

IN THE WATER COURT OF THE STATE OF MONTANA
LOWER MISSOURI DIVISION
MUSSELSHELL RIVER ABOVE ROUNDUP BASIN (40A)
PRELIMINARY DECREE

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CLAIMANT: Clifford D. Crawford

OBJECTOR: United States of America (USDA Forest Service)

CASE 40A-0418-R-2022
40A 182104-00

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 to 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

Water Right Claim 182104-00 appeared in the Preliminary Decree for the Musselshell River, above Roundup (Basin 40A). This claim received an objection filed by the United States of America (USDA Forest Service).

The Court consolidated this claim into Water Court Case 40A-0418-R-2022 on January 20, 2022. The Court held an initial status conference on February 16, 2022. Subsequently, the Court set a settlement deadline by which the parties were to file status reports or settlement documents. The parties filed a stipulation on March 31, 2022.

FINDINGS OF FACT

1. Water Right Claim 40A 182104-00 appeared with the following issue remark:

THE CLAIMED POINT OF DIVERSION IS IN QUESTION. THE LOCATION OF THE HEADGATE AND DITCH CANNOT BE IDENTIFIED WITH AVAILABLE DATA.

2. The United States of America (USDA Forest Service) objected to the maximum acres and place of use of Claim 40A 182104-00.

3. The parties agree the claimed place of use is overly broad. The parties agree the place of use should be NWSE of Section 14, T9N, R8E.

4. The place of use should be modified as agreed upon by the parties.

5. The Court takes judicial notice of the 1950 Water Resources Survey for Meagher County published by the Montana State Engineer's Office. The claimed point of diversion appears recorded in the area depicted on the original claimant map attached to the Statement of Claim.

6. The issue remark should be removed.

APPLICABLE LAW

1. A properly filed statement of claim is prima facie proof of its content. Section 85-2-227, MCA. The prima facie status of a claim may be overcome by a preponderance of the evidence. Section 85-2-227, MCA; Rule 19, W.R.Adj.R. A preponderance of the evidence is evidence that shows a fact is "more probable than not." *Hohenlohe v. State*, 2010 MT 203, ¶ 33, 357 Mont. 438, 240 P.3d 628.

2. The Water Court promotes and will facilitate resolution of objections and issue remarks through settlement or mediation. Parties may confer with each other and exchange information before the case is put on a hearing track. Parties may file settlement documents during these initial settlement proceedings. Rule 16(a), W.R.Adj.R.

3. If a Claimant agrees to reduce an element of their claim, the Court does not need to make a determination as to whether the burden of proof has been met. Rule 17(c), W.R.Adj.R.

CONCLUSIONS OF LAW

1. The change to the place of use of Claim 40A 182104-00 may be made because the evidence in the record meets the relevant burden of proof.

2. The issue remark may be removed because it does not overcome the prima facie status of the claim by a preponderance of the evidence.

RECOMMENDATIONS

Based upon the above Findings of Fact and Conclusions of Law, this Master recommends that the Court make the changes specified in the Findings of Fact to correct the Preliminary Decree for this Basin. A post-decree abstract of Water Right Claim is served with this Report to confirm the recommended changes have been made in the state's centralized record system.

Colton J. Lauer
Water Master

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WATER COURT
ABSTRACT OF WATER RIGHT CLAIM
MUSSELSHELL RIVER, ABOVE ROUNDUP
BASIN 40A

Water Right Number: 40A 182104-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: CLIFFORD D CRAWFORD
182 S MANCHESTER RD
GREAT FALLS, MT 59404

Priority Date: JUNE 15, 1929

Type of Historical Right: USE

Purpose (use): IRRIGATION

Irrigation Type: FLOOD

***Flow Rate:** 207.00 GPM

***Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 5 - LOW

***Maximum Acres:** 12.00

Source Name HALL 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		NESWSE	14	9N	8E	MEAGHER

Period of Diversion: JUNE 1 TO SEPTEMBER 30

Diversion Means: HEADGATE

Period of Use: JUNE 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	12.00		NWSE	14	9N	8E	MEAGHER
Total:	12.00						