

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  
79178-s43B BY HENRY J. VALGAMORE )

\* \* \* \* \*

The time period for filing exceptions, objections, or comments to the Proposal for Decision in this matter has expired. No timely written exceptions were received. Therefore, having given the matter full consideration, the Department of Natural Resources and Conservation hereby accepts and adopts the Findings of Fact and Conclusions of Law as contained in the May 21, 1992, Proposal for Decision, and incorporates them herein by reference.

WHEREFORE, based upon the record herein, the Department makes the following:

ORDER

Subject to the terms, conditions, restrictions, and limitations specified below, Beneficial Water Use Permit 79178-s43B is hereby granted to Henry J. Valgamore to appropriate surface water from Jarrett Creek by means of a headgate and ditch in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 17, Township 01 South, Range 13 East, Sweet Grass County, at 2.5 cubic feet per second up to 148 acre-feet per year for flood irrigation of 72 acres of pasture and crop lands. The place of use is more specifically described as 20 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$  and 37 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 8, and 15 acres in the N $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 17, Township 01 South, Range 13 East, Sweet Grass County. The period of appropriation would

**CASE # 79178**

be April 1 through June 30 of each year. The priority date shall be 3:02 p.m. September 18, 1991.

A. This permit is subject to all prior and existing water rights, and to any final determination of such rights as provided by Montana Law. Nothing herein shall be construed to authorize appropriations by the permittee to the detriment of any prior appropriator.

B. The permittee shall maintain an adequate flow metering device on the diversion system in order to allow the flow rate and volume of water diverted to be recorded. The permittee shall keep a written record of the flow rate and volume of all waters diverted, including the period of time, and shall submit said records upon request to the Billings Water Resources Regional Office of the Department of Natural Resources and Conservation.

C. This permit is supplemental to Statement of Claim for Existing Water Right 43B-W-035267-00 which means they are for the same purpose and have overlapping places of use. Whenever supplemental water rights are combined to supply water for irrigation, each is limited to the flow rate and volume of the individual right, and the combined total flow rate and volume shall not exceed the amount necessary for beneficial use.

D. This permit is subject to the preferred use of those certain Yellowstone River Basin reservations granted by the Board of Natural Resources and Conservation on December 15, 1978 and as amended by Board Order on November 21, 1980.

The permittee acknowledges that the Application for Beneficial Water Use Permit has been submitted for lands which are or could be part of the water reservation granted Sweet Grass Conservation District in the Yellowstone basin. Therefore, if the water becomes part of a Board of Natural Resources and Conservation approved conservation district reservation project plan, the permit terminates when the use of water appropriated is approved by a conservation district and is made a part of its water reservation.

The waters appropriated pursuant to this permit shall only be diverted when the flow of the Yellowstone River exceeds the water reservations that are being put to beneficial use. Currently the instream flow reservation at the USGS gauge at Billings is listed below. As the downstream conservation districts and municipalities begin to develop their water reservations, the amount of water needed to pass the USGS gauge to satisfy all water reservations will increase.

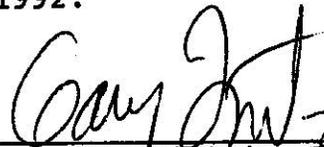
The permittee shall cease diverting water pursuant to this permit in any year, or portions thereof, when the flow of the Yellowstone River is less than the granted instream flow reservation of the Montana Dept. of Fish, Wildlife and Parks (MDFWP). The permittee agrees to cease his junior diversion immediately upon verbal or written notification by an authorized representative of the MDFWP.

<u>Monthly Breakdown</u>	<u>Acre-feet</u>	<u>Cubic Feet/Second</u>
January	152688	2483
February	137940	2484
March	177278	2883
April	213048	3580
May 1-20	203132	5121
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July 1-10	203781	10274
July 11-31	166611	4000
August	215205	3500
September	184878	3107
October	219694	3573
November	206976	3478
December	171008	2781

**NOTICE**

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

Dated this 4 day of August, 1992.



