



**\*FILE\***



**\*STATEMENT OF CLAIM\***



**\*41J \***



**\*207368\***



**\*00\***

**Box Bar Code** \_\_\_\_\_

**File Bar Code** \_\_\_\_\_

**Date/Initials** \_\_\_\_\_

RECEIVED

415  
ME-4 207368

# STATEMENT OF CLAIM FOR EXISTING WATER RIGHTS

APR 23 1982

## OTHER USES

MONTANA D.N.R.C.

For the Water Courts of the State of Montana

TWINSTOWN FIELD OFFICE

MEAGHERCO ENTERPRISES, INC., a Montana Corporation

P.O. Box 347, White Sulphur Springs, Montana /

## 1. Owner of Water Right

Last

First

Middle Initial

Co-Owner or Other  
Interest Owner

Last

First

Middle Initial

Address 202 West Main St., P.O. Box 347

City White Sulphur Springs State Montana Zip Code 59645

Home Phone No. Business Phone No. 547-3366

## 2. Person completing form Smith

Last

Merritt

First

Middle Initial E.

Address P.O. Box 347

City White Sulphur Springs State Montana Zip Code 59645

Home Phone No. 547-3366 Business Phone No. 547-3366

## 3. Use:

(Check Only One)

FR ☐ Fish RacewaysGE ☐ GeothermalMN ☐ MiningFW ☐ Fish & WildlifeNV ☐ NavigationPG ☐ Power GenerationCM ☒ CommercialFP ☐ Fire ProtectionRC ☐ RecreationIN ☐ IndustrialAS ☐ Agricultural SprayingOT ☐ OtherMC ☐ MunicipalOF ☐ Oil Well Flooding

Explain

## 4. Source of Water:

(Check Only One)

☒ Spring

Name White Sulphur Springs

☐ Well

Name

☐ Stream

Name

Tributary of Hot Springs

☐ Lake

Name

Stream

Creek

Tributary of

☐ Reservoir

Name

Stream

Tributary of

## 5. Point of Diversion:

County Meagher

NW 1/4 NW 1/4 NW 1/4, Section 18, T 9 N N/S, R 7 E E/W

Lot, Block "A", Subdivision Parberry Townsite

## 6. Means of Diversion:

☐ Well☒ Pump

Capacity 450 gpm

☐ Headgate with ditch or pipeline☐ Instream use☐ Other

Explain

## 7. Means of Conveyance:

☐ Ditch☐ Instream☒ Pipeline☐ Other:

8. Place of Use: County Meagher  
☐ Instream ☒ City or Town ☐ Other: Explain \_\_\_\_\_  
\_\_\_\_ Lot, "A" Block, NW 1/4 NW 1/4 NW 1/4, Section 18, T 9N N/S, R 7E E/W  
\_\_\_\_ Lot, \_\_\_\_\_ Block, \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4, Section \_\_\_\_\_, T \_\_\_\_\_ N/S, R \_\_\_\_\_ E/W  
\_\_\_\_ Lot, \_\_\_\_\_ Block, \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4, Section \_\_\_\_\_, T \_\_\_\_\_ N/S, R \_\_\_\_\_ E/W  
\_\_\_\_ Lot, \_\_\_\_\_ Block, \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4, Section \_\_\_\_\_, T \_\_\_\_\_ N/S, R \_\_\_\_\_ E/W  
\_\_\_\_ Lot, \_\_\_\_\_ Block, \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4, Section \_\_\_\_\_, T \_\_\_\_\_ N/S, R \_\_\_\_\_ E/W  
Subdivision Parberry Townsite

9. Flow rate claimed: 1.002 ☒ cubic feet per second  
☐ gallons per minute  
☐ miner's inches

10. Volume claimed: 725.42 acre-feet per year

11. Period(s) of use: Jan. / 1 to Dec. / 31  
Month Day Month Day

12. Check one: ☒ Decreed Water Right Priority date or date of first use  
☐ Filed Appropriation Right 1 April - 1 30 / 1866  
☐ Use Water Right Hour Month Day Year

13. Attach copies of the Decree, Record of Filing or Proof of Use Right.  
10/29/14 Decree

14. Attach copies of aerial photographs, U.S. Geological Survey maps or such other documents necessary to show point of diversion, place of use, place of storage, and conveyance facilities. - Attached.

15. Notarized Statement signed by claimant.

STATE OF MONTANA )  
County of Meagher ) ss.

I, Meagherco Enterprises, Inc.  
Merritt E. Smith, Manager of, having been duly sworn, depose and say that I, being of legal age and being the claimant of this claim of existing water right, and the person whose name is signed to it as the claimant, know the contents of this claim and the matters and things stated there are true and correct.

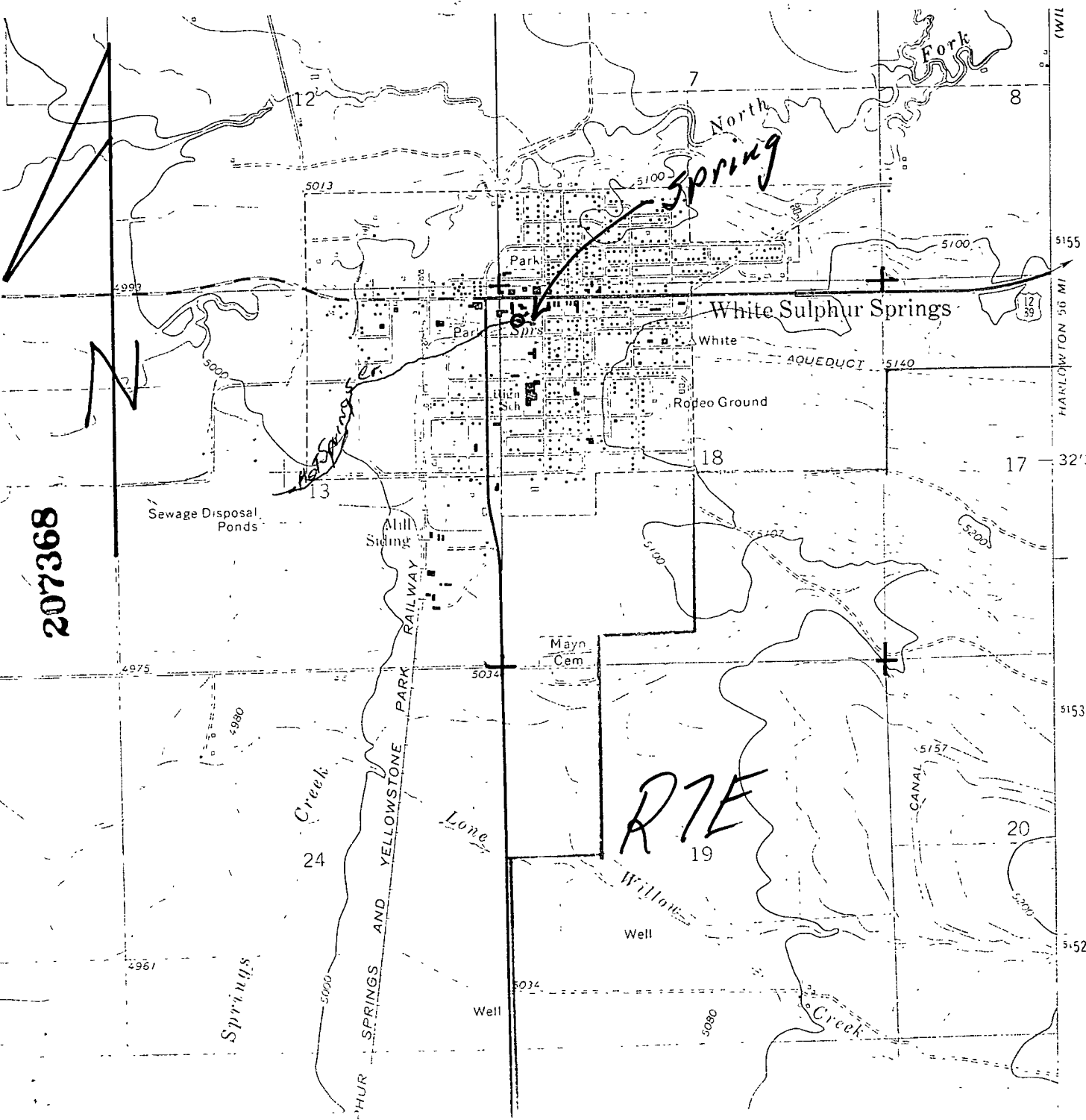
Merritt E. Smith

Subscribed and sworn before me, this 22nd day of April 1982.

Paul R. Portland  
Notary Public for the State of Montana

Residing at White Sulphur Springs MT  
My Commission expires Dec 15 1982

207368



T9N

R7E

IN THE DISTRICT COURT OF THE FOURTEENTH JUDICIAL DISTRICT OF  
THE STATE OF MONTANA, IN AND FOR THE COUNTY OF MEAGHER

STATE OF MONTANA)  
) ss.  
County of Meagher)

C E R T I F I C A T E

I, KENNETH TWICHEL, Clerk of the District Court of  
the Fourteenth Judicial District of the State of Montana, in  
and for the County of Meagher, said Court being of record having  
a common law jurisdiction, a Clerk and a Seal, do hereby certify  
that the attached, consisting of 7 pages, is a full,  
true and correct copy of the following pages from

CASE NO. 1863

Anderson, Spencer, et al  
Plaintiff(s)

DECREE ON

White Sulphur Springs & Creek

vs.

John Ringling, Smith River, et al  
Defendant(s)

CREEK

as the same remains of record and on file in the office of said  
Clerk.

IN WITNESS WHEREOF, I have hereunto set my hand and  
affixed the seal of said Court this 21 day of April, 1982

KENNETH TWICHEL  
Clerk of the District Court

By: Janey Cameron  
Deputy Clerk

IN THE DISTRICT COURT OF THE FOURTEENTH JUDICIAL DISTRICT OF THE  
STATE OF MONTANA, IN AND FOR THE COUNTY OF MARCH.



**H. J. ANDERSON, G. E. WINTER and F. D. COCKRELL**  
**COMMERCIAL COMPANY, A CORPORATION,**

**PLAINTIFFS.**

JOHN RINGLING, CONRAD-STANDARD COMPANY,  
A CORPORATION; SMITH RIVER DEVELOPMENT  
COMPANY, A CORPORATION; THE TOWN OF  
WHITE SULPHUR SPRINGS, A MUNICIPAL  
CORPORATION, AND E. C. PARFITT.

**DEFENDANTS.**

A musical staff containing a sequence of notes and rests. The notes are mostly eighth and sixteenth notes, some beamed together. There are also several whole rests.

This cause came on regularly for trial in open court on the 3rd day of April, 1924, before the Hon. John A. Matthews, Judge presiding. The plaintiffs appeared in person and by their counsel, A. C. Spencer and Ford & King, Esqs., and the defendant, Smith River Development Company and the Conrad-Stanford Company, appeared by their counsel, C. W. McConnell, Esq., and H. B. Smith, Esq.; the Town of White Sulphur Springs appeared by its counsel, H. B. Smith, Esq.; the defendant John Ringling, <sup>and C. S. Hatfield</sup> neither appeared personally nor by counsel, and the time allowed by law for the filing of an answer in his behalf having elapsed, and no answer having been filed, the default of John Ringling, <sup>and C. S. Hatfield</sup> was duly entered for failure to appear or answer within the time allowed by law. A trial by jury having been expressly waived by counsel for the respective parties, the cause was tried before the court sitting without a jury. Whereupon witnesses were sworn, examined and testified on behalf of the plaintiffs and of the defendants so appearing, and the evidence being closed, the cause was submitted to the court for considera-

tion and decision, a  
delivers its finding  
filed he-re-in, and or  
therewith, which sai  
as follows, to-wit:-

That the inspection of the facts:

1. That located upon the land Springs, and thereof United States and, 1 for.

2. That  
and for some time pr  
the Smith River Deve  
in and to said lands  
guished by lapse of  
defendants have now  
nances thereto.

3. That corporation, has, by the appurtenances at of the said James M

4. That  
tion organized and c

5. That Spring ditch and creek defendant, Conrad-S. with the exception, west corner of what



-2-

tion and decision, and after due deliberation thereon the court delivers its findings of fact and conclusions of law, which are filed herein, and orders that judgment be entered in accordance therewith, which said findings of fact and conclusions of law are as follows, to-wit:-

FINDINGS OF FACT.

That the evidence produced on the trial and the personal inspection of the premises by the court disclose the following facts:

1. That in the month of April, 1866, one James Brewer, located upon the lands surrounding and enclosing the White Sulphur Springs, and thereafter duly complied with the land laws of the United States and, in due time, secured United States patent therefor.

2. That at the time of the commencement of this action, and for some time prior thereto, the defendants, John Ringling and the Smith River Development Company, had certain equitable rights in and to said lands, which said rights have since become extinguished by lapse of time and the decree of this court and the said defendants have now no right or title to said lands or the appurtenances thereto.

3. That the defendant, the Conrad-Stanford Company, a corporation, has, by means conveyance, acquired the said lands and the appurtenances and have succeeded to all the rights and interest of the said James Brewer.

4. That the said Conrad-Stanford Company is a corporation organized and existing under the laws of the State of Montana.

5. That the waters of White Sulphur Springs and Warm Spring ditch and creek have their origin upon the said lands of the defendant, Conrad-Stanford Company, and any development thereof, with the exception of that certain spring situated at the northwest corner of what is known as the Springs Square or Park, has

been done by the said company.

6. That in the said Brewer appropriated and began of the springs so located up and for the following purposes:

A. The central a wholly within said lands, was clear water for drinking purpose of furnishing drink large.

B. That certain a northeasterly direction fr developed and covered and the tanks and pools for bathing.

C. That certain in a northwesterly direction developed and covered and the tanks or pools of said approp.

7. That ever since the waters of said three springs the purposes above mentioned predecessors in interest.

8. That the water certain salts beneficial to and, to some extent, detrimental.

9. That, after the were reconducted to the general allowed to mingle with the flow Springs Square or Park, and was at the northwest corner of said square mentioned.

10. That the defendant

PCOR COPY

W318A0  
150091W

-5-

been done by the said company or its predecessors in interest

6. That in the month of April, 1966, the said James Brown appropriated and began the use of the said waters from three of the springs so located upon said ground, to the following extent and for the following purposes:

A. The central spring, or "drinking spring," lying wholly within said land, was so cleared and developed as to flow clear water for drinking purposes, and called with stone, for the purpose of furnishing drinking water to patients and the public at large.

B. That certain spring, situated about thirty yards in a northeasterly direction from said central or drinking spring, was developed and covered and the water therefrom piped to certain tanks and pools for bathing purposes.

C. That certain spring, situated about twenty-five yards in a northwesterly direction from said drinking spring, was developed and covered and the water therefrom piped to the bathing tanks or pools of said appropriator.

7. That ever since the original appropriation thereof the waters of said three springs have been continuously used for the purposes above mentioned by the Conrad-Stanford Company and its predecessors in interest.

8. That the waters of said springs are warm and contain certain salts beneficial to health and having medicinal qualities and, to some extent, detrimental to the growth of vegetation.

9. That, after the said use of said waters, the same were reconducted to the general supply of the said springs and allowed to mingle with the flow from all of the waters from said Springs Square or Park, and with the waters from that certain spring at the northwest corner of said Springs Square or Park, heretofore mentioned.

10. That the defendant, the Town of White Sulphur Springs,





-4-

has, at times, done work upon that certain spring, outside said park, and may have developed the same and caused the water to flow therefrom, but any and all work so done upon said spring was done, not with the intention of appropriation, but solely for the purpose of draining the street and doing away with an objectionable swamp, and the only use thereof has been the placing of a tub in the stream therefrom for the convenience of those desiring to water stock therein.

11. That on or about the year 1876 one, F. H. Clark, appropriated and began the use of said waters of the said springs, as the same flowed from the Springs Square or Park, for irrigation and other useful purposes upon his lands, and in the year 1883 one, Harvey Spencer, appropriated the use of said waters for irrigation and other useful purposes upon the lands then owned by him.

12. That the plaintiffs herein are the successors in interest, by mesne conveyance, of the said F. H. Clark and the said Harvey Spencer of the lands for which the said waters were so appropriated and the appurtenances thereto.

13. That the said lands of the plaintiffs are arid in character and require artificial irrigation in order to raise crops of hay, grain and vegetables thereon, and ever since the said date of appropriation these plaintiffs and their predecessors in interest have used the said waters of White Sulphur Springs for the irrigation thereof.

