

Montana Water Court
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ELECTRONICALLY FILED

41I-4000-S-2021

July 30, 2021

Montana Water Court

IN THE WATER COURT OF THE STATE OF MONTANA
UPPER MISSOURI DIVISION
MISSOURI RIVER ABOVE HOLTER DAM BASIN (41I)

* * * * *

CLAIMANTS: Barbara A. Baum; David R. Baum; Billi G.
Heigh; Marci B. Heigh

CASE 41I-4000-S-2021

41I 89350-00
41I 89351-00
41I 89354-00
41I 89355-00
41I 89358-00
41I 89360-00

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. 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

On March 19, 2021, DNRC Ownership Update Exempt/Severed Water Right forms (642 forms) were filed with the Court for the above-captioned claims. The 642 forms request the partial severance of the place of use from claims 41I 89350-00, 41I 89351-00, 41I 89354-00, 41I 89355-00, 41I 89358-00, and 41I 89360-00. The claims are currently co-owned by David Baum, Barbara Baum, Billi Heigh, and Marci Heigh.

FINDINGS OF FACT

1. The deeds and 642 forms show the N2SWNE of Section 2, T10N, R3W, Lewis and Clark County has been severed from claims 41I 89350-00, 41I 89351-00, 41I 89354-00, 41I 89355-00, 41I 89358-00, and 41I 89360-00.

2. 41I 89350-00 and 41I 89354-00 are stock claims. The place of use for these claims will be severed 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			E2NE	2	10N	3W	Lewis & Clark
2			S2SWNE	2	10N	3W	Lewis & Clark

3. 41I 89351-00, 41I 89355-00, 41I 89358-00, and 41I 89360-00 are irrigation claims. The maximum acres and place of use for these claims will be severed as follows:

Maximum Acres: ~~120.00~~ **100.00**

<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>
1	80.00		E2NE	2	10N	3W	Lewis & Clark
2	40.00 20.00		S2SWNE	2	10N	3W	Lewis & Clark
Total:	120.00 100.00						

4. The 642 forms also request removal of geocode 05-1888-02-1-01-10-0000 from each claim abstract. The Baums should contact the DNRC to update the geocodes.

CONCLUSIONS OF LAW

1. The 642 forms provide the Court sufficient and credible information to process the sever requests.

2. The 642 forms for claims 41I 89350-00 and 41I 89354-00 correctly indicate that the N2SWNE of Section 2, T10N, R3W, Lewis and Clark County has been severed

from the place of use of both claims. The place of use for each claim should be modified accordingly.

3. The 642 forms for claims 41I 89351-00, 41I 89355-00, 41I 89358-00, and 41I 89360-00 correctly indicate that 20.00 acres in the N2SWNE of Section 2, T10N, R3W, Lewis and Clark County have been severed from the place of use and maximum acres of the claims. The maximum acres and place of use for each claim should be modified accordingly.

RECOMMENDATIONS

Based on the foregoing Findings of Fact and Conclusions of Law, this Master recommends that the Court process the 642 forms as listed in the Findings of Fact.

A post decree abstract of each water right claim reflecting the recommended severances is attached to this Report and a copy of the place of use maps provided by the DNRC have been placed in each claim file.

Melissa Lockman
Water Master

Service via USPS Mail

Barbara A Baum
David R Baum
4144 Helberg Dr
Helena, MT 59602-8962

Billi G Heigh
Marci B Heigh
4141 Helberg Dr
Helena, MT 59602-8962

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MISSOURI RIVER, ABOVE HOLTER DAM
BASIN 41I**

Water Right Number: 41I 89350-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: BARBARA A BAUM
4111 HELBERG DR
HELENA, MT 59602 8962

DAVID R BAUM
4111 HELBERG DR
HELENA, MT 59602 8962

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

Priority Date: MAY 15, 1866

Type of Historical Right: DECREED

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.

Source Name: PRICKLY PEAR 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		SESENW	25	10N	3W	LEWIS AND CLARK

Period of Diversion: MAY 1 TO NOVEMBER 19

Diversion Means: HEADGATE

Ditch Name: PRICKLY PEAR DITCH

DITCH NAME: PRICKLY PEAR DITCH

COMPANY SLOUGH DITCH IS USED TO CONVEY WATER FROM THE PRICKLY PEAR DITCH TO THE PLACE OF USE.

