

Montana Water Court  
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**IN THE WATER COURT OF THE STATE OF MONTANA  
UPPER MISSOURI DIVISION  
MISSOURI RIVER ABOVE HOLTER DAM BASIN (41I)  
PRELIMINARY DECREE**

\*\*\*\*\*

CLAIMANT: Judith A. Reynolds

**CASE 41I-2020-R-2024**  
41I 89894-00

NOTICE OF INTENT TO APPEAR: Staubach Creek 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 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 41I 89894-00 appeared in the Preliminary Decree for the Missouri River above Holter Dam (Basin 41I) issued June 24, 2022. The claim received issue remarks from the Department of Natural Resources and Conservation (DNRC)

raising potential legal or factual issues with the claim. Staubach Creek Ranch LLC filed a Notice of Intent to Appear in proceedings pertaining to this claim. The Water Court consolidated the claims into case 41I-2020-R-2024 to address the remarks.

On March 7, 2024, Staubach Creek Ranch withdrew its Notice of Intent to Appear. On March 14, 2024, the Claimant filed a Concurrence with Proposed Resolution of Issue Remarks, which states that the Claimant agrees with the resolution of issue remarks described below.

FINDINGS OF FACT

1. Claim 41I 89894-00 appeared in the Preliminary Decree as a claim to water from Beaver Creek for irrigating 69 acres. It received the following substantive issue remarks:

THE BROADWATER COUNTY WATER RESOURCES SURVEY ( 1956 ) APPEARS TO INDICATE 25.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

THE MAXIMUM COMBINED ACRES FOR THIS GROUP OF SUPPLEMENTAL CLAIMS MAY REQUIRE MODIFICATION PENDING RESOLUTION OF MAXIMUM IRRIGATED ACRES ISSUE.

FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.

The Water Court previously determined the maximum acres of this claim in a December 8, 1997 Master’s Report in Case 41I-113 (adopted January 27, 1998). The Water Master made the following factual finding:

7. The following changes should be made to the maximum acres, point of diversion, place of use and supplemental rights remark as specified in the 10/24/97 Affidavit and the Memorandum:

MAXIMUM ACRES:            69.00

POINT OF DIVERSION:

	<u>QTR.</u>	<u>SEC.</u>	<u>TWP.</u>	<u>RGE.</u>	<u>COUNTY</u>	
01	SE	NENW	01	08N	01W	BROADWATER

PLACE OF USE FOR IRRIGATION:

	<u>ACRES</u>	<u>QTR.</u>	<u>SEC.</u>	<u>TWP.</u>	<u>RGE.</u>	<u>COUNTY</u>	
001	20.00	SW	SE	30	09N	01E	BROADWATER
002	12.00	SE	SW	30	09N	01E	BROADWATER
003	13.00	N	ENW	31	09N	01E	BROADWATER
004	<u>24.00</u>	SE	NW	31	09N	01W	BROADWATER
TOTAL	69.00						

The Water Court has already addressed the irrigated acres and the issues raised by the substantive remarks are resolved.

2. The claim also received the following remark that served only to provide notice to the claimant and other water users in the Preliminary Decree (Notice Only Remark):

THE TIMELY FILED OBJECTION OF CHARLES REYNOLDS WAS AMENDED BY AGREEMENT OF THE PARTIES TO INCLUDE POINT OF DIVERSION BECAUSE THESE ELEMENTS WERE NOT INCLUDED ON THE OBJECTION LIST, ANY WATER USER WHOSE RIGHTS MAY BE ADVERSELY AFFECTED BY ENFORCEMENT OF THESE CHANGES MAY PETITION THE APPROPRIATE COURT FOR RELIEF OR MAY FILE AN OBJECTION AT THE PRELIMINARY DECREE.

#### PRINCIPLES OF LAW

1. Section 85-2-248(2), MCA requires the Water Court to resolve all issue remarks that are not resolved through the objection process. The Montana Water Court has the authority to resolve issue remarks when the claim file and information available to the Court provide a sufficient basis to do so. § 85-2-248(3), MCA.

#### CONCLUSIONS OF LAW

1. The Findings of Fact above are supported by a preponderance of the evidence. The issues raised by the substantive issue remarks are resolved and the Notice Only Remark has served its notice purpose. The issue remarks should be removed from the claim.

#### RECOMMENDATIONS

Based on the foregoing Findings of Fact and Conclusions of Law, this Master recommends that the Court remove the issue remarks from the claim.

A Post Decree Abstract of Water Right Claim reflecting the recommended changes is attached to this Report for review.

**ELECTRONICALLY SIGNED AND DATED BELOW.**

**SERVICE VIA ELECTRONIC MAIL**

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**Notice: Service List Updated 6.4.24**

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
MISSOURI RIVER, ABOVE HOLTER DAM  
BASIN 41I**

**Water Right Number:** 411 89894-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** JUDITH A REYNOLDS  
310 FILSON RD  
WINSTON, MT 59647-8402

**Priority Date:** JULY 6, 1880

**Type of Historical Right:** DECREED

**Purpose (Use):** IRRIGATION

**Irrigation Type:** FLOOD

**Flow Rate:** 2.50 CFS

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

**Climatic Area:** 3 - MODERATE

**\*Maximum Acres:** 69.00

**\*Source Name:** BEAVER 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		SENENW	1	8N	1W	BROADWATER

**Period of Diversion:** APRIL 1 TO OCTOBER 10

**Diversion Means:** HEADGATE

**Ditch Name:** REYNOLDS DITCH

**Period of Use:** APRIL 1 TO OCTOBER 10

**\*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	20.00		SWSE	30	9N	1E	BROADWATER
2	12.00		SESW	30	9N	1E	BROADWATER
3	13.00		NENW	31	9N	1E	BROADWATER
4	24.00		SENW	31	9N	1E	BROADWATER

**Total:** 69.00

**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.

89872-00

89889-00

89894-00

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.

89894-00

89898-00