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

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IN THE MATTER OF THE APPLICATION)
FOR BENEFICIAL WATER USE PERMIT) FINAL ORDER
41S-105823 BY DANIEL FRENCH)

* * * * *

The Proposal for Decision (Proposal) in this matter was entered on May 31, 2000. Both Applicant and Objector filed timely exceptions to the Proposal. Neither requested an oral argument hearing.

The Proposal recommended granting a Beneficial Water Use Permit to appropriate five cubic feet per second up to 986 acre-feet of groundwater per year for fisheries and irrigation.

Applicant excepted to Finding of Fact 4 and Condition C of the Proposed Order where the Hearing Examiner finds Applicant must be able to pass the natural flow of Spring Branch through the ponds to Objector. Applicant has applied for developed water from developed springs, not for the natural flow of Spring Branch. Therefore, granting a permit for this application does not give Applicant the right to use any of the natural flow and Applicant must be able to bypass the natural flow of Spring Branch. Finding of Fact 4 and Condition C will not be altered.

Applicant excepted to Findings of Fact 6 and 7 with respect to the wildlife use. Applicant neither quantified the amount of water needed for the use nor established the benefit to the appropriator; therefore, the Department is unable to grant a beneficial use permit for wildlife. Findings of Fact 6 and 7 will not be altered.

Objector excepted to Finding of Fact 3 alleging Applicant did not prove the amount of water requested was legally available and Objector's water right was not taken into consideration in this Finding. As stated above, the granting of a permit for this application would not give Applicant a right to the natural flow of

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Spring Branch. He would have a right to use only the developed water. Objector's concern that the work Applicant has done and seeks to do may be collecting water from part of Objector's source is speculative and has no basis.

For this review, the Department must accept the Proposal's Findings if the findings are based upon competent substantial evidence. The Department may modify the conclusions of law if it disagrees with the Proposal for Decision. Mont. Code Ann. § 2-4-621(3) (1999) and Mont. Admin. R. 36.12.229 (1999). The Department has considered the exceptions and reviewed the record under these standards. The Department finds the Proposal is supported by the record and the facts were properly applied to the law. However, evaporation is not a beneficial use and cannot be granted as such. The expected evaporation should be calculated and included in the total volume permitted.

Objector filed a response to exceptions which was untimely and cannot be considered. Therefore, Applicant's response to Objector's untimely response cannot be considered.

THEREFORE, the Department of Natural Resources and Conservation hereby accepts and adopts the Findings of Fact and Conclusions of Law as contained in the May 31, 2000, Proposal for Decision, and incorporates them by reference.

Based on the record in this matter, the Department makes the following:

ORDER

Subject to the terms, conditions, restrictions, and limitations listed below, Beneficial Water Use Permit 41S-105823 is issued to Daniel T. French to appropriate five cubic feet per second, up to 986 acre-feet of groundwater per year. The permitted means of diversion is a series of developed springs in the W½ of Section 24, W½ of Section 25, and the E½ of Section 26, all in Township 14 North, Range 13 East, Judith Basin County, Montana. The permitted period of appropriation is from January 1 to December 31, inclusive, of each

year. The permitted uses are 243.4 gallons per minute up to 99 acre-feet for fisheries in five pit/dams and 5 cubic feet per second up to 887 acre-feet for irrigation of 366 acres in Section 24, and 225 acres in Section 25 all in Township 14 North, Range 13 East, Judith Basin County, Montana. The permitted period of use is January 1 through December 31, inclusive of each year for the fishery and April 15 through September 30, inclusive of each year, for the irrigation use. The permitted fishery and irrigation storage place of use is a series of five instream reservoirs with a total capacity of 75 acre-feet located in the W $\frac{1}{2}$ of Section 24. The permitted irrigation place of use is 366 acres in Section 24 and 225 acres in the N $\frac{1}{2}$ of Section 25 of said Township 14 North, Range 13 East.

A. This right is subject to the condition that the project shall be designed by and constructed under the supervision of a professional engineer registered in the state of Montana who is experienced in the design of dams and irrigation systems according to NRCS standards.

B. The appropriator must acquire a private fish pond license as required by Mont. Code Ann. §87-4-603 (1999). The appropriator must stock the pond as allowed in the private fish pond license within two years of completion of pond construction. Copies of the pond license and stocking purchase invoices are required to show project completion, and shall be attached to the permit Notice of Completion (Form 617) when filed.

