

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

CLAIMANT: River Bottom Ranch, LLC; United States of
America (Bureau of Land Management)

CASE 39F-0014-I-2024
39F 30139133
39F 30140242

OBJECTOR: River Bottom Ranch, LLC

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. River Bottom Ranch, LLC (River Bottom) is the record owner of stock claim 39F 30139133. The United States of America (BLM) is the record owner of claim 39F 30140242.

2. Claims 39F 30139133 and 39F 30140242 were decreed with DNRC issue remarks:

39F 30139133:

THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 39F DECREE ISSUED 05/23/2019.

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT WERE FILED BY DIFFERENT PARTIES WHO CLAIM OVERLAPPING PLACES OF USE. 30139133, 30140242.

THE OWNERSHIP OF THIS RIGHT MAY BE QUESTIONABLE. PART OR ALL OF THE PLACE OF USE APPEARS TO BE ON FEDERAL LAND. (BLM)

39F 30140242:

THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 39F DECREE ISSUED 05/23/2019.

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT WERE FILED BY DIFFERENT PARTIES WHO CLAIM OVERLAPPING PLACES OF USE. 30139133, 30140242.

3. River Bottom objected to claim 39F 30139133; the Objection indicated additional points of diversion and places of use should be added:

This claim includes additional points of diversion and places of use in: N2NWNE-25-5S-59E; S2SWSE-24-5S-59E

Evidence supporting the historical use of the claim, as identified in the Objection, was not included with the Objection, nor was a map, or proposed abstract.

4. A deadline was set for the parties to address the issue remarks and the Objection.

5. On June 28, 2024, River Bottom filed its Response to Order Setting Filing Deadline. (Doc.¹2.00). The Response explained that when filing claim 39F 30139133, errors were made for the point of diversion and place of use legal land descriptions placing a portion of the claim on federal land, resulting in the ownership issue remark and the overlapping place of use issue remark.

¹ “Doc.” numerical references correlate to case file docket numbers in the Water Court’s Full Court case management system.

River Bottom requested the following point of diversion and place of use legal land description modifications be made to claim 39F 30139133, resolving the issue remarks and Objection for the claims in this Case:

<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			SESE	24	5S	60E	CARTER
2			W2NENE	25	5S	50E	CARTER
3			SESWNE	26	5S	60E	CARTER
4			SWNE	25	5S	50E	CARTER
6			W2NWSE	26	5S	60E	CARTER
8			S2NESW	26	5S	60E	CARTER
7			S2SENE	10	5S	60E	CARTER
8			NWNESE	10	5S	60E	CARTER
9			N2NWSE	10	5S	60E	CARTER
10			N2NESW	10	5S	60E	CARTER
11		3	NWSW	10	5S	60E	CARTER
12			NENE	20	5S	60E	CARTER
13			S2NWNE	20	5S	60E	CARTER
14			SEENW	20	5S	60E	CARTER
15			SESW	20	5S	60E	CARTER
16			S2SWNW	20	5S	60E	CARTER
17			N2NWNE	21	5S	60E	CARTER
18			NWENW	21	5S	60E	CARTER
19			NWNW	21	5S	60E	CARTER
20			S2NENE	22	5S	60E	CARTER
21			S2NWNE	22	5S	60E	CARTER
22			NENW	22	5S	60E	CARTER
23			N2NWNW	22	5S	60E	CARTER

6. On July 19, 2024, the BLM filed its Response to Court Order, stating:

The United States believes that the modifications proposed by River Bottom Ranch LLC resolve any issues related to the United States' interests in this case. If other changes are proposed by the Court or the parties prior to the issuance of a final order in this case, the United States reserves its right to participate further in these proceedings.

(Doc. 3.00).

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. If a claimant agrees to reduce or limit a claim, the Water Court may accept the reduction or limitation without reviewing further evidence, unless an unresolved issue remark remains. Rule 17(c), W.R.Adj.R.

3. The issue remarks noting that claims 39F 30139133 and 39F 30140242 were not included in the 2019 decree have served their purpose. As the Objection has been resolved, no further proceedings are required.

