

IN THE WATER COURT OF THE STATE OF MONTANA  
YELLOWSTONE DIVISION  
LITTLE MISSOURI RIVER BASIN ABOVE LITTLE BEAVER CREEK (39F)  
PRELIMINARY DECREE

\* \* \* \* \*

CLAIMANTS: Randy Borchgrevink; Wendy Borchgrevink

OBJECTORS: Randy Borchgrevink; Wendy Borchgrevink

**CASE 39F-0411-R-2022**

39F 175897-00

39F 175901-00

39F 175902-00

39F 175904-00

39F 175907-00

39F 175909-00

39F 177058-00

39F 177060-00

39F 177063-00

**NOTICE OF FILING OF MASTER'S REPORT**

This Master's Report was filed with the Montana Water Court on the above-stamped date. Please review this report carefully.

You may file a written objection to this Master's Report within **10 days** of the stamped date if you disagree or find errors with the Master's findings of fact, conclusions of law, or recommendations. Rule 23, W.R.Adj.R. If the Master's Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must serve a copy of the objection to all parties on the service list found at the end of the 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. Randy Borchgrevink and Wendy Borchgrevink (the Borchgrevinks) are the record owners of claims 39F 175897-00, 39F 175901-00, 39F 175902-00, 39F 175904-00, 39F 175907-00, 39F 175909-00, 39F 177058-00, 39F 177060-00, and 39F 177063-00.

2. Claims 39F 175897-00, 39F 175901-00, 39F 175902-00, 39F 177058-00, 39F 177060-00, and 39F 177063-00 were decreed with DNRC issue remarks.

3. The Borchgrevinks objected to claims 39F 175897-00, 39F 175901-00, 39F 175902-00, 39F 175904-00, 39F 175907-00, 39F 175909-00, 39F 177060-00, and 39F 177063-00.

4. An Order was issued, setting a deadline for the Borchgrevinks to confirm that the Objections would be resolved if certain changes were made to the claims. A deadline was also set for the Borchgrevinks to file evidence supporting their Objection to claim 39F 177060-00.

#### **39F 175897-00:**

5. Claim 39F 175879-00 was decreed with the following DNRC issue remarks:

THE CLAIMANT DID NOT IDENTIFY THE PERIOD OF DIVERSION FOR THIS RIGHT. A PERIOD OF DIVERSION HAS BEEN ADDED TO MATCH THE PERIOD OF USE. IF NO OBJECTIONS ARE RECEIVED TO THE PERIOD OF DIVERSION OR PERIOD OF USE, THOSE ELEMENTS WILL BE DECREED AS SHOWN ON THIS ABSTRACT AND THIS ISSUE REMARK WILL BE REMOVED FROM THIS CLAIM.

RESERVOIR RECORD 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.

THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. THE CLAIMED VOLUME EQUALS 31.25 TIMES THE CAPACITY OF THE RESERVOIR.

The period of diversion and reservoir remarks are notice-type remarks and do not require further attention.

6. The Borchgrevinks' Objection to claim 39F 175897-00 states:

DNRC remark indicated the volume claimed exceed DNRC guidelines; however a review of the 1944 and 2017 aerial photograph indicates the surface area of the reservoir is 7.68 acres and the capacity would then be 15.36 AF and two fills of the reservoir would equal 30.72 AF; therefore, the claimed volume should be reduced from 75.00 AF to 30.72 AF

7. Based on the record, it appears the following changes should be made to claim 39F 175879-00, resolving the volume issue remark and the Objection:

**Volume:** 75.00 AC-FT **30.72 AC-FT**

**Point of Diversion and Means of Diversion:**

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SENESE	22	7S	61E	CARTER

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** DAM

**Reservoir:** ONSTREAM

Govt Lot	Qtr Sec	Sec	Twp	Rge	County
	SENESE	22	7S	61E	CARTER

**Diversion to Reservoir:** DIVERSION # 1

**Dam Height:** 8.00 FEET

**Depth:** 5.00 FEET

**Surface Area:** ~~1.20 ACRES~~ **7.68 ACRES**

**Capacity:** ~~2.40 ACRE-FEET~~ **14.36 ACRE-FEET**

~~THE SURFACE AREA, DEPTH, DAM HEIGHT AND CAPACITY HAVE BEEN ESTIMATED BY DNRC.~~

### 39F 175901-00:

9. Claim 39F 175901-00 was decreed with the following DNRC issue remarks:

POINT OF DIVERSION 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.

