



Blake Creek Project Management

Natural Resource Consultants

To: Water Policy Interim Committee

From: Krista Lee Evans

RE: HB 110 Implementation comment for November 21, 2019 Conference Call

Date: November 21, 2019

Thank you for the opportunity to provide written comment regarding concerns and issues that Blake Creek Project Management has encountered through its work with various water users across Montana in the HB 110 process.

I commend DNRC on the valiant effort to date to get all the information from the exempt from filing claims entered into the database. I understand the Department's desire to enter a minimal amount of information as a means of identifying workload and how that will fit in with pending decrees. While most are looking forward to completing the adjudication as soon as possible they also recognize the importance of accuracy in the adjudication. The current process is to meet unspecified decree deadlines rather than using the Supplemental Decree process that is provided for in statute. I have expressed the concerns outlined below to DNRC and I feel it is critical that the legislature be informed as well. Outlined below are my primary concerns (in no order).

(1) Issue remark stating filing date.

Background: All issue remarks must be finally resolved by the Water Court prior to final decree (85-2-248, MCA). Section 85-2-248 provides that even if there isn't an objection the court must resolve the issue. In the recent past, the Water Court has addressed this through putting claims (even though they didn't receive an objection but have an issue remark) on the objection list for a decree. Until the 2019 session (**SB 151**) the DNRC/Water Court policy **Example 1** was that the exempt from filing claim being included in the objection list was adequate public notice. SB 151 removed this assumption and made it very clear that if an exempt from filing claim was not included in the preliminary decree it MUST BE included in a supplemental decree.

The Issue - 1: Prior to the 2019 session, in order to force the database to "flag" the exempt from filing claim so that it would appear in the objection list (considered adequate public notice at the time) the Water Court had to have an issue remark on

the abstract so one was added that was a “filed on” date. The Water Court is not precluded from adding issue remarks, but it is important to note that this “issue” is not provided for in the MT Supreme Court Claim examination rules. However, when the Court takes actions outside of the Claims Examination rules there can be consequences such as the multiple Bean Lake cases where there was a remark on one particular claim that ended up being incorporated into DNRC’s examination process and being applied to ALL fish and wildlife claims. This resulted in substantial cost and litigation clear to the MT Supreme Court. Arguably, the “date” issue remark has been (and continues to be) placed on exempt from filing claims for the sole purpose (based on the DNRC policy guidance) of forcing the claim into the water court objection list. Of even greater concern is that when the claim shows up in the water court objection list it shows a “priority date” issue when that isn’t truly the case. [Example 2](#).

As a result, exempt from filing claimants are forced to hire consultants and attorneys to help them get the issue remark for “priority date” removed from their claim when in reality that isn’t even a real issue on the claim but rather a database work around so the claim shows up in the water court objection list.

If all the exempt from filing claims show up on the water court objection list, then this significantly increases the Court’s workload in finally resolving all issue remarks. Because there will be cases in front of the court **this also significantly increases costs for claimants.**

An additional concern with this practice is that exempt from filing claims for instream stock and/or domestic are being treated differently than the exact same type of claim that was filed in the original claim filing period. This means that not all claims are being treated equally – to the disadvantage of those filing exempt from filing claims under the most recent process.

The Solution: DNRC and Water Court stop adding the “filed on” or “postmarked on” or “received on” issue remark as it serves no purpose. A claim is either timely filed or it isn’t.

The Issue - 2: If the Court and DNRC do not stop adding this issue remark (as noted above) then there are serious consequences that have become apparent. Currently, not all exempt from filing claims are receiving abstracts – in fact some aren’t even showing up in the DNRC database. A few of our clients have received abstracts. For those that have received abstracts we have identified a very serious area of concern -- the filing date remark that is being added to the abstract. Section 85-2-222, MCA provides for that the claim must be postmarked or received by June 30, 2019. In the instance attached as [Example 3](#) you will see that this claim was postmarked prior to June 30, 2019 (meeting the statutory requirements) yet the remark states that the claim was “filed on July 1, 2019” which is clearly past the statutory deadline. This issue remark that is ON THE ABSTRACT is clearly in error and without more information (which in 50 years may or may not exist) it would

essentially state that this claim was filed late – which it was not. Depending on which regional office that received the mailed claim, there may not be an envelope with the postmark on it to accurately reflect when the claim was sent as required by the statute. Inaccurate statements on the abstract are inexcusable as the evidence of when the claim was postmarked may have been destroyed by the department or regional office.

Claims for the exact same type of use that were filed in the original claim filing did not receive a “filed on” issue remark. The exempt from filing claims are being treated differently than other claims that were previously legally filed for the exact same purposes.

The Solution: This dating issue remark needs to be removed. Absent the elimination of this type of issue remark solely because it is an exempt from filing claim --- the remark needs to be fixed on all previously entered exempt from filing claims immediately. The implications to the claimant’s property right is severe and could result in loss of the claim due to nothing other than an inaccurate statement being placed on the abstract. If a date is going to be entered as an issue remark on the abstract, then it should match the statutory requirement of the “postmarked date” or the “received date” for those that were hand delivered to offices.

The Issue: We worked with clients to research and analyze their water right claims and assist in development of the claims that they submitted. In at least one instance, the claims were hand delivered. None of those claims were stamped as received by the Department employee.

The Solution: This dating issue remark needs to be removed. Absent the elimination of this type of issue remark solely because it is an exempt from filing claim --- the regional offices need to go back through all the exempt from filing claims that they received and ensure that they are stamped received on the date that they were submitted. Without this date stamp there is no way of determining whether the claims were timely filed. Additionally, if the department is going to put a remark on the abstract as noted above, how will they know what date to put on there if the claim was not stamped as received? This creates inconsistencies in the claims and is not a fair application of the statute.

(2) Inconsistencies between regional offices.

The issue: Exempt from filing claims and the claimants are being treated differently between regional offices. In some instances, claimants receive a letter from the DNRC along with draft abstracts asking the claimant to check the claims for accuracy. In other offices, a minimal amount of information is being entered, the claims don’t appear on the DNRC water rights query, and the claimant doesn’t receive any notice or drafts from the DNRC office. The fact that information is not being entered accurately or completely

is known to DNRC – in fact they reference it on the water rights query website. Please see [Example 4 and Issue-2 above](#). This is not applying the process fairly across all claimants.

The Solution: DNRC needs to develop clear, written policy to provide to regional offices and claimants (upon request) so that all employees and all offices are treating the claims equally. In addition to providing the policy, DNRC management needs to provide periodic spot checks and reviews to ensure that the policy is being implemented properly and consistently across all regional offices. This written policy will also provide clear guidance to claimants on what to expect.

While we respect the DNRC and Water Courts intentions of finishing the adjudication as quickly as possible it cannot be done at the expense of accuracy and impacts to claimant's property rights. DNRC and the Water Court need to recognize that not all exempt from filing claims will be able to be included in the preliminary decrees. Entering inaccurate information for the purpose of expediency at the cost of accuracy is unacceptable. The supplemental decrees are provided in statute to address this exact issue.

(3) Inaccurate/incomplete information being entered into the DNRC database.

