

Montana Water Court
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FILED

MAY 16 2014

Montana Water Court

IN THE WATER COURT OF THE STATE OF MONTANA
UPPER MISSOURI DIVISION
BIG HOLE RIVER BASIN (41D)

CLAIMANT: Griffin Allen and Joann Allen; Lovell Family Trust; Peter C. Kamperschroer; Kamperschroer Ranch, LLC	CASE 41D-117 41D 93099-00 41D 93100-00 41D 93101-00
OBJECTOR: Fred Lovell; Peter C. Kamperschroer United States of America (USDA Forest Service)	41D 93816-00 41D 93820-00 41D 93821-00
COUNTEROBJECTOR: Peter C. Kamperschroer	41D 93823-00 41D 93824-00
NOTICE OF INTENT TO APPEAR: Peter C. Kamperschroer	41D 93825-00 41D 93826-00
INTERVENOR: United States of America (USDA Forest Service)	41D 93828-00 41D 93829-00 41D 93830-00 41D 182379-00

AMENDED ORDER GRANTING AMENDMENTS

This Court issued an Order Granting Amendments on December 30, 2013. The Order addressed Claimants' three verified motions to amend flow rate and place of use for claims 41D 93824-00, 41D 93825-00 and 41D 182379-00. The motions to amend contained the desired flow rate and place of use for these claims. Claimants provided briefs in support of the motions to amend.

On February 3, 2014, Claimants Griffin and Joann Allen and Lovell Family Trust filed a Motion to Correct Order Granting Amendments. Claimants requested three places

of use be corrected for claims 41D 93824-00, 41D 93825-00 and 41D 182379-00. Specifically, Claimants offered the following information for correction:

The Abstracts for Claim Nos. 41D 93824-00, 41D 93825-00, and 41D 182379-00 provide that Place of Use ID No. 12 is located in the N2SE. The aliquot part should be amended to the NESE.

Additionally, the Abstracts for Claim Nos. 41D 93824-00, 41D 93825-00, and 41D 182379-00 provide that Place of Use ID No.13 is located in the S2SE. For Claim Nos. 41D 93824-00 and 41D 93825-00, the aliquot part should be amended to the W2SE. For Claim No. 41D 182379-00, Place of Use ID No. 13 should be removed entirely.

Motion to Correct Order Granting Amendments, p. 2.

A review of the Verified Motions to Amend revealed that the legal descriptions were incorporated into each motion. All three motions had the same listing of acreage and quarter section. The Court relied on the information presented in each motion for each claim. Unfortunately, the places of use for these claims were amended again in subsequent verified motions to amend filed on October 30, 2013. The places of use number 12 and 13 were different for these three claims.

Therefore, the Court will correct the places of use as mentioned in Claimants' February 3, 2014 motion.

Place of use numbers 12 and 13 for claims 41D 93824-00 and 41D 93825-00 are corrected as follows:

<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>
12	10.00		NESE	34	1N	11W	Beaverhead
13	6.00		W2SE	34	1N	11W	Beaverhead

Place of use numbers 12 and 13 for claim 41D 182379-00 are corrected as follows:

<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>
12	10.00		NESE	34	1N	11W	Beaverhead
13	6.00		S2SE	34	1N	11W	Beaverhead

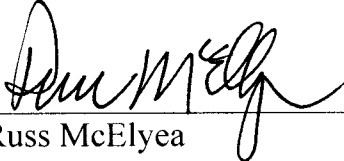
The maximum acres for claim 41D 182379-00 are reduced from 655.00 to 649.00 acres to reflect the removal of place of use number 13.

Accordingly, it is

ORDERED that the above-mentioned corrections are made to claims 41D 93824-00, 41D 93825-00 and 41D 182379-00.

Post Decree Abstracts of Water Right Claim are served with this Order to confirm the changes have been made in the State's centralized record system.

DATED this *16* day of *May*, 2014.



Russ McElyea
Chief Water Judge

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Note: Service List Updated 4/21/2014

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
BIG HOLE RIVER
BASIN 41D
IMPORTANT NOTICE**

AN ASTERISK (*) HAS BEEN PLACED NEXT TO EACH ITEM CHANGED BY ORDER OF THE MONTANA WATER COURT AFTER ISSUANCE OF THE PREVIOUS DECREE.

