. BOX 1828 1708 WEST 2ND STRFET

STATE OF MONTANA

(406) 265-5516

HAVRE, MONTANA 59501

July 2, 1984

Lowell Johnson Box 67, RR South Gildford, MT 59525

Dear Mr. Johnson:

This is a follow-up to my May 24th letter to you; a copy of which is attached.

Water rights are important and keeping the record straight on those rights is a responsibility we take seriously. Will you please contact us soon with any information you may have relevant to my May 24th letter? Thank you.

Sincerely,

Royla Jones

Water Rights Specialist Havre Water Rights Bureau

RCJ:tp Enclosures - Copy of May 24, 1984 letter

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ANEC, AL OPPORT WILLEMPLOYER

HAVRE FIELD OFFICE

TED SCHWINDEN, GOVERNOR

PO BOX 1828 1708 WEST 2ND STREET



STATE OF MONTANA

(406) 265-5516

HAVRE, MONTANA 59501

May 24, 1984

Regarding: Water Right Nos. 40G-W031990-00

and 40G-W031991-00

Recorded Owner: Hans O. Hanson, PO Box 171.

Onalaska, WA 98570

Lowell Johnson and Box 67, RR South Gildford, MT 59525 Mubel Johnson

Box 66, RR South
Gildford, MT 59525

Dear Mabel and Lowell:

Do you claim any interest to the above water rights? Water right documents have been returned to as because the U.S. Postal Service could not deliver them. Further research on our part shows that you may be the party who is the successor in interest to these water rights.

I understand from my conversations with Mrs. Mabel Johnson and Mr. Lester Hauge. Attorney, that proper water right transfer forms are in the process of being filed with the Hill County Clerk and Recorder as required by Montana law. [MCA 85-2-424] If this is not correct, presse fill out the enclosed water right transfer form and send or take it to the Hill County Clerk and Recorder.

After the Clerk and Recorder has completed processing the water right transfer certificate, you will receive all documents pertaining to the water rights you have transferred. The enclosed Notice of Objection and Request for Preliminary Hearing on the Sage Creek Preliminary Decree is for your immediate information concerning adjudication proceedings in your area. Please be aware of specific deadlines that are set in this notice.

If you are not the present owner (successor in interest) or choose not to maintain entitled interest, we would appreciate having that information for our records.

Please contect this office at (406) 265-5516 if you need further information. Thank you for your attention to this matter.

Sincerely.

Roy C. Jones

Water Rights Specialist Hevra Water Rights Sursau

RC.':tp

Enclosures: Water Right Transfer Certificate Form

Notice of Objection and Request for Preliminary Hearing on

the Sage Creek Preliminary Decree

Abstract of above water rights

cc: Lester Hauge

at my an indicate them ones

GP CF







HANSON PC BOX 171 ONALASKA

WA 98570

RECEIVED

MAY 07 1984

MONTANA DEPT. OF NATURAL RESOURCES & CONSERVATION

HINS

Basin 40G File Nos. W131833-00 and W131834-00

AFFIDAVIT OF SERVICE

STATE OF MONTANA)			
	:	88		
County of Hill)			
TERRI L. PETERSON, an employee of the Montana Department of Platurel Resources and Conservation, being duly sworn on oath, deposes and says that on May 25 1984, she deposited in the United States mail.				
Notice of Objection and Request for Preliminary Hearing on the Sage Creek				
Preliminary Decree, a Water Right Transfer Certificate, Abstracts of pertinen:				
water rights, and a letter of inquiry concerning water right ownership address				
changes to the following persons or agencies:				

Triple G. Farms Box 398 Chester, MT 59522

> Department of Natur I Resources and Conservation

STATE OF MONTANA

: 55

County of Hill

On this 25 day of Ma. . 1984, before me, a Notary Public i and for said state, personally appeared TERRI L. PETERSON, known to me to be the GENERAL OFFICE CLERK of the Department executed this instrument or , 1984, before me, a Notary Public in the persons who executed the instrument on behalf of said Department, and acknowledged to me that such Department executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

(NOJAŘIAL SEAL)

