

Montana Water Court
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43A-0387-R-2020

September 29, 2021

Montana Water Court

IN THE WATER COURT OF THE STATE OF MONTANA
YELLOWSTONE DIVISION
SHIELDS RIVER BASIN 43A
PRELIMINARY DECREE

CLAIMANTS: Eagle Ridge Ranch Montana LP; Natalie Powner
Niewojna

OBJECTOR: Eagle Ridge Ranch Montana LP

CASE 43A-0387-R-2020

43A 138006-00

43A 191773-00

43A 193042-00

43A 193052-00

43A 193070-00

43A 213297-00

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. The record owner of claims 43A 138006-00, 43A 191773-00, 43A 193042-00, 43A 193052-00, and 43A 193070-00 is Eagle Ridge Ranch Montana LP (Eagle Ridge). Natalie Powner Niewojna is the record owner of claim 43A 213297-00.

2. Claims 43A 138006-00, 43A 193042-00, 43A 193052-00, and 43A 193070-00 are related by a decree exceeded issue remark:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE FILED ON THE SAME FORMERLY DECREED WATER RIGHT. THE SUM OF THE CLAIMED FLOW RATES EXCEEDS THE 40 MINER'S INCHES DECREED IN CASE NO. 2717 , PARK COUNTY. 43A 138006-00, 43A 193042-00, 43A 193052-00, 43A 193070-00.

Claims 43A 191773-00 and 43A 213297-00 were also decreed with a decree exceeded issue remark:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE FILED ON THE SAME FORMERLY DECREED WATER RIGHT. THE SUM OF THE CLAIMED FLOW RATES EXCEEDS THE 200 MINER'S INCHES DECREED IN CASE NO. 2717 , PARK COUNTY. 43A 191773-00, 43A 213297-00.

3. Claims 43A 191773-00 and was also decreed with the following notice-type issue remark:

DITCH NAME WAS MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

Claim 43A 193042-00 was decreed with this notice-type remark:

POINT OF DIVERSION AND DITCH NAME WERE MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

And claim 43A 213297-00 was decreed with the following notice-type remark:

THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 43A TEMPORARY PRELIMINARY DECREE ISSUED 08/03/1988.

4. Eagle Ridge objected to claims 43A 138006-00, 43A 191773-00, and 43A 193042-00.

5. An Order was issued setting a deadline for Eagle Ridge to address the issue remarks and the Objections.

6. On September 9, 2021, counsel for Eagle Ridge filed Documentation to Resolve Objections and Issue Remarks (September 9, 2021 Filing). In the September 9, 2021 Filing, Eagle Ridge explains the decree exceeded issue remarks decreed on the

claims in this Case are erroneous, this Master agrees. Claims 43A 138006-00 and 43A 193070-00 are multiple use claims based on the 40 miner's inch (1.00 cfs) right from the South Fork of Elk Creek decreed to James B. Murphy, *as executor of the estate of S.S. Murphy*, with a July 10, 1885 priority date.:

- James Murphy for SS Murphy
 - 7/10/1885: 40 MI (1.00 CFS) (South Fork Elk Creek)
 - 43A 193070-00: stock
 - 43A 138006-00: 1 cfs

Claims 43A 193042-00 and 43A 193052-00 are multiple use claims based on the 40 miner's inch (1.00 cfs) right from the South Fork of Elk Creek decreed to James B. Murphy, *individually*, with a July 10, 1885 priority date.

- James Murphy
 - 7/10/1885: 40 MI (1.00 CFS) (South Fork Elk Creek)
 - 43A 193052-00: stock
 - 43A 193042-00: 1 cfs

7. The May 28, 2021 Order Consolidating and Order Setting Filing Deadline Explained the decree exceeded issue remark decreed on claims 43A 191773-00 and 43A 213297-00 appears to have been added to the claims in error. Both claims are based on the June 10, 1908 Dunlewy Sheep & Land Co. claim for 200 miner's inches (5.00 cfs), along with claim 43A 46031-00 (not in this Case):

- Dunlewy Sheep & land Co
 - 6/10/1908: 200 MI (5.00 CFS) (South Fork of Elk Creek)
 - 43A 46031-00: 1.25 cfs
 - 43A 191773-00: 3.75 cfs
 - 43A 213297-00: stock

Claims 43A 46031-00 and 43A 213297-00 are multiple uses of the same right. In its September 9, 2021 Filing, Eagle Ridge agrees the issue remark decreed on claims 43A 191773-00 and 43A 213297-00 should be removed.