THE RESERVOIR APPEARS TO BE SENESW SEC 29, TWP 7S RGE 62E, CARTER COUNTY

The point of diversion remark is notice-type remark and does not require further attention.

10. The Borchgrevinks' Objection to claim 39F 175901-00 states:

Correct the place of use from NWNESW, 29-07S-62E to SENESW, 29-07S62E, Carter County;

Correct legal description of reservoir location from NWNESW, 29-07S-62E to SENESW, 29-07S-62E.

11. Based on the record, it appears the following changes should be made to claim 39F 175901-00, resolving the reservoir issue remark and the Objection:

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 SW	29	7S	62E	CARTER

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DAM

\*Reservoir: ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
SENE SW	NWNE SW	29	7S	62E	CARTER

Diversion to Reservoir: DIVERSION # 1

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 SW	NWNE SW	29	7S	62E	CARTER

**39F 175902-00:**

12. Claim 39F 175902-00 was decreed with the following DNRC issue remarks:

POINT OF DIVERSION 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.

IT APPEARS THE LEGALS FOR THE RESERVOIR SHOULD BE NENESW, SEC 20, TWP 7S, RGE 62E CARTER COUNTY.

The point of diversion remark is notice-type remark and does not require further attention.

13. The Borchgrevinks' Objection to claim 39F 175902-00 states:

9. State the changes you think should be made to this claim and why. State the specific grounds and evidence  
Correct legal description of place of use to SENE SW, N2NE SW, 20-07S-62E. Correct location of reservoir to NENESW, 20-07S-62E;

14. Based on the record, it appears the following changes should be made to claim 39F 175902-00, resolving the reservoir issue remark and the Objection:

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		NENE SW	20	7S	62E	CARTER

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DAM

\*Reservoir: ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
NENE SW	SENE SW	20	7S	62E	CARTER

Diversion to Reservoir: DIVERSION # 1

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 SW	20	7S	62E	CARTER
2		N2NE SW	SWNE SW	20	7S	62E	CARTER

**39F 175904-00:**

15. The Borchgrevinks' Objection to claim 39F 175904-00 states:

Correct legal description of the point of diversion from NENWSE, 21-07S-62E to SWSENE, 21-07S-62E

Correct legal description of place of use from NENWSE, 21-07S-62E to SWSENE, 21-07S-62E

16. Based on the record, it appears the following changes should be made to claim 39F 175904-00, resolving the Objection:

**Point of Diversion and Means of Diversion:**

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	SWSENE	NENWSE	21	7S	62E	CARTER

**Place of Use:**

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SWSENE	NENWSE	21	7S	62E	CARTER

**39F 175907-00:**

17. The Borchgrevinks' Objection to claim 39F 175907-00 states:

Correct the point of diversion from SWNWNE, 24-07S-61E to SENENW, 24-07S-61E,

Add a second place of use; SENENW, 24-07S-61E

18. Based on the record, it appears the following changes should be made to claim 39F 175907-00, resolving the Objection:

**\*Point of Diversion and Means of Diversion:**

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	SENENW	SWNWNE	24	7S	61E	CARTER

**\*Place of Use:**

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1			SWNWNE	24	7S	61E	CARTER
2			SENENW	24	7S	61E	CARTER

**39F 175909-00:**

19. The Borchgrevinks' Objection to claim 39F 175909-00 states:

POD/POU no: 4 needs to be changed from NW, 11-07S-61E to W2NW, 11-07S-61E

20. Based on the record, it appears the following changes should be made to claim 39F 175909-00, resolving the Objection:

**\*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		W2SW	10	7S	61E	CARTER
	Period of Diversion: JANUARY 1 TO DECEMBER 31					
	Diversion Means: LIVESTOCK DIRECT FROM SOURCE					
2		N2	10	7S	61E	CARTER
	Period of Diversion: JANUARY 1 TO DECEMBER 31					
	Diversion Means: LIVESTOCK DIRECT FROM SOURCE					
3		SE	10	7S	61E	CARTER
	Period of Diversion: JANUARY 1 TO DECEMBER 31					
	Diversion Means: LIVESTOCK DIRECT FROM SOURCE					
4		W2NW	11	7S	61E	CARTER
	Period of Diversion: JANUARY 1 TO DECEMBER 31					
	Diversion Means: LIVESTOCK DIRECT FROM SOURCE					

**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			W2SW	10	7S	61E	CARTER
2			N2	10	7S	61E	CARTER
3			SE	10	7S	61E	CARTER
4			W2NW	11	7S	61E	CARTER

**39F 177058-00:**

21. The issue remark decreed claim 39F 177058-00 states:

THE POINT OF DIVERSION APPEARS TO BE INCORRECT. THE POINT OF DIVERSION APPEARS TO BE IN THE SENENW SEC 14 TWP 7S RGE 61E CARTER COUNTY.

