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ELECTRONICALLY FILED

40A-0268-R-2021

December 20, 2021

Montana Water Court

IN THE WATER COURT OF THE STATE OF MONTANA  
LOWER MISSOURI DIVISION  
MUSSELSHELL RIVER ABOVE ROUNDUP (BASIN 40A)  
PRELIMINARY DECREE

\*\*\*\*\*

CLAIMANT: Clements Ranch Co. LLC

**CASE 40A-0268-R-2021**

40A 112917-00  
40A 112918-00  
40A 112919-00  
40A 112920-00  
40A 112921-00  
40A 112922-00  
40A 112924-00  
40A 112925-00  
40A 112926-00  
40A 112927-00  
40A 112928-00  
40A 112929-00

**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

The above-captioned claims appeared in the Preliminary Decree for the Musselshell River above Roundup (Basin 40A) issued on June 7, 2017. The claims are owned by Clements Ranch Co. LLC. The claims did not receive objections, counterobjections, or notices of intent to appear but did receive issue remarks during the DNRC's claims reexamination. Issue remarks are notations identifying potential legal or factual issues with water rights and the Water Court is required to resolve these potential issues.

### FINDINGS OF FACT

#### **40A 112926-00**

1. Claim 40A 112926-00 is a stock claim for an onstream reservoir on Timber Creek. The claim appeared in the Basin 40A Preliminary Decree with the reservoir located in the NWNWSW of Section 14, T7N, R16E, Wheatland County. The claim received the following issue remark:

THE POINT OF DIVERSION, RESERVOIR RECORD, AND PLACE OF USE ARE IN QUESTION. THERE DOES NOT APPEAR TO BE A RESERVOIR AT THE CLAIMED LOCATION.

2. There are no notes in the claim file detailing what evidence the DNRC reviewed when determining there was no reservoir at the claimed location. This information is particularly useful where, as here, the claimed reservoir is a small stockwater reservoir that may not be visible on all aerial photographs.

#### **40A 112928-00**

3. Claim 40A 112928-00 is a stock claim for an onstream reservoir on an unnamed tributary of Boot Creek. The claim appeared in the Basin 40A Preliminary Decree with the location of the reservoir as follows:

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			S2SWSW	10	7N	16E	WHEATLAND
2			N2NWNW	15	7N	16E	WHEATLAND

4. The claim received the following issue remark:

THE PLACE OF USE APPEARS TO BE INCORRECT. THE PLACE OF USE APPEARS TO BE IN THE  
NWNWNW SEC 15 TWP 7N RGE 16E WHEATLAND CO.

5. On August 27, 2021, the Court set a deadline for Claimant to file information or evidence disputing the DNRC's proposed modification to the place of use. Nothing was filed by the deadline.

6. On November 9, 2021, the Court set a deadline for Claimant to show cause why the place of use should not be modified as proposed by the DNRC. The Order stated that if nothing was filed by the deadline, the place of use would be modified to the NWNWNW of Section 15, T7N, R16E, Wheatland County. Nothing was filed by the deadline.

**40A 112929-00**

7. Claim 40A 112929-00 is a stock claim for an onstream reservoir on an unnamed tributary of the Musselshell River.

8. The claim originally claimed the location of the reservoir as being in the E2NESE of Section 10, T7N, R16E, Wheatland County.

9. During preparation of the Basin 40A Preliminary Decree, the DNRC corrected the point of diversion and reservoir record to the SENESE of Section 10, T7N, R16E, Wheatland County. The claim received an issue remark stating that the place of use required the same correction.

10. On August 27, 2021, the Court set a deadline for Claimant to file information or evidence disputing the DNRC's proposed modification to the place of use. Nothing was filed by the deadline.

11. On November 9, 2021, the Court set a deadline for Claimant to show cause why the place of use should not be modified as proposed by the DNRC. The Order stated that if nothing was filed by the deadline, the place of use would be modified to the SENESE of Section 10, T7N, R16E, Wheatland County. Nothing was filed by the deadline.

