

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

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CLAIMANT: RMJ Indreland Trust

CASE 40A-0413-R-2021

40A 198411-00

40A 198413-00

40A 210712-00

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. Claim 40A 198411-00 was decreed with the following points of diversion and means of diversion:

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		SEENW	34	7N	10E	MEAGHER
Period of Diversion: MAY 1 TO OCTOBER 20						
Diversion Means: HEADGATE						
2		SEENW	34	7N	10E	MEAGHER
Period of Diversion: MAY 1 TO OCTOBER 20						
Diversion Means: HEADGATE						

2. The following issue remark was decreed on claim 40A 198411-00:

THE CLAIMED POINT OF DIVERSION IS IN QUESTION. THE LOCATION OF THE HEADGATES AND DITCHES CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

3. Claim 40A 198413-00 was decreed with the following point of diversion and means of diversion:

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		NENW	35	7N	10E	MEAGHER
Period of Diversion: APRIL 15 TO OCTOBER 31						
Diversion Means: DIKE						

4. The following issue remark was decreed on claim 40A 198413-00:

THE CLAIMED POINT OF DIVERSION IS IN QUESTION. THE LOCATION OF THE DIKE AND DITCHES CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

5. Claim 40A 210712-00 was decreed with the following points of diversion and means of diversion:

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		NESW	26	7N	10E	MEAGHER
Source Name: UNNAMED TRIBUTARY OF COTTONWOOD CREEK						
Period of Diversion: MARCH 15 TO NOVEMBER 15						
Diversion Means: DITCH						
2		SWSW	26	7N	10E	MEAGHER
Source Name: SPRING, UNNAMED TRIBUTARY OF COTTONWOOD CREEK						
Period of Diversion: MARCH 15 TO NOVEMBER 15						
Diversion Means: DITCH						

6. The following issue remark was decreed on claim 40A 210712-00:

THE CLAIMED POINT OF DIVERSION IS IN QUESTION. THE LOCATION OF THE DITCH CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

7. No objections were filed.
8. The DNRC examination notes did not provide any information explaining why the issue remarks were placed on the claims.

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. 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.

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

CONCLUSION OF LAW

1. The issue remarks are not supported by evidence sufficient to overcome the prima facie status afforded the points of diversion of the claims.

RECOMMENDATION

1. The issue remarks should be removed from the claims in this Case with no changes to the elements of the claims.

Post Decree Abstracts of Water Right Claims are served with the Report to confirm the recommended changes have been made in the state's centralized record system.

Anika M. Stern
Senior Water Master

Service via USPS Mail:

RMJ Indreland Trust
Richard L/Mary J Indreland Co-Trustees
8 Spring Creek Rd
Martinsdale, MT 59053

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

Water Right Number: 40A 198411-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: RMJ INDRELAND TRUST
INDRELAND, RICHARD L/MARY J CO-TRUSTEES
8 SPRING CREEK RD
MARTINSDALE, MT 59053

Priority Date: SEPTEMBER 28, 1904

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

***Flow Rate:** 2.94 CFS

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

Climatic Area: 5 - LOW

***Maximum Acres:** 77.50

Source Name: DALE 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	34	7N	10E	MEAGHER

Period of Diversion: MAY 1 TO OCTOBER 20

Diversion Means: HEADGATE

2		SESENW	34	7N	10E	MEAGHER
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Period of Diversion: MAY 1 TO OCTOBER 20

Diversion Means: HEADGATE

Period of Use: MAY 1 TO OCTOBER 20

***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	16.20		SENE	26	7N	10E	MEAGHER
2	11.80		SWNE	26	7N	10E	MEAGHER
3	19.80		NESE	26	7N	10E	MEAGHER
4	29.70		NWSE	26	7N	10E	MEAGHER

Total: 77.50

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

Water Right Number: 40A 198413-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: RMJ INDRELAND TRUST
INDRELAND, RICHARD L/MARY J CO-TRUSTEES
8 SPRING CREEK RD
MARTINSDALE, MT 59053

Priority Date: MAY 1, 1905
Type of Historical Right: USE
Purpose (Use): IRRIGATION
Irrigation Type: FLOOD
Flow Rate: 1.44 CFS
Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT
PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 5 - LOW
Maximum Acres: 38.00
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		NENWNE	35	7N	10E	MEAGHER

Period of Diversion: APRIL 15 TO OCTOBER 31
Diversion Means: DIKE

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	38.00		SE	26	7N	10E	MEAGHER
Total:	38.00						

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

Water Right Number: 40A 210712-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: RMJ INDRELAND TRUST
INDRELAND, RICHARD L/MARY J CO-TRUSTEES
8 SPRING CREEK RD
MARTINSDALE, MT 59053

Priority Date: MAY 1, 1905

Type of Historical Right: FILED

Purpose (Use): IRRIGATION
Irrigation Type: FLOOD

Flow Rate: 125.66 GPM

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

Climatic Area: 5 - LOW

Maximum Acres: 7.50

Source Name: UNNAMED TRIBUTARY OF COTTONWOOD CREEK
Source Type: SURFACE WATER

Source Name: SPRING, 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		NESWSE	26	7N	10E	MEAGHER

Source Name: UNNAMED TRIBUTARY OF COTTONWOOD CREEK

Period of Diversion: MARCH 15 TO NOVEMBER 15

Diversion Means: DITCH

2		SWSWSE	26	7N	10E	MEAGHER
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Source Name: SPRING, UNNAMED TRIBUTARY OF COTTONWOOD CREEK

Period of Diversion: MARCH 15 TO NOVEMBER 15

Diversion Means: DITCH

Period of Use: MARCH 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	5.00		N2SESE	26	7N	10E	MEAGHER
2	2.50		SWSE	26	7N	10E	MEAGHER

Total: 7.50