Period of Use: MAY 1 TO NOVEMBER 19

***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			E2NE	2	10N	3W	LEWIS AND CLARK
2			S2SWNE	2	10N	3W	LEWIS AND CLARK

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.

89350-00 89351-00

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.

89350-00 89351-00

AUTHORIZATION TO CHANGE THE PLACE OF USE COMPLETED 06/26/96. SEE 41I-G(W)089348-00.

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

THE FOLLOWING POTENTIAL ISSUES WERE IDENTIFIED DURING CLAIMS EXAMINATION OR DURING PREVIOUS WATER COURT PROCEEDINGS.

IN ACCORDANCE WITH THE DNRC MEMORANDUM OF 04/21/00, A CLERICAL CORRECTION HAS BEEN MADE TO REDUCE THE PLACE OF USE. BECAUSE THIS ELEMENT WAS NOT INCLUDED ON THE OBJECTION LIST, ANY WATER USER WHOSE RIGHTS MAY BE ADVERSELY AFFECTED BY ENFORCEMENT OF THIS CHANGE MAY PETITION THE APPROPRIATE COURT FOR RELIEF, OR MAY FILE AN OBJECTION AT THE PRELIMINARY DECREE.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MISSOURI RIVER, ABOVE HOLTER DAM
BASIN 41I**

Water Right Number: 41I 89351-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: BARBARA A BAUM
4111 HELBERG DR
HELENA, MT 59602 8962

DAVID R BAUM
4111 HELBERG DR
HELENA, MT 59602 8962

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

Priority Date: MAY 15, 1866

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 282.74 GPM

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:** 100.00

Source Name: PRICKLY PEAR 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		SESENW	25	10N	3W	LEWIS AND CLARK

Period of Diversion: MARCH 20 TO NOVEMBER 24

Diversion Means: HEADGATE

Ditch Name: PRICKLY PEAR DITCH

DITCH NAME: PRICKLY PEAR DITCH

COMPANY SLOUGH DITCH IS USED TO CONVEY WATER FROM THE PRICKLY PEAR
DITCH TO THE PLACE OF USE.

Period of Use: MARCH 20 TO NOVEMBER 24

***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	80.00		E2NE	2	10N	3W	LEWIS AND CLARK
2	20.00		S2SWNE	2	10N	3W	LEWIS AND CLARK
Total:	100.00						

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.

89351-00 89355-00 89358-00 89360-00

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.

89350-00 89351-00

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.

89350-00 89351-00

AUTHORIZATION TO CHANGE THE PLACE OF USE COMPLETED 06/26/96. SEE 41I-G(W)089348-00.

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

THE FOLLOWING POTENTIAL ISSUES WERE IDENTIFIED DURING CLAIMS EXAMINATION OR DURING PREVIOUS WATER COURT PROCEEDINGS.

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT BELONG TO DIFFERENT PARTIES WHO CLAIM OVERLAPPING PLACES OF USE. W089351-00, W089349-00, W089353-00, W089359-00, W089361-00, W089355-00, W089358-00, W089360-00.

THE CLAIMED PERIOD OF USE EXCEEDS THE USUAL GROWING SEASON FOR THIS CLIMATIC AREA WHICH IS APRIL 15 TO OCTOBER 15.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MISSOURI RIVER, ABOVE HOLTER DAM
BASIN 41I**

Water Right Number: 41I 89354-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: BARBARA A BAUM
4111 HELBERG DR
HELENA, MT 59602 8962

DAVID R BAUM
4111 HELBERG DR
HELENA, MT 59602 8962

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, 1866

Type of Historical Right: DECREED

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.

Source Name: PRICKLY PEAR 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		SESENW	25	10N	3W	LEWIS AND CLARK

Period of Diversion: MAY 1 TO NOVEMBER 19

Diversion Means: HEADGATE

Ditch Name: PRICKLY PEAR DITCH

DITCH NAME: PRICKLY PEAR DITCH

COMPANY SLOUGH DITCH IS USED TO CONVEY WATER FROM THE PRICKLY PEAR DITCH TO THE PLACE OF USE.

Period of Use: MAY 1 TO NOVEMBER 19

***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			E2NE	2	10N	3W	LEWIS AND CLARK
2			S2SWNE	2	10N	3W	LEWIS AND CLARK

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.

89354-00 89355-00

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.

