

IN THE WATER COURT OF THE STATE OF MONTANA

GENE R. CURRY, CHERYL S. CURRY, and CURRY
CATTLE CO.,

Plaintiffs, Counterclaim-Defendants
and Appellants,

vs.

PONDERA COUNTY CANAL
AND RESERVOIR CO.,

Defendant, Counter-Claimant,
Appellee and Cross-Appellant.

Case No. WC-2006-01

Certified From:
Ninth Judicial District Court
Cause No. DV-05-32

ORDER CORRECTING CLERICAL ERRORS ON TABULATION

The Water Court issued an Order Amending and Partially Adopting Master's Report on April 25, 2014. Attached to that order was Appendix A: Water Right Tabulation. Appendix A was a spreadsheet listing forty water rights owned by either Curry or Pondera County Canal and Reservoir Co. After issuance of the April 25, 2014 Order Amending, the Water Court discovered clerical errors on the tabulation. However, the parties appealed the Water Court's April 25, 2014 decision to the Montana Supreme Court prior to issuance of an order correcting clerical errors on the tabulation. The Supreme Court issued its decision on March 29, 2016 remanding to the Water Court for revision of the service area.¹ The Water Court may now correct the tabulation's clerical errors.

The tabulation's description of certain elements of claims 41M 160284-00, 41M 161998-00, and 41M 161999-00 were incorrect. The following clerical corrections should be made to the tabulation:

¹ The Water Court's Order Revising Service Area is being issued concurrently with this order.

41M 160284-00

Flow Rate: ~~1.2 CFS~~ **1.33 CFS**

41M 161998-00

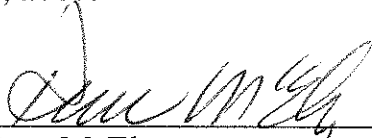
Flow Rate: ~~11.02 CFS~~ **11.00 CFS**

41M 161999-00

Flow Rate: ~~.37 CFS~~ **.13 CFS**

ORDERED the clerical errors noted above are corrected. An updated Appendix A: Water Right Tabulation, which reflects clerical corrections noted above, is attached to this order.

DATED this 10th day of March, 2017.



Russ McElyea
Chief Water Judge

John E. Bloomquist
Bloomquist Law Firm
3355 Colton Drive, Suite A
Helena, MT 59602
(406) 502-1244
blf@helenalaw.com

Holly Franz
Ryan McLane
Franz & Driscoll, PLLP
PO Box 1155
Helena, MT 59624-1155
(406) 442-005
holly@franzdriscoll.com
ryan@franzdriscoll.com

Laurie Eisenzimer
Pondera County Clerk of District Court
20 4th Ave SW
Conrad, MT 59425-2340

Hon. Julie Macek
District Court Judge
Montana Eighth Judicial District Court
415 2nd Ave N, Room 203
Great Falls, MT 59401

Hon. Robert G. Olson
District Court Judge
Montana Ninth Judicial District Court
226 1st Street South
PO Box 822
Shelby, MT 59474