**Notice-Type Issue Remarks**

12. The claims received notice-type issue remarks as follows:

*40A 112917-00*

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.

MEANS OF DIVERSION, RESERVOIR RECORD, AND SOURCE NAME 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.

*40A 112918-00, 40A 112921-00*

SOURCE NAME 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.

*40A 112919-00, 40A 112920-00*

SOURCE NAME AND POINT OF DIVERSION 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.

*40A 112922-00, 40A 112924-00*

DITCH NAME 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.

*40A 112925-00, 40A 112927-00*

MEANS OF DIVERSION AND SOURCE NAME 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.

*40A 112926-00*

MEANS 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.

*40A 112928-00*

POINT OF DIVERSION, MEANS OF DIVERSION, RESERVOIR RECORD, AND SOURCE NAME 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.

*40A 112929-00*

POINT OF DIVERSION, MEANS OF DIVERSION, 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.

13. The issue remarks identify elements modified as a result of DNRC review pursuant to Montana Water Court reexamination orders. The remarks indicate that if no objections are filed, the elements of the claim will remain as they appear on the abstract and the remarks will be removed. None of the claims received objections.

**PRINCIPLES OF LAW**

1. A properly filed Statement of Claim for an existing water right is prima facie proof of its content. Section 85-2-227, MCA; Rule 10, W.R.Adj.R.

2. Prima facie proof may be contradicted and overcome by a preponderance of the evidence. Rule 19, W.R.Adj.R.

3. 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.

4. If prima facie status is overcome, the burden shifts back to the claimant to demonstrate historical use. *79 Ranch v. Pitsch*, 204 Mont. 426, 432-33, 666 P.2d 215, 218 (1983).

5. Section 85-2-248(2), MCA, requires that the Water Court resolve all issue remarks that are not resolved through the objection process. *See also* Rule 7, W.R.Adj.R.

6. The Water Court may use information submitted by the DNRC, the Statement of Claim, and any other data obtained by the Court to evaluate a water right. Sections 85-2-227, -231(2), MCA.

7. When resolving issue remarks, the Water Court must weigh the information resulting in the issue remark and the issue remark against the claimed water right. Section 85-2-247(2), MCA. The factual evidence on which an issue remark is based must meet the preponderance of evidence standard before the prima facie status of a claim is overcome. 43Q 200996-00 et al., Order Establishing Volume and Order Closing Case, at 18, June 8, 2015.

8. If a claimant fails to comply with an order issued by the Water Court, the Court may issue orders of sanction that are just. Rule 22, W.R.Adj.R.

9. Sanctions applied against a claimant may include modification of a claim to conform with data provided by the DNRC, information obtained by the Court, or information included in an objection, or the entry of default and termination of a water right claim. Rule 11, W.R.Adj.R.

#### CONCLUSIONS OF LAW

##### **40A 112926-00**

1. The reservoir issue remark does not overcome the prima facie status of claim 40A 112926-00. There is not sufficient evidence supporting the placement of the issue remark. Therefore, the remark should be removed from the claim and the point of

diversion, reservoir record, and place of use should remain as they appeared in the Basin 40A Preliminary Decree.

**40A 112928-00**

2. The place of use issue remark overcomes the prima facie status of claim 40A 112928-00. The place of use should be modified to the NWNWNW of Section 15, T7N, R16E, Wheatland County. This modification resolves the place of use issue remark, and the remark should be removed from the claim.

**40A 112929-00**

3. The place of use issue remark overcomes the prima facie status of claim 40A 112929-00. The place of use should be modified to the SENESE of Section 10, T7N, R16E, Wheatland County. This modification resolves the place of use issue remark, and the remark should be removed from the claim.

**Notice-Type Issue Remarks**

4. Each remark in Finding of Fact No. 12 provides notice of the changes made after completion of the Temporary Preliminary Decree proceedings and prior to issuance of the Preliminary Decree. The remarks do not raise unresolved issues that need to be addressed. No proceedings are required to resolve the remarks; the remarks should be removed from the abstracts.

