

IN THE WATER COURT OF THE STATE OF MONTANA
YELLOWSTONE DIVISION
SHIELDS RIVER BASIN 43A
PRELIMINARY DECREE

* * * * *

CLAIMANT: Henry Guth, Inc.

OBJECTORS: United States of America (Bureau of
Reclamation); Cindy Zimmerman; Ned E.
Zimmerman

CASE 43A-0332-R-2020

43A 23725-00

43A 23730-00

43A 23731-00

43A 191258-00

43A 30155755

43A 30155756

43A 30155757

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. Henry Guth, Inc. (Guth) is the owner of claims 43A 23725-00, 43A 23730-00, 43A 23731-00, and 43A 191258-00.

2. Claim 43A 23725-00 was decreed with a notice-type issue remark. Claim 43A 191258-00 was decreed with a point of diversion issue remark.

3. The United States of America (Bureau of Reclamation) (hereinafter "BLM") objected to claims 43A 23725-00, 43A 23730-00, 43A 23731-00, and 43A 191258-00. Cindy Zimmerman and Ned Zimmerman (the Zimmermans) objected to claim 43A 191258-00.

4. The parties in Case 43A-0332-R-2020 requested a mediator, and after mediation the parties filed a Stipulation to Resolve Objections on May 19, 2022 (Stipulation).

5. The Stipulation indicated claim 43A 23725-00 should be dismissed, and proposed changes to claims 43A 23730-00, 43A 23731-00, and 43A 191258-00, including the generation of three implied claims.

6. This Water Master had concerns regarding the proposed implied claims, and deadlines were set for the parties to respond to the concerns.

7. Additionally, as recently as the September 19, 2022 filings in the Case, this Master noted that there appeared to be a misunderstanding between the parties, or between Guth/Zimmerman and Guth/Zimmerman's counsel regarding whether the implied claims should have a quantified volume.

8. In an effort to resolve the outstanding issues, this Master explained:

This Master also notes that her concerns in the Case would be resolved if the proposed implied claims were changed from "use" rights to "decreed" rights and the volumes for the proposed implied claims were changed from quantified volumes to the standardized remark: "THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT OT HISTORICAL AND BENEFICIAL USE." This Master agrees with the parties that overall, the parties are proposing reductions of the claims, even with the addition of the proposed implied claims. However, the parties have not shown existence of use rights present in the Statements of Claim or documents

attached thereto – but the existence of implied wastewater claims appear to be an inherent part of the claims.

September 21, 2022 *Order on Status of Case, Order Denying Motion for Status Conference, and Order Setting Filing Deadline*. A deadline was set for the parties to agree or disagree with the modifications as proposed by this Master. On September 22, 2022 the BOR filed a Statement indicating that the Stipulation should be modified as suggested by this Master. On October 17, 2022, Guth and the Zimmermans filed a Response indicating they agree with “the provisions of the Order proposing to adopt the Stipulation, with the recommended modifications....”

Claim 43A 23725-00:

9. Based on the record, claim 43A 23725-00 should be dismissed.

Parent claim 43A 23730-00 and implied claim 43A 30155755:

10. Based on the record, the following changes should be made to parent claim 43A 23730-00:

Purpose (use): IRRIGATION
Irrigation Type: FLOOD FLOOD/SPRINKLER
CMFI:
THE COMBINED FLOW RATE FOR CLAIM NOS.
43A 23730-00 AND 43A 30155755 SHALL NOT
EXCEED 5.00 CFS.
Maximum Acres: 485.00 245.00
Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	15	N2	4	4N	8E	PARK

Period of Diversion: APRIL 15 TO SEPTEMBER 15
Diversion Means: HEADGATE
Ditch Name: BIG CANAL

The decreed place of use for claim 43A 23730-00 should be replaced with the following place of use:

<u>ID</u>	<u>Acres</u>	<u>Govt</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	1.5		W2NWNW	17	3N	9E	PARK
2	7.5		W2SWNW	17	3N	9E	PARK
3	12.00		W2NWSW	17	3N	9E	PARK
4	19.00		SWSW	17	3N	9E	PARK
5	58.00		E2NE	18	3N	9E	PARK
6	3.00		SESWNE	18	3N	9E	PARK
7	144.00		SE	18	3N	9E	PARK
Total:		245.00					

11. Implied claim 43A 30155755 should be generated from parent claim 43A 23730-00. All elements should be the same as the parent claim, except for the elements noted here:

Maximum Acres: ~~486.00~~ 100.00
Source Name: SHIELDS RIVER
Source Type: SURFACE WATER

CMSI:
THE SOURCE IS WASTE WATER FROM
IRRIGATION THAT MAY OCCUR WITHIN THE
PLACE OF USE IN (A) W2W2W2 SECTION 17, T3N,
R9E, AND (B) E2NE,SESWNE, SE SECTION 18, T3N,
R9E.

