

IN THE WATER COURT OF THE STATE OF MONTANA
YELLOWSTONE DIVISION
BOX ELDER CREEK BASIN (39E)
PRELIMINARY DECREE

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CLAIMANT: Brownfield Ranch Inc.

CASE 39E-0186-P-2022
39E 248-00

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. The current record owner of stock claim 39E 248-00 is Brownfield Ranch Inc.

2. Claim 39E 248-00 was decreed with DNRC issue remarks:

POINT OF DIVERSION, RESERVOIR RECORD AND MEANS OF DIVERSION WERE 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 PLACE OF USE APPEARS TO NEED MODIFICATION BASED ON THE DNRC CORRECTION TO THE POINT OF DIVERSION. THE CORRECT PLACE OF USE LEGAL LAND DESCRIPTION APPEARS TO BE IN THE NWNWSW SEC 22, TWP 6S RNG 57E CARTER COUNTY.

All issue remarks must be addressed.

4. The first issue remark is a notice-type remark and does not require further attention.

5. Claim 39E 248-00 was decreed with the following place of use:

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1			SWNWSW	22	6S	57E	CARTER

Based on the issue remark, the place of use should be modified to the NWNWSE of Section 22, Township 6S, Range 57 East of Carter County. However, during reexamination, the DNRC standardized the point of diversion and reservoir to the NWNWSW of Section 22 – it appears the issue remark contained an error. Based on the information available to this Master, it appears the following modification is appropriate:

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		NWNWSW	SWNWSW	22	6S	57E	CARTER

6. To determine if Claimant Brownfield Ranch Inc. agree that the above-shown change should be made to claim 39E 248-00, an Order was issued setting a deadline. The Order indicated that if nothing were filed by the deadline, this Master would conclude the Claimant agrees the change should be made to claim 39E 248-00. The following language was included in the Order:

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. 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.

2. 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.

3. The point of diversion, reservoir record, and means of diversion issue remark decreed on claim 39E 248-00 is a notice-type issue remark. As no objections were filed, the remark can be removed with no further proceedings.

RECOMMENDATIONS

1. Claim 39E 248-00 should be modified as shown in Finding of Fact No. 5.
2. The issue remarks should be removed from the claim.

A Post Decree Abstract of Water Right Claim is served with the Report for review.

Anika M. Stern
Senior Water Master

Service via USPS Mail:

Brownfield Ranch Inc.
2220 Hammond Rd.
Hammond, MT 59332

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
BOXELDER CREEK
BASIN 39E

Water Right Number: 39E 248-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: BROWNFIELD RANCH INC
2220 HAMMOND RD
HAMMOND, MT 59332

Priority Date: DECEMBER 31, 1955

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 WEST FORK T L 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		NWNWSW	22	6S	57E	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>
	NWNWSW	22	6S	57E	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			NWNWSW	22	6S	57E	CARTER