RECOMMENDATIONS

Based on the foregoing Findings of Fact and Conclusions of Law, this Master recommends that the Court adopt the changes as outlined above.

A post decree abstract of each water right claim reflecting the recommended changes is attached to this Report.

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Melissa Lockman  
Senior Water Master

**Service via USPS Mail**  
Clements Ranch Co LLC  
PO Box 185  
Harlowton, MT 59036

**WATER COURT  
ABSTRACT OF WATER RIGHT CLAIM  
MUSSELSHELL RIVER, ABOVE ROUNDUP  
BASIN 40A**

**Water Right Number:** 40A 112917-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** CLEMENTS RANCH CO LLC  
PO BOX 185  
HARLOWTON, MT 59036

**\*Priority Date:** AUGUST 1, 1968

**Type of Historical Right:** USE

**Purpose (Use):** IRRIGATION

**Irrigation Type:** FLOOD

**\*Flow Rate:** 193.00 GPM

PRIMARILY A DIRECT FLOW SYSTEM; FLOW RATE RETAINED.

**\*Volume:** PRIMARILY A DIRECT FLOW SYSTEM; VOLUME NOT DECREED.

**Climatic Area:** 3 - MODERATE

**\*Maximum Acres:** 11.40

**Source Name:** BOOT 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		NWNESE	3	7N	16E	WHEATLAND

**Period of Diversion:** APRIL 15 TO OCTOBER 31

**Diversion Means:** DAM

MEANS OF DIVERSION INCLUDES A HEADGATE.

**Reservoir:** ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NWNESE	3	7N	16E	WHEATLAND

**Diversion to Reservoir:** DIVERSION # 1

**Dam Height:** 11.00 FEET

**Depth:** 8.00 FEET

**Surface Area:** 1.00 ACRES

**Capacity:** 3.20 ACRE-FEET

**Period of Use:** APRIL 15 TO OCTOBER 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>
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1	<u>11.40</u>	NESE	3	7N	16E	WHEATLAND
<b>Total:</b>	11.40					



**WATER COURT  
ABSTRACT OF WATER RIGHT CLAIM  
MUSSELSHELL RIVER, ABOVE ROUNDUP  
BASIN 40A**

**Water Right Number:** 40A 112918-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** CLEMENTS RANCH CO LLC  
PO BOX 185  
HARLOWTON, MT 59036

**Priority Date:** MAY 31, 1968

**Type of Historical Right:** USE

**Purpose (Use):** IRRIGATION

**Irrigation Type:** FLOOD

**Flow Rate:** 1.00 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:** 34.90

**Source Name:** UNNAMED TRIBUTARY OF BOOT 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		SENWSW	3	7N	16E	WHEATLAND

**Period of Diversion:** APRIL 15 TO OCTOBER 31

**Diversion Means:** HEADGATE

**Period of Use:** APRIL 15 TO OCTOBER 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	15.00		NWSE	3	7N	16E	WHEATLAND
2	19.90		NESW	3	7N	16E	WHEATLAND

**Total:** 34.90

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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.

112918-00      112920-00

**WATER COURT  
ABSTRACT OF WATER RIGHT CLAIM  
MUSSELSHELL RIVER, ABOVE ROUNDUP  
BASIN 40A**

**Water Right Number:** 40A 112919-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** CLEMENTS RANCH CO LLC  
PO BOX 185  
HARLOWTON, MT 59036

**Priority Date:** AUGUST 31, 1968

**Type of Historical Right:** USE

**Purpose (Use):** IRRIGATION

**Irrigation Type:** FLOOD

**\*Flow Rate:** 2.23 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:** 59.00

**Source Name:** WASTE & SEEPAGE, UNNAMED TRIBUTARY OF BOOT 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		W2W2SW	10	7N	16E	WHEATLAND

**Period of Diversion:** APRIL 15 TO OCTOBER 31

**Diversion Means:** OTHER DIVERSION

POINT OF DIVERSION IS MOVEABLE ALL ALONG SOURCE WITHIN LEGAL LAND DESCRIPTION.

