

*NO
Proposed
Issued*

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. 48019-S40B BY WILLIAM AND GLYNN)
MCVEDA)

* * * * *

The above-entitled matter was set for hearing before David L. Pengelly, Hearing Examiner with the Department of Natural Resources and Conservation. Prior to the January 11, 1984 date of hearing, all parties of record agreed to settlement of this matter through the Water Rights Bureau Field Office in Lewistown, Montana. The parties orally agreed that Beneficial Water Use Permit No. 48019-s40B would be issued subject to certain amendments by Applicant's William and Glynn McVeda.

The Objector, Mrs. Frank Potter, was given written notification, dated January 3, 1984, of the proposed issuance of the permit, specifying the permit conditions to which the parties had orally stipulated. The objector was given a time period of 10 days from receipt of the notification in which to request a hearing if she did not agree to the proposed permit conditions.

The time period for filing exceptions to the proposed permit conditions on the above-entitled matter has expired, with no exceptions or request for hearing filed by the Objector. The Department accepts and adopts the Proposed Permit conditions as set forth in the January 3, 1984 letter from the Lewistown Water Rights Bureau Field Office of the Department of Natural Resources and Conservation to the Objector.

CASE # 48019

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

ORDER

The Application for Beneficial Water Use Permit No. 48019-s40B is granted to William and Glynn McVeda to appropriate 5 gallons per minute up to 0.5 acre-feet per year for drilling purposes from April 1 to November 1, inclusive of each year. The source of supply shall be the East Fork Fords Creek. The point of diversion shall be the NE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 22, Township 17 North, Range 20 East, M.P.M., in Fergus County, Montana. The priority date for this permit shall be April 26, 1982, at 2:37 p.m.

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

1. This permit is subject to all prior and existing rights.
2. This permit is subject to any final determination of existing water rights as provided by Montana Water Law. Nothing herein shall be construed to authorize diversions by the Permittee to the detriment of any senior appropriator.
3. Nothing herein shall be construed to affect or reduce the Permittee's 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. The Permittee shall adhere diligently to the terms and conditions of the permit. Failure to adhere to the terms and conditions may result in the revocation or modification of this permit (MCA 85-2-314).

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.

DONE this 2 day of March, 1984.



Gary Fritz, Administrator
Department of Natural
Resources and Conservation
32 S. Ewing, Helena, MT
(406) 444 - 6605



David L. Pengelly, Hearing Examiner
Department of Natural Resources
and Conservation
32 S. Ewing, Helena, MT 59620
(406) 444 - 6610

AFFIDAVIT OF SERVICE

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

Donna K. Elser, an employee of the Montana Department of Natural Resources and Conservation, being duly sworn on oath, deposes and says that on March 3, 1984, she deposited in the United States mail, Certified mail, an order by the Department on the Application by William and Glynn McVeda, Application No. 48019-s40B, for an Application for Beneficial Water Use Permit, addressed to each of the following persons or agencies:

- 1. William and Glynn McVeda, 915 Watson St., Lewistown, MT 59457
- 2. Mrs. Frank Poetter, Box 586, Lewistown, MT 59457
- 3. Sam Rodriguez, Area Office Supervisor (inter-departmental mail)
- 4. Dave Pengelly, Hearing Examiner (inter-departmental mail)

DEPARTMENT OF NATURAL RESOURCES AND
CONSERVATION

by Donna K. Elser

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

On this 3RD day of MARCH, 1984, before me, a Notary Public in and for said state, personally appeared Donna Elser, 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.

Jan P. Gilman

Notary Public for the State of Montana
Residing at HELENA, Montana
My Commission expires 12-1-1987

CASE # M/8019