

Montana Water Court
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ELECTRONICALLY FILED

39F-0419-R-2022

July 26, 2022

Montana Water Court

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

* * * * *

CLAIMANT: Century Ranch, LLC

CASE 39F-0419-R-2022

39F 145314-00

39F 145333-00

39F 212379-00

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. Century Ranch, LLC (Century Ranch) is the record owner of claims 39F 145314-00, 39F 145333-00, and 39F 212379-00.
2. Claims 39F 145314-00, 39F 145333-00, and 39F 212379-00 were decreed with a variety of DNRC issue remarks. All issue remarks must be addressed.
3. Claim 39F 145314-00 was decreed with the following 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.

POINT OF DIVERSION NO. 2 APPEARS TO BE UNNECESSARY.

The first two issue remarks are notice-type remarks and do not require further attention.

Claim 39F 145314-00 was decreed with two points of diversion:

***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	17	8S	56E	CARTER
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	DAM					
2		NWNESE	17	8S	56E	CARTER
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	DAM					

The reservoir described by claim 39F 145314-00 appears to be appurtenant to point of diversion no. 1:

Reservoir:	ONSTREAM					
	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
		SWSENE	17	8S	56E	CARTER
Diversion to Reservoir:	DIVERSION # 1					
Dam Height:	12.00 FEET					
Depth:	10.00 FEET					
Surface Area:	14.80 ACRES					
Capacity:	58.40 ACRE-FEET					

THE DAM EXTENDS INTO THE NWNESE SEC 17 TWP 8S RGE 62E CARTER COUNTY.

The third DNRC issue remark suggests point of diversion no. 2 should be removed from the abstract of claim 39F 145314-00:

POINT OF DIVERSION NO. 2 APPEARS TO BE UNNECESSARY.

4. Claim 39F 145333-00 was decreed with the points of diversion and source names:

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

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			20	8S	56E	CARTER
*Source Name: WILLOW CREEK, NORTH FORK						
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						
2		NWNWNW	21	8S	56E	CARTER
*Source Name: WILLOW CREEK, NORTH FORK						
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						
3		SESE	9	8S	56E	CARTER
*Source Name: WILLOW CREEK, NORTH FORK						
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						
4			10	8S	56E	CARTER
*Source Name: UNNAMED TRIBUTARY OF WILLOW CREEK, NORTH FORK						
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						
5		S2S2S2	3	8S	56E	CARTER
*Source Name: UNNAMED TRIBUTARY OF WILLOW CREEK, NORTH FORK						
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						
6		W2NE	14	8S	56E	CARTER
*Source Name: UNNAMED TRIBUTARY OF WILLOW CREEK, NORTH FORK						
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						

The following source name issue remark was decreed on claim 39F 145333-00:

THE SOURCE NAME FOR POINT OF DIVERSION NO. 6 IS INCORRECT. SOURCE NAME SHOULD BE WILLOW CREEK, NORTH FORK.

Based on DNRC analysis, it appears the source name for point of diversion no. 6, should be changed as follows:

6		W2NE	14	8S	56E	CARTER
*Source Name: UNNAMED TRIBUTARY OF WILLOW CREEK, NORTH FORK						
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						

5. Claim 39F 212379-00 is an implied claim, implied from parent claim 39F 145333-00. Claim 39F 212379-00 was decreed with the following issue remark:

NO TYPE OF HISTORICAL RIGHT WAS CLAIMED. DOCUMENTATION TO SUPPORT THE TYPE OF HISTORICAL RIGHT WAS NOT SUBMITTED WITH THIS CLAIM.

Parent claim 39F 145333-00 is a use right, it is common sense that claim 39F 212379-00 is also a use right.

6. An Order was issued setting a deadline for Century Ranch to file a statement indicating whether it agreed or disagreed that the following changes be made to the claims in this Case:

- **39F 145314-00:**

***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	17	8S	56E	CARTER
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: DAM						
2		NWNESE	17	8S	56E	CARTER
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: DAM						
Reservoir: ONSTREAM						

- **39F 145333-00:**

6		W2NE	14	8S	56E	CARTER
*Source Name: UNNAMED TRIBUTARY OF WILLOW CREEK, NORTH FORK						
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						

- **39F 212379-00:**

Type of Historical Right: USE

The Order indicated that if nothing were filed by the deadline, this Master would conclude that the Claimant agrees with the proposed changes. The Order included the following language:

Failure to comply with the terms of this Order may result in sanctions, up to and including entry of default and termination of a water right claim or dismissal of objections. Rule 22, W.R.Adj.R.