Notary Public for the State of Montana

Residing at Havre, Montana

My Commission expires: 25rd 6,1987

RETURNED MAIL RESEARCH RECORD

Date: May 24, 1984

Water Right No.(s): 40G-W131B33-00 and 40G-W131B34-00

Owner(s) of Record: Edmund J. Osler and Earl T. Colbry

Address of Record: Chester, MT 59522 Chester, MT 59522

Reason Returned: Unclaimed by Edmund J. Osler (Earl T. Colbry's was not returned)

Researched By: Roy C. Jones, Water Rights Specialist

Research Findings: On May 16, 1984, I phoned the Liberty County Assessor's Office and

spoke with Betty. The owner of record for the NW NW NW, Section 26, Township 36N, Range 6E is Triple G. Farms, Box 398, Chester, Montona, 59522. I had reason to call one of the persons connected with Triple G Farms, a Mrs. Josephine Gunderson, 292–3527, in connection with research into other return mail. I explained the significance of the

attached letter, etc. and that it would be coming to her in the mail.

07-02-84 Sent a follow-up letter to Triple G. Farms.

07-11-84 Received a phone call from Mrs. Josephine Gunderson. She's

"hounding" her son to get the transfer filed.

09-04-84 File sent to D.N.R.C. Records Section Supervisor.

HAVRE FIELD OFFICE



TED SCHWINDEN, GOVERNOR

P. O. BOX 1828 1708 WEST 2ND STREET

STATE OF MONTANA

(406) 265-5516

HAVRE, MONTANA 59501

July 2, 1984

Triple G Farms Box 398 Chester, MT 59522

Dear Folks:

This is a follow-up to my May 24th letter to you: a copy of which is attached.

Water rights are important and keeping the record straight on those rights is a responsibility we take seriously. Will you please contact us soon with any information you may have relevant to my May 24th letter? Thank you.

Sincerely,

Roy C. Jones

Water Rights Specialist Havra Water Rights Bureau

RCU:tp Enclosures - Once of May 24th leaver

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ANTO ALCOHOLD NO EMPLOYER

HAVRE FIELD OFFICE

TED SCHWINDEN, GOVERNOR

P. O. BOX 1826 1708 WEST 2ND STREET



HAVRE, MONTANA 59501

May 24, 1984

Regarding: Water Right Nos. 40G-W131833-00 and 40G-W131834-00 Recorded Owners: Earl T. Colby & Edmund J. Osler

Triple © Farms Box 396 Chester, MT 59522

Æ∋ar Folks:

Do you claim any interest to the above water rights? Water right documents have been returned to us because the U.S. Postal Service could not deliver them. Further research on our part shows that you may be the party who is the successor in interest to these water rights.

If you are the present owner of these water rights, please fill out the enclosed water right transfer form and send or take it to your county Clerk and Recorder. Montana Statute 85-2-424 requires that this notice of transfer be filed.

After the Clerk and Recorder has completed processing the water right transfer certificate, you will receive all documents pertaining to the water rights you have transferred. The enclosed Notice of Objection and Request for Preliminary Hearing on the Sage Creek Preliminary Decree is for your immediate information concerning adjudication proceedings in your area. Please be aware of specific deadlines that are set in this notice.

If you are not the present owner (successor in interest) or choose not to maintain entitled interest, we would appreciate having that information for our records.

Please contact this office at (406)265-5516 if you need further information. Thank you for your attention to this matter.

Sincerely.