Appendix A: Water Right Tabulation
Amended 3/9/2017 to Correct Clerical Errors

| WC 2006-01: WATER RIGHT TABULATION | | | | | | | | |
|------------------------------------|---------------|-----------|------------|---------------------------|------------------------------|---------------------|-------------------|--|
| Claim Number | Priority Date | Flow Rate | Type | Point(s) of Diversion | Diversion Name | Period of Diversion | Volume | Information Remark |
| 41M 159117 00 Curry | 1864-05-26 | | Irrigation | NENESE, Sec 27, T30N, R7W | UT Birch Creek Wastewater | 04/15 to 10/15 | | NOTWITHSTANDING ITS PRIORITY DATE, THIS CLAIM MAY NOT BE USED TO PLACE A CALL ON ANY OTHER WATER RIGHT. |
| | | | | SENESE, Sec 34, T30N, R7W | | | | |
| 41M 113459 00 PCCRC | 1884-04-09 | 2.50 CFS | Irrigation | NENWSW, Sec 27, T29N, R8W | B Canal | 5/15 to 10/19 | 763.60 acre-feet | |
| 41M 161998 00 PCCRC | 1884-04-09 | 11.00 CFS | Irrigation | NE, Sec 27, T28N, R10W | Swift Dam | 04/01 to 10/14 | 1676.00 acre-feet | |
| | | | | NENWSW, Sec 27, T29N, R8W | B Canal | 04/01 to 10/14 | | |
| 41M 199792 00 PCCRC | 1884-04-09 | 8.5 CFS | Irrigation | SWNESE, Sec 1, T29N, R8W | Ryan Lauffer Ditch | 04/20 to 10/14 | 3453.00 acre-feet | |
| | | | | SEWNE, Sec 1, T29N, R8W | Kingsbury Ditch | 04/20 to 10/14 | | |
| 41M 161999 00 PCCRC | 1893-03-18 | .13 CFS | Irrigation | NE, Sec 27, T28N, R10W | Swift Dam | 04/01 to 10/14 | 23.00 acre-feet | |
| | | | | NENWSW, Sec 27, T29N, R8W | B Canal | 04/01 to 10/14 | | |
| 41M 162000 00 PCCRC | 1894-12-18 | 5.67 CFS | Irrigation | NE, Sec 27, T28N, R10W | Swift Dam | 04/01 to 10/14 | 174.80 acre-feet | 1) THE COMBINED FLOW RATE OF CLAIMS 41M 162000-00 AND 41M 162109-00 MAY NOT EXCEED 5.67 CFS. 2) THE COMBINED VOLUME OF CLAIMS 41M 162000-00 AND 41M 162109-00 MAY NOT EXCEED 174.8 ACRE-FEET. |
| | | | | NENWSW, Sec 27, T29N, R8W | B Canal | 04/01 to 10/14 | | |
| 41M 162001 00 PCCRC | 1895-05-01 | .97 CFS | Irrigation | NE, Sec 27, T28N, R10W | Swift Dam | 04/01 to 10/14 | 178.25 acre-feet | |
| | | | | NENWSW, Sec 27, T29N, R8W | B Canal | 04/01 to 10/14 | | |
| 41M 131101 00 Curry | 1895-10-19 | 12.12 CFS | Irrigation | SWNWNW, Sec 36, T30N, R7W | UT Birch Creek Wastewater | 04/15 to 10/15 | | NOTWITHSTANDING ITS PRIORITY DATE, THIS CLAIM MAY NOT BE USED TO PLACE A CALL ON ANY OTHER WATER RIGHT. |
| 41M 131103 00 Curry | 1897-05-19 | 18.75 CFS | Irrigation | SWNESE, Sec 1, T29N, R8W | Ryan Lauffer Ditch | 04/15 to 10/15 | | |
| 41M 199796 00 PCCRC | 1897-05-19 | 18.75 CFS | Irrigation | NE, Sec 1, T29N, R8W | Ryan Lauffer Ditch | 04/20 to 10/14 | | |
| 41M 199797 00 PCCRC | 1897-06-04 | 11.02 CFS | Irrigation | SWNESE, Sec 1, T29N, R8W | Ryan Lauffer Ditch | 04/20 to 10/14 | | |
| | | | | SEWNE, Sec 1, T29N, R8W | Kingsbury Ditch | 04/20 to 10/14 | | |
| 41M 199798 00 PCCRC | 1897-06-18 | .70 CFS | Irrigation | SWNESE, Sec 1, T29N, R8W | Thomas-Williamson Ditch | 04/20 to 10/14 | 618.50 acre-feet | THE MAXIMUM COMIBNED FLOW RATES FOR CLAIMS 41M 162005-00, 41M 162114-00, 41M 199798-00, AND 41M 199817-00 MAY NOT EXCEED 6.5 CFS. |
| 41M 162005 00 PCCRC | 1897-06-18 | 6.50 CFS | Irrigation | NE, Sec 27, T28N, R10W | Swift Dam | 04/01 to 10/14 | | THE MAXIMUM COMIBNED FLOW RATES FOR CLAIMS 41M 162005-00, 41M 162114-00, 41M 199798- |

