

EXHIBIT "A"

STATE OF MONTANA  
BEFORE THE DEPARTMENT OF NATURAL RESOURCES  
AND CONSERVATION

-----  
IN THE MATTER OF APPLICATION )  
FOR BENEFICIAL WATER USE )  
PERMIT NO. 457-s40J, )  
WILLIE DOLL )

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 May 7, 1974, at the Great Northern Motor Motel, Malta, Montana, on objections to the above-named application. The objector Lazy J5 Ranch Company (by Loyal S. Boyce) gave testimony. The applicant Willie Doll was also present and presented testimony.

A Proposed Order on the above hearing was issued by the Hearing Examiner, Donald D. MacIntyre, on June 5, 1974. Exceptions to the Proposed Order were filed by the objector, Loyal S. Boyce, through his attorney David Niklas within the time period specified in the Proposed Order. Mr. Boyce through his legal counsel filed a brief on the exceptions. The applicant Mr. Doll filed a reply brief. A hearing was held on August 15, 1974, before the Administrator of the Water Resources Division in Helena, Montana, for the purpose of hearing oral arguments in support of their written briefs. Mr. Doll was present and represented himself. Mr. Boyce was not present but was represented by his legal counsel, Mr. David Niklas.

The Proposed Findings of Fact and Conclusions of Law in this matter entered June 5, 1974, are hereby adopted as the Final Findings of Fact and Conclusions of Law, and the following Final Order is hereby adopted:

**CASE # 457**

ORDER

1. The applicant's permit is granted allowing the appropriation of 30 acre-feet per annum of water from Rudolph Coulee to be diverted at a point in the NE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 31, Township 28 North, Range 29 East, M.P.M., of Valley County, Montana, by means of a dam for stock-watering purposes.

2. The permit is granted subject to existing rights.

3. The applicant shall within two (2) years after receipt of this Final Order construct adequate diversion facilities in the dam that will allow water to flow freely downstream to prior water-right holders, and that will prohibit more water than necessary to satisfy applicant's entitlement under this permit from entering the applicant's stock-watering system.

4. The applicant shall annually, beginning on April 1, 1975, or further on specific request of the Department, report the following data to the Department:

- A. The elevation of the water surface in the subject reservoir at or near the last day of each month for September through March and on or near the middle and end of each month during April through August.
- B. Weekly measurements of the inflow to the subject reservoir from the mainstem of Rudolph Coulee which is fed by overflow from the PR 161 Reservoir in the Four Mile drainage.
- C. Weekly measurements of overflow from the emergency spillway of PR 161.
- D. Weekly measurements of the overflow of the subject reservoir over the emergency spillway.

5. The applicant shall supply to the Department by April 1, 1975:

- A. Plans and specifications for water-measuring devices to be installed by the applicant, or

**CASE #** 459 (2)

B. Cross-sectional, slope, and other engineering information required to estimate flows for those stations shown in 4 above. Staff gages may be used to record depth of flow.

Done this 21<sup>st</sup> day of August, 1974.

*Erin Ferris*

Administrator, Water Resources Division  
DEPARTMENT OF NATURAL RESOURCES AND  
CONSERVATION

**CASE #** 457

APR 5 1980

IN THE MATTER OF THE )  
APPLICATION OF WILLIE )  
DOLL 457-s40J )

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 May 7, 1974, at the Great Northern Motor Motel, Malta, Montana. The objector Lazy J5 Ranch Co. (by Loyal S. Boyce) gave testimony. Applicant Willie Doll presented testimony.

PROPOSED FINDINGS OF FACT

1. On September 24, 1973, Willie Doll duly filed with the Department of Natural Resources and Conservation, Water Resources Division, an application for beneficial water use permit to appropriate water from Rudolph Coulee a tributary of Alkali Creek.
2. The total quantity of water to be appropriated is 30 acre feet per annum. The water is to be used for stock water purposes from October 1 to May 1 inclusive. The water will be diverted at a point in the NE $\frac{1}{4}$  of SW $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 31, T28, R29, of Phillips County Montana.
3. Objections were filed by William H. Simanton and the Lazy J5 Ranch Co., a Montana Corporation (by Loyal S. Boyce) both of Malta, Montana.
4. The applicants' diversion works consists of a dam with no controlled outlet.
5. The applicant has the right to appropriate the waters in the source of supply; the means of diversion is adequate; the proposed use is a beneficial use; the proposed use will not unreasonably interfere with other planned uses or developments for which a permit has been issued or for which water has been reserved; and, the rights of prior appropriators will not be adversely affected.

From the foregoing proposed findings of fact the following proposed conclusions of law are hereby made:

CASE # 457

PROPOSED CONCLUSIONS OF LAW

1. Under the provisions of Section 89-820, R.C.M. 1947, a permit to appropriate water from Rudolph Coulee for a beneficial use is required.

2. The applicants' intended use as described in the application is a beneficial use for which water may be appropriated.

3. The application for beneficial water use permit may be granted in accordance with the provisions of Chapter 8 of Title 89 of the Laws of the State of Montana.

Based on the above proposed findings of fact and conclusions of law, the following order is proposed:

PROPOSED ORDER

1. The applicants' permit is granted allowing the appropriation of 30 A.F. per annum of water from Rudolph Coulee to be diverted at a point in the NE $\frac{1}{4}$  of SW $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 31, T28N, R29E, of Valley County, Montana, by means of a dam.

2. The permit is granted subject to existing rights.

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 ten (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.

Date June 5, 1974

Ronald D. MacIntyre  
Donald D. MacIntyre  
Hearing Examiner

**CASE # 457**