Roy C. Jones

Water Rights Specialist Havre Water Rights Bureau

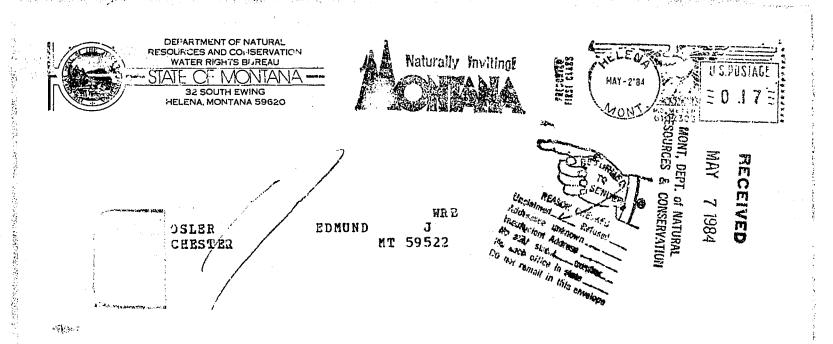
RCJ

Enclosures: Water Right Transfer Cartificate Form

Notice of Objection and Request for Prominary Hearing on

the Sage Creek Preliminary Decree Abstract of above water rights

admitted from a



BASIN 406

ORDER AND WATER MASTER REPORT DATES 8/27/89

IN THE WATER COURTS OF THE STATE OF MONIANA

LOWER MISSOURI DIVISION

SAGE CREEK

IN THE MATTER OF THE ADJUDICATION CF THE EXISTING RIGHTS TO THE USE OF ALL THE WATER, BOTH SURFACE AND UNDERGROUND, WITHIN THE SAGE CREEK DRAINAGE AREA INCLUDING ALL TRIBUTARIES OF SAGE CREEK IN LIBERTY AND HILL COUNTIES, MONTANA.

Case No. 40G-1

ORDER

After having reviewed the Master's Report of August 27, 1984, and being satisfied with the Findings of Fact and Conclusions of Law contained in the Report, it is

ORDERED that the report be adopted. DATED this $27 \, \text{M}$ day of August, 1984.

W.W. Lessley, Chief Water Judge

cc: F. Patrick Barry
 Lynn Eby/ Tom Luebben
 Ted Meredith
 John Windy Boy

IN THE WATER COURTS OF THE STATE OF MONTANA LOWER MISSOURI DIVISION

SAGE CREEK

IN THE MATTER OF THE ADJUDICATION OF THE EXISTING RIGHTS TO THE USE OF ALL THE WATER, BOTH SURFACE AND UNDERGROUND, WITHIN THE SAGE CREEK DRAINAGE AREA INCLUDING ALL TRIBUTARIES OF SAGE CREEK IN LIBERTY AND HILL COUNTIES, MONTANA.

Case No. 40G-1

WATER MASTER'S REPORT
REGARDING ISSUANCE OF A PRELIMINARY DECREE
IN THE SAGE CREEK BASIN

Procedural Introduction

The United States Department of Justice objected to the December 15, 1983 issuance of a Preliminary Decree for the Sage Creek Basin stating that "the Preliminary Decree for the Sage Creek Basin affects waters which are a part of the United States' claim on behalf of the Cree and Chippewa Indian Tribes of the Rocky Boy's Indian Reservation (Tribes)." Notices of Intent to Appear upon this objection were made by H.E. Sorenson; Thomas E. Leubben of behalf of the Chippewa-Cree Tribe, Rocky Boy's Reservation; Katherine J. Johnson; and Sorenson Farms, Inc. Johnson, Sorenson and Sorenson Farms filed Withdrawals of Notices of Intent to Appear on August 14, 1984 prior to the First Prehearing Conference held at 9:00 a.m. On August 14, at 12:55 p.m. the Water Master signed an Order designating the Preliminary Decree as a Temporary Preliminary Decree, the Order to be expanded.

The United States, in their objection, requested the suspension of the Preliminary Decree during the pendency of negotiations between the Tribe and the State of Montana, saying, the suspension of the Preliminary Decree "does not prevent the Court from issuing an 'Interlocutory Decree or other temporary decree if such a decree is necessary for the orderly adjudication of water rights prior to the issuance of a Preliminary Decree.'

MCA 85-2-231 (1) (d)." The Chippewa-Cree Tribe fil-a a motion asking the Court to "rescind its Order of December 15, 1983... or, in the alternative, upon a showing of extreme administrative necessity, to substitute an Interlocutory Decree for the Preliminary Decree and suspend further proceedings until the requirements of 85-2-231 have been fulfilled."