The issue: In an attempt to get as many claims entered into the database as quickly as possible, the DNRC has compromised accuracy by inputting minimal information and in numerous instances inaccurate information into the database. The fact that information is not being entered accurately or completely is known to DNRC – in fact they reference it on their water right query website. Please see [Example 4](#). We recognize that the DNRC intends to clean up the exempt from filing abstracts when they examine each basin. However, that approach just doesn't work. This is a problem because:

- (a) it doesn't recognize that there are water and land transactions that will occur prior to examination and the abstract associated with the water rights on the property are not accurate.
- (b) We filed over 100 exempt from filing claims in Basin 43BV. Basin 43BV is due to have the re-examined basin decree issued in January 2020. None of the exempt from claims that were filed appear in the water right query system. However, they can be found in the WaterSage B3 system. The elements that appear (that we can find on WaterSage) are:
 - Water right number

- Owner
- Priority (This element reads the same in all exempts that we filed for this claimant and **IS IN ERROR**).
- Source Name, Source Type
- Point of Diversion, Quarter Section, Section, Township, Range, County (THE COUNTY IS THE SAME ON EVERY CLAIM AND **IS IN ERROR**)
- Means of diversion

NO PURPOSE OR PLACE OF USE has been entered, thus, THERE ARE NO GEOCODES which means the transfer process will most likely be compromised.

Please look at [Example 5](#). The parcel associated with this claim falls in two counties. Without the place of use entered it is difficult to determine which of the counties (if not both) it falls in. Remember: Instream stock can run for miles. With just a single point of diversion reflected on what we were able to dig out of Water Sage (since there is not a record of the claim in the water rights query system). It is hard to validate the DNRC data entry with the paperwork that was filed by the claimant.

- (c) Blake Creek filed over 140 claims for a claimant. These claims fall in 5 basins. As entered by DNRC, all the claims that we filed have the SAME priority date and they have the same county in the point of diversion. Both the priority date and county are inaccurate on at least some of the claims. There isn't enough information to definitively say which are right and which are wrong.
- (d) The Montana adjudication has experienced the situation where the "claimant" is no longer available to help discuss and/or clarify their claim. By delaying entering the information as claimed into the database this creates a potentially significant disadvantage for claimants and creates an increased workload for DNRC and the Court in the future.
- (e) Claimants recognize that there will be human errors associated with entering the information into the database. In many instances the claimants have paid consultants and/or attorneys to help them with filing their exempt from filing claims. Without accurate information being entered into the database there is no mechanism for the claimants to work with their current experts to ensure the accuracy before the claims are decreed.

The solution: Slow down and enter the information into the database as claimed. We are very concerned with “garbage in – garbage out” and the consequences that will be faced by the claimants that we work with. The Water Court can continue to issue decrees and in instances where there are exempt from filings outstanding, they can issue a supplemental decree. We recognize that this one more process in the adjudication, but we feel that it is not worth compromising the accuracy of the claims and adjudication process.

Referenced Statutes:

85-2-222. Definition -- filing process -- notice. (1) As used in this section, "exempt right" means those claims for existing rights for livestock and individual uses as opposed to municipal domestic uses based upon instream flow or ground water sources and claims for rights in the Powder River basin included in a declaration filed pursuant to the order of the department or a district court issued under sections 8 and 9 of Chapter 452, Laws of 1973, or under sections 3 and 4 of Chapter 485, Laws of 1975. An exempt right is exempt from the filing requirements of **85-2-221(1)**.

(2) A person claiming an exempt right:

(a) may file with the department no later than June 30, 2019, a statement of claim for each water right asserted;

(b) shall submit information required by **85-2-224(1)** and (2) on a form provided by the department; and

(c) shall pay the fees pursuant to **85-2-225**.

(3) A claim of an exempt right constitutes prima facie proof of its content.

(4) The provisions of **85-2-233**, **85-2-243**, and **85-2-248**, as well as supreme court examination rules, apply to any statement of claim of an exempt right filed under this section.

(5) Failure to file a claim for an exempt right under this section:

(a) does not result in the forfeiture of an existing water right; and

(b) subordinates the existing right to all other water rights except those exempt rights for which a claim has not been filed.

(6) Notice of the filing deadline provided in subsection (2) must be published by the department once a week for 2 consecutive weeks in a daily newspaper of general county circulation. The notice must be clearly posted in each county courthouse. The department shall send to the last-known address of each unique property owner a written notice of the filing deadline and a claim form at least once by July 1, 2017.

(7) The department may not accept any statements of claim submitted or postmarked after June 30, 2019. The department shall notify a person who files a claim after June 30, 2019, that the person's claim will not be accepted.

(8) All fees collected under this section must be deposited in the account established under **85-2-280**.

History: En. Sec. 11, Ch. 697, L. 1979; amd. Sec. 1, Ch. 323, L. 2013; amd. Sec. 3, Ch. 338, L. 2017.

85-2-248. Resolution of issue remarks other than by objection. (1) In resolving issue remarks other than through the objection process provided for in **85-2-233**, the water court shall proceed as provided in this section.

(2) All issue remarks to claims that are not resolved through the filing of an objection as provided in **85-2-233** must be resolved as provided in this section.

(3) The water court shall review each factual or legal issue remark not resolved as a result of the filing of an objection to determine if information in the claim file or information obtained by the court provides a sufficient basis to resolve the identified issue remark or to determine if the issue remark can be corrected as a clerical error.

(4) If an issue remark cannot be resolved pursuant to subsection (3), the water court shall notify the claimant in writing that each factual or legal issue remark must be resolved as provided in this section.

(5) (a) The water court shall require the claimant to confer with the department in an informal effort to resolve any identified issue remarks.

(b) If an issue remark is resolved to the satisfaction of the department and the claimant, the claimant, with the assistance of the department, shall prepare and file any documents that are needed to support the resolution. The department shall file a separate memorandum with its recommendation regarding the disposition of any issue remarks involved in the proposed resolution.

(c) If an issue remark is not resolved, the department shall file a notice with the water court informing the water court that the issue remark was not resolved.

(6) The water court shall schedule proceedings to resolve all issue remarks that remain unresolved pursuant to subsections (2) through (5). All proceedings must include the department pursuant to **85-2-243** and any parties appearing in opposition to the claim, including the attorney general if the attorney general has intervened.

(7) (a) If an unresolved issue remark involves nonperfection or abandonment, the water court shall join the state of Montana through the attorney general as a necessary party to resolve the issue remark. The water court shall notify the attorney general of the joinder.

(b) Except as provided in subsection (7)(a), for any claim containing an issue remark that has not been resolved pursuant to subsections (2) through (5), the attorney general may intervene as a matter of right.

(c) The attorney general may adopt rules to implement the responsibilities and duties of the attorney general imposed by this section.

(8) The water court shall hold an evidentiary hearing on any issue remark that remains unresolved pursuant to subsections (2) through (7).

(9) If a claimant fails to appear at a scheduled evidentiary hearing or fails to comply with an order issued by the water court in its review of issue remarks, the water court, upon motion or its own initiative, may, in its ruling:

- (a) amend the elements of the claim to conform with the information in the claim file;
- (b) amend the elements in the claim to conform with information obtained by the court;
- (c) remove the issue remark; or
- (d) terminate the claim.

(10) Following the conclusion of the evidentiary hearing and the expiration of any posthearing briefing schedule, the water court shall render its written decision.

(11) Any proposal by the claimant to resolve an issue remark without an evidentiary hearing must be in writing, signed by each owner of the claim at issue, and filed with the water court with any supporting documentation.

(12) The water court's decision on each issue remark that it reviews pursuant to this section must be documented in a master's report or water judge's order. The water court shall modify the abstract of each claim in accordance with its written decision and remove any applicable issue remark.

History: En. Sec. 2, Ch. 526, L. 2005.

