

IN THE WATER COURT OF THE STATE OF MONTANA
YELLOWSTONE DIVISION
SHIELDS RIVER BASIN 43A
PRELIMINARY DECREE

* * * * *

CLAIMANT: Hayhook Land, LLC

OBJECTOR: Hayhook Land, LLC

NOTICE OF INTENT TO APPEAR: United States of
America (Bureau of Reclamation)

Case 43A-0536-R-2020

43A 35336-00

43A 35337-00

43A 211124-00

43A 211125-00

43A 211126-00

43A 211127-00

43A 211128-00

43A 30029012

NOTICE OF FILING OF MASTER'S REPORT

This Master's Report was filed with the Clerk of the Montana Water Court. Please review this Report carefully.

You may file a written objection to this Master's Report if you disagree or find errors with the Master's Findings of Fact, Conclusions of Law, or Recommendations.

The above stamped date indicates the date this Master's Report was filed and mailed.

Rule 23 of the Water Right Adjudication Rules requires written objections to a Master's Report be filed within 10 days of the date of the Master's Report. Because this Master's Report was mailed to you, Rule 6(d) of the Montana Rules of Civil Procedure provides an additional 3 days to the 10-day objection period.

If you file an objection, you must mail a copy of the objection to all parties on the Service List found at the end of this Master's Report. The original objection and a certificate of mailing to all parties on the Service List must be filed with the Water Court.

If you do not file a timely objection, the Water Court will conclude that you agree with the content of this Master's Report.

MASTER'S REPORT

FINDINGS OF FACT

1. Hayhook Land, LLC (Hayhook) claims 43A 35336-00, 43A 35337-00, 43A 211124-00, 43A 211125-00, 43A 211126-00, 43A 211127-00, and 43A 211128-00 were decreed with the following point of diversion issue remark:

POINT OF DIVERSION WAS MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

Claim 43A 30029012-00 was decreed with the following issue remark:

IT APPEARS THAT POINT OF DIVERSION NO. 1 IS IN NWSESE SECTION 24 T1N R9E. SEE CLAIM FILE FOR DETAILS.

2. Hayhook objected to each of the above-captioned claims.
3. The United States of America (Bureau of Reclamation) filed Notices of Intent to Appear for claims 43A 211124-00, 43A 211125-00, 43A 211126-00, 43A 211127-00, and 43A 211128-00.
4. An Order Setting Filing Deadline was issued for the parties to file documentation addressing the issue remarks, the Objections, and Notice of Intent to Appear concerns.
5. On February 9, 2021, Hayhook filed a Motion Affirming Correction and Motion to Amend Water Right Claim 43A 30029012.
6. In its February 9, 2021 filing Hayhook confirmed the point of diversion modifications the DNRC made to claims 43A 35336-00, 43A 35337-00, 43A 211124-00, 43A 211125-00, 43A 211126-00, 43A 211127-00, and 43A 211128-00 during reexamination of the claims.
7. In the February 9, 2021 filing Hayhook confirmed the following change should be made to claim 43A 30029012, addressing the issue remark and resolving the Objection:

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	NWSESE	SESESE	24	1N	9E	PARK
Period of Diversion: MAY 1 TO NOVEMBER 1						
Diversion Means: PUMP						
2		NWSWNE	30	1N	10E	PARK
Period of Diversion: MAY 1 TO NOVEMBER 1						
Diversion Means: PUMP						

8. On February 19, 2021, the United States filed a Statement indicating its Notice of Intent to Appear concerns are resolved provided no changes are made other than those specified in Hayhook's February 9, 2021 filing.

PRINCIPLES AND CONCLUSIONS OF LAW

1. The Water Court must address all issue remarks that appear on a claim as well as any objections the claim receives. Sections 85-2-233, 85-2-247, and 85-2-248, MCA.