14. That ever since the development of the spring at the said northwest corner of said Square said plaintiffs have used the waters therefrom in connection with the waters from said Square for irrigation and other useful purposes upon said lands, to the exclusion of all others.

15. That the present total flow of all of said springs through said Springs Creek or ditch to the head of plaintiffs' ditch, is twenty-two and one-half inches, or .55 cubic feet per second.

16. That necessary for the ir

17. That for the raising of m the use thereof, esp increase in producti

18. That Stanford Company, per appropriated and encl Spring", at the extre springs, for bottling date have so used the bottling the said wat

Done in open

And from said

1. The def and answer within the either personally or b fore entered, have no r of White Sulphur Spring

2. That the has no right, title or or any part thereof.

3. That the has no right, title or Sulphur Springs, or any

4. That the for medicinal and heal



-5-

16. That the said amount of water, and all thereof, is necessary for the irrigation of said lands of plaintiffs.

17. That there are evidences of the use of said waters for the raising of hay and vegetables upon the said lands, and that the use thereof, especially upon the hay lands, has caused an increase in productiveness.

18. That in the year 1907 the defendant, the Conrad-Stanford Company, personally or through its agents or employees, appropriated and enclosed that certain spring known as the "Iron Spring", at the extreme ~~North~~ northeastern portion of said group of springs, for bottling and commercial purposes, and ever since said date have so used the waters from the said spring continuously, bottling the said waters and selling and offering the same for sale.

Done in open court this 28th day of October, 1914.

JOHN A. MATTHEWS,

Judge.

And from said findings the court now draws its

CONCLUSIONS OF LAW.

1. The defendant <sup>and E. C. Sanford</sup> John Ringling, <sup>and</sup> having failed to appear and answer within the time allowed by law, or to appear in court, either personally or by counsel, and <sup>their</sup> default having been heretofore entered, ~~have~~ <sup>has</sup> no right, title or interest in or to the waters of White Sulphur Springs, or any part thereof.

2. That the defendant, Smith River Development Company, has no right, title or interest in or to the waters of said springs, or any part thereof.

3. That the defendant, the Town of White Sulphur Springs, has no right, title or interest in or to the said waters of White Sulphur Springs, or any thereof.

4. That the use of the waters of White Sulphur Springs for medicinal and healing purposes is beneficial use, within the

meaning of the law and one of

5. That said use is for health-giving purposes, and purposes. 6. That the plaintiff is fixing and establishing that all of the waters of White Sulphur Spring and has flowed from the Spring since 1876, that is to say, to all with the exception of the Dr. covered and used for bathing water from those springs, for on the lands described in the

7. That the defendant is entitled to a decree fixing a use and enjoyment of certain

1. To the uninterrupted spring in the center of the "Drinking Spring", for ant, its patients, visit April 30th, 1866.

2. To the continuous use for purposes, all of the waters now covered and piped to defendant, which said right began in 1866.

3. To the use of and to sale, all of the waters of <sup>except when same</sup> "Iron Spring", which right began in 1907.

8. That each of said parties, the defendant, Conrad-Stanford Company, be ordered to obey the said decree, to an order perpetual, either of said parties from in

-4-

meaning of the law and one for which waters may be appropriated.

5. That said waters are valuable for medicinal and health-giving purposes, and also for irrigation and other useful purposes. 6. That the plaintiffs herein are entitled to a decree fixing and establishing their right to the use of and to use all of the waters of White Sulphur Springs Creek, as the same flows and has flowed from the Springs Square or Park, since the year 1876, that is to say, to all of the waters from the said springs, with the exception of the Drinking Spring and the two springs covered and used for bathing purposes, and to the overflow or waste water from those springs, for irrigation and other useful purposes on the lands described in their complaint.

7. That the defendant, the Conrad-Stanford Company, is entitled to a decree fixing and establishing their right to the use and enjoyment of certain of said springs as follows:

1. To the uninterrupted flow of that certain stone-curbed spring in the center of the Springs Square or Park, known as the "Drinking Spring", for drinking purposes, for said defendant, its patients, visitors and the public at large, as of April 30th, 1866.

2. To the continuous use of, and the use, for bathing purposes, all of the waters of said two springs, heretofore and now covered and piped to the bath house and tanks of said defendant, which said right shall be of the date of April 30th, 1866.

3. To the use of and to use, for bottling purposes and for sale, all of the waters of that certain spring known as the "Iron Spring", which right shall be decreed as of April 30th, 1907.

8. That each of said parties, the plaintiffs herein and the defendant, Conrad-Stanford Company, are entitled, as a part of said decree, to an order perpetually enjoining and restraining either of said parties from in any manner interfering with or



-7-

molesting the prior rights of the other, which said order shall extend to the agents, servants, attorneys, employees and successors in interest of said parties.

Done in open court this 28th day of October, A.D. 1914.

JOHN A. MATTHEWS,

Judge.

Wherefore, by reason of the law and the findings of fact and conclusions of law aforesaid, it is ORDERED, ADJUDGED AND DECREED, that the parties hereto be and they are hereby awarded the respective waters and water rights hereinabove enumerated in the findings of fact and conclusions of law.

It is hereby further ORDERED, ADJUDGED AND DECREED that each of the parties herein awarded water and water rights, his heirs, assigns, successors, personal representatives, tenants, sub-tenants, agents, attorneys, servants and employees, and each and all of them, and any and all persons acting by, through or under them, or either of them, be and he is hereby perpetually enjoined and restrained from ever at any time, or in anywise or manner, interfering with, molesting or intermeddling with any of the waters or water rights or springs of any and all other parties herein as the same are fixed, ascertained, adjudged and decreed by the findings of fact and conclusions of law and the decree of this court.

It is hereby further ORDERED, ADJUDGED AND DECREED that the defendants, John Ringling, <sup>and E. A. Whitfield</sup> who entered no appearance and filed no answer, and who failed, neglected and refused to introduce any testimony, shall be entitled to none of the waters of the White Sulphur Springs, <sup>they are</sup> and he ~~is~~ hereby perpetually enjoined and ~~restrained~~ restrained from in any manner and in anywise interfering with said waters and water rights.

It is hereby further ORDERED, ADJUDGED AND DECREED that each of the parties hereto shall pay his own costs.

Dated, signed and passed this 28th day of October, 1914

*John A. Matthews*  
Judge.

# STATEMENT OF CLAIM CHECKLIST

FORM TYPE:

I

S

D

(0)

OK

NOT  
OK

|                                     |                          |
|-------------------------------------|--------------------------|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> |
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| <input checked="" type="checkbox"/> | <input type="checkbox"/> |

Received  
Basin  
County  
Division  
Transmittal  
Fee

Meagher Co

207368

## FORM ITEMS

OK

NOT  
OK

|    |                                     |                          |
|----|-------------------------------------|--------------------------|
| 1  | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2  | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 3  | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 4  | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 5  | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
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| 11 | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 12 | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 13 | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 14 | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 15 | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 16 | <input type="checkbox"/>            | <input type="checkbox"/> |

Clarify

Checked by

C. Dubois

10/1/82

Date

DEFICIENT:

Phoned

Number

Date

Sent Letter

To

Date

Correction Deadline:

Date

Form Corrected

Date

Incomplete Form & Correspondence Sent To Helena



See notes on reverse side

# 415- W- 207368

## WATER RIGHT TRANSFER CERTIFICATE

### DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION AND WATER COURTS OF MONTANA

## INSTRUCTIONS

The Transferor (seller) of a water right is required by Section 85-2-424, MCA, to file this certificate with the Department of Natural Resources and Conservation. A person who fails to do so is liable for a maximum \$50 penalty. Both buyer and seller must sign and notarize the completed form. Submit it with the required \$10 filing fee to your area field office listed on the backside of this form. Do not use this form if you are a user of a municipal or irrigation district water system.

BY

## FOR DEPARTMENT USE

Date received 4-17-86  
 By GP  
 Fee received 10.00  
 Transmittal No. 06-041-01-01  
 Reviewed by mjm 04-17-86  
 BASIN 41 J  
 Coded \_\_\_\_\_

(type or print in ink)

1. **WATER RIGHT(S) TRANSFERRED:** Indicate all of the water rights transferred. Attach a list if necessary.

- ☐ (P) Permit to Appropriate Water No(s). \_\_\_\_\_
- ☐ (C) Certificate of Water Right No(s). 10
- ☒ (W) Statement of Claim No(s). W. 207 368-417
- ☐ (Y/D) Final Decreed Right No(s). \_\_\_\_\_
- ☐ (E) Exempt Existing Water Right No(s). \_\_\_\_\_

(If Exempt and the right is not already on record with the Department, you must complete and submit an Addendum for Exempt Existing Water Right, Form 608-B.)

2. **MEANS OF REALTY TRANSFER:**

- ☐ Deed recorded in: County \_\_\_\_\_ Bk. \_\_\_\_\_ Pg. \_\_\_\_\_ Doc. No. \_\_\_\_\_
- ☒ Contract for Deed / Notice of Purchasers Interest recorded in:
- County MEAGHER Bk. \_\_\_\_\_ Pg. \_\_\_\_\_ Doc. No. \_\_\_\_\_
- ☐ Court Decree Recorded in:
- County \_\_\_\_\_ Bk. \_\_\_\_\_ Pg. \_\_\_\_\_ Doc. No. \_\_\_\_\_
- ☐ Other, explain: \_\_\_\_\_

3. **IS THERE A DIVISION OR SPLIT OF THE WATER RIGHT(S)?**

- ☐ YES. If more than one water right is listed in No. 1 above, list which water right numbers have been split.
- \_\_\_\_\_

Complete **one** Addendum for Apportioned Water Right, Form 608-A, for **each** split right, showing what portion of the water right the buyer received and what portion the seller retained.

- ☒ NO. The buyer received the entire water right(s), 100%.

4. **BUYER'S NAME(S):** Print the complete names, mailing addresses, and phone numbers of the persons who received the water right(s).

Name MERRITT E. SMITH Phone No. 406-547-3366

Mailing address 202 W. MAIN, WHITE SULPHUR SPRINGS, MT 59645

Name \_\_\_\_\_ Phone No. \_\_\_\_\_

Mailing address \_\_\_\_\_

**(5) SELLER'S NAME(S):** Print the complete names, mailing addresses, and phone numbers of the persons selling the property and water right(s). If the land is on contract for deed and the seller wants to remain on record for notification purposes **only**, check yes. YES \_\_\_\_\_

Name MEAGHERCO ENTERPRISES, INC. Phone No. \_\_\_\_\_

Mailing address BOX 370, WHITE SULPHUR SPRINGS, MT 59645

Name \_\_\_\_\_ Phone No. \_\_\_\_\_

Mailing address \_\_\_\_\_

6. PERSON/AGENCY COMPLETING FORM: Name MERRITT SMITH / DNRC - M. MORGAN

Address \_\_\_\_\_ Phone No. \_\_\_\_\_

7. INTERESTED PARTIES: If there are other persons who are to receive notice of adjudication proceedings concerning the water rights(s), list their complete names, mailing address and phone numbers.

Name \_\_\_\_\_ Phone No. \_\_\_\_\_

Mailing address \_\_\_\_\_

Name \_\_\_\_\_ Phone No. \_\_\_\_\_

Mailing address \_\_\_\_\_

8. REMARKS Use this space to further explain any of the items. \_\_\_\_\_

9. SIGNATURES:

A. Seller's Signature(s) Meagher Enterprises, Inc. By V. M. E. Doe, U.P. Date 4-15-86

Date: \_\_\_\_\_

Subscribed and sworn before me this 15 day of April 1986

Lawrence E. Johnston

Notary of the State of Montana

Residing at White Sulphur Springs MT.

My Commission expires 8-31-88

B. Buyer's Signature(s) Merritt E. Smith Date \_\_\_\_\_

Date \_\_\_\_\_

Subscribed and sworn before me this 17th day of April 1986

Craig H. Dubois

Notary of the State of Notary Public for the State of Montana

Residing at Residing at Lewistown, Montana

My Commission Expires April 6, 1987

My Commission expires \_\_\_\_\_

\*\*\*\*\*  
**WATER RIGHTS BUREAU FIELD OFFICES**

**HAVRE**

1708 W. 2nd St.  
P.O. Box 1828  
Havre, Montana 59501  
Phone: 265-5516  
Serving: Blaine, Chouteau, Glacier,  
Hill, Liberty, Pondera, Teton and  
Toole Counties

**MISSOULA**

2101 Bow Street  
P.O. Box 5004  
Missoula, Montana 59806  
Phone: 721-4284  
Serving: Missoula, Granite, Ravalli,  
and Mineral Counties.

**GLASGOW**

110 5th Street South, Room 106  
P.O. Box 894  
Glasgow, Montana 59230  
Phone: 228-2561  
Serving: Daniels, Dawson, Garfield,  
McCone, Phillips, Richland,  
Roosevelt, Sheridan and Valley  
Counties

**HELENA**

1520 East Sixth Ave.  
Helena, Montana 59620  
Phone: 444-6695  
Serving: Deer Lodge, Powell,  
Lewis and Clark, Broadwater,  
Silver Bow, Jefferson and  
Beaverhead Counties.

**BOZEMAN**

1201 East Main  
Bozeman, Montana 59715  
Phone: 586-3136  
Serving: Gallatin, Park and Madison  
Counties

**BILLINGS**

1537 Avenue D, Suite 352  
Billings, Montana 59102  
Phone: 657-2105  
Serving: Big Horn, Carbon, Stillwater,  
Treasure, Yellowstone and Sweet  
Grass Counties

**KALISPELL**

3220 Highway 93 South  
P.O. Box 860  
Kalispell, Montana 59903-0860  
Phone: 752-2288  
Serving: Flathead, Lake, Lincoln  
and Sanders Counties.

**LEWISTOWN**

613 NE Main Street  
P.O. Box 438  
Lewistown, Montana 59457  
Phone: 538-7459  
Serving: Cascade, Fergus, Golden  
Valley, Judith Basin, Meagher,  
Musselshell, Petroleum and  
Wheatland Counties.

**MILES CITY**

5 North Prairie  
P.O. Box 276  
Miles City, Montana 59301  
Phone: 232-6359  
Serving: Carter, Custer, Fallon,  
Powder River, Prairie, Rosebud  
and Wibaux Counties.

## WATER RIGHT TRANSFER CERTIFICATE

CHECKLISTDEPARTMENT USE BLOCK (check if OK)Date Rec'd OK ☒ Fee OK ☒ Transmittal No. Completed ☒FORM CHECK (indicate No or Yes; if No, explain/document the corrections made under Comments)

- Yes 1. All water right numbers are accurately listed.
- Yes 2. The means of transfer is complete and/or adequately explained.
- Yes 3. Is complete.  
For any split rights; 608A's, flow charts, additional documentation are attached.  
Any inferred new uses, changes or sever/sells have been checked out.
- Yes 4. Buyer's names and addresses are correct and complete.
- Yes 5. Seller's names and addresses are correct and complete.  
If seller is not current owner of record, documentation substantiating his/her ownership is below or attached.
- Yes 6. Is OK.
- N/A 7. Is completed and there are parties to include in SB proceedings.
- N/A 8. Is OK.
- Yes 9. Both signatures are OK and notarized.
- Yes 10. Water Courts Copy has been made and sent (if applicable).

COMMENTS / DOCUMENTATION / INSTRUCTIONS TO RECORDS (by Item number)

Item Comments

**FILMED**

JUN 27 1986

BY \_\_\_\_\_

continued, see attached

ANALYST: M. MorganDATE: 4-17-86



41J-W207368-00  
WATER RIGHT TRANSFER CERTIFICATE

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION  
AND WATER COURTS OF MONTANA

INSTRUCTIONS

The Transferor (seller) of a water right is required by Section 85-2-424, MCA, to file this certificate with the Department of Natural Resources and Conservation. A person who fails to do so is liable for a maximum \$50 penalty. Both buyer and seller must sign and notarize the completed form. Submit it with the required \$10 filing fee to your area field office listed on the backside of this form. Do not use this form if you are a user of a municipal or irrigation district water system.

FILMED

FOR DEPARTMENT USE

Date received 10-21-88  
By gp  
Fee received 10.00  
Transmittal No. 06-017-01-08  
Reviewed by gp (10-27-88)  
BASIN 41J  
Coded R 11-14-88 | 12-5-88

(type or print in ink)

1. WATER RIGHT(S) TRANSFERRED: Indicate all of the water rights transferred. Attach a list if necessary.

- ☐ (P) Permit to Appropriate Water No(s). \_\_\_\_\_
- ☐ (C) Certificate of Water Right No(s). ~~41J-W207368-00~~
- ☒ (W) Statement of Claim No(s). 41J W207368-00
- ☐ (Y/D) Final Decreed Right No(s). \_\_\_\_\_
- ☐ (E) Exempt Existing Water Right No(s). \_\_\_\_\_

(If Exempt and the right is not already on record with the Department, you must complete and submit an Addendum for Exempt Existing Water Right, Form 608-B.)

