

BEFORE THE MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

**FILMED**

APR 5 1990 *no proposed issued*

IN THE MATTER OF APPLICATION FOR CHANGE NO. 1676-c41-I, BURLINGTON NORTHERN, INC. ) FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

A hearing was held September 9, 1974, at Helena, Montana, for the purpose of receiving objections to this application for change. The applicant appeared by counsel, Mr. Cordell Johnson of Helena, Montana, who also represented the Green Meadow Country Club for whose benefit the change is being sought. The objectors Lee Reynolds and Jack E. Anderson were present and were represented by Counsel Mr. Walter Murfitt and Mr. Terry Cosgrove of Helena, Montana. From the information received at that hearing, and from the Department's investigation of this matter, the following Findings of Fact, Conclusions of Law and Order are made.

FINDINGS OF FACT

1. The present application was received by the Department on March 6, 1974, seeking approval for a change in a well owned by Burlington Northern, located in the SW 1/4 NE 1/4 NE 1/4, Section 23, Township 10 North, Range 4 West, Lewis and Clark County. The application indicated that in the past a year-round flow of 500 gallons per minute had been used, originally for steam locomotives and in recent years for stock watering, although the total quantity of water used was "negligible." The proposed change is that the same flow of 500 gallons per minute be used for lawn sprinkling at the Green Meadow County Club golf course from April 15 to October 15 of each year. Burlington Northern has leased the well to the Country Club for the irrigation use.

2. The Country Club needs the water to sprinkle irrigate a nine-hole addition to its golf course. The total water needs for the addition are estimated at 1,000 gallons per minute for eight hours a day for six months each year. The Country Club has used water from the well since about July 1, 1974, on the basis of the Department's interim approval of the change.

3. On November 20, 1963, a "Declaration of Vested Groundwater Rights" on the subject well was filed with the Clerk and Recorder of Lewis and Clark County pursuant to state laws then in effect. The declaration listed the first use of the well as being 1907 for locomotive supply, with the use since 1922

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being irrigation (under lease). The amount of ground water claimed was 200 gallons per minute, but no information was supplied as to the actual amount of water used for any purpose.

4. In recent years, the only use of the well has been to water a few head of horses. The well may have been used for mining purposes in past years, but there is apparently no information as to when this use occurred, or how much water was used.

5. The objector Lee Reynolds owns a mobile home park located astride the city limits of Helena on the west side of town, near the Country Club. Mr. Reynolds has five wells from which he supplies water to 300 to 400 tenants of the park. The park currently uses the entire output of the wells, which is about 385 gallons per minute. Mr. Reynolds' wells are approximately one-quarter mile from the subject well, and at a slightly higher elevation.

6. The objector Jack Anderson owns two wells, drilled in 1928 and 1955, approximately 1.5 miles from the subject well. Mr. Anderson also claims the right to all waters of "Crystal Spring" (except for 25 miner's inches), which is located approximately three-fourths mile from the subject well.

7. Investigations conducted by the Department's staff indicate that pumping from the subject well will have no apparent adverse effect upon the objectors' existing water rights.

#### CONCLUSIONS OF LAW

1. The applicant's water right in the subject well is a maximum of 200 gallons per minute. There is no evidence of a greater amount of use at anytime in the past.

2. The objectors' existing water rights will not be adversely affected by pumping from the subject well.

#### ORDER

1. The application for approval of change is granted as applied for, but only to the extent of 200 gallons per minute.

2. The change is subject to the objectors' existing rights, and may be exercised only to that extent.

Done this 8<sup>th</sup> day of November, 1974.

*Orvin Ferris*

Administrator, Water Resources Division  
DEPARTMENT OF NATURAL RESOURCES AND  
CONSERVATION

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