

IN THE WATER COURT OF THE STATE OF MONTANA
YELLOWSTONE DIVISION
LITTLE MISSOURI RIVER BASIN ABOVE LITTLE BEAVER CREEK (39F)
PRELIMINARY DECREE

* * * * *

CLAIMANTS: Tami V. Larsen; Thomas R. Larsen;
William H. Larsen

CASE 39F-0113-R-2021
39F 175596-00

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

Water Right Claim 39F 175596-00 appeared in the Preliminary Decree for the Musselshell River, above Roundup (Basin 39F). The claim received an issue remark as a

result of the Department of Natural Resources and Conservation's (DNRC) preparation for the Decree. The claim did not receive any objections or notices of intent to appear.

The Court does not require additional information to resolve the issue remarks. However, this claim is consolidated into Water Court Case 39F-0113-R-2021.

FINDINGS OF FACT

1. Claim 39F 175596-00 appeared with two issue remarks. Both remarks indicate that the DNRC received an amendment to the above-captioned claim.

2. The relevant amendment requests modifications to the claimed place of use of this claim. The request is signed by Claimant Thomas R. Larsen.

3. The amendment indicates that the historical place of use should be described as follows:

Government Lot 3, NWNESW of Section 34, T9S, R56E.

SWSENW of Section 34, T9S, R56E.

Government Lot 4, NENWSW of Section 34, T9S, R56E.

4. A marked-up abstract and undated topographic map are attached to the amendment.

5. The marked-up topographic map appears to closely match the map included with the original Statement of Claim filed for the above-captioned claim.

6. The place of use for the above-captioned claim should be described as follows:

Government Lot 3, NWNESW of Section 34, T9S, R56E.

SWSENW of Section 34, T9S, R56E.

Government Lot 4, NENWSW of Section 34, T9S, R56E.

7. The issue remarks should be removed.

APPLICABLE LAW

1. A properly filed statement of claim is prima facie proof of its content. Section 85-2-227, MCA. The prima facie status of a claim may be overcome by a preponderance of the evidence. Section 85-2-227, MCA; Rule 19, W.R.Adj.R. 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.

2. The Water Court must weigh an issue remark, and the information resulting in that issue remark, against the claimed water right. Section 85-2-247(2), MCA.

3. The Water Court must resolve all issue remarks not resolved through the objection process. Section 85-2-248, MCA. The Court must review information in the claim file or obtained by the Court to determine if there is a sufficient basis to resolve the remarks. 85-2-248(3), MCA.

CONCLUSIONS OF LAW

1. The changes described in the Findings of Fact may be made because the evidence in the record overcomes the prima facie status of the claim by a preponderance of the evidence.

2. The evidence in the record and the proposed changes provide the Court with a sufficient basis to resolve and remove each issue remark from the above-captioned claim.

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. A post-decree abstract of Water Right Claim is served with this Report to confirm the recommended changes have been made in the state's centralized record system.

Colton J. Lauer
Water Master

Service via USPS Mail:

Tami V. Larsen
24800 HWY 2026
Natrona, WY 82646

Thomas R. Larsen
2080 Ridge Rd
Alzada, MT 59311

William H. Larsen
11225 W Holland Rd
Casper, WY 82604

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
LITTLE MISSOURI RIVER, ABOVE LITTLE BEAVER CREEK
BASIN 39F**

Water Right Number: **39F 175596-00** STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: TAMI V LARSEN
 24800 HWY 2026
 NATRONA, WY 82646

 THOMAS R LARSEN
 2080 RIDGE RD
 ALZADA, MT 59311

 WILLIAM H LARSEN
 11225 W HOLLAND RD
 CASPER, WY 82604

Priority Date: NOVEMBER 1, 1945

Type of Historical Right: USE

Purpose (Use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Volume: THIS 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.

Source Name: UNNAMED TRIBUTARY OF SHORT 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		NWNESW	34	9S	56E	CARTER

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DAM

Reservoir: ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NWNESW	34	9S	56E	CARTER

Diversion to Reservoir: DIVERSION # 1

THE DAM EXTENDS INTO THE NENWSW SEC 34 TWP 9S RGE 56E CARTER COUNTY.

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		3	NWNESW	34	9S	56E	CARTER

2		SWSENW	34	9S	56E	CARTER
3	4	NENWSW	34	9S	56E	CARTER