

STATE OF MONTANA  
BEFORE THE DEPARTMENT OF NATURAL RESOURCES  
AND CONSERVATION

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IN THE MATTER OF APPLICATION )  
FOR BENEFICIAL WATER USE )  
PERMIT NO. 546-s41-0, BY )  
CRUMPLED HORN )

FINDINGS OF FACT, CONCLUSIONS  
OF LAW AND ORDER

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The Proposed Findings of Fact and Conclusions of Law in this matter entered on October 22, 1974, are hereby adopted as the Final Findings of Fact, Conclusions of Law and the Final Order is hereby ordered.

ORDER

1. The Applicant's permit is granted with the following modification; that the total quantity of water to be appropriated be limited to 362 acre-feet per annum, to be used for irrigation from March 1 to October 31, on 160 acres in the NW $\frac{1}{4}$  of Section 36, Township 25 North, Range 4 West.

2. The permit is granted subject to existing water rights.

Done this 5<sup>th</sup> day of December, 1974.

*Orvin Ferris*

Administrator, Water Resources Division  
DEPARTMENT OF NATURAL RESOURCES  
AND CONSERVATION

**CASE # 546**

BEFORE THE DEPARTMENT  
OF  
NATURAL RESOURCES AND CONSERVATION

FILMED  
APR 5 1974

IN THE MATTER OF THE APPLICATION )  
FOR BENEFICIAL WATER USE PERMIT ) PROPOSED FINDINGS OF FACT,  
NO 546-s41-0, CRUMPLED HORN ) 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 August 5, 1974 at the Teton County Courthouse, Courtroom, Choteau, Montana. Two of the objectors, Robert S. Raundal for the Department of State Lands and Abe Baker of Conrad, Montana, appeared and offered testimony in opposition to the application. The applicant was present and supported his application.

PROPOSED FINDINGS OF FACT

1. On October 1, 1973, Crumpled Horn by its President, Leslie Chalmers, duly filed with the Department of Natural Resources and Conservation, Water Resources Division, an application for beneficial water use permit to appropriate water from March 1 to October 31, a total of 724 acre-feet of water per annum for irrigation purposes from Spring Coulee at a point in the NE $\frac{1}{4}$  of NE $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 25, Township 25N, Range 4W, of Teton County, Montana, the water to be used on 320 acres in the NE $\frac{1}{4}$  and NW $\frac{1}{4}$  of Section 36, Township 25N, Range 4W.
2. Objections to the application were filed for the State Land Department by Robert S. Raundal, Administrator, Division of Land Administration, Capital, Helena, Montana and Abe Baker of P.O. Box 211, Conrad, Montana.
3. The applicant's proposed diversion facilities would consist of a rock dam to raise the water level approximately one (1) foot and a grill over the end of a twelve-inch gravity feed two-thousand-foot long pipe. The height of the storage dam would be eight (8) feet, with an active reservoir capacity of sixty (60) acre-feet.
4. The land to which the water would be applied is approximately one-half state owned lands (school) (NE $\frac{1}{4}$  of Section 36) and one half Crumpled Horn land (applicant) (NW $\frac{1}{4}$  of Section 36).
5. The objector Abe Baker has an apparent prior water use right on Spring Coulee to the Applicants.

CASE # 546

6. That additional documents were submitted by the Applicant following the hearing with a copy being mailed to the objectors. They were accepted as part of the record and considered as such.

7. The objection of the Department of State Lands was that the applicant had not secured permission from the leasor (state lands) for his diversion as required by Section 81-420 R.C.M. 1947. They further urged that the right for the water to be used on state land be granted to the state.

8. A letter was received on September 9, 1974 by the Department from Robert S. Raundal, Administrator, Division of Land Administration, Department of State Lands, Helena, Montana. A copy was mailed to the objectors. After opportunity was given to the applicant to reply, an objection was received and denied. The letter was entered into evidence.

PROPOSED CONCLUSIONS OF LAW

1. Under the provisions of Section 89-880, R.C.M. 1947, a permit to appropriate water from Spring Coulee for a beneficial use is required.

2. The criteria for issuance of a permit set forth at Section 89-885, R.C.M. 1947, have been met.

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.

4. The application for the water right on state lands does not comply with Section 81-420 R.C.M. 1947 which governs the acquisition of water rights by a lessee of state lands and requires the lessee to make application to the Board of Land Commissioners for permission to secure the water right.

PROPOSED ORDER

1. The applicants permit is granted with the following modification; that the total quantity of water to be appropriated be limited to 362 acre-feet per annum to be used for irrigation from March 1 to October 31 on 160 acres in the NW $\frac{1}{4}$  of Section 36, Township 25N, Range 4W.

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.

22 Oct 1974  
Date

Gary W. Spaeth  
Gary W. Spaeth  
Hearing Examiner