EXAMPLE 1

Senate Bill 355 – Exempt Claim Filing Statute

DNRC Processing and Handling Instructions

Basin Statuses are as of 2/14

Note of Caution: Claim file original documents should all remain in the claim file at all times. It is important to unite the original court order granting active status, and the filed stamped copy of the petition, with the claim file as fast as possible. Scanning of claim file contents should be accomplished at both the DNRC and Court's convenience and should not occur until the Court's Order Granting Petition is in the claim file. As the frequency of these filings increases, a proper and consistent handling process will become critical.

At this time, Section 85-2-222(5), MCA specifically bars the DNRC from resolving issue remarks on exempt claims filed through this process. It has been determined that generating a "Review Abstract" in the database initiates the statutory bar against issue remark resolution. Consult with your regional manager to determine proper claim file handling procedures for claims requiring expedited public notice per Section 85-2-233(6), MCA.

1. One decree basins that have already been decreed. (e.g. 40B, 41J, 76F, etc.)

- a. Exempt claims in these basins require expedited handling. These claims should receive examination and (customer paid for) public notice within a reasonable time frame after initial claim filing.
 - i. DNRC and Water Court processing steps are as follows:
 1. DNRC collects all needed information from claimant to complete claim filing process.
 2. DNRC creates claim number record in the database.
 3. DNRC scans and emails the Court petition to the Water Court.
 4. The Court will docket the Petition.
 5. The Court will issue an Order granting active status in the adjudication and directing the DNRC to examine the claim per Section 85-2-243, MCA.
 6. The Court's order will include a deadline for claim examination and the publishing of notice at the Claimant's cost.
 7. The original order and file stamped petition(s) will be sent to the DNRC office where the claim file(s) are being kept.
 8. A copy of the Order will be mailed to the Claimant(s).
 9. Send the claim file to scanning after the Order is received at your convenience.
 10. After claim examination and public notice have been accomplished, the Court will resolve any objections and issue remarks on the exempt claim. Only at this point will the claim be fully decreed and enforceable.

ii. DNRC Claim File Handling Reminders

1. DNRC should keep the original claim filing at the regional office and begin examination as soon as practicable. Scan the claim file after the arrival of the Court's Order granting the petition.
 2. The Court's order will include a deadline for claim examination and the publishing of notice at the Claimant's cost. If the deadline is not met, the DNRC should send a short memo to the Court stating as much and the Court will take action up to and including termination of the claim.
- b. It has also been determined that claims filed after decree issuance, but before the actual close of the objection period, can be publicly noticed through the basin objection list. Allowing for this will require communication between the Court and DNRC regional office. Assuming the DNRC is able to complete claim examination by around the close of the objection period or shortly after the counter-objection period begins, the claims should be able to be included on the objection list.
- i. The steps followed are largely the same as other pre-one decree basins, but compressed given a looming deadline is present from the beginning.
 1. DNRC collects all needed information from claimant to complete claim filing process.
 2. DNRC creates claim number record in the database.
 3. DNRC scans and emails the Court petition to the Water Court.
 4. The Court will docket the Petition.
 5. The Court will issue an Order granting active status in the adjudication and directing the DNRC to examine the claim per Section 85-2-243, MCA.
 6. Because of the timeliness issue, after consulting with the Court regarding time availability, the DNRC should begin examining immediately.
 7. Remember to put the E1 issue remarks on these claims to ensure they are on the objection list. **These are the only claims that require the E1 issue remark.**
 8. The Court's order will set a rolling examination deadline based on the actual close of the basin wide objection period.
 9. The original order and file stamped petition(s) will be sent to the DNRC office where the claim file(s) are being kept.
 10. A copy of the Order will be mailed to the Claimant(s).

11. Send the claim file to scanning after the Order is received and the claim is fully examined.
12. Only at this point will the claim be fully decreed and enforceable.

ii. DNRC Claim File Handling Reminders

1. See Section 1(a)(ii) as it applies to basins with this status as well.
2. The timely completion of claim examination will allow these claims to on the basin wide objection list, satisfying the notice requirements fully. In order to ensure the claim is on the objection list, the DNRC will add an all elements issue remark to provide notice to other water users of the claims existence. Objections and issue remarks will be resolved like any other timely filed claim in the basin.
3. If the Claimant is not participating or some other delay gives rise to the exempt claim not being fully examined and prepared for timely decree, the DNRC should file a memo with the Court explaining why. The Court will issue an order directing the claimant to publish notice at his own cost per Section 85-2-233(6), MCA.

2. One decree basins not yet decreed. (e.g. 76LJ, 76L, 43P, etc.)

- a. Exempt claims filed in these basins will be publicly noticed through the preliminary decree issuance, assuming the DNRC is able to complete claim examination within established deadlines.
 - i. DNRC and Water Court processing steps are as follows:
 1. DNRC collects all needed information from claimant to complete claim filing process.
 2. DNRC creates claim number record in the database.
 3. DNRC scans and emails the Court petition to the Water Court.
 4. The Court will docket the Petition.
 5. The Court will issue an Order granting active status in the adjudication and directing the DNRC to examine the claim per Section 85-2-243, MCA.
 6. The Court's order will NOT specify a deadline for claim examination, but will direct the claimant to work expediently with the DNRC to meet current DNRC deadlines for summary reports, etc.
 7. The original order and file stamped petition(s) will be sent to the DNRC office where the claim file(s) are being kept.
 8. A copy of the Order will be mailed to the Claimant(s).

9. Send the claim file to scanning after the Order is received at your convenience.
 10. After claim examination and the decree objection process have been accomplished, the Court will resolve any objections and issue remarks on the exempt claim. Only at this point will the claim be fully decreed and enforceable.
- ii. DNRC Claim File Handling Reminders
1. See Section 1(a)(ii) as it applies to basins with this status as well.
 2. The timely completion of claim examination will allow these claims to participate in the typical decree issuance notice periods, satisfying the notice requirements fully. Objections and issue remarks will be resolved like any other timely filed claim in the basin.
 3. The DNRC has established deadlines for completion of summary reports and decree issuance in these basins. If the Claimant is not participating or some other delay gives rise to the exempt claim not being fully examined and prepared for timely decree, the DNRC should file a memo with the Court explaining why. The Court will respond accordingly.

3. Two decree basins. (e.g. 76G, 40E, 41H, etc.)

- a. Two decree basins gave rise to the option to publicly notice now at the Claimant's cost or to wait for the preliminary decree issuance and publicly notice the exempt claim through that process.
 - i. If the Claimant elects to expedite the handling of his/her claim and pay for public notice, the DNRC should keep claim file and all originals at the regional office and begin examination upon receipt of the Court's Order. The Claimant should be encouraged to explain why they want the claim(s) expedited on the petition so the Court knows if any external deadlines exist relating to property transactions, distribution controversies, or any other real property disputes affected by the claim(s) being filed.
 - ii. If the Claimant elects to wait for the Preliminary Decree, DNRC should send a copy of the petition to the Water Court. The entire file can be scanned when it's sent to new storage after the Water Court has issued its order. The original will be sent to the DNRC office.
 - iii. Staff should recognize that, based on the petition handling request, there are two separate paths followed for two decree basins.
 1. DNRC collects all needed information from claimant to complete claim filing process.