2. MEANS OF REALTY TRANSFER:

- ☐ Deed recorded in: County \_\_\_\_\_ Bk. \_\_\_\_\_ Pg. \_\_\_\_\_ Doc. No. \_\_\_\_\_
- ☒ Contract for Deed / Notice of Purchasers Interest recorded in: \_\_\_\_\_
- County Meagher Bk. 227 Pg. 760-1 Doc. No. 94162
- ☐ Court Decree Recorded in: \_\_\_\_\_
- County \_\_\_\_\_ Bk. \_\_\_\_\_ Pg. \_\_\_\_\_ Doc. No. \_\_\_\_\_
- ☐ Other, explain: \_\_\_\_\_

3. IS THERE A DIVISION OR SPLIT OF THE WATER RIGHT(S)?

- ☐ YES. If more than one water right is listed in No. 1 above, list which water right numbers have been split.

Complete **one** Addendum for Apportioned Water Right, Form 608-A, for **each** split right, showing what portion of the water right the buyer received and what portion the seller retained.

- ☒ NO. The buyer received the entire water right(s), 100%.

4. BUYER'S NAME(S): Print the complete names, mailing addresses, and phone numbers of the persons who received the water right(s).

Name Dillon S. Dempsey Phone No. 547-3918

Mailing address P. O. Box 370, White Sulphur Springs, MT 59645

Name Gene M. Gudmundson Phone No. 547-2109

Mailing address P. O. Box 370, White Sulphur Springs, MT 59645

5. SELLER'S NAME(S): Print the complete names, mailing addresses, and phone numbers of the persons selling the property and water right(s). If the land is on contract for deed and the seller wants to remain on record for notification purposes **only**, check yes. YES xxx

Name Merritt E. Smith Phone No. 547-2283

Mailing address P. O. Box 690, White Sulphur Springs, MT 59645

Name \_\_\_\_\_ Phone No. \_\_\_\_\_

Mailing address \_\_\_\_\_

NEW

6. **PERSON/AGENCY COMPLETING FORM:** Name John V. Potter, Jr.  
Address P. O. Box 629, White Sulphur Springs, MT 59645 Phone No. 547-3347
7. **INTERESTED PARTIES:** If there are other persons who are to receive notice of adjudication proceedings concerning the water rights(s), list their complete names, mailing address and phone numbers.  
Name \_\_\_\_\_ Phone No. \_\_\_\_\_  
Mailing address \_\_\_\_\_  
Name \_\_\_\_\_ Phone No. \_\_\_\_\_  
Mailing address \_\_\_\_\_
8. **REMARKS** Use this space to further explain any of the items. \_\_\_\_\_

9. **SIGNATURES:**

A. Seller's Signature(s) *Merritt E. Smith* Date 10/18/88  
Merritt E. Smith Date \_\_\_\_\_

Subscribed and sworn before me this 18<sup>th</sup> day of October October 1988

*John V. Potter Jr.*  
Notary of the State of Montana

Residing at White Sulphur Springs, MT

My Commission expires Nov. 29, 1989

B. Buyer's Signature(s) *Dillon S. Dempsey* Date 10/18/88  
Dillon S. Dempsey

*Gene M. Gudmundson* Date 10/18/88  
Gene M. Gudmundson

Subscribed and sworn before me this 18<sup>th</sup> day of October October 1988

*John V. Potter Jr.*  
Notary of the State of Montana

Residing at White Sulphur Springs, Mont.

My Commission expires \_\_\_\_\_

\*\*\*\*\*  
**WATER RIGHTS BUREAU FIELD OFFICES**

**HAVRE**

1708 W. 2nd St.  
P.O. Box 1828  
Havre, Montana 59501  
Phone: 265-5516  
Serving: Blaine, Chouteau, Glacier,  
Hill, Liberty, Pondera, Teton and  
Toole Counties

**MISSOULA**

2101 Bow Street  
P.O. Box 5004  
Missoula, Montana 59806  
Phone: 721-4284  
Serving: Missoula, Granite, Ravalli,  
and Mineral Counties.

**GLASGOW**

110 5th Street South, Room 106  
P.O. Box 894  
Glasgow, Montana 59230  
Phone: 228-2561  
Serving: Daniels, Dawson, Garfield,  
McCone, Phillips, Richland,  
Roosevelt, Sheridan and Valley  
Counties

**HELENA**

1520 East Sixth Ave.  
Helena, Montana 59620  
Phone: 444-6695  
Serving: Deer Lodge, Powell,  
Lewis and Clark, Broadwater,  
Silver Bow, Jefferson and  
Beaverhead Counties.

**BOZEMAN**

1201 East Main  
Bozeman, Montana 59715  
Phone: 586-3136  
Serving: Gallatin, Park and Madison  
Counties

**BILLINGS**

1537 Avenue D, Suite 352  
Billings, Montana 59102  
Phone: 657-2105  
Serving: Big Horn, Carbon, Stillwater,  
Treasure, Yellowstone and Sweet  
Grass Counties

**KALISPELL**

3220 Highway 93 South  
P.O. Box 860  
Kalispell, Montana 59903-0860  
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and Sanders Counties.

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P.O. Box 438  
Lewistown, Montana 59457  
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Valley, Judith Basin, Meagher,  
Musselshell, Petroleum and  
Wheatland Counties.

**MILES CITY**

5 North Prairie  
P.O. Box 276  
Miles City, Montana 59301  
Phone: 232-6359  
Serving: Carter, Custer, Fallon,  
Powder River, Prairie, Rosebud  
and Wibaux Counties.

**JOHN V. POTTER, JR.**  
ATTORNEY AT LAW  
200 SOUTH CENTRAL AVENUE  
WHITE SULPHUR SPRINGS  
MONTANA 59645

P. O. BOX 629  
TELEPHONE 406/547-3347

October 19, 1988

**RECEIVED**

**OCT 21 1988**

**MONTANA D.N.R.C.  
LEWISTOWN FIELD OFFICE**

Water Rights Bureau Field Office  
P. O. Box 438  
Lewistown, MT 59457

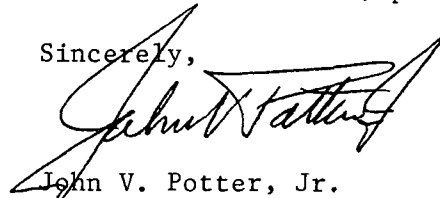
RE: Statement of Claim No. 41J W207368-00  
Smith, Merritt E. - Meagher County

Enclosed is completed Water Right Transfer Certificate to transfer the above claim to contract purchasers Gene M. Gudmundson and Dillon S. Dempsey. A like document has been placed in escrow for delivery after the contract is satisfactorily paid off; this second document will show the transfer, but without the seller remaining on record for notification purposes.

Also enclosed is my check in the amount of \$10 to cover the cost of processing this document.

If you have any questions or need further documentation, please advise.

Sincerely,



John V. Potter, Jr.

JVP/kj

Enclosures

cc: Merritt Smith  
Gudmundson/Dempsey

# WATER RIGHT TRANSFER CERTIFICATE

## CHECKLIST

### DEPARTMENT USE BLOCK (check if OK)

Date Rec'd OK ☒ Fee OK ☒ Transmittal No. Completed ☒

### FORM CHECK (indicate No or Yes; if No, explain/document the corrections made under Comments)

- yes 1. All water right numbers are accurately listed.
- yes 2. The means of transfer is complete and/or adequately explained.
- yes 3. Is complete.  
For any split rights; 608A's, flow charts, additional documentation are attached.  
Any inferred new uses, changes or sever/sells have been checked out.
- yes 4. Buyer's names and addresses are correct and complete.
- yes 5. Seller's names and addresses are correct and complete.  
If seller is not current owner of record, documentation substantiating his/her ownership is below or attached.
- yes 6. Is OK.
- N/A 7. Is completed and there are parties to include in SB proceedings.
- N/A 8. Is OK.
- yes 9. Both signatures are OK and notarized.
- N/A 10. Water Courts Copy has been made and sent (if applicable).

### COMMENTS / DOCUMENTATION / INSTRUCTIONS TO RECORDS (by Item number)

Item Comments

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continued, see attached

ANALYST: Gayle Phillips DATE: 10-27-88

# WATER RIGHT TRANSFER CERTIFICATE

## DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION AND WATER COURTS OF MONTANA

### INSTRUCTIONS

The Transferor (seller) of a water right is required by Section 85-2-424, MCA, to file this certificate with the Department of Natural Resources and Conservation. A person who fails to do so is liable for a maximum \$50 penalty. Both buyer and seller must sign and notarize the completed form. Submit it with the required \$10 filing fee to your area field office listed on the backside of this form. Do not use this form if you are a user of a municipal or irrigation district water system.

### FOR DEPARTMENT USE

Date received 2-11-91  
By JP  
Fee received 10.00  
Transmittal No 06-033-01-04  
Reviewed by JP (2-11-91)  
BASIN 415  
Coded (R) 3-5-91

(type or print in ink)

#### 1. WATER RIGHT(S) TRANSFERRED: Indicate all of the water rights transferred. Attach a list if necessary.

- ☐ (P) Permit to Appropriate Water No(s). \_\_\_\_\_
- ☐ (C) Certificate of Water Right No(s). \_\_\_\_\_
- ☒ (W) Statement of Claim No(s). 415 W207368
- ☐ (Y/D) Final Decreed Right No(s). \_\_\_\_\_
- ☐ (E) Exempt Existing Water Right No(s). \_\_\_\_\_

(If Exempt and the right is not already on record with the Department, you must complete and submit an Addendum for Exempt Existing Water Right, Form 608-B.)

#### 2. MEANS OF REALTY TRANSFER:

- ☒ Deed recorded in: County Meagher Bk. \_\_\_\_\_ Pg. \_\_\_\_\_ Doc. No. \_\_\_\_\_
- ☐ Contract for Deed / Notice of Purchasers Interest recorded in: \_\_\_\_\_
- County \_\_\_\_\_ Bk. \_\_\_\_\_ Pg. \_\_\_\_\_ Doc. No. \_\_\_\_\_
- ☐ Court Decree Recorded in: \_\_\_\_\_
- County \_\_\_\_\_ Bk. \_\_\_\_\_ Pg. \_\_\_\_\_ Doc. No. \_\_\_\_\_
- ☐ Other, explain: \_\_\_\_\_

#### 3. IS THERE A DIVISION OR SPLIT OF THE WATER RIGHT(S)?

- ☐ YES. If more than one water right is listed in No. 1 above, list which water right numbers have been split.

NO

Complete **one** Addendum for Apportioned Water Right, Form 608-A, for **each** split right, showing what portion of the water right the buyer received and what portion the seller retained.

- ☒ NO. The buyer received the entire water right(s), 100%.

#### 4. BUYER'S NAME(S): Print the complete names, mailing addresses, and phone numbers of the persons who received the water right(s).

Name Dillon S. Dempsey Phone No. 406-547-3366  
Mailing address Box 370 W.S.S. mt. 59645  
Name Gene M. Gudmundson Phone No. 406-547-3366  
Mailing address Box 370 W.S.S. mt. 59645

#### 5. SELLER'S NAME(S): Print the complete names, mailing addresses, and phone numbers of the persons selling the property and water right(s). If the land is on contract for deed and the seller wants to remain on record for notification purposes **only**, check yes. YES \_\_\_\_\_

Name Merritt E. Smith Phone No. 406-577-2283  
Mailing address Box 620 W.S.S. mt. 59645  
Name Brace Merritt Smith Phone No. 406-547-3975  
Mailing address PO Box 80 W.S.S. mt. 59645

6. **PERSON/AGENCY COMPLETING FORM:** Name Dillon S. Dempsey  
Address Box 370 Phone No. 406-547-3366
7. **INTERESTED PARTIES:** If there are other persons who are to receive notice of adjudication proceedings concerning the water rights(s), list their complete names, mailing address and phone numbers.  
Name \_\_\_\_\_ Phone No. \_\_\_\_\_  
Mailing address \_\_\_\_\_  
Name \_\_\_\_\_ Phone No. \_\_\_\_\_  
Mailing address \_\_\_\_\_
8. **REMARKS** Use this space to further explain any of the items. Dillon S. Dempsey /  
Gene Gudmundson partnership bought out merrett  
E. Smith.
9. **SIGNATURES:**  
A. Seller's Signature(s) x Merrett E. Smith Date 2-4-91  
x Bruce Merrett Smith Date 2-4-91  
Subscribed and sworn before me this 4th day of FEBRUARY 1991  
Michael J. Johnston  
Notary of the State of MONTANA  
Residing at WHITE SULPHUR SPRINGS  
My Commission expires June 17, 1993
- B. Buyer's Signature(s) Gene M. Gudmundson Date 1-31-91  
Dillon Shane Dempsey Date 2-4-91  
Subscribed and sworn before me this 4th day of FEBRUARY 1991  
Michael J. Johnston  
Notary of the State of MONTANA  
Residing at WHITE SULPHUR SPRINGS  
My Commission expires June 17, 1993

\*\*\*\*\*  
**WATER RIGHTS BUREAU FIELD OFFICES**

**HAVRE**

1708 W. 2nd St.  
P.O. Box 1828  
Havre, Montana 59501  
Phone: 265-5516  
Serving: Blaine, Chouteau, Glacier,  
Hill, Liberty, Pondera, Teton and  
Toole Counties

**MISSOULA**

2101 Bow Street  
P.O. Box 5004  
Missoula, Montana 59806  
Phone: 721-4284  
Serving: Missoula, Granite, Ravalli,  
and Mineral Counties.

**GLASGOW**

110 5th Street South, Room 106  
P.O. Box 894  
Glasgow, Montana 59230  
Phone: 228-2561  
Serving: Daniels, Dawson, Garfield,  
McCone, Phillips, Richland,  
Roosevelt, Sheridan and Valley  
Counties.

**HELENA**

1520 East Sixth Ave.  
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Phone: 444-6695  
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Silver Bow, Jefferson and  
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Grass Counties

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**MILES CITY**

5 North Prairie  
P.O. Box 276  
Miles City, Montana 59301  
Phone: 232-6359  
Serving: Carter, Custer, Fallon,  
Powder River, Prairie, Rosebud  
and Wibaux Counties.

## WATER RIGHT TRANSFER CERTIFICATE

CHECKLISTDEPARTMENT USE BLOCK (check if OK)Date Rec'd OK ☒ Fee OK ☒ Transmittal No. Completed ☒FORM CHECK (indicate No or Yes; if No, explain/document the corrections made under Comments)

- Yes 1. All water right numbers are accurately listed.
- Yes 2. The means of transfer is complete and/or adequately explained.
- Yes 3. Is complete.  
For any split rights; 608A's, flow charts, additional documentation are attached.  
Any inferred new uses, changes or sever/sells have been checked out.
- Yes 4. Buyer's names and addresses are correct and complete.
- Yes 5. Seller's names and addresses are correct and complete.  
If seller is not current owner of record, documentation substantiating his/her ownership is below or attached.
- Yes 6. Is OK.
- N/A 7. Is completed and there are parties to include in SB proceedings.
- Yes 8. Is OK.
- Yes 9. Both signatures are OK and notarized.
- N/A 10. Water Courts Copy has been made and sent (if applicable).

COMMENTS / DOCUMENTATION / INSTRUCTIONS TO RECORDS (by Item number)

Item Comments

5 BRUCE MERRITT SMITH WAS NOT LISTED ON WATER RIGHT.

NOTE: A TRANSFER WAS RECEIVED 10-21-88. AT THAT  
TIME DEMSEY AND GUDMUNDSON WERE BUYING  
ON CONTRACT FOR DEED AND SMITH WISHED TO  
REMAIN ON WATER RIGHT FOR NOTIFICATION PURPOSES.  
THE CONTRACT HAS NOW BEEN PAID OFF AND SMITH'S  
NAME SHOULD BE REMOVED.

continued, see attached

ANALYST:

J. Phillips

DATE:

2-11-91

03/05/91

ACKNOWLEDGEMENT OF WATER RIGHT TRANSFER  
FROM  
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION  
STATE OF MONTANA

WATER RIGHT NUMBER 41J -W-207368-00

\*\*\*\*\*  
WE HAVE RECEIVED AND RECORDED A TRANSFER OF WATER RIGHT OWNERSHIP IN WHICH YOU  
WERE NAMED AS A PARTY. THE RECORDS MAINTAINED BY THE WATER RIGHTS BUREAU  
HAVE BEEN CHANGED TO REFLECT THE NEW OWNERSHIP ACCORDING TO THE WATER RIGHT  
TRANSFER. THE ABSTRACT BELOW SHOWS THE CURRENT WATER RIGHT INFORMATION.  
BOTH BUYER AND SELLER HAVE BEEN SENT THIS ACKNOWLEDGEMENT.