Relevant Legislation

Montana Statute governing the adjudication process has several sections giving guidance to compacting and adjudication procedures required to protect the integrity of reserved Indian water rights. MCA 85-2-217 reads, in part, "While negotiations for the conclusion of a compact under part 7 are being pursued, all proceedings to generally adjudicate reserved Indian water rights and federal reserved water rights of those tribes and federal agencies which are negotiating are suspended." MCA 85-2-231 (1) (c) and (d) reads, in part:

"The water judge shall issue a preliminary decree. The preliminary decree shall be based on:...

(c) the comments of compacts approved by the Montana legisla are and the tribe or federal agency or, lacking an approved compact, the filings for federal and Indian reserved rights:...

(d) This section does not prevent the water judge from issuing an interlocutory decree or other temporary decree if such a decree is necessary for the orderly administration of water rights prior to the issuance of a preliminary decree."

Also relevant is 1979 Mont. Laws Ch. 697, Sec. 1 declaring as the purpose of enactment of the legislation governing the adjudication process: "to expedite and faculitate the adjudication of existing water rights."

In summary, while a tribe is negotiating regarding its reserved Indian water, adjudication proceedings regarding that water are suspended and those rights, in the form of an approved compact or of filings of claims for such rights are to be included in the Preliminary Decree issued in the particular basin where those rights occur. Further, as both the United States and the Chippewa-Cree Tribe have pointed out, Montana Statute does not prevent the issuance of an Interlocutory Decree prior to the issuance of a Preliminary Decree. Finally, procedures should expedite the adjudication process.

General Issues Before The Court

The Court must first ascertain whether Indian reserved water rights occur in the Basin while negotiations are in process. If that is found, procedures consistent with the flatute must be adopted to protect the integrity of those rights.

Issue #1: The Occurrence of Reserved Indian Water Rights Within The Basin

In support of its objection, the United States Department of Justice submitted exhibits, affidavits, maps and title status reports prepared pursuant to C.F.R. 150.10.

This material shows both that the Chippewa-Cree Tribe is in the process of negotiating its reserved water rights with the State of Montana (exhibit 4) and the presence of Indian reserved water within the basin.

An analysis of the latter finding is necessary. Exhibit 1C shows the existence of 120 acres in Sections 13 and 14 of Township 3O, Range 13 East lying directly across Sage Creek as it flows into the Big Sandy River. Exhibit 2B, a United States Department of the Interior map, shows this to be within the Rocky Boy's Indian Reservation. The file also shows that this land was withdrawn from the public domain and added to the Rocky Boy's Indian Reservation by Act of Congress. 53 Stat. 552. An undetermined amount of this tract is within the Sage Creek Basin. Does the presence of this land make a showing of Indian reserved water rights within the Sage Creek Basin?

Indian reserved water rights appurtenant to an Indian Reservation created out of public lands have been found by implication where water is necessary to satisfy the purpose of that reservation. Winters v. the United States, 207 U.S. 564 (1908). Report from Simon H. Rifkind, Special Master, to the Supreme Court in Arizona v. California, 257 (Dec. 5, 1960).

When <u>Winters</u> was followed in <u>Arizona v. California</u>, 373 U.S. 546 (1963), decree entered, 376 U.S. 340 (1964), the Court explained the Winters Case in this way: "The Court in Winters concluded that the Government, when it created Indian Reservations, intended to deal fairly with the Indians by reserving for them the water without which their lands would have been useless."

Indian lands to which the concept has been applied are reservation lands to which Indians have retained use and occupance after ceding surrounding lands to the United States Government, Winters, as well as Reservations created by Executive Order and Act of Congress, additional situations in Arizona v. California.

The land specified in 1C clearly fits within a framework found by the United States Supreme Court to be subject to reserved Indian water. It is land withdrawn from the public domain by Act of Congress to be added to the Rocky Boy's Indian Reservation. The United States Government was unable to inform the Court of the history of title of any of these tracts, but even if this particular piece of land had been removed from and returned to trust status, it is the subject of a reserved Indian water right. United States v. Anderson, (9th Cir. July 10, 1984.)

