

Montana Water Court  
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Bozeman, MT 59771-1389  
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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: Kiff Ranch

NOTICE OF INTENT TO APPEAR: 4 Corners Storage LLC

**CASE 41I-2042-R-2024**

41I 105629-00

41I 105631-00

41I 105633-00

41I 105634-00

**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**

The water right claims listed above appeared in the Preliminary Decree for the Missouri River above Holter Dam (Basin 41I) issued on June 24, 2022. The claims did not receive objections but received issue remarks from the Department of Natural

Resources and Conservation (DNRC) raising potential legal or factual issues with the claims. 4 Corners Storage LLC filed a Notice of Intent to appear to the claims. The Water Court consolidated the claims into case 41I-2042-R-2024 to address these issues.

On June 28, 2024, the Water Court issued an Order Consolidating Claims and Setting Filing deadlines. Doc. 1.00.<sup>1</sup> The Order explained the issue remarks on the claims and requested that the parties contact the Court if they believed action should be taken in response to the issue remarks. The Court informed the parties that if nothing was filed by the deadline, the Court would conclude the parties agree the rights are accurate as decreed, and the remarks would be removed from the claims. Nothing was filed by the deadline.

### FINDINGS OF FACT

1. The Claimants agree the rights are accurate as decreed in the Preliminary Decree.

#### 41I 105629-00:

2. Claim 41I 105629-00 is an irrigation claim to water from Sixteenmile Creek stored in Lucas-Kiff Sixteenmile Reservoir. It received the following substantive issue remark.

**POINTS OF DIVERSION 2 AND 3 APPEAR TO BE PRIMARY DIVERSIONS. SIXTEENMILE CREEK IS THE SOLE SOURCE OF WATER.**

The points of diversion, and specifically the existence of secondary points of diversion, were determined by the Water Court in a Master's Report in Case 41I-302 on September 3, 2015 (adopted October 21, 2015). The issue raised by the remark has already been addressed by the Court.

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

**THE TIMELY FILED OBJECTION OF RINGLING LAND & CATTLE COMPANY, LLC WAS AMENDED BY AGREEMENT OF THE PARTIES TO INCLUDE SOURCE, TYPE OF HISTORICAL RIGHT, 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**

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<sup>1</sup> "Doc." refers to the docket number of a document filed in the Water Court's Full Court Enterprise Case Management system.

CHANGES MAY PETITION THE APPROPRIATE COURT FOR RELIEF OR MAY FILE AN OBJECTION AT THE PRELIMINARY DECREE.

41I 105631-00:

3. Claim 41I 105631-00 is an irrigation claim to water from Cottonwood Creek. It received the following substantive issue remarks:

THE POINT OF DIVERSION APPEARS TO BE INCORRECT. THE POINT OF DIVERSION APPEARS TO BE IN THE SWSWSE SEC 35 TWP 6N RGE 8E MEAGHER COUNTY.

THE CLAIMED POINT OF DIVERSION IS IN QUESTION. THE LOCATION OF THE HEADGATE CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

The point of diversion was determined in a Master's Report in Case 41I-249 on September 8, 2015 (adopted 10/21/2015). The issues raised by the remarks have already been addressed by the Court.

The claim also received the following Notice Only Remark:

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

41I 105633-00:

4. Claim 41I 105633-00 is an irrigation claim to water from Canyon Creek. It received the following substantive issue remark:

THE CLAIMED FLOW RATE EXCEEDS THE 17 GPM PER ACRE GUIDELINE AND CANNOT BE CONFIRMED DUE TO LACK OF DATA. THE FLOW RATE EQUALS 25.50 GPM PER ACRE.

Nothing in the claim file indicates the flow rate for this claim is inaccurate and no objections were filed to the flow rate. DNRC's guideline alone is insufficient evidence that the decreed and claimed flow rate of this claim is incorrect.

41I 105634-00:

5. Claim 41I 105634-00 is an irrigation claim to water from Sixteenmile Creek. It received the following substantive issue remark:

THE PRIORITY DATE MAY BE QUESTIONABLE. THIS CLAIM IS FOR A USE RIGHT ON SIXTEENMILE CREEK WITH A PRIORITY DATE POSTDATING CASE NO. 625 , MEAGHER COUNTY.