Period of Diversion: APRIL 15 TO SEPTEMBER 15

CMDI:
THE PERIOD OF DIVERSION FOR THIS CLAIM IS LIMITED
TO THE DAYS WHEN THERE IS WASTE WATER FROM
IRRIGATION OF (A) W2W2W2 SECTION 17, T3N, R9E, AND
(B) E2NE,SESWNE, SE SECTION 18, T3N, R9E.

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	58.00		W2NW	17	3N	9E	PARK
2	8.00		SENW	17	3N	9E	PARK
3	29.00		W2SW	17	3N	9E	PARK
4	3.00		NWNESW	17	3N	9E	PARK
5	2.00		SWSESW	17	3N	9E	PARK
Total:		100.00					

Parent claim 43A 23731-00 and implied claim 43A 30155756:

12. Based on the record, the following changes should be made to parent claim 43A 23731-00:

Purpose (use): IRRIGATION
Irrigation Type: FLOOD FLOOD/SPRINKLER

CMFI:
THE COMBINED FLOW RATE FOR CLAIM NOS.
43A 23731-00 AND 43A 30155756 SHALL NOT
EXCEED 5.25 CFS.

Maximum Acres: 721.00 328.00

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	15	N2	4	4N	9E	PARK
*Period of Diversion: MARCH 15 TO OCTOBER 15						
Diversion Means: HEADGATE						
Ditch Name: BIG CANAL						
2		SENWSW	32	4N	9E	PARK
*Period of Diversion: MARCH 15 TO OCTOBER 15						
Diversion Means: HEADGATE						
Ditch Name: PIERCY-ZIMMERMAN DITCH						

The decreed place of use for claim 43A 23731-00 should be replaced with the following place of use:

ID	Acres	Govt	Qtr Sec	Sec	Twp	Rge	County
1	1.50		W2NWNW	17	3N	9E	PARK
2	7.50		W2SWNW	17	3N	9E	PARK
3	12.00		W2NWSW	17	3N	9E	PARK
4	19.00		SWSW	17	3N	9E	PARK
5	58.00		E2NE	18	3N	9E	PARK
6	3.00		SESWNE	18	3N	9E	PARK
7	144.00		SE	18	3N	9E	PARK
8	39.00		NENE	19	3N	9E	PARK
9	15.00		NWNE	19	3N	9E	PARK
10	26.00		SENE	19	3N	9E	PARK
11	3.00		N2NESE	19	3N	9E	PARK
Total:	328.00						

13. Implied claim 43A 30155756 should be generated from parent claim 43A 23731-00. All elements should be the same as the parent claim, except for the elements noted here:

Maximum Acres: 721.00 142.00
Source Name: SHIELDS RIVER
Source Type: SURFACE WATER

CMSI:
THE SOURCE IS WASTE WATER FROM
IRRIGATION THAT MAY OCCUR WITHIN THE
PLACE OF USE IN (A) W2W2W2 SECTION 17, T3N,
R9E, AND (B) E2NE, SESWNE, SE SECTION 18, T3N,
R9E.

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	15	N2	4	4N	9E	PARK
*Period of Diversion: MARCH 15 TO OCTOBER 15						
Diversion Means: HEADGATE						
Ditch Name: BIG CANAL						
2		SENWSW	32	4N	9E	PARK
*Period of Diversion: MARCH 15 TO OCTOBER 15						
Diversion Means: HEADGATE						
Ditch Name: PIERCY-ZIMMERMAN DITCH						

CMDI:
THE PERIOD OF DIVERSION FOR POINT OF DIVERSION
ID NO. 1 IS LIMITED TO THE DAYS WHEN THERE IS
WASTE WATER FROM IRRIGATION OF A) W2W2W2
SECTION 17, T3N, R9E, AND (B) E2NE,SESWNE, SE
SECTION 18, T3N, R9E.

