

Montana Water Court
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400-4003-S-2021

July 14, 2021

Montana Water Court

IN THE WATER COURT OF THE STATE OF MONTANA
LOWER MISSOURI DIVISION
MILK RIVER BELOW WHITEWATER CREEK INCLUDING PORCUPINE CREEK (400)

CLAIMANTS: ~~Casper O. Holter (Deceased);~~ **Joyce Holter-
Miller; Dillon Collins; Becky J. Holter; Curtis A. Holter**

CASE 400-4003-S-2021
400 171130-00
Split Claim:
400 30151580

NOTICE OF FILING OF MASTER'S REPORT

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

The above stamped date indicates the date the Master's Report was filed and mailed. Rule 23 of the Water Right Adjudication Rules requires written objections to the Master's Report must be filed within 10 days of the date of the Master's Report. Because the 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. This means your objection must be received no later than **13 days** from the above stamped date.

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 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
PROCEDURAL HISTORY

Livestock direct from source stock claim 40O 171130-00 is currently owned by Casper O. Holter.

On March 24, 2021, Montana Department of Natural Resources and Conservation (DNRC) Compliance Technician Noreen Hohman submitted a memorandum regarding a split request for water right claim 40O 171130-00. The memorandum was based upon a DNRC Form 641 "DNRC Ownership Update Divided Interest." The Form 641 was signed by Dillon Collins, Curtis A. Holter, and Becky Holter.

The Form 641 identified with detail the proposed division of the points of diversion and place of use for claim 40O 171130-00 to Joyce A. Holter-Miller and Dillon L. Collins and Curtis A. Holter and Becky Holter. The Form 641 was supported by a Quit Claim Deed and Indentures. The Form 641 included a map detailing the property owned by Joyce A. Holter-Miller and Dillon L. Collins and Curtis A. Holter and Becky Holter.

These documents supported and identified with detail the proposed division of the points of diversion and place of use for the stock claim. A copy of the map detailing the split of the claim's points of diversion and place of use is included with this report. A copy of the report and map will be placed in each claim file for future reference.

FINDINGS OF FACT

1. Stock claims are quantified by volume. The volume is quantified by a formula: 30 gallons per day per animal unit. The total number of animal units served is identified by the statement of claim.¹ The total number of livestock served by each parent claim, and the split claim generated from it, cannot exceed the original number of livestock identified by the statement of claim. Claimant and potential owners were given the opportunity to provide the number of animal units served by each portion of the claim. No information was filed by the deadline. Therefore, the following information remark should be added to the abstract of the parent and the split claim.

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE LIMITED TO THE SERVICE
OF 200 ANIMAL UNITS. 40O 171130-00, 40O 30151580

¹ Statement of claim 40O 171130-00 identifies 200 animal units.

2. The following modifications should be made to the claims.

Parent Claim 400 171130-00 (Owned by Joyce A. Holter-Miller and Dillon L. Collins)

VOLUME:

THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATER 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.

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE LIMITED TO THE SERVICE OF 200 ANIMAL UNITS. 400 171130-00, 400 30151580

POINT OF DIVERSION AND PLACE OF USE:

<u>PARCEL ID</u>	<u>GOVT LOT</u>	<u>QTR SEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
1		S2NWSE	11	29N	39E	VALLEY
2		E2SESW	11	29N	39E	VALLEY

Remarks:

SPLIT CLAIM NO. 400 30151580 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM.

Split Claim 400 30151580 (Owned by Curtis A. Holter and Becky Holter)

VOLUME:

THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATER 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.

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE LIMITED TO THE SERVICE OF 200 ANIMAL UNITS. 400 171130-00, 400 30151580

POINT OF DIVERSION AND PLACE OF USE:

<u>PARCEL ID</u>	<u>GOVT LOT</u>	<u>QTR SEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
1		S2NWSE	11	29N	39E	VALLEY
1 2		E2SESW	11	29N	39E	VALLEY

Remarks:

THIS SPLIT CLAIM WAS AUTHORIZED BY THE WATER COURT BASED ON INFORMATION IN CLAIM NO. 400 171130-00.