\_\_\_\_\_  
 Gary Fritz, Administrator  
 Department of Natural Resources  
 and Conservation  
 Water Resources Division  
 1520 East 6th Avenue  
 Helena, Montana 59620-2301  
 (406) 444-6605

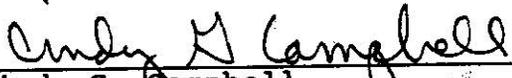
**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing Final Order was duly served upon all parties of record at their address or addresses this 5<sup>th</sup> day of August, 1992 as follows:

Henry J. Valgamore  
P.O. Box 113  
Springdale, MT 59082

Keith Kerbel and  
Tim Keuhn  
Billings Water Resources  
Regional Office  
1537 Avenue D, Suite 121  
Billings, MT 59102  
(via electronic mail)

John E. Stults, Hearing  
Examiner  
Department of Natural  
Resources & Conservation  
1520 E. 6th Avenue  
Helena, MT 59620-2301

  
Cindy G. Campbell  
Hearings Unit Legal Secretary

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

\* \* \* \* \*

IN THE MATTER OF THE APPLICATION	)	PROPOSAL
FOR BENEFICIAL WATER USE PERMIT	)	FOR
79178-s43B BY HENRY J. VALGAMORE	)	DECISION

\* \* \* \* \*

Pursuant to Mont. Code Ann. §§ 85-2-121 and 85-2-309 (1991) a hearing was held in the above matter on April 15, 1992, in Big Timber, Montana, to determine whether a Beneficial Water Use Permit based on the above application should be granted to Henry J. Valgamore under the criteria in Mont. Code Ann. § 85-2-311(1) and (4) (1991).

APPEARANCES

Applicant appeared at the hearing on his own behalf. Lorraine Valgamore, wife of the Applicant, appeared as a witness in behalf of Applicant. Tim Kuehn, Water Resources Specialist with the Billings Water Resources Regional Office of the Department of Natural Resources and Conservation (Department), appeared as the Department's spokesperson.

During the prehearing conference, Tim Kuehn explained that Objector Marcotte had filed his objection in error, mistakenly confusing this application with a separate, concurrent application by Applicant for a fish and wildlife pond. This was apparent to Tim Kuehn from discussions he had with Objector Marcotte. A letter dated February 4, 1992, was sent to both Objectors requesting confirmation of their interest to continue

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**FILMED**  
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their objections in light of conditions the Department proposed to place on any permit that might be issued based on the above-entitled application. The letter (a copy of which is in the Department's file on this application) clearly stated lack of response would be interpreted as acceptance of issuance of the permit with the conditions. Objector Jarrett responded with a request that a hearing be held. Objector Marcotte did not respond. Therefore, the Marcotte objection is considered to have been withdrawn.

Objector Jarrett failed to appear at the hearing. The record shows a properly constituted Notice of Hearing was properly served on Objector Jarrett March 12, 1992, by certified mail, return receipt requested. See Mont. Admin. R. 36.12.204(1) (1991). A return receipt was received by the Department with a signature indicating the Notice had been delivered. The Notice of Hearing set the hearing for Wednesday, April 15, 1992, beginning at 10:00 a.m. The Hearing Examiner, Applicant, and Department spokesman were present at the appointed time and place. Prior to beginning the hearing the premises were canvassed which determined the Objectors were not on the premises. At 10:25 a.m. the Hearing Examiner opened the hearing on the record. The hearing record was closed at 11:10 a.m. During that time, no objector appeared at the hearing. The Hearing Examiner received no communication from Objector Jarrett prior to the hearing or subsequent to the close of the record. The Hearing Examiner

ruled at the hearing that Objector Jarrett was in default and that his interests in this proceeding be stricken.

The ruling is hereby confirmed. The interests of the Objector Jarrett in this matter are stricken and he longer retains the status of a party to the proceeding. Mont. Admin. R. 36.12.208 (1991).

#### EXHIBITS

Applicant offered the following four exhibits which were accepted into the record without objection.

Applicant's Exhibit 1 consists of two pages. The first page is a photocopy of the cover of the *Water Resources Survey, Sweet Grass County*, published by the State Engineer's Office, July 1950. The second page is a photocopy of a map of Township 1 South Range 13 East from that survey. This exhibit was offered to illustrate the area of the Jarrett Creek drainage basin.

Applicant's Exhibit 2 is an 8½ inch by 11 inch sheet of paper with three color photographs attached to it, and handwritten descriptions of what appears in each photograph.