22. Based on the record, it appears the following changes should be made to claim 39F 177058-00, resolving the issue remark:

**\*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	SENENW	S2NENW	14	7S	61E	CARTER

**39F 177060-00:**

23. Claim 39F 177060-00 was decreed with the following DNRC issue remarks:

THE CLAIMANT DID NOT IDENTIFY THE PERIOD OF DIVERSION FOR THIS RIGHT. A PERIOD OF DIVERSION HAS BEEN ADDED TO MATCH THE PERIOD OF USE. IF NO OBJECTIONS ARE RECEIVED TO THE PERIOD OF DIVERSION OR PERIOD OF USE, THOSE ELEMENTS WILL BE DECREED AS SHOWN ON THIS ABSTRACT AND THIS ISSUE REMARK WILL BE REMOVED FROM THIS CLAIM.

THE POINT OF DIVERSION APPEARS TO BE INCORRECT. THE POINT OF DIVERSION APPEARS TO BE IN THE NENENW SEC 23 TWP 7S RGE 61E CARTER COUNTY.

THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. THE CLAIMED VOLUME EQUALS 5.2 TIMES THE CAPACITY OF THE RESERVOIR.

The period of diversion remark is a notice-type remark and does not require further attention.

24. The Borchgrevinks' Objection to claim 39F 177060-00 states:

Correct the point of diversion from NENW, 23-07S-61E to NENENW, 23-07S-61E, DNRC incorrectly identified the surface area of the reservoir as 6.00 acres; whereas, historical aerial photographs indicate 22.60 acres; which increase the reservoir capacity to 108.50 AF and claim volume after two fills to 217.00 AF.

25. On June 22, 2022, The Borchgrevinks filed measurements for their reservoir, substantiating a 217.00 acre-feet volume; a copy of the filing is attached.

26. Based on the record, it appears the following changes should be made to claim 39F 177060-00, resolving the point of diversion and volume issue remarks and the Objection:

Volume: ~~150.00 AC-FT~~ **217.00 AC-FT**

\*Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	<b>NENENW</b>	NENW	23	7S	61E	CARTER

### 39F 177063-00:

27. Claim 39F 177063-00 was decreed with the following DNRC issue remarks:

THE CLAIMANT DID NOT IDENTIFY THE PERIOD OF DIVERSION FOR THIS RIGHT. A PERIOD OF DIVERSION HAS BEEN ADDED TO MATCH THE PERIOD OF USE. IF NO OBJECTIONS ARE RECEIVED TO THE PERIOD OF DIVERSION OR PERIOD OF USE, THOSE ELEMENTS WILL BE DECREED AS SHOWN ON THIS ABSTRACT AND THIS ISSUE REMARK WILL BE REMOVED FROM THIS CLAIM.

RESERVOIR RECORD 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.

THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. THE CLAIMED VOLUME EQUALS 3.1 TIMES THE CAPACITY OF THE RESERVOIR.

The period of diversion and reservoir remarks are notice-type remarks and do not require further attention.

28. The Borchgrevinks' Objection to claim 39F 177063-00 states:

DNRC guidelines identified 388.80 AF; DNRC guidelines also allow for 2 fills of the reservoir; therefore, the claimed volume of this claim should be reduced to 775.00 AF

29. Based on the record, it appears the following changes should be made to claim 39F 177063-00, resolving the volume issue remark and the Objection:

Volume: ~~1,200.00 AC-FT~~ **775.00 AC-FT**

### 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 notice-type issue remarks should be removed as all Objections have been resolved and no further proceedings are required.

### RECOMMENDATIONS

1. The claims in this Case should be modified as discussed in the Findings of Fact.
  2. The issue remarks should be removed from the claims.
  3. The Objections to the claims in this Case should be dismissed as resolved.
- Post Decree Abstracts of Water Right Claims are served with the Report for review.

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Anika M. Stern  
Senior Water Master

### **Service via USPS Mail:**

Randy Borchgrevink  
Wendy Borchgrevink  
2641 Little Missouri Road  
Belle Fourche, SD 57717



FILED

JUN 22 2022

Montana Water Court

P.O. Box 1389

Bozeman, Mt. 59711

Montana Water Court

In regards to Water Court Case 39F-0411-R-2022;  
we had Black Otter Water Resources, LLC provide  
us with evidence that would support the increase  
in volume for water right claim number 39F177060-00.  
Enclosed with this letter is Mr. Bishop's affidavit  
and aerial photographs.