CONCLUSIONS OF LAW

1. The Montana Water Court is permitted to use information submitted by the Department of Natural Resources and Conservation, the statement of claim, information from approved compacts, and any other data obtained by the Court to evaluate water right claims. Section 85-2-231(2), MCA.

2. The Water Court may split claims upon request of the claimants. Rule 26,

W.R.Adj.R.

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 Claim accompany this Report to confirm that the recommended changes have been made in the state's centralized water right record system.

Anna M. Stradley
Senior Water Master

Service Via USPS Mail:

~~Casper O. Holter (Deceased)~~
~~278 Cut Across Rd~~
~~Glasgow, MT 59230~~

~~Potential Owners:~~
Joyce Holter-Miller
Dillon Collins
46 Medicine Walk Drive
Glasgow, MT 59230

~~Potential Owners:~~
Becky J. Holter
Curtis A. Holter
266 Cut Across Rd
Glasgow, MT 59230-2806

This Order Only:
DNRC Water Resources
Glasgow Regional Office
Attn: Noreen Hohman
PO Box 1269
Glasgow, MT 59230-1269

Caption and Service List Updated 6/24/2021

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**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MILK RIVER, BELOW WHITEWATER INCLUDING PORCUPINE CREEK
BASIN 400**

Water Right Number: 400 171130-00 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: DILLON COLLINS
46 MEDICINE WALK DRIVE
GLASGOW, MT 59230

JOYCE HOLTER-MILLER
46 MEDICINE WALK DRIVE
GLASGOW, MT 59230

Priority Date: MAY 31, 1906

Type of Historical Right: USE

Purpose (Use): STOCK

Flow Rate: NO FLOW RATE HAS BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM.

Volume: THIS WATER RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCKWATERING 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.

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE LIMITED TO THE SERVICE OF 200 ANIMAL UNITS. 400 171130-00, 400 30151580

Source Name: CHERRY CREEK

Source Type: SURFACE WATER

THIS WATER RIGHT ALSO INCLUDES GROUNDWATER FROM DEVELOPED SPRINGS IN THE NWSE AND E2SESW SEC 11 TWP 29N RGE 39E VALLEY COUNTY.

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		S2NWSE	11	29N	39E	VALLEY

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

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			S2NWSE	11	29N	39E	VALLEY

Remarks:

STARTING IN 2008, PERIOD OF DIVERSION WAS ADDED TO MOST CLAIM ABSTRACTS, INCLUDING THIS ONE.

SPLIT CLAIM NO. 40O 30151580 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MILK RIVER, BELOW WHITEWATER INCLUDING PORCUPINE CREEK
BASIN 400**

Water Right Number: 400 30151580 STATEMENT OF CLAIM

Version: 1 -- ORIGINAL RIGHT

Status: ACTIVE

Owners: BECKY J HOLTER
266 CUT ACROSS RD
GLASGOW, MT 59230 2806

CURTIS A HOLTER
266 CUT ACROSS RD
GLASGOW, MT 59230 2806

Priority Date: MAY 31, 1906

Type of Historical Right: USE

Purpose (Use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE
CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A
DITCH SYSTEM.

Volume: THIS WATER 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.

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE LIMITED TO THE
SERVICE OF 200 ANIMAL UNITS. 400 171130-00, 400 30151580.

Source Name: CHERRY CREEK

Source Type: SURFACE WATER

THIS WATER RIGHT ALSO INCLUDES GROUNDWATER FROM DEVELOPED
SPRINGS IN THE NWSE AND E2SESW SEC 11 TWP 29N RGE 39E VALLEY
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<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			E2SESW	11	29N	39E	VALLEY

Remarks:

THIS SPLIT CLAIM WAS AUTHORIZED BY THE WATER COURT BASED ON INFORMATION IN CLAIM NO. 400
171130-00.