IF YOU HAVE QUESTIONS, PLEASE CONTACT YOUR LOCAL WATER RIGHTS BUREAU FIELD  
OFFICE. LEWISTOWN FIELD OFFICE, 538-7459.

\*\*\*\*\*

OWNERS:                    DEMPSEY                    DILLON                    S  
                             PO BOX 370  
                             WHITE SULPHUR SPRINGS MT 59645  
  
                             GUDMUNDSON                    GENE                    M  
                             PO BOX 370  
                             WHITE SULPHUR SPRINGS MT 59645

PRIORITY DATE:        APR 30, 1866

FLOW RATE:                    1.00 CUBIC FEET PER SECOND (C)

VOLUME:                    725.42 ACRE FEET PER YEAR (AF)

SOURCE:                    WHITE SULPHUR SPRINGS

PURPOSE:

| USE        | FLOW   | VOLUME (AF) | ACRES | PERIOD OF USE   |
|------------|--------|-------------|-------|-----------------|
| COMMERCIAL | 1.00 C | 725.42      |       | JAN 1 TO DEC 31 |

POINTS OF DIVERSION AND MEANS OF DIVERSION:

DIVERSION:

| LOT | BLK | QTR | SEC | SEC | TWP | RGE | COUNTY  | MEANS |
|-----|-----|-----|-----|-----|-----|-----|---------|-------|
|     | 00A | NWN | WNW | 18  | 09N | 07E | MEAGHER | PUMP  |

PLACE OF USE FOR COMMERCIAL:

| ACRES | LOT | BLK | QTR | SEC | SEC | TWP | RGE | COUNTY  |
|-------|-----|-----|-----|-----|-----|-----|-----|---------|
| 001   |     | 00A | NWN | WNW | 18  | 09N | 07E | MEAGHER |

\*\* TRANSFER OF OWNERSHIP:

UPON A CHANGE IN OWNERSHIP OF ALL OR ANY PORTION OF THIS  
CLAIM, 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.

REMARKS: NOTICE OF TRANSFER RECEIVED 4/17/86.  
              NOTICE OF TRANSFER RECEIVED 10/21/88.  
              NOTICE OF TRANSFER RECEIVED 2/11/91.



W207368-415

RECEIVED

Form 608 R8-91

## WATER RIGHT TRANSFER CERTIFICATE

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION  
AND WATER COURTS OF MONTANA

JAN 27 1994

MONTANA D.N.R.C.

## INSTRUCTIONS

FOR DEPARTMENT FIELD OFFICE

The Transferor (seller) of a water right is required by Section 85-2-424, MCA, to file this certificate with the Department of Natural Resources and Conservation. A person who fails to do so is liable for a maximum \$50 penalty. Both buyer and seller must sign and notarize the completed form. Submit it with the required \$10 filing fee to your area field office listed on the backside of this form. Do not use this form if you are a user of a municipal or irrigation district water system.

2500

Date received 1-27-94  
By JP  
Fee received 2500  
Transmittal No 06-032  
Reviewed by JP (1-28-94)  
BASIN 415  
Coded JP

(type or print in ink)

## 1. WATER RIGHT(S) TRANSFERRED: Indicate all of the water rights transferred. Attach a list if necessary.

- ☐ (P) Permit to Appropriate Water No(s). \_\_\_\_\_
- ☐ (C) Certificate of Water Right No(s). \_\_\_\_\_
- ☒ (W) Statement of Claim No(s). W207368-415
- ☐ (Y/D) Final Decreed Right No(s). \_\_\_\_\_
- ☐ (E) Exempt Existing Water Right No(s). \_\_\_\_\_  
(If Exempt and the right is not already on record with the Department, you must complete and submit Form 627, Notice of Water Right.)

MAR 29 1994

## 2. MEANS OF REALTY TRANSFER:

- ☒ Deed recorded in: County MEAGHER Bk. F38 Pg. 74 - 746 Doc. No. \_\_\_\_\_
- ☒ Contract for Deed / Notice of Purchasers Interest recorded in: \_\_\_\_\_  
County MEAGHER Bk. F36 Pg. 89-90 Doc. No. 100840
- ☐ Court Decree Recorded in: \_\_\_\_\_  
County \_\_\_\_\_ Bk. \_\_\_\_\_ Pg. \_\_\_\_\_ Doc. No. \_\_\_\_\_
- ☐ Other, explain: \_\_\_\_\_

## 3. IS THERE A DIVISION OR SPLIT OF THE WATER RIGHT(S)?

- ☐ YES. If more than one water right is listed in No. 1 above, list which water right numbers have been split.

Complete **one** Addendum for Apportioned Water Right, Form 608-A, for **each** split right, showing what portion of the water right the buyer received and what portion the seller retained.

- ☒ NO. The buyer received the entire water right(s), 100%.

④  
NEW

## 4. BUYER'S NAME(S): Print the complete names, mailing addresses, and phone numbers of the persons who received the water right(s).

Name GENE M. GUDMUNDSON Phone No. (406) 547-3377  
Mailing address P.O. Box 724, WHITE SULPHUR SPRINGS, MT 59645  
Name \_\_\_\_\_ Phone No. \_\_\_\_\_  
Mailing address \_\_\_\_\_

⑤  
NEW5. SELLER'S NAME(S): Print the complete names, mailing addresses, and phone numbers of the persons selling the property and water right(s). If the land is on contract for deed and the seller wants to remain on record for notification purposes **only**, check yes. YES ☒

Name DILLON SHANE DEMPSEY Phone No. (406) 547-3918  
Mailing address P.O. Box 404, WHITE SULPHUR SPRINGS, MT 59645  
Name \_\_\_\_\_ Phone No. \_\_\_\_\_  
Mailing address \_\_\_\_\_

6. **PERSON/AGENCY COMPLETING FORM:** Name GENE M. GUDMUNDSON  
Address P.O. Box 724, WHITE SULPHUR SPRINGS, MT Phone No. (406) 547-3377
7. **INTERESTED PARTIES:** If there are other persons who are to receive notice of adjudication proceedings concerning the water rights(s), list their complete names, mailing address and phone numbers.
- Name \_\_\_\_\_ Phone No. \_\_\_\_\_  
Mailing address \_\_\_\_\_
- Name \_\_\_\_\_ Phone No. \_\_\_\_\_  
Mailing address \_\_\_\_\_
8. **REMARKS** Use this space to further explain any of the items. \_\_\_\_\_

9. **SIGNATURES:**

A. Seller's Signature(s) X Kelley Dempsey Date 7-2-92  
\_\_\_\_\_ Date \_\_\_\_\_

Subscribed and sworn before me this 2nd day of July 1993

Notary of the State of Montana

Residing at White Sulphur Springs

My Commission expires Nov. 29, 1995

B. Buyer's Signature(s) Gene M. Gudmundson Date 9-21-92  
\_\_\_\_\_ Date \_\_\_\_\_

Subscribed and sworn before me this 22 day of SEPTEMBER 1992

Notary of the State of MONTANA

Residing at WHITE SUL. SPRINGS, MT.

My Commission expires 8-31-94

\*\*\*\*\*  
**WATER RESOURCES REGIONAL OFFICES**

**BILLINGS**

1537 Avenue D, Suite 121  
Billings, Montana 59102  
Phone: 657-2105  
Serving: Big Horn, Carbon,  
Stillwater, Sweet Grass, Treasure,  
and Yellowstone Counties.

**BOZEMAN**

111 North Tracy  
Bozeman, Montana 59715  
Phone: 586-3136 or 586-3137  
Serving: Gallatin, Madison,  
and Park Counties.

**GLASGOW**

839 1st Avenue South  
P.O. Box 1269  
Glasgow, Montana 59230  
Phone: 228-2561  
Serving: Daniels, Dawson, Garfield,  
McCone, Phillips, Richland,  
Roosevelt, Sheridan, and Valley  
Counties.

**HAVRE**

1708 West 2nd Street  
P.O. Box 1828  
Havre, Montana 59501  
Phone: 265-5516 or 265-2225  
Serving: Blaine, Chouteau, Glacier,  
Hill, Liberty, Pondera, Teton, and  
Toole Counties.

**HELENA**

1520 East 6th Avenue  
Helena, Montana 59620-2301  
Phone: 444-6695  
Serving: Beaverhead, Broadwater,  
Deer Lodge, Jefferson,  
Lewis and Clark, Powell,  
and Silver Bow Counties.

**KALISPELL**

3220 Highway 93 South  
P.O. Box 860  
Kalispell, Montana 59903-0860  
Phone: 752-2288  
Serving: Flathead, Lake, Lincoln,  
and Sanders Counties.

**LEWISTOWN**

311 W. Janeaux  
P.O. Box 438  
Lewistown, Montana 59457  
Phone: 538-7459 or 538-7012  
Serving: Cascade, Fergus, Golden  
Valley, Judith Basin, Meagher,  
Musselshell, Petroleum, and  
Wheatland Counties.

**MILES CITY**

5 North Prairie Avenue  
P.O. Box 276  
Miles City, Montana 59301  
Phone: 232-6359  
Serving: Carter, Custer, Fallon,  
Powder River, Prairie, Rosebud,  
and Wibaux Counties.

**MISSOULA**

Holiday Village Professional Plaza,  
Suite 105  
P.O. Box 5004  
Missoula, Montana 59806  
Phone: 721-4284  
Serving: Granite, Mineral, Missoula,  
and Ravalli Counties.

ABSTRACT OF CONTRACT FOR DEED

1. This is an Abstract of a Contract for Deed (Contract) which was entered into the 9<sup>th</sup> day of July, 1992, by and between DILLON S. DEMPSEY and SHELLEY L. DEMPSEY, husband and wife, with mailing address of P. O. Box 404, White Sulphur Springs, MT (SELLER); and GENE M. GUDMUNDSON and GENG HUI GUDMUNDSON, husband and wife, P. O. Box 724, White Sulphur Springs, MT 59645 (PURCHASER).

2. The real property affected by the Contract is situated in Meagher County, Montana, and is more particularly described as follows:

SELLER'S undivided one-half interest in real and personal property acquired from Merritt E. Smith and Bruce Merritt Smith acquired by SELLER and PURCHASER hereunder by Warranty Deed dated November 14, 1990, and recorded December 28, 1990 at Book F33, page 367 - 368, records of Meagher County, Montana, operated by the parties as Spa Hot Springs Motel under a Partnership Agreement. A more particular description of said property appears in the aforesaid Warranty Deed.

Subject to all mortgages, liens, taxes and other indebtedness against the real and personal property and the Spa Hot Springs Motel business operated on said premises, all as provided in a PARTNERSHIP DISSOLUTION AND AMENDED SALE AGREEMENT between SELLER and PURCHASER dated the 9<sup>th</sup> day of July, 1992, which mortgages, liens, taxes and indebtedness are to be assumed and paid by PURCHASER.

Together with "existing rights" to the use of mineral waters conveyed to Quitclaim Deed from Mountainview Memorial Hospital recorded Book F33 of Deeds, page 651, records of Meagher County.

Excepting that certain tract of land conveyed by SELLER and PURCHASER to Mountainview Memorial Hospital by Warranty Deed recorded Book F33 of Deeds, page 647, records of Meagher County.

3. Pursuant to said Contract, SELLER agrees to sell and PURCHASER agrees to purchase all of the real and personal property described above; a quitclaim deed to said real property from Dillon S. Dempsey as GRANTOR to Gene M. Gudmundson as GRANTEE will be held by the First National Bank of White Sulphur Springs as escrow agent for the parties, under written escrow instructions, and delivered to PURCHASER upon PURCHASER'S full performance of the Contract.

4. This abstract has been executed and filed for the purpose of notice only and will neither enlarge nor diminish the rights or obligations of the parties to the Contract.

5. A full and complete copy of the Contract may be obtained from the PURCHASER at the address set forth above without cost upon request of any person.

IN WITNESS WHEREOF, the parties hereto have executed this abstract on the day and year first above written.

Dillon S. Dempsey  
Dillon S. Dempsey

Shelley L. Dempsey  
Shelley L. Dempsey

SELLER

Gene M. Gudmundson  
Gene M. Gudmundson

Geng Hui Gudmundson  
Geng Hui Gudmundson

PURCHASER

FILMED

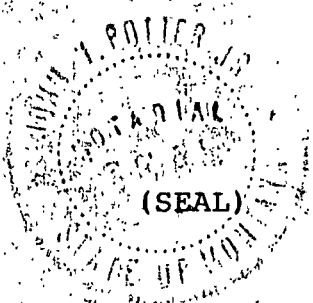
MAR 29 1994

F36 90

STATE OF MONTANA )  
 : ss.  
 County of Meagher )

On this 9<sup>th</sup> day of July, 1992, before me, the undersigned, a Notary Public in and for the State of Montana, personally appeared DILLON S. DEMPSEY and SHELLEY L. DEMPSEY, husband and wife, known to me personally to be the persons whose names are subscribed to the foregoing Abstract of Contract for Deed as Seller, and acknowledged to me that they each executed the same for the purposes expressed therein.

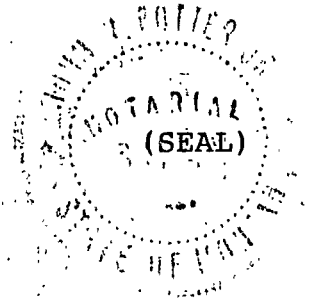
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first hereinabove written.

 (SEAL)  
 Notary Public for the State of Montana  
 Residing at White Sulphur Springs, Mont.  
 My Commission Expires 11/29/92

STATE OF MONTANA )  
 : ss.  
 County of Meagher )

On this 9<sup>th</sup> day of June, 1992, before me, the undersigned, a Notary Public in and for the State of Montana, personally appeared GENE M. GUDMUNDSON and GENG HUI GUDMUNDSON, husband and wife, known to me personally to be the persons whose names are subscribed to the foregoing Abstract of Contract for Deed as Purchaser, and acknowledged to me that they each executed the same for the purposes expressed therein.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first hereinabove written.

 (SEAL)  
 Notary Public for the State of Montana  
 Residing at White Sulphur Springs, Mont.  
 My Commission Expires 11/29/92

FILMED

MAR 29 1994

INDEXED

PLATTED

Microfilmed

100840

STATE OF MONTANA }  
 County of Meagher } ss.

I hereby certify that the within instrument was filed for record in this office on the 10 day of July 1992 at 1:15 o'clock P.M. and was duly recorded in Book F36 of Misc page 89-90

Fee \$ 12.00

BELLAMAE D. LITTON

County Recorder

By Carol Anderson Deputy

# SPA HOT SPRINGS MOTEL

202 WEST MAIN P.O. BOX 370

WHITE SULPHUR SPRINGS, MT 59645

(406) 547-3366

September 22, 1992

RECEIVED

SEP 23 1992

MONTANA D.N.R.C.  
LEWISTOWN FIELD OFFICE

Lewistown Water Resources  
Regional Office  
(Attn: Gail)  
P. O. Box 438  
Lewistown, Mt. 59457

Re: Water Rights Transfer  
for Spa Hot Springs Motel

Dear Gail,

Pursuant to our conversation of this morning, I am sending you a completed Water Rights Transfer Certificate, along with a copy of the Abstract of Contract for Deed, which has already been recorded here in Meagher County.

As we discussed on the phone, the \$25.00 filing fee for this Transfer Certificate is the responsibility of the seller, and I suggest you contact him for it. His name and address are included on the enclosed completed certificate.

If you have any questions on this matter, or if any problems develop, please do not hesitate to contact me.

Sincerely,

*Gene M. Gudmundson*

Gené M. Gudmundson

Enclosures

FILMED  
MAR 29 1994

**SPA HOT SPRINGS MOTEL**

202 WEST MAIN P.O. BOX 370

WHITE SULPHUR SPRINGS, MT 59645

(406) 547-3366

**RECEIVED**

JAN 27 1994

MONTANA D.N.R.C.  
LEWISTOWN FIELD OFFICE

January 26, 1994

Water Resources Regional Office  
311 W. Janeaux  
P.O. Box 438  
Lewistown, MT 59457

Dear Sirs:

Since the seller of this water right has refused to pay the \$25 fee to have this certificate filed, and since your office refuses to accept this certificate without the fee, I as buyer am now forced to pay to have this filed.