Nothing in the claim file indicates future appropriations were prohibited following Case

625. This remark is insufficiently supported to outweigh the claim.

### 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.

2. A properly filed claim of an existing right or an amended claim of existing right is prima facie proof of its content. § 85-2-227, MCA. This prima facie proof may be contradicted and overcome by other evidence that proves, by a preponderance of the evidence, that the elements of the claim do not accurately reflect the beneficial use of the water right as it existed prior to July 1, 1973. This is the burden of proof for every assertion that a claim is incorrect. Rule 19, W.R.Adj.R.

### CONCLUSIONS OF LAW

1. The substantive issue remarks fail to overcome the prima facie status of the claims or have been previously addressed by the Water Court. The Notice Only Remarks have served their notice purpose. The issue remarks should be removed from the claims.

### RECOMMENDATIONS

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

A Post Decree Abstract of Water Right Claim for each 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 105629-00 STATEMENT OF CLAIM

**Version:** 4 -- POST DECREE

**Status:** ACTIVE

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

**Priority Date:** JUNE 1, 1934

**\*Type of Historical Right:** USE

**Purpose (Use):** IRRIGATION

**Irrigation Type:** FLOOD

**\*Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR.  
AS STATED IN THE PARTIES' SUPPLEMENTAL STIPULATION FILED ON 07/16/2014 IN CASE 411-302, THE FOLLOWING ADDITIONAL INFORMATION IS PROVIDED: THE TOTAL FLOW RATE FOR THE SECONDARY DIVERSIONS FROM SIXTEENMILE CREEK AFTER THIS WATER RIGHT IS RELEASED FROM THE RESERVOIR IS 7.92 CFS.

**\*Volume:** 761.60 AC-FT

**Climatic Area:** 4 - MODERATELY LOW

**\*Maximum Acres:** 427.00

**Source Name:** SIXTEENMILE 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		NENESE	35	6N	8E	MEAGHER

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

**Diversion Means:** DAM

2 - SECONDARY		NWNWNE	35	6N	8E	MEAGHER
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**Period of Diversion:** APRIL 1 TO OCTOBER 31

**Diversion Means:** HEADGATE

**Ditch Name:** LUCAS DITCH

3 - SECONDARY		NENESE	35	6N	8E	MEAGHER
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**Period of Diversion:** APRIL 1 TO OCTOBER 31

**Diversion Means:** HEADGATE

**Ditch Name:** LUCAS-KIFF DITCH

**\*Reservoir:** ONSTREAM **Reservoir Name:** LUCAS-KIFF SIXTEENMILE RESERVOIR

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

**Diversion to Reservoir:** DIVERSION # 1

**Dam Height:** 31.00 FEET  
**Depth:** 28.00 FEET  
**Surface Area:** 21.25 ACRES  
**Capacity:** 238.00 ACRE-FEET

**\*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	8.00		NENW	26	6N	8E	MEAGHER
2	32.00		NWNW	26	6N	8E	MEAGHER
3	14.00		SENW	26	6N	8E	MEAGHER
4	26.00		SWNW	26	6N	8E	MEAGHER
5	3.00		SWSWSE	26	6N	8E	MEAGHER
6	12.00		NESW	26	6N	8E	MEAGHER
7	28.00		NWSW	26	6N	8E	MEAGHER
8	19.00		SESW	26	6N	8E	MEAGHER
9	40.00		SWSW	26	6N	8E	MEAGHER
10	37.00		NENE	27	6N	8E	MEAGHER
11	23.00		SENE	27	6N	8E	MEAGHER
12	11.00		E2NESE	27	6N	8E	MEAGHER
13	14.00		SESE	27	6N	8E	MEAGHER
14	29.00		NENE	34	6N	8E	MEAGHER
15	43.00		S2NE	34	6N	8E	MEAGHER
16	3.00		NWNWNE	35	6N	8E	MEAGHER
17	18.00		NENW	35	6N	8E	MEAGHER
18	38.00		NWNW	35	6N	8E	MEAGHER
19	29.00		SWNW	35	6N	8E	MEAGHER
<b>Total:</b>	<u>427.00</u>						

**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

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

**Water Right Number:** 411 105631-00 STATEMENT OF CLAIM

**Version:** 4 -- POST DECREE

**Status:** ACTIVE

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

**Priority Date:** MAY 1, 1883

**Type of Historical Right:** DECREED

**Purpose (Use):** IRRIGATION

**Irrigation Type:** FLOOD

**Flow Rate:** 1.25 CFS

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

**Climatic Area:** 4 - MODERATELY LOW

**\*Maximum Acres:** 153.00

**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		SWNENW	35	6N	8E	MEAGHER

**\*Period of Diversion:** APRIL 1 TO OCTOBER 31

**Diversion Means:** HEADGATE

**Ditch Name:** LUCAS-KIFF DITCH

2		NWSWSE	35	6N	8E	MEAGHER
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**\*Period of Diversion:** APRIL 1 TO OCTOBER 31

