

Montana Water Court
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IN THE WATER COURT OF THE STATE OF MONTANA
UPPER MISSOURI DIVISION
DEARBORN RIVER BASIN (41U)
PRELIMINARY DECREE

CLAIMANT: Milford Colony Inc.

OBJECTOR: Dearborn Canal Co.

NOTICES OF INTENT TO APPEAR: Dearborn Ranch LLC;
Milford Colony Inc.

CASE 41U-0056-R-2023

41U 9903-00

41U 9907-00

41U 9912-00

41U 9913-00

**ORDER AMENDING AND ADOPTING MASTER'S REPORT
AND
CORRECTING ABSTRACT**

Pursuant to Montana Code Annotated, section 85-2-233(5), Case 41U-0056-R-2023 was assigned to Water Master Anika M. Stern. A Master's Report was issued on October 3, 2023. Objector Dearborn Canal Co. objected to the Master's Report on October 13, 2023.

The Objection identified a clerical error in Finding of Fact No. 5. Finding of Fact No. 5 identifies the point of diversion Range for all claims as "8W", but the correct point of diversion is in the NWSWNW of Section 33, Township 19 North, **Range 5 West**, Lewis and Clark County. The Post Decree Abstracts identified the incorrect Range and also require correction.

The September 19, 2023 Stipulation erroneously identified the ditch name on the claims as the "Bean-Embody Ditch." The Objection explains that the reference to the Bean-Embody Ditch should be removed from Finding of Fact No. 5 and the Post Decree Abstracts should be corrected, removing reference to Bean-Embody Ditch.

The abstracts attached to the Stipulation included the following remark:

THIS WATER RIGHT IS JUNIOR IN PRIORITY TO BARRETT LAND AND LIVESTOCK COMPANY'S STOCKWATER RIGHTS FROM HOGAN CREEK.

The remark was not added to claim 41U 9903-00, and the Post Decree Abstract requires correction.

The Court has reviewed the Water Master's Findings and Conclusions. Pursuant to Rule 53(e), Montana Rules of Civil Procedure, the Court **ADOPTS** the Master's Report with the above-referenced amendments.

Corrected Post Decree Abstracts for claims 41U 9903-00, 41U 9907-00, 41U 9912-00, and 41U 9913-00 are served with this Order to confirm that the Recommendations set forth in the Master's Report, as amended by this Order, have been adopted for the claims in this Case.

ELECTRONICALLY SIGNED AND DATED BELOW.

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POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
DEARBORN RIVER
BASIN 41U

Water Right Number: **41U 9903-00** STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners:
MILFORD COLONY INC
9605 US HWY 287
WOLF CREEK, MT 59648 8637

***Priority Date:** JULY 6, 1908

THIS WATER RIGHT IS JUNIOR IN PRIORITY TO BARRETT LAND AND LIVESTOCK COMPANY'S STOCKWATER RIGHTS FROM HOGAN CREEK.

Type of Historical Right: FILED

Purpose (use): IRRIGATION

Irrigation Type: SPRINKLER

Flow Rate: 5.80 CFS

***Volume:** 504.90 AC-FT

Climatic Area: 3 - MODERATE

Maximum Acres: 153.00

Source Name: HOGAN CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

ID	Govt Lot	Otr Sec	Sec	Twp	Rge	County
1		NWSWNW	33	19N	5W	LEWIS AND CLARK

Period of Diversion: MAY 1 TO AUGUST 15

Diversion Means: HEADGATE

Period of Use: MAY 1 TO AUGUST 15

Place of Use:

ID	Acres	Govt Lot	Otr Sec	Sec	Twp	Rge	County
1	153.00		S2	33	19N	5W	LEWIS AND CLARK
Total:	153.00						

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.

9899-00	9901-00	9902-00	9903-00	9904-00	9905-00
9906-00	9907-00	9908-00	9909-00	9910-00	9911-00
9912-00	9913-00	9914-00			

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

9903-00

9920-00

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
DEARBORN RIVER
BASIN 41U

Water Right Number: **41U 9907-00** STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners:
MILFORD COLONY INC
9605 US HWY 287
WOLF CREEK, MT 59648 8637

***Priority Date:** APRIL 30, 1895

THIS WATER RIGHT IS JUNIOR IN PRIORITY TO BARRETT LAND AND LIVESTOCK COMPANY'S STOCKWATER RIGHTS FROM HOGAN CREEK.

