

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**

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CLAIMANT: Elliott Ranch LLC

OBJECTOR: Elliott Ranch LLC; Montana State Board of Land  
Commissioners

**CASE 41I-0055-R-2023**

41I 11124-00

41I 11132-00

**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

Claims 41I 11124-00 and 41I 11132-00 appeared in the Preliminary Decree for the Missouri River above Holter Dam (Basin 41I) issued on June 24, 2022. The claims are owned by Elliott Ranch LLC. The State of Montana Board of Land Commissioners, Trust Land Management Division (TLMD) and Claimant objected to the claim. The claim also received issue remarks.

### FINDINGS OF FACT

1. Claim 41I 11124-00 and 41I 11132-00 appeared in the Basin 41I Preliminary Decree as claims for fish raceways in the NWSESE of Section 6, T4N, R3E, Broadwater County.

2. TLMD objected to the claims, stating:

This claim has never been perfected and should be withdrawn.

The claimed fish raceways project (POU) is on State property and has never been completed or used.

3. The claims received the following issue remarks:

THE CLAIMED FLOW RATE WAS NOT EXAMINED AS NO FLOW RATE GUIDELINES FOR THIS PURPOSE HAVE BEEN ESTABLISHED BY THE CLAIM EXAMINATION RULES.

SOURCE NAME WAS MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

THE PRIORITY DATE IS QUESTIONABLE. CASE 921, BROADWATER COUNTY, DOES NOT SPECIFY A MONTH OR DAY BUT DECREED THE RIGHTS AS 'CONTEMPORANEOUS & WITHOUT PRIORITY AS BETWEEN SAID PARTIES'. THE CLAIMS FOLLOWING THIS STATEMENT ALL CLAIMED MAY 23, 1869. 41I 11117-00, 41I 11120-00, 41I 11121-00, 41I 11122-00, 41I 11123-00, 41I 11124-00, 41I 11125-00, 41I 11126-00, 41I 11127-00, 41I 11128-00, 41I 11129-00, 41I 11130-00, 41I 11131-00, 41I 11132-00, 41I 11133-00, 41I 11134-00, 41I 11135-00, 41I 11136-00, 41I 11137-00, 41I 11138-00, 41I 11139-00, 41I 11140-00, 41I 11141-00, 41I 11142-00.

IT APPEARS THIS WATER RIGHT MAY NOT HAVE BEEN PERFECTED. ACCORDING TO INFORMATION IN THE CLAIM FILE, THE FISH RACEWAYS PROJECT WAS NEVER COMPLETED OR USED.

THE CLAIMED VOLUME WAS NOT EXAMINED AS NO VOLUME GUIDELINES FOR THIS PURPOSE HAVE BEEN ESTABLISHED BY THE CLAIMS EXAMINATION RULES.

THE CLAIMED VOLUME EXCEEDS THE MAXIMUM FEASIBLE VOLUME. BASED ON THE FLOW RATE AND PERIOD OF USE, THE MAXIMUM VOLUME POSSIBLE IS 4043.27 ACRE-FEET PER YEAR.

4. Claimant Elliott Ranch LLC filed a withdrawal of claims 41I 11124-00 and 41I 11132-00, stating the water rights were never perfected. (Doc.<sup>1</sup> 4.00).

### PRINCIPLE OF LAW

1. 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.

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<sup>1</sup> "Doc." numerical references correlate to case file docket numbers in the Water Court's Full Court case management system.

CONCLUSION OF LAW

1. Claimant's withdrawal of claim 41I 11124-00 and 41I 11132-00 resolves TLMD's objections.

RECOMMENDATIONS

1. Claim 41I 11124-00 should be dismissed.
2. Claim 41I 11132-00 should be dismissed.

A post decree abstract of each water right claim reflecting the recommended dismissal is attached to this Report.

**ELECTRONICALLY SIGNED AND DATED BELOW.**

**Service via Electronic Mail**

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**Notice: Service List Updated 5.9.24**

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

**Water Right Number:** 41I 11124-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** **DISMISSED**

**Owners:** ELLIOTT RANCH LLC  
PO BOX 476  
DAWSONVILLE, GA 30534

**Priority Date:**

**Type of Historical Right:**

**Purpose (Use):** FISH RACEWAYS

**Flow Rate:**

**Volume:**

**Source Name:** SPRING, BIG SPRINGS

**Source Type:** GROUNDWATER

**Point of Diversion and Means of Diversion:**

**Period of Use:**

**Place of Use:**

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**Remarks:**

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.

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

**Water Right Number:** 41I 11132-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** **DISMISSED**

**Owners:** ELLIOTT RANCH LLC  
PO BOX 476  
DAWSONVILLE, GA 30534

**Priority Date:**

**Type of Historical Right:**

**Purpose (Use):** FISH RACEWAYS

**Flow Rate:**

**Volume:**

**Source Name:** SPRING, BIG SPRINGS

**Source Type:** GROUNDWATER

**Point of Diversion and Means of Diversion:**

**Period of Use:**

**Place of Use:**

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**Remarks:**

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.