2. DNRC creates claim number record in the database.
3. DNRC scans and emails the petition to the Court.
4. The Court will docket the Petition.
5. The Court will issue an Order granting active status in the adjudication and directing the DNRC to examine the claim per Section 85-2-243, MCA.
6. Where expedited handling is requested, the Court's order will set both a DNRC examination deadline (approx. 4 months), and a public notice deadline (also approx. 4 months). Where it is not requested, no specific deadline will be set.
7. The original order and file stamped petition(s) will be sent to the DNRC office where the claim file(s) are being kept.
8. A copy of the Order will be mailed to the claimant(s).
9. If the claimant requests expedited handling, send the claim file to scanning after the Order is received at your convenience, but examination should be completed by the deadline ordered by the Court. After examination is complete, send the claim file to the Water Court.
10. After public notice by the claimant has been accomplished, the Court will resolve any objections and issue remarks on the exempt claim. Only at this point will the claim be fully decreed and enforceable.

iv. DNRC Claim File Handling Reminders

1. The DNRC has only just begun to establish deadlines for completion of summary reports and decree issuance in these basins. When these deadlines are established, the DNRC can begin its timely examination of non-expedited exempt claims in these basins. The Court will set no deadlines specific to exempt claims at this time.
2. Where expedited handling is requested, the timely completion of claim examination will allow this claim to proceed forward towards public notice per Section 85-2-233(6), MCA.
3. Expedited handling requests may be rejected by the Court in consultation with the DNRC where second decree issuance is imminent. In that case, the exempt claim filing should be examined in preparation for the second decree issuance. (See Section 2 – One decree basins not yet issued for general guidelines.)

**PRELIMINARY DECREE
GALLATIN RIVER
BASIN 41H
ABSTRACT OF WATER RIGHT CLAIM
IMPORTANT NOTICE**

YOUR WATER RIGHT AS SHOWN ON THIS ABSTRACT MAY HAVE CHANGES FROM YOUR WATER RIGHT AS CLAIMED OR AMENDED. AN ASTERISK (*) HAS BEEN PLACED NEXT TO EACH ITEM CHANGED BY THE MONTANA WATER COURT AFTER ISSUANCE OF THE TEMPORARY PRELIMINARY DECREE OR BY THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION (DNRC) DURING THE PREPARATION OF THIS PRELIMINARY DECREE. THESE CHANGES ARE AUTHORIZED BY THE MONTANA SUPREME COURT WATER RIGHT CLAIMS EXAMINATION RULES OR BY ORDER OF THE WATER COURT.

OBJECTIONS MAY BE FILED ACCORDING TO THE PROCEDURES OUTLINED IN THE DOCUMENT ENTITLED "NOTICE OF ENTRY OF PRELIMINARY DECREE AND NOTICE OF AVAILABILITY."

Water Right Number: 41H 301 [REDACTED] STATEMENT OF CLAIM

Version: 1 -- ORIGINAL RIGHT

Status: ACTIVE

Owners:

[REDACTED]

BELGRADE, MT 59714 8104

Priority Date: DECEMBER 31, 1906

Type of Historical Right: USE

Purpose(use): STOCK

Flow Rate: 3.00 GPM

***Volume:** THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name: GROUNDWATER

Source Type: GROUNDWATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NENWNE	6	1N	4E	GALLATIN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: WELL

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			NENWNE	6	1N	4E	GALLATIN

Remarks:

THE FOLLOWING ISSUES WERE IDENTIFIED BY THE DNRC DURING ITS EXAMINATION OF THIS WATER RIGHT CLAIM.

THIS EXEMPT CLAIM WAS FILED ON 12/13/17. THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 41H DECREE ISSUED 9/26/1985.

A BETTER UNDERSTANDING OF YOUR CLAIMED WATER RIGHT CAN BE OBTAINED BY COMPARING YOUR RIGHT WITH OTHER CLAIMS IN THE BASIN. FOR EXAMPLE, COMPARE PRIORITY DATES, FLOW RATES, VOLUMES, OR ACRES IRRIGATED. ALSO, YOUR WATER RIGHT MAY BE SUBJECT TO WATER RIGHTS IN ADJOINING SUBBASINS OR BASINS AS WELL AS BEING SUBJECT TO OTHER RIGHTS ON YOUR SOURCE OF SUPPLY. FINALLY, YOUR WATER RIGHT MAY BE SUBJECT TO INDIAN RESERVED AND FEDERAL RESERVED WATER RIGHTS.

COMPLETE DETAILS REGARDING THE DNRC PREPARATION OF THIS PRELIMINARY DECREE AND RELATED MATERIALS CAN BE REVIEWED AT THE OFFICE LOCATIONS IDENTIFIED IN THE DOCUMENT ENTITLED "NOTICE OF ENTRY OF PRELIMINARY DECREE AND NOTICE OF AVAILABILITY."

SEE GENERAL FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR FURTHER EXPLANATION OF YOUR CLAIMED WATER RIGHT. THESE FINDINGS CAN BE FOUND AS INDICATED IN THE DOCUMENT ENTITLED "NOTICE OF ENTRY OF PRELIMINARY DECREE AND NOTICE OF AVAILABILITY." IF YOU NEED OBJECTION FORMS, OR HAVE QUESTIONS ABOUT WATER COURT PROCEDURES OR CHANGES TO YOUR RIGHT, YOU CAN CONTACT THE WATER COURT BY CALLING 1-800-624-3270 (WITHIN MONTANA ONLY) OR 1-406-586-4364, OR BY WRITING TO P.O. BOX 1389, BOZEMAN, MT 59771-1389.

**DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
GALLATIN RIVER
BASIN 41H
INDEX OF CLAIMS WITH ISSUE REMARKS**

TRIB Values MP= Manmade Pit, NP=Natural Pit, SD=Secondary Diversion, SI=Subirrigation, SP=Spring, WS=Waste & Seepage, UT=Unnamed Tributary

WATER RIGHT ID	VERSION STATUS	USE ST	FLOW RATE	VOLUME (AF)	ACRES	ENFORCEABLE PRIORITY DATE	TRIB	SOURCE NAME	OWNER NAME
41H 301		ACTV DM			0.50	10/15/1971		GROUNDWATER	
		EXEMPT CLAIM (HB110) ISSUE		THIS EXEMPT CLAIM WAS FILED ON 11/17/2017. THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 41H DECREE ISSUED 9/26/1985.					
		FLOW RATE ISSUE		NO QUANTIFIED FLOW RATE HAS BEEN CLAIMED.					
		VOLUME ISSUE		NO VOLUME HAS BEEN CLAIMED.					
41H 301		ACTV ST						SPRING	
		EXEMPT CLAIM (HB110) ISSUE		THIS EXEMPT CLAIM WAS FILED ON 11/17/2017. THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 41H DECREE ISSUED 9/26/1985.					
		FLOW RATE ISSUE		NO QUANTIFIED FLOW RATE HAS BEEN CLAIMED.					
		PRIORITY DATE ISSUE		NO PRIORITY DATE WAS CLAIMED.					
		TYPE OF RIGHT ISSUE		NO TYPE OF HISTORICAL RIGHT WAS CLAIMED. DOCUMENTATION TO SUPPORT THE TYPE OF HISTORICAL RIGHT WAS NOT SUBMITTED WITH THIS CLAIM.					
		VOLUME ISSUE		NO VOLUME HAS BEEN CLAIMED.					
41H 301		ACTV ST						MCDONALD CREEK	
		EXEMPT CLAIM (HB110) ISSUE		THIS EXEMPT CLAIM WAS FILED ON 11/28/2017. THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 41H DECREE ISSUED 09/26/1985.					
		POINT OF DIVERSION ISSUE		THE POINT OF DIVERSION LEGAL LAND DESCRIPTION COULD NOT BE REFINED FROM INFORMATION IN THE CLAIM FILE.					
		PRIORITY DATE ISSUE		NO PRIORITY DATE WAS CLAIMED.					
		PRIORITY DATE ISSUE		THE TYPE OF HISTORICAL RIGHT AND PRIORITY DATE MAY BE QUESTIONABLE. DOCUMENTATION TO SUPPORT THE TYPE OF HISTORICAL RIGHT AND PRIORITY DATE WAS NOT SUBMITTED WITH THIS CLAIM.					
41H 301		ACTV ST				07/01/1892	UT	ROCKY CREEK	
		EXEMPT CLAIM (HB110) ISSUE		THIS EXEMPT CLAIM WAS FILED ON 12/05/2017. THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 41H DECREE ISSUED 09/26/1985.					
41H 301		ACTV ST	3.00 GPM			12/31/1906		GROUNDWATER	
		EXEMPT CLAIM (HB110) ISSUE		THIS EXEMPT CLAIM WAS FILED ON 12/13/17. THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 41H DECREE ISSUED 9/26/1985.					