8. Eagle Ridge's Objection to claim 43A 138006-00 states:

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.)

The period of use for irrigation should be corrected to 4/1 - 10/1 to reflect historic use. The claimed POD should be removed and replaced with two PODs in the SENWSW and NWSWSW of Section 30, T4N R10E. POU from South Fork Elk Creek should be reduced to 18 acres. An implied claim for irrigation from Dry Creek should be created for the 21 acres of claimed POU south of South Fork Elk Creek in the S2NW Section 30 with a POD in the NESWNE Section 30.

DATED this 13th day of August, 2019

According to its September 9, 2021 Filing, Eagle Ridge has determined no period of diversion or period of use changes are needed for claim 43A 138006-00. However, to reflect the historical point of diversion and place of use for claim 43A 138006-00, the following changes should be made:

Maximum Acres: ~~29.40~~ 18.00

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	SENEWSW	SENEWNW	20	30	4N	10E PARK

Period of Diversion: MAY 1 TO SEPTEMBER 30
 Diversion Means: HEADGATE

Please add POD #2:
 NWSWSW Section 20, Township 4 North, Range 10 East, Park County
 Means of Diversion: HEADGATE
 Period of Diversion: MAY 1 TO SEPTEMBER 30

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	18.00		NENW	E2NW	30	4N	10E PARK
2	9.40		NESWNW		30	4N	10E PARK
Total:	18.00						

9. The Objection to claim 43A 191773-00 states:

The point of diversion should be corrected to the NWNWSE Section 25, T4N R9E. The period of diversion/use for irrigation should be corrected to 4/1- 10/1 to reflect historic use.

According to its September 9, 2021 Filing, Eagle Ridge has determined no period of diversion or period of use changes are needed for claim 43A 191773-00. However, to reflect the historical point of diversion for claim 43A 191773-00, the following changes should be made:

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	NWNWSE	SWSENE	25	4N	9E	PARK
Period of Diversion: MAY 1 TO SEPTEMBER 20						
Diversions Means: DIKE HEADGATE Ditch Name: METIER-OLSON-JUST DITCH						
2		NESWSW	25	4N	9E	PARK
Period of Diversion: MAY 1 TO SEPTEMBER 20						
Diversions Means: DIKE HEADGATE						
Ditch Name: SHELHAMER DITCH						

10. The Objection to claim 43A 193042-00 states:

on which the Objection is based. (Use additional paper if necessary.)

The period of use for irrigation should be corrected to 4/1 - 9/30 to reflect historic use. The point of diversion locations should be corrected to SENWSW and SESENE Section 20, T4N R10E.

According to its September 9, 2021 Filing, Eagle Ridge has determined no period of diversion or period of use changes are needed for claim 43A 193042-00. However, to reflect the historical point of diversion for claim 43A 193042-00, the following changes should be made:

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	SESENE	SWSENE	20	4N	10E	PARK
Period of Diversion: MAY 1 TO SEPTEMBER 30						
Diversions Means: HEADGATE						
2	SENWSW	NWNESW	20	4N	10E	PARK
Period of Diversion: MAY 1 TO SEPTEMBER 30						
Diversions Means: HEADGATE						
Ditch Name: MARKMAN-MURPHY DITCH						

PRINCIPLES AND CONCLUSIONS OF LAW

1. The Water Court is required to address all issue remarks that appear on a claim as well as any objections the claim receives. Sections 85-2-233, 85-2-247, and 85-2-248, MCA.

2. 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.

3. The decree exceeded issue remarks added to the claims in this Case were added erroneously and should be removed. The remaining issue remarks appearing on claims 43A 191773-00, 43A 193047-00, and 43A 213297-00 are notice-type issue remarks. As the Objections have been resolved, no further proceedings are required.

RECOMMENDATIONS

1. Claims 43A 138006-00, 43A 191773-00, and 43A 193042-00 should be modified as shown in the Findings of Fact.

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 DNRC's water rights database.