C. This right is subject to the installation of permanent drainage devices in each reservoir that are adequate to pass through the dam the natural runoff to satisfy existing water rights. The drainage devices must be approved by the Water Resources Regional Office prior to installation.

D. This right is subject to the installation of measuring devices adequate to measure the flow rate of all waters developed at the downstream end of each of the two collection ditches. The measuring devices must be approved by the Water Resources Regional Office prior to installation. Upon completion of the collection

ditches the flow rate of the developed water shall be recorded monthly for a period of three years. The three years of record must accompany the Notice of Completion (Form 617) filed when the water has been put to use as permitted. The maximum measured flow rate, up to 5 cubic feet per second for the irrigation use and 243.4 gallons per minute for the fisheries use, will determine the limit of this right.

E. The combined volume of irrigation water from water rights with overlapping places of use shall not exceed the NRCS crop requirement for the overlapping acres.

F. The issuance of this right by the Department shall not reduce the appropriator's liability for damages caused by the appropriator's exercise of this right. Nor does the Department in issuing the right in any way acknowledge liability for damage caused by the appropriator's exercise of this right.

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 this Final Order.

If a petition for judicial review is filed and a party to the proceeding elects to have a written transcription prepared as part of the record of the administrative hearing for certification to the reviewing district court, the requesting party must make arrangements with the Department of Natural Resources and Conservation for ordering and payment of the written transcript. If no request is made, the Department will transmit a copy of the tape or the oral proceedings to the district court.

Dated this 22nd day of August, 2000.



Jack Stults, Administrator
Water Resources Division
Department of Natural Resources
and Conservation
PO Box 201601
Helena, MT 59620-1601

CERTIFICATE OF SERVICE

This certifies a true and correct copy of the Proposal for Decision was served upon all parties listed below this ^{24th} day of August, 2000.

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HOBSON MT 59452

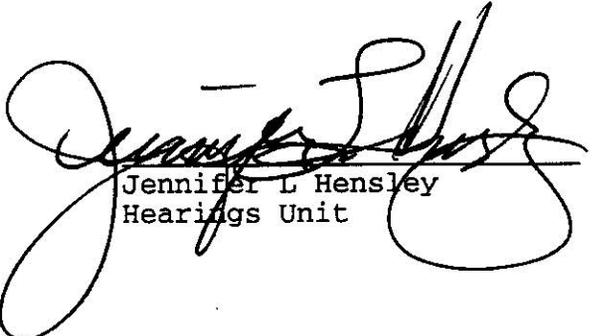
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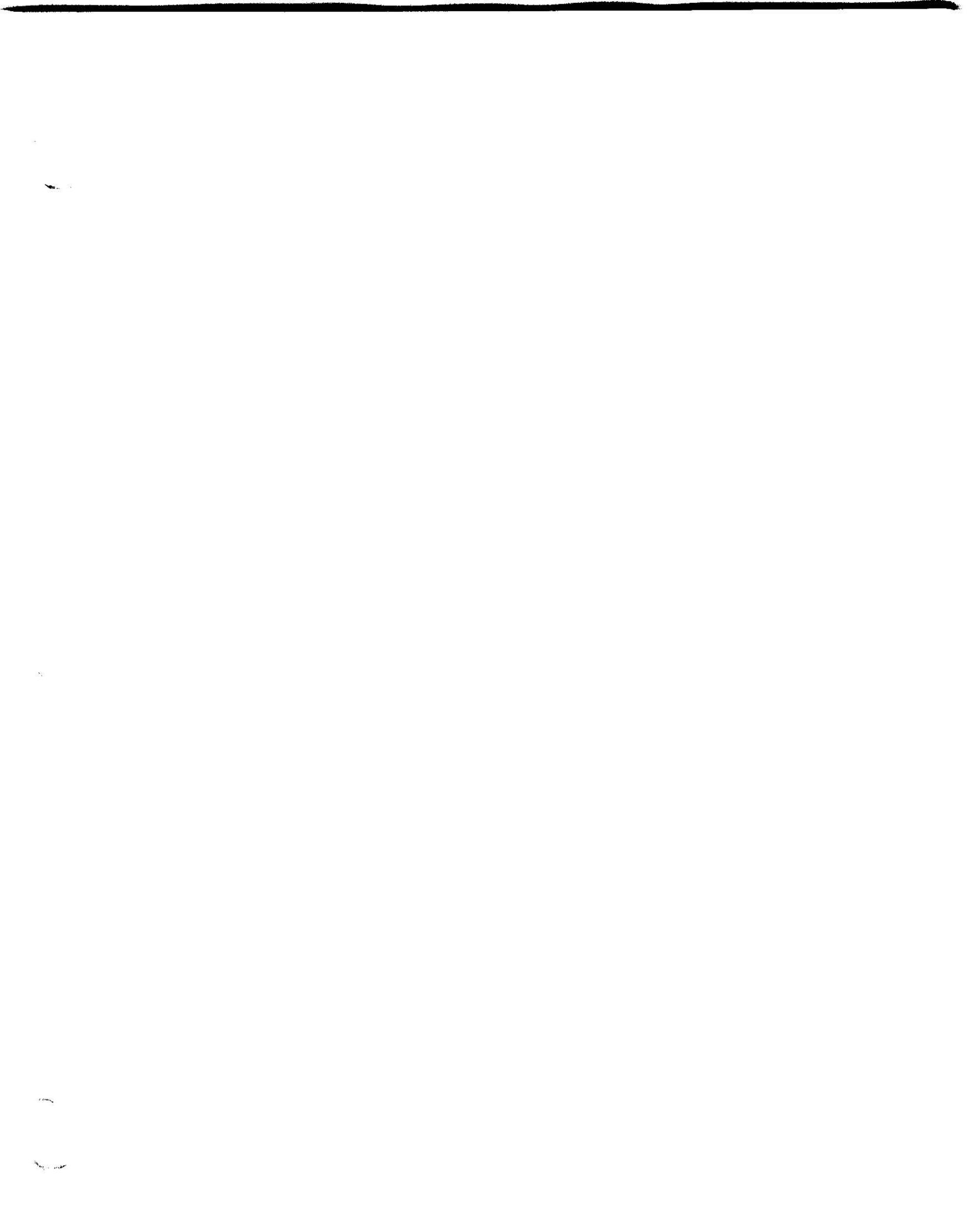
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CASE # 105823



