

39F-0064-R-2021

December 30, 2021

Montana Water Court

IN THE WATER COURT OF THE STATE OF MONTANA  
YELLOWSTONE DIVISION  
LITTLE MISSOURI RIVER BASIN ABOVE LITTLE BEAVER CREEK (39F)  
PRELIMINARY DECREE

\*\*\*\*\*

CLAIMANT: Little Missouri River Ranch LLC

OBJECTOR: Little Missouri River Ranch LLC

**CASE 39F-0064-R-2021**

39F 174388-00

39F 174389-00

39F 174399-00

39F 174400-00

39F 174408-00

39F 174410-00

**NOTICE OF FILING OF MASTER'S REPORT**

This Master's Report was filed with the Montana Water Court on the above stamped date. Please review this report carefully.

You may file a written objection to this Master's Report within **10 days** of the stamped date if you disagree or find errors with the Master's findings of fact, conclusion of law, or recommendations. Rule 23, W.R.Adj.R. If the Master's Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must serve a copy of the objection to all parties on the service list found at the end of the 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**

Water Right Claims 39F 174388-00, 39F 174389-00, 39F 174399-00, 39F 174400-00, 39F 17408-00, 39F 174410-00 appeared in the Preliminary Decree for the

Little Missouri River, above Roundup (Basin 39F). The claims received issue remarks. Issue remarks result from Department of Natural Resources and Conservation (“DNRC”) claims examination or by Water Court order. Claims examination confirms the historical use of water right claims and identifies issues with claims. If claims examination cannot confirm some aspect of a claim, an issue remark is added to the claim. Each claim also received an objection filed by Claimant Little Missouri River Ranch LLC.

### **FINDINGS OF FACT**

1. Claim 39F 174388-00 appeared with the following issue remark:

THE POINT OF DIVERSION NO. 2 APPEARS INCORRECT. CLAIMANT CLARIFICATION NEEDED.

2. Claim 39F 174389-00 appeared with the following issue remark:

THE PRIORITY DATE MAY BE QUESTIONABLE. THE PRIORITY DATES DESCRIBED ON THE FILED NOTICE OF APPROPRIATION IS INCONSISTENT WITH THE CLAIMED PRIORITY DATE.

3. Claim 39F 174399-00 appeared with the following issue remarks:

THE CLAIMANT DID NOT IDENTIFY THE PERIOD OF DIVERSION FOR THIS RIGHT. A PERIOD OF DIVERSION HAS BEEN ADDED TO MATCH THE PERIOD OF USE. IF NO OBJECTIONS ARE RECEIVED TO THE PERIOD OF DIVERSION OR PERIOD OF USE, THOSE ELEMENTS WILL BE DECREED AS SHOWN ON THIS ABSTRACT AND THIS ISSUE REMARK WILL BE REMOVED FROM THIS CLAIM.

SOURCE NAME AND RESERVOIR RECORD WERE 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.

THE POINT OF DIVERSION NO. 4 LEGAL LAND DESCRIPTION COULD NOT BE REFINED FROM THE INFORMATION IN THE CLAIM FILE.

THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. THE CLAIMED VOLUME EQUALS 938 TIMES THE CAPACITY OF THE RESERVOIR.

4. Claim 39F 174400-00 appeared with the following issue remarks:

THE CLAIMANT DID NOT IDENTIFY THE PERIOD OF DIVERSION FOR THIS RIGHT. A PERIOD OF DIVERSION HAS BEEN ADDED TO MATCH THE PERIOD OF USE. IF NO OBJECTIONS ARE RECEIVED TO THE PERIOD OF DIVERSION OR PERIOD OF USE, THOSE ELEMENTS WILL BE DECREED AS SHOWN ON THIS ABSTRACT AND THIS ISSUE REMARK WILL BE REMOVED FROM THIS CLAIM.

RESERVOIR RECORD 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.

THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE.  
THE CLAIMED VOLUME EQUALS 3.4 TIMES THE CAPACITY OF THE RESERVOIR.

5. Claims 39F 174408-00 and 39F 174410-00 each appeared with the following issue remarks:

THE CLAIMANT DID NOT IDENTIFY THE PERIOD OF DIVERSION FOR THIS RIGHT. A PERIOD OF DIVERSION HAS BEEN ADDED TO MATCH THE PERIOD OF USE. IF NO OBJECTIONS ARE RECEIVED TO THE PERIOD OF DIVERSION OR PERIOD OF USE, THOSE ELEMENTS WILL BE DECREED AS SHOWN ON THIS ABSTRACT AND THIS ISSUE REMARK WILL BE REMOVED FROM THIS CLAIM.

