

STATE OF MONTANA
BEFORE THE DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION

IN THE MATTER OF APPLICATION)
FOR BENEFICIAL WATER USE PERMIT) Findings of Fact, Conclusions
FILED BY BENJAMIN L. BOKMA) of Law and Order
APPLICATION NO. 16-s41S)

The Proposed Findings of Fact and Conclusions of Law in this matter, entered February 14, 1974, are hereby adopted as the Final Findings of Fact and Conclusions of Law, and the following Final Order is hereby issued:

ORDER

1. Applicant's provisional permit will be granted to allow the appropriation of flood waters on Spring Creek to fill the proposed reservoir.
2. The provisional permit will be conditioned to require that the natural flow of Spring Creek be released from the proposed reservoir to satisfy prior existing appropriations on Coyote Creek. An adequate valve and gate will be required to control the release of the natural flow of Spring Creek after measurements are made to determine the natural flow.
3. Additional water measurements will be taken by the Department of Natural Resources and Conservation on Spring Creek and Coyote Creek during other seasons of the year to determine natural flows.
4. The Applicant shall install an adequate measuring device below the proposed reservoir to monitor the release of the natural flow of Spring Creek.

Done this 31st day of Feb, 1974.


Administrator, Water Resources Division

CASE # 14

BEFORE THE MONTANA DEPARTMENT OF
NATURAL RESOURCES AND CONSERVATION

FILMED

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IN THE MATTER OF APPLICATION)
OF BENJAMIN L. BOKMA, NO.)
16-s41S)

PROPOSED FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

Pursuant to the provisions of the Montana Water Use Act, section 89-865 et seq, R.C.M. 1947, after due notice, a public hearing was held on November 30, 1973, at the Judith Basin County Courthouse, Stanford, Montana. The applicant appeared but did not testify; each of the objectors appeared and offered brief testimony.

PROPOSED FINDINGS OF FACT

1. On July 13, 1973, Benjamin L. Bokma duly filed with the Department of Natural Resources and Conservation, Water Resources Division, an application for beneficial water use permit to appropriate from March 1 to October 1 5 cubic feet of water per second to be impounded for irrigation purposes from Spring Creek in the SW $\frac{1}{4}$,S.17,T.17N,R.13E, Judith Basin County, Montana.
2. Objections to the application were filed by Tom Ployhar, Stanley and Dolores Vestal, Joe Quick, Laurence I. Hess, Ivan H. Hess, all of Denton, Montana, and by Keith A. Tesarek of Coffee Creek, Montana and Robert W. and Muretta Porter of Stanford, Montana.
3. The objectors use the waters of Coyote Creek, to which Spring Creek is a tributary, for stock water, hay and pasture irrigation and subirrigation.
4. All objectors have existing water rights in Coyote Creek.
5. The applicant plans to construct a 10-foot earth dam on Spring Creek, with an active reservoir capacity of 3 acre feet, and a total capacity of 7.5 acre feet. Water is to be used for stock water and is to be withdrawn from this reservoir to irrigate approximately 300 acres by sprinkler.

CASE # 16

Water measurements taken on Spring Creek in October, 1973, are as follows:

- a. Spring Creek above its forks: 0.138 cfs/5.5 M.I./61.9 gpm
- b. Spring Creek at junction with Coyote Creek: 0.54 cfs/26.1 M.I./242.8 gpm
- c. Coyote Creek above its junction with Spring Creek: 0.439 cfs/19.6 M.I./197 gpm
- d. Coyote Creek below its junction with Spring Creek: 1.143 cfs/45.7 M.I./513 gpm
- e. Coyote Creek approximately one mile below junction with Spring Creek: 0.882 cfs/35.3 M.I./395.8 gpm.

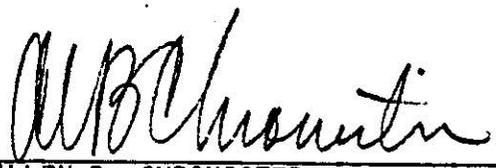
PROPOSED CONCLUSIONS OF LAW

- 1. Stream flow figures indicate that there will be enough water to satisfy applicant's proposed appropriation of 5 cfs only during the spring runoff.
- 2. If applicant appropriates to fill his proposed reservoir only during flood or high water season, no prior right holders in Coyote Creek will be adversely affected.
- 3. The natural flow of Spring Creek can be released from applicant's proposed reservoir on a year-round basis so that prior right holders in Coyote Creek will not be adversely affected.

PROPOSED ORDER

- 1. Applicant's permit should be granted to allow the appropriation of flood waters on Spring Creek to fill the proposed reservoir.
- 2. The permit should be conditioned to require that the natural flow of Spring Creek be released from the proposed reservoir when needed by prior appropriations on Coyote Creek. A valve and gate should be required to control the release of natural flow after measurements are made.
- 3. Additional water measurements should be taken on Spring Creek and Coyote Creek during other seasons of the year to determine natural flows.

NOTICE: This is a proposed order and will become final when accepted by the Administrator of the Water Resources Division of the Department of Natural Resources and Conservation. Written exceptions to the proposed order shall be filed with the Department within 10 days of service upon the parties herein. Upon receipt of any written exceptions, opportunity will be provided to file briefs and to make oral arguments before the Administrator of the Water Resources Division.



ALLEN B. CHRONISTER
HEARING EXAMINER

2-14-74

DATE