

Montana Water Court
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40A-0415-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

* * * * *

CLAIMANT: RMJ Indreland Trust

CASE 40A-0415-R-2021

40A 20662-00

40A 30151589

OBJECTOR: Richard L Indreland

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

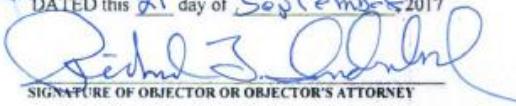
FINDINGS OF FACT

1. RMJ Indreland Trust irrigation claim 40A 20662-00 was decreed without issue remarks.
2. Richard L. Indreland objected to claim 40A 20662-00, requesting an implied claim be generated:

9. State the changes you think should be made to this claim and why. State the specific grounds and evidence on which the Objection is based. (Use additional paper if necessary)

*This Water Right Contains Two (2) appurtections
i.e. one(s) from Twin Spring Creek (Cooks Gulch)
and the other Spring Creek. I request an
implied claim be generated for the Spring Creek
portion. See Attached*

DATED this 21 day of September 2017



SIGNATURE OF OBJECTOR OR OBJECTOR'S ATTORNEY

Mr. Indreland attached a letter to the DNRC to his Objection, along with a document titled "Affidavit", a Notice of Appropriation, maps, a 1953 letter to Richard R. Indreland from attorney Ralph J. Anderson, a photograph, and the Notice of Filing of Objection for claim 40A 20662-00.

3. As decreed, claim 40A 20662-00 describes a July 1, 1896 right for 40.00 miner's inches (1.00 cfs) on Twin Springs Creek (Cooks Gulch). Case No. 3509 also describes a May 1, 1913 water right for 16.00 miner's inches from Spring Creek decreed to Joseph H. Bleiker. The Indreland Objection explains that the Bleiker property in Sections 28 and 33 was later conveyed to Richard R. Indreland. John D. Indreland purchased the Bleiker plats in Section 28 and 33 along with the appurtenant water rights from Spring Creek from Richard R. Indreland. Richard L. Indreland purchased the plats in Section 28 and 33 along with the Spring Creek water rights in February 1992 from John D. Indreland.

4. Unfortunately, a Statement of Claim was only filed for the July 1, 1896 Bleiker right from Twin Springs Creek (now referred to as Cooks Gulch). Richard L. Indreland's Objection was filed to account for the May 1, 1913 Bleiker water right from Spring Creek. The record supports the creation of the implied claim (now referred to as claim 40A 30151589).

5. An Order Setting Filing Deadline was issued on August 18, 2021 setting a deadline for the parties to agree or disagree with the creation of implied claim 40A 30151589-00. A draft implied claim abstract with changes for a proposed implied claim (claim 40A 30151589) was included with the Order Setting Filing Deadline.

6. On September 3, 2021, Jim Lippert, counsel for Richard L. Indreland, filed a Withdrawal of Objection. The filing indicates that Richard L. Indreland agrees with proposed implied claim 40A 30151589 and withdraws his Objection on the basis that the creation of the implied claim satisfies his Objection.

7. Jim Lippert's September 3, 2021 filing will be taken as a Notice of Appearance for Richard L. Indreland for the claims in this Case. This is the last Order Richard L. Indreland will receive in this matter. RMJ Indreland Trust will remain on the service list.

CONCLUSIONS OF LAW

1. The Water Court is required to address any objections a claim receives. Sections, 85-2-247, and 85-2-248, MCA.

2. An implied claim is "a claim authorized by the water court to be separated and individually identified when a statement of claim includes multiple rights." Rule 2(a)(33) W.R.C.E.R. Various attachments were included with the Statement of Claim for 40A 20662-00, including the August 13, 1953 decree in Case No. 3509. Generation of implied of claim 40A 30151589 is warranted in the present Case.

RECOMMENDATIONS

1. Implied claim 40A 30151589 should be generated and the elements of the claim should be identical to parent claim 40A 20662-00, with the following exceptions:

40A 30151589-00:

Priority Date:	JULY 1, 1896	MAY 1, 1913
Flow Rate:	1.00 CFS	179.52 GPM
Maximum Acres:	49.00	3.00
Source Name:	COOKS CULCH	SPRING CREEK

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	SESW	SENWSW	28	10N	10E	MEAGHER

Period of Diversion: JUNE 1 TO SEPTEMBER 30

Diversion Means: HEADGATE

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Typ	Rge	County
1	4.00	3.00	NWNE	NWSW	33 18	10N	10E MEAGHER
2	3.00			SWSW	20	10N	10E MEAGHER
3	12.00			SESW	28	10N	10E MEAGHER
Total:		49.00					

Post Decree Abstracts of Water Right Claims are served with the Report to confirm that the recommended changes have been made in the DNRC's water rights database.

Anika M. Stern
Senior Water Master

Service via USPS Mail:

Richard L Indreland-(Last Order)
RMJ Indreland Trust
Co-Trustees Richard L/Mary J Indreland
8 Spring Creek Rd
Martinsdale, MT 59053

Jim Lippert
Attorney at Law
PO Box 1636
Big Timber, MT 59011
406-932-5410

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

Water Right Number: **40A 20662-00** STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: INDRELAND, RMJ TRUST
% TRUSTEES
8 SPRING CREEK RD
MARTINSDALE, MT 59053

Priority Date: JULY 1, 1896

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 1.00 CFS

***Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 5 - LOW

Maximum Acres: 19.00

Source Name: COOKS GULCH

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		SENNSW	28	10N	10E	MEAGHER

Period of Diversion: JUNE 1 TO SEPTEMBER 30

Diversion Means: HEADGATE

Period of Use: JUNE 1 TO SEPTEMBER 30

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	4.00		NNSW	28	10N	10E	MEAGHER
2	3.00		SNSW	28	10N	10E	MEAGHER
3	12.00		SESW	28	10N	10E	MEAGHER
Total:	19.00						

Remarks:

IMPLIED CLAIM NO. 30151589 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM.

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

Water Right Number: 40A 30151589 STATEMENT OF CLAIM
Version: 1 -- ORIGINAL RIGHT
Status: ACTIVE

Owners: INDRELAND, RMJ TRUST
% TRUSTEES
8 SPRING CREEK RD
MARTINSDALE, MT 59053

Priority Date: MAY 1, 1913

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 179.52 GPM

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 5 - LOW

Maximum Acres: 3.00

Source Name: SPRING 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		SESW	28	10N	10E	MEAGHER

Period of Diversion: JUNE 1 TO SEPTEMBER 30

Diversion Means: HEADGATE

Period of Use: JUNE 1 TO SEPTEMBER 30

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	3.00		NWNE	33	10N	10E	MEAGHER
Total:	3.00						

Remarks:

THIS IMPLIED CLAIM WAS AUTHORIZED BY THE WATER COURT BASED ON INFORMATION IN CLAIM NO. 20662-00.