Place of Use:

ID	Acres	Govt	Qtr Sec	Sec	Twp	Rge	County
1	58.00		W2NW	17	3N	9E	PARK
2	8.00		SENW	17	3N	9E	PARK
3	29.00		W2SW	17	3N	9E	PARK
4	3.00		NWNESW	17	3N	9E	PARK
5	2.00		SWSE:SW	17	3N	9E	PARK
6	3.50		SENWNE	19	3N	9E	PARK
7	16.50		SWNE	19	3N	9E	PARK
8	9.50		W2SENE	19	3N	9E	PARK
9	7.50		NWNESE	19	3N	9E	PARK
10	5.00		NENWSE	19	3N	9E	PARK
Total:	142.00						

Parent claim 43A 191258-00 and implied claim 43A 30155757:

14. Based on the record, the following changes should be made to parent claim 43A 191258-00:

Purpose (use): IRRIGATION

Irrigation Type: ~~FLOOD~~ FLOOD/SPRINKLER

CMFI:
THE COMBINED FLOW RATE FOR CLAIM NOS.
43A 191258-00 AND 43A 30155757 SHALL NOT
EXCEED 6.02 CFS

Maximum Acres: ~~724.00~~ 42.00

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	15	N2	4	4N	9E	PARK
*Period of Diversion: MARCH 15 TO OCTOBER 15						
Diversion Means: HEADGATE						
Ditch Name: BIG CANAL						

The decreed place of use for claim 43A 191258-00 should be replaced with the following place of use:

The place of use should be:

<u>ID</u>	<u>Acres</u>	<u>Govt</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	3.50		SEWNNE	19	3N	9E	PARK
2	16.50		SWNE	19	3N	9E	PARK
3	9.50		W2SENE	19	3N	9E	PARK
4	7.50		NWNESE	19	3N	9E	PARK
5	5.00		NENWSE	19	3N	9E	PARK
Total:		42.00					

15. Implied claim 43A 30155757 should be generated from parent claim 43A 191258-00. All elements should be the same as the parent claim, except for the elements noted here:

Maximum Acres: 721.00 **42.00**

Source Name: SHIELDS RIVER

Source Type: SURFACE WATER

CMSI:
THE SOURCE IS WASTE WATER FROM IRRIGATION THAT MAY OCCUR WITHIN THE PLACE OF USE IN (A) W2W2W2 SECTION 17, T3N, R9E, AND (B) E2NE,SESWNE, SE SECTION 18, T3N, R9E, AND (C) N2NE, SENE, N2NESE SECTION 19, T3N, R9E.

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	15	N2	SESWNW	4	0	4N 9E PARK

*Period of Diversion: MARCH 15 TO OCTOBER 15

Diversion Means: HEADGATE

Ditch Name: BIG CANAL

CMDI:
THE PERIOD OF DIVERSION FOR THIS CLAIM IS LIMITED TO THE DAYS WHEN THERE IS WASTE WATER FROM IRRIGATION OF (A) W2W2W2 SECTION 17, T3N, R9E, AND (B) E2NE,SESWNE, SE SECTION 18, T3N, R9E, AND (C) N2NE, SENE, N2NESE SECTION 19, T3N, R9E.

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	3.50		SEWNNE	19	3N	9E	PARK
2	16.50		SWNE	19	3N	9E	PARK
3	9.50		W2SENE	19	3N	9E	PARK
4	7.50		NWNESE	19	3N	9E	PARK
5	5.00		NENWSE	19	3N	9E	PARK
Total:		42.00					

PRINCIPLES AND CONCLUSIONS OF LAW

1. The Water Court must 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 Water Court is not bound by settlement agreements. Settlement agreements are subject to review and approval by the Water Court. Rule 17, W.R.Adj.R. The Stipulation is a settlement agreement subject to such review.

4. An implied claim is “a claim authorized by the water court to be separated and individually identified when a statement of claim includes multiple rights.” Rule 2(a)(33) W.R.C.E.R. In the present case, it is appropriate to imply wastewater claims 43A 20155755, 43A 30155756, and 43A 31055757.

RECOMMENDATIONS

1. Claim 43A 23725-00 should be dismissed.

2. Claims 43A 23730-00, 43A 23731-00, and 43A 191258-00 should be modified as described in the Findings of Fact and attached Post Decree Abstracts. The issue remark should be removed from claim 43A 191258-00.