It is unnecessary to determine whether the usual standard of irrigable acres exists upon these 120 acres. Such a demand was not made in Winters. In Arizona v. California, water needs related to agriculture, stock and domestic uses were found to be purposes for which those arid, agricultural reservations were created. (Rifkind Report, p. 260). Such uses can be assumed to be present on these 120 acres without a factual inquiry. It is also unnecessary to ascertain whether the other five tracts of land are subject to federal reserved water rights. Although further proof is needed to ascertain the presence of Indian reserved water on those lands, the issue is the presence of any Indian reserved water within the basin.

Issue #2: Procedures Required By The Occurrence of Indian Reserved Water in the Basin

What proceedings, then, are required to accommodate the occurrence of Indian reserved water within the Sage Creek Basin? And beyond the required procedures, what should be done to best protect the interests of all parties?

The motions before the Court are in essence ones for a rescission of the Preliminary Decree, issuance of an Interlocutory Decree with no continued proceedings, or issuance of an Interlocutory Decree with the possibility of continued proceedings. All of these motions would result in issuance of a Preliminary Decree incorporating Indian reserved water rights at a later time.

The following arguments are made to the Court: The Tribe asserts that, 1) the Water Court lacks jurisdiction to issue a Preliminary Decree as defined by MCA 85-2-231, until Indian water rights are included in the form of a compact or claims filed with the Court, 2) because it is unable to participate fully in hearings on a Preliminary Decree, the Tribe is deprived of due process, and 3) hearings on the Preliminary Decree in the absence of full participation of the parties claiming reserved rights constitutes a piecemeal adjudication for which the Court lacks jurisdiction under the McCarran Amendment. In its brief, the Tribe also asserts that an Interlocutory Decree could be issued only upon a showing of administrative necessity or extraordinary circumstances. As part of its due process argument, it also asserts that there are no procedures in place for an

Interlocutory Decree and fears that future litigation could deprive the Tribe of an opportunity to be heard upon objections to the Preliminary Decree.

The Justice Department argues that once a determination is made that a Tribe is negotiating with the State and that waters are to be the subject of claims for Indian reserved water rights, the Court may not proceed to adjudicate such rights.

It is necessary to examine the motions before the Court and the procedures provided by statute and Water Court rule for each, in light of the issues raised by the Justice Department and the Tribe.

Suspension of the Preliminary Decree and Issuance of Interlocutory Decree and Proceedings

This motion is made by the Justice Department, should issuance of an Interlocutory Decree be necessary for the orderly administration of water rights. Contrary to the Tribe's understanding, procedures are in place for such proceedings.

Water Court rule 10 provides that an Interlocutory Decree be subject to identical procedures as provided by statute and rule for a Preliminary Decree. Such procedures are now in place in basins now being adjudicated. A 90 day objection period follows the issuance of an Interlocutory Decree, notice is then given to everyone in the basin that objections have been made and opportunity given for persons to give notice of intent to appear upon those objections, and hearings are then held upon objections. Findings of Fact and Conclusions of Law resulting from these controversies are incorporated with the contents of compacts or

claims for federal reserved water rights in a Preliminary

Decree. The same objections and notice procedures then follow.

In this procedural scheme, objections following a Preliminary Decree can be made only to those water rights affected by the addition of federal reserved water rights. Water Court rule 6 reads, in part:

"Procedure for Filing Objections to the Preliminary Decrea: 1. A person named in a preliminary decree, or other person for good cause shown, may object to the preliminary decree and request a hearing before the Water Courts. For purposes of filing an objection, "good cause shown" shall include: A showing that one has a substantial reason for objecting, which means that the party has an interest that has been affected by the preliminary decree and that the objection is made in good faith, is not arbitrary, irrational, unreasonable or irrelevant in respect to the party objecting." (emphasis added).

Claimants have a period after the issuance of the Interlocutory Decree to object to any interest affected. The Preliminary Decree, adding federal reserved water rights, can affect the claimant of appropriated water only insofar as the addition of federal reserved water rights has such an affect. Claimants of federal reserved water rights, not having been involved in an Interlocutory Decree, are impacted by the entire Preliminary Decree, including appropriative rights interlocutorilly determined, and can object to any "interest that has been affected by the Preliminary Decree."

