

EXHIBIT "A"  
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. 1314-s76H, BY GEORGE AND LILLIAN GULBRANSON	) ) ) )	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 3, 1974, are hereby adopted as the Final Findings of Fact, Conclusions of Law and the Final Order is hereby ordered.

ORDER

1. The Applicants' provisional permit is granted with the following conditions:

(a) The Applicants will inform the Department at least sixty (60) days in advance of his intention to construct his diversion works. Upon receiving notice, the Department will conduct a study of the groundwaters in Charleys Gulch.

(b) Upon completion of his diversion facilities, the Applicants will notify the Department. The Department will then conclude their study of the groundwaters in Charleys Gulch and will determine whether additional waters have been obtained due to the development of the Applicant.

(c) All additional water obtained from the development up to thirty (30) acre-feet per annum shall be granted to the Applicants to be diverted at a point in the NW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 13, Township 6 North, Range 20 West, Ravalli County, to be used on a ten-(10) acre tract at the same location.

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(d) Failure to notify the Department within two years of the construction of the diversion facilities will result in the automatic withdrawal of this permit.

2. Subject to existing water rights in the source of supply.

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

*Orin Ferris*

Administrator, Water Resources Division  
DEPARTMENT OF NATURAL RESOURCES  
AND CONSERVATION

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FILMED

BEFORE THE DEPARTMENT  
OF  
NATURAL RESOURCES AND CONSERVATION

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IN THE MATTER OF APPLICATION  
FOR BENEFICIAL WATER USE PERMIT  
NO. 1314-s76H, by GEORGE AND  
LILLIAN GULBRANSON

} PROPOSED FINDINGS OF FACT,  
} CONCLUSIONS OF LAW AND ORDER

Pursuant to the Montana Water Use Act, Section 89-865, et seq., R.C.M. 1947, and after due notice a hearing was held on August 22, 1974, in Hamilton, Montana, for the purpose of hearing objections to the above-named Application.

The objectors who appeared at the hearing and offered testimony and evidence were Quentin J. Brown, George L. Frost, and Earl Maki, all of Corvallis, Montana. Others testifying on behalf of the objectors were George Gates and Phillip Brown of Corvallis, Montana. The applicants George and Lillian Gulbranson were present and offered testimony and evidence through George Gulbranson.

Following the hearing, two exhibits were received from the objector Quentin Brown. Exhibit "A" was a copy of the "Water Right Location" filed in Ravalli County May 27, 1893, and Exhibit "B" was a Water Patent granted by the Federal Government on October 29, 1892. A copy of each was sent to the Applicants with the opportunity to object to their being considered or reply to their content. Within the seven (7) day period allowed a reply was received from the Applicants. An objection was made on the basis that there was an alteration on one of the documents and that it was irrelevant as to the water application involved. Both objections after consideration were denied. As to the other portions of the letter, they were admitted into evidence.

PROPOSED FINDINGS OF FACT

1. On January 14, 1974, Lillian and George Gulbranson duly filed with the Department of Natural Resources and Conservation, Water Resources Division, an application for beneficial water use permit to appropriate water from May 1 to September 30, a total of 30 acre-feet of water per annum for irrigation purposes from Charley's Gulch or Collins Creek, a tributary of Willow Creek, at a point in the NW $\frac{1}{4}$  of SW $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 13, Township 6N, Range 20W, Ravalli County, with the water to be used on a ten (10)-acre tract at the same location.

2. Objections to the application were filed by James L. Swenson, Sweet Grass, Montana; Chris Blazich, George L. Frost, Earl Maki, and Quentin J. Brown, all of Corvallis, Montana, requesting that it not be granted or modified. The objectors

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own land in the same drainage as the applicant.

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3. The applicant's proposed diversion would consist of a small excavated pit in the streambed in conjunction with a sprinkler system.

4. It appears that Charley's Gulch is a stream which is fed by underground springs and sub-irrigation waters from irrigation ditches in the area.

5. It is possible with the right diversion facilities being constructed, that the springs located on the Applicant's land could be developed so as to increase the flow in Charley's Gulch.

6. If additional waters are obtained from the development of the spring, they would then be available for appropriation; that the rights of prior appropriators will not be adversely affected; that the proposed means of diversion is adequate; that the proposed use of water is a beneficial use; and, that 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.

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

PROPOSED CONCLUSIONS OF LAW

1. Under the provisions of Section 89-880, R.C.M. 1947, a permit to appropriate water from Charley's Gulch, also known as Collins Creek, 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.

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 with the following conditions:

a. The Applicant's will inform the Department at least sixty (60) days in advance of his intention to construct his diversion works. Upon receiving notice, the Department will conduct a study of the groundwaters in Charley's Gulch.

b. Upon completion of his diversion facilities, the Applicants will notify the Department. The Department will then conclude their study of the groundwaters in Charley's Gulch and will determine whether additional waters have been obtained due to the development of the Applicant.

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c. All additional water obtained from the development up to thirty (30) acre-feet per annum shall be granted to the Applicants to be diverted at a point in the NW $\frac{1}{4}$  of SW $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 13, Township 6N, Range 20W, Ravalli County, to be used on a ten (10)-acre tract at the same location.

d. Failure to notify the Department within two years of the construction of the diversion facilities will result in the automatic withdrawal of this permit.

2. Subject to existing water rights in the source of supply.

NOTICE: This is a proposed Order and will become final when accepted by the Administration 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.

3 Oct 1974  
Date

Gary L. Spaeth  
Gary L. Spaeth  
Hearing Examiner

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