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

**IN THE MATTER OF THE APPLICATION FOR)
BENEFICIAL WATER USE PERMIT 41S-105823)
BY DANIEL T. FRENCH)**

**Proposal
for
Decision**

Pursuant to the Montana Water Use Act and to the contested case provisions of the Montana Administrative Procedure Act, and after notice required by Mont. Code Ann. §85-2-307 (1999), a hearing was held on February 15, 2000, in Stanford, Montana, to determine whether a beneficial water use permit should be issued to Daniel T. French for the above application under the criteria set forth in Mont. Code Ann. §85-2-311 (1999).

APPEARANCES

Applicant appeared at the hearing in person and by and through counsel, David L. Pengelly. Jim McCollom, Phil Baird, and William French appeared at the hearing as witnesses for the applicant.

Objector Kelly French appeared at the hearing in person and by and through counsel, Page Dringman. Jan French, spouse of the objector, and Tom Killham, neighbor, appeared as witnesses for Mr. Kelly French.

Andy Brummond, Water Resources Specialist with the Lewistown Water Resources Regional Office of the Department of Natural Resources and Conservation (Department) was called to testify by the Applicant

EXHIBITS

Both Applicants and Objectors offered exhibits for the record.

Applicants offered seven exhibits for the record. The Hearing Examiner accepted Applicant's seven Exhibits.

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Application 41S-105823 by Daniel T French**

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Applicant's Exhibit 1 consists of a February 3, 2000, letter with 2 enclosures from Andy Brummond to applicant and objector counsel.

Applicant's Exhibit 2 consists of a page containing two photos showing water at point one on applicant's map submitted with discovery.

Applicant's Exhibit 3 consists of a page containing one photo showing the Spring Branch drainage at point 3 on applicant's map submitted with discovery.

Applicant's Exhibit 4 consists of a page containing two photos of Spring Branch drainage at point 2 and point 3 on applicant's discovery map.

Applicant's Exhibit 5 consists of a page containing two photos showing water flowing from the applicant's ditch development.

