

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

\*\*\*\*\*

CLAIMANTS: Sarah Browning; Theodore T. Browning III; Thomas  
S. Browning; Timothy G. Browning; Travis J.  
Browning; Robert P. Hamilton; Daniel R. Johnson;  
Holly Negaard; **Calf Creek LLC**

OBJECTOR: United States of America (Bureau of Land  
Management)

**40C-0137-R-2019**  
40C 189751-00  
40C 211496-00

**Implied Claims:**  
**40C 30151548**  
**40C 30151549**

**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. If 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**

**These claims were originally consolidated into Case 40C-R137. The parties are advised that the case number for this case has been modified to reflect the Court's new case management system protocol. All future filings shall use the updated case number in the caption and all case references.**

Claims 40C 189751-00 and 40C 211496-00 appeared in the Preliminary Decree for the Musselshell River, Below Roundup (Basin 40C) issued on June 7, 2017. Claim 40C 189751-00 is owned by Sarah Browning, Travis Browning, Theodore Browning III, Timothy Browning, and Thomas Browning (the Brownings). Claim 40C 211496-00 is owned by Robert Hamilton, Daniel R. Johnson and Holly Negaard. Claim 40C 189751-00 received an objection from the United States Department of Interior, Bureau of Land Management (BLM) based on place of use and maximum acres. Both claims received an issue remark regarding over appropriation.

## **FINDINGS OF FACT**

### **40C 189751-00**

1. Claim 40C 189751-00 is a sprinkler/flood irrigation claim for use on 105.70 acres as follows:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>QtrSec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	2.50		SWNWNE	31	17N	30E	Garfield
2	13.80		SWNE	31	17N	30E	Garfield
3	3.80		NESENW	31	17N	30E	Garfield
4	<u>85.60</u>		S2	31	17N	30E	Garfield
Total: 105.70							

2. The BLM objected to the place of use and maximum acres of claim 40C 189751-00. The BLM's objection stated that:

Place of use ID No. 1 is located entirely on federal land and place of use ID No. 4 includes federal land in the SESE in section 31 which are managed and administered by the Bureau of Land Management. Place of use ID No. 1 should be removed entirely. Place of use ID No. 4 should be split into three parcels – SW, N2SE, SWSE, all in section 31 – and the claimants should provide the number of acres per parcel. The claimed maximum acres should be reduced to 103.20 acres.

3. On March 4, 2020, the parties filed their *Stipulation to Resolve Objections*. The *Stipulation* requests the following modifications to claim 40C 189751-00:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>QtrSec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
<del>1</del>	<del>2.50</del>		<del>SWNWNE</del>	<del>31</del>	<del>17N</del>	<del>30E</del>	<del>Garfield</del>
<del>2</del> <b>1</b>	13.80		SWNE	31	17N	30E	Garfield
<del>3</del> <b>2</b>	3.80		NESENW	31	17N	30E	Garfield
<del>4</del> <b>3</b>	<u>85.60</u>		S2	31	17N	30E	Garfield
Total: <del>105.70</del> <b><u>103.20</u></b>							

**Add PL Remark: PLACE OF USE NO. 3 IS LOCATED ENTIRELY ON PRIVATE LANDS AND EXCLUDES SESE IN SECTION 31, TOWNSHIP 17 NORTH, RANGE 30 EAST, GARFIELD COUNTY.**

4. Claim 40C 189751-00 also received an over appropriation issue remark stating that claims 40C 189751-00 and 40C 211496-00 exceeded the flow rate claimed in the Notice of Appropriation supporting both claims. This issue remark is discussed below.

#### **40C 211496-00**

5. Claim 40C 211496-00 was decreed as a December 13, 1912 file right for flood irrigation and was filed by Robert Hamilton. The claim was decreed with a flow rate of 10.00 cubic-feet-per-second (CFS) for use on 192.00 acres.

