

Montana Water Court  
PO Box 1389  
Bozeman, MT 59771-1389  
(406) 586-4364  
1-800-624-3270  
watercourt@mt.gov

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

\*\*\*\*\*

CLAIMANT: Garman Ranch Revocable Trust

CASE 39F-0005-I-2024

39F 30129318

39F 30129319

39F 30129320

**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. Garman Ranch Revocable Trust is the record owner of claims 39F 30129318, 39F 30129319, and 39F 30129320.

2. Claims 39F 30129318, 39F 30129319, and 39F 30129320 were decreed with DNRC issue remarks:

THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 39F DECREE ISSUED 05/23/2019.  
NO TYPE OF HISTORICAL RIGHT WAS CLAIMED. DOCUMENTATION TO SUPPORT THE TYPE OF HISTORICAL RIGHT WAS NOT SUBMITTED WITH THIS CLAIM.

3. The first-listed issue remark on the claims is a notice-type remark and does not require further proceedings.

4. The second remark references the Statements of Claim forms and the fact that the type of historical right portion of the forms was blank as to the type of historical right:

13. TYPE OF HISTORIC RIGHT:       Decreed    Filed Appropriation    Use      Date of first use: Historic-pre 1973

Attach copies of the decree, record of filing, or proof of use right.

5. As indicated by the issue remark, no documentation supporting the type of historical right was submitted with the Statements of Claims. Without further information, it appeared the claims are “use” rights. To provide Claimant Garman Ranch Revocable Trust the opportunity to file additional evidence supporting a type of historical right, an Order was issued. The Order set a deadline for Claimant Garman Revocable Ranch Trust to file a statement agreeing or disagreeing that claims 39F 30129318, 39F 30129319, and 39F 30129320 be changed to “use” rights. The Order indicated that if nothing were filed by the deadline, this Water Master would conclude the Claimant agrees the claims are “use” rights. 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. The Water Court is required to address all issue remarks decreed on a claim. Sections 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. 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.

4. The notice-type issue remarks decreed on claims 39F 30129318, 39F 30129319, and 39F 30129320 have served their purpose. As no objections were filed, no further proceedings are required.

## RECOMMENDATIONS

1. Claims 39F 30129318, 39F 30129319, and 39F 30129320 should be “use” rights.

2. The issue remarks should be removed from claims 39F 30129318, 39F 30129319, and 39F 30129320.

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

**ELECTRONICALLY SIGNED AND DATED BELOW.**

**Service via USPS Mail:**

Garman Ranch Revocable Trust  
John R. & Eileen E. Garman Trustees  
6261 Hwy 323  
Alzada, MT 59311

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

**Water Right Number:** 39F 30129318 STATEMENT OF CLAIM

**Version:** 2 -- POST DECREE

**Status:** ACTIVE

**Owners:** GARMAN RANCH REVOCABLE TRUST  
GARMAN, JOHN R & EILEEN E TRUSTEES  
6261 HWY 323  
ALZADA, MT 59311

**\*Priority Date:** DECEMBER 31, 1972

**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:** NINEMILE 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		S2NE	10	8S	60E	CARTER
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31					
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE					
2		E2SE	10	8S	60E	CARTER
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31					
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE					
3		W2SW	11	8S	60E	CARTER
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31					
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE					
4		N2NW	14	8S	60E	CARTER
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31					
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE					
5		SENW	14	8S	60E	CARTER
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31					
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE					
6		E2SWNW	14	8S	60E	CARTER
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31					

**Diversion Means:** LIVESTOCK DIRECT FROM SOURCE  
7 E2SW 14 8S 60E CARTER

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** LIVESTOCK DIRECT FROM SOURCE  
8 E2NWSW 14 8S 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			S2NE	10	8S	60E	CARTER
2			E2SE	10	8S	60E	CARTER
3			W2SW	11	8S	60E	CARTER
4			N2NW	14	8S	60E	CARTER
5			SEnw	14	8S	60E	CARTER
6			E2SWNW	14	8S	60E	CARTER
7			E2SW	14	8S	60E	CARTER
8			E2NWSW	14	8S	60E	CARTER

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

**Water Right Number:** 39F 30129319 STATEMENT OF CLAIM

**Version:** 2 -- POST DECREE

**Status:** ACTIVE

**Owners:** GARMAN RANCH REVOCABLE TRUST  
GARMAN, JOHN R & EILEEN E TRUSTEES  
6261 HWY 323  
ALZADA, MT 59311

**\*Priority Date:** DECEMBER 31, 1972

**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:** COTTONWOOD 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		NESW	8	8S	60E	CARTER
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31					
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE					
2		SENE	8	8S	60E	CARTER
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31					
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE					
3		SWNE	8	8S	60E	CARTER
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31					
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE					
4		NWSE	8	8S	60E	CARTER
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31					
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE					
5		S2SE	8	8S	60E	CARTER
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31					
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE					
6		SW	9	8S	60E	CARTER
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31					

**Diversion Means:** LIVESTOCK DIRECT FROM SOURCE  
7 S2N2NW 10 8S 60E CARTER

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** LIVESTOCK DIRECT FROM SOURCE  
8 S2NW 10 8S 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			NESW	8	8S	60E	CARTER
2			SEnw	8	8S	60E	CARTER
3			SWNE	8	8S	60E	CARTER
4			NWSE	8	8S	60E	CARTER
5			S2SE	8	8S	60E	CARTER
6			SW	9	8S	60E	CARTER
7			S2N2NW	10	8S	60E	CARTER
8			S2NW	10	8S	60E	CARTER



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

**Water Right Number:** 39F 30129320 STATEMENT OF CLAIM

**Version:** 2 -- POST DECREE

**Status:** ACTIVE

**Owners:** GARMAN RANCH REVOCABLE TRUST  
GARMAN, JOHN R & EILEEN E TRUSTEES  
6261 HWY 323  
ALZADA, MT 59311

**\*Priority Date:** DECEMBER 31, 1972

**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:** SOUTH BUTTE CREEK

**Source Type:** SURFACE WATER

**\*Source Name:** UNNAMED TRIBUTARY OF SOUTH BUTTE 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		N2NW	28	7S	60E	CARTER

**\*Source Name:** UNNAMED TRIBUTARY OF SOUTH BUTTE CREEK

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** LIVESTOCK DIRECT FROM SOURCE

2		N2	28	7S	60E	CARTER
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**Source Name:** SOUTH BUTTE 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			N2NW	28	7S	60E	CARTER
2			N2	28	7S	60E	CARTER