Thank you  
Randy Bouhquith

W. J. Bouhquith

2641 Little Missouri Road  
Belle Fourche, S.D. 57717

BLACK OTTER  
WATER RESOURCES, LLC  
1827 Ave E  
Billings, MT 59102  
(406) 697-2985

AFFIDAVIT OF WILLIAM D. BISHOP

Water Court Order: 39F-0411-R-2022

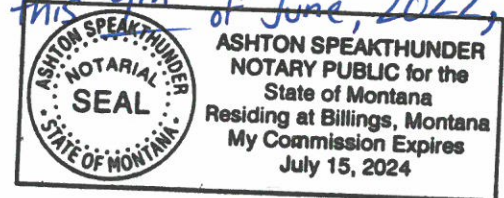
I, William D. Bishop, owner and operator of Black Otter Water Resources, LLC conducted a desk top and field investigation of water right claim number 39F 177060-00 on August 26 – 28, 2019. The findings of the desk top and field investigation are:

1. The surface area of the 1940 aerial photograph number MA-7-189, was delineated using ArcMap software program, which indicated an estimated surface area of 11.70 acres with an estimated capacity of 56.20 AF = (Depth 12.00' X Area 11.70 ac X factor 0.40). (See attached aerial photograph)
2. The surface area of the July 28, 1972, aerial photograph number 1VDAP-1-311 was delineated using ArcMap software program, which indicated a surface area of 22.60 acres with an estimated capacity of 108.50 AF = (Depth 12.00' X Area 22.60 ac X factor 0.40); therefore, the capacity of the reservoir for two fills would be 217.00 AF. (See attached aerial photograph)
3. The DNRC values for the height (15.00') and depth (12.00") of the reservoir were used.
4. The Montana Department of Natural Resources Examination Manual on page 428, second paragraph identifies that on stream reservoir can be refilled.
5. In discussion with the claimant; he states the reservoir on a good year will fill twice.
6. A topographic map has been included in this affidavit.

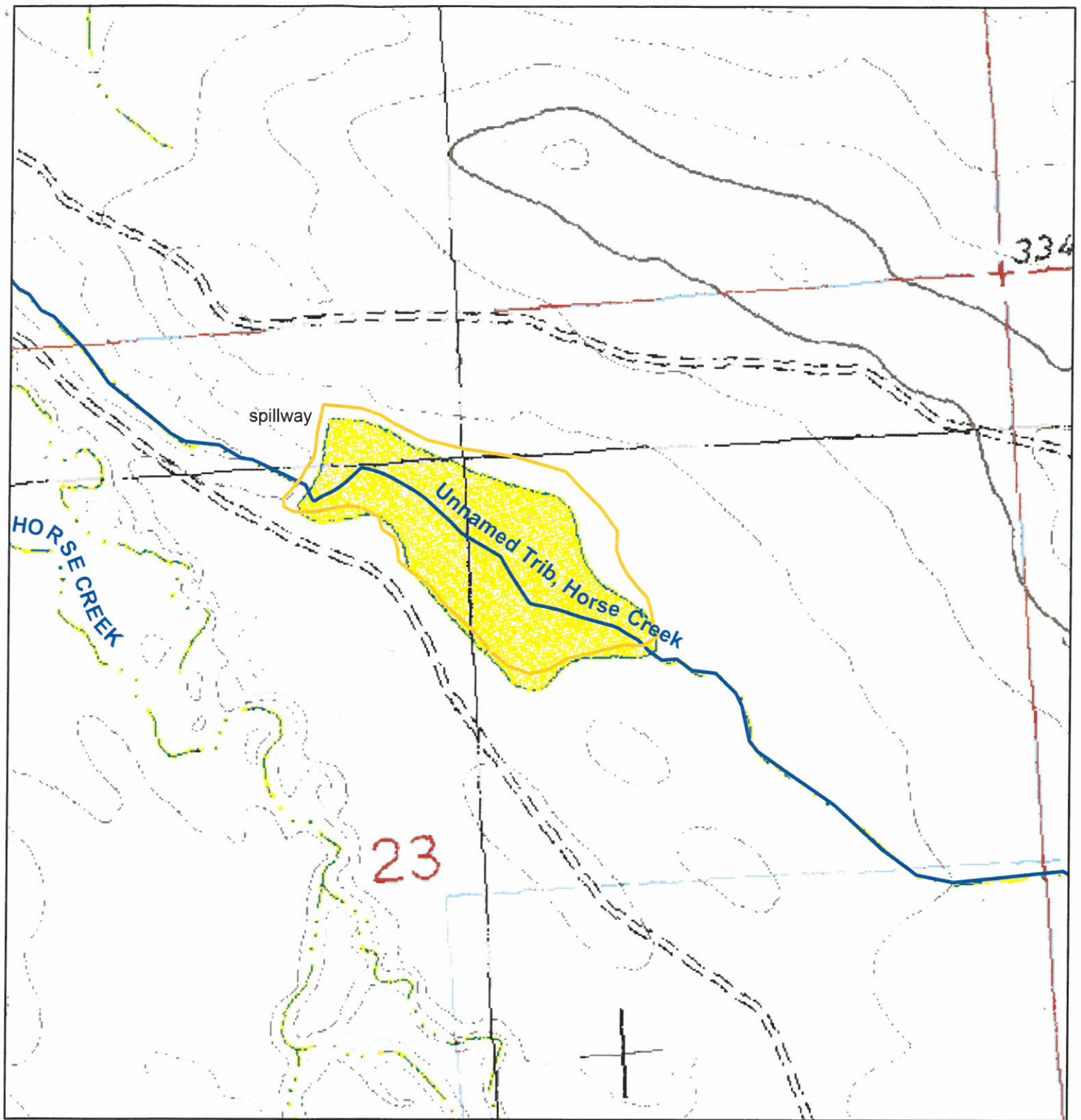
I, William D. Bishop, do attest that the above statement is true and accurate to the best of my knowledge.

