

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

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

CLAIMANT: Kiff Ranch Inc.

OBJECTOR: 4 Corners Storage LLC

CASE 41I-2041-R-2024
41I 105635-00

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 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 105635-00 appeared in the Preliminary Decree for the Missouri River above Holter Dam (Basin 41I) issued on June 24, 2022. The claim

received an objection from 4 Corners Storage LLC and issue remarks from the Department of Natural Resources and Conservation (“DNRC”) raising potential legal or factual issues with the claim. The Water Court consolidated the claim into case 41I-2041-R-2024 to address the issues.

4 Corners Storage LLC’s objection states that the priority date for this claim contains a typo and should read July 10, 1940, not June 10, 1940. This correction is consistent with a September 3, 2015 Master’s Report in Case 41I-272. The Court gave the Claimant an opportunity to inform the Court if it disagreed with the correction and stated that if nothing were filed, the Court would conclude the Claimant agrees with the correction and the correction resolves the objection in this case. Nothing was filed.

FINDINGS OF FACT

1. The priority date of claim 41I 105635-00 should be corrected as follows:

Priority date: ~~June 10, 1940~~ July 10, 1940

2. Claim 41I 105635-00 received the following substantive issue remark from the DNRC:

THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE.
THE CLAIMED VOLUME EQUALS 3.32 TIMES THE CAPACITY OF THE RESERVOIR.

The Volume was previously determined in the September 3, 2015 Master’s Report in Case 41I-272 (Adopted October 21, 2015). No party objected to the volume at the Preliminary Decree, and the Court concludes the volume is accurate as decreed.

3. The claim also received the following issue remarks that served only to provide notice to the Claimant and other water users in the Preliminary Decree (Notice Only Remarks):

THE TIMELY FILED OBJECTION OF RINGLING LAND & CATTLE COMPANY #3, LLC WAS AMENDED BY OBJECTION TO INCLUDE SOURCE, MAXIMUM ACRES, PLACE OF USE, PERIOD OF USE, PERIOD OF DIVERSION, POINT OF DIVERSION, AND MEANS 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.

DITCH 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.

CONCLUSIONS OF LAW

1. The Water Court may correct a clerical mistake or a mistake arising from oversight or omission where one is found in a part of the record. Rule 60(a), M.R.Civ.P. The clerical error in the priority date should be corrected as described above. This correction resolves 4 Corners Storage LLC's objection in this case.

2. The issue raised by the substantive issue remark is resolved. The Notice Only Remarks have served their 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 modify the claim as described above and 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 USPS MAIL

Kiff Ranch Inc
PO Box 65
Ringling, MT 59642-0065

4 Corners Storage LLC
1100 Bridger Canyon Spur Road
Bozeman, MT 59715

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

Water Right Number: 411 105635-00 STATEMENT OF CLAIM
Version: 4 -- POST DECREE
Status: ACTIVE

Owners: KIFF RANCH INC
PO BOX 65
RINGLING, MT 59642-0065

Priority Date: JULY 10, 1940

***Type of Historical Right:** USE

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

***Flow Rate:** 1.88 CFS

***Volume:** 246.00 AC-FT

Climatic Area: 4 - MODERATELY LOW

***Maximum Acres:** 331.00

***Source Name:** COTTONWOOD CREEK

Source Type: SURFACE WATER

THIS RIGHT IS FOR FLOOD WATER ONLY.

***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		SWNENW	35	6N	8E	MEAGHER

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

Diversion Means: HEADGATE

Ditch Name: LUCAS-KIFF DITCH

2		SWSWSE	35	6N	8E	MEAGHER
---	--	--------	----	----	----	---------

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

Diversion Means: HEADGATE

Ditch Name: SUPPLY DITCH

***Reservoir:** OFFSTREAM **Reservoir Name:** LUCAS-KIFF COTTONWOOD RESERVOIR

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SWSW	35	6N	8E	MEAGHER

Diversion to Reservoir: DIVERSION # 2

Dam Height: 20.00 FEET

Depth: 17.00 FEET

Surface Area: 21.00 ACRES

Capacity: 123.00 ACRE-FEET

BOTH DIVERSIONS DELIVER WATER TO THE RESERVOIR.

***Period of Use:** APRIL 1 TO OCTOBER 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	13.00		W2NWNW	26	6N	8E	MEAGHER
2	13.00		W2SWNW	26	6N	8E	MEAGHER
3	37.00		NENE	26	6N	8E	MEAGHER
4	23.00		SENE	26	6N	8E	MEAGHER
5	28.00		NWSW	26	6N	8E	MEAGHER
6	35.00		SWSW	26	6N	8E	MEAGHER
7	4.00		E2E2NESE	27	6N	8E	MEAGHER
8	15.00		SESE	27	6N	8E	MEAGHER
9	29.00		NENE	34	6N	8E	MEAGHER
10	43.00		S2NE	34	6N	8E	MEAGHER
11	32.00		NWNW	35	6N	8E	MEAGHER
12	36.00		SWNW	35	6N	8E	MEAGHER
13	4.00		W2NWNESW	35	6N	8E	MEAGHER
14	19.00		NWSW	35	6N	8E	MEAGHER
Total:	331.00						

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.

105629-00 105631-00 105633-00 105634-00 105635-00