

Montana Water Court  
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43A-0481-R-2020

September 15, 2021

## Montana Water Court

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

\* \* \* \* \*

CLAIMANT: Queen Ranches, Inc.

CASE 43A-0481-R-2020

43A 8502-00

43A 8503-00

43A 191907-00

OBJECTOR: Queen Ranches, Inc.

COUNTEROBJECTORS: ~~Jacqueline Marie Shiplet Surviving Spouse's Trust; Robert Shiplet Marital Exemption Trust; Robert Shiplet; Steven Shiplet~~

NOTICE OF INTENT TO APPEAR: Shields Valley Land and Cattle, LLC

### 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. Queen Ranches, Inc. is the record owner of claims 43A 8502-00, 43A 8503-00, and 43A 191907-00.
2. Claim 43A 8503-00 was decreed with the following DNRC issue remarks:

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.

POINT OF DIVERSION #3 IS LOCATED AT SESWNE SECTION 36 TWP 2N RGE 9E.

THE CLAIMED PRIORITY DATE MAY BE QUESTIONABLE. THE PRIORITY DATE ON THE SUBMITTED DECREE IS APRIL 29, 1890 AND JULY 1, 1893.

3. Queen Ranches Inc. objected to its own claims 43A 8502-00, 43A 8503-00, and 43A 191907-00.

4. Robert W. Shiplet, Steven W. Shiplet, the Jacqueline Marie Shiplet Surviving Spouse's Trust, and the Robert Shiplet Martial Exemption Trust ("the Shiplets") filed Counterobjections to claims 43A 8502-00, 43A 8503-00, and 43A 191907-00.

5. Shields Valley Land and Cattle LLC ("SVLC") filed a Notice of Intent to Appear to claim 43A 8503-00.

6. The Shiplets unconditionally withdrew their Counterobjections on May 25, 2021. They requested to be removed as a party in this Case. This is the last Order they will receive in this matter.

7. On July 23, 2021, counsel for Claimant/Objector Queen Ranches, Inc ("Queen") filed a Request to Remove Supplemental Rights Remark and Issue Remarks and Resolution of Objections.

As noted by Queen in the July 23, 2021 filing, the point of diversion issue remark and priority date issue remarks decreed on claim 43A 8503-00 appear to have been placed on the claim in error. A 2009 DNRC Field Investigation Memorandum, indicates the points of diversion, as listed on the claim are correct. Additionally, claim 43A 8503-00 is a flood water/high water right and was properly decreed with a September 29, 1901 priority date.

Queen requests that the supplemental rights remark decreed on claim 43A 191907-00 be removed based on 2009 DNRC Field Investigation Memorandum. This Master agrees. Furthermore, this Master routinely removes supplemental rights remarks from claims in preparation for final decree.

Queen reports “The resolution of objections and issue remarks above also resolve the Notice of Intent to Appear of Shields Valley Land and Cattle, LLC.”

#### 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, counterobjections, and notices of intent to appear 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 ditch name issue remark appearing on claim 43A 8503-00 is a notice-type issue remark. As the Objection, Counterobjections, and Notice of Intent to Appear concerns have been resolved, no further proceedings are required.

#### RECOMMENDATIONS

1. The supplemental rights remark should be removed from claim 43A 191907-00.

2. The issue remarks should be removed from claims 43A 8502-00, 43A

8503-00, and 43A 191907-00 with no changes to the elements of the claims.

3. SVLC's Notice of Intent to Appear should be dismissed. If the Notice of Intent to Appear concerns are not resolved by this Master's Report as stated by Queen, SVLC should object to this Report.

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.