State of Montana  
County of Yellowstone

This document was acknowledged before me on this 9th of June, 2022,  
by William D. Bishop.







## Borchgrevink Property

Dam/Reservoir

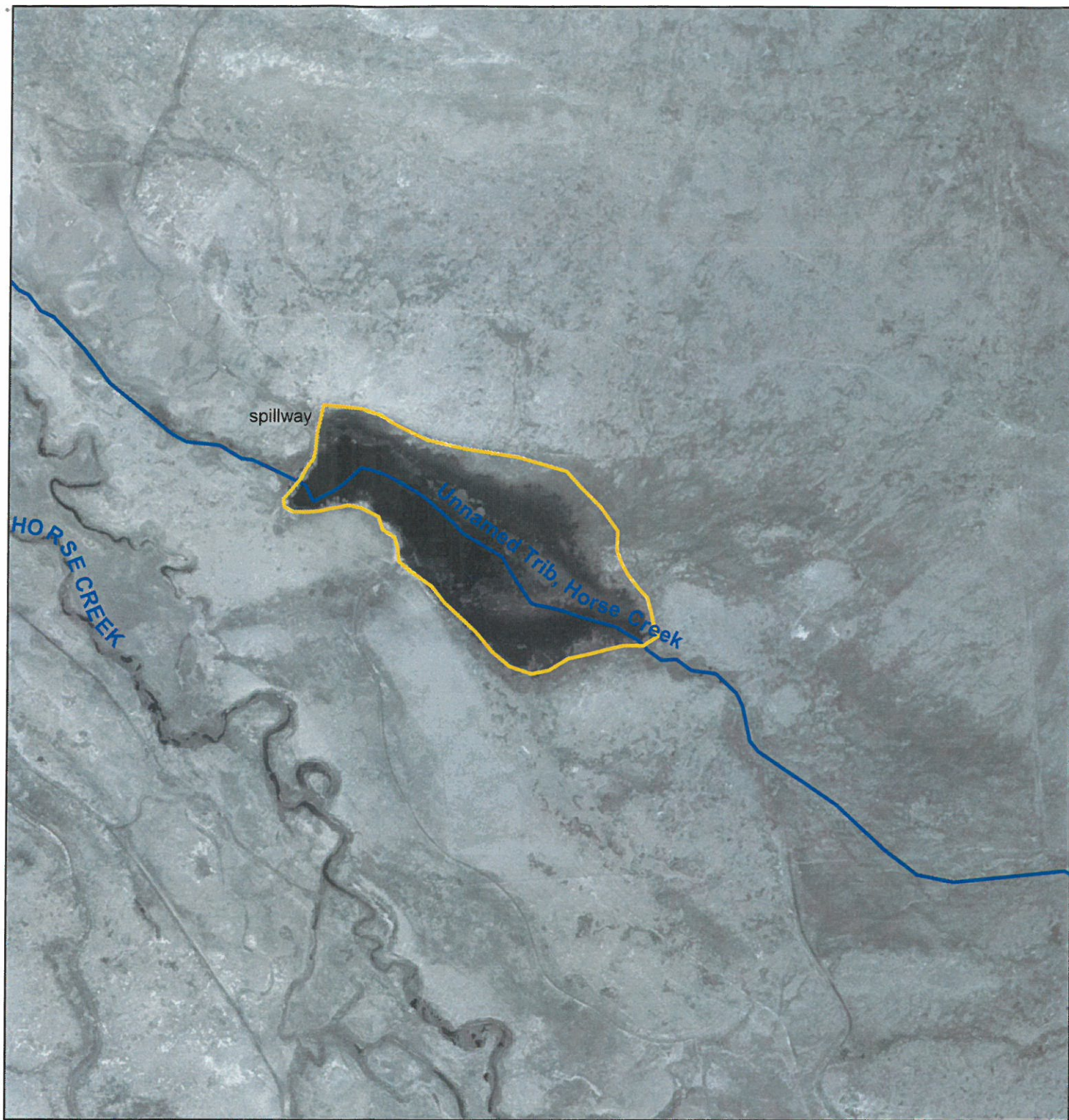
39F 177060 00

USGS Topographic Map  
Aerial Photo No: Carter County  
Topo Date: 1980



Black Otter  
Water Resources, LLC  
June 8, 2022





USDA Aerial Photograph  
Aerial Photo No: 1VDAP-1-311  
Topo Date: 07/28/1972



## Borchgrevink Property

Dam/Reservoir

 39F 177060 00

Black Otter  
Water Resources, LLC  
June 8, 2022





## Borchgrevink Property

Dam/Reservoir

39F 177060 00

USDA Aerial Photograph  
Aerial Photo No: MA-7-189  
Topo Date: 1940's



Black Otter  
Water Resources, LLC  
June 8, 2022

**WATER COURT**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**LITTLE MISSOURI RIVER, ABOVE LITTLE BEAVER CREEK**  
**BASIN 39F**

**Water Right Number:** 39F 175897-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** RANDY BORCHGREVINK  
2641 LITTLE MISSOURI ROAD  
BELLE FOURCHE, SD 57717

WENDY BORCHGREVINK  
2641 LITTLE MISSOURI ROAD  
BELLE FOURCHE, SD 57717

**Priority Date:** AUGUST 1, 1910

**Type of Historical Right:** FILED

**Purpose (use):** IRRIGATION

**Irrigation Type:** WATER SPREADING

**Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF DIRECT FLOW WATER SPREADING.

**Volume:** 30.72 AC-FT

**Climatic Area:** 2 - MODERATELY HIGH

**Maximum Acres:** 50.00

**Source Name** UNNAMED TRIBUTARY OF HORSE 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		SENESE	22	7S	61E	CARTER

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** DAM