3. Claims 43A 30155755, 43A 30155756, and 43A 30155757 should be generated as shown in the Findings of Fact and attached Post Decree Abstracts.

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

Anika M. Stern
Senior Water Master

Service Via Electronic Mail:

Colleen Coyle
Coyle Law Firm, PLLC
PO Box 1326
Bozeman, MT 59771
(406) 551-4868
(406) 570-2740
colleen@coylelawmt.com

Jennifer A. Najjar
US/DOJ-ENRD, Natural Resources Section
PO Box 7611
Washington, DC 20044-7611
Jennifer.Najjar@usdoj.gov
MontanaBasins.ENRD@USDOJ.GOV

Mark Widerschein,
NRS-ENRD US DOJ
PO Box 7611
Washington, DC 20044-7611
202-532-5803
Mark.Widerschein@Usdoj.Gov
Montanabasins.ENRD@USDOJ.GOV

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
SHIELDS RIVER
BASIN 43A

Water Right Number: 43A 23725-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: DISMISSED

Owners: GUTH HENRY INC
%ZIMMERMAN NED
95 DAISY DEAN RD
WILSALL, MT 59086 9403

Priority Date:

Type of Historical Right:

Purpose (use): IRRIGATION

Flow Rate:

Volume:

Source Name: FLATHEAD CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

Remarks:

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
SHIELDS RIVER
BASIN 43A

Water Right Number: 43A 23730-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: GUTH HENRY INC
%ZIMMERMAN NED
95 DAISY DEAN RD
WILLSALL, MT 59086 9403

Priority Date: SEPTEMBER 29, 1913

Type of Historical Right: DECREED

Purpose (use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 5.00 CFS

THE COMBINED FLOW RATE FOR CLAIM NOS. 43A 23730-00 AND 43A 30155755
SHALL NOT EXCEED 5.00 CFS.

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

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 245.00

Source Name: SHIELDS 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	15	N2	4	4N	9E	PARK

Period of Diversion: APRIL 15 TO SEPTEMBER 15

Diversion Means: HEADGATE

Ditch Name: BIG CANAL

Period of Use: APRIL 15 TO SEPTEMBER 15

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	1.50		W2NWNW	17	3N	9E	PARK
2	7.50		W2SWNW	17	3N	9E	PARK
3	12.00		W2NWSW	17	3N	9E	PARK
4	19.00		SWSW	17	3N	9E	PARK
5	58.00		E2NE	18	3N	9E	PARK
6	3.00		SESWNE	18	3N	9E	PARK
7	144.00		SE	18	3N	9E	PARK

Total: 245.00

Remarks:

SPLIT CLAIM NO. 43A 30155755 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM.

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
SHIELDS RIVER
BASIN 43A

Water Right Number: 43A 23731-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: GUTH HENRY INC
%ZIMMERMAN NED
95 DAISY DEAN RD
WILSALL, MT 59086 9403

Priority Date: JUNE 1, 1884

Type of Historical Right: DECREED

Purpose (use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

***Flow Rate:** 5.25 CFS
CLAIMANT SHALL ONLY BE ENTITLED TO THE USE OF 2.25 CFS THROUGH POINT OF DIVERSION NO.1 (MYERS DITCH).
THE COMBINED FLOW RATE FOR CLAIM NOS. 43A 23731-00 AND 43A 30155756 SHALL NOT EXCEED 5.25 CFS.

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

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 328.00

Source Name: SHIELDS 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	15	N2	4	4N	9E	PARK
*Period of Diversion: MARCH 15 TO OCTOBER 15						
Diversion Means: HEADGATE						
Ditch Name: BIG CANAL						
2		SENWSW	32	4N	9E	PARK
*Period of Diversion: MARCH 15 TO OCTOBER 15						
Diversion Means: HEADGATE						
Ditch Name: PIERCY-ZIMMERMAN DITCH						
*Period of Use: MARCH 15 TO OCTOBER 15						

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	1.50		W2NWNW	17	3N	9E	PARK
2	7.50		W2SWNW	17	3N	9E	PARK
3	12.00		W2NWSW	17	3N	9E	PARK
4	19.00		SWSW	17	3N	9E	PARK

5	58.00	E2NE	18	3N	9E	PARK
6	3.00	SESWNE	18	3N	9E	PARK
7	144.00	SE	18	3N	9E	PARK
8	39.00	NENE	19	3N	9E	PARK
9	15.00	NWNE	19	3N	9E	PARK
10	26.00	SENE	19	3N	9E	PARK
11	3.00	N2NESE	19	3N	9E	PARK
Total:						
	328.00					