Water Right Number: 41D 93824-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners:

LOVELL FAMILY TRUST
FRED & NANCY LOVELL, TRUSTEES
2912 VIA RIVERA
PALOS VERDES PENINSULA, CA 90274 2831

KAMPERSCHROER RANCH LLC
PO BOX 201
WISE RIVER, MT 59762 0201

PETER C KAMPERSCHROER
PO BOX 201
WISE RIVER, MT 59762 0201

GRIFFIN ALLEN
4056 MCGRITS BLVD
JACKSONVILLE, FL 32210

OWNERSHIP UPDATE PROCESSED TO ADD NEW OWNERS. THE WATER RIGHT MAY BE SPLIT INTO SEPARATE WATER RIGHTS UPON REQUEST OF THE OWNERS.

Priority Date: MAY 1, 1907

THIS RIGHT, DECREED IN CASE 2627, BEAVERHEAD COUNTY, PRECEDES THE RIGHTS DECREED IN CASE 4100, REGARDLESS OF PRIORITY. THOSE WATER RIGHTS FROM CASE 4100 ARE: 4208-00, 27450-00, 27451-00, 27452-00, 49586-00, 49587-00, 49588-00, 49589-00, 92701-00, 93437-00, 93438-00, 93439-00, 93440-00, 93441-00, 93442-00, 93443-00, 93444-00, 93445-00, 93826-00, 93827-00, 93828-00, 93829-00, 93830-00, 93831-00, 93832-00, 93833-00, 93834-00, 93835-00, 93836-00, 110677-00, 118188-00, 118189-00, 182351-00, 182352-00, 182353-00, 195272-00.

Type of Historical Right: DECREED

Purpose (use): IRRIGATION

Irrigation Type: FLOOD

***Flow Rate:** 2.37 CFS

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 5 - LOW

***Maximum Acres:** 680.00

Source Name: WISE RIVER
Source Type: SURFACE WATER

***Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SWSENE	9	1S	11W	BEAVERHEAD
Period of Diversion: APRIL 15 TO OCTOBER 4						
Diversion Means: HEADGATE						
2		SWNWNW	3	1S	11W	BEAVERHEAD
Period of Diversion: APRIL 15 TO OCTOBER 4						
Diversion Means: HEADGATE						

Period of Use: APRIL 15 TO OCTOBER 4

***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	3.00	2		3	1S	11W	BEAVERHEAD
2	15.00	3		3	1S	11W	BEAVERHEAD
3	13.00	5		3	1S	11W	BEAVERHEAD
4	10.00	6		3	1S	11W	BEAVERHEAD
5	3.00		S2NE	3	1S	11W	BEAVERHEAD
6	63.00		S2NW	3	1S	11W	BEAVERHEAD
7	37.00		SW	3	1S	11W	BEAVERHEAD
8	2.00	5		4	1S	11W	BEAVERHEAD
9	22.00		E2SE	4	1S	11W	BEAVERHEAD
10	20.00		E2NE	9	1S	11W	BEAVERHEAD
11	2.00		W2W2NW	10	1S	11W	BEAVERHEAD
12	10.00		NESE	34	1N	11W	BEAVERHEAD
13	6.00		W2SE	34	1N	11W	BEAVERHEAD
14	2.00		S2S2SE	26	1N	11W	BEAVERHEAD
15	7.50		N2NESE	34	1N	11W	BEAVERHEAD
16	42.00		S2NE	34	1N	11W	BEAVERHEAD
17	16.00		S2	35	1N	11W	BEAVERHEAD
18	240.00		N2	35	1N	11W	BEAVERHEAD
19	22.00		N2SW	35	1N	11W	BEAVERHEAD
20	92.50		SW	35	1N	11W	BEAVERHEAD
21	52.00		W2W2	36	1N	11W	BEAVERHEAD

Total: 680.00

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

93824-00 93825-00 182379-00

THE FOLLOWING ELEMENTS WERE AMENDED BY THE CLAIMANT ON 09/12/1991: MAXIMUM ACRES, PLACE OF USE, PERIOD OF USE.

THE FOLLOWING ELEMENTS WERE AMENDED BY THE CLAIMANT ON 05/25/2001: MAXIMUM ACRES, PLACE OF USE.

THE FOLLOWING ELEMENTS WERE AMENDED BY THE CLAIMANT ON 10/27/1998: MAXIMUM ACRES,
PLACE OF USE.