6. The claim was decreed with the following issue remarks:

THE TYPE OF HISTORICAL RIGHT, PRIORITY DATE, AND FLOW RATE MAY BE QUESTIONABLE. THE CLAIMS FOLLOWING THIS STATEMENT USE THE SAME FILED APPROPRIATION TO DOCUMENT THE RIGHT. THE COMBINED FLOW RATE FOR THIS GROUP OF CLAIMS EXCEEDS THE TOTAL OF THE ORIGINAL APPROPRIATION. 189751 00, 211496 00.

THIS CLAIM PRESENTS ISSUES OF FACT AND LAW THAT MAY BE ADDRESSED AT THE OBJECTION STAGE. IT APPEARS THAT 159.4 ACRES ARE ACTUALLY IRRIGATED AND PROBLEMS COULD EXIST WITH FLOW RATE AND VOLUME. TO ASSURE THE ORDERLY ADMINISTRATION OF WATER RIGHTS, THE WATER COURTS WILL SET A HEARING TO DETERMINE THESE ISSUES IF NO OBJECTIONS ARE MADE.

6. On April 18, 2019, the Court ordered Claimants Robert Hamilton, Daniel R. Johnson and Holly Negaard to meet with the DNRC to discuss resolution of the acres irrigated issue remark.

7. On December 13, 2019, Water Resources Specialist Matt Schmidt filed his *Memorandum* in this matter.

8. After working with Claimant Robert Hamilton on this claim, Mr. Schmidt found the following:

During an October 23, 2019 meeting with claimant Robert Hamilton, it was revealed that some of the claimed areas cannot be irrigated using the claimed source because the topography makes it unfeasible. This is why the GIIS issue remark states that it appears that only 159.4 acres are actually irrigated. There is a note in the claim file that “several areas claimed were not given verified acres because diversion means, conveyance facilities, and points of diversion could not deliver water to these areas.” Claimant agrees that, as claimed, the diversion and conveyance infrastructure could not deliver water to several of the claimed areas. The irrigation source of these areas are Lower Newhouse Coulee and Wilson Coulee, not Calf Creek as claimed. The confusion seems to have originated on the fact that these areas are closer geographically to Calf Creek. DNRC’s interpretation is that this claim should have been three claims: one source out of Calf Creek as claimed, a second sourced from Wilson Coulee, and a third sourced from Lower Newhouse Coulee.

9. On March 16, 2020, Mr. Hamilton filed a statement further supporting the historical use of claim 40C 211496-00. Based on Mr. Hamilton’s filing and the information in Mr. Schmidt’s *Memorandum*, there was significant confusion when the claim was being filed. After reviewing the claim and the historical use of the water, Mr. Hamilton determined that claim 40C 211496-00 should in fact be three separate claims as follows:

#### 40C 211496-00 (Calf Creek)

Water Right Number: 40C 211496-00 STATEMENT OF CLAIM  
Version: 2 -- REEXAMINED  
Version Status: ACTIVE  
Late Claim: 0

Owners:  
ROBERT P HAMILTON  
214 HAMILTON LN  
MOSSY, MT 59058  
DANIEL R JOHNSON  
130 HAMILTON LN  
MOSSY, MT 59058-9613  
HOLLY NEGAARD  
130 HAMILTON LN  
MOSSY, MT 59058  
OWNERSHIP UPDATE PROCESSED TO ADD NEW OWNERS. THE WATER RIGHT MAY BE SPLIT INTO SEPARATE WATER RIGHTS UPON REQUEST OF THE OWNERS.

Priority Date: DECEMBER 13, 1912  
Enforceable Priority Date: JUNE 30, 1973  
CLAIM FILED LATE 09/20/85 AS MANDATED BY SECTION 85-2-221(3), MCA. THIS CLAIM IS SUBORDINATE, AND THEREFORE JUNIOR, TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW.