Applicant's Exhibit 6 consists of a page containing two photos showing water flowing from the applicant's ditch development.

Applicant's Exhibit 7 is a copy of a USGS topographic map with portions of applicant's ownership outlined in purple, state land outlined in orange, and Beezelbub Ditch as a red line.

Objector offered 18 exhibits for the record. Exhibits 1 through 18 are accepted.

Objector's Exhibit 1 consists of 18 pages of information from the DNRC re-examination of claim 41S-W-1133212.

Objector's Exhibit 2 consists of two USGS topographic maps taped together and showing the entire Spring Branch drainage.

Objector's Exhibit 3 is an enlargement of a photo taken from the air showing a portion of Beezelbub Ditch, the 'diagonal' ditch, and Antelope Creek.

Objector's Exhibit 4 is an enlargement of an April 1984 photo taken from the air showing a portion of Beezelbub Ditch, the 'diagonal' ditch, and a portion of the Spring Branch drainage.

Objector's Exhibit 5 is an enlargement of a July 1986 photo taken from the air showing the Spring Branch drainage and Ackley Feeder Canal near the French homesteads.

Objector's Exhibit 6 is an enlargement of a June 18, 1985, photo taken from the air showing the Spring Branch drainage, Ackley Feeder Canal, and Antelope Creek near the French homesteads.

Objector's Exhibit 7 is an enlargement of a June 1986 photo showing the Beezelbub Ditch turnout from the Judith River in Section 28.

Objector's Exhibit 8 is an enlargement of an April 1986 photo showing water flowing under the county road from the Spring Branch drainage to the south.

Objector's Exhibit 9 is an enlargement of a May 1986 photo showing water flowing under the county road from the Spring Branch drainage.

Objector's Exhibit 10 is an enlargement of a June 1986 photo showing a Parshall flume installed in the Spring Branch channel on the south side of the county road in section 24.

Objector's Exhibit 11 is a 5" x 7" enlargement of June 7, 1986 photo showing water on the north side of the county road in the Spring Branch drainage.

Objector's Exhibit 12 is an enlargement of a September 1984 photo showing water flowing north from the turnout in the Ackley Feeder Canal at the Spring Branch drainage.

Objector's Exhibit 13 is an enlargement of an August 1999 photo showing water entering Ackley Feeder Canal from the Spring Branch drainage. The headgate visible in the photo is on the north side of the Ackley Feeder Canal.

Objector's Exhibit 14 is a print made from a May 15, 1986, slide of a Parshall flume installed in Spring Branch drainage south of the Ackley Feeder Canal.

Objector's Exhibit 15 is a May 17, 1999, photo showing Spring Branch water north of the county road.

Objector's Exhibit 16 is a May 21, 1986, photo showing Spring Branch water flowing into Ackley Feeder Canal from the south.

Objector's Exhibit 17 is a May 21, 1986, photo looking north from the Ackley Feeder Canal.

Objector's Exhibit 18 is a May 21, 1986, photo of irrigation north of Ackley Feeder Canal from Spring Branch water flowing through Ackley Feeder Canal. Applicant objected to the use of the photo to show Spring Branch water without corresponding water measurements on the south side of the Ackley Feeder Canal. The measurements exist, but were not provided in discovery. The objection is overruled because there is testimony connecting this photo and Exhibit 16 stating it is the same water in both photos.

PRELIMINARY MATTERS

At the beginning of the hearing, Applicant moved to limit the issue to the criterion of adverse affect to a prior appropriator. The Motion was denied. The motion was renewed later in the hearing stating that unless there is an objection to the contrary, the department's ruling on the criteria in its preliminary criteria assessment should stand. The renewed motion was taken under advisement. The renewed motion is denied. Even without objections an application must meet the criteria for issuance of a permit. In this matter, the entire record, including the department file, will be evaluated against the criteria.