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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 8502-00 STATEMENT OF CLAIM  
**Version:** 4 -- POST DECREE  
**Status:** ACTIVE

**Owners:** QUEEN RANCHES INC  
2057 US HIGHWAY 89 N  
WILSALL, MT 59086 9553

**Priority Date:** JULY 1, 1893

**Type of Historical Right:** DECREED

**Purpose (Use):** IRRIGATION

**Irrigation Type:** SPRINKLER/FLOOD

**Flow Rate:** 1.25 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:** 350.00

**Source Name:** ROCK 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		SESWNE	36	2N	9E	PARK
	Period of Diversion:	APRIL 1 TO NOVEMBER 15				
	Diversion Means:	HEADGATE				
	Ditch Name:	QUEEN DITCH				
2 - SECONDARY		SWNWNE	2	1N	9E	PARK
	Period of Diversion:	APRIL 1 TO NOVEMBER 15				
	Diversion Means:	HEADGATE				
3 - SECONDARY		SENENW	2	1N	9E	PARK
	Period of Diversion:	APRIL 1 TO NOVEMBER 15				
	Diversion Means:	HEADGATE				
	WATER DIVERTED FROM ROCK CREEK IS CONVEYED TO SPRING CREEK WHICH IS USED AS A NATURAL CARRIER TO SECONDARY POINT(S) OF DIVERSION, DIVERSION NO(S). 2 AND 3.					

**Period of Use:** APRIL 1 TO NOVEMBER 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	135.00		NE	2	1N	9E	PARK
2	160.00		SW	2	1N	9E	PARK

3	55.00	S2NW	2	1N	9E	PARK
<b>Total:</b>	350.00					

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**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.

8502-00            8506-00

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

**Water Right Number:** 43A 8503-00 STATEMENT OF CLAIM  
**Version:** 4 -- POST DECREE  
**Status:** ACTIVE

**Owners:** QUEEN RANCHES INC  
2057 US HIGHWAY 89 N  
WILSALL, MT 59086 9553

**Priority Date:** SEPTEMBER 29, 1901

**Type of Historical Right:** DECREED

**Purpose (Use):** IRRIGATION

**Irrigation Type:** SPRINKLER/FLOOD

**Flow Rate:** 7.53 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:** 350.00

**Source Name:** ROCK 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		SESWNE	36	2N	9E	PARK
	Period of Diversion:	APRIL 1 TO JULY 29				
	Diversion Means:	HEADGATE				
	Ditch Name:	QUEEN DITCH				
2 - SECONDARY		SWNWNE	2	1N	9E	PARK
	Period of Diversion:	APRIL 1 TO JULY 29				
	Diversion Means:	HEADGATE				
3 - SECONDARY		SENESW	2	1N	9E	PARK
	Period of Diversion:	APRIL 1 TO JULY 29				
	Diversion Means:	HEADGATE				
	Ditch Name:	QUEEN DITCH				
	WATER DIVERTED FROM ROCK CREEK IS CONVEYED TO SPRING CREEK WHICH IS USED AS A NATURAL CARRIER TO SECONDARY POINT(S) OF DIVERSION, DIVERSION NO(S). 2 AND 3.					
<b>Period of Use:</b>	APRIL 1 TO JULY 29					
	RIGHT IS LIMITED TO HIGH OR FLOOD WATERS OF ROCK CREEK.					
<b>Place of Use:</b>						
<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	135.00	NE	2	1N	9E	PARK
2	160.00	SW	2	1N	9E	PARK
3	55.00	S2NW	2	1N	9E	PARK
<b>Total:</b>	<hr/>					
	350.00					

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

**Water Right Number:** 43A 191907-00 STATEMENT OF CLAIM  
**Version:** 4 -- POST DECREE  
**Status:** ACTIVE

**Owners:** QUEEN RANCHES INC  
2057 US HIGHWAY 89 N  
WILSALL, MT 59086 9553

**Priority Date:** JULY 1, 1884

**Type of Historical Right:** DECREED

**Purpose (Use):** IRRIGATION

**Irrigation Type:** FLOOD

**Flow Rate:** 2.25 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:** 41.80

**Source Name:** ROCK 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		SESWNE	36	2N	9E	PARK

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

**Diversion Means:** HEADGATE

**Ditch Name:** QUEEN DITCH

**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>
1	41.80		SE	2	1N	9E	PARK
<b>Total:</b>	41.80						