The two-step procedure has the effect of changing only the timing of objections. If all claims in a basin are initially incorporated in a Preliminary Decree, objections of appropriative claimants to the impacts of appropriative rights and federal reserve rights would be made at the same time. More objections

might be made at one time. In the two-step procedure, objections by appropriative claimants to the impact of other appropriative rights and of federal reserve rights are seperated. Whether the process is done in one or two steps makes no difference to the claimant of federal reserve water rights.² In either case, all objections are made upon issuance of a Freliminary Decree.

A suspension of the Preliminary Decree and issuance of an Interlocutory Decree, with Indian reserve water rights to be incorporated in a future Preliminary Decree, solves problems of the Court's jurisdiction to issue a Preliminary Decree.

And because the Tribe could initiate objections to any aspect of the Preliminary Decree, it would participate fully in statutory hearings and would suffer no denial of due process.

Suspension of the Preliminary Decree and Issuance of an Interlocutory Decree With No Attendant Proceedings

It is unlikely that the legislature would contemplate the issuance of Interlocutory Decrees with no attendant proceedings. But assuming the Court did proceed in this manner, would such a procedure be more advantageous for the Tribe? Current objections before the Court would proceed no further until a Preliminary Decree incorporating the interim proceedings and federal reserved

²In any procedure adopted, Findings of Fact and Conclusions of Law, should assure participation in the Preliminary Decree by claimants of Indian reserved water found instead to be owners of appropriative rights. Those claimants could not have anticipated their need to make appropriative claims and could not have included claims prior to entry of a Preliminary Decree.

water rights were issued. Additional objections could be made by appropriative claimants to the impacts of Indian reserved water rights and claimants of reserved Indian water rights would make objection to the entire Preliminary Decree, the identical procedure that would obtain should proceedings upon an Interlocutory Decree continue. One difference occurs: Controversies vis-a-vis appropriative claimants could not be settled as quickly with attendant problems such as witness availability.

Recision of the Preliminary Decree

The Tribe seeks a recision of the Preliminary Decree, to be reissued at a later time when reserved Indian water rights can be included. Following the Justice Department's objection to the Preliminary Decree, statutes and rules governing the Water Court demanded that a period of time be observed in which interested persons could file Notices of Intent to Appear upon that objection. During that period, four such notices were filed. Three were withdrawn just before the first scheduled prehearing conference in the matter, leaving only the United States Justice Department and the Chippewa-Cree Tribe before the Court. At that time, when the Water Court could rule upon the Justice Department's objection or the motions made by the Tribe, 157 objections had been filed and numerous Notices of Intent to Appear upon those objections had been made. A decision to rescind the Decree would have the effect of duplicating the time and effort that has been made toward adjudication of the Basin. That should not be considered, however, if a recision

is necessary to protect Indian reserved water rights and to conform to the statute, especially when the Tribe is without fault in this matter, and was as powerless as the Court to expedite the process.

The Remaining Issues

I now address the remaining issues raised by the Chippewa-Cree Tribe in light of the proceedings available to the Court. They are: 1) the necessity of issuing an Interlocutory Decree, 2) the possibility of future litigation impacting upon the Tribe, 3) the impact of such proceedings upon jurisdiction granted by the McCarran Amendment, and 4) facilitation of the adjudication process.

The Necessity of Issuing an Interlocutory Decree

The Justice Department asserts that such a decree can be issued if necessary for the orderly administration of water rights prior to the issuance of a Preliminary Decree, the language of the statute. The Tribe asserts that an Interlocutory Decree should be issued only upon a showing of administrative neces ity or extraordinary circumstances.

It is not necessary for the Court to show extraordinary circumstances, but in this case, such a showing may actually be made. Issuance of an Interlocutory Decree for the protection of claimants of Indian water rights is at least a necessity. In fact, such extraordinary action should be taken for the protection of those rights.