2. A properly filed Statement of Claim for an existing water right is prima facie proof of its content. Section 85-2-227, MCA. This prima facie validity may be overcome by evidence showing that one or more elements of the claim are incorrect. This standard of proof applies to objectors or claimants objecting to their own water right claims. Rule 19, W.R.Adj.R., *Nelson v. Brooks*, 2014 MT 120; 375 Mont.86, 95; 329 P.3d 558, 564.

3. Hayhook has confirmed the point of diversion change DNRC made to claims 43A 35336-00, 43A 35337-00, 43A 211124-00, 43A 211125-00, 43A 211126-00, 43A 211127-00, and 43A 211128-00 during reexamination of the claims, and agreed a change should be made to the point of diversion legal land description for claim 43A 30029012, resolving Hayhook's Objections.

4. The United States Notices of Intent to Appear have been resolved.

RECOMMENDATIONS

1. Claim 43A 30029012 should be changed as shown in Finding of Fact No. 7.
2. The issue remarks should be removed from the claims in this Case.

Post Decree Abstracts of Water Right Claims are served with the Report to confirm the terms of the claim in the state's centralized record system.

Anika M. Stern
Senior Water Master

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**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
SHIELDS RIVER
BASIN 43A**

Water Right Number: **43A 35336-00** STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: HAYHOOK LAND LLC
 1067 US HIGHWAY 89 N
 LIVINGSTON, MT 59047 9340

***Priority Date:** JULY 1, 1903

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

***Flow Rate:** 224.41 GPM

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT
PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

***Maximum Acres:** 167.50

Source Name: SHIELDS RIVER

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSESE	24	1N	9E	PARK

Period of Diversion: MAY 1 TO NOVEMBER 1

Diversion Means: PUMP

Period of Use: MAY 1 TO NOVEMBER 1

***Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	37.50		S2SE	24	1N	9E	PARK
2	80.00		NE	25	1N	9E	PARK
3	50.00		NW	30	1N	10E	PARK

Total: 167.50

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
SHIELDS RIVER
BASIN 43A**

Water Right Number: **43A 35337-00** STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: HAYHOOK LAND LLC
 1067 US HIGHWAY 89 N
 LIVINGSTON, MT 59047 9340

Priority Date: JUNE 1, 1905

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 1.25 CFS

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT
PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

***Maximum Acres:** 167.50

Source Name: SHIELDS RIVER

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSESE	24	1N	9E	PARK

Period of Diversion: MAY 1 TO NOVEMBER 1

Diversion Means: PUMP

Period of Use: MAY 1 TO NOVEMBER 1

***Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	37.50		S2SE	24	1N	9E	PARK
2	80.00		NE	25	1N	9E	PARK
3	50.00		NW	30	1N	10E	PARK

Total: 167.50

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
SHIELDS RIVER
BASIN 43A**

Water Right Number: **43A 211124-00** STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: HAYHOOK LAND LLC
 1067 US HIGHWAY 89 N
 LIVINGSTON, MT 59047 9340

Priority Date: JULY 31, 1921

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 3.75 CFS

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT
PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

***Maximum Acres:** 167.50

Source Name: SHIELDS RIVER

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSESE	24	1N	9E	PARK

Period of Diversion: MAY 1 TO NOVEMBER 1

Diversion Means: PUMP

Period of Use: MAY 1 TO NOVEMBER 1

***Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	37.50		S2SE	24	1N	9E	PARK
2	80.00		NE	25	1N	9E	PARK
3	50.00		NW	30	1N	10E	PARK

Total: 167.50

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
SHIELDS RIVER
BASIN 43A**

Water Right Number: **43A 211125-00** STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: HAYHOOK LAND LLC
 1067 US HIGHWAY 89 N
 LIVINGSTON, MT 59047 9340

Priority Date: JULY 31, 1921

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 2.50 CFS

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT
PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