FILED  
MAR 29 1994

Will you please tell my why, when there is a legal requirement for the seller to file this certificate (Section 85-2-424), and a prescribed penalty for failure to do so, (a maximum \$50 penalty), that your office will not take action to enforce this requirement.

It is certainly unfair that someone can ignore this legal requirement, that the State refuses to enforce its own law, and that the responsibility is then dumped back onto the buyer of the water right; which is not where such responsibility belongs.

A response, please.

Sincerely,

Gene M. Gudmundson

*Gene M. Gudmundson*

This letter was referred to Legal Counsel for a response 1-27-94.

*JP*

W207368-41J

DEPARTMENT OF NATURAL RESOURCES  
AND CONSERVATION

LEWISTOWN WATER RESOURCES REGIONAL OFFICE



STAN STEPHENS, GOVERNOR

311 WEST JANEUX  
P.O. BOX 438

STATE OF MONTANA

(406) 538-7459

LEWISTOWN, MONTANA 59457

September 29, 1992

Dillon S. Dempsey  
PO Box 404  
White Sulphur Springs, MT 59645

RE: Dempsey/Gudmundson Water Right Transfer Certificate

Dear Mr. Dempsey:

Our office recently received the above Water Right Transfer Certificate of which I have enclosed a copy. Although Mr. Gudmundson completed the form and submitted a copy of the Abstract of Contract for Deed in lieu of your signature, he did not submit the filing fee. Since the law requires the transferor (seller) to file this certificate, the responsibility for payment of the \$25.00 filing fee would be yours. Your check should be made payable to the Department of Natural Resources and Conservation and returned to this office.

Please respond as soon as possible so we can continue to process this transfer. If you have any questions please give me a call at (406) 538-7459.

FILMED

MAR 29 1994

Sincerely,

A handwritten signature in cursive script that reads "Gayle Phillips".

Gayle Phillips  
Program Assistant II  
Lewistown Water Resources Office

Enclosure

cc: Gene Gudmundson

NO RESPONSE received from Dempsey so I CALLED Gudmundson 11-10-92 TO SEE if he would consider paying the TRANSFER FEE. SINCE he would not, the TRANSFER WAS returned to him, along with the letter from Sam Rodriguez, 11-30-92.

Handwritten initials in cursive script, likely "JD".

W207368-41J

DEPARTMENT OF NATURAL RESOURCES  
AND CONSERVATION

LEWISTOWN WATER RESOURCES REGIONAL OFFICE



STAN STEPHENS, GOVERNOR

311 WEST JANEAUX  
P.O. BOX 438

STATE OF MONTANA

(406) 538-7459

LEWISTOWN, MONTANA 59457

November 30, 1992

Gene M. Gudmundson  
PO Box 724  
White Sulphur Springs, MT 59645

RE: Water Right Transfer Certificate for Existing Water  
Right No. W207368-41S received by the Department 9-23-92

Dear Mr. Gudmundson:

The above referenced transfer was received without the required \$25.00 filing fee. It is my understanding that you do not wish to pay the filing fee on the transfer form you sent us, but rather would like us to collect the money from Mr. Dempsey, the seller of the water right.

Gayle Phillips, program assistant for the Lewistown Regional Office, wrote a letter to Mr. Dempsey on September 29, 1992, requesting payment for the transfer form. This formal request for payment was ignored by Mr. Dempsey.

After reviewing this situation with the Department's legal counsel we are taking the position that we cannot legally accept or record the change in ownership for the existing water right in question without payment of the fee.

Consequently, we are returning the original Water Right Transfer Certificate that you sent since the fee was not paid at the time of filing. If in the future you wish to have the water right records reflect the correct owner of the water right you may send the Water Right Transfer Certificate form to this office with the required \$25.00 filing fee.

If you have any questions, please feel free to call me.

Sincerely,

FILM

*Sam Rodriguez*  
Sam Rodriguez  
Lewistown Regional Manager  
Lewistown Water Resources Office

MAR 29 1994

Enclosure



## WATER RIGHT TRANSFER CERTIFICATE

CHECKLISTDEPARTMENT USE BLOCK (check if OK)Date Rec'd OK ☒ Fee OK ☒ Transmittal No. Completed ☒FORM CHECK (indicate No or Yes; if No, explain/document the corrections made under Comments)

- Y 1. All water right numbers are accurately listed.
- Y 2. The means of transfer is complete and/or adequately explained.
- Y 3. Is complete.  
For any split rights; 608A's, flow charts, additional documentation are attached.  
Any inferred new uses, changes or sever/sells have been checked out.
- Y 4. Buyer's names and addresses are correct and complete.
- Y 5. Seller's names and addresses are correct and complete.  
If seller is not current owner of record, documentation substantiating his/her ownership is below or attached.
- Y 6. Is OK.
- N/A 7. Is completed and there are parties to include in SB proceedings.
- N/A 8. Is OK.
- Y 9. Both signatures are OK and notarized.
- N/A 10. Water Courts Copy has been made and sent (if applicable).

FILMED  
MAR 29 1994COMMENTS / DOCUMENTATION / INSTRUCTIONS TO RECORDS (by Item number)

## Item Comments

- 2 Per Meagher County Clerk and Recorder (P.C. 1-28-94) a Quit Claim Deed has been filed. Water right should be solely in Gudmundson's name.
- 9 Demsey's notary signed, but neglected to seal his notarization. Copy of Abstract of Contract for Deed is attached. Quit Claim has been filed but copy unavailable.

NOTE: 608 was received 9-23-92, but no fee was received. Both the seller (Dempsey) and buyer (Gudmundson) refused to pay the fee, so the transfer was returned to Gudmundson. Copies of correspondence related to this matter are attached.

continued, see attached

ANALYST:

*Jay Phillips*

DATE:

1-28-94

02/04/94

PAGE 1

ACKNOWLEDGEMENT OF WATER RIGHT TRANSFER  
FROM  
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION  
STATE OF MONTANA

WATER RIGHT NUMBER 41J -W-207368-00

\*\*\*\*\*  
WE HAVE RECEIVED AND RECORDED A TRANSFER OF WATER RIGHT OWNERSHIP IN WHICH YOU  
WERE NAMED AS A PARTY. THE RECORDS MAINTAINED BY THE WATER RIGHTS BUREAU  
HAVE BEEN CHANGED TO REFLECT THE NEW OWNERSHIP ACCORDING TO THE WATER RIGHT  
TRANSFER. THE ABSTRACT BELOW SHOWS THE CURRENT WATER RIGHT INFORMATION.  
BOTH BUYER AND SELLER HAVE BEEN SENT THIS ACKNOWLEDGEMENT.

IF YOU HAVE QUESTIONS, PLEASE CONTACT YOUR LOCAL WATER RIGHTS BUREAU FIELD  
OFFICE. LEWISTOWN FIELD OFFICE, 538-7459.

\*\*\*\*\*DNRC\*LOCATE\*\* \*6\* \*000000\*\*\*

OWNERS: GUNMUNDSON GENE M  
PO BOX 724  
WHITE SULPHUR SPRINGS MT 59645

PRIORITY DATE: APR 30, 1866

FLOW RATE: 1.00 CUBIC FEET PER SECOND (C)

VOLUME: 725.42 ACRE FEET PER YEAR (AF)

SOURCE: WHITE SULPHUR SPRINGS

PURPOSE:

| USE        | FLOW   | VOLUME (AF) | ACRES | PERIOD OF USE   |
|------------|--------|-------------|-------|-----------------|
| COMMERCIAL | 1.00 C | 725.42      |       | JAN 1 TO DEC 31 |

POINTS OF DIVERSION AND MEANS OF DIVERSION:

DIVERSION:

| LOT | BLK | QTR    | SEC | SEC | TWP | RGE     | COUNTY | MEANS |
|-----|-----|--------|-----|-----|-----|---------|--------|-------|
| 00A |     | NWNWNW | 18  | 09N | 07E | MEAGHER |        | PUMP  |

PLACE OF USE FOR COMMERCIAL:

| ACRES | LOT | BLK | QTR    | SEC | SEC | TWP | RGE     | COUNTY |
|-------|-----|-----|--------|-----|-----|-----|---------|--------|
| 001   |     | 00A | NWNWNW | 18  | 09N | 07E | MEAGHER |        |

\*\* TRANSFER OF OWNERSHIP:

UPON A CHANGE IN OWNERSHIP OF ALL OR ANY PORTION OF THIS  
CLAIM, 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.

REMARKS: NOTICE OF TRANSFER RECEIVED 2/11/91.

FILMED  
MAR 29 1994

July 21, 2006

41J 207368 00 STATEMENT OF CLAIM

*for decreed wd. + flow p. 445-6.*

**D.N.R.C.**

**Examination Worksheet**

Water Right Number: 41J 207368 00 STATEMENT OF CLAIM

Version Status: ACTIVE

Date Received: APRIL 23, 1982

Exempt? No

Implied Claim? No

Fee Owed? No

☒ Ok ☐ Not Ok

☒ Ok ☐ Not Ok

☐ **Owners:** GENE M GUDMUNDSON  
PO BOX 724  
WHITE SULPHUR SPRINGS, MT 59645

☒ Ok ☐ Amended ☐ Rule 2.II. ☐ DNRC error  
Remarks: ☐ Issue ☐ Information  
Comments:

☐ **Purpose (Use):** ☒ COMMERCIAL

☒ Ok ☐ Amended ☐ Rule 5.II. ☐ DNRC error  
Remarks: ☐ Issue ☐ Information  
Comments:

☐ **Source:** WHITE SULPHUR SPRINGS

USGS Map: *White Sulphur Springs* Others:

☒ Ok ☐ Amended ☐ Rule 2.VI. ☐ DNRC error  
Remarks: ☐ Issue ☐ Information  
Comments:

☐ **Source type:** GROUNDWATER

☒ Ok ☐ Not Ok Comments:

☐ **Point of Diversion and Means of Diversion:**

| ID | Govt Lot | Qtr | Sec | Sec | Twp | Rge | County  | Means of Diversion |
|----|----------|-----|-----|-----|-----|-----|---------|--------------------|
| 1  |          | NWN | NNW | 18  | 9N  | 7E  | MEAGHER | PUMP               |

Subdivision Name SEE REMARK FOR SUBDIVISION INFORMATION

☒ Ok ☐ Amended ☐ Rule 2.III. ☐ DNRC error  
additional PODS: See attached code sheets/amendment forms  
named ditch: ☐ yes (add CX remarks) ☐ no  
Remarks: ☐ Issue ☐ Information  
Comments:

☐ **Period of Diversion:** JANUARY 1 to DECEMBER 31

☒ Ok ☐ Amended ☐ Rule 2.V. ☐ DNRC error  
Remarks: ☐ Issue ☐ Information  
Comments:

☐ **Basin Code:** 41J  
 Sub Basin Code: ☒ Ok ☐ Not Ok Interbasin Transfer with Basin \_\_\_\_\_  
 Comments: \_\_\_\_\_

☐ **Priority Date:** APRIL 30, 1866 Enforceable Priority Date: APRIL 30, 1866  
☒ Ok ☐ Amended ☐ Rule 2.VIII. ☐ DNRC error  
 Remarks: ☐ Issue ☐ Information  
 Comments: \_\_\_\_\_

☐ **Type of Historical Right:** DECREED *Meagher County # 1863*  
**Appropriator** *James Brewer*  
**Source** *White Sulphur Springs*  
**Decreed Date** *April (70) 1866*  
**Miner's Inches** *<22.5' (or 0.55 cfs)*  
**Flow Description** *ALL*  
☐ Ok ☐ Amended ☐ Rule 2.VIII. ☐ DNRC error  
 Remarks: ☐ Issue ☐ Information  
 Comments: \_\_\_\_\_

☐ **Flow Rate:** 1.00 CFS (Miner's Inches: 40.00)  
☒ Ok ☐ Amended ☐ Rule 5.IV. ☐ DNRC error  
 Remarks: ☐ Issue ☐ Information  
 Comments: \_\_\_\_\_

☐ **Volume:** 725.42 ACRE-FEET  
 Feasible Vol.: 725.95 ACRE-FEET  
 Comparison Stat: 24.03 HOURS/DAY TO ACHIEVE VOLUME  
☒ Ok ☐ Amended ☐ Rule 5.IV. ☐ DNRC error  
 Remarks: ☐ Issue ☐ Information  
 Comments: \_\_\_\_\_

☐ **Period of Use:** JANUARY 1 to DECEMBER 31  
☒ Ok ☐ Amended ☐ Rule 5.V. ☐ DNRC error  
 Remarks: ☐ Issue ☐ Information  
 Comments: \_\_\_\_\_

☐ **Maximum Acres:**  
 Total Parcel Acres: 0.00  
☒ Ok ☐ Amended ☐ Rule 2.VII. ☐ DNRC error  
 Remarks: ☐ Issue ☐ Information  
 Comments: \_\_\_\_\_

\_\_\_| Place of Use:

| ID | Acres | Govt Lot | Qtr | Sec | Sec | Twp | Rge | County  |
|----|-------|----------|-----|-----|-----|-----|-----|---------|
| 1  |       |          | NWN | NWN | 18  | 9N  | 7E  | MEAGHER |

Subdivision SEE REMARK FOR SUBDIVISION INFORMATION  
TRACT/LOT: BLOCK: 00A

☒ Ok
 ☐ Amended
 ☐ Rule 5.III.
 ☐ DNRC error

Additional POU parcels: See attached code sheets/amendment form

Remarks: ☐ Issue ☐ Information

Comments: \_\_\_\_\_

Data Source: NOES no exam

| ID | Examined Acres | Govt Lot | Qtr | Sec | Sec | Twp | Rge | County  | Map/County/Date |
|----|----------------|----------|-----|-----|-----|-----|-----|---------|-----------------|
| 1  |                |          | NWN | NWN | 18  | 9N  | 7E  | MEAGHER |                 |

Total Acres: \_\_\_\_\_

Data Source: \_\_\_\_\_

| ID | Examined Acres | Govt Lot | Qtr | Sec | Sec | Twp | Rge | County  | Map/County/Date |
|----|----------------|----------|-----|-----|-----|-----|-----|---------|-----------------|
| 1  |                |          | NWN | NWN | 18  | 9N  | 7E  | MEAGHER |                 |

Total Acres: \_\_\_\_\_

Supplemental: ☐ Yes (Add supplemental rights addendum) ☒ No

Multiple Use: ☐ Yes (Add multiple use remark) ☒ No

#### Existing Remarks:

|      |             |                                                   |
|------|-------------|---------------------------------------------------|
| SB1Z | INFORMATION | SEE WATER RIGHT FILE FOR SUBDIVISION INFORMATION. |
| TR1Z | INFORMATION | NOTICE OF WATER RIGHT TRANSFER RECEIVED 04/17/86. |
|      |             | NOTICE OF WATER RIGHT TRANSFER RECEIVED 10/21/88. |
|      |             | NOTICE OF WATER RIGHT TRANSFER RECEIVED 02/11/91. |

#### Formatted Remarks:

Ref No. Specific Data

|       |                                           |
|-------|-------------------------------------------|
| P4AD  | At Date recorded July 5, 1878             |
| PD IN | SO claim has notary signature but no seal |
| V9    | formerly Direct Flow                      |
| V20   | Appears largely nonconsumptive            |
|       |                                           |
|       |                                           |
|       |                                           |
|       |                                           |

July 21, 2006

41J 207368 00 STATEMENT OF CLAIM

\*\*\*\*\*

General Comments: (To document telephone contact, interviews [or use interview report form], field investigations [or use field investigation form].)