The Hearing Examiner, having reviewed the record in this matter and being fully advised in the premises, does hereby make the following:

FINDINGS OF FACT

1. Application for Beneficial Water Use Permit 76M-105823 in the name of and signed by Daniel T. French was filed with the Department on November 30, 1998.
2. Applicant seeks to appropriate five cubic feet per second, up to 986 acre-feet of water per year, from a series of developed springs in the W2 of Section 24, W2 of Section 25, and the E2 of Section 26 all in Township 14 North, Range 13 East, Judith Basin County, Montana. The proposed place of storage is a series of five (5) pit/damswith a total capacity of 75 acre-feet. The proposed period of appropriation is from January 1 to December 31, inclusive, of each year. The proposed uses are 75 acre-feet for fish and wildlife ponds; 24 acre-feet for pond evaporation; and 887 acre-feet for irrigation. The proposed fish and wildlife, and pond evaporation place of use is a series of five instream reservoirs located in the located in

the W2 of Section 24. The proposed irrigation place of use is 366 acres in Section 24 and 225 acres in the N2 of Section 25 of said Township 14 North, Range 13 East. (Department file)

3. Applicant has proven the water requested is physically and legally available. The source for this application is water developed by placing drain tiles in a ditch to collect area groundwater which has not historically been available to downstream appropriators. The developed water is tributary to the Spring Branch drainage. Some development has taken place and applicant measured the flow from the developed water November 20, 1999, at points in the Spring Branch drainage in section 24 at 50 to 60 gallons per minute (gpm) The flows developed are seasonal; they are higher in spring, and lower in the fall and winter seasons. The Natural Resources And Conservation Service (NRCS) flow estimates used for the drain ditch collection pipeline design are 1231 gpm (2.74 cubic feet per second). Flow estimates from Aquatec Irrigation, Inc., and NRCS for flows collected in the pipeline and in the open ditch are 3 to 5 cfs. The total flows have not been measured since development of the source continues.

Applicant has proven water is legally available. The water being appropriated is water developed by the applicant and is water that has not historically flowed into the Spring Branch drainage upon which the objector has downstream uses. (Department file, testimony of Dan French, Phil Baird, William French, Kelly French

4. Applicant has not proven there would be no adverse effect to the water rights of prior appropriators under an existing water right, certificate, permit, or state water reservation as proposed. The proposed trickle tube spillway devices in each of the ponds will only pass incoming water through the ponds when they are full. Applicant contends the only valid downstream right is for objector's instream stock use. Objector does have a downstream irrigation right which he cannot exercise until a conveyance issue is resolved. In the event the objector becomes able to make a valid call on the Spring Branch source during a period when it flows, the applicant must be able to pass the natural Spring Branch pond inflow through the ponds to the objector. Bypass drainage devices will allow valid downstream calls for

water to be met with the passage of natural Spring Branch flows. (Department file, testimony of Dan French) and Kelly French

5. Applicant has not proven the proposed means of diversion, construction, and operation of the appropriation works are adequate as proposed. This application is for water developed by the applicant, not for the natural flow of Spring Branch. As proposed, the applicant has no way to bypass the natural flows of Spring Branch at times when the water is not at the level of the trickle tubes in his ponds.

Drainage devices will allow the passage of natural Spring Branch flows. Bypass drainage devices will allow valid downstream calls for water to be met with the passage of natural Spring Branch flows. The irrigation development and ponds will be designed and constructed according to NRCS standards by a professional engineer. Management of the ponds and irrigation will be a part of the design. (Department file)

6. Applicant has proven the proposed use of water for irrigation is beneficial. Storage of water for later use and direct application of developed flows to crops will benefit the applicant. The rates and volumes requested are reasonable for the crop in the area. The estimated evaporation of water from the ponds is less than what is typically expected in the area. Although the ponds are not expected to empty each year, the amount requested for initial pond filling is reasonable if needed. The requested irrigation use will supplement irrigation of lands covered by other existing rights and irrigate some new acreage. (Department file, Daniel French testimony)

7. Applicant has not proven the proposed use of water for private fish ponds is beneficial as proposed. Applicant will construct and manage the ponds such that the fishery use and irrigation storage use can coexist in the same ponds. Applicant will stock the ponds and charge anglers to fish the ponds. Applicant did not quantify the amount of water needed for the fishery use. Typical fish ponds of this size require a complete volume exchange every fifteen to ninety days. A fifteen day exchange rate for a sixteen acre-foot pond is equal to a 243.4 gpm flow rate, and is the amount considered necessary and beneficial for the chain of five adjacent ponds down the drainage. When Applicant stocks the pond with

fish purchased from a lawful source and when Applicant procures a private fish pond license as required by Mont. Code Ann. §87-4-603 (1999) for the quantity of fish needed to fulfill the requirements of the pond license, there is a benefit to the appropriator for fishery purposes. (Department file, testimony of Daniel French, Memorandum [below])