Type of Historical Right: *Use*  
Purpose (use): IRRIGATION  
Irrigation Type: FLOOD  
Maximum Flow Rate: 5.00 CFS  
Maximum Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.  
Climate Area: 1 - HIGH  
Maximum Acres: *492.00 121.6*  
Source Name: CALF CREEK  
Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:  
ID Cont Lot Qtr Sec Sec Twp Rge County  
1 N58SW 3 16N 30E GARFIELD  
Period of Diversion: *FEBRUARY 1 TO NOVEMBER 15 Jan 1 - March 30*  
Diversion Means: HEADGATE  
2 S29NW 11 16N 30E GARFIELD  
Period of Diversion: *FEBRUARY 1 TO NOVEMBER 15 Jan 1 - March 30*  
Diversion Means: HEADGATE  
3 S36SW 32 17N 30E GARFIELD  
Period of Diversion: *FEBRUARY 1 TO NOVEMBER 15 Jan 1 - March 30*  
Diversion Means: HEADGATE

Period of Use: *FEBRUARY 1 TO NOVEMBER 15 Jan 1 - March 30*

Place of Use:  
ID Acres Cont Lot Qtr Sec Sec Twp Rge County  
1 *492.00 121.6* *492.00* NW 3 16N 30E GARFIELD  
2 *492.00 33.0* *492.00* SE 3 16N 30E GARFIELD  
3 *492.00 2.5* *492.00* E2NE 4 16N 30E GARFIELD  
4 *492.00 7.7* *492.00* NE 10 16N 30E GARFIELD  
5 *492.00 24.9* *492.00* NW 11 16N 30E GARFIELD  
6 *492.00 33.7* *492.00* SW 32 17N 30E GARFIELD  
Total: *492.00 121.6*

11

水

K'

K'

5

11. There is only one other existing water right on North Wilson Coulee. The right (40C 113873-00) is also owned by Calf Creek LLC and Robert Hamilton.

#### 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. Implied claims are authorized in situations where a single statement of claim contains more than one separate water right. Rule 2(33), W.R.C.E.R. Where a single claim form contains multiple rights, and has been timely filed, the section 85-2-221, MCA statutory deadlines for filing claims is satisfied. Rule 35(c)(3), W.R.C.E.R. An implied claim is warranted if it is justified by some evidence in the claim form, evidence

of actual historic use corroborates the implied claim, and the creation of the implied claim does not result in a change to historic water use or increase the historic burden to other water users. Case 76HF-580, OAA, January 31, 2013 at 20.

### CONCLUSIONS OF LAW

#### **40C 189751-00**

1. BLM's objection overcomes the prima facie status of claim 40C 189751-00. The parties showed by a preponderance of the evidence that the historical place of use and maximum acres is as described in Finding of Fact No. 3. The place of use and maximum acres should be modified accordingly, and the place of use information remark should be added to the claim. These modifications resolve BLM's objection.

#### **40C 211496-00**

2. The over filed appropriation issue remark overcomes the prima facie status of claim 40C 211496-00. Based on the information provided by Mr. Hamilton, claim 40C 211496-00 is a use claim with a significantly more junior priority date than claim 40C 189751-00. With the changes recommended below, the over appropriation issue remark is resolved and should be removed from both claims.

3. Based on the information and evidence provided by Mr. Hamilton and Mr. Schmidt, the Statement of Claim filed for claim 40C 211496-00 contained the information for three separate water rights. Generating the two implied claims from 40C 211496-00 does not result in a change to the water historically used or increase the historical burden to other water users. Claim 40C 30151548 will be one of two rights on Lower Newhouse Coulee and is the more junior right. Claim 40C 30151549 will be one of two rights on North Wilson Coulee and the other right is also owned by Calf Creek LLC and Robert Hamilton.

4. Claim 40C 211496-00 should be modified as requested by Mr. Hamilton and the two implied claims should be generated as described in Finding of Fact No. 9.

### 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 and a copy of the map depicting the modifications has been placed in each claim file.

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Melissa Lockman  
Water Master

**Service via USPS Mail**

**Calf Creek LLC  
130 Hamilton Ln  
Mosby, MT 59058**

Sarah Browning  
Theodore T Browning III  
Timothy G Browning  
PO Box 144  
Winnett, MT 59087-0144

Thomas S Browning  
PO Box 96  
Winnett, MT 59087-0096

Travis J Browning  
1549 Old Stage Rd  
Mosby, MT 59058-9606

Robert P Hamilton  
214 Hamilton Ln  
Mosby, MT 59058

Daniel R Johnson  
Holly Negaard  
130 Hamilton Ln  
Mosby, MT 59058-9613

**Service via Electronic Mail**

Roselyn Rennie  
Office of the Solicitor  
2021 4<sup>th</sup> Ave North Ste 112  
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**Note: Caption & Service List Updated 5.26.21**