**Diversion Means:** HEADGATE

3		NWSWSE	35	6N	8E	MEAGHER
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**\*Period of Diversion:** APRIL 1 TO OCTOBER 31

**Diversion Means:** HEADGATE

**Ditch Name:** SUPPLY DITCH

**\*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	10.00		NWNW	26	6N	8E	MEAGHER
2	28.00		SWNW	26	6N	8E	MEAGHER
3	2.00		S2S2SESW	26	6N	8E	MEAGHER
4	36.00		NENE	27	6N	8E	MEAGHER
5	20.00		SENE	27	6N	8E	MEAGHER



6	1.00	NENESE	27	6N	8E	MEAGHER
7	16.00	NENW	35	6N	8E	MEAGHER
8	8.00	S2NW	35	6N	8E	MEAGHER
9	6.00	W2NESW	35	6N	8E	MEAGHER
10	20.00	NWSW	35	6N	8E	MEAGHER
11	6.00	SESW	35	6N	8E	MEAGHER
<b>Total:</b>	<u>153.00</u>					

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**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

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

**Water Right Number:** 411 105633-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

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

**Priority Date:** MAY 1, 1883

**Type of Historical Right:** DECREED

**Purpose (Use):** IRRIGATION

**Irrigation Type:** FLOOD

**Flow Rate:** 1.25 CFS

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

**Climatic Area:** 4 - MODERATELY LOW

**Maximum Acres:** 22.00

**Source Name:** CANYON 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		SESWSE	26	6N	8E	MEAGHER

**Period of Diversion:** MAY 1 TO OCTOBER 1

**Diversion Means:** HEADGATE

**Ditch Name:** KIFF DITCH

**Period of Use:** MAY 1 TO OCTOBER 1

**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	4.00		SESWSE	26	6N	8E	MEAGHER
2	4.00		S2NESW	26	6N	8E	MEAGHER
3	13.00		SESW	26	6N	8E	MEAGHER
4	1.00		NWNWNE	35	6N	8E	MEAGHER

**Total:** 22.00

**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

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

**Water Right Number:** 411 105634-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

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

**Priority Date:** AUGUST 1, 1934

**Type of Historical Right:** USE

**Purpose (Use):** IRRIGATION

**Irrigation Type:** SPRINKLER/FLOOD

**Flow Rate:** 6.25 CFS

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

**Climatic Area:** 4 - MODERATELY LOW

**Maximum Acres:** 306.00

**Source Name:** SIXTEENMILE 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		NENESE	35	6N	8E	MEAGHER

**Period of Diversion:** MAY 1 TO SEPTEMBER 30

**Diversion Means:** HEADGATE

**Ditch Name:** LUCAS-KIFF DITCH

**Period of Use:** MAY 1 TO SEPTEMBER 30

**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	21.00		NWNW	26	6N	8E	MEAGHER
2	17.00		SWNW	26	6N	8E	MEAGHER
3	1.00		SWSWNESE	26	6N	8E	MEAGHER
4	28.00		NWSW	26	6N	8E	MEAGHER
5	2.00		S2SESW	26	6N	8E	MEAGHER
6	4.00		W2SESW	26	6N	8E	MEAGHER
7	40.00		SWSW	26	6N	8E	MEAGHER
8	36.00		NENE	27	6N	8E	MEAGHER
9	20.00		SENE	27	6N	8E	MEAGHER
10	1.00		NENESE	27	6N	8E	MEAGHER
11	2.00		NENESE	27	6N	8E	MEAGHER
12	12.00		SESE	27	6N	8E	MEAGHER
13	21.00		NENE	34	6N	8E	MEAGHER

14	4.00	NESENE	34	6N	8E	MEAGHER
15	3.00	SWNWNE	35	6N	8E	MEAGHER
16	1.00	NWNWSWNE	35	6N	8E	MEAGHER
17	25.00	NENW	35	6N	8E	MEAGHER
18	13.00	NENW	35	6N	8E	MEAGHER
19	40.00	NWNW	35	6N	8E	MEAGHER
20	1.00	NESENW	35	6N	8E	MEAGHER
21	14.00	N2SWNW	35	6N	8E	MEAGHER
<b>Total:</b>	<u>306.00</u>					

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**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