41H 301 [REDACTED] STATEMENT OF CLAIM

Owner:

[REDACTED]

Source:

GROUNDWATER

Elements at Issue:

NONE

Comment:Objections:DNRC Examination Report Issues:

PRIORITY DATE

41H 301 [REDACTED] STATEMENT OF CLAIM

Owner:[REDACTED]
[REDACTED]Source:

GROUNDWATER

Elements at Issue:

NONE

Comment:Objections:DNRC Examination Report Issues:

PRIORITY DATE

41H 301 [REDACTED] 9 STATEMENT OF CLAIM

Owner:[REDACTED]
[REDACTED]Source:

GROUNDWATER

Elements at Issue:

NONE

Comment:Objections:DNRC Examination Report Issues:

PRIORITY DATE

41H 301 [REDACTED] STATEMENT OF CLAIM

Owner:

[REDACTED]

Source:

GROUNDWATER

Elements at Issue:

NONE

Comment:Objections:DNRC Examination Report Issues:

PRIORITY DATE

41H 301 [REDACTED] STATEMENT OF CLAIM

Owner:

[REDACTED]

Source:

GROUNDWATER

Elements at Issue:

NONE

Comment:Objections:DNRC Examination Report Issues:

PRIORITY DATE

STATE OF MONTANA

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

1424 9TH AVENUE P.O.BOX 201601 HELENA, MONTANA 59620-1601

GENERAL ABSTRACT

Water Right Number: 41G 301[REDACTED] STATEMENT OF CLAIM

Version: 1 -- ORIGINAL RIGHT

Version Status: ACTIVE

Owners:

[REDACTED]

[REDACTED]

[REDACTED]

Priority Date: NOVEMBER 27, 1918

Enforceable Priority Date: NOVEMBER 27, 1918

Type of Historical Right: USE

Purpose (use): STOCK

Maximum Flow Rate: 5.00 GPM

Maximum Volume: 1.60 AC-FT

Source Name: DEVELOPED SPRING

Source Type: GROUNDWATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr</u> <u>Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NENESE	14	2N	5W	JEFFERSON

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: PIPELINE

Period of Use: JANUARY 1 to DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u> <u>Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			NENESE	14	2N	5W	JEFFERSON

Geocodes/Valid: 51-[REDACTED]

Remarks:

THIS EXEMPT CLAIM WAS FILED ON 07/01/2019. THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 41G DECREE ISSUED 02/15/2018.



UNITED STATES
POSTAL SERVICE.

Retail

F

US POSTAGE PAID

\$4.44

Origin: 59701
C6/28/19
2912240701-87

EXAMPLE 4

Notice: Exempt Claims

The DNRC Water Adjudication Bureau would like to thank claimants for their patience during the filing of HB 110 claims and subsequent entry into the DNRC database. The department received approximately 25,000 claims filed by the June 30, 2019 deadline; eight regional offices and the adjudication office are currently working to enter those claims into the water rights database. DNRC would like to remind the public about initial entry process and what comes next.

Currently, DNRC staff are creating water right numbers for each claim filed. During this initial entry process, the water rights will contain only six things to expedite entry into the database. The six items are as follows:

- Owner
- Basin Number
- Point of Diversion
- Source Name
- Means of Diversion
- Date Received

It is important that initial entry be finished in a timely manner so that DNRC and Water Court can assess the number of claims in each basin and prioritize examination needs. Each of these claims will be examined per basin prioritization and in accordance with water right claim examination rules and water right adjudication rules. During examination, each water right holder will be contacted by DNRC adjudication staff to discuss their claim. Prior to complete examination of water rights, DNRC would like to note that elements of the water rights may appear different than what was provided on the form.

DNRC would like to thank the public for their patience during this process.

STATE OF MONTANA

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

1424 9TH AVENUE P.O.BOX 201601 HELENA, MONTANA 59620-1601

GENERAL ABSTRACT

Water Right Number: 43BV 301[REDACTED] STATEMENT OF CLAIM

Version: 1 -- ORIGINAL RIGHT

Version Status: ACTIVE

Owners:

[REDACTED]

[REDACTED]

[REDACTED]

Priority Date:

Purpose (use):

Maximum Flow Rate:

Maximum Volume:

Source Name: GROUNDWATER

Source Type: GROUNDWATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr</u> <u>Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NENENW	23	4N	14E	SWEET GRASS

Period of Diversion:

Diversion Means: PUMP

Period of Use:

Geocodes/Valid: -- NO VALID GEOCODES --

Remarks:

THIS EXEMPT CLAIM WAS FILED ON 06/28/2019. THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 43BV DECREE ISSUED 12/19/1984.



AN ACT CLARIFYING NOTICE PROCEDURES FOR EXEMPT WATER RIGHT CLAIMS FILED IN BASINS WITH TEMPORARY PRELIMINARY DECREES IN EFFECT; AMENDING SECTION 85-2-231, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 85-2-231, MCA, is amended to read:

"85-2-231. Temporary preliminary decree, preliminary decree, and supplemental preliminary decree. (1) A water judge may issue a temporary preliminary decree prior to the issuance of a preliminary decree if the temporary preliminary decree is necessary for the orderly adjudication or administration of water rights.

(2) (a) The water judge shall issue a preliminary decree. The preliminary decree must be based on:

(i) the statements of claim before the water judge, including ~~those~~ all claims filed pursuant to 85-2-222 for a preliminary decree issued after June 30, 2019;

(ii) the data submitted by the department;

(iii) the contents of compacts approved by the Montana legislature and the tribe or federal agency or, lacking an approved compact, the filings for federal and Indian reserved rights; and

(iv) any additional data obtained by the water judge.

(b) The preliminary decree must be issued within 90 days after the close of the special filing period set out in 85-2-702(3) or as soon after the close of that period as is reasonably feasible.

(c) In a basin in which a water judge has issued a preliminary decree prior to July 1, 2019, the water judge shall issue a supplemental preliminary decree, containing only those claims for exempt rights, as defined in 85-2-222, ~~filed between the date of issuance of the preliminary decree and the filing deadline provided for in 85-2-222~~ that were not included in a preliminary decree and for which notice has not been provided under 85-2-233(6).

(d) The water judge may issue an interlocutory decree if an interlocutory decree is otherwise necessary for the orderly administration of water rights.

