

40A-0283-R-2021

September 16, 2021

Montana Water Court

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

* * * * *

CLAIMANTS: Roy S O Connor 2005 Revocable Trust;
Snowbank Ranch Partnership

CASE 40A-0283-R-2021

40A 1620-00
40A 198558-00
40A 199407-00
40A 211380-00
40A 211381-00

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. Because 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

FINDINGS OF FACT

1. Claims 40A 1620-00, 40A 198558-00, 40A 199407-00, and 40A 211380-00 were decreed with the following DNRC issue remark:

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. 40A 1620-00, 40A 198558-00, 40A 199407-00, 40A 211380-00.

The remark indicates that together, the flow rate of claims 40A1620-00, 40A 198558-00, 40A 199407-00, and 40A 211380-00 overclaim the Geo Crawford 1,200 miner's inch right (30 miner's inch (MI)) as follows:

Water Right No.	Current Owner of Record	Filed Notice of Approp Flow Rate (Miner's Inches)	Filed Notice of Approp Flow Rate (CFS)	Claim's Flow Rate (Miner's Inches)	Claim's Flow Rate (CFS)
40A 1620-00	O Connor, Roy Rev Trust	1,200	30	1,200	30
40A 211380-00	O Connor, Roy Rev Trust				
40A 198558-00	Snowbank Ranch Partnership				
40A 199407-00	Snowbank Ranch Partnership			200	5
		Totals:		1400	35

2. Claim 40A 1620-00 was also decreed with the following DNRC issue remark:

AN AMENDMENT WAS SUBMITTED ON 05/23/2016 REQUESTING TO AMEND THE FLOW RATE. THE AMENDMENT WAS NOT PROCESSED. THE AMENDMENT WILL BE REVIEWED AFTER THE ISSUANCE OF THE PRELIMINARY DECREE.

On May 23, 2016, Roy S. O'Connor submitted an Amendment to the flow rate of claim 40A 1620-00, reducing the flow rate to 25.00 cubic feet per second (cfs) and resolving the over-filed notice of appropriation issue.

3. Claims 40A 1620-00 and 40A 199407-00 were decreed as filed rights with April 4, 1887 priority dates and the following issue remark:

THE PRIORITY DATE MAY BE QUESTIONABLE. THIS CLAIM IS FOR A FILED APPROPRIATION ON MUSSELSHELL RIVER WITH A PRIORITY DATE PREDATING CASE NO. 1148, GOLDEN VALLEY COUNTY.

4. Claims 40A 211380-00 and 40A 211381-00 were decreed with the

following issue remarks:

CLAIM WAS NOT INCLUDED IN THE BASIN 40A TEMPORARY PRELIMINARY DECREE ISSUED 05/07/1985.

CLAIM FILED LATE 07/24/1985 . IN ADDITION TO BEING SUBORDINATE TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW, THIS RIGHT MAY ALSO BE SUBORDINATE TO CERTAIN PERMITS AND RESERVATIONS OF WATER. SEE SECTION 85-2-221 MCA.

5. No objections or notices or intent to appear were filed.

PRINCIPLES AND CONCLUSIONS 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. This *prima facie* validity may be overcome by evidence showing that one or more elements of the claim are incorrect. This standard of proof applies to objectors or claimants objecting to their own water right claims. Rule 19, W.R.Adj.R.; *Nelson v. Brooks*, 2014 MT 120, 375 Mont. 86, 95, 329 P.3d 558, 564.

2. With respect to the priority date of claims 40A 1620-00 and 40A 199407-00, the only evidence before the Court is the existence of Case No. 1184 and the resulting issue remark that appeared on claims 40A 1620-00 and 40A 199407-00. While historical decrees provide some evidence of existing water rights on a given source, they are not conclusive. Decrees were often the result of a specific controversy between water users; thus, rights were adjudicated on a piecemeal basis by the district courts. Further, decrees were usually limited in scope, and often multiple decrees were issued on the same stream. *See Albert Stone, Are There Any Adjudicated Streams in Montana?* 19 Mont. L. Rev. 19 (1957).

In short, there are numerous reasons why the claims in this Case may not have appeared in the District Court decree, but objectors bear the burden of establishing that the priority date should be something other than what was claimed. In this Case, the *prima facie* proof of priority date has not been overcome.