The Possibility of Future Litigation Impacting Upon the Tribe

The tribe may be concerned about protection of its rights in any future litigation regarding procedures adopted by the Court. (See end of paragraph one of the Tribe's brief in support of its motion).

Following the objections of the Justice Department and others to the Preliminary Decree, each claimant in the Basin, federal entities, affected States, affected Indian Tribes, owners of newly appropriated water in the Basin, persons to whom water right transfers were made, and any other person who had requested notice, received a notice that objections had been made and hearings requested. In addition, the notice was published in area newspapers. (Copies of the Order for mailing and the notices are enclosed). All these persons were informed of the availability of a list of those objections. The list was available for inspection in seven places in the Sage Creek Basin and throughout the State. In addition, copies of the list were obtained from the Court. The first objection on the list was that made by the Department of Justice, designating the objection as "reserved Indian rights located in Basin". (A copy of the list is attached). Persons then had 60 days to give the Court notice of an intent to appear upon objections. Nine attorneys, other than those involved in this case, are involved in objections in the Sage Creek Basin and 16 claimants represent themselves in objections and notices of intent to appear upon objections. All of these people presumably acquainted themselves with objections in the Basin. Three persons other

than the Chippewa-Cree Tribe did file notices of intent to appear regarding the Justice Department's objection and then withdrew.

Notice of this matter was given to the basin and no one has chosen to become involved. Is future litigation regarding this matter, by others than the Justice Department or the Chippewa-Cree Tribe, likely or even possible? Statutes and rules governing the Water Court would preclude appeals by appropriative claimants.

Extraordinary writs may be available. But one can only guess about the litigation that would result from any of the Courts possible decisions. Why would it be assumed that less litigation would follow the recision of the Preliminary Decree or the suspension of all proceedings than concluding matters before the Court an interlocutory basis?

The Impact of Such Proceedings Upon Jurisdiction Granted by The McCarran Amendment

The Tribe asserts that McCarran Amendment requirements of a general adjudication can be satisfied only by a recision of the Preliminary Decree or issuance of an Interlocutory Decree with a stay of all proceedings. (See page 2 of the Tribe's brief in support of their motion). Would the Justice Department's motion for a suspension of the Preliminary Decree and issuance of an Interlocutory Decree with continued proceedings meet McCarran Amendment requirements?

In <u>U.S. v. District Court for the County of Eagle</u>, 401 U.S. 520 (1971), Justice Douglas held that proceedings supplemental to a general adjudication were part of a general adjudication

within the meaning of the McCarran Amendment, even though problems of absent parties might arise. A stay of the Preliminary Decree while some appropriative issues are settled interlocutorily, with objections again available to interests impacted by a Preliminary Decree would satisfy McCarran Amendment requirements of a general adjudication. Although some issues are determined first, all water users in the water shed are in Court at the same time. Miller v. Jennings, 243 F. 2d 157, 159 (1957), quoting People of the State of California v. U.S., 235 F. 2d 647 (9th Cir. 1956).

Although substantive McCarran Amendment requirements of a general adjudication are satisfied, the possible inconvenience of making and meeting objections twice are apparent. But the inconvenience falls solely on appropriative claimants, not claimants of Indian water rights.

Facilitation of the Adjudication Process

It is the intention of the Montana legislature that the adjudication process be expedited. But it is also intended that all proceedings to generally adjudicate reserved Indian water rights of negotiating Tribes are suspended. Facilitation must be read as facilitation of that which is demanded, or facilitation after that is done which is demanded.

Conclusion

All three of the motions before the Court would cure the defect of the Sage Creek Preliminary Decree issued on December 15, 1983. Either a suspension or a recision of that decree,

to be reissued when reserved Indian water rights can be added, would satisfy the requirements of suspension of the general adjudication of those rights. Which procedure, then, would be best for all claimants within the Basin, and, relatedly, which would be most expeditious?

Any of the three possible procedures would have the same impact upon claimants of Indian water rights. Their work would begin when a Preliminary Decree is issued containing their rights. If they really fear litigation, a recission would be expected to be the option most likely to trigger that result. A suspension with continued proceedings could have one slight advantage. Many issues of incorrect priority dates, flow and volume will have been raised and corrected before their involvement.

