

Montana Water Court
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76HE-6001-A-2021

September 22, 2021

Montana Water Court

IN THE WATER COURT OF THE STATE OF MONTANA
UPPER CLARK FORK DIVISION
SOUTH END OF THE BITTERROOT RIVER SUBBASIN (76HE)

CLAIMANTS: John E. Christensen; Shelly D. Fuller; Carrie J. Griffin; Rex S. Griffin; David P. King JR; Julie Y. King; Deborah A. Rogala; Mark P. Rogala

76HE-6001-A-2021
76H 216340-00

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

Claim 76H 216340-00 is a sprinkler/flood irrigation claim owned by David P. King, Jr., Julie Y. King, Mark P. Rogala, Deborah A. Rogala, Rex S. Griffin, Carrie J. Griffin, Shelly D. Fuller, and John E. Christensen. On September 7, 2021, Claimants David P. King, Jr., Rex S. Griffin, Carrie J. Griffin, John E. Christensen, and Shelly D. Fuller filed the *Verified Motion to Amend Water Right Claim* for claim 76H 216340-00.

FINDINGS OF FACT

1. Claim 76H 216340-00 is a sprinkler/flood irrigation claim. The claim was generated in 2000 when claim 76H 163000-00 was split into three separate rights – 76H 163000-00, 76H 216340-00, and 76H 13285-00.

2. All three claims share the same point of diversion – a headgate in the SENESW of Section 3, T2N, R21W, Ravalli County.

3. Although claims 76H 163000-00 and 76H 13285-00 list their means of diversion as a headgate, the means of diversion 76H 216340-00 is currently listed as “unknown”.

4. Claim 76H 216340-00’s “unknown” means of diversion is a clerical error from when the claim was generated. The means of diversion should be a headgate.

5. Claimants John Christensen, Shelly Fuller, Rex Griffin, Carrie Griffin, and David King signed the *Motion*. Although the *Motion* is not signed by all co-owners, the correction is clerical and may be implemented.

PRINCIPLE OF LAW

1. The Court may correct a clerical mistake found in a judgment, order, or other part of the record on motion or on its own, with or without notice. Rule 60(a), M.R.Civ.P.

CONCLUSION OF LAW

1. The “unknown” means of diversion for claim 76H 216340-00 is a clerical error and should be corrected to “headgate” pursuant to Rule 60(a), M.R.Civ.P.

RECOMMENDATIONS

Based on the foregoing Findings of Fact and Conclusion of Law, this Master recommends that the Court correct the means of diversion for claim 76H 216340-00 to “headgate”.

A post decree abstract of the water right claim reflecting the recommended changes is attached to this Report.

Melissa Lockman
Water Master

Service via USPS Mail

John E Christensen
18390 Redmond Way Bldg E
Redmond, WA 98052

Shelly D Fuller
141 Elk Trail
Darby, MT 59829

Carrie J Griffin
Rex S Griffin
230 Hart Bench Rd
Darby, MT 59829-9620

David P King Jr
Julie Y King
2806 Little Rd
Valrico, FL 33594

Deborah A Rogala
Mark P Rogala
4359 West Fork Rd
Darby, MT 59829

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
SOUTH END SUBBASIN- BITTERROOT RIVER
BASIN 76H**

Water Right Number: **76H 216340-00** STATEMENT OF CLAIM

Version: 2 -- ORIGINAL RIGHT

Status: ACTIVE

Owners:
JOHN E CHRISTENSEN
18390 REDMOND WAY BLDG E
REDMOND, WA 98052

SHELLY D FULLER
141 ELK TRAIL
DARBY, MT 59829

CARRIE J GRIFFIN
230 HART BENCH ROAD
DARBY, MT 59829

REX S GRIFFIN
230 HART BENCH RD
DARBY, MT 59829 9620

DAVID P KING JR
2806 LITTLE RD
VALRICO, FL 33594

JULIE Y KING
2806 LITTLE RD
VALRICO, FL 33594

DEBORAH A ROGALA
4359 WEST FORK RD
DARBY, MT 59829

MARK P ROGALA
4359 WEST FORK RD
DARBY, MT 59829

OWNERSHIP UPDATE PROCESSED TO ADD NEW OWNERS. THE WATER RIGHT
MAY BE SPLIT INTO SEPARATE WATER RIGHTS AFTER FINAL DECREE UPON
REQUEST OF THE OWNERS.

Priority Date: APRIL 1, 1889

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 1.41 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: 70.00

Source Name: CHAFFIN 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		SENESW	3	2N	21W	RAVALLI

Period of Diversion: APRIL 1 TO SEPTEMBER 30

Diversion Means: HEADGATE

Ditch Name: SWEDE DITCH

DITCH NAME: SWEDE DITCH

Period of Use: APRIL 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	70.00		E2NW	12	2N	21W	RAVALLI

Total: 70.00

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.

216340-00 216342-00

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

THIS IMPLIED CLAIM WAS AUTHORIZED BY THE WATER COURT BASED ON INFORMATION IN CLAIM NO. W163000-00.

| **THE FOLLOWING POTENTIAL ISSUES WERE IDENTIFIED DURING CLAIMS EXAMINATION**
| **OR DURING PREVIOUS WATER COURT PROCEEDINGS.**

| CLAIM WAS NOT INCLUDED IN THE BASIN TEMPORARY PRELIMINARY DECREE ISSUED 05/25/94.