Applicant's Exhibit 3 is the notarized Affidavit of Robert R. Rucker, dated March 13, 1992.

Applicant's Exhibit 4 is a photocopy of an Acknowledgement of Water Right Transfer for Water Right 43B-W-035267-00.

Immediately prior to the hearing Applicant was given the opportunity to review the Department's file on this application. No objection was expressed against any part of the file being

made a part of the record. The Hearing Examiner entered the file into the record at the hearing in its entirety.

At the hearing the Hearing Examiner took official notice of records maintained by the Department on water rights in the vicinity of the proposed appropriation. No objection was expressed.

Immediately following the hearing the Hearing Examiner conducted a site visit to the proposed point of diversion and place of use. Also present at the site visit were: Applicant, Lorraine Valgamore, Tim Kuehn, and Cindy Campbell, Legal Secretary with the Department's Hearings Unit. The purpose of the site visit was to familiarize the Hearing Examiner with the site of the proposed project solely to facilitate his understanding of the evidence on the record. The offering of additional evidence or argument was not allowed and did not occur.

#### FINDINGS OF FACT

1. Applicant filed Application for Beneficial Water Use Permit 79178-s43B with the Department on September 18, 1991, at 3:02 p.m. (Department's file)

2. Applicant proposes to appropriate surface water from Jarrett Creek by means of a headgate and ditch in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 17, Township 01 South, Range 13 East, Sweet Grass County, at 2.5 cubic feet per second (cfs) up to 148 acre-feet (AF) per year for flood irrigation of 72 acres of pasture and crop lands. The place of use is more specifically described as 20 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$  and 37 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 8,

and 15 acres in the N $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 17, Township 01 South, Range 13 East. The period of appropriation would be April 1 through November 1 of each year. (Department's file)

3. Pertinent portions of the application were published in the Big Timber Pioneer, a newspaper of general circulation in the area of the proposed source, on December 18, 1991. Additionally, the Department served notice by first-class mail on individuals and public agencies which the Department determined might be interested in or affected by the application. (Department's file)

4. The Department received two objections filed against this application. The interests of both objectors have been withdrawn or were subsequently stricken. See Appearances, above. (Department's file)

5. Applicant is the owner of the ranch that contains the proposed place of use. (Applicant's Exhibit 4, Department's file, and testimony of Henry Valgamore)

6. Applicant owns an existing water right to appropriate 2.5 cfs up to 360 AF per year of water from Jarrett Creek for use on the same fields that make up the proposed place of use for the proposed appropriation. This existing water right appears as Water Right 43B-W-035267-00 in the Temporary Preliminary Decree on the Yellowstone River Basin above and including Bridger Creek (Basin 43B), issued by the Montana Water Court. The proposed appropriation would be supplemental to Applicant's existing right, meaning they would be for the same purpose and have

overlapping places of use. (Department's file and Department's records)

7. The proposed appropriation would be diverted by means of an existing two-foot square, cement headgate in good condition. The water would be conveyed to the place of use by an existing ditch system. The headgate and ditch system have been used for many years to divert water from Jarrett Creek and convey it to the proposed place of use. It would be capable of conveying the proposed additional flow of water. It is capable of diverting more water than both of Applicant's rights combined. (Department's file and testimony of Henry Valgamore)

8. Applicant's proposed diversion works are the last diversion on Jarrett Creek. There are no other diversion works between the proposed point of diversion and the confluence of Jarrett Creek and the Yellowstone River. (Department's file, Applicant's Exhibit 1, and testimony of Henry Valgamore)

9. The soils are sandy in Applicant's ditches and on Applicant's fields. A substantial head of water is required to carry water through the ditches and across the fields. The amount of flow rate Applicant can divert under his existing water right forms a low enough head of water that it is difficult to cover the fields due to percolation losses during conveyance and spreading. (Testimony of Henry Valgamore)

10. Flows in Jarrett Creek are usually in excess of 200 miner's inches during the spring and early summer of each year. The water that exceeds Applicant's existing water right flows

past the diversion on down stream to the Yellowstone River. Seasonal runoff such as this always ends in June. (Department's file, Applicant's Exhibit 3, and testimony of Henry Valgamore)