**Reservoir:** ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SENESE	22	7S	61E	CARTER

**Diversion to Reservoir:** DIVERSION # 1

**Dam Height:** 8.00 FEET

**Depth:** 5.00 FEET

**Surface Area:** 7.68 ACRES

**Capacity:** 14.36 ACRE-FEET

**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>
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1	50.00	SW	15	7S	61E	CARTER
<b>Total:</b>	50.00					

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**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.

175897-00	175898-00	177060-00	177061-00	177063-00
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**WATER COURT**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**LITTLE MISSOURI RIVER, ABOVE LITTLE BEAVER CREEK**  
**BASIN 39F**

**Water Right Number:** 39F 175901-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** RANDY BORCHGREVINK  
2641 LITTLE MISSOURI ROAD  
BELLE FOURCHE, SD 57717

WENDY BORCHGREVINK  
2641 LITTLE MISSOURI ROAD  
BELLE FOURCHE, SD 57717

**Priority Date:** DECEMBER 31, 1917

**Type of Historical Right:** USE

**Purpose (use):** STOCK

**Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. 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** UNNAMED TRIBUTARY OF ELKHORN 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		SENE SW	29	7S	62E	CARTER

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** DAM

**\*Reservoir:** ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SENE SW	29	7S	62E	CARTER

**Diversion to Reservoir:** DIVERSION # 1

**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 SW	29	7S	62E	CARTER



**WATER COURT**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**LITTLE MISSOURI RIVER, ABOVE LITTLE BEAVER CREEK**  
**BASIN 39F**