8. Applicant has not proved the proposed wildlife purpose is beneficial. The water in the ponds may attract wildlife and will be the same water used for irrigation storage or fishery use. The applicant received permission to alter the wetland area affected by the project; but, did not quantify the amount of water needed to attain benefits desired by the use of water for wildlife purposes. (Testimony of Daniel French, Department file, Memorandum [below])

9. Applicant has proven he has a possessory interest in the property where the water is to be put to beneficial use and has exclusive property rights in the groundwater development works. Applicant owns both. (Department file, testimony of Daniel French)

Based on the foregoing Findings of Fact and the record in this matter, the Hearing Examiner makes the following:

CONCLUSIONS OF LAW

1. The Department has jurisdiction to issue a provisional permit for the beneficial use of water if the applicant proves the criteria in Mont. Code Ann. § 85-2-311 (1999).

2. The Department may issue a permit subject to terms, conditions, restrictions, and limitations it considers necessary to satisfy the criteria for issuance of a beneficial water use permit. Mont. Code Ann. § 85-2-312 (1999).

3. Applicant has met, or there are conditions which can satisfy the criteria for issuance of a beneficial water use permit. See Findings of Fact 1 through 9. Mont. Code Ann. § 85-2-311 (1999).

WHEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law, the Hearing Examiner makes the following:

PROPOSED ORDER

Subject to the terms, conditions, restrictions, and limitations listed below, Beneficial Water Use Permit 41S-105823 is issued to Daniel T. French to appropriate five cubic feet per second, up to 986 acre-feet of water per year. The permitted means of diversion is a series of developed springs in the W2 of Section 24, W2 of Section 25, and the E2 of Section 26 all in Township 14 North, Range 13 East, Judith Basin County, Montana. The permitted period of appropriation is from January 1 to December 31, inclusive, of each year. The permitted uses are 243.4 gpm up to 75 acre-feet for fisheries in five (5) pit/dams, 24 acre-feet for annual pond evaporation; and 5 cfs up to 887 acre-feet for irrigation of 366 acres in Section 24, and 225 acres in Section 25 all in Township 14 North, Range 13 East, Judith Basin County, Montana. The permitted period of use is year round for the fishery and pond evaporation, and April 15 through September 30 for the irrigation use. The permitted fishery, irrigation storage, and pond evaporation place of use is a series of five instream reservoirs with a total capacity of 75 acre-feet located in the located in the W2 of Section 24. The proposed irrigation place of use is 366 acres in Section 24 and 225 acres in the N2 of Section 25 of said Township 14 North, Range 13 East.

- A. This right is subject to the condition that the project shall be designed by and constructed under the supervision of a professional engineer registered in the state of Montana who is experienced in the design of dams and irrigation systems according to NRCS standards.
- B. The permittee must acquire a private fish pond license as required by Mont. Code Ann. §87-4-603 (1999). The permittee must stock the pond as allowed in the private fish pond license within two years of completion of pond construction. Copies of the pond license and stocking purchase invoices are required to show project completion, and shall be attached to the permit Notice of Completion (Form 617) when filed.
- C. This right is subject to the installation of permanent drainage devices in each reservoir that are adequate to pass through the dam the natural runoff to satisfy existing water rights. The drainage devices must be approved by the Water Resources Regional Office prior to installation.

D. This right is subject to the installation of measuring devices adequate to measure the flow rate of all waters developed at the downstream end of each of the two collection ditches. The measuring devices must be approved by the Water Resources Regional Office prior to installation. Upon completion of the collection ditches the flow rate of the developed water shall be recorded monthly for a period of three years. The three years of record must accompany the Notice of Completion (Form 617) filed when the water has been put to use as herein permitted. The maximum measured flow rate, up to 5 cfs for the irrigation use and 243.4 gpm for the fisheries use, will determine the limit of this right.

E. The combined volume of irrigation water from water rights with overlapping places of use shall not exceed the NRCS crop requirement for the overlapping acres.

F. The issuance of this right by the Department shall not reduce the appropriator's liability for damages caused by the appropriator's exercise of this right. Nor does the Department in issuing the right in any way acknowledge liability for damage caused by the appropriator's exercise of this right.