11. In 1938 a major cloudburst caused flooding on July 8 after seasonal runoff had ended. Another more recent cloudburst caused flooding in around the middle of the summer. This flooding was prior to 1983. (Applicant's Exhibit 2 and testimony of Henry Valgamore and Lorraine Valgamore)

12. The record contains no further evidence of water in Jarrett Creek at the proposed point of diversion in excess of Applicant's existing water right beyond early July. The record indicates that it has been the intent of Applicant to obtain the full extent of the proposed appropriation in the spring and early summer of each year. (Department's file and testimony of Henry Valgamore)

13. The proposed volume is attainable between April 1 and July 1 (91 days) at the proposed flow rate:  $2.5 \text{ cfs} \times 1.983 \text{ AF per cfs per day} \times 91 \text{ days} = 451.13 \text{ AF}$ . The proposed volume can be obtained in 30 days of diverting at the proposed flow rate:  $148 \text{ AF} \div 2.5 \text{ cfs} \div 1.983 \text{ AF per cfs per day} = 29.85 \text{ days}$ .

14. There are no other planned uses or developments on the proposed source for which a permit has been issued. (Department's records and Department's file)

15. The Board of Natural Resources and Conservation has reserved water in the mainstem and tributaries of the Yellowstone

River for the Montana Department of Fish, Wildlife, and Parks (DFWP) to maintain minimum instream flows in the Yellowstone River. The priority date of DFWP's water reservation is December 15, 1978. DFWP was notified of this application. No objection or other communication was received from it relative to this application. (Department's records, Department's file, and testimony of Tim Kuehn)

16. The Board of Natural Resources and Conservation has reserved water in the mainstem and southern tributaries of the Yellowstone River in Sweet Grass County for the Sweet Grass Conservation District (SGCD) for future development. The priority date of SGCD's water reservation is December 15, 1978. SGCD was notified of this application. No objection or other communication was received from the District relative to this application. (Department's records, Department's file, and testimony of Tim Kuehn)

#### CONCLUSIONS OF LAW

1. The Department has jurisdiction over the subject matter herein, and the parties hereto. Mont. Code Ann. Title 85, Chapter 2 (1991).

2. The Department gave proper notice of the hearing, and all relative substantive and procedural requirements of law or rule have been fulfilled; therefore, the matter is properly before the Hearing Examiner. See Findings of Fact 1, 2, 3, and 4.

3. The Department must issue a Beneficial Water Use Permit if the applicant proves by substantial credible evidence that the following criteria set forth in Mont. Code Ann. § 85-2-311(1) (1991) are met:

(a) there are unappropriated waters in the source of supply at the proposed point of diversion:

(i) at times when the water can be put to the use proposed by the applicant;

(ii) in the amount the applicant seeks to appropriate; and

(iii) during the period in which the applicant seeks to appropriate, the amount requested is reasonably available;

(b) the water rights of a prior appropriator will not be adversely affected;

(c) the proposed means of diversion, construction, and operation of the appropriation works are adequate;

(d) the proposed use of water is a beneficial use;

(e) the proposed use will not interfere unreasonably with other planned uses or developments for which a permit has been issued or for which water has been reserved; and

(f) the applicant has a possessory interest, or the written consent of the person with the possessory interest, in the property where the water is to be put to beneficial use.

4. To meet the substantial credible evidence standard in Mont. Code Ann. § 85-2-311(1) (1991) the applicant must submit independent hydrologic or other evidence, including water supply data, field reports, and other information developed by the Department, the U.S. Geological Survey, or the U.S. Soil Conservation Service and other specific field studies, demonstrating that the criteria are met. Mont. Code Ann. § 85-2-311(4) (1991).

5. Applicant proved by substantial credible evidence that Applicant has possessory interest in the property where the water is to be put to beneficial use. See Finding of Fact 5. Therefore, the criterion in Mont. Code Ann. § 85-2-311(1)(f) (1991) has been met.

6. The proposed use of the water, irrigation, is a beneficial use. Mont Code Ann. § 85-2-102(2)(a) (1991). The proposed use of water will benefit Applicant. See Finding of Fact 9. The amount of water to be appropriated is reasonable for the purpose. See Findings of Fact 2, 9, and 13. Therefore, the criterion in Mont. Code Ann. § 85-2-311(1)(d) (1991) has been met.