Anika M. Stern
Senior Water Master

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**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
SHIELDS RIVER
BASIN 43A**

Water Right Number: 43A 138006-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: EAGLE RIDGE RANCH MONTANA LP
%HOLMES & TURNER
1283 N 14TH AVE STE 201
BOZEMAN, MT 59715 3270

Priority Date: JULY 10, 1885

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: 4 - MODERATELY LOW

Maximum Acres: 18.00

Source Name: ELK CREEK, SOUTH FORK

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		SENEW	20	4N	10E	PARK

Period of Diversion: MAY 1 TO SEPTEMBER 30

Diversion Means: HEADGATE

2		NWSWSW	20	4N	10E	PARK
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Period of Diversion: MAY 1 TO SEPTEMBER 30

Diversion Means: HEADGATE

Period of Use: MAY 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	18.00		NENW	30	4N	10E	PARK

Total: 18.00

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.

138005-00 138006-00 138007-00

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE ASSOCIATED WHICH MEANS THE RIGHTS SHARE THE SAME PLACE OF USE.

47300-00 138005-00 138006-00 138007-00 193071-00 193072-00

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.

138006-00 193070-00

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
SHIELDS RIVER
BASIN 43A**

Water Right Number: 43A 191773-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: EAGLE RIDGE RANCH MONTANA LP
%HOLMES & TURNER
1283 N 14TH AVE STE 201
BOZEMAN, MT 59715 3270

Priority Date: JUNE 10, 1908

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

***Flow Rate:** 3.75 CFS

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: 425.00

Source Name: ELK CREEK, SOUTH FORK

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		NWNWSE	25	4N	9E	PARK

Period of Diversion: MAY 1 TO SEPTEMBER 20

Diversion Means: HEADGATE

Ditch Name: METIER-OLSON-JUST DITCH

2		NESWSW	25	4N	9E	PARK
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Period of Diversion: MAY 1 TO SEPTEMBER 20

Diversion Means: HEADGATE

Ditch Name: SHELHAMER DITCH

Period of Use: MAY 1 TO SEPTEMBER 20

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	425.00			35	4N	9E	PARK

Total: 425.00

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.

35516-00

191773-00

191775-00

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
SHIELDS RIVER
BASIN 43A**

Water Right Number: 43A 193042-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: EAGLE RIDGE RANCH MONTANA LP
%HOLMES & TURNER
1283 N 14TH AVE STE 201
BOZEMAN, MT 59715 3270

Priority Date: JULY 10, 1885

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: 4 - MODERATELY LOW

Maximum Acres: 61.00

Source Name: ELK CREEK, SOUTH FORK

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		SESEW	20	4N	10E	PARK

Period of Diversion: MAY 1 TO SEPTEMBER 30

Diversion Means: HEADGATE

2		SENWSW	20	4N	10E	PARK
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Period of Diversion: MAY 1 TO SEPTEMBER 30

Diversion Means: HEADGATE

Ditch Name: MARKMAN-MURPHY DITCH

Period of Use: MAY 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	61.00		SW	20	4N	10E	PARK

Total: 61.00

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.

193041-00 193042-00

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.

193042-00 193052-00

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
SHIELDS RIVER
BASIN 43A**

Water Right Number: 43A 193052-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: EAGLE RIDGE RANCH MONTANA LP
%HOLMES & TURNER
1283 N 14TH AVE STE 201
BOZEMAN, MT 59715 3270

Priority Date: JULY 10, 1885

Type of Historical Right: DECREED

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: ELK CREEK, SOUTH FORK

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		N2	21	4N	10E	PARK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

2		SW	20	4N	10E	PARK
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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			N2	21	4N	10E	PARK
2			SW	20	4N	10E	PARK

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.

193042-00

193052-00

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
SHIELDS RIVER
BASIN 43A**

Water Right Number: 43A 193070-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: EAGLE RIDGE RANCH MONTANA LP
%HOLMES & TURNER
1283 N 14TH AVE STE 201
BOZEMAN, MT 59715 3270

Priority Date: JULY 10, 1885

Type of Historical Right: DECREED

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: ELK CREEK, SOUTH FORK

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		NW	30	4N	10E	PARK

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			NW	30	4N	10E	PARK

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.

138006-00 193070-00

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
SHIELDS RIVER
BASIN 43A**

Water Right Number: 43A 213297-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: NATALIE POWNER NIEWOJNA
50 ELK CREEK RD W
WILLSALL, MT 59086 9413

Priority Date: JUNE 10, 1908

Type of Historical Right: DECREED

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: ELK CREEK, SOUTH FORK

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		NENESE	33	4N	9E	PARK

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			NENESE	33	4N	9E	PARK

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.

213297-00 46031-00