STARTING IN 2008, PERIOD OF DIVERSION WAS ADDED TO MOST CLAIM ABSTRACTS, INCLUDING
THIS ONE.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM**

**BIG HOLE RIVER
BASIN 41D**

IMPORTANT NOTICE

AN ASTERISK (*) HAS BEEN PLACED NEXT TO EACH ITEM CHANGED BY ORDER OF THE MONTANA WATER COURT AFTER ISSUANCE OF THE PREVIOUS DECREE.

Water Right Number: 41D 93825-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners:

GRIFFIN ALLEN
4056 MCGRITS BLVD
JACKSONVILLE, FL 32210

LOVELL FAMILY TRUST
FRED & NANCY LOVELL, TRUSTEES
2912 VIA RIVERA
PALOS VERDES PENINSULA, CA 90274 2831

PETER C KAMPERSCHROER
PO BOX 201
WISE RIVER, MT 59762 0201

KAMPERSCHROER RANCH LLC
PO BOX 201
WISE RIVER, MT 59762 0201

OWNERSHIP UPDATE PROCESSED TO ADD NEW OWNERS. THE WATER RIGHT MAY BE SPLIT INTO SEPARATE WATER RIGHTS UPON REQUEST OF THE OWNERS.

Priority Date: MAY 1, 1904

THIS RIGHT, DECREED IN CASE 2627, BEAVERHEAD COUNTY, PRECEDES THE RIGHTS DECREED IN CASE 4100, REGARDLESS OF PRIORITY. THOSE WATER RIGHTS FROM CASE 4100 ARE: 4208-00, 27450-00, 27451-00, 27452-00, 49586-00, 49587-00, 49588-00, 49589-00, 92701-00, 93437-00, 93438-00, 93439-00, 93440-00, 93441-00, 93442-00, 93443-00, 93444-00, 93445-00, 93826-00, 93827-00, 93828-00, 93829-00, 93830-00, 93831-00, 93832-00, 93833-00, 93834-00, 93835-00, 93836-00, 110677-00, 118188-00, 118189-00, 182351-00, 182352-00, 182353-00, 195272-00.

Type of Historical Right: DECREED

Purpose (use): IRRIGATION

Irrigation Type: FLOOD

***Flow Rate:** 1.97 CFS

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 5 - LOW

***Maximum Acres:** 744.50

Source Name: WISE RIVER
Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SWSENE	9	1S	11W	BEAVERHEAD

Period of Diversion: APRIL 15 TO OCTOBER 4

Diversion Means: HEADGATE

Period of Use: APRIL 15 TO OCTOBER 4

***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	3.00	2		3	1S	11W	BEAVERHEAD
2	15.00	3		3	1S	11W	BEAVERHEAD
3	13.00	5		3	1S	11W	BEAVERHEAD
4	10.00	6		3	1S	11W	BEAVERHEAD
5	3.00		S2NE	3	1S	11W	BEAVERHEAD
6	63.00		S2NW	3	1S	11W	BEAVERHEAD
7	37.00		SW	3	1S	11W	BEAVERHEAD
8	2.00	5		4	1S	11W	BEAVERHEAD
9	22.00		E2SE	4	1S	11W	BEAVERHEAD
10	20.00		E2NE	9	1S	11W	BEAVERHEAD
11	2.00		W2W2NW	10	1S	11W	BEAVERHEAD
12	10.00		NESE	34	1N	11W	BEAVERHEAD
13	6.00		W2SE	34	1N	11W	BEAVERHEAD
14	2.00		S2S2SE	26	1N	11W	BEAVERHEAD
15	21.00		S2S2	26	1N	11W	BEAVERHEAD
16	6.50		N2NESE	34	1N	11W	BEAVERHEAD
17	18.00		SENE	34	1N	11W	BEAVERHEAD
18	240.00		N2	35	1N	11W	BEAVERHEAD
19	22.00		N2SW	35	1N	11W	BEAVERHEAD
20	38.50		S2	35	1N	11W	BEAVERHEAD
21	92.50		SW	35	1N	11W	BEAVERHEAD
22	46.00		N2NW	35	1N	11W	BEAVERHEAD
23	52.00		W2W2	36	1N	11W	BEAVERHEAD

Total: 744.50

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

93824-00 93825-00 182379-00

THE FOLLOWING ELEMENTS WERE AMENDED BY THE CLAIMANT ON 09/12/1991: MAXIMUM ACRES, PLACE OF USE, PERIOD OF USE.

THE FOLLOWING ELEMENTS WERE AMENDED BY THE CLAIMANT ON 05/25/2001: MAXIMUM ACRES, PLACE OF USE.