7. Applicant proved by substantial credible evidence the proposed means of diversion, construction, and operation of the diversion works are adequate. See Findings of Fact 2 and 7. Therefore, the criterion in Mont. Code Ann. § 85-2-311(1)(c) (1991) has been met.

8. Applicant proved by substantial credible evidence unappropriated waters are reasonably available in the source of supply at the proposed point of diversion in the amount and during the period from April 1 through June 30. See Finding of Fact 10. Therefore, the criterion in Mont. Code Ann. § 85-2-311(1)(a) (1991) has been met for that period of appropriation.

The only evidence of water availability after June was that it had occurred twice in the last 54 years. See Findings of Fact 11 and 12. A frequency of occurrence of once every 26 years does not constitute reasonable availability for an open ditch flood

irrigation system without storage. Therefore, as to the proposed period of appropriation from July 1 through November 1 the criterion has not been met, and a permit cannot be issued for appropriation during that period.

9. Applicant proved by substantial credible evidence the water rights of prior appropriators will not be adversely affected. See Finding of Fact 8. Therefore, the criterion in Mont. Code Ann. § 85-2-311(1)(b) (1991) has been met.

10. The proposed use will not interfere unreasonably with other planned uses for which a permit has been issued. See Finding of Fact 14.

The record contains no evidence that the water being applied for is reserved water or that it is other than unappropriated water. See Findings of Fact 15 and 16. It is the intent of the applicant to appropriate high or "flood" waters. See Findings of Fact 10 and 11. Furthermore, it is reasonable to assume that return flows to Jarrett Creek and the Yellowstone River will be a large percentage of the volume of water diverted and will return to the system relatively quickly. See Findings of Fact 8 and 9. Finally, the proposed appropriation will be callable by DFWP and by SGCD because their reserved water rights would be senior to a permit based upon this application. See Findings of Fact 1, 15, and 16. Therefore, the proposed use will not unreasonably interfere with planned uses for which water has been reserved. See Mont. Code Ann. § 85-2-316(7) (1991); In re Application 54172-s430 by Lockwood Water Users Association.

Therefore the criterion in Mont. Code Ann. § 85-2-311(1)(e) (1991) has been met.

11. The Department may issue a permit subject to limitations and restrictions necessary for the permit to be in conformance with the statutory criteria. Mont. Code Ann. § 85-2-312(1) (1991). Because this appropriation will be supplemental to another water right, a condition must be placed on the permit restricting the supplemental use of the rights to the limits of each right and, when combined, to not exceed the amount of water necessary for beneficial use. See Finding of Fact 6. Because Applicant's diversion works are capable of diverting more water than the combined amounts of Applicant's two water rights, a condition must be placed on the permit requiring a measuring device on the diversion works to insure that the amount of water diverted does not exceed Applicant's water rights. See Finding of Fact 7. A condition shall be placed on the permit as notification to the permit holder of the specifics of the reservations to which the permit is subject. See Findings of Fact 15 and 16.

#### PROPOSED ORDER

Subject to the terms, conditions, restrictions, and limitations specified below, Beneficial Water Use Permit 79178-s43B is hereby granted to Henry J. Valgamore to appropriate surface water from Jarrett Creek by means of a headgate and ditch in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 17, Township 01 South, Range 13 East, Sweet Grass County, at 2.5 cubic feet per second up to 148 acre-feet per year for flood irrigation of 72 acres of pasture and crop

lands. The place of use is more specifically described as 20 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$  and 37 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 8, and 15 acres in the N $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 17, Township 01 South, Range 13 East, Sweet Grass County. The period of appropriation would be April 1 through June 30 of each year. The priority date shall be 3:02 p.m. September 18, 1991.

A. This permit is subject to all prior and existing water rights, and to any final determination of such rights as provided by Montana Law. Nothing herein shall be construed to authorize appropriations by the permittee to the detriment of any prior appropriator.

B. The permittee shall maintain an adequate flow metering device on the diversion system in order to allow the flow rate and volume of water diverted to be recorded. The permittee shall keep a written record of the flow rate and volume of all waters diverted, including the period of time, and shall submit said records upon request to the Billings Water Resources Regional Office of the Department of Natural Resources and Conservation.