RESERVOIR RECORD 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 39F 174388-00**

6. Claimant objected to the point of diversion and place of use of Claim 39F 174388-00.

7. Claimant states that this claim is for subirrigation. Claimant requests the Court modify the point of diversion and place of use legal land descriptions to match pursuant to the DNRC Claims Examination Manual.

8. Claimant states the point of diversion and place of use should be described as follows:

<b><u>ID</u></b>	<b><u>Lot</u></b>	<b><u>OtrSec</u></b>	<b><u>Sec</u></b>	<b><u>1)m</u></b>	<b><u>Rge</u></b>	<b><u>County</u></b>
1		NE	32	5S	62E	CARTER
<b>Period of Diversion:</b> FEBRUARY 15 TO NOVEMBER 15						
<b>Diversion Means:</b> SUBIRRIGATION						
2		SENW	32	5S	62E	CARTER
<b>Period of Diversion:</b> FEBRUARY 15 TO NOVEMBER 15						
<b>Diversion Means:</b> SUBIRRIGATION						
3		W2SE	32	5S	62E	CARTER
<b>Period of Diversion:</b> FEBRUARY 15 TO NOVEMBER 15						
<b>Diversion Means:</b> SUBIRRIGATION						
4		E2SW	32	5S	62E	CARTER
<b>Period of Diversion:</b> FEBRUARY 15 TO NOVEMBER 15						
<b>Diversion Means:</b> SUBIRRIGATION						

5                    SESENE                    2            6S    62E    CARTER

**Period of Diversion:** FEBRUARY 15 TO NOVEMBER 15

**Diversion Means:**SUBIRRIGATION

6                    NESE                    2            6S    62E    CARTER

**Period of Diversion:** FEBRUARY 15 TO NOVEMBER 15

**Diversion Means:** SUBIRRIGATION

9.      The point of diversion and place of use should be modified to reflect the above legal land descriptions.

10.     The issue remark should be removed from Claim 39F 174388-00.

**Claim 39F 174389-00**

11.     Claimant objected to Claim 39F 174389-00 to resolve the priority date issue remark. Claimant states that the notice of appropriation attached to the original Statement of Claim includes the claimed June 17, 1903 priority date.

12.     A review of the claim file and relevant notice of appropriation confirms the claimed priority date.

13.     The issue remark should be removed from Claim 39F 174389-00.

**Claim 39F 174399-00**

14.     Claimant objected to all elements of Claim 39F 174399-00, including the reservoir record, of this claim.

15.     Claimant states that Point of Diversion No. 1 should have a year-round period of diversion because the means of diversion is an onstream dam.

16.     The period of diversion for Point of Diversion/ Means of Diversion No.1 should be January 1 to December 31.

17.     This is a claim for a direct flow water spreading system. Such systems do not often use stored water. Accordingly, reservoir capacity is not necessarily a limit on how much water is used through these systems.

18. Each issue remark should be removed from Claim 39F 174399-00.

**Claim 39F 174400-00**

19. Claimant objected to the reservoir record of Claim 39F 174400-00.

20. Claimant states that the reservoir record measurements appear correct.

21. Claimant requests the Court modify the period of diversion to year-round because the means of diversion is an onstream dam.

22. Although Claimant did not object to the period of diversion, it is not likely that other water users will be adversely affected because the claimed diversion is on onstream dam that can only divert water year-round.

23. The period of diversion of Claim 39F 174400-00 should be January 1 to December 31.

24. This is a claim for a direct flow water spreading system. Such systems do not often use stored water. Accordingly, reservoir capacity is not necessarily a limit on how much water is used through these systems.

25. The issue remarks should be removed from Claim 39F 174400-00.

**39F 174408-00**

26. Claimant objected to the reservoir record of Claim 39F 174408-00.

27. Claimant states that the reservoir record measurements appear correct.

28. Claimant requests the Court modify the period of diversion to year-round because the means of diversion is an onstream dam.

29. Although Claimant did not object to the period of diversion, it is not likely that other water users will be adversely affected because the claimed diversion is on onstream dam that can only divert water year-round.

30. The period of diversion of Claim 39F 174408-00 should be January 1 to December 31.

31. Each issue remark should be removed from Claim 39F 174408-00.

**39F 174410-00**

32. Claimant objected to the reservoir record of Claim 39F 174410-00.

33. Claimant states the reservoir record and period of diversion are accurate as they appear in the Preliminary Decree. Claimant does not request any modifications to this claim.