3. Claims 40A 211380-00 and 40A 211381-00 are late claims that did not appear in the Temporary Preliminary Decree for this Basin. The late claim issue remark that appeared on these claims gave notice that the claims could be subordinate and therefore junior to certain permits and reservations of water. Any party asserting a

superior claim to water based on a permit or reservation was required to file an objection to that late claim during the objection period. Because no such objections were filed, the remarks can now be removed from these late claims.

RECOMMENDATIONS

1. The flow rate of claim 40A 1620-00 should be reduced to 25.00 cfs.
2. The issue remarks should be removed from the claims in this Case.

Post Decree Abstracts of Water Right Claims are served with the Report to confirm that the recommended changes have been made in the state's centralized record system.

Anika M. Stern
Senior Water Master

Service via USPS Mail:

Roy S O Connor 2005 Revocable Trust
% Trustee
125 Bank St #300
Missoula, MT 59802-4413

Snowbank Ranch Partnership
661 Hwy 360
White Sulphur Springs, MT 59645

ADJ



UPDATE TO FILE



STATEMENT OF CLAIM



***40A ***



1620



00

Current File Location: **NEW STORAGE**
As of : **1/1/1999**

Status: **IN**

Box Bar Code: **13538**

File Bar Code: **244126**

12/21/2016



May 19, 2016

RECEIVED - DNRC

MAY 23 2016

Melissa Norris
Lewistown Regional Office
613 NE Main St E
Lewistown, MT 59457-2020

Lewistown Water Resources

RE: AMENDMENT 40A 1620-00

Dear Ms. Norris,

Enclosed please find a signed amendment to statement of claim form regarding water right 40A 1620-00. Please don't hesitate to contact me with any questions or concerns as you implement this amendment.

Sincerely,
WGM Group



John Westenberg
Senior Water Rights Specialist

CC: Roy O'Connor
Snowbank Ranch Partnership

AMENDMENT TO STATEMENT OF CLAIM *RECEIVED - DNRC*

Claim Number(s) 40A 1620-00

Owner(s). O'Connor, Roy S 2005 Revocable Trust

MAY 23 2016

I make the following amendment(s) to the above statement of claim(s):

(Complete only those sections that require amendment.) Lewistown Water Resources

1. Purpose (use):

b If domestic, number of households served:

c. If stock, total number & type of livestock served

2. **Source of Water:** Tributary of

3. Point of Diversion: County **See attachment**

Lot	Block	1/4	1/4	1/4	Section	Twp	Rge

Subdivision

Replaces claimed information Supplements claimed information Addendum included
If the POD is being amended, attach a map showing all points of diversion for this water right.

4. Period of Diversion: (Month/Day TO Month/Day)

5. Means of Diversion: Well Instream Use Dam

Headgate Pump, capacity _____ gpm
 Other: _____

6. Means of Conveyance: Ditch Pipeline Instream Use
 Other _____

7. Place of Use: County _____ See attachment _____

Replaces claimed information Supplements claimed information Addendum included
If the ROLL is being amended, attach a map showing entire place of use for this water right.

AMENDMENT

Claim Number(s) 40A 1620-00

8. Flow Rate Claimed: 25 cubic feet per second
 gallons per minute
 miner's inches
9. Volume Claimed: _____ acre-feet per year
10. Period(s) of Use: (Month/Day TO Month/Day) _____
11. Priority Date: (Date of first use) _____
12. Type of Historical Right: Decreed Right
 Filed Appropriation Right
 Use Right
13. Reasons for Amendment: _____
14. _____

Please attach proof of
priority date or type of right.

15. Statement Signed by Owner(s): _____ See attachment

I declare under penalty of perjury (§45-7-201, MCA) under the laws of the state of Montana that the foregoing content of this form is true and correct. I further declare that I have the authority to sign this document for myself as an individual or in representational capacity as an officer of a corporation, member of a limited liability company, general partner of a limited partnership, trustee for a trust or other official capacity for an entity as defined under "person" in §85-2-102, MCA. (All current owners of the right as listed in the DNRC centralized records system are required to sign. Please attach DNRC's Amendment Agreement form if additional owner signatures are needed.)

Ray S O'Connor

Typed or Printed Name Ray S O'Connor Office/Title _____
 Signature Ray S O'Connor Date 5/12/2016

Typed or Printed Name _____ Office/Title _____

Signature _____ Date _____

Typed or Printed Name _____ Office/Title _____

Signature _____ Date _____

Typed or Printed Name _____ Office/Title _____

Signature _____ Date _____

MM

REVIEW ABSTRACT OF WATER RIGHT CLAIM

ADT 40A 1620-00

IMPORTANT NOTICE

AN ASTERISK (*) HAS BEEN PLACED NEXT TO EACH ITEM CHANGED IN ACCORDANCE WITH THE SUPREME COURT RULES GOVERNING THE EXAMINATION OF THIS CLAIM.