Remarks:

IMPLIED CLAIM NO. 43A 30155756 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
SHIELDS RIVER
BASIN 43A**

Water Right Number: 43A 191258-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: GUTH HENRY INC
%ZIMMERMAN NED
95 DAISY DEAN RD
WILLSALL, MT 59086 9403

Priority Date: OCTOBER 19, 1898
Type of Historical Right: DECREED
Purpose (use): IRRIGATION
Irrigation Type: SPRINKLER/FLOOD
***Flow Rate:** 6.02 CFS
THE COMBINED FLOW RATE FOR CLAIM NOS. 43A 191258-00 AND 43A 30155757 SHALL NOT EXCEED 6.02 CFS.

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.
Climatic Area: 4 - MODERATELY LOW
Maximum Acres: 42.00
Source Name: SHIELDS 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	15	N2	4	4N	9E	PARK

***Period of Diversion:** MARCH 15 TO OCTOBER 15
Diversion Means: HEADGATE
Ditch Name: BIG CANAL
***Period of Use:** MARCH 15 TO OCTOBER 15
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	3.50		SEWNNE	19	3N	9E	PARK
2	16.50		SWNE	19	3N	9E	PARK
3	9.50		W2SENE	19	3N	9E	PARK
4	7.50		NWNESE	19	3N	9E	PARK
5	5.00		NENWSE	19	3N	9E	PARK
Total:	42.00						

Remarks:

IMPLIED CLAIM NO. 43A 30155757 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
SHIELDS RIVER
BASIN 43A**

Water Right Number: 43A 30155755 STATEMENT OF CLAIM

Version: 1 -- ORIGINAL RIGHT

Status: ACTIVE

Owners: GUTH HENRY INC
%ZIMMERMAN NED
95 DAISY DEAN RD
WILSALL, MT 59086 9403

Priority Date: SEPTEMBER 29, 1913

Type of Historical Right: DECREED

Purpose (use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 5.00

THE COMBINED FLOW RATE FOR CLAIM NOS. 43A 23730-00 AND 43A 30155755
SHALL NOT EXCEED 5.00 CFS.

THE SOURCE IS WASTE WATER FROM IRRIGATION THAT MAY OCCUR WITHIN THE
PLACE OF USE IN (A) W2W2W2 SECTION 17, T3N, R9E, AND (B) E2NE, SESWNE, SE
SECTION 18, T3N, R9E.

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

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 100.00

Source Name: SHIELDS 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	15		4	4N	9E	PARK

Period of Diversion: APRIL 15 TO SEPTEMBER 15

Diversion Means: HEADGATE

Ditch Name: BIG CANAL

THE PERIOD OF DIVERSION FOR THIS CLAIM IS LIMITED TO THE DAYS WHEN
THERE IS WASTE WATER FROM IRRIGATION OF (A) W2W2W2 SECTION 17, T3N,
R9E, AND (B) E2NE, SESWNE, SE SECTION 18, T3N, R9E.

Period of Use: APRIL 15 TO SEPTEMBER 15

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	58.00		W2NW	17	3N	9E	PARK
2	8.00		SEnw	17	3N	9E	PARK
3	29.00		W2SW	17	3N	9E	PARK
4	3.00		NWNESW	17	3N	9E	PARK

5	<u>2.00</u>	SWSESW	17	3N	9E	PARK
Total:	100.00					

Remarks:

THIS IMPLIED CLAIM WAS AUTHORIZED BY THE WATER COURT BASED ON INFORMATION IN CLAIM NO. 43A 23730-00.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
SHIELDS RIVER
BASIN 43A**

Water Right Number: 43A 30155756 STATEMENT OF CLAIM

Version: 1 -- ORIGINAL RIGHT

Status: ACTIVE

Owners: GUTH HENRY INC
%ZIMMERMAN NED
95 DAISY DEAN RD
WILSALL, MT 59086 9403

Priority Date: JUNE 1, 1884

Type of Historical Right: DECREED

Purpose (use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 5.25 CFS

CLAIMANT SHALL ONLY BE ENTITLED TO THE USE OF 2.25 CFS THROUGH POINT OF DIVERSION NO.1 (MYERS DITCH).