Examined By: fred Date 08/02/2006  
Coding Sheets: RMRK RSRV POU DVRS OWNR AMEND SUPP  
Coded by: [Signature] Date 08/02/2006

**INFORMATION UPDATED August 23, 2006****General Parcel Information definitions**

|                                              |                                              |
|----------------------------------------------|----------------------------------------------|
| <b>GEOCODE</b>                               | <b>47179918257300000</b>                     |
| <b>OWNCODE</b>                               | <b>10000</b>                                 |
| <b>OWNER CLASSIFICATION</b>                  | <b>Private</b>                               |
| <b>COUNTY ASSESSOR CODE</b>                  | <b>0000001160</b>                            |
| <b>SECTION</b>                               | <b>18</b>                                    |
| <b>TOWNSHIP</b>                              | <b>T09NR07E</b>                              |
| <b>LEGAL DESCRIPTION</b>                     | <b>WSS WSA ADD SPRINGS SQUARE<br/>TR A-1</b> |
| <b>PROPERTY ADDRESS</b>                      |                                              |
| <b>MUNICIPALITY</b>                          | <b>WHITE SULPHUR SPRINGS</b>                 |
| <b>ADDITION-SUBDIVISION</b>                  | <b>WSS ORIGINAL TOWNSITE AMEND</b>           |
| <b>LEVY DISTRICT</b>                         | <b>470569</b>                                |
| <b>COUNTY LEVY DISTRICT</b>                  | <b>8I</b>                                    |
| <b>LEVY DISTRICT NAME</b>                    | <b>WHITE SULPHUR SPRINGS CITY</b>            |
| <b>TOTAL FINAL LAND VALUE</b>                | <b>\$79,542.00</b>                           |
| <b>TOTAL FINAL BUILDING VALUE</b>            | <b>\$329,200.00</b>                          |
| <b>2003 FULL REAPPRAISAL VALUE</b>           | <b>\$408,742.00</b>                          |
| <b>2006 TAXABLE MARKET VALUE</b>             | <b>\$343,697.00</b>                          |
| <b>DEED 1: BOOK, PAGE, DATE<br/>(mmddyy)</b> | <b>F51, 416, 10/25/00</b>                    |
| <b>DEED 2: BOOK, PAGE, DATE<br/>(mmddyy)</b> | <b>F41, 976-7, 11/2/95</b>                   |
| <b>OWNER NAME 1</b>                          | <b>GUDMUNDSON GENE M</b>                     |
| <b>TAXPAYER</b>                              | <b>PO BOX 724</b>                            |
| <b>MAILING ADDRESS</b>                       | <b>WHT SPHR SPGS, MT 59645-0724</b>          |

**SITE INFORMATION definitions**

| <b>Characteristic</b>            | <b>CAMA Code,<br/>(Description)</b>                        |
|----------------------------------|------------------------------------------------------------|
| <b>GEOCODE</b>                   | <b>47179918257300000</b>                                   |
| <b>NEIGHBORHOOD</b>              | <b>022</b>                                                 |
| <b>NEIGHBORHOOD<br/>TREND</b>    | <b>2, (stable)</b>                                         |
| <b>RESIDENTIAL<br/>INDICATOR</b> | <b>commercial</b>                                          |
| <b>ACCESS</b>                    | <b>1, (paved road)<br/>0, (landlocked/none)</b>            |
| <b>FRONTING</b>                  | <b>1, (major strip or CBD)</b>                             |
| <b>LOCATION</b>                  | <b>1, (central business<br/>district)</b>                  |
| <b>TOPOGRAPHY</b>                | <b>1, (level)</b>                                          |
| <b>UTILITIES</b>                 | <b>1, (all public)<br/>4, (public sewer)<br/>0, (none)</b> |

**FRONT FOOT LOT TYPE CLASSIFICATION & VALUATION definitions**

| Property Type    | Lot Type | Land Classification      | Lot Width (feet) | Lot Depth (feet) | Influence Factor(s) | Influence Percent | Lot Depth Influence | Price/Ft (width) | Asses Val      |
|------------------|----------|--------------------------|------------------|------------------|---------------------|-------------------|---------------------|------------------|----------------|
| commercial urban | 1        | commercial city/town lot | 340              | 263              | none listed         | 100               | 2                   | \$144.41         | \$79,54        |
| <b>TOTAL</b>     |          |                          |                  |                  |                     |                   |                     |                  | <b>\$79,54</b> |

**IMPROVEMENTS TO THE LAND  
definitions****Commercial Improvements**

Commercial Improvements Not Yet Available Online



2006/1102  
From John Peterson

Filed Claim Not Notarized

I spoke with the Judge in March on this issue. If the original claimant is dead then the current owner can sign an affidavit or other form that to the best of his knowledge the water was used prior to 1973. The wording Should state the following.

**The statement of claim is true and correct to my (new claimants) knowledge and belief.** Sec 85-2-224 3-f MCA This document should be notarized upon receipt by the DNRC.

- ① Claimant should try to locate original claimant, make contact and get the preceding affidavit from the original claimant.
- ② If current owner can not contact original claimant, they shall submit an affidavit describing the claim's ownership history and including the above bold type wording. This affidavit must be notarized.
- ③ Remove issue remark.

DEPARTMENT OF NATURAL  
RESOURCES AND CONSERVATION  
WATER RESOURCES DIVISION



BRIAN SCHWEITZER  
GOVERNOR

DIRECTOR'S OFFICE (406) 444-2074  
TELEFAX NUMBER (406) 444-2684

STATE OF MONTANA

WATER RIGHTS ADJUDICATION  
PHONE (406) 444-0560  
FAX (406) 444-0569

910 HELENA AVE  
PO BOX 201602  
HELENA, MT 59620-1602

August 1, 2006

Gene Gudmundson  
P.O. Box 724  
White Sulphur springs, MT 59645

Dear Gene Gudmundson:

The Montana Water Court is preparing to issue a water rights decree for the Smith River basin, and the DNRC is examining all Smith River basin water right claims for completeness and accuracy. During examination of claim number 41J207368, filed by Meagherco Enterprises on April 23, 1982, and since then transferred to your ownership, some questions have arisen.

One question concerns the water flow. The claim form listed the flow rate as 1.002 cubic feet per second, but the decree provided to document the claimed priority date stated that the total flow of all the White Sulphur Springs combined, after leaving the Springs Square or Park, was only 0.55 cubic feet per second. I am enclosing copies of the original statement of claim and the decree. Because the flow rate and any consumptive use of the water determine the volume used per year, the flow question leads to other questions.

By completing the enclosed questionnaire you can provide more complete information to document your claim. Because some of the questions in this Questionnaire for Commercial Water Use Claims have already been answered in the statement of claim and the decree, I have highlighted those questions that are essential. For example, the type of information sought in part 1 is whether the hot springs water is used in a pool for swimming, to heat a motel and other buildings, for drinking as mentioned in the decree, and so on. How much water is consumed in these uses? How have these uses changed over the years?

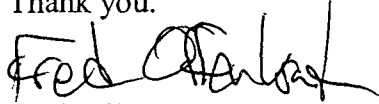
Part 4 of the questionnaire addresses the flow rate and the volume used annually. The claim form mentions the means of diversion is a pump, though the decree does not, suggesting gravity flow. If a pump is used, when was it installed and what is its capacity? Information including the dimensions of conveyances, such as pipes, their length and vertical drop will also be useful. Finally, have the flow rate or volume used per unit time ever been measured? If so, the questionnaire asks when and what were the results.

Please answer the questions that are highlighted on the questionnaire and return the questionnaire to me within one month. Please contact me with any questions you have. Finally, if you would like to discuss these questions over the telephone, or in person, please let me know. I would like to discuss your water right claim in person or in a telephone conversation.

If I do not gather more information, through the enclosed questionnaire and conversations with you, my claim examination report will identify the questions I am not able to answer. Some of these are issues the Water Court would be required by law to consider, and I expect they would contact you for the answers.

Please contact me at your earliest convenience to discuss your water right claim. If you have not contacted me by September 15, I will submit the results of my examination, including the unanswered questions, to the Montana Water Court.

Thank you.



Fred Offenkrantz, Water Resources Specialist  
406-444-0497

Information about Montana water rights can be viewed on the Internet at the DNRC Website located at <http://www.dnrc.state.mt.us/> by clicking on Water Resources, then Water Rights, or New Water Rights Web Queries, or House Bill 22.

Enclosures: Photocopy of Statement of Claim for water right claim number 41J207368;  
Photocopy of District Court Decree in case #1863 on October 28, 1914; and  
Questionnaire for Commercial Water Use Claims.

RECEIVED

415  
ME-4 207368

STATEMENT OF CLAIM  
FOR EXISTING WATER RIGHTS

APR 23 1982

## OTHER USES

MONTANA D.N.R.C.

For the Water Courts of the State of Montana

TWINSTOWN FIELD OFFICE

"0" cleared

MEAGHERCO ENTERPRISES, INC., a Montana Corporation  
P.O. Box 347, White Sulphur Springs, Montana /

1. Owner of Water Right

Last

First

Middle Initial

Co-Owner or Other  
Interest Owner

Last

First

Middle Initial

Address 202 West Main St., P.O. Box 347

City White Sulphur Springs State Montana Zip Code 59645

Home Phone No. Business Phone No. 547-3366

2. Person completing form Smith

Last

Merritt

First

E.

Middle Initial

Address P.O. Box 347

City White Sulphur Springs State Montana Zip Code 59645

Home Phone No. 547-3366 Business Phone No. 547-3366

3. Use:

(Check Only One)

FR ☐ Fish RacewaysGE ☐ GeothermalMN ☐ MiningFW ☐ Fish & WildlifeNV ☐ NavigationPG ☐ Power GenerationCM ☒ CommercialFP ☐ Fire ProtectionRC ☐ RecreationIN ☐ IndustrialAS ☐ Agricultural SprayingOT ☐ OtherMC ☐ MunicipalOF ☐ Oil Well Flooding

Explain

DNRC  
4

Source of Water:

(Check Only One)

☒ Spring

Name White Sulphur Springs

☐ Well

Name

☐ Stream

Name

Tributary of Hot Springs

☐ Lake

Name

Stream

Creek

Tributary of

☐ Reservoir

Name

Stream

Tributary of

5. Point of Diversion:

County Meagher

NW 1/4 NW 1/4 NW 1/4, Section 18, T 9 N N/S, R 7 E E/W

Lot, Block "A", Subdivision Parberry Townsite

6. Means of Diversion:

☐ Well☒ Pump

Capacity 450 gpm

☐ Headgate with ditch or pipeline☐ Instream use☐ Other

Explain

7. Means of Conveyance:

☐ Ditch☐ Instream☒ Pipeline☐ Other:

8. Place of Use: County Meagher

☐ Instream ☒ City or Town ☐ Other: Explain \_\_\_\_\_  
\_\_\_\_ Lot, "A" Block, NW  $\frac{1}{4}$  NW  $\frac{1}{4}$  NW  $\frac{1}{4}$ , Section 18, T 9N N/S, R 7E E/W  
\_\_\_\_ Lot, \_\_\_\_\_ Block, \_\_\_\_\_  $\frac{1}{4}$  \_\_\_\_\_  $\frac{1}{4}$  \_\_\_\_\_  $\frac{1}{4}$ , Section \_\_\_\_\_, T \_\_\_\_\_ N/S, R \_\_\_\_\_ E/W  
\_\_\_\_ Lot, \_\_\_\_\_ Block, \_\_\_\_\_  $\frac{1}{4}$  \_\_\_\_\_  $\frac{1}{4}$  \_\_\_\_\_  $\frac{1}{4}$ , Section \_\_\_\_\_, T \_\_\_\_\_ N/S, R \_\_\_\_\_ E/W  
\_\_\_\_ Lot, \_\_\_\_\_ Block, \_\_\_\_\_  $\frac{1}{4}$  \_\_\_\_\_  $\frac{1}{4}$  \_\_\_\_\_  $\frac{1}{4}$ , Section \_\_\_\_\_, T \_\_\_\_\_ N/S, R \_\_\_\_\_ E/W  
\_\_\_\_ Lot, \_\_\_\_\_ Block, \_\_\_\_\_  $\frac{1}{4}$  \_\_\_\_\_  $\frac{1}{4}$  \_\_\_\_\_  $\frac{1}{4}$ , Section \_\_\_\_\_, T \_\_\_\_\_ N/S, R \_\_\_\_\_ E/W

Subdivision Parberry Townsite

9. Flow rate claimed: 1.002 ☒ cubic feet per second  
☐ gallons per minute  
☐ miner's inches

10. Volume claimed: 725.42 acre-feet per year

11. Period(s) of use: Jan. / 1 to Dec. / 31  
Month Day Month Day

12. Check one: ☒ Decreed Water Right Priority date or date of first use  
☐ Filed Appropriation Right April - 30 / 1866  
☐ Use Water Right Hour Month Day Year

13. Attach copies of the Decree, Record of Filing or Proof of Use Right.  
10/29/14 Decree

14. Attach copies of aerial photographs, U.S. Geological Survey maps or such other documents necessary to show point of diversion, place of use, place of storage, and conveyance facilities. - Attached.

15. Notarized Statement signed by claimant.

STATE OF MONTANA )

County of Meagher )  
:SS.

Meagherco Enterprises, Inc.

I, Merritt E. Smith, Manager of, having been duly sworn, depose and say that I, being of legal age and being the claimant of this claim of existing water right, and the person whose name is signed to it as the claimant, know the contents of this claim and the matters and things stated there are true and correct.

Merritt E. Smith

Subscribed and sworn before me, this 22nd day of April 1982.

[Signature]  
Notary Public for the State of Montana

Residing at White Sulphur Springs MT  
My Commission expires Nov. 15 1982

**WE SYSTEMS**

\*\*\*\*\*

1000 S. 10th St.  
S. 10th St. & 10th St.

1565

**DECISION.**

15, 19, 20

\*\*\*\*\*

tion and decision, a  
delivers its finding  
filed herein, and or  
therewith, which say  
as follows, to-wit:-

That the inspection of the facts:

1. That located upon the lan Springs, and thereof United States and, i for.

2. That  
and for some time pr  
the Smith River Deve  
in and to said lands  
guished by lapse of  
defendants have now  
nances thereto.

3. That corporation, has, by the appurtenances at of the said James M.

4. That  
tion organized and

5. That Spring ditch and creek defendant, Conrad-S. with the exception west corner of what

POOR COPY

-2-

tion and decision, and after due deliberation thereon the court delivers its findings of fact and conclusions of law, which are filed herein, and orders that judgment be entered in accordance therewith, which said findings of fact and conclusions of law are as follows, to-wit:-

FINDINGS OF FACT.

That the evidence produced on the trial and the personal inspection of the premises by the court disclose the following facts:

1. That in the month of April, 1866, one James Brewer, located upon the lands surrounding and enclosing the White Sulphur Springs, and thereafter duly complied with the land laws of the United States and, in due time, secured United States patent therefor.

2. That at the time of the commencement of this action, and for some time prior thereto, the defendants, John Ringling and the Smith River Development Company, had certain equitable rights in and to said lands, which said rights have since become extinguished by lapse of time and the decree of this court and the said defendants have now no right or title to said lands or the appurtenances thereto.

3. That the defendant, the Conrad-Stanford Company, a corporation, has, by mesne conveyance, acquired the said lands and the appurtenances and have succeeded to all the rights and interest of the said James M. Brewer.

4. That the said Conrad-Stanford Company is a corporation organized and existing under the laws of the State of Montana.

5. That the waters of White Sulphur Springs and Warm Spring ditch and creek have their origin upon the said lands of the defendant, Conrad-Stanford Company, and any development thereof, with the exception of that certain spring situated at the northwest corner of what is known as the Springs Square or Park, has

been done by the said company.

6. That in the said Brewer appropriated and began of the springs so located up and for the following purposes:

A. The central is wholly within said lands, was clear water for drinking purposes of furnishing drink large.

B. That certain a northeasterly direction developed and covered and the tanks and pools for bathing.

C. That certain in a northwesterly direction developed and covered and the tanks or pools of said appurtenances.

7. That ever since the waters of said three springs for the purposes above mentioned predecessors in interest.

8. That the water certain salts beneficial to health and, to some extent, detriments.

9. That, after the waters were reconducted to the general allowed to mingle with the flow of the Springs Square or Park, and was at the northwest corner of said square mentioned.

10. That the defendant

POOR COPY

-3-

been done by the said company or its predecessors in interest

6. That in the month of April, 1866, the said James Brewer appropriated and began the use of the said waters from three of the springs so located upon said ground, to the following extent and for the following purposes:

A. The central spring, or "drinking spring," lying wholly within said lands, was so cleared and developed as to flow clear water for drinking purposes, and walled with stone, for the purpose of furnishing drinking water to patients and the public at large.

B. That certain spring, situated about thirty yards in a northeasterly direction from said central or drinking spring, was developed and covered and the water therefrom piped to certain tanks and pools for bathing purposes.

C. That certain spring, situated about twenty-five yards in a northwesterly direction from said drinking spring, was developed and covered and the water therefrom piped to the bathing tanks or pools of said appropriator.

7. That ever since the original appropriation thereof the waters of said three springs have been continuously used for the purposes above mentioned by the Conrad-Stanford Company and its predecessors in interest.

8. That the waters of said springs are warm and contain certain salts beneficial to health and having medicinal qualities and, to some extent, detrimental to the growth of vegetation.