(3) A temporary preliminary decree may be issued for any hydrologically interrelated portion of a water division, including but not limited to a basin, subbasin, drainage, subdrainage, stream, or single source of supply of water, or any claim or group of claims at a time different from the issuance of other temporary preliminary decrees.

(4) The temporary preliminary decree, preliminary decree, or supplemental preliminary decree must contain the information and make the determinations, findings, and conclusions required for the final decree under 85-2-234.

(5) If the water judge is satisfied that the report of the water master meets the requirements for the preliminary decree and is satisfied with the conclusions contained in the report, the water judge shall adopt the report as the preliminary decree. If the water judge is not satisfied, the water judge may recommit the report to the master with instructions or modify the report and issue the preliminary decree.

(6) The department shall examine claims in basins that were verified rather than examined as ordered by the water court. The objection and hearing provisions of Title 85, chapter 2, part 2, apply to these claims. (Subsection (6) terminates June 30, 2028--sec. 10, Ch. 269, L. 2015.)"

Section 2. Effective date. [This act] is effective on passage and approval.

Section 3. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to all claims for exempt rights, as defined in 85-2-222, filed on or before June 30, 2019.

- END -

I hereby certify that the within bill,
SB 0151, originated in the Senate.

President of the Senate

Signed this _____ day
of _____, 2019.

Secretary of the Senate

Speaker of the House

Signed this _____ day
of _____, 2019.

SENATE BILL NO. 151
INTRODUCED BY S. FITZPATRICK

AN ACT CLARIFYING NOTICE PROCEDURES FOR EXEMPT WATER RIGHT CLAIMS FILED IN BASINS WITH TEMPORARY PRELIMINARY DECREES IN EFFECT; AMENDING SECTION 85-2-231, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

EXAMPLE 1

Senate Bill 355 – Exempt Claim Filing Statute

DNRC Processing and Handling Instructions

Basin Statuses are as of 2/14

Note of Caution: Claim file original documents should all remain in the claim file at all times. It is important to unite the original court order granting active status, and the filed stamped copy of the petition, with the claim file as fast as possible. Scanning of claim file contents should be accomplished at both the DNRC and Court's convenience and should not occur until the Court's Order Granting Petition is in the claim file. As the frequency of these filings increases, a proper and consistent handling process will become critical.

At this time, Section 85-2-222(5), MCA specifically bars the DNRC from resolving issue remarks on exempt claims filed through this process. It has been determined that generating a "Review Abstract" in the database initiates the statutory bar against issue remark resolution. Consult with your regional manager to determine proper claim file handling procedures for claims requiring expedited public notice per Section 85-2-233(6), MCA.

1. One decree basins that have already been decreed. (e.g. 40B, 41J, 76F, etc.)

- a. Exempt claims in these basins require expedited handling. These claims should receive examination and (customer paid for) public notice within a reasonable time frame after initial claim filing.
 - i. DNRC and Water Court processing steps are as follows:
 1. DNRC collects all needed information from claimant to complete claim filing process.
 2. DNRC creates claim number record in the database.
 3. DNRC scans and emails the Court petition to the Water Court.
 4. The Court will docket the Petition.
 5. The Court will issue an Order granting active status in the adjudication and directing the DNRC to examine the claim per Section 85-2-243, MCA.
 6. The Court's order will include a deadline for claim examination and the publishing of notice at the Claimant's cost.
 7. The original order and file stamped petition(s) will be sent to the DNRC office where the claim file(s) are being kept.
 8. A copy of the Order will be mailed to the Claimant(s).
 9. Send the claim file to scanning after the Order is received at your convenience.
 10. After claim examination and public notice have been accomplished, the Court will resolve any objections and issue remarks on the exempt claim. Only at this point will the claim be fully decreed and enforceable.

ii. DNRC Claim File Handling Reminders

1. DNRC should keep the original claim filing at the regional office and begin examination as soon as practicable. Scan the claim file after the arrival of the Court's Order granting the petition.
 2. The Court's order will include a deadline for claim examination and the publishing of notice at the Claimant's cost. If the deadline is not met, the DNRC should send a short memo to the Court stating as much and the Court will take action up to and including termination of the claim.
- b. It has also been determined that claims filed after decree issuance, but before the actual close of the objection period, can be publicly noticed through the basin objection list. Allowing for this will require communication between the Court and DNRC regional office. Assuming the DNRC is able to complete claim examination by around the close of the objection period or shortly after the counter-objection period begins, the claims should be able to be included on the objection list.
- i. The steps followed are largely the same as other pre-one decree basins, but compressed given a looming deadline is present from the beginning.
 1. DNRC collects all needed information from claimant to complete claim filing process.
 2. DNRC creates claim number record in the database.
 3. DNRC scans and emails the Court petition to the Water Court.
 4. The Court will docket the Petition.
 5. The Court will issue an Order granting active status in the adjudication and directing the DNRC to examine the claim per Section 85-2-243, MCA.
 6. Because of the timeliness issue, after consulting with the Court regarding time availability, the DNRC should begin examining immediately.
 7. Remember to put the E1 issue remarks on these claims to ensure they are on the objection list. **These are the only claims that require the E1 issue remark.**
 8. The Court's order will set a rolling examination deadline based on the actual close of the basin wide objection period.
 9. The original order and file stamped petition(s) will be sent to the DNRC office where the claim file(s) are being kept.
 10. A copy of the Order will be mailed to the Claimant(s).

11. Send the claim file to scanning after the Order is received and the claim is fully examined.
12. Only at this point will the claim be fully decreed and enforceable.

ii. DNRC Claim File Handling Reminders

1. See Section 1(a)(ii) as it applies to basins with this status as well.
2. The timely completion of claim examination will allow these claims to on the basin wide objection list, satisfying the notice requirements fully. In order to ensure the claim is on the objection list, the DNRC will add an all elements issue remark to provide notice to other water users of the claims existence. Objections and issue remarks will be resolved like any other timely filed claim in the basin.
3. If the Claimant is not participating or some other delay gives rise to the exempt claim not being fully examined and prepared for timely decree, the DNRC should file a memo with the Court explaining why. The Court will issue an order directing the claimant to publish notice at his own cost per Section 85-2-233(6), MCA.

2. One decree basins not yet decreed. (e.g. 76LJ, 76L, 43P, etc.)

- a. Exempt claims filed in these basins will be publicly noticed through the preliminary decree issuance, assuming the DNRC is able to complete claim examination within established deadlines.
 - i. DNRC and Water Court processing steps are as follows:
 1. DNRC collects all needed information from claimant to complete claim filing process.
 2. DNRC creates claim number record in the database.
 3. DNRC scans and emails the Court petition to the Water Court.
 4. The Court will docket the Petition.
 5. The Court will issue an Order granting active status in the adjudication and directing the DNRC to examine the claim per Section 85-2-243, MCA.
 6. The Court's order will NOT specify a deadline for claim examination, but will direct the claimant to work expediently with the DNRC to meet current DNRC deadlines for summary reports, etc.
 7. The original order and file stamped petition(s) will be sent to the DNRC office where the claim file(s) are being kept.
 8. A copy of the Order will be mailed to the Claimant(s).