34. The issue remarks should be removed from Claim 39F 174410-00.

**APPLICABLE LAW**

1. A properly filed statement of claim is prima facie proof of its content. Section 85-2-227, MCA. The prima facie status of a claim may be overcome by a preponderance of the evidence. Section 85-2-227, MCA; Rule 19, W.R.Adj.R. A preponderance of the evidence is evidence that shows a fact is “more probable than not.” *Hohenlohe v. State*, 2010 MT 203, ¶ 33, 357 Mont. 438, 240 P.3d 628.

2. The Water Court must weigh an issue remark, and the information resulting in that issue remark, against the claimed water right. Section 85-2-247(2), MCA.

3. The Water Court must resolve all issue remarks not resolved through the objection process. Section 85-2-248, MCA. The Court must review information in the claim file or obtained by the Court to determine if there is a sufficient basis to resolve the remarks. 85-2-248(3), MCA.

4. The Water Court has the authority to hear all objections to the elements of any claim included in a Court issued Temporary Preliminary Decree or Preliminary Decree. Section 85-2-233, MCA.

**CONCLUSIONS OF LAW**

1. The changes described in the Findings of Fact may be made because the evidence in the record overcomes the prima facie status of each relevant claim by a preponderance of the evidence.

2. The evidence in the record and the proposed changes provide the Court with a sufficient basis to resolve and remove each issue remark from each above-captioned claim.

### **RECOMMENDATIONS**

Based upon the above Findings of Fact and Conclusions of Law, this Master recommends that the Court make the changes specified in the Findings of Fact to correct the Preliminary Decree for this Basin. Post-decree Abstracts of Water Right Claims are served with this Report to confirm the recommended changes have been made in the state's centralized record system.

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Colton J. Lauer  
Water Master

#### **Service Via Electronic Mail:**

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**WATER COURT**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**LITTLE MISSOURI RIVER, ABOVE LITTLE BEAVER CREEK**  
**BASIN 39F**

**Water Right Number:** 39F 174388-00 STATEMENT OF CLAIM  
**Version:** 3 -- POST DECREE  
**Status:** ACTIVE

**Owners:** LITTLE MISSOURI RIVER RANCH LLC  
6806 ALEXANDER RD  
BILLINGS, MT 59105 4541

**Priority Date:** AUGUST 10, 1900

**Type of Historical Right:** USE

**Purpose (Use):** IRRIGATION

**Irrigation Type:** NATURAL SUBIRRIGATION

**Flow Rate:** NO FLOW RATE HAS BEEN DECREED FOR THIS USE OF NATURAL SUBIRRIGATION.

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

**Climatic Area:** 2 - MODERATELY HIGH

**Maximum Acres:** 184.00

**Source Name:** SUBIRRIGATION, UNNAMED TRIBUTARY OF LITTLE MISSOURI 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		NE	32	5S	62E	CARTER
	<b>Period of Diversion:</b>	FEBRUARY 15 TO NOVEMBER 15				
	<b>Diversion Means:</b>	SUBIRRIGATION				
2		SENE	32	5S	62E	CARTER
	<b>Period of Diversion:</b>	FEBRUARY 15 TO NOVEMBER 15				
	<b>Diversion Means:</b>	SUBIRRIGATION				
3		W2SE	32	5S	62E	CARTER
	<b>Period of Diversion:</b>	FEBRUARY 15 TO NOVEMBER 15				
	<b>Diversion Means:</b>	SUBIRRIGATION				
4		E2SW	32	5S	62E	CARTER
	<b>Period of Diversion:</b>	FEBRUARY 15 TO NOVEMBER 15				
	<b>Diversion Means:</b>	SUBIRRIGATION				
5		SESENE	2	5S	62E	CARTER
	<b>Period of Diversion:</b>	FEBRUARY 15 TO NOVEMBER 15				
	<b>Diversion Means:</b>	SUBIRRIGATION				



6 NESE 2 5S 62E CARTER

**Period of Diversion:** FEBRUARY 15 TO NOVEMBER 15

**Diversion Means:** SUBIRRIGATION

**Period of Use:** FEBRUARY 15 TO NOVEMBER 15

**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	109.00		NE	32	5S	62E	CARTER
2	18.00		SENE	32	5S	62E	CARTER
3	33.00		W2SE	32	5S	62E	CARTER
4	16.00		E2SW	32	5S	62E	CARTER
5	1.00		SESENE	2	6S	62E	CARTER
6	7.00		NESE	2	6S	62E	CARTER
<b>Total:</b>	184.00						

