

41I-4003-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)

* * * * *

CLAIMANT: Ringling Land & Cattle Co #3 LLC

CASE 41I-4003-S-2021
41I 28708-00

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 May 28, 2021, a DNRC Ownership Update Exempt/Severed Water Right form (642 form) was filed with the Court for claim 41I 28708-00. The claim is owned by Ringling Land & Cattle Co. No. 3, LLC.

FINDINGS OF FACT

1. Claim 41I 28708-00 is a flood irrigation claim from Sixteenmile Creek. The claim appeared in the Basin 41I Temporary Preliminary Decree with the following place of use:

Maximum Acres: 244.00

<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	40.00		SE		8	6N	8E Meagher
2	13.00		S2SWSW		8	6N	8E Meagher
3	28.00		SWSE		9	6N	8E Meagher
4	50.00		SW		9	6N	8E Meagher
5	78.00		NE		16	6N	8E Meagher
6	25.00		NW		16	6N	8E Meagher
7	<u>10.00</u>		N2NESE		16	6N	8E Meagher
Total:	244.00						

2. During adjudication of the Basin 41I Temporary Preliminary Decree, the place of use was modified as follows:

Maximum Acres: ~~244.00~~ **252.00**

<u>ID</u>	<u>Acres</u>	<u>QtrSec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	40.00	SE	8	6N	8E	Meagher
2	13.00	S2SWSW	8	6N	8E	Meagher
3	28.00 <u>11.00</u>	SWSE	9	6N	8E	Meagher
4	50.00	SW	9	6N	8E	Meagher
5	78.00 <u>40.00</u>	NE	16	6N	8E	Meagher
6	25.00 <u>70.00</u>	NW	16	6N	8E	Meagher
7	10.00 <u>28.00</u>	N2NESE	16	6N	8E	Meagher
Total:	244.00 <u>252.00</u>					

3. The 642 form and attached deed shows the SE of Section 8 and the SW of Section 8 have been severed from claim 41I 28708-00.

4. The place of use will be severed as follows:

Maximum Acres: ~~252.00~~ **199.00**

<u>ID</u>	<u>Acres</u>	<u>QtrSec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	40.00	SE	8	6N	8E	Meagher
2	13.00	SW	8	6N	8E	Meagher
3 <u>1</u>	11.00	SE	9	6N	8E	Meagher
4 <u>2</u>	50.00	SW	9	6N	8E	Meagher
5 <u>3</u>	40.00	NE	16	6N	8E	Meagher
6 <u>4</u>	70.00	NW	16	6N	8E	Meagher
7 <u>5</u>	<u>28.00</u>	SE	16	6N	8E	Meagher
Total:	252.00 <u>199.00</u>					

CONCLUSIONS OF LAW

1. The 642 form provides the Court sufficient and credible information to process the sever request.
2. The 642 form for claim 41I 28708-00 correctly indicates that the SE of Section 8 and the SW of Section 8, T6N, R8E, Meagher County has been severed from the place of use. The place of use 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 form as described in Finding of Fact No. 4.

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

Melissa Lockman
Water Master

Service via USPS Mail

Ringling Land & Cattle Co #3 LLC
101 Westcott St Unit 506
Houston, TX 77007-7030

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

Water Right Number: 41I 28708-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: RINGLING LAND & CATTLE CO #3 LLC
101 WESTCOTT ST
UNIT 506
HOUSTON, TX 77007 7030

***Priority Date:** MARCH 1, 1883

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

THIS WATER RIGHT ALSO INCLUDES SUBIRRIGATION AS AN INCIDENTAL TYPE OF IRRIGATION.

***Flow Rate:** 5.00 CFS

THE OWNERS OF WATER RIGHTS 41I 21434-00 AND 41I 28708-00 ARE EACH ENTITLED TO AN UNDIVIDED ONE-HALF (1/2) INTEREST IN AND TO 5.00 CFS OF THE WATERS OF SIXTEENMILE CREEK. EACH RIGHT MAY DIVERT ALL OR A PORTION OF 5.00 CFS AT EACH RIGHT'S RESPECTIVE POINT(S) OF DIVERSION PROVIDED THAT NO MORE THAN A TOTAL OF 5.00 CFS IS BEING DIVERTED BY EITHER OR BOTH AT ANY ONE TIME.

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:** 199.00

Source Name: SIXTEENMILE 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		NENWSW	15	6N	8E	MEAGHER

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

Diversion Means: HEADGATE

Ditch Name: HIGGINS DITCH

AS DECREED IN LINCOLN V. LUCAS, IN CAUSE NUMBER 625, IN AND FOR THE SIXTH JUDICIAL DISTRICT, MEAGHER COUNTY, FILED NOVEMBER 23, 1891 AND AS REQUESTED BY THE PARTIES IN CASE 41I-299 BY STIPULATION FILED FEBRUARY 28, 2000, THE PLACE OF MEASUREMENT FOR THIS RIGHT IS THE PROPERTY LINE BETWEEN SECTIONS 15 AND 16, T6N, R8E.

Period of Use: MAY 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>
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1	11.00	SE	9	6N	8E	MEAGHER
2	50.00	SW	9	6N	8E	MEAGHER
3	40.00	NE	16	6N	8E	MEAGHER
4	70.00	NW	16	6N	8E	MEAGHER
5	28.00	SE	16	6N	8E	MEAGHER
Total:	199.00					

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.

28704-00	28705-00	28708-00	28709-00	28710-00	30066092
30072015	30072016				

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 RINGLING LAND & CATTLE COMPANY, LLC WAS AMENDED BY AGREEMENT OF THE PARTIES TO INCLUDE PERIOD 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.