9. That, after the said use of said waters, the same were reconducted to the general outlet of the said springs and allowed to mingle with the flow from all of the waters from said Springs Square or Park, and with the waters from that certain spring at the northwest corner of said Springs Square or Park, heretofore mentioned.

10. That the defendant, the Town of White Sulphur Springs,



POOR COPY

-4-

has, at times, done work upon that certain spring, outside said park, and may have developed the same and caused the water to flow therefrom, but any and all work so done upon said spring was done, not with the intention of appropriation, but solely for the purpose of draining the street and doing away with an objectionable swamp, and the only use thereof has been the placing of a tub in the stream therefrom for the convenience of those desiring to water stock therein.

11. That on or about the year 1876 one, P. H. Clark, appropriated and began the use of said waters of the said springs, as the same flowed from the Springs Square or Park, for irrigation and other useful purposes upon his lands, and in the year 1883 one, Harvey Spencer, appropriated the use of said waters for irrigation and other useful purposes upon the lands then owned by him.

12. That the plaintiffs herein are the successors in interest, by mesne conveyance, of the said P. H. Clark and the said Harvey Spencer of the lands for which the said waters were so appropriated and the appurtenances thereto.

13. That the said lands of the plaintiffs are arid in character and require artificial irrigation in order to raise crops of hay, grain and vegetables thereon, and ever since the said date of appropriation these plaintiffs and their predecessors in interest have used the said waters of White Sulphur Springs for the irrigation thereof.

14. That ever since the development of the spring at the said northwest corner of said Square said plaintiffs have used the waters therefrom in connection with the waters from said Square for irrigation and other useful purposes upon said lands, to the exclusion of all others.

15. That the present total flow of all of said springs through said Springs Creek or ditch to the head of plaintiffs' ditch, is twenty-two and one-half inches, or .55 cubic feet per second.

16. That necessary for the ir

17. That for the raising of h the use thereof, esp increase in producti

18. That Stanford Company, per appropriated and enol Spring", at the extre springs, for bottling date have so used the bottling the said wat Done in ope

And from sai

1. The def and answer within the either personally or b fore entered, have no r of White Sulphur Spring

2. That the has no right, title or or any part thereof.

3. That the has no right, title or Sulphur Springs, or any

4. That the for medicinal and heal

POOR COPY

-5-

16. That the said amount of water, and all thereof, is necessary for the irrigation of said lands of plaintiffs.

17. That there are evidences of the use of said waters for the raising of hay and vegetables upon the said lands, and that the use thereof, especially upon the hay lands, has caused an increase in productiveness.

18. That in the year 1907 the defendant, the Conrad-Stanford Company, personally or through its agents or employees, appropriated and enclosed that certain spring known as the "Iron Spring", at the extreme ~~North~~ eastern portion of said group of springs, for bottling and commercial purposes, and ever since said date have so used the waters from the said spring continuously, bottling the said waters and selling and offering the same for sale.

Done in open court this 28th day of October, 1914.

JOHN A. MATTHEWS,

Judge.

And from said findings the court now draws its

CONCLUSIONS OF LAW.

1. The defendant <sup>and E. H. Hatfield</sup> John Ringling, having failed to appear and answer within the time allowed by law, or to appear in court, either personally or by counsel, and ~~his~~ default having been heretofore entered, ~~has~~ no right, title or interest in or to the waters of White Sulphur Springs, or any part thereof.

2. That the defendant, Smith River Development Company, has no right, title or interest in or to the waters of said springs, or any part thereof.

3. That the defendant, the Town of White Sulphur Springs, has no right, title or interest in or to the said waters of White Sulphur Springs, or any thereof.

4. That the use of the waters of White Sulphur Springs for medicinal and healing purposes is beneficial use, within the

meaning of the law and one of

5. That said water is used for health-giving purposes, and for other purposes. 6. That the plaintiff is entitled to a decree fixing and establishing that all of the waters of White Sulphur Springs have flowed from the Spring since 1876, that is to say, to all of the waters of White Sulphur Springs with the exception of the waters covered and used for bathing purposes from those springs, for the waters on the lands described in the

7. That the defendant is entitled to a decree fixing the use and enjoyment of certain

1. To the uninterrupted use of the spring in the center of the "Drinking Spring", for the defendant, its patients, visitors, etc., since April 30th, 1866.

2. To the continuous use of the waters for health-giving purposes, all of the waters now covered and piped to the defendant, which said waters have flowed since 1866.

3. To the use of and sale, all of the waters of the "Iron Spring", which right was established in 1907.

8. That each of the defendant, Conrad-Stanford Company, be ordered, to an order per said decree, to an order per either of said parties from

POOR COPY

-4-

meaning of the law and one for which waters may be appropriated.

5. That said waters are valuable for medicinal and health-giving purposes, and also for irrigation and other useful purposes. 6. That the plaintiffs herein are entitled to a decree fixing and establishing their right to the use of and to use all of the waters of White Sulphur Springs Creek, as the same flows and has flowed from the Springs Square or Park, since the year 1876, that is to say, to all of the waters from the said springs, with the exception of the Drinking Spring and the two springs covered and used for bathing purposes, and to the overflow or waste water from those springs, for irrigation and other useful purposes on the lands described in their complaint.

7. That the defendant, the Conrad-Stanford Company, is entitled to a decree fixing and establishing their rights to the use and enjoyment of certain of said springs as follows:

1. To the uninterrupted flow of that certain stone-curbed spring in the center of the Springs Square or Park, known as the "Drinking Spring", for drinking purposes, for said defendant, its patients, visitors and the public at large, as of April 30th, 1866.

2. To the continuous use of, and the use, for bathing purposes, all of the waters of said two springs, heretofore and now covered and piped to the bath house and tanks of said defendant, which said right shall be of the date of April 30th, 1866.

3. To the use of and to use, for bottling purposes and for sale, all of the waters of that certain spring known as the "Iron Spring", which right shall be decreed as of April 30th, 1907.

8. That each of said parties, the plaintiffs herein and the defendant, Conrad-Stanford Company, are entitled, as a part of said decree, to an order perpetually enjoining and restraining either of said parties from in any manner interfering with or

POOR COPY

-7-

molesting the prior rights of the other, which said order shall extend to the agents, servants, attorneys, employees and successors in interest of said parties.

Done in open court this 28th day of October, A.D. 1914.

JOHN A. MATTHEWS,

Judge.

Wherefore, by reason of the law and the findings of fact and conclusions of law aforesaid, it is ORDERED, ADJUDGED AND DECREED, that the parties hereto be and they are hereby awarded the respective waters and water rights hereinabove enumerated in the findings of fact and conclusions of law.

It is hereby further ORDERED, ADJUDGED AND DECREED that each of the parties herein awarded water and water rights, his heirs, assigns, successors, personal representatives, tenants, sub-tenants, agents, attorneys, servants and employees, and each and all of them, and any and all persons acting by, through or under them, or either of them, be and he is hereby perpetually enjoined and restrained from ever at any time, or in anywise or manner, interfering with, molesting or intermeddling with any of the waters or water rights or springs of any and all other parties herein as the same are fixed, ascertained, adjudged and decreed by the findings of fact and conclusions of law and the decree of this court.

It is hereby further ORDERED, ADJUDGED AND DECREED that the defendants John Ringling, <sup>and E. L. Whitfield</sup> who entered no appearance and filed no answer, and who failed, neglected and refused to introduce any testimony, shall be entitled to none of the waters of the White Sulphur Springs, <sup>they are</sup> and he is hereby perpetually enjoined and restrained from in any manner and in anywise interfering with said waters and water rights.

It is hereby further ORDERED, ADJUDGED AND DECREED that each of the parties hereto shall pay his own costs.

Dated, signed and passed this 28th day of October, 1914

*John A. Matthews*  
Judge.

Claim No.: 415207368

## QUESTIONNAIRE FOR COMMERCIAL WATER USE CLAIMS

Please answer as completely and accurately as possible. If more space is needed, use additional sheets of paper. Be sure to put your name and the claim number on any extra sheets.

1. Please describe the commercial facility (trailer court, restaurant, church, motel, etc.)
  - a. Briefly describe the size of the commercial facility.
  - b. How has water been used in connection with this commercial facility?
  - c. Is this a private water system or is your water obtained from a municipal water system?
  - d. When was this commercial facility initially constructed and put into operation?
  - e. When was it last operated for this purpose?
2. Please describe the physical status of the commercial operation.
  - a. What physical evidence and structures are at the site?
  - b. In what condition are the site and structures?
  - ~~c. Is the water system in working order or operational?~~
  - d. If not presently being used, describe any evidence at the site that water was used in the past.
3. Priority date:
  - a. When was water first used as part of this commercial activity?
  - b. What evidence can you provide to support the date of first water use?

(2)

EXHIBIT X-5 (cont.)

Claim No.: 415207368

- c. Has the water been used every year since first use? If not, please explain.
- d. Is the system currently used for diverting water for commercial purposes? When was water last used for commercial purposes?

4. Please describe the original design and operation of the water system associated with the purpose claimed.

a. Diversion structure:

- (1) Method or type (pump, pipeline, dam, etc.):
- (2) Dimensions (pump size, rpm, etc.; headgate dimensions; well depth, casing size, static water table, etc.):
- (3) Materials:
- (4) Date constructed:
- (5) Present operational status:

b. Conveyance facility:

- (1) Method or type:
- (2) Dimensions and length:
- (3) ~~Materials:~~
- (4) Slope or elevation change from point of diversion to place of use:
- (5) Present operational status:

c. Flow rate:

- (1) Has any measurement of water through the system been made? When and what were the results?

3

EXHIBIT X-5 (cont.)

Claim No.: 415207368

- (2) Have any flow rate records been maintained? Please provide copies or list the results.
- (3) What is the peak flow rate that has been diverted through the system for this purpose? How was it determined?
- (4) What is the average flow rate in a 24 hour period diverted through the system for this purpose?
- (5) When was water last diverted at the flow rate claimed?

d. Volume:

- (1) What is the maximum volume used per year for this purpose? How was it determined?
- (2) Have any volume records been maintained? Please provide copies or list the results.
- (3) If water is stored in a man-made impoundment, what is its capacity (ac-ft), surface acres (or dimensions), and maximum water depth?

e. Period of use:

- (1) What times of the year has water been used through the system for this purpose (months/days)?
- (2) ~~How many hours per day (average) is the system used for this purpose?~~

- f. What happens to the water after it is used for this commercial activity? Is it returned to the same source?

How much water is consumed in these commercial activities?

4  
EXHIBIT X-5 (cont.)

Claim No. 415207368

5. Please describe all modifications or replacements to the original water system and the date each occurred.

6. Plans, maps, or photos of the water system and commercial facilities would be helpful. In addition, copies of deeds, surveys, and operating licenses or permits would be useful.

Additional Remarks:

Person : Name: \_\_\_\_\_  
Completing : Address: \_\_\_\_\_  
Questionnaire : \_\_\_\_\_  
(Please Print): Phone No.: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

\*\*\*\*\*

FOR DEPARTMENT USE

Information Obtained: \_\_\_\_\_ Sent To Claimant \_\_\_\_\_ Telephone Interview  
\_\_\_\_\_ Personal Interview \_\_\_\_\_ Other: \_\_\_\_\_

Reviewer: \_\_\_\_\_ Date: \_\_\_\_\_

Remarks:



DEPARTMENT OF NATURAL  
RESOURCES AND CONSERVATION  
WATER RESOURCES DIVISION



BRIAN SCHWEITZER  
GOVERNOR

DIRECTOR'S OFFICE (406) 444-2074  
TELEFAX NUMBER (406) 444-2684

STATE OF MONTANA

WATER RIGHTS ADJUDICATION  
PHONE (406) 444-0560  
FAX (406) 444-0569

910 HELENA AVE  
PO BOX 201602  
HELENA, MT 59620-1602

August 31, 2006

Gene Gudmundson  
P.O. Box 724  
White Sulphur springs, MT 59645

Dear Gene Gudmundson:

Thank you for taking time to talk on the telephone today regarding your water right, operations of the Spa Hot Springs, including geothermal and radiant heating in the Spa, your office, home and associated buildings. I have sent the amendment form we discussed, completely filled out except for your notarized signature, in a separate envelope.

This letter is to address your questions regarding the hospital addition construction adjacent to your property, where the excavation has filled with warm water. My understanding is that you have two concerns. The first, which you said has higher priority, is potential harm to the source of your water, the springs. This would occur were there to be a decrease in flow, temperature or water quality. The second concern we discussed is that discharge of water from the excavation onto your land may not be in your best interest, and was initiated without your consent.

I have researched your legal rights with regard to these two concerns. With respect to disposal of water pumped from the excavation, it appears that no permit is needed to discharge that water onto the ground, unless it flows overland into a surface water, in which case that discharge to surface water would be required to meet Montana Water Quality Standards. In your specific case, if you do not want the water running onto your property, then that aspect of the construction activity is illegal, and you may want to consult an attorney.

With respect to your most important concern, regarding adverse effects on your springs and your water right, as long as the excavation water is not being put to beneficial use no water right or permit is required. However, if adverse effects to your water right do occur, you are entitled to mitigation. Historically the DNRC has declined, in disputes involving groundwater withdrawal, to specify mitigation actions, and has instead deferred to the court system. Therefore, if you experience adverse effects, you may, once again, want to consult an attorney.

Were the hospital to begin putting this water to beneficial use, as we discussed is possible because it is hot water, according to the rules that would require a water right. At the time of their applying for that right they would be required to demonstrate that there would be no adverse effects to preexisting water right holders.

Finally, to pump groundwater at a flow rate less than 35 gpm, in a volume totaling not more than 10 acre-feet/year, for beneficial use of any kind, does require a water right. But, a certificate of water right can be obtained by filing a Notice of Completion of Groundwater Development form number 602 and paying a \$50 fee. This right is also subject to the prohibition on adverse effects.

If I can be of further help, please let me know. Thank you.

Sincerely,

Fred Offenkrantz, Water Resources Specialist  
406-444-0497

## Contact record

Fred Offenkrantz

Phone (in/out) Office Field Time 1620 Date 2-31-06Person(s) Gene EdmundsonPhone 406-547-3377 (office, Eileen)

Address \_\_\_\_\_

Subject Spa Hot Springs

## Summary

Hospital next door added addition, dug hole for elevator shaft that filled with hot water.

Hospital pumping water to gutter, ran down main street, then changed to pumping into their storm water drain, that conveys water to Hot Springs Creek, first dumping it on Gene's land.

Concerns

- 1) Flow (or temp) of springs may be affected. <sup>what are Gene's legal rights in this regard?</sup>
- 2) Discharge of this water on Gene's land may not be in his best interest. Is a permit for excavation dewatering required?

#2) No permit required for excavation dewatering.

#1) If adverse impact, he's entitled to mitigation.

However enforcement may not occur.

IF pt to beneficial use, require water right. At time of application, applicant must demonstrate no adverse effect.

What if < 35 gpm and less than 10 AF/yr. In that case, no water right required, but if adverse effect(s) occur, Gene can shut them down.

634 (6.5) gpm @ 24/7 = 10 AF

Contact record

Fred Offenkrantz

Phone (in/out) Office Field Time 1030 Date 8-31-2006

Person(s) Gene Gudmundson, Eileen

Phone 406-547-3377 office

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Subject San Hot Springs

Summary

See attached 4 page questionnaire  
will amend flow to 246.84 gpm  
volume to 398.15 acre feet.

Sent form.

Claim No.: 415207368

## QUESTIONNAIRE FOR COMMERCIAL WATER USE CLAIMS

Please answer as completely and accurately as possible. If more space is needed, use additional sheets of paper. Be sure to put your name and the claim number on any extra sheets.

→ 1. Please describe the commercial facility (trailer court, restaurant, church, motel, etc.)

Stellar geothermal well ~ 35' deep using pump. Naturally surfaces but use pump to w/draw desired volume  
Geothermally heating motel.

a. Briefly describe the size of the commercial facility.  
water from well to boiler + laundry room then through heat exchangers. Heat most of motel and Gene's chiropractor office.

b. How has water been used in connection with this commercial facility?  
Is this a private water system or is your water obtained from a municipal water system?

c. Is this a private water system or is your water obtained from a municipal water system?  
(When needed, divert to pool, then have pool and route to Hot Springs Creek. Generate electricity w/ panels + windmill)

d. When was this commercial facility initially constructed and put into operation?  
Using spring water in a radiant heat pipe system to heat pool deck, a sidewalk outside, and a corner of a basketball court, now dog houses and new building.

e. When was it last operated for this purpose?  
Gene's house shop in First Floor and stopped tubing to underside of 2nd Floor.