89354-00 89355-00

AUTHORIZATION TO CHANGE THE PLACE OF USE COMPLETED 06/26/96. SEE 41I-G(W)089348-00.

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

THE FOLLOWING POTENTIAL ISSUES WERE IDENTIFIED DURING CLAIMS EXAMINATION OR DURING PREVIOUS WATER COURT PROCEEDINGS.

IN ACCORDANCE WITH THE DNRC MEMORANDUM OF 04/21/00, A CLERICAL CORRECTION HAS BEEN MADE TO REDUCE THE PLACE OF USE. BECAUSE THIS ELEMENT WAS NOT INCLUDED ON THE OBJECTION LIST, ANY WATER USER WHOSE RIGHTS MAY BE ADVERSELY AFFECTED BY ENFORCEMENT OF THIS CHANGE MAY PETITION THE APPROPRIATE COURT FOR RELIEF, OR MAY FILE AN OBJECTION AT THE PRELIMINARY DECREE.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MISSOURI RIVER, ABOVE HOLTER DAM
BASIN 411**

Water Right Number: 411 89355-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: BARBARA A BAUM
4111 HELBERG DR
HELENA, MT 59602 8962

DAVID R BAUM
4111 HELBERG DR
HELENA, MT 59602 8962

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, 1866

Type of Historical Right: DECREEED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 282.74 GPM

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:** 100.00

Source Name: PRICKLY PEAR 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		SESENW	25	10N	3W	LEWIS AND CLARK

Period of Diversion: MARCH 20 TO NOVEMBER 24

Diversion Means: HEADGATE

Ditch Name: PRICKLY PEAR DITCH

DITCH NAME: PRICKLY PEAR DITCH

COMPANY SLOUGH DITCH IS USED TO CONVEY WATER FROM THE PRICKLY PEAR
DITCH TO THE PLACE OF USE.

Period of Use: MARCH 20 TO NOVEMBER 24

***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	80.00		E2NE	2	10N	3W	LEWIS AND CLARK
2	20.00		S2SWNE	2	10N	3W	LEWIS AND CLARK
Total:	100.00						

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.

89351-00 89355-00 89358-00 89360-00

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.

89354-00 89355-00

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.

89354-00 89355-00

AUTHORIZATION TO CHANGE THE PLACE OF USE COMPLETED 06/26/96. SEE 411-G(W)089348-00.

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

THE FOLLOWING POTENTIAL ISSUES WERE IDENTIFIED DURING CLAIMS EXAMINATION OR DURING PREVIOUS WATER COURT PROCEEDINGS.

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT BELONG TO DIFFERENT PARTIES WHO CLAIM OVERLAPPING PLACES OF USE. W089351-00, W089349-00, W089353-00, W089359-00, W089361-00, W089355-00, W089358-00, W089360-00.

THE CLAIMED PERIOD OF USE EXCEEDS THE USUAL GROWING SEASON FOR THIS CLIMATIC AREA WHICH IS APRIL 15 TO OCTOBER 15.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MISSOURI RIVER, ABOVE HOLTER DAM
BASIN 41I**

Water Right Number: 41I 89358-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: BARBARA A BAUM
4111 HELBERG DR
HELENA, MT 59602 8962

DAVID R BAUM
4111 HELBERG DR
HELENA, MT 59602 8962

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

***Priority Date:** OCTOBER 4, 1918

CAUSE NO. 15537, LEWIS & CLARK CO., PROVIDES TESTIMONY THAT INDIVIDUALS WITH DECREED RIGHTS FROM CASE NO. 4643, LEWIS AND CLARK CO., HAVE HISTORICALLY USED THE HIGH, FLOOD AND SURPLUS WATERS OF PRICKLY PEAR CREEK IN ADDITION TO THEIR DECREED RIGHTS.

Type of Historical Right: USE

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 282.74 GPM

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:** 100.00

Source Name: PRICKLY PEAR 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		SESENW	25	10N	3W	LEWIS AND CLARK

Period of Diversion: APRIL 15 TO JULY 19

Diversion Means: HEADGATE

Ditch Name: PRICKLY PEAR DITCH

DITCH NAME: PRICKLY PEAR DITCH

COMPANY SLOUGH DITCH IS USED TO CONVEY WATER FROM THE PRICKLY PEAR DITCH TO THE PLACE OF USE.

Period of Use: APRIL 15 TO JULY 19

THIS RIGHT INCLUDES HIGH OR FLOOD WATERS OF PRICKLY PEAR CREEK.