Water Right Number: 40A 1620-00 STATEMENT OF CLAIM
Version: 2 - REEXAMINED
Status: ACTIVE

Owners: O CONNOR, ROY S 2005 REVOCABLE TRUST
% TRUSTEE
125 BANK ST #300
MISSOULA, MT 59802-4413

Priority Date: APRIL 4, 1887

Enforceable Priority Date: APRIL 4, 1887

THE PRIORITY DATE MAY BE QUESTIONABLE THIS CLAIM IS FOR A FILED APPROPRIATION ON MUSSELSHELL RIVER WITH A PRIORITY DATE PREDATING CASE NO 1148, GOLDEN VALLEY COUNTY

Type of Historical Right: FILED

Purpose (use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 30.00 CFS

Volume:

Climatic Area: 3 - MODERATE

Maximum Acres: 899.00

Source: MUSSELSHELL RIVER

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		NWSWNE	25	7N	17E	WHEATLAND

Period of Diversion: MARCH 15 TO OCTOBER 19

Diversion Means: HEADGATE

Ditch Name: O K DITCH

Period of Use: MARCH 15 to OCTOBER 19

*Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
*1	364.00			32	7N	18E	WHEATLAND
*2	320.00			33	7N	18E	WHEATLAND
*3	147.00		N2	4	6N	18E	WHEATLAND
*4	46.00		S2SW	34	7N	18E	WHEATLAND
*5	14.00		W2W2SE	34	7N	18E	WHEATLAND

*Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
*6	8 00		N2NENE	5	6N	18E	WHEATLAND
Total:	899 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

1620-00 1621-00

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

1620-00 211380-00

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

NOTICE OF WATER RIGHT TRANSFER RECEIVED 09/14/92

WATER RIGHT OWNERSHIP UPDATE RECEIVED 11/22/00

added
AN AMENDMENT WAS SUBMITTED ON 05/23/2016 REQUESTING TO AMEND THE FLOW RATE THE AMENDMENT WAS NOT PROCESSED THE AMENDMENT WILL BE REVIEWED AFTER THE ISSUANCE OF THE PRELIMINARY DECREE

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 40A 1620-00, 40A 198558-00, 40A 199407-00, 40A 211380-00

OWNERSHIP UPDATE RECEIVED

OWNERSHIP UPDATE TYPE DOR # 104116 RECEIVED 09/11/2012

DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION

ADJ 40A 1620-00

Lewistown Water Resources Regional Office



STEVE BULLOCK, GOVERNOR

PHONE (406) 538-7459
FAX (406) 538-7089

613 NE Main St Suite E
Lewistown, MT 59457

May 23, 2016

JOHN WESTENBERG
WGM GROUP
1111 E BROADWAY
MISSOULA, MT 59802

Copy

Re Claim No 40A 1620-00

Dear Mr. Westenberg

Our office received your amendment today on behalf of the Roy S. O'Connor 2005 Revocable Trust. Thank you for your assistance

Since DNRC is not able to modify this claim's flow rate, I was unable to implement your amendment. Instead, an amendment issue remark was added. It is my understanding that this remark serves as notice to other water users of your proposed flow rate change. It can also be used to inform the Water Court that materials related to your claim's over appropriation issue has been filed with the DNRC. It is our hope that the resolution of your issue remark can now be expedited.

An updated water right abstract is enclosed for your records. Please call me if you have any questions. I can be reached at (406) 538-7459. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink that appears to read "Melissa Norris".

Melissa Norris
Water Resource Specialist
DNRC/Lewistown Regional Office
(406) 538-7459

Enclosure

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MUSSELSHELL RIVER, ABOVE ROUNDUP
BASIN 40A**

Water Right Number: 40A 1620-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: O CONNOR, ROY S 2005 REVOCABLE TRUST
% TRUSTEE
125 BANK ST #300
MISSOULA, MT 59802 4413

Priority Date: APRIL 4, 1887

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 25.00 CFS

***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:** 899.00

Source Name: MUSSELSHELL RIVER

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		NWSWNE	25	7N	17E	WHEATLAND

Period of Diversion: MARCH 15 TO OCTOBER 15

Diversion Means: HEADGATE

Ditch Name: O. K. DITCH

Period of Use: MARCH 15 TO OCTOBER 15

***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	147.00		N2	4	6N	18E	WHEATLAND
2	8.00		N2NENE	5	6N	18E	WHEATLAND
3	364.00			32	7N	18E	WHEATLAND
4	320.00			33	7N	18E	WHEATLAND
5	14.00		W2W2SE	34	7N	18E	WHEATLAND
6	46.00		S2SW	34	7N	18E	WHEATLAND
Total:	899.00						

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.