Appropriative claimants will be most affected. A recission would result in the reissuance of the December 15, 1983 decree with addition of reserved Indian water rights. These claimants would then start from scratch and make appropriate objections to that decree. An Interlocutory Decree, with the continuation of proceedings of objections before the Court, will have the same impact upon appropriative claimants as an Interlocutory Decree with a complete stay - a second round of objections must be made and met. But should proceedings continue, witnesses and evidence will be preserved in some cases.

No appropriative claimants are before the Court to tell us which route is best. But is seems logical that a recission would be most prejudicial, a complete stay somewhat prejudicial

and the suspension of the Preliminary Decree and issuance of an Interlocutory Decree with continued proceedings least prejudicial. If claimant effort is related to facilitation, that choice is also the most expeditious.

For the above reasons, the Water Master respectfully submits that the Preliminary Decree issued December 15, 1983 in the Sage Creek Basin be suspended until claims for reserved Indian water rights or the contents of a compact regarding Indian reserved water rights are incorporated in a Preliminary Decree pursuant to MCA 85-2-231; that all proceedings to generally adjudicate Indian reserved water rights be suspended until issuance of the Preliminary Decree; that the Court declare the December 15, 1983 Preliminary Decree to be an Interlocutory Decree; that objections currently before the Court and notices of intent to appear made upon those objections proceed as interlocutory proceedings; and that the following Findings of Fact and Conclusions of Law be adopted.

FINDINGS OF FACT

1.

Reserved Indian water rights occur in the Sage Creek Basin and the Chippewa-Crec Tribe is engaged in negotiations with the State of Montana regarding those water rights.

2.

It is necessary and appropriate for the Court to suspend the Preliminary Decree issued in the Sage Creek Basin on December 15, 1983, and to suspend any proceedings to generally adjudicate

reserved Indian water rights within the Basin until issuance, pursuant to MCA 85-2-231, of a Preliminary Decree based on the contents of compacts regarding reserved Indian water rights or claims for reserved Indian water rights.

3.

It is necessary for the orderly administration of water rights prior to the issuance of a Preliminary Decree, that an Interlocutory or Temporary Decree be issued in place of the Preliminary Decree issued on December 15, 1983.

4.

Proceedings upon objections made to the December 15, 1983
Sage Creek Preliminary Decree continue as interlocutory
proceedings. This does not harm claimants of reserved Indian
water rights and is less harmful to appropriative claimants
than other options available to the Court.

5.

Interlocutory proceedings are governed by Water Court
Rule #11. The same rules and statutes that govern procedure
following a Preliminary Decree apply to procedures following an
Interlocutory Decree.

6.

A Preliminary Decree issued following interlocutory proceedings will contain water rights not objected to as granted in the December 15, 1983 decree, water rights objected to as temporarily determined in interlocutory proceedings, and claims for Indian reserved water rights or compacts regarding Indian reserved water rights.

Following the issuance of a Preliminary Decree, objection may be made, pursuant to Water Court Rule 6, for a substantial reason, including having an interest that is affected by the Preliminary Decree. Upon issuance of a Preliminary Decree following an Interlocutory Decree, objection can be made only to interests affected by the addition of claims for Indian reserved water rights or the contents of Indian reserved water right compacts incorporated in the decree. Opportunity has already been had for objection upon all other aspects of the Preliminary Decree.

CONCLUSIONS OF LAW

l.

The Court has jurisdiction over this matter pursuant to MCA 85-2-211 through MCA 85-2-243.

2.

The Chief Water Judge has jurisdiction over this matter pursuant to MCA 3-7-224.

3.

Findings of Fact and Conclusions of Law that are part of the Preliminary Decree issued December 15, 1983 in the Sage Creek Basin are generally adopted for interlocutory proceedings except that references to a Preliminary Decree are to be disregarded.

4.

All Findings are merged with these Conclusions of Law to give them the force of law in this Report.

DATED this <u>27</u> day of August, 1984

Sarah Arnott, Water Master