***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	80.00		E2NE	2	10N	3W	LEWIS AND CLARK
2	20.00		S2SWNE	2	10N	3W	LEWIS AND CLARK
Total:	100.00						

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.

89351-00 89355-00 89358-00 89360-00

AUTHORIZATION TO CHANGE THE PLACE OF USE COMPLETED 06/26/96. SEE 411-G(W)089348-00.

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

THE FOLLOWING POTENTIAL ISSUES WERE IDENTIFIED DURING CLAIMS EXAMINATION OR DURING PREVIOUS WATER COURT PROCEEDINGS.

THE TIMELY FILED OBJECTION OF UNITED STATES OF AMERICA WAS AMENDED BY CLAIMANT TO INCLUDE PRIORITY DATE. BECAUSE THIS ELEMENT WAS NOT INCLUDED ON THE OBJECTION LIST, ANY WATER USER WHOSE RIGHTS MAY BE ADVERSELY AFFECTED BY ENFORCEMENT OF THIS CHANGE MAY PETITION THE APPROPRIATE COURT FOR RELIEF OR MAY FILE AN OBJECTION AT THE PRELIMINARY DECREE.

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT BELONG TO DIFFERENT PARTIES WHO CLAIM OVERLAPPING PLACES OF USE. W089351-00, W089349-00, W089353-00, W089359-00, W089361-00, W089355-00, W089358-00, W089360-00.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MISSOURI RIVER, ABOVE HOLTER DAM
BASIN 41I**

Water Right Number: 41I 89360-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: BARBARA A BAUM
4111 HELBERG DR
HELENA, MT 59602 8962

DAVID R BAUM
4111 HELBERG DR
HELENA, MT 59602 8962

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

***Priority Date:** OCTOBER 11, 1918

CAUSE NO. 15537, LEWIS & CLARK CO., PROVIDES TESTIMONY THAT INDIVIDUALS WITH DECREED RIGHTS FROM CASE NO. 4643, LEWIS & CLARK CO., HAVE HISTORICALLY USED THE HIGH, FLOOD AND SURPLUS WATERS OF PRICKLY PEAR CREEK IN ADDITION TO THEIR DECREED RIGHTS.

Type of Historical Right: USE

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 282.74 GPM

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:** 100.00

Source Name: PRICKLY PEAR 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		SESENW	25	10N	3W	LEWIS AND CLARK

Period of Diversion: APRIL 15 TO JULY 19

Diversion Means: HEADGATE

Ditch Name: PRICKLY PEAR DITCH

DITCH NAME: PRICKLY PEAR DITCH

COMPANY SLOUGH DITCH IS USED TO CONVEY WATER FROM THE PRICKLY PEAR DITCH TO THE PLACE OF USE.

Period of Use: APRIL 15 TO JULY 19

THIS RIGHT INCLUDES HIGH OR FLOOD WATERS OF PRICKLY PEAR CREEK.

***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	80.00		E2NE	2	10N	3W	LEWIS AND CLARK
2	20.00		S2SWNE	2	10N	3W	LEWIS AND CLARK
Total:	100.00						

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.

89351-00 89355-00 89358-00 89360-00

AUTHORIZATION TO CHANGE THE PLACE OF USE COMPLETED 06/26/96. SEE 411-G(W)089348-00.

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

THE FOLLOWING POTENTIAL ISSUES WERE IDENTIFIED DURING CLAIMS EXAMINATION OR DURING PREVIOUS WATER COURT PROCEEDINGS.

THE TIMELY FILED OBJECTION OF UNITED STATES OF AMERICA WAS AMENDED BY CLAIMANT TO INCLUDE PRIORITY DATE. BECAUSE THIS ELEMENT WAS NOT INCLUDED ON THE OBJECTION LIST, ANY WATER USER WHOSE RIGHTS MAY BE ADVERSELY AFFECTED BY ENFORCEMENT OF THIS CHANGE MAY PETITION THE APPROPRIATE COURT FOR RELIEF OR MAY FILE AN OBJECTION AT THE PRELIMINARY DECREE.

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT BELONG TO DIFFERENT PARTIES WHO CLAIM OVERLAPPING PLACES OF USE. W089351-00, W089349-00, W089353-00, W089359-00, W089361-00, W089355-00, W089358-00, W089360-00.