THE COMBINED FLOW RATE FOR CLAIM NOS. 43A 23731-00 AND 43A 30155756 SHALL NOT EXCEED 5.25 CFS.

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

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 142.00

Source Name: SHIELDS RIVER

Source Type: SURFACE WATER

THE SOURCE IS WASTE WATER FROM IRRIGATION THAT MAY OCCUR WITHIN THE PLACE OF USE IN (A) W2W2W2 SECTION 17, T3N, R9E, AND (B) E2NE, SESWNE, SE SECTION 18, T3N, R9E.

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	15	N2	4	4N	9E	PARK

Period of Diversion: MARCH 15 TO OCTOBER 15

Diversion Means: HEADGATE

Ditch Name: BIG CANAL

2		SENWSW	32	4N	9E	PARK
---	--	--------	----	----	----	------

Period of Diversion: MARCH 15 TO OCTOBER 15

Diversion Means: HEADGATE

Ditch Name: PIERCY-ZIMMERMAN DITCH

THE PERIOD OF DIVERSION FOR POINT OF DIVERSION ID NO. 1 IS LIMITED TO THE DAYS WHEN THERE IS WASTE WATER FROM IRRIGATION OF A) W2W2W2 SECTION 17, T3N, R9E, AND (B) E2NE, SESWNE, SE SECTION 18, T3N, R9E.

Period of Use: MARCH 15 TO OCTOBER 15

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	58.00		W2NW	17	3N	9E	PARK
2	8.00		SEnw	17	3N	9E	PARK
3	29.00		W2SW	17	3N	9E	PARK
4	3.00		NWNESW	17	3N	9E	PARK
5	2.00		SWSESW	17	3N	9E	PARK
6	3.50		SEnwNE	19	3N	9E	PARK
7	16.50		SWNE	19	3N	9E	PARK
8	9.50		W2SENE	19	3N	9E	PARK
9	7.50		NWNESE	19	3N	9E	PARK
10	5.00		NENWSE	19	3N	9E	PARK
Total:		142.00					

Remarks:

THIS IMPLIED CLAIM WAS AUTHORIZED BY THE WATER COURT BASED ON INFORMATION IN CLAIM NO. 43A 23731-00.

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
SHIELDS RIVER
BASIN 43A

Water Right Number: 43A 30155757 STATEMENT OF CLAIM

Version: 1 -- ORIGINAL RIGHT

Status: ACTIVE

Owners: GUTH HENRY INC
%ZIMMERMAN NED
95 DAISY DEAN RD
WILLSALL, MT 59086 9403

Priority Date: OCTOBER 19, 1898

Type of Historical Right: DECREED

Purpose (use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 6.02 CFS

THE COMBINED FLOW RATE FOR CLAIM NOS. 43A 191258-00 AND 43A 30155757 SHALL NOT EXCEED 6.02 CFS.

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

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 42.00

Source Name: SHIELDS RIVER

Source Type: SURFACE WATER

THE SOURCE IS WASTE WATER FROM IRRIGATION THAT MAY OCCUR WITHIN THE PLACE OF USE IN (A) W2W2W2 SECTION 17, T3N, R9E, AND (B) E2NE, SESWNE, SE SECTION 18, T3N, R9E, AND (C) N2NE, SENE, N2NESE SECTION 19, T3N, R9E.

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	15	N2	4	4N	9E	PARK

Period of Diversion: MARCH 15 TO OCTOBER 15

Diversion Means: HEADGATE

Ditch Name: BIG CANAL

THE PERIOD OF DIVERSION FOR THIS CLAIM IS LIMITED TO THE DAYS WHEN THERE IS WASTE WATER FROM IRRIGATION OF (A) W2W2W2 SECTION 17, T3N, R9E, AND (B) E2NE, SESWNE, SE SECTION 18, T3N, R9E, AND (C) N2NE, SENE, N2NESE SECTION 19, T3N, R9E.

Period of Use: MARCH 15 TO OCTOBER 15

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	3.50		SEWNNE	19	3N	9E	PARK
2	16.50		SWNE	19	3N	9E	PARK
3	9.50		W2SENE	19	3N	9E	PARK
4	7.50		NWNESE	19	3N	9E	PARK

5	5.00	NENWSE	19	3N	9E	PARK
Total:	42.00					

Remarks:

THIS IMPLIED CLAIM WAS AUTHORIZED BY THE WATER COURT BASED ON INFORMATION IN CLAIM NO. 43A 191258-00.