1620-00

211380-00

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MUSSELSHELL RIVER, ABOVE ROUNDUP
BASIN 40A**

Water Right Number: **40A 198558-00** STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: SNOWBANK RANCH PARTNERSHIP
661 HWY 360
WHITE SULPHUR SPRINGS, MT 59645

Priority Date: APRIL 4, 1887

Type of Historical Right: FILED

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. 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: MUSSELSHELL RIVER
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			25	7N	17E	WHEATLAND

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				25	7N	17E	WHEATLAND

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.

198558-00 199407-00

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MUSSELSHELL RIVER, ABOVE ROUNDUP
BASIN 40A**

Water Right Number: **40A 199407-00** STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: SNOWBANK RANCH PARTNERSHIP
661 HWY 360
WHITE SULPHUR SPRINGS, MT 59645

Priority Date: APRIL 4, 1887

Type of Historical Right: FILED

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: 3 - MODERATE

Maximum Acres: 179.70

Source Name: MUSSELSHELL RIVER

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		NENWNW	25	7N	17E	WHEATLAND

Period of Diversion: APRIL 20 TO OCTOBER 15

Diversion Means: HEADGATE

Ditch Name: VONICA DITCH

Period of Use: APRIL 20 TO OCTOBER 15

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	164.80		E2	25	7N	17E	WHEATLAND
2	14.90		SENW	25	7N	17E	WHEATLAND
Total:	179.70						

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.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MUSSELSHELL RIVER, ABOVE ROUNDUP
BASIN 40A**

Water Right Number: **40A 211380-00** STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Late Claim: B

Owners:
O CONNOR, ROY S 2005 REVOCABLE TRUST
% TRUSTEE
125 BANK ST #300
MISSOULA, MT 59802 4413

Priority Date: APRIL 4, 1887

Enforceable Priority Date: JUNE 30, 1973

CLAIM FILED LATE 07/24/1985 . 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: FILED

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. 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: MUSSELSHELL RIVER

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		NWSWNE	25	7N	17E	WHEATLAND
	Period of Diversion:	JANUARY 1 TO DECEMBER 31				
	Diversion Means:	HEADGATE				
	Ditch Name:	O. K. DITCH				
2		N2	32	7N	18E	WHEATLAND
	Period of Diversion:	JANUARY 1 TO DECEMBER 31				
	Diversion Means:	LIVESTOCK DIRECT FROM SOURCE				
3		33	7N	18E	WHEATLAND	
	Period of Diversion:	JANUARY 1 TO DECEMBER 31				
	Diversion Means:	LIVESTOCK DIRECT FROM SOURCE				

4

W2 34 7N 18E WHEATLAND

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		1		4	6N	18E	WHEATLAND
2				5	6N	18E	WHEATLAND
3				32	7N	18E	WHEATLAND
4				33	7N	18E	WHEATLAND
5			W2	34	7N	18E	WHEATLAND

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.

1620-00 211380-00

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MUSSELSHELL RIVER, ABOVE ROUNDUP
BASIN 40A**

Water Right Number: **40A 211381-00** STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Late Claim: B

Owners:
O CONNOR, ROY S 2005 REVOCABLE TRUST
% TRUSTEE
125 BANK ST #300
MISSOULA, MT 59802 4413

Priority Date: MAY 20, 1899

Enforceable Priority Date: JUNE 30, 1973

CLAIM FILED LATE 07/24/1985 . 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: FILED

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. 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: MUSSELSHELL RIVER

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		SENE	32	7N	18E	WHEATLAND

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

2	NWSENE	32	7N	18E	WHEATLAND
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Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: HEADGATE

Ditch Name: TIERNEY DITCH NO. 401A

3		33	7N	18E	WHEATLAND
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Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

4

W2 34 7N 18E WHEATLAND

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			SENE	32	7N	18E	WHEATLAND	
2				33	7N	18E	WHEATLAND	
3				W2	34	7N	18E	WHEATLAND

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.

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