Please describe the physical status of the commercial operation.

a. What physical evidence and structures are at the site?

b. In what condition are the site and structures?

c. Is the water system in working order or operational?

d. If not presently being used, describe any evidence at the site that water was used in the past.

3. Priority date:

a. When was water first used as part of this commercial activity?

b. What evidence can you provide to support the date of first water use?

(2)

EXHIBIT X-5 (cont.)

Claim No.: 415207368

- c. Has the water been used every year since first use? If not, please explain.
- d. Is the system currently used for diverting water for commercial purposes? When was water last used for commercial purposes?

4. Please describe the original design and operation of the water system associated with the purpose claimed.

a. Diversion structure:

- (1) Method or type (pump, pipeline, dam, etc.):
- (2) Dimensions (pump size, rpm, etc.; headgate dimensions; well depth, casing size, static water table, etc.):
- (3) Materials: PVC
- (4) Date constructed:
- (5) Present operational status:

b. Conveyance facility:

- (1) Method or type:
- (2) Dimensions and length: N 4-6"
- (3) Materials:
- (4) Slope or elevation change from point of diversion to place of use:

$0.55 \text{ cfs} = 246.54 \text{ gpm}$

(5) Present operational status:

c. Flow rate:

- (1) Has any measurement of water through the system been made? When and what were the results?

Temp in well 100°F. 100°F at pool. Outside pool 98°F, inside pool 105°F.

Answer has got in  
geothermal heating system  
Can use 150 gpm but  
are using 100 gpm estimate 24/7

100 gpm 12:30-0600 to fill pool. Flows through pool.  
Draw, clean & fill both pools daily (although required only 6x/12 hours). Every 24 hours

3

EXHIBIT X-5 (cont.)

Claim No.: 415207368

- (2) Have any flow rate records been maintained? Please provide copies or list the results.
- (3) What is the peak flow rate that has been diverted through the system for this purpose? How was it determined?
- (4) What is the average flow rate in a 24 hour period diverted through the system for this purpose?
- (5) When was water last diverted at the flow rate claimed?

d. Volume:

100 gpm x 365 days

- (1) What is the maximum volume used per year for this purpose? How was it determined?

non-consumptive  
Returned to the same source  
from where it would  
have surfaced.

- (2) Have any volume records been maintained? Please provide copies or list the results.

- (3) If water is stored in a man-made impoundment, what is its capacity (ac-ft), surface acres (or dimensions), and maximum water depth?

e. Period of use:

- (1) What times of the year has water been used through the system for this purpose (months/days)?

---

- (2) How many hours per day (average) is the system used for this purpose?

f. What happens to the water after it is used for this commercial activity? Is it returned to the same source?

How much water is consumed in these commercial activities?

4

EXHIBIT X-5 (cont.)

Claim No. 415207368

5. Please describe all modifications or replacements to the original water system and the date each occurred.

*Well dug and pump installed in 1950s & 1960s.*

6. Plans, maps, or photos of the water system and commercial facilities would be helpful. In addition, copies of deeds, surveys, and operating licenses or permits would be useful.

Additional Remarks:

Person : Name: \_\_\_\_\_  
Completing : Address: \_\_\_\_\_  
Questionnaire : \_\_\_\_\_  
(Please Print): Phone No.: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

\*\*\*\*\*

FOR DEPARTMENT USE

Information Obtained:        Sent To Claimant        Telephone Interview  
       Personal Interview        Other:       

Reviewer: \_\_\_\_\_ Date: \_\_\_\_\_

Remarks:



# AMENDMENT

## TO STATEMENT OF CLAIM

**RECEIVED**

SEP 26 2006

Claim number(s): 41J207368Owner(s): Gene M. Gunderson

DNRC WATER RESOURCES

I make the following amendment(s) to the above statement of claim(s):

*(Complete only those sections that require amendment.)*1. Owner of Water Right: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
Last First Middle Initial

Co-owner or Other

Interest Owner: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
Last First Middle Initial

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Home Phone No. ( ) \_\_\_\_\_ Business Phone No. ( ) \_\_\_\_\_

2. Purpose (use): \_\_\_\_\_

- a. If irrigation, method of irrigation use ☐ Sprinkler ☐ Flood ☐ Waterspreading  
☐ Subirrigation ☐ Natural Overflow

b. If domestic, number of households served \_\_\_\_\_

c. If stock, total number and type of livestock served \_\_\_\_\_

3. Source of Water: \_\_\_\_\_ Tributary of \_\_\_\_\_

4. Point of Diversion: County \_\_\_\_\_

\_\_\_\_\_ 1/4, \_\_\_\_\_ 1/4, \_\_\_\_\_ 1/4, Section \_\_\_\_\_, T \_\_\_\_\_ N/S, R \_\_\_\_\_ E/W

Lot \_\_\_\_\_, Block \_\_\_\_\_, Subdivision \_\_\_\_\_

- ☐ Replaces claimed information ☐ Supplements claimed information ☐ Addendum included

*Please attach a map showing all points of diversion for this water right.*

5. Means of Diversion: ☐ Well ☐ Instream Use ☐ Dam  
☐ Headgate ☐ Pump: Capacity \_\_\_\_\_ gpm  
☐ Other \_\_\_\_\_

6. Means of Conveyance: ☐ Ditch ☐ Pipeline ☐ Instream Use  
☐ Other \_\_\_\_\_

# AMENDMENT

7. Place of Use: County \_\_\_\_\_

\_\_\_\_\_ acres, \_\_\_\_\_ Lot, \_\_\_\_\_ Block, \_\_\_\_\_ 1/4, \_\_\_\_\_ 1/4, \_\_\_\_\_ 1/4, Section \_\_\_\_\_, T \_\_\_\_\_ N/S, R \_\_\_\_\_ E/W

\_\_\_\_\_ acres, \_\_\_\_\_ Lot, \_\_\_\_\_ Block, \_\_\_\_\_ 1/4, \_\_\_\_\_ 1/4, \_\_\_\_\_ 1/4, Section \_\_\_\_\_, T \_\_\_\_\_ N/S, R \_\_\_\_\_ E/W

\_\_\_\_\_ acres, \_\_\_\_\_ Lot, \_\_\_\_\_ Block, \_\_\_\_\_ 1/4, \_\_\_\_\_ 1/4, \_\_\_\_\_ 1/4, Section \_\_\_\_\_, T \_\_\_\_\_ N/S, R \_\_\_\_\_ E/W

\_\_\_\_\_ acres, \_\_\_\_\_ Lot, \_\_\_\_\_ Block, \_\_\_\_\_ 1/4, \_\_\_\_\_ 1/4, \_\_\_\_\_ 1/4, Section \_\_\_\_\_, T \_\_\_\_\_ N/S, R \_\_\_\_\_ E/W

\_\_\_\_\_ Total Acres. Subdivision \_\_\_\_\_

☐ Replaces claimed information ☐ Supplements claimed information ☐ Addendum included

*Please attach map showing entire place of use for this water right.*

8. Flow Rate Claimed: 246.84 ☐ cubic feet per second  
☒ gallons per minute

☐ miner's inches

9. Volume Claimed: 398.15 acre-feet per year

10. Period(s) of Use: \_\_\_\_\_ / \_\_\_\_\_ to \_\_\_\_\_ / \_\_\_\_\_  
Month Day Month Day

11. Priority Date (date of first use): \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
Hour Month Day Year

12. Type of Historical Right: ☐ Decreed Right  
☐ Filed Appropriation Right  
☐ Use Right

*Please attach proof  
of priority date or  
type of right.*

13. Reasons for Amendment: \_\_\_\_\_

14. Comments: \_\_\_\_\_

## 15. Notarized Statement Signed by Owner:

I, having been duly sworn, depose and say that I, being of legal age and being the owner of this claim of existing water right know the contents of this amendment and that the matters and things stated there are true and correct. (Only one current owner of the right as listed in the DNRC centralized record system is required to sign, but all owners are encouraged to sign.)

Gene M Gudmundson  
Signature

9-25-06  
Date

Signature

Date

Subscribed and sworn before me this 25<sup>th</sup> day of September, 192006.

(notary seal)

Fern C Vinton Fern C Vinton

Residing at White Sulphur Springs

My commission expires Oct 22, 2007

Contact record

Fred Offenkrantz

Phone (in/out) Office Field Time 0925 Date 11-2-06

Person(s) Gene Gudmundson, Eileen, Kathy

Phone 406-547-3377

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Subject Notary Seal missing

Summary

Marshall Smith passed away 10-30-2006.  
Send Gene a letter describing what he should do.

3-4-08 Telephoned Gene, he lost letter of 11-2-2006. Present.

DEPARTMENT OF NATURAL  
RESOURCES AND CONSERVATION  
WATER RESOURCES DIVISION



BRIAN SCHWEITZER  
GOVERNOR

DIRECTOR'S OFFICE (406) 444-2074  
TELEFAX NUMBER (406) 444-2684

STATE OF MONTANA

WATER RIGHTS ADJUDICATION  
PHONE (406) 444-0560  
FAX (406) 444-0569

910 HELENA AVE  
PO BOX 201602  
HELENA, MT 59620-1602

November 2, 2006

Gene Gudmundson  
P.O. Box 724  
White Sulphur Springs, MT 59645

Dear Gene Gudmundson:

It was good talking with you today, about the Statement of Claim form for your water right number 41J207368 having been signed by a notary who neglected to affix his seal to the document. The affidavit required to remove the resulting issue remark from your water right needs to include the following elements.

A brief description of the claim's ownership history, including that you knew the original claimant, Merritt Smith until October 30, 2006, and a brief description of how you came to own the property and its water rights. After stating you are the current owner, include the words "The statement of claim is true and correct to my knowledge and belief", sign the document and have your signature notarized. Be sure it clearly indicates the water right number 41J207368.

Once I receive such an affidavit I will be able to remove the issue remark concerning the notary seal from the report of my examining this water right.

Thank You.

Fred Offenkrantz, Water Resources Specialist  
406-444-0497

Enclosures:  
Photocopy of Statement of Claim for water right claim number 41J207368.

"What should we do when the claim form is signed by the notary, but there is no seal?"  
TAKEN UNDER ADVISEMENT (Jim Gilman and Kim Overcast)

Possibly add an information remark. (Jim Gilman)

Judge Loble has said that if the claim still has the same owner(s), we should ask them if the claim form accurately represents the intent of their filing. If the ownership has changed, the current owner(s) can sign an affidavit certifying that the claim form originally filed accurately represents the intent of the filing. (John Peterson)"



## SPA HOT SPRINGS MOTEL

202 WEST MAIN P.O. BOX 370  
WHITE SULPHUR SPRINGS, MT 59645  
(406) 547-3366

RECEIVED

MAR 18 2008

March 16, 2008

DNRC WATER RESOURCES

Mr. Fred Offenkrantz  
Water Rights Specialist  
D.N.R.C.  
Water Rights Adjudication  
P.O. Box 201602  
Helena, MT 59620-1602

Dear Mr. Offenkrantz:

I purchased the Spa Hot Springs and its accompanying water right 41J207368 in September of 1988. I purchased the business from Merritt Smith, whom I met when I moved to White Sulphur Springs in February, 1988. Merritt had owned this business for many years previously, almost twenty, I believe.

At the time of purchase, I was in a partnership with Shane and Shelley Dempsey, whom I subsequently bought out in 1992. I then became a sole proprietor, and have remained so ever since.

This business, as you know, has had a very long and unusual history. The water right dates back to 1866, when it was owned by James Brewer, the first white man to live in this area. Subsequent owners included William Parberry, the first medical doctor in this area, and John Ringling of Ringling Brothers Circus fame. Merritt Smith actually had two periods of ownership, sandwiched around the ownership of the springs by Meagherco Enterprises. I have owned the business myself continually from September of 1988 to the current date (March, 2008).

The statement of claim of this water right 41J207368 is true and correct to my knowledge and belief.

Sincerely,

*Gene M. Gudmundson*

Gene M. Gudmundson

Owner  
Spa Hot Springs

STATE OF MONTANA            )  
                                  : ss  
County of Meagher         )

This document was acknowledged before me by, Gene M. Gu-dmundson,  
on the 17th day of March, 2008.

(SEAL)



Fern C. Vinton  
Notary Public for the St.  
Residing at White Sulphur Springs  
My Commission expires: Oct. 22, 2011

Contact record

Fred Offenkrantz

Phone (in/out) Office Field Time 1330 Date 8-25-08

Person(s) Gene Gudmundson

Phone 406-547-3377

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Subject 41J207368

Summary

Added VPS remark "23,93 hours per day to deliver the claimed volume. Claimed volume based on 4/30/1966 Priority Decree, ~~decreed~~ on 10/28/1914 with flow of 0.55 cfs and including the following: "is entitled to... the uninterrupted flow of one spring, and to the continuous use of all the waters" of two springs on page 6 of the 1914 decree. Gene prefers not to amend claimed volume.

Fill pool every 24 hours (at rate of previous owner) between 2300 hours and 0600 or 0700 hours

Gene bought in 1988. Began installing current plumbing geothermal heating using grant(s) from DNRC, most work done 1992.

Previous owner's pump not 24/7.

Current pump runs 24/7 all year long. Water routed through heat exchangers when decreed, and to pool ~2300 - 0700.



## REVIEW ABSTRACT OF WATER RIGHT CLAIM

### IMPORTANT NOTICE

AN ASTERISK (\*) HAS BEEN PLACED NEXT TO EACH ITEM CHANGED IN ACCORDANCE WITH THE SUPREME COURT RULES GOVERNING THE EXAMINATION OF THIS CLAIM.

Water Right Number: 41J 207368-00 STATEMENT OF CLAIM  
Version Status: ACTIVE

Owners: GENE M GUDMUNDSON  
PO BOX 724  
WHITE SULPHUR SPRINGS, MT 59645

Priority Date: APRIL 30, 1866

Enforceable Priority Date: APRIL 30, 1866

AT THE TIME OF THE CLAIMED PRIORITY DATE, IT APPEARS THAT THE PLACE OF USE WAS PART OF AN INDIAN RESERVATION.

Type of Historical Right: DECREED

Purpose (use): COMMERCIAL

Flow Rate: 246.84 GPM

Volume: 398.15 AC-FT

THE USE OF THIS WATER APPEARS TO BE LARGELY NONCONSUMPTIVE.

VOLUME MAY BE EXCESSIVE. BASED ON THE FLOW RATE AND PERIOD OF USE, THE SYSTEM WOULD HAVE TO RUN 23.93 HOURS PER DAY TO DELIVER THE CLAIMED VOLUME. NO INFORMATION EXISTS IN THE CLAIM FILE TO CONFIRM THIS FIGURE.

Source: WHITE SULPHUR SPRINGS

Source Type: GROUNDWATER

Point of Diversion and Means of Diversion:

| <u>ID</u> | <u>Govt Lot</u> | <u>Qtr</u> | <u>Sec</u> | <u>Twp</u> | <u>Rge</u> | <u>County</u> |
|-----------|-----------------|------------|------------|------------|------------|---------------|
| 1         |                 | NWNWNW     | 18         | 9N         | 7E         | MEAGHER       |

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: PUMP

Subdivision: WHITE SULPHUR SPRINGS ORIGINAL BLOCK: 00A

Period of Diversion: STARTING IN 2008, PERIOD OF DIVERSION WAS ADDED TO MOST CLAIM ABSTRACTS, INCLUDING THIS ONE.

Period of Use: JANUARY 1 to DECEMBER 31

Place of Use:

| <u>ID</u> | <u>Acres</u> | <u>Govt Lot</u> | <u>Qtr</u> | <u>Sec</u> | <u>Twp</u> | <u>Rge</u> | <u>County</u> |
|-----------|--------------|-----------------|------------|------------|------------|------------|---------------|
| 1         |              |                 | NWNWNW     | 18         | 9N         | 7E         | MEAGHER       |

Subdivision: SEE REMARK FOR SUBDIVISION INFORMATION BLOCK: 00A

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**Remarks:**

THE FOLLOWING ELEMENTS WERE AMENDED BY THE CLAIMANT ON 09/25/2006: FLOW RATE AND VOLUME.  
NOTICE OF WATER RIGHT TRANSFER RECEIVED 04/17/86.  
NOTICE OF WATER RIGHT TRANSFER RECEIVED 10/21/88.  
NOTICE OF WATER RIGHT TRANSFER RECEIVED 02/11/91.

**REVIEWED BY : FRED OFFENKRANTZ**

**DATE:**

---