**Period of Use:** APRIL 15 TO OCTOBER 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	14.00		S2NW	10	7N	16E	WHEATLAND
2	45.00		SW	10	7N	16E	WHEATLAND
<b>Total:</b>	<u>59.00</u>						

**WATER COURT  
ABSTRACT OF WATER RIGHT CLAIM  
MUSSELSHELL RIVER, ABOVE ROUNDUP  
BASIN 40A**

**Water Right Number:** 40A 112920-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** CLEMENTS RANCH CO LLC  
PO BOX 185  
HARLOWTON, MT 59036

**Priority Date:** AUGUST 1, 1968

**Type of Historical Right:** USE

**Purpose (Use):** IRRIGATION

**Irrigation Type:** 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:** 156.90

**Source Name:** WASTE & SEEPAGE, UNNAMED TRIBUTARY OF BOOT 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		N2SENE	9	7N	16E	WHEATLAND

**Period of Diversion:** APRIL 1 TO OCTOBER 31

**Diversion Means:** HEADGATE

**Period of Use:** APRIL 1 TO OCTOBER 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	94.50		S2	3	7N	16E	WHEATLAND
2	62.40		N2NW	10	7N	16E	WHEATLAND

**Total:** 156.90

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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.

112918-00      112920-00

**WATER COURT  
ABSTRACT OF WATER RIGHT CLAIM  
MUSSELSHELL RIVER, ABOVE ROUNDUP  
BASIN 40A**

**Water Right Number:** 40A 112921-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** CLEMENTS RANCH CO LLC  
PO BOX 185  
HARLOWTON, MT 59036

**Priority Date:** AUGUST 1, 1968

**Type of Historical Right:** USE

**Purpose (Use):** IRRIGATION

**Irrigation Type:** FLOOD

**\*Flow Rate:** 1.48 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:** 39.00

**Source Name:** BOOT 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		SWNWSE	4	7N	16E	WHEATLAND

**Period of Diversion:** APRIL 1 TO OCTOBER 31

**Diversion Means:** HEADGATE

**Period of Use:** APRIL 1 TO OCTOBER 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	39.00		S2N2	3	7N	16E	WHEATLAND

**Total:** 39.00

**WATER COURT  
ABSTRACT OF WATER RIGHT CLAIM  
MUSSELSHELL RIVER, ABOVE ROUNDUP  
BASIN 40A**

**Water Right Number:** 40A 112922-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** CLEMENTS RANCH CO LLC  
PO BOX 185  
HARLOWTON, MT 59036

**Priority Date:** MAY 31, 1948

**Type of Historical Right:** USE

**Purpose (Use):** IRRIGATION

**Irrigation Type:** FLOOD

**Flow Rate:** 1.14 CFS

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

**Climatic Area:** 4 - MODERATELY LOW

**Maximum Acres:** 30.00

**Source Name:** MUSSELSHELL 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		NENESE	34	8N	16E	WHEATLAND

**Period of Diversion:** APRIL 1 TO OCTOBER 31

**Diversion Means:** PUMP

**Period of Use:** APRIL 1 TO OCTOBER 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	30.00		SE	34	8N	16E	WHEATLAND

**Total:** 30.00

**WATER COURT  
ABSTRACT OF WATER RIGHT CLAIM  
MUSSELSHELL RIVER, ABOVE ROUNDUP  
BASIN 40A**

**Water Right Number:** 40A 112924-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** CLEMENTS RANCH CO LLC  
PO BOX 185  
HARLOWTON, MT 59036

**Priority Date:** MAY 6, 1957

**Type of Historical Right:** FILED

**Purpose (Use):** IRRIGATION

**Irrigation Type:** FLOOD

**Flow Rate:** 5.12 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:** 104.00

**Source Name:** AMERICAN FORK

**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		NWSENE	33	8N	16E	WHEATLAND

**Period of Diversion:** APRIL 15 TO OCTOBER 31

**Diversion Means:** HEADGATE

**Ditch Name:** WINNECOOK DITCH NO. 411

THE MUSSELSHELL RIVER IS USED AS A NATURAL CARRIER TO CONVEY WATER TO THE WINNECOOK DITCH.