**Water Right Number:** 39F 175902-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** RANDY BORCHGREVINK  
2641 LITTLE MISSOURI ROAD  
BELLE FOURCHE, SD 57717

WENDY BORCHGREVINK  
2641 LITTLE MISSOURI ROAD  
BELLE FOURCHE, SD 57717

**Priority Date:** DECEMBER 31, 1970

**Type of Historical Right:** USE

**Purpose (use):** STOCK

**Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. 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** UNNAMED TRIBUTARY OF ELKHORN 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		NENESW	20	7S	62E	CARTER

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** DAM

**\*Reservoir:** ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NENESW	20	7S	62E	CARTER

**Diversion to Reservoir:** DIVERSION # 1

**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			SENESEW	20	7S	62E	CARTER
2			N2NESEW	20	7S	62E	CARTER

**WATER COURT**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**LITTLE MISSOURI RIVER, ABOVE LITTLE BEAVER CREEK**  
**BASIN 39F**

**Water Right Number:** 39F 175904-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** RANDY BORCHGREVINK  
2641 LITTLE MISSOURI ROAD  
BELLE FOURCHE, SD 57717

WENDY BORCHGREVINK  
2641 LITTLE MISSOURI ROAD  
BELLE FOURCHE, SD 57717

**Priority Date:** DECEMBER 31, 1925

**Type of Historical Right:** USE

**Purpose (use):** STOCK

**Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. 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** UNNAMED TRIBUTARY OF ELKHORN 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		SWSENE	21	7S	62E	CARTER

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** DAM

**\*Reservoir:** ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NENWSE	21	7S	62E	CARTER

**Diversion to Reservoir:** DIVERSION # 1

**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			SWSENE	21	7S	62E	CARTER

**WATER COURT**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**LITTLE MISSOURI RIVER, ABOVE LITTLE BEAVER CREEK**  
**BASIN 39F**

**Water Right Number:** 39F 175907-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** RANDY BORCHGREVINK  
2641 LITTLE MISSOURI ROAD  
BELLE FOURCHE, SD 57717

WENDY BORCHGREVINK  
2641 LITTLE MISSOURI ROAD  
BELLE FOURCHE, SD 57717

**Priority Date:** DECEMBER 31, 1917

**Type of Historical Right:** USE

**Purpose (use):** STOCK

**Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. 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** UNNAMED TRIBUTARY OF LITTLE MISSOURI 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		SENENW	24	7S	61E	CARTER

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** DAM

**\*Reservoir:** ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SWNWNE	24	7S	61E	CARTER

**Diversion to Reservoir:** DIVERSION # 1

**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			SWNWNE	24	7S	61E	CARTER
2			SENENW	24	7S	61E	CARTER

**WATER COURT**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**LITTLE MISSOURI RIVER, ABOVE LITTLE BEAVER CREEK**  
**BASIN 39F**

**Water Right Number:** 39F 175909-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** RANDY BORCHGREVINK  
2641 LITTLE MISSOURI ROAD  
BELLE FOURCHE, SD 57717

WENDY BORCHGREVINK  
2641 LITTLE MISSOURI ROAD  
BELLE FOURCHE, SD 57717

**Priority Date:** AUGUST 31, 1902

**Type of Historical Right:** USE

**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** LITTLE MISSOURI 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		W2SW	10	7S	61E	CARTER
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31					
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE					
2		N2	10	7S	61E	CARTER
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31					
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE					
3		SE	10	7S	61E	CARTER
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31					
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE					
4		W2NW	11	7S	61E	CARTER
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31					
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE					
<b>Period of Use:</b>	JANUARY 1 TO DECEMBER 31					

**Place of Use:**

<b><u>ID</u></b>	<b><u>Acres</u></b>	<b><u>Govt Lot</u></b>	<b><u>Qtr Sec</u></b>	<b><u>Sec</u></b>	<b><u>Twp</u></b>	<b><u>Rge</u></b>	<b><u>County</u></b>
1			W2SW	10	7S	61E	CARTER
2			N2	10	7S	61E	CARTER
3			SE	10	7S	61E	CARTER
4			W2NW	11	7S	61E	CARTER

**WATER COURT**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**LITTLE MISSOURI RIVER, ABOVE LITTLE BEAVER CREEK**  
**BASIN 39F**