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**Remarks:**

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

174388-00      174396-00      174397-00      174398-00      174399-00      174400-00  
174402-00

**WATER COURT**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**LITTLE MISSOURI RIVER, ABOVE LITTLE BEAVER CREEK**  
**BASIN 39F**

**Water Right Number:** 39F 174389-00 STATEMENT OF CLAIM  
**Version:** 3 -- POST DECREE  
**Status:** ACTIVE

**Owners:** LITTLE MISSOURI RIVER RANCH LLC  
6806 ALEXANDER RD  
BILLINGS, MT 59105 4541

**Priority Date:** JUNE 17, 1903

**Type of Historical Right:** FILED

**Purpose (Use):** IRRIGATION  
**Irrigation Type:** WATER SPREADING

**Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE  
CONSISTS OF DIRECT FLOW WATER SPREADING.

**Volume:** 126.00 AC-FT  
**Climatic Area:** 2 - MODERATELY HIGH

**Maximum Acres:** 84.00

**Source Name:** THOMPSON CREEK  
**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	3	SENENW	1	6S	62E	CARTER

**Period of Diversion:** FEBRUARY 15 TO NOVEMBER 15  
**Diversion Means:** DIKE

**Period of Use:** FEBRUARY 15 TO NOVEMBER 15

**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	4.00	3	NENW	1	6S	62E	CARTER
2	13.00		W2W2SE	33	5S	62E	CARTER
3	15.00		E2SENW	33	5S	62E	CARTER
4	3.00		SESWNW	33	5S	62E	CARTER
5	49.00		SW	33	5S	62E	CARTER
<b>Total:</b>	84.00						

**Remarks:**

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

174387-00      174389-00      174390-00

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

174389-00

174416-00

**WATER COURT**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**LITTLE MISSOURI RIVER, ABOVE LITTLE BEAVER CREEK**  
**BASIN 39F**

**Water Right Number:** 39F 174399-00 STATEMENT OF CLAIM  
**Version:** 3 -- POST DECREE  
**Status:** ACTIVE

**Owners:** LITTLE MISSOURI RIVER RANCH LLC  
6806 ALEXANDER RD  
BILLINGS, MT 59105 4541

**Priority Date:** OCTOBER 21, 1905

**Type of Historical Right:** FILED

**Purpose (Use):** IRRIGATION

**Irrigation Type:** WATER SPREADING

**Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE  
CONSISTS OF DIRECT FLOW WATER SPREADING.

**Volume:** 525.00 AC-FT

**Climatic Area:** 2 - MODERATELY HIGH

**Maximum Acres:** 349.00

**Source Name:** UNNAMED TRIBUTARY OF CACTUS CREEK

**Source Type:** SURFACE WATER

**Source Name:** CACTUS CREEK

**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		NESWSW	31	5S	62E	CARTER
<b>Source Name:</b> UNNAMED TRIBUTARY OF CACTUS CREEK						
<b>Period of Diversion:</b> JANUARY 1 TO DECEMBER 31						
<b>Diversion Means:</b> DAM						
2		S2	31	5S	62E	CARTER
<b>Source Name:</b> UNNAMED TRIBUTARY OF CACTUS CREEK						
<b>Period of Diversion:</b> FEBRUARY 15 TO NOVEMBER 15						
<b>Diversion Means:</b> DIKE						
3		W2NESW	32	5S	62E	CARTER
<b>Source Name:</b> CACTUS CREEK						
<b>Period of Diversion:</b> FEBRUARY 15 TO NOVEMBER 15						
<b>Diversion Means:</b> DIKE						

4 SWNE 32 5S 62E CARTER  
**Source Name:** UNNAMED TRIBUTARY OF CACTUS CREEK  
**Period of Diversion:** FEBRUARY 15 TO NOVEMBER 15  
**Diversion Means:** DIKE  
**Reservoir:** ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NESWSW	31	5S	62E	CARTER

**Diversion to Reservoir:** DIVERSION # 1

**Dam Height:** 8.00 FEET  
**Depth:** 5.00 FEET  
**Surface Area:** 0.27 ACRES  
**Capacity:** 0.56 ACRE-FEET

**Period of Use:** FEBRUARY 15 TO NOVEMBER 15

**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	55.00		NE	29	5S	62E	CARTER
2	94.00		NW	29	5S	62E	CARTER
3	100.00		SW	29	5S	62E	CARTER
4	32.00		S2SE	29	5S	62E	CARTER
5	68.00		NE	32	5S	62E	CARTER
<b>Total:</b>	349.00						

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**Remarks:**

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

174388-00	174396-00	174397-00	174398-00	174399-00	174400-00
174402-00					

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE ASSOCIATED WHICH MEANS THE RIGHTS SHARE THE SAME PLACE OF USE.