9. Send the claim file to scanning after the Order is received at your convenience.
 10. After claim examination and the decree objection process have been accomplished, the Court will resolve any objections and issue remarks on the exempt claim. Only at this point will the claim be fully decreed and enforceable.
- ii. DNRC Claim File Handling Reminders
1. See Section 1(a)(ii) as it applies to basins with this status as well.
 2. The timely completion of claim examination will allow these claims to participate in the typical decree issuance notice periods, satisfying the notice requirements fully. Objections and issue remarks will be resolved like any other timely filed claim in the basin.
 3. The DNRC has established deadlines for completion of summary reports and decree issuance in these basins. If the Claimant is not participating or some other delay gives rise to the exempt claim not being fully examined and prepared for timely decree, the DNRC should file a memo with the Court explaining why. The Court will respond accordingly.

3. Two decree basins. (e.g. 76G, 40E, 41H, etc.)

- a. Two decree basins gave rise to the option to publicly notice now at the Claimant's cost or to wait for the preliminary decree issuance and publicly notice the exempt claim through that process.
 - i. If the Claimant elects to expedite the handling of his/her claim and pay for public notice, the DNRC should keep claim file and all originals at the regional office and begin examination upon receipt of the Court's Order. The Claimant should be encouraged to explain why they want the claim(s) expedited on the petition so the Court knows if any external deadlines exist relating to property transactions, distribution controversies, or any other real property disputes affected by the claim(s) being filed.
 - ii. If the Claimant elects to wait for the Preliminary Decree, DNRC should send a copy of the petition to the Water Court. The entire file can be scanned when it's sent to new storage after the Water Court has issued its order. The original will be sent to the DNRC office.
 - iii. Staff should recognize that, based on the petition handling request, there are two separate paths followed for two decree basins.
 1. DNRC collects all needed information from claimant to complete claim filing process.

2. DNRC creates claim number record in the database.
3. DNRC scans and emails the petition to the Court.
4. The Court will docket the Petition.
5. The Court will issue an Order granting active status in the adjudication and directing the DNRC to examine the claim per Section 85-2-243, MCA.
6. Where expedited handling is requested, the Court's order will set both a DNRC examination deadline (approx. 4 months), and a public notice deadline (also approx. 4 months). Where it is not requested, no specific deadline will be set.
7. The original order and file stamped petition(s) will be sent to the DNRC office where the claim file(s) are being kept.
8. A copy of the Order will be mailed to the claimant(s).
9. If the claimant requests expedited handling, send the claim file to scanning after the Order is received at your convenience, but examination should be completed by the deadline ordered by the Court. After examination is complete, send the claim file to the Water Court.
10. After public notice by the claimant has been accomplished, the Court will resolve any objections and issue remarks on the exempt claim. Only at this point will the claim be fully decreed and enforceable.

iv. DNRC Claim File Handling Reminders

1. The DNRC has only just begun to establish deadlines for completion of summary reports and decree issuance in these basins. When these deadlines are established, the DNRC can begin its timely examination of non-expedited exempt claims in these basins. The Court will set no deadlines specific to exempt claims at this time.
2. Where expedited handling is requested, the timely completion of claim examination will allow this claim to proceed forward towards public notice per Section 85-2-233(6), MCA.
3. Expedited handling requests may be rejected by the Court in consultation with the DNRC where second decree issuance is imminent. In that case, the exempt claim filing should be examined in preparation for the second decree issuance. (See Section 2 – One decree basins not yet issued for general guidelines.)

**PRELIMINARY DECREE
GALLATIN RIVER
BASIN 41H
ABSTRACT OF WATER RIGHT CLAIM
IMPORTANT NOTICE**

YOUR WATER RIGHT AS SHOWN ON THIS ABSTRACT MAY HAVE CHANGES FROM YOUR WATER RIGHT AS CLAIMED OR AMENDED. AN ASTERISK (*) HAS BEEN PLACED NEXT TO EACH ITEM CHANGED BY THE MONTANA WATER COURT AFTER ISSUANCE OF THE TEMPORARY PRELIMINARY DECREE OR BY THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION (DNRC) DURING THE PREPARATION OF THIS PRELIMINARY DECREE. THESE CHANGES ARE AUTHORIZED BY THE MONTANA SUPREME COURT WATER RIGHT CLAIMS EXAMINATION RULES OR BY ORDER OF THE WATER COURT.

OBJECTIONS MAY BE FILED ACCORDING TO THE PROCEDURES OUTLINED IN THE DOCUMENT ENTITLED "NOTICE OF ENTRY OF PRELIMINARY DECREE AND NOTICE OF AVAILABILITY."

Water Right Number: 41H 301 [REDACTED] STATEMENT OF CLAIM

Version: 1 -- ORIGINAL RIGHT

Status: ACTIVE

Owners:

[REDACTED]

BELGRADE, MT 59714 8104

Priority Date: DECEMBER 31, 1906

Type of Historical Right: USE

Purpose(use): STOCK

Flow Rate: 3.00 GPM

***Volume:** THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name: GROUNDWATER

Source Type: GROUNDWATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NENWNE	6	1N	4E	GALLATIN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: WELL

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			NENWNE	6	1N	4E	GALLATIN

Remarks:

THE FOLLOWING ISSUES WERE IDENTIFIED BY THE DNRC DURING ITS EXAMINATION OF THIS WATER RIGHT CLAIM.

THIS EXEMPT CLAIM WAS FILED ON 12/13/17. THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 41H DECREE ISSUED 9/26/1985.

A BETTER UNDERSTANDING OF YOUR CLAIMED WATER RIGHT CAN BE OBTAINED BY COMPARING YOUR RIGHT WITH OTHER CLAIMS IN THE BASIN. FOR EXAMPLE, COMPARE PRIORITY DATES, FLOW RATES, VOLUMES, OR ACRES IRRIGATED. ALSO, YOUR WATER RIGHT MAY BE SUBJECT TO WATER RIGHTS IN ADJOINING SUBBASINS OR BASINS AS WELL AS BEING SUBJECT TO OTHER RIGHTS ON YOUR SOURCE OF SUPPLY. FINALLY, YOUR WATER RIGHT MAY BE SUBJECT TO INDIAN RESERVED AND FEDERAL RESERVED WATER RIGHTS.

COMPLETE DETAILS REGARDING THE DNRC PREPARATION OF THIS PRELIMINARY DECREE AND RELATED MATERIALS CAN BE REVIEWED AT THE OFFICE LOCATIONS IDENTIFIED IN THE DOCUMENT ENTITLED "NOTICE OF ENTRY OF PRELIMINARY DECREE AND NOTICE OF AVAILABILITY."

SEE GENERAL FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR FURTHER EXPLANATION OF YOUR CLAIMED WATER RIGHT. THESE FINDINGS CAN BE FOUND AS INDICATED IN THE DOCUMENT ENTITLED "NOTICE OF ENTRY OF PRELIMINARY DECREE AND NOTICE OF AVAILABILITY." IF YOU NEED OBJECTION FORMS, OR HAVE QUESTIONS ABOUT WATER COURT PROCEDURES OR CHANGES TO YOUR RIGHT, YOU CAN CONTACT THE WATER COURT BY CALLING 1-800-624-3270 (WITHIN MONTANA ONLY) OR 1-406-586-4364, OR BY WRITING TO P.O. BOX 1389, BOZEMAN, MT 59711-1389.

