

9/9/2006

Montana Legislative Environmental Quality Council

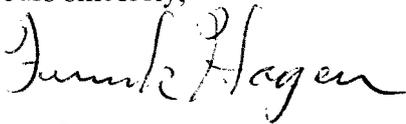
Dear Sirs,

I have lived and ranched on Otter Creek for the last 30 years. My ~~descendants~~^{ancestors} have run cattle that have used the same water continuously for the last 125 years.

In 1975 I filled out Statement of Claim of Existing Water Rights forms for water used by cattle on the ~~private~~^{private} land and the leased Forest Service land of the ranch, and filed them with the ~~NRCS~~^{BUREAU}. Some time later I received notice that my water rights had been recorded for all my claims except for springs and wells on my permitted Forest Service acres. A cover letter from the ~~NRCS~~^{BUREAU} said that I could not claim water that was not located on deeded private land. In light of recent rulings, I would like to know if I do indeed have water rights, that should be filed, that are located on Forest Service land but have been put to beneficial use by my or my ~~descendant~~^{ancestors}'s cows for the last 125 years?

I have attached a letter I received in 1980 from the Forest Supervisor stating that the Forest Service would file for all water rights on the Forest to protect the permittees' rights.

Yours sincerely,



Frank Hagen
Horse Creek Ranch
HC71 Box1212
Ashland, MT 59003
(406)784-2498

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE

Custer National Forest
P.O. Box 2556
Billings, MT 59103

2540

July 16, 1980



Horse Creek Ranch
Ashland, MT 59003

Forest Service Permittees (Montana)

I would like to take this opportunity to explain our plans to file for vested water rights required by the Water Use Act, as amended by the Montana State Legislature in 1979. Vested water rights are those in which water has been put to beneficial use prior to July 1, 1973. The Water Use Act, as amended, requires the filing of claims for vested water rights by January 1, 1982.

Our records indicate that you use water on the Custer National Forest in conjunction with activities authorized by your grazing or special use permit. The Forest Service will file claims for all consumptive water uses on the National Forest, including uses related to your permit, to satisfy the requirements of the law. Consumptive uses include such things as stock water, domestic use for summer homes, and irrigation. In addition to filing these claims, the Forest Service will also pay any filing fees that may be required.

Our objective in filing for these water rights is to protect present and future permittees' rights to the amount of water required to make appropriate use of their permit. It is our policy that the Forest Service should file these claims, because quality National Forest management can best be assured by keeping the use of land and water under the same administrative authority.

We will inform you of action taken by the State of Montana on our claims for water used in conjunction with your permit. If additional information is required, we will be contacting you. Should you have questions concerning Forest Service policy or wish advice on this matter, please contact the following Forest officer:

District Ranger Mitchell

Ashland Ranger District

Ashland, MT