MEMORANDUM

The Department has been issuing water use permits for pond uses since the inception of the Water Use Act. It seems that the Department has become the resource used by applicants to quantify how much water is required for a proposed fish, wildlife, or recreation pond. The Department has a policy to guide staff as to what is a reasonable flow rate (turnover or exchange rate) for ponds. Applicants often turn to the Department and its pond policy for flow rate and volume justification to complete their water use permit application.

This use of the Department is similar, but not the same as, the approach to proposed irrigation. Often a landowner comes to the department with a desire to irrigate some land. The number of acres to be irrigated and crop are fed into a Natural Resources and Conservation Service "formula" which suggests a reasonable quantity of irrigation water for the particular climactic area and crop. How many acres will end up irrigated is not evaluated in the "formula". That is left to a water availability analysis, and the resources of the applicant.

The current approach to proposed ponds does not ask how much water the "crop" (eg, fish, wildlife, or recreation) requires. Instead the size (capacity) of a proposed pond forms the basis for the application rate and/or volume. Just as a potential irrigator must gather information to decide how much water, flow rate and volume, is needed for a proposed project, so must a potential pond owner. The amount of water needed to sustain the intended use(s) of a pond without wasting water requires quantification in each pond application and for each pond use.

If a pond is desired by a landowner and a quantity of water cannot be determined as necessary to sustain the use, a water use permit cannot be granted. The Montana appropriation statutes refer to "an amount or quantity of water". See Mont. Codes Ann. §85-2-101 (1)(a),(1999), and §85-2-311 (1)(a)(i & ii), (1999). Elsewhere the statutes specifically state "The Department may issue a permit...but may not issue a permit for more water than is requested or than can be beneficially used without waste for the purpose stated in the application..." Mont. Codes Ann. §85-2-312 (1) (1999). Department contested case orders show a repeating pattern that before a permit for a beneficial use or purpose can be granted, the use must be quantified. See *In The Matter of Application 41Q-033983* by Hoyt, Proposal for Decision, (1982); Application 76L-050510 by Meyer, Proposal for Decision, (1986); Application 41H-055362 by Kenney, Proposal for Decision, (1986); Application 41H-081855 by Martin and Ewing, Proposal for Decision, (1993).

The applicant testified he would stock the ponds with fish and is willing to acquire a private fish pond license. There was no testimony of how many fish would be placed in the proposed pond that might quantify the amount of water needed. If water is to be set aside to sustain a beneficial use, it must be put to the use. That is, the pond must be stocked to the extent of the water right, and the water right can be no more than what is needed for the use. The private pond license serves to fill this void in the record.

The wildlife use associated with this project is not wildlife brought in by the applicant; nor has a specific amount of water to create a wildlife habitat been identified. Instead an unknown number of area wildlife may use the pond. The applicant has not determined how much water is necessary to sustain the

proposed wildlife use. Without such determination, a water right for this purpose cannot be granted.

There may be private wildlife habitat licenses needed or available that could be used to indirectly quantify the proposed use; however, there was no testimony in that regard.

Thus, this permit is conditioned to require acquisition of a fish pond license, and stocking the pond to show the water will be put to the beneficial use as required in Mont. Codes Ann. §85-2-311(1)(d) (1999) under the authority granted in Mont. Codes Ann. §85-2-312(1) (1999).

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. The 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. The responses must be filed within 20 days after service of the exception and copies must be sent to all parties. 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 31st day of May, 2000.



Charles F Brasen
Hearing Officer
Water Resources Division
Department of Natural Resources
and Conservation
PO Box 201601
Helena, Montana 59620-1601

CERTIFICATE OF SERVICE

This certifies a true and correct copy of the Proposal for Decision was served upon all parties listed below this ^{18th} day of June, 2000.

Daniel T French
Airport Road
Hobson, MT 59452

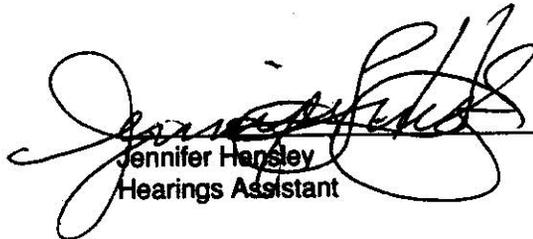
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