RECOMMENDATIONS

1. Claim 39F 30139133 should be modified as shown in Finding of Fact No. 5.

2. The issue remarks should be removed from claims 39F 30139133 and 39F 30140242.

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

ELECTRONICALLY SIGNED AND DATED BELOW.

Service Via Electronic Mail:

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Service List Update: 7/24/2024

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

Water Right Number: 39F 30139133 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: RIVER BOTTOM RANCH LLC
6806 ALEXANDER RD
BILLINGS, MT 59105-4541

Priority Date: DECEMBER 31, 1915

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 STOCKWATERING 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: LONE TREE 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		NENE	20	5S	60E	CARTER
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
2		S2NWNE	20	5S	60E	CARTER
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
3		SENW	20	5S	60E	CARTER
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
4		NWNW	21	5S	60E	CARTER
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
5		S2NENE	22	5S	60E	CARTER
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
6		S2NWNE	22	5S	60E	CARTER
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					

7 NENW 22 5S 60E CARTER

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

8 N2NWNW 22 5S 60E 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			NENE	20	5S	60E	CARTER
2			S2NWNW	20	5S	60E	CARTER
3			SENE	20	5S	60E	CARTER
4			NWNW	21	5S	60E	CARTER
5			S2NENE	22	5S	60E	CARTER
6			S2NWNW	22	5S	60E	CARTER
7			NENE	22	5S	60E	CARTER
8			N2NWNW	22	5S	60E	CARTER

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

Water Right Number: 39F 30140242 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: USA (DEPT OF INTERIOR BUREAU OF LAND MGMT)
5001 SOUTHGATE DR
BILLINGS, MT 59101-4669

Priority Date: APRIL 8, 1935

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 STOCKWATERING 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:** LONE TREE CREEK

Source Type: SURFACE WATER

***Source Name:** UNNAMED TRIBUTARY OF LONE TREE CREEK

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		NESE	19	5S	60E	CARTER
Source Name: LONE TREE CREEK						
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						
2		NESW	19	5S	60E	CARTER
Source Name: LONE TREE CREEK						
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						
3		SENE	19	5S	60E	CARTER
Source Name: LONE TREE CREEK						
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						
4	3	NWSW	19	5S	60E	CARTER
Source Name: LONE TREE CREEK						
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						

5		NENW	20	5S	60E	CARTER
Source Name:	LONE TREE CREEK					
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
6		NWSW	20	5S	60E	CARTER
Source Name:	LONE TREE CREEK					
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
7		SWNW	20	5S	60E	CARTER
Source Name:	LONE TREE CREEK					
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
8		NENW	21	5S	60E	CARTER
Source Name:	LONE TREE CREEK					
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
9		NWNE	21	5S	60E	CARTER
Source Name:	LONE TREE CREEK					
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
10		NENW	30	5S	60E	CARTER
*Source Name:	UNNAMED TRIBUTARY OF LONE TREE CREEK					
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
11		NWNE	30	5S	60E	CARTER
*Source Name:	UNNAMED TRIBUTARY OF LONE TREE CREEK					
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
12	1	NWNW	30	5S	60E	CARTER
*Source Name:	UNNAMED TRIBUTARY OF LONE TREE CREEK					
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
13	2	SWNW	30	5S	60E	CARTER
*Source Name:	UNNAMED TRIBUTARY OF LONE TREE CREEK					
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			NESE	19	5S	60E	CARTER
2			NESW	19	5S	60E	CARTER
3			SENE	19	5S	60E	CARTER

4	3	NWSW	19	5S	60E	CARTER
5		NENW	20	5S	60E	CARTER
6		NWSW	20	5S	60E	CARTER
7		SWNW	20	5S	60E	CARTER
8		NENW	21	5S	60E	CARTER
9		NWNE	21	5S	60E	CARTER
10		NENW	30	5S	60E	CARTER
11		NWNE	30	5S	60E	CARTER
12	1	NWNW	30	5S	60E	CARTER
13	2	SWNW	30	5S	60E	CARTER