

EXHIBIT "A"

STATE OF MONTANA
BEFORE THE DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION

IN THE MATTER OF THE APPLICATION
FOR BENEFICIAL WATER USE PERMIT
NO. 2029-s41S, BY
HAROLD L. MCKINLAY

FINAL FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND ORDER
APR 17 1975

The Proposed Findings of Fact, Conclusions of Law, and Order in this matter, as entered on March 11, 1975, by the Hearing Examiner, are hereby adopted as the Final Findings of Fact, Conclusions of Law, and the Final Order.

ORDER

The Applicant's permit is granted subject to:

1. Installation of a drainage device in the bottom center of the reservoir of at least 12 inches in diameter; and
2. Subject to all prior existing water rights.

Done this fourteenth day of April 1975.

Orrin Ferris
Administrator, Water Resources Division
DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION

CASE # 2029

BEFORE THE DEPARTMENT
OF
NATURAL RESOURCES AND CONSERVATION

IN THE MATTER OF THE APPLICATION)
FOR BENEFICIAL WATER USE PERMIT)
NO. 2029-s41S, HAROLD L. MCKINLAY)

PROPOSAL FOR DECISION

Pursuant to the Montana Water Use and Administrative Procedure Acts, after due notice a hearing was held on December 10, 1974, at Lewistown, Montana, for the purpose of hearing objections to the above-named Application 2029-s41S and Application 2028-s41S. The Applicant, Harold L. McKinlay, appeared at the hearing and presented testimony. He was represented by Counsel, Mr. Peter L. Rapkoch, Esq., of Lewistown, Montana. Mr. Fred Mathews, Mr. Ralph Lee and Mr. Frank A. Cromer all filed objections to the application. None of these objections were received before the deadline stated in the Notice. Mr. Ralph Lee was represented by Counsel, Mr. William Spoja, Esq., of Lewistown, Montana. Mr. Peter Rapkoch, Counsel for the Applicant, objected to the hearing of any evidence in support from objections resisting Application No. 2029-s41S for the reason that the objections to Application No 2029-s41S were received after the deadline stated in the Public Notice to Water Users.

PROPOSED FINDINGS OF FACT

1. The Public Notice to Water Users published in the Judith Basin Press, Stanford, Montana stated: "Objections resisting the granting of a permit under this application, Application No. 2029-s41S, must be filed with the Department of Natural Resources and Conservation, Natural Resources Building, 32 S. Ewing, Helena, Montana 59601, on or before September 11, 1974". Form No. 611, Objection to Application of Fred Mathews was received September 27, 1974, as evidenced by the

CASE # 2029

received stamp, the Objection to Application of Ralph Lee was received September 30, 1974, as evidenced by the received stamp, and the Objection to Application of Frank A. Cromer was received September 30, 1974, as evidenced by the received stamp.

PROPOSED CONCLUSIONS OF LAW

1. Because the statute (Section 89-882, R.C.M. 1947) states an objection to an application must be filed by the date specified by the Department, none of these objections serves as a valid objection.

PROPOSED ORDER

The Applicant's permit should be granted subject to:

1. Installation of a drainage device in the bottom center of the reservoir of at least 12" in diameter; and,
2. Subject to all prior existing water rights.

NOTICE: This is a Proposed Order and will become final when accepted by the Administrator, Division of Water Resources, 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 shall 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.

DATED this 11th day of March, 1975.



JAMES LEWIS
Hearing Examiner

CASE # 2029