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

GALLATIN RIVER

BASIN 41H

INDEX OF CLAIMS WITH ISSUE REMARKS

TRIB Values MP= Manmade Pit, NP=Natural Pit, SD=Secondary Diversion, SF=Subirrigation, SP=Spring, WS=Waste & Seepage, UT=Unnamed Tributary

WATER RIGHT ID	VERSION STATUS	USE	FLOW RATE	VOLUME (AF)	ACRES	ENFORCEABLE PRIORITY DATE	TRIB	SOURCE NAME	OWNER NAME
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41H 301	ACTV	DM			0.50	10/15/1971		GROUNDWATER	
		EXEMPT CLAIM (HB110) ISSUE						THIS EXEMPT CLA M WAS FILED ON 11/17/2017. THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 41H DECREE ISSUED 9/26/1985.	
		FLOW RATE ISSUE						NO QUANTIFIED FLOW RATE HAS BEEN CLAIMED.	
		VOLUME ISSUE						NO VOLUME HAS BEEN CLA MED.	

41H 301	ACTV	ST						SPRING	
		EXEMPT CLAIM (HB110) ISSUE						THIS EXEMPT CLA M WAS FILED ON 11/17/2017. THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 41H DECREE ISSUED 9/26/1985.	
		FLOW RATE ISSUE						NO QUANTIFIED FLOW RATE HAS BEEN CLAIMED.	
		PRIORITY DATE ISSUE						NO PRIORITY DATE WAS CLAIMED.	
		TYPE OF RIGHT ISSUE						NO TYPE OF HISTORICAL RIGHT WAS CLAIMED. DOCUMENTATION TO SUPPORT THE TYPE OF HISTORICAL RIGHT WAS NOT SUBMITTED WITH THIS CLAIM.	
		VOLUME ISSUE						NO VOLUME HAS BEEN CLA MED.	

41H 301	ACTV	ST						MCDONALD CREEK	
		EXEMPT CLAIM (HB110) ISSUE						THIS EXEMPT CLA M WAS FILED ON 11/28/2017. THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 41H DECREE ISSUED 09/26/1985.	
		POINT OF DIVERSION ISSUE						THE POINT OF DIVERSION LEGAL LAND DESCRIPTION COULD NOT BE REFINED FROM INFORMATION IN THE CLAIM FILE.	
		PRIORITY DATE ISSUE						NO PRIORITY DATE WAS CLAIMED.	
		PRIORITY DATE ISSUE						THE TYPE OF HISTORICAL RIGHT AND PRIORITY DATE MAY BE QUESTIONABLE. DOCUMENTATION TO SUPPORT THE TYPE OF HISTORICAL RIGHT AND PRIORITY DATE WAS NOT SUBMITTED WITH THIS CLAIM.	

41H 301	ACTV	ST						ROCKY CREEK	
		EXEMPT CLAIM (HB110) ISSUE						THIS EXEMPT CLA M WAS FILED ON 12/05/2017. THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 41H DECREE ISSUED 09/26/1985.	

41H 301	ACTV	ST	3.00 GPM					GROUNDWATER	
		EXEMPT CLAIM (HB110) ISSUE						THIS EXEMPT CLA M WAS FILED ON 12/13/17. THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 41H DECREE ISSUED 9/26/1985.	

41H 301 [REDACTED] STATEMENT OF CLAIM

Owner:

[REDACTED]

Source:

GROUNDWATER

Elements at Issue:Comment:Objections:

NONE

DNRC Examination Report Issues:

PRIORITY DATE

41H 301 [REDACTED] STATEMENT OF CLAIM

Owner:[REDACTED]
[REDACTED]Source:

GROUNDWATER

Elements at Issue:Comment:Objections:

NONE

DNRC Examination Report Issues:

PRIORITY DATE

41H 301 [REDACTED] 9 STATEMENT OF CLAIM

Owner:[REDACTED]
[REDACTED]Source:

GROUNDWATER

Elements at Issue:Comment:Objections:

NONE

DNRC Examination Report Issues:

PRIORITY DATE

41H 301 [REDACTED] STATEMENT OF CLAIM

Owner:

[REDACTED]

Source:

GROUNDWATER

Elements at Issue:Comment:Objections:

NONE

DNRC Examination Report Issues:

PRIORITY DATE

41H 301 [REDACTED] STATEMENT OF CLAIM

Owner:

[REDACTED]

Source:

GROUNDWATER

Elements at Issue:Comment:Objections:

NONE

DNRC Examination Report Issues:

PRIORITY DATE

STATE OF MONTANA
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
1424 9TH AVENUE P.O.BOX 201601 HELENA, MONTANA 59620-1601

GENERAL ABSTRACT

Water Right Number: 41G 301 [REDACTED] STATEMENT OF CLAIM
Version: 1 -- ORIGINAL RIGHT

Version Status: ACTIVE

Owners:

[REDACTED]
[REDACTED]
[REDACTED]

Priority Date: NOVEMBER 27, 1918

Enforceable Priority Date: NOVEMBER 27, 1918

Type of Historical Right: USE

Purpose (use): STOCK

Maximum Flow Rate: 5.00 GPM

Maximum Volume: 1.60 AC-FT

Source Name: DEVELOPED SPRING

Source Type: GROUNDWATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NENESE	14	2N	5W	JEFFERSON

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: PIPELINE

Period of Use: JANUARY 1 to DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			NENESE	14	2N	5W	JEFFERSON

Geocodes/Valid: 51- [REDACTED]

Remarks:

THIS EXEMPT CLAIM WAS FILED ON 07/01/2019. THIS CLAIM NUMBER WAS NOT INCLUDED IN THE
BASIN 41G DECREE ISSUED 02/15/2018.



UNITED STATES
POSTAL SERVICE.

Retail

F

US POSTAGE PAID

\$4.44

Origin: 59701
C6/28/19
2912240701x87

EXAMPLE 4

Notice: Exempt Claims

The DNRC Water Adjudication Bureau would like to thank claimants for their patience during the filing of HB 110 claims and subsequent entry into the DNRC database. The department received approximately 25,000 claims filed by the June 30, 2019 deadline; eight regional offices and the adjudication office are currently working to enter those claims into the water rights database. DNRC would like to remind the public about initial entry process and what comes next.

Currently, DNRC staff are creating water right numbers for each claim filed. During this initial entry process, the water rights will contain only six things to expedite entry into the database. The six items are as follows:

- Owner
- Basin Number
- Point of Diversion
- Source Name
- Means of Diversion
- Date Received

It is important that initial entry be finished in a timely manner so that DNRC and Water Court can assess the number of claims in each basin and prioritize examination needs. Each of these claims will be examined per basin prioritization and in accordance with water right claim examination rules and water right adjudication rules. During examination, each water right holder will be contacted by DNRC adjudication staff to discuss their claim. Prior to complete examination of water rights, DNRC would like to note that elements of the water rights may appear different than what was provided on the form.

DNRC would like to thank the public for their patience during this process.

STATE OF MONTANA
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
1424 9TH AVENUE P.O.BOX 201601 HELENA, MONTANA 59620-1601

GENERAL ABSTRACT

Water Right Number: 43BV 301 STATEMENT OF CLAIM
Version: 1 -- ORIGINAL RIGHT

Version Status: ACTIVE

Owners:

Priority Date:

Purpose (use):

Maximum Flow Rate:

Maximum Volume:

Source Name: GROUNDWATER

Source Type: GROUNDWATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr</u> <u>Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NENENW	23	4N	14E	SWEET GRASS

Period of Diversion:

Diversion Means: PUMP

Period of Use:

Geocodes/Valid: -- NO VALID GEOCODES --

Remarks:

THIS EXEMPT CLAIM WAS FILED ON 06/28/2019. THIS CLAIM NUMBER WAS NOT INCLUDED IN THE
BASIN 43BV DECREE ISSUED 12/19/1984.