C. This permit is supplemental to Statement of Claim for Existing Water Right 43B-W-035267-00 which means they are for the same purpose and have overlapping places of use. Whenever supplemental water rights are combined to supply water for irrigation, each is limited to the flow rate and volume of the individual right, and the combined total flow rate and volume shall not exceed the amount necessary for beneficial use.

D. This permit is subject to the preferred use of those certain Yellowstone River Basin reservations granted by the Board of Natural Resources and Conservation on December 15, 1978 and as amended by Board Order on November 21, 1980.

The permittee acknowledges that the Application for Beneficial Water Use Permit has been submitted for lands which are or could be part of the water reservation granted Sweet Grass Conservation District in the Yellowstone basin. Therefore, if the water becomes part of a Board of Natural Resources and Conservation approved conservation district reservation project plan, the permit terminates when the use of water appropriated is approved by a conservation district and is made a part of its water reservation.

The waters appropriated pursuant to this permit shall only be diverted when the flow of the Yellowstone River exceeds the water reservations that are being put to beneficial use. Currently the instream flow reservation at the USGS gauge at Billings is listed below. As the downstream conservation districts and municipalities begin to develop their water reservations, the amount of water needed to pass the USGS gauge to satisfy all water reservations will increase.

The permittee shall cease diverting water pursuant to this permit in any year, or portions thereof, when the flow of the Yellowstone River is less than the granted instream flow reservation of the Montana Dept. of Fish, Wildlife and Parks (MDFWP). The permittee agrees to cease his junior diversion immediately

upon verbal or written notification by an authorized representative of the MDFWP.

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November	206976	3478
December	171008	2781

NOTICE: It is the responsibility of the permittee to determine when the stream flow is in excess of the flows at the USGS gauge station needed to satisfy reserved waters being used. Stream flow information may be obtained by calling the Water Resources Regional Office in Billings at (406) 657-2105.

E. Issuance of this permit shall not reduce the permittee's liability for damages caused by exercise of this permit, nor does the Department, in issuing this permit, acknowledge any liability for damages caused by exercise of this permit, even if such damage is a necessary and unavoidable consequence of the same.

F. Upon a change in ownership of all or any portion of this permit, the parties to the transfer shall file with the Department of Natural Resources and Conservation a Water Right Transfer Certificate, Form 608, pursuant to Section 85-2-424, MCA.

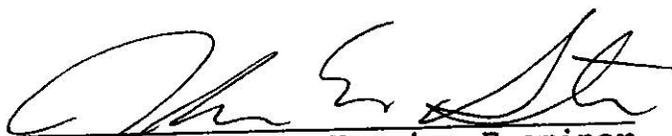
NOTICE

This proposal may be adopted as the Department's final decision unless timely exceptions are filed as described below. Any party adversely affected by this Proposal for Decision may file exceptions with the Hearing Examiner. Defaulted objectors are restricted to excepting to the default ruling. The Department will disregard any exceptions submitted by defaulted objectors on other substantive issues.

Any exceptions must be filed and served upon all parties within 20 days after the proposal is mailed. Parties may file responses to any exception filed by another party within 20 days after service of the exception. However, no new evidence will be considered.

No final decision shall be made until after the expiration of the time period for filing exceptions, and due consideration of timely exceptions, responses, and briefs.

Dated this 21<sup>ST</sup> day of May, 1992.

  
John E. Stults, Hearing Examiner  
Department of Natural Resources  
and Conservation  
1520 East 6th Avenue  
Helena, Montana 59620-2301  
(406) 444-6612

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Proposal for Decision was duly served upon all parties

of record at their address or addresses this 21<sup>st</sup> day of May,  
1992, as follows:

Henry J. Valgamore  
P.O. Box 113  
Springdale, MT 59082

Tom Jarrett  
P.O. Box 116  
Springdale, MT 59082

A.M. Marcotte  
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Livingston, MT 59047

Keith Kerbel and  
Tim Kuehn  
Billings Water Resources  
Regional Office  
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(via electronic mail)

Paula Wheeler for  
Cindy G. Campbell  
Hearings Unit Legal Secretary