Nothing was filed by the deadline.

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. Pursuant to Rule 22, W.R.Adj.R., if a claimant, objector, or intervenor fails to appear at a scheduled conference or hearing or fails to comply with an order issued by the Water Court, the Water Court may issue such orders of sanction with regard thereto as are just. Century Ranch did not file anything by the deadline set in the May 24, 2022 Order; this Master concludes Century Ranch agrees with the proposed resolution of the issue remarks.

4. The period of diversion and reservoir record issue remarks appearing on claim 39F 145314-00 are notice-type issue remarks. As no objections were filed, no further proceedings are required as to the remarks.

RECOMMENDATIONS

1. Claims 39F 145314-00, 39F 145333-00, and 39F 212379-00 should be modified as shown in Finding of Fact No. 6.

2. The issue remarks should be removed from claims 39F 145314-00, 39F 145333-00, and 39F 212379-00.

Post Decree Abstracts of Water Right Claims are served with the Report for review.

Anika M. Stern
Senior Water Master

Service via USPS Mail:

Century Ranch, LLC
40804 220th St.
Lamberton, MN 56152

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

Water Right Number: 39F 145314-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: CENTURY RANCH LLC
40804 220TH ST
LAMBERTON, MN 56152

Priority Date: OCTOBER 15, 1924

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** WILLOW CREEK, NORTH 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		SWSENE	17	8S	56E	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>
	SWSENE	17	8S	56E	CARTER

Diversion to Reservoir: DIVERSION # 1

Dam Height: 12.00 FEET

Depth: 10.00 FEET

Surface Area: 14.60 ACRES

Capacity: 58.40 ACRE-FEET

THE DAM EXTENDS INTO THE NWNESE SEC 17 TWP 8S RGE 62E 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			SWSENE	17	8S	56E	CARTER
2			SWNE	17	8S	56E	CARTER
3			NWNESE	17	8S	56E	CARTER
4			NENWSE	17	8S	56E	CARTER

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

Water Right Number: 39F 145333-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: CENTURY RANCH LLC
40804 220TH ST
LAMBERTON, MN 56152

Priority Date: JANUARY 1, 1900

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** WILLOW CREEK, NORTH FORK
Source Type: SURFACE WATER

***Source Name** UNNAMED TRIBUTARY OF WILLOW CREEK, NORTH FORK
Source Type: SURFACE WATER

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

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			20	8S	56E	CARTER
*Source Name: WILLOW CREEK, NORTH FORK						
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						
2		NWNWNW	21	8S	56E	CARTER
*Source Name: WILLOW CREEK, NORTH FORK						
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						
3		SESE	9	8S	56E	CARTER
*Source Name: WILLOW CREEK, NORTH FORK						
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						
4			10	8S	56E	CARTER
*Source Name: UNNAMED TRIBUTARY OF WILLOW CREEK, NORTH FORK						
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						

5 S2S2S2 3 8S 56E CARTER

*Source Name: UNNAMED TRIBUTARY OF WILLOW CREEK, NORTH FORK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

6 W2NE 14 8S 56E CARTER

*Source Name: WILLOW CREEK, NORTH FORK

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				20	8S	56E	CARTER
2			NWNW	21	8S	56E	CARTER
3			SESE	9	8S	56E	CARTER
4				10	8S	56E	CARTER
5			S2S2S2	3	8S	56E	CARTER
6			W2NE	14	8S	56E	CARTER

Remarks:

IMPLIED CLAIM NO. 39F 212379-00 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM.

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

Water Right Number: 39F 212379-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: CENTURY RANCH LLC
40804 220TH ST
LAMBERTON, MN 56152

Priority Date: JANUARY 1, 1900

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 UNNAMED TRIBUTARY OF WILLOW CREEK, NORTH 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			16	8S	56E	CARTER

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				16	8S	56E	CARTER

Remarks:

THIS IMPLIED CLAIM WAS AUTHORIZED BY THE WATER COURT BASED ON INFORMATION IN CLAIM NO. 39F 145333-00.