STATE OF MONTANA
BEFORE THE DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION

FILMED
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IN THE MATTER OF APPLICATION FOR BENEFICIAL WATER USE PERMIT NO. 1602-g41N, BY CLIFFORD L. BLAIR	)	FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

The Proposed Findings of Fact and Conclusions of Law in this matter entered on March 3, 1975, by the Hearing Examiner are hereby adopted as the Final Findings of Fact, Conclusions of Law and the Final Order is hereby ordered.

ORDER

It is hereby ordered that the Application for Beneficial Water Use Permit No. 1602-g41N is granted, subject to prior existing water rights, and if it be determined that the Applicant's well does interfere with those prior existing water rights, this permit shall be modified so as not to interfere with those rights.

Done this twenty-fourth day of March, 1975.

Orrin Ferris

Administrator, Water Resources Division
DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION

CASE # 1602

BEFORE THE DEPARTMENT
OF
NATURAL RESOURCES AND CONSERVATION

IN THE MATTER OF APPLICATION FOR BENEFICIAL WATER USE PERMIT NO. 1602-g41-N, CLIFFORD L. BLAIR	)))	PROPOSAL FOR DECISION

Pursuant to the Montana Water Use and Administrative Procedure Acts, after due notice a hearing was held January 21, 1975, at Chester, Montana for the purpose of hearing objections to the above-named application. The Applicant, Clifford L. Blair, appeared at the hearing and presented testimony. He was represented by counsel, Mr. John Warner, Esq., of Havre, Montana. August and Lizzie Laas, Gerald W. Fenger, and Herbert W. Fenger all filed timely objections to the Application. August Laas, Lizzie Laas, and Gerald W. Fenger all appeared and presented testimony. They were not represented by counsel. Herbert W. Fenger did not appear at the hearing. Mr. Warner offered into evidence for the applicant a map marked as Applicant's Exhibit 2 and two well logs marked as Applicant's Exhibit 2 and 3. They were received into evidence without objection. Mr. Laas offered into evidence an aerial photograph of the area marked as Objector's Exhibit 2. That photograph was received into evidence without objection.

PROPOSED FINDINGS OF FACT

1. On February 20, 1974, the Applicant submitted an Application for Beneficial Water Use Permit to the Department seeking to appropriate 1,000 gpm and not to exceed 943 acre-feet per year. The water is to be appropriated by means of a well pump and sprinkler. The well is to be located at a point in the SW¼ of the SW¼ of the NE¼ of Section 21, T. 34 N., R 4 E. in Liberty County. The water is to be used to irrigate

CASE # 1602

1602

9 acres in the SE¼ of Section 16; 120 acres in the NE¼; 70 acres in the NW¼ and 140 acres in the SE¼ of Section 21, all in T. 34 N., R. 4 E. A total of 940 acre-feet is to be used for irrigation purposes from April 15th to October 15th, inclusive, of each year and 3 acre-feet are to be used for stockwatering purposes, from January 1st to December 31st, inclusive, of each year.

2. On July 22, 1974, Gerald W. Fenger filed a timely objection to the Application. On July 27, 1974, August and Lizzie Laas filed a timely objection to the above-named Application. Objector August Laas testified that he has one deep well and one stockwater pit which he believes could be adversely affected. Objector Gerald Fenger objected that he has four wells which he believes could be adversely affected.

3. The closest of these wells owned by Gerald Fenger is located in Section 3, T. 33 N., R. 4 E., and is over 3 miles from the proposed well of the applicant.

4. The Objector Laas's closest well is located on a section line between Section 10 and Section 11 of T. 33 N., R. 4 E., and is over 3 1/2 miles from the proposed point of diversion.

5. The Objector Laas testified that his springs have gone dry in the last few years and that they have never gone dry before. Applicant Mr. Blair testified that it has been awfully dry the last 3 or 4 years.

PROPOSED CONCLUSIONS OF LAW

1. The Objectors' all have apparent prior existing water rights which could possibly be adversely affected.

2. The evidence did not conclusively establish that approval of this Application would adversely affect the Objectors' prior existing water rights.

PROPOSED ORDER

It is hereby ordered that the Application for Beneficial Water Use Permit No.

CASE # 1602

1602-g41N be granted subject to prior existing water rights and if it is determined that the Applicant's well does interfere with those prior existing water rights, that this permit be modified so as not to interfere with those rights.

NOTICE: This is a Proposed Order and will become final when accepted by the Administrator, Water Resources Division, Department of Natural Resources and Conservation. Pursuant to Section 82-4212, R.C.M. 1947 and Rule MAC 1-1.6(2)-P6190 written exceptions to this Proposed Order may be filed with the Administrator within ten (10) days of service of this Proposed Order upon the parties herein. Upon receipt of any written exceptions, opportunity will be afforded to file briefs and make oral arguments before the Administrator.

March 3, 1975
Date

James A. Lewis
James Lewis
Hearing Examiner

CASE # 1602