STARTING IN 2008, PERIOD OF DIVERSION WAS ADDED TO MOST CLAIM ABSTRACTS, INCLUDING THIS ONE.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM**

**BIG HOLE RIVER
BASIN 41D**

IMPORTANT NOTICE

AN ASTERISK (*) HAS BEEN PLACED NEXT TO EACH ITEM CHANGED BY ORDER OF THE MONTANA WATER COURT AFTER ISSUANCE OF THE PREVIOUS DECREE.

Water Right Number: 41D 182379-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners:

GRIFFIN ALLEN
4056 MCGRITS BLVD
JACKSONVILLE, FL 32210

KAMPERSCHROER RANCH LLC
PO BOX 201
WISE RIVER, MT 59762 0201

PETER C KAMPERSCHROER
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OWNERSHIP UPDATE PROCESSED TO ADD NEW OWNERS. THE WATER RIGHT MAY BE SPLIT INTO SEPARATE WATER RIGHTS UPON REQUEST OF THE OWNERS.

Priority Date: MAY 1, 1890

THIS RIGHT, DECREED IN CASE 2627, BEAVERHEAD COUNTY, PRECEDES THE RIGHTS DECREED IN CASE 4100, REGARDLESS OF PRIORITY. THOSE WATER RIGHTS FROM CASE 4100 ARE: 4208-00, 27450-00, 27451-00, 27452-00, 49586-00, 49587-00, 49588-00, 49589-00, 92701-00, 93437-00, 93438-00, 93439-00, 93440-00, 93441-00, 93442-00, 93443-00, 93444-00, 93445-00, 93826-00, 93827-00, 93828-00, 93829-00, 93830-00, 93831-00, 93832-00, 93833-00, 93834-00, 93835-00, 93836-00, 110677-00, 118188-00, 118189-00, 182351-00, 182352-00, 182353-00, 195272-00.

Type of Historical Right: DECREED

Purpose (use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 6.25 CFS

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 5 - LOW

***Maximum Acres:** 649.00

Source Name: WISE RIVER
Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SWSENE	9	1S	11W	BEAVERHEAD

Period of Diversion: APRIL 1 TO OCTOBER 1

Diversion Means: HEADGATE

Period of Use: APRIL 1 TO OCTOBER 1

***Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	3.00	2		3	1S	11W	BEAVERHEAD
2	15.00	3		3	1S	11W	BEAVERHEAD
3	13.00	5		3	1S	11W	BEAVERHEAD
4	10.00	6		3	1S	11W	BEAVERHEAD
5	3.00		S2NE	3	1S	11W	BEAVERHEAD
6	63.00		S2NW	3	1S	11W	BEAVERHEAD
7	37.00		SW	3	1S	11W	BEAVERHEAD
8	2.00	5		4	1S	11W	BEAVERHEAD
9	22.00		E2SE	4	1S	11W	BEAVERHEAD
10	20.00		E2NE	9	1S	11W	BEAVERHEAD
11	2.00		W2W2NW	10	1S	11W	BEAVERHEAD
12	10.00		NESE	34	1N	11W	BEAVERHEAD
13	2.00		S2S2SE	26	1N	11W	BEAVERHEAD
14	6.50		N2NESE	34	1N	11W	BEAVERHEAD
15	18.00		SENE	34	1N	11W	BEAVERHEAD
16	16.00		S2	35	1N	11W	BEAVERHEAD
17	240.00		N2	35	1N	11W	BEAVERHEAD
18	22.00		N2SW	35	1N	11W	BEAVERHEAD
19	92.50		SW	35	1N	11W	BEAVERHEAD
20	52.00		W2W2	36	1N	11W	BEAVERHEAD

Total: 649.00

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

93824-00 93825-00 182379-00

THE FOLLOWING ELEMENTS WERE AMENDED BY THE CLAIMANT ON 05/25/2001: MAXIMUM ACRES, PLACE OF USE.

AN AMENDMENT WAS SUBMITTED ON 09/12/1991 REQUESTING TO AMEND THE PLACE OF USE, MAXIMUM ACRES, AND PERIOD OF USE. BECAUSE NO AMENDED MAP WAS SUBMITTED, THE AMENDMENT HAS NOT BEEN IMPLEMENTED.

STARTING IN 2008, PERIOD OF DIVERSION WAS ADDED TO MOST CLAIM ABSTRACTS, INCLUDING THIS ONE.