**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
MUSSELSHELL RIVER, BELOW ROUNDUP  
BASIN 40C**

**Water Right Number:**      **40C 189751-00**      STATEMENT OF CLAIM

**Version:**      3 -- POST DECREE

**Status:** ACTIVE

**Owners:**

SARAH BROWNING  
PO BOX 144  
WINNETT, MT 59087 0144

THEODORE T BROWNING III  
1495 OLD STAGE RD  
MOSBY, MT 59058 9600

THOMAS S BROWNING  
PO BOX 96  
WINNETT, MT 59087 0096

TIMOTHY G BROWNING  
PO BOX 144  
WINNETT, MT 59087 0144

TRAVIS J BROWNING  
1549 OLD STAGE RD  
MOSBY, MT 59058 9606

**Priority Date:**      DECEMBER 13, 1912

**Type of Historical Right:**      FILED

**Purpose (Use):**      IRRIGATION

**Irrigation Type:**      SPRINKLER/FLOOD

**Flow Rate:**      4.57 CFS

SPRINKLER PUMP CAPACITY IS 250.00 GPM

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

**Climatic Area:**      1 - HIGH

**Maximum Acres:**      103.20

**Source Name:**      CALF 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	7		3	16N	30E	GARFIELD
<b>Period of Diversion:</b>	APRIL 1 TO SEPTEMBER 1					
<b>Diversion Means:</b>	PUMP					
2		SWSWNE	31	17N	30E	GARFIELD
<b>Period of Diversion:</b>	APRIL 1 TO SEPTEMBER 1					
<b>Diversion Means:</b>	PUMP					

**Period of Use:** APRIL 1 TO SEPTEMBER 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	13.80		SWNE	31	17N	30E	GARFIELD
2	3.80		NESENW	31	17N	30E	GARFIELD
3	85.60		S2	31	17N	30E	GARFIELD
<b>Total:</b>	103.20						

PLACE OF USE NO. 3 IS LOCATED ENTIRELY ON PRIVATE LANDS AND EXCLUDES THE SESE OF SEC 31, T17N, R30E, GARFIELD COUNTY.

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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.

189751-00

189752-00

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
MUSSELSHELL RIVER, BELOW ROUNDUP  
BASIN 40C**

**Water Right Number:**      **40C 211496-00**      STATEMENT OF CLAIM

**Version:**      3 -- POST DECREE

**Status:** ACTIVE

**Late Claim:** B

**Owners:**

ROBERT P HAMILTON  
214 HAMILTON LN  
MOSBY, MT 59058

DANIEL R JOHNSON  
130 HAMILTON LN  
MOSBY, MT 59058 9613

HOLLY NEGAARD  
130 HAMILTON LN  
MOSBY, MT 59058

OWNERSHIP UPDATE PROCESSED TO ADD NEW OWNERS. THE WATER RIGHT  
MAY BE SPLIT INTO SEPARATE WATER RIGHTS UPON REQUEST OF THE  
OWNERS.

**Priority Date:**      APRIL 1, 1953

**Enforceable Priority Date:**      JUNE 30, 1973

CLAIM FILED LATE 09/20/85 . AS MANDATED BY SECTION 85-2-221(3), MCA, THIS  
CLAIM IS SUBORDINATE, AND THEREFORE JUNIOR, TO ALL INDIAN AND  
FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS  
BASED ON STATE LAW.

