

*Order*

BEFORE THE DEPARTMENT  
OF NATURAL RESOURCES AND CONSERVATION  
OF THE STATE OF MONTANA

\* \* \* \* \*

IN THE MATTER OF THE APPLICATION )  
FOR BENEFICIAL WATER USE PERMIT ) FINAL ORDER  
NO. 47648-s76M BY LAWRENCE H. AND )  
KEVIN L. RAUSCH )

\* \* \* \* \*

The time period for filing exceptions to the Hearing Examiner's Proposal for Decision has expired. No exceptions or other arguments were filed by any of the parties of record. The Department accepts and adopts the Findings of Fact, Conclusions and Memorandum of the Hearing Examiner as contained in his Proposal for Decision, and incorporates them by reference.

Therefore, on the basis of all the files, records and proceedings herein, the Department makes the following:

ORDER

The Application for Beneficial Water Use Permit No. 47648-s76M is granted to Lawrence H. and Kevin L. Rausch to appropriate 80 gallons per minute up to 24 acre-feet of water from Petty Creek for sprinkler irrigation purposes. In no event shall these waters be diverted prior to May 1 of any given year nor subsequent to October 1 of any given year. The point of diversion and place of use shall be in the SW1/4 SW1/4 NE1/4 of Section 12, Township 14 North, Range 23 West, in Missoula County. The priority date of this permit shall be April 27,

1982, at 3:29 p.m.

This permit is subject to the following express conditions, limitations, and restrictions:

A. This permit is subject to all prior and existing rights, and to any final determination of such rights as provided by Montana law. Nothing herein shall be construed to authorize diversions by the Permittees to the detriment of any senior appropriator.

B. The Permittees shall in no event cause to be diverted from the source of supply pursuant to this permit more water than is reasonably required for the purposes described herein. At all times when the water is not reasonably required for these purposes, the Permittees shall cause and otherwise allow the waters to remain in the source of supply.

C. Nothing herein shall be construed to affect or otherwise reduce the Permittees' liability for damages which may be caused by the exercise of this permit. Nor does the Department of Natural Resources and Conservation in issuing this permit acknowledge any liability for damages caused by the exercise of this permit, even if such damage is a necessary and unavoidable consequence of the same.

D. The Permittees shall diligently adhere to the terms and conditions of this permit. Failure to adhere to the terms and

conditions may result in the revocation of the permit.

DONE this 23<sup>rd</sup> day of May, 1983.

Gary Fritz  
Gary Fritz, Administrator  
Department of Natural  
Resources and Conservation  
32 S. Ewing, Helena, MT  
(406) 449 - 2872

Kent B. Roberts  
Kent B. Roberts, Hearing Examiner  
Department of Natural Resources  
and Conservation  
32 S. Ewing, Helena, MT 59620  
(406) 449 - 3962

NOTICE

The Department's Final Order may be appealed in accordance with the Montana Administrative Procedures Act by filing a petition in the appropriate court within thirty (30) days after service of the Final Order.

AFFIDAVIT OF SERVICE  
FINAL ORDER

STATE OF MONTANA )  
 ) ss.  
County of Lewis & Clark )

Nicky Wylie, an employee of the Montana Department of Natural Resources and Conservation, being duly sworn on oath, deposes and says that on May 23, 1983, she deposited in the United States mail, certified return receipt mail, an order by the Department on the Application by Jacqueline Ahearn, Zakery L. and Charlotte R. Morris, Application No. 45875-s76M, for an Application for Beneficial Water Use Permit, addressed to each of the following persons or agencies:

1. Lawrence H. & Kevin L. Rausch, Star Route Box 26, Alberton, MT 59820
2. William & Joyce Montreuil, Star Route, Alberton, MT 59820
3. Kent Roberts, Hearing Examiner (hand deliver)
4. Dave Pengelly, Missoula Field Office (inter-department mail)

DEPARTMENT OF NATURAL RESOURCES AND  
CONSERVATION

by Nicky J. Wylie

STATE OF MONTANA )  
 ) ss.  
County of Lewis & Clark )

On this 24 day of MAY, 1983, before me, a Notary Public in and for said state, personally appeared Nicky J. Wylie, known to me to be the Hearings Recorder of the Department that executed this instrument or the persons who executed the instrument on behalf of said Department, and acknowledged to me that such Department executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

John P. Gibson  
Notary Public for the State of Montana  
Residing at Helena, Montana  
My Commission expires 1/21/84