Appendix A: Water Right Tabulation
Amended 3/9/2017 to Correct Clerical Errors

| | | | | | | | | |
|------------------------|------------|------------|------------|---------------------------|---------------------------|----------------|-------------------|---|
| | | | | NENWSW, Sec 27, T29N, R8W | B Canal | 04/01 to 10/14 | | 00, AND 41M 199817-00 MAY NOT EXCEED 6.5 CFS. |
| 41M 120071 00 PCCRC | 1897-07-24 | 4.00 CFS | Irrigation | NENWSW, Sec 27, T29N, R8W | B Canal | 04/20 to 10/14 | | |
| 41M 120072 00 PCCRC | 1897-08-31 | 6.62 CFS | Irrigation | NENWSW, Sec 27, T29N, R8W | B Canal | 04/20 to 10/14 | 1539.80 acre-feet | |
| 41M 185666 00 PCCRC | 1897-08-31 | 4.00 CFS | Irrigation | NENWSW, Sec 27, T29N, R8W | B Canal | 4/20 to 10/14 | 490.50 acre-feet | |
| 41M 199795 00 PCCRC | 1897-09-01 | 16.25 CFS | Irrigation | SWNE, Sec 1, T29N, R8W | Ryan Lauffer Ditch | 04/20 to 10/14 | 2622.00 acre-feet | |
| | | | | SESWNE, Sec 1, T29N, R8W | Kingsbury Ditch | 04/20 to 10/14 | | |
| 41M 199801 00 PCCRC | 1898-01-14 | 8.76 CFS | Irrigation | SWNE, Sec 1, T29N, R8W | Ryan Lauffer Ditch | 04/20 to 10/14 | 1219.00 acre-feet | |
| | | | | SESWNE, Sec 1, T29N, R8W | Kingsbury Ditch | 04/20 to 10/14 | | |
| 41M 159103 00 Curry | 1898-01-26 | | Stock | SWNE, Sec 1, T29N, R8W | Ryan-Lauffer Ditch | 04/01 to 10/31 | | |
| 41M 131100 00 Curry | 1898-03-26 | 5.00 CFS | Irrigation | SWNWNW, Sec 36, T30N, R7W | UT Birch Creek Wastewater | 04/15 to 10/15 | | NOT WITHSTANDING ITS PRIORITY DATE, THIS CLAIM MAY NOT BE USED TO PLACE A CALL ON ANY OTHER WATER RIGHT |
| 41M 162007 00 PCCRC | 1898-07-16 | 500.00 CFS | Irrigation | NE, Sec 27, T28N, R10W | Swift Dam | 04/01 to 10/14 | | |
| | | | | NENWSW, Sec 27, T29N, R8W | B Canal | 04/01 to 10/14 | | |
| 41M 199802 00 PCCRC | 1900-04-25 | 50.00 CFS | Irrigation | SWNE, Sec 1, T29N, R8W | Ryan Lauffer Ditch | 04/20 to 10/14 | | |
| | | | | SESWNE, Sec 1, T29N, R8W | Kingsbury Ditch | 04/20 to 10/14 | | |
| 41M 120073 00 PCCRC | 1900-06-21 | 25.00 CFS | Irrigation | NENWSW, Sec 27, T29N, R8W | B Canal | 04/20 to 10/14 | | |
| 41M 120074 00 PCCRC | 1900-07-07 | 23.75 CFS | Irrigation | NENWSW, Sec 27, T29N, R8W | B Canal | 04/20 to 10/14 | | |
| 41M 199803 00 PCCRC | 1900-07-07 | 7.75 CFS | Irrigation | SWNE, Sec 1, T29N, R8W | Ryan Lauffer Ditch | 04/20 to 10/14 | | |
| | | | | SESWNE, Sec 1, T29N, R8W | Kingsbury Ditch | 04/20 to 10/14 | | |
| 41M 120075 00 PCCRC | 1901-05-11 | 25.36 CFS | Irrigation | NENWSW, Sec 27, T29N, R8W | B Canal | 04/20 to 10/14 | | |