**Water Right Number:** 39F 177058-00 STATEMENT OF CLAIM  
**Version:** 3 -- POST DECREE  
**Status:** ACTIVE

**Owners:** RANDY BORCHGREVINK  
2641 LITTLE MISSOURI ROAD  
BELLE FOURCHE, SD 57717  
  
WENDY BORCHGREVINK  
2641 LITTLE MISSOURI ROAD  
BELLE FOURCHE, SD 57717

**Priority Date:** JULY 31, 1945  
**Type of Historical Right:** USE  
**Purpose (use):** STOCK  
**Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. 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** UNNAMED TRIBUTARY OF LITTLE MISSOURI 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		SENENW	14	7S	61E	CARTER

**Period of Diversion:** JANUARY 1 TO DECEMBER 31  
**Diversion Means:** DAM  
**\*Reservoir:** ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
S2NENW	14	7S	61E	CARTER	

**Diversion to Reservoir:** DIVERSION # 1

**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			S2NENW	14	7S	61E	CARTER

**WATER COURT**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**LITTLE MISSOURI RIVER, ABOVE LITTLE BEAVER CREEK**  
**BASIN 39F**

**Water Right Number:** 39F 177060-00 STATEMENT OF CLAIM  
**Version:** 3 -- POST DECREE  
**Status:** ACTIVE

**Owners:** RANDY BORCHGREVINK  
2641 LITTLE MISSOURI ROAD  
BELLE FOURCHE, SD 57717  
  
WENDY BORCHGREVINK  
2641 LITTLE MISSOURI ROAD  
BELLE FOURCHE, SD 57717

**Priority Date:** DECEMBER 31, 1940  
**Type of Historical Right:** USE  
**Purpose (use):** IRRIGATION  
**Irrigation Type:** WATER SPREADING  
**Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF DIRECT FLOW WATER SPREADING.  
**Volume:** 217.00 AC-FT  
**Climatic Area:** 2 - MODERATELY HIGH  
**Maximum Acres:** 125.00

**\*Source Name** UNNAMED TRIBUTARY OF HORSE 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		NENENW	23	7S	61E	CARTER

**Period of Diversion:** JANUARY 1 TO DECEMBER 31  
**Diversion Means:** DAM  
**\*Reservoir:** ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NENW	23	7S	61E	CARTER

**Diversion to Reservoir:** DIVERSION # 1  
THE DAM EXTENDS INTO THE SENENW SEC 23 TWP 7S RGE 61E CARTER COUNTY.

**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	125.00		N2	14	7S	61E	CARTER
<b>Total:</b>	125.00						

**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.

175897-00

175898-00

177060-00

177061-00

177063-00



**WATER COURT**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**LITTLE MISSOURI RIVER, ABOVE LITTLE BEAVER CREEK**  
**BASIN 39F**

**Water Right Number:** 39F 177063-00 STATEMENT OF CLAIM  
**Version:** 3 -- POST DECREE  
**Status:** ACTIVE

**Owners:** RANDY BORCHGREVINK  
2641 LITTLE MISSOURI ROAD  
BELLE FOURCHE, SD 57717  
  
WENDY BORCHGREVINK  
2641 LITTLE MISSOURI ROAD  
BELLE FOURCHE, SD 57717

**Priority Date:** NOVEMBER 2, 1934  
**Type of Historical Right:** FILED  
**Purpose (use):** IRRIGATION  
**Irrigation Type:** WATER SPREADING  
**Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF DIRECT FLOW WATER SPREADING.  
**Volume:** 775.00 AC-FT  
**Climatic Area:** 2 - MODERATELY HIGH  
**\*Maximum Acres:** 715.00  
**Source Name:** HORSE 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		W2SESE	23	7S	61E	CARTER
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31					
<b>Diversion Means:</b>	DAM					
2		NWNENE	26	7S	61E	CARTER
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31					
<b>Diversion Means:</b>	DAM					
<b>Reservoir:</b>	ONSTREAM					
	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
		W2SESE	23	7S	61E	CARTER

**Diversion to Reservoir:** DIVERSION # 1

**Dam Height:** 13.00 FEET  
**Depth:** 10.00 FEET  
**Surface Area:** 97.20 ACRES  
**Capacity:** 388.80 ACRE-FEET

THE DAM EXTENDS INTO THE NWNENE , SEC 26 TWP 07S RGE 61E CARTER COUNTY.

**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	230.00		S2	15	7S	61E	CARTER
2	163.00		N2	15	7S	61E	CARTER
3	132.00		N2	14	7S	61E	CARTER
4	84.00		SW	11	7S	61E	CARTER
5	103.00		S2	10	7S	61E	CARTER
<b>Total:</b>	<u>712.00</u>						

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**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.

175897-00

175898-00

177060-00

177061-00

177063-00