76844-00	174383-00	174397-00	174398-00	174399-00	174400-00
174401-00	174402-00				

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

174399-00	174409-00
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**WATER COURT**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**LITTLE MISSOURI RIVER, ABOVE LITTLE BEAVER CREEK**  
**BASIN 39F**

**Water Right Number:** 39F 174400-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** LITTLE MISSOURI RIVER RANCH LLC  
6806 ALEXANDER RD  
BILLINGS, MT 59105 4541

**Priority Date:** JULY 6, 1931

**Type of Historical Right:** FILED

**Purpose (Use):** IRRIGATION

**Irrigation Type:** WATER SPREADING

**Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE  
CONSISTS OF DIRECT FLOW WATER SPREADING.

**Volume:** 475.00 AC-FT

**Climatic Area:** 2 - MODERATELY HIGH

**Maximum Acres:** 317.00

**Source Name:** MUD CREEK

**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		N2NWNW	32	5S	62E	CARTER

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** DAM

**Reservoir:** ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	N2NWNW	32	5S	62E	CARTER

**Diversion to Reservoir:** DIVERSION # 1

**Dam Height:** 13.00 FEET

**Depth:** 10.00 FEET

**Surface Area:** 35.30 ACRES

**Capacity:** 141.20 ACRE-FEET

**Period of Use:** JANUARY 1 TO DECEMBER 31

**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	55.00		NE	29	5S	62E	CARTER
2	94.00		NW	29	5S	62E	CARTER
3	100.00		SW	29	5S	62E	CARTER

4	68.00	NE	32	5S	62E	CARTER
<b>Total:</b>	317.00					

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**Remarks:**

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

174388-00	174396-00	174397-00	174398-00	174399-00	174400-00
174402-00					

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE ASSOCIATED WHICH MEANS THE RIGHTS SHARE THE SAME PLACE OF USE.

76844-00	174383-00	174397-00	174398-00	174399-00	174400-00
174401-00	174402-00				

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

174400-00	174408-00
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**WATER COURT**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**LITTLE MISSOURI RIVER, ABOVE LITTLE BEAVER CREEK**  
**BASIN 39F**

**Water Right Number:** 39F 174408-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** LITTLE MISSOURI RIVER RANCH LLC  
6806 ALEXANDER RD  
BILLINGS, MT 59105 4541

**Priority Date:** JULY 6, 1931

**Type of Historical Right:** FILED

**Purpose (Use):** STOCK

**Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

**Volume:** THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

**Source Name:** MUD CREEK

**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		N2NWNW	32	5S	62E	CARTER

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** DAM

**Reservoir:** ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	N2NWNW	32	5S	62E	CARTER

**Diversion to Reservoir:** DIVERSION # 1

**Dam Height:** 13.00 FEET

**Depth:** 10.00 FEET

**Surface Area:** 35.30 ACRES

**Capacity:** 141.20 ACRE-FEET

**Period of Use:** JANUARY 1 TO DECEMBER 31

**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			W2NW	32	5S	62E	CARTER
2			E2NE	31	5S	62E	CARTER

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**Remarks:**



THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

174400-00      174408-00

**WATER COURT**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**LITTLE MISSOURI RIVER, ABOVE LITTLE BEAVER CREEK**  
**BASIN 39F**

**Water Right Number:** 39F 174410-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** LITTLE MISSOURI RIVER RANCH LLC  
6806 ALEXANDER RD  
BILLINGS, MT 59105 4541

**Priority Date:** NOVEMBER 5, 1907

**Type of Historical Right:** USE

**Purpose (Use):** STOCK

**Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

**Volume:** THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

**Source Name:** UNNAMED TRIBUTARY OF COTTONWOOD CREEK

**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		NESESE	25	5S	61E	CARTER

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** DAM

**Reservoir:** ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NESESE	25	5S	61E	CARTER

**Diversion to Reservoir:** DIVERSION # 1

**Dam Height:** 13.00 FEET

**Depth:** 10.00 FEET

**Surface Area:** 8.00 ACRES

**Capacity:** 32.00 ACRE-FEET

**Period of Use:** JANUARY 1 TO DECEMBER 31

**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			SESE	25	5S	61E	CARTER
2			SESWE	25	5S	61E	CARTER