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| | | | | | | | | |
|------------------------|------------|-------------|------------|--------------------------------|-----------------------|----------------|----------------------|---|
| 41M 162008 00 PCCRC | 1901-09-18 | 6.25 CFS | Irrigation | Govt Lot 1, Sec 27, T28N, R10W | Birch Creek Reservoir | 04/01 to 10/14 | | 1) THE CLAIMS FOLLOWING THIS STATEMENT USE THE SAME FILED APPROPRIATION TO DOCUMENT THE RIGHT. THE COMBINED FLOW RATE FOR THIS GROUP OF CLAIMS EXCEEDS THE TOTAL OF THE ORIGINAL APPROPRIATION. 41M 162008-00, 41M 162117-00, 41M 199805-00, AND 41M 199824-00. 2) THE TOTAL COMBINED FLOW RATE FOR CLAIMS 41M 162008-00, 41M 162117-00, 41M 199805-00, AND 41M 199824-00 SHALL NOT EXCEED 12.5 CFS. |
| | | | | NENWSW, Sec 27, T29N, R8W | B Canal | 04/01 to 10/14 | | |
| 41M 199805 00 PCCRC | 1901-09-18 | 12.5 CFS | Irrigation | SWNE, Sec 1, T29N, R8W | Ryan Lauffer Ditch | 04/20 to 10/14 | 618.47 acre-feet | 1) THE CLAIMS FOLLOWING THIS STATEMENT USE THE SAME FILED APPROPRIATION TO DOCUMENT THE RIGHT. THE COMBINED FLOW RATE FOR THIS GROUP OF CLAIMS EXCEEDS THE TOTAL OF THE ORIGINAL APPROPRIATION. 41M 162008-00, 41M 162117-00, 41M 199805-00, AND 41M 199824-00. 2) THE TOTAL COMBINED FLOW RATE FOR CLAIMS 41M 162008-00, 41M 162117-00, 41M 199805-00, AND 41M 199824-00 SHALL NOT EXCEED 12.5 CFS. |
| 41M 162009 00 PCCRC | 1902-12-09 | 500.00 CFS | Irrigation | NE, Sec 27, T28N, R10W | Swift Dam | 01/01 to 12/31 | | |
| | | | | NENWSW, Sec 27, T29N, R8W | B Canal | 04/01 to 10/14 | | |
| 41M 199806 00 PCCRC | 1903-10-15 | 5.00 CFS | Irrigation | NE, Sec 1, T29N, R8W | Ryan Lauffer Ditch | 04/20 to 10/14 | | |
| | | | | SESWNE, Sec 1, T29N, R8W | Kingsbury Ditch | 04/20 to 10/14 | | |
| 41M 162011 00 PCCRC | 1904-04-04 | 25.00 CFS | Irrigation | NE, Sec 27, T28N, R10W | Swift Dam | 04/01 to 10/14 | | |
| | | | | NENWSW, Sec 27, T29N, R8W | B Canal | 04/01 to 10/14 | | |
| 41M 199807 00 PCCRC | 1904-08-08 | 50.00 CFS | Irrigation | NE, Sec 1, T29N, R8W | Ryan Lauffer Ditch | 04/20 to 10/14 | | |
| | | | | SESWNE, Sec 1, T29N, R8W | Kingsbury Ditch | 04/20 to 10/14 | | |
| 41M 120076 00 PCCRC | 1906-04-12 | 5.00 CFS | Irrigation | NENWSW, Sec 27, T29N, R8W | B Canal | 04/20 to 10/14 | | |
| 41M 42051 00 PCCRC | 1911-12-31 | 2.92 CFS | Irrigation | SWNE, Sec 1, T29N, R8W | Ryan Lauffer Ditch | 04/20 to 10/14 | 280.60 acre-feet | |
| | | | | SESWNE, Sec 1, T29N, R8W | Kingsbury Ditch | 04/20 to 10/14 | | |
| 41M 162010 00 PCCRC | 1913-12-31 | 700.00 CFS | Irrigation | NENWSW, Sec 27, T29N, R8W | B Canal | 01/01 to 12/31 | 130,000.00 acre-feet | |
| 41M 162012 00 PCCRC | 1915-12-31 | 5000.00 CFS | Irrigation | NE, Sec 27, T28N, R10W | Swift Dam | 01/01 to 12/31 | 60,000.00 acre-feet | |

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| | | | | | | | | |
|--------------------------------------|------------|-----------------|------------|--------------------------|--------------------|----------------|--|--|
| | | | | SWNE, Sec 1, T29N, R8W | Ryan Lauffer Ditch | | | |
| | | | | SESWNE, Sec 1, T29N, R8W | Kingsbury Ditch | | | |
| 41M 159114 00 Curry | 1927-04-01 | 2.25 CFS | Irrigation | SWNE, Sec 1, T29N, R8W | Ryan-Lauffer Ditch | 04/1 to 10/14 | | |
| 41M 160284 00 Curry | 1957-06-01 | 1.33 CFS | Irrigation | SWNE, Sec 1, T29N, R8W | Ryan-Lauffer Ditch | 04/15 to 10/15 | | |
| 41M 159115 00 Curry | 1960-06-1 | 1.50 CFS | Irrigation | SWNE, Sec 1, T29N, R8W | Ryan-Lauffer Ditch | 04/15 to 10/15 | | |
| 41M 30066093 Curry | 1967-06-01 | 6.00 CFS | Irrigation | SWNE, Sec 1, T29N, R8W | Ryan-Lauffer Ditch | 04/15 to 10/15 | | |

Clerical corrections are noted in **bold** type face.