**Period of Use:** APRIL 15 TO OCTOBER 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	20.00		NENE	3	7N	16E	WHEATLAND
2	3.00		SENE	3	7N	16E	WHEATLAND
3	81.00		S2	34	8N	16E	WHEATLAND
<b>Total:</b>	<b>104.00</b>						

**WATER COURT  
ABSTRACT OF WATER RIGHT CLAIM  
MUSSELSHELL RIVER, ABOVE ROUNDUP  
BASIN 40A**

**Water Right Number:** 40A 112925-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** CLEMENTS RANCH CO LLC  
PO BOX 185  
HARLOWTON, MT 59036

**Priority Date:** DECEMBER 1, 1947

**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:** BOOT 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		NENWSE	3	7N	16E	WHEATLAND

**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>
	NENWSE	3	7N	16E	WHEATLAND

**Diversion to Reservoir:** DIVERSION # 1

**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			S2	3	7N	16E	WHEATLAND

**WATER COURT  
ABSTRACT OF WATER RIGHT CLAIM  
MUSSELSHELL RIVER, ABOVE ROUNDUP  
BASIN 40A**

**Water Right Number:** 40A 112926-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** CLEMENTS RANCH CO LLC  
PO BOX 185  
HARLOWTON, MT 59036

**Priority Date:** SEPTEMBER 28, 1953

**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:** TIMBER 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		NWNWSW	14	7N	16E	WHEATLAND

**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>
	NWNWSW	14	7N	16E	WHEATLAND

**Diversion to Reservoir:** DIVERSION # 1

**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			NWNWSW	14	7N	16E	WHEATLAND



**WATER COURT  
ABSTRACT OF WATER RIGHT CLAIM  
MUSSELSHELL RIVER, ABOVE ROUNDUP  
BASIN 40A**

**Water Right Number:** 40A 112927-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** CLEMENTS RANCH CO LLC  
PO BOX 185  
HARLOWTON, MT 59036

**Priority Date:** DECEMBER 1, 1947

**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 BOOT 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		SENENW	15	7N	16E	WHEATLAND

**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>
	SENENW	15	7N	16E	WHEATLAND

**Diversion to Reservoir:** DIVERSION # 1

**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			E2NW	15	7N	16E	WHEATLAND

**WATER COURT  
ABSTRACT OF WATER RIGHT CLAIM  
MUSSELSHELL RIVER, ABOVE ROUNDUP  
BASIN 40A**

**Water Right Number:** 40A 112928-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** CLEMENTS RANCH CO LLC  
PO BOX 185  
HARLOWTON, MT 59036

**Priority Date:** SEPTEMBER 28, 1953

**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 BOOT 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		NWNWNW	15	7N	16E	WHEATLAND

**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>
	NWNWNW	15	7N	16E	WHEATLAND

**Diversion to Reservoir:** DIVERSION # 1

**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			NWNWNW	15	7N	16E	WHEATLAND

**WATER COURT  
ABSTRACT OF WATER RIGHT CLAIM  
MUSSELSHELL RIVER, ABOVE ROUNDUP  
BASIN 40A**

**Water Right Number:** 40A 112929-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** CLEMENTS RANCH CO LLC  
PO BOX 185  
HARLOWTON, MT 59036

**Priority Date:** SEPTEMBER 30, 1953

**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 MUSSELSHELL 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		SENESE	10	7N	16E	WHEATLAND

**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>
	SENESE	10	7N	16E	WHEATLAND

**Diversion to Reservoir:** DIVERSION # 1

**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			SENESE	10	7N	16E	WHEATLAND