Type of Historical Right: FILED

Purpose (use): IRRIGATION

Irrigation Type: SPRINKLER

Flow Rate: 2.27 CFS

***Volume:** 198.00 AC-FT

Climatic Area: 3 - MODERATE

Maximum Acres: 60.00

Source Name: HOGAN CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

ID	Govt Lot	Otr Sec	Sec	Twp	Rge	County
1		NWSWNW	33	19N	5W	LEWIS AND CLARK

Period of Diversion: MAY 1 TO AUGUST 15

Diversion Means: HEADGATE

Period of Use: MAY 1 TO AUGUST 15

Place of Use:

ID	Acres	Govt Lot	Otr Sec	Sec	Twp	Rge	County
1	60.00		N2NW	4	18N	5W	LEWIS AND CLARK
Total:	60.00						

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.

9899-00	9901-00	9902-00	9903-00	9904-00	9905-00
9906-00	9907-00	9908-00	9909-00	9910-00	9911-00
9912-00	9913-00	9914-00			

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
DEARBORN RIVER
BASIN 41U

Water Right Number: **41U 9912-00** STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners:
MILFORD COLONY INC
9605 US HWY 287
WOLF CREEK, MT 59648 8637

***Priority Date:** JULY 6, 1908

THIS WATER RIGHT IS JUNIOR IN PRIORITY TO BARRETT LAND AND LIVESTOCK COMPANY'S STOCKWATER RIGHTS FROM HOGAN CREEK.

Type of Historical Right: FILED

Purpose (use): IRRIGATION

Irrigation Type: SPRINKLER

Flow Rate: 86.90 CFS

***Volume:** 7,566.90 AC-FT

Climatic Area: 3 - MODERATE

Maximum Acres: 2,293.00

Source Name: HOGAN CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

ID	Govt Lot	Otr Sec	Sec	Twp	Rge	County
1		NWSWNW	33	19N	5W	LEWIS AND CLARK

Period of Diversion: MAY 1 TO AUGUST 15

Diversion Means: HEADGATE

Period of Use: MAY 1 TO AUGUST 15

Place of Use:

ID	Acres	Govt Lot	Otr Sec	Sec	Twp	Rge	County
1	600.00			4	18N	5W	LEWIS AND CLARK
2	600.00			3	18N	5W	LEWIS AND CLARK
3	620.00			2	18N	5W	LEWIS AND CLARK
4	153.00		S2	33	19N	5W	LEWIS AND CLARK
5	320.00			S2	34	19N	5W
Total:	2293.00						LEWIS AND CLARK

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.

9899-00	9901-00	9902-00	9903-00	9904-00	9905-00
9906-00	9907-00	9908-00	9909-00	9910-00	9911-00
9912-00	9913-00	9914-00			

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

9912-00 9920-00

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
DEARBORN RIVER
BASIN 41U

Water Right Number: **41U 9913-00** STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners:
MILFORD COLONY INC
9605 US HWY 287
WOLF CREEK, MT 59648 8637

***Priority Date:** APRIL 30, 1895

THIS WATER RIGHT IS JUNIOR IN PRIORITY TO BARRETT LAND AND LIVESTOCK COMPANY'S STOCKWATER RIGHTS FROM HOGAN CREEK.

Type of Historical Right: FILED

Purpose (use): IRRIGATION

Irrigation Type: SPRINKLER

Flow Rate: 6.06 CFS

***Volume:** 528.00 AC-FT

THE VOLUME QUANTIFICATION ON THIS CLAIM IS THE RESULT OF A STIPULATION FILED BY THE PARTIES WITH THE WATER COURT ON 03/25/1985 . THE COURT HAS MADE NO DETERMINATION AS TO THE NEED FOR A VOLUME QUANTIFICATION ON THIS CLAIM AS PROVIDED FOR IN 85-2-234 (6) (b) (III) M.C.A.

Climatic Area: 3 - MODERATE

Maximum Acres: 160.00

Source Name: HOGAN CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Otr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSWNW	33	19N	5W	LEWIS AND CLARK

Period of Diversion: MAY 1 TO AUGUST 15

Diversion Means: HEADGATE

Period of Use: MAY 1 TO AUGUST 15

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Otr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	80.00		S2SE	4	18N	5W	LEWIS AND CLARK
2	40.00		NWSE	4	18N	5W	LEWIS AND CLARK
3	40.00		NESE	4	18N	5W	LEWIS AND CLARK
Total:	160.00						

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.

9899-00	9901-00	9902-00	9903-00	9904-00	9905-00
9906-00	9907-00	9908-00	9909-00	9910-00	9911-00
9912-00	9913-00	9914-00			