***Maximum Acres:** 167.50

Source Name: SHIELDS RIVER

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSESE	24	1N	9E	PARK

Period of Diversion: MAY 1 TO NOVEMBER 1

Diversion Means: PUMP

Period of Use: MAY 1 TO NOVEMBER 1

***Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	37.50		S2SE	24	1N	9E	PARK
2	80.00		NE	25	1N	9E	PARK
3	50.00		NW	30	1N	10E	PARK

Total: 167.50

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
SHIELDS RIVER
BASIN 43A**

Water Right Number: 43A 211126-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: HAYHOOK LAND LLC
1067 US HIGHWAY 89 N
LIVINGSTON, MT 59047 9340

Priority Date: JULY 31, 1921

Type of Historical Right: DECREEED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 2.50 CFS

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT
PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

***Maximum Acres:** 167.50

Source Name: SHIELDS RIVER

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSESE	24	1N	9E	PARK

Period of Diversion: MAY 1 TO NOVEMBER 1

Diversion Means: PUMP

Period of Use: MAY 1 TO NOVEMBER 1

***Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	37.50		S2SE	24	1N	9E	PARK
2	80.00		NE	25	1N	9E	PARK
3	50.00		NW	30	1N	10E	PARK
Total:	167.50						

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
SHIELDS RIVER
BASIN 43A**

Water Right Number: **43A 211127-00** STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: HAYHOOK LAND LLC
 1067 US HIGHWAY 89 N
 LIVINGSTON, MT 59047 9340

Priority Date: JULY 31, 1921

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 282.76 GPM

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT
PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

***Maximum Acres:** 167.50

Source Name: SHIELDS RIVER

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSESE	24	1N	9E	PARK

Period of Diversion: MAY 1 TO NOVEMBER 1

Diversion Means: PUMP

Period of Use: MAY 1 TO NOVEMBER 1

***Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	37.50		S2SE	24	1N	9E	PARK
2	80.00		NE	25	1N	9E	PARK
3	50.00		NW	30	1N	10E	PARK

Total: 167.50

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
SHIELDS RIVER
BASIN 43A**

Water Right Number: **43A 211128-00** STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: HAYHOOK LAND LLC
 1067 US HIGHWAY 89 N
 LIVINGSTON, MT 59047 9340

Priority Date: JULY 31, 1921

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

***Flow Rate:** 1.25 CFS

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT
PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

***Maximum Acres:** 167.50

Source Name: SHIELDS RIVER

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSESE	24	1N	9E	PARK

Period of Diversion: MAY 1 TO NOVEMBER 1

Diversion Means: PUMP

Period of Use: MAY 1 TO NOVEMBER 1

***Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	37.50		S2SE	24	1N	9E	PARK
2	80.00		NE	25	1N	9E	PARK
3	50.00		NW	30	1N	10E	PARK
Total:	167.50						

Remarks:

IMPLIED CLAIM NO. 43A 30029012 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
SHIELDS RIVER
BASIN 43A**

Water Right Number: 43A 30029012 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: HAYHOOK LAND LLC
1067 US HIGHWAY 89 N
LIVINGSTON, MT 59047 9340

Priority Date: NOVEMBER 20, 1921

Type of Historical Right: USE

Purpose (Use): IRRIGATION
Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 1.25 CFS

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 167.50

Source Name: SHIELDS RIVER
Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSESE	24	1N	9E	PARK

Period of Diversion: MAY 1 TO NOVEMBER 1

Diversion Means: PUMP

2		NWSWNE	30	1N	10E	PARK
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Period of Diversion: MAY 1 TO NOVEMBER 1

Diversion Means: PUMP

Period of Use: MAY 1 TO NOVEMBER 1

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	37.50		S2SE	24	1N	9E	PARK
2	80.00		NE	25	1N	9E	PARK
3	50.00		NW	30	1N	9E	PARK

Total: 167.50

Remarks:

THIS IMPLIED CLAIM WAS AUTHORIZED BY THE WATER COURT BASED ON INFORMATION IN CLAIM NO. 43A-211128-00.