**Type of Historical Right:**      USE

**Purpose (Use):**      IRRIGATION

**Irrigation Type:**      FLOOD

**Flow Rate:**      10.00 CFS

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

**Climatic Area:**      1 - HIGH

**Maximum Acres:**      121.60

**Source Name:**      CALF 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		NWSEW	3	16N	30E	GARFIELD

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

**Diversion Means:**      HEADGATE

2 SENWNW 11 16N 30E GARFIELD

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

**Diversion Means:** HEADGATE

3 SWSESW 32 17N 30E GARFIELD

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

**Diversion Means:** HEADGATE

**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	16.15		SE	3	16N	30E	GARFIELD
2	33.00		SE	3	16N	30E	GARFIELD
3	2.25		E2NE	4	16N	30E	GARFIELD
4	9.70		N2NE	10	16N	30E	GARFIELD
5	26.80		NW	11	16N	30E	GARFIELD
6	33.70		SW	32	17N	30E	GARFIELD
<b>Total:</b>	121.60						

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
MUSSELSHELL RIVER, BELOW ROUNDUP  
BASIN 40C**

**Water Right Number:**      **40C 30151548**      STATEMENT OF CLAIM

**Version:**      1 -- ORIGINAL RIGHT

**Status:** ACTIVE

**Late Claim:** B

**Owners:**      ROBERT P HAMILTON  
214 HAMILTON LN  
MOSBY, MT 59058

CALF CREEK LLC  
130 HAMILTON LN  
MOSBY, MT 59058

OWNERSHIP UPDATE PROCESSED TO ADD NEW OWNERS. THE WATER RIGHT MAY BE SPLIT INTO SEPARATE WATER RIGHTS UPON REQUEST OF THE OWNERS.

**Priority Date:**      DECEMBER 31, 1951

**Enforceable Priority Date:**      JUNE 30, 1973

CLAIM FILED LATE 09/20/85 . AS MANDATED BY SECTION 85-2-221(3), MCA, THIS CLAIM IS SUBORDINATE, AND THEREFORE JUNIOR, TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW.

**Type of Historical Right:**      USE

**Purpose (Use):**      IRRIGATION

**Irrigation Type:**      FLOOD

**Flow Rate:**      5.00 CFS

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

**Climatic Area:**      1 - HIGH

**Maximum Acres:**      32.50

**Source Name:**      LOWER NEWHOUSE COULEE

**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		NENENW	3	16N	30E	GARFIELD

**Period of Diversion:**      JANUARY 1 TO MARCH 30

**Diversion Means:**      HEADGATE

**Period of Use:**      JANUARY 1 TO MARCH 30

**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	5.90		SESE	3	16N	30E	GARFIELD

2	1.10	NENENE	10	16N	30E	GARFIELD
3	25.50	N2NW	11	16N	30E	GARFIELD
<b>Total:</b>	32.50					

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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.

113872-00      30151548

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
MUSSELSHELL RIVER, BELOW ROUNDUP  
BASIN 40C**

**Water Right Number:**      **40C 30151549**      STATEMENT OF CLAIM

**Version:**      1 -- ORIGINAL RIGHT

**Status:** ACTIVE

**Late Claim:** B

**Owners:**      CALF CREEK LLC  
130 HAMILTON LN  
MOSBY, MT 59058

OWNERSHIP UPDATE PROCESSED TO ADD NEW OWNERS. THE WATER RIGHT MAY BE SPLIT INTO SEPARATE WATER RIGHTS UPON REQUEST OF THE OWNERS.

**Priority Date:**      DECEMBER 31, 1949

**Enforceable Priority Date:**      JUNE 30, 1973

CLAIM FILED LATE 09/20/85 . AS MANDATED BY SECTION 85-2-221(3), MCA, THIS CLAIM IS SUBORDINATE, AND THEREFORE JUNIOR, TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW.

**Type of Historical Right:**      USE

**Purpose (Use):**      IRRIGATION

**Irrigation Type:**      FLOOD

**Flow Rate:**      5.00 CFS

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

**Climatic Area:**      1 - HIGH

**Maximum Acres:**      36.30

**Source Name:**      NORTH WILSON COULEE

**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	7		3	16N	30E	GARFIELD

**Period of Diversion:**      JANUARY 1 TO MARCH 30

**Diversion Means:**      HEADGATE

**Period of Use:**      JANUARY 1 TO MARCH 30

**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	5.70	7		3	16N	30E	GARFIELD
2	25.10		NESW	3	16N	30E	GARFIELD
3	5.90		W2NWSE	3	16N	30E	GARFIELD

**Total:**      36.70

