

Montana Water Court
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IN THE WATER COURT OF THE STATE OF MONTANA
UPPER MISSOURI DIVISION
MADISON RIVER BASIN (41F)
PRELIMINARY DECREE

CLAIMANT: TBLC Ltd.

CASE 41F-0047-R-2024

41F 136459-00

41F 136467-00

41F 140851-00

Implied Claim:

41F 30170735

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, conclusion 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

Statement of the case

The captioned claims are multiple uses of two water rights decreed by the Madison County District Court in Case No. 944, *Wiles v. Thompson*. Case No. 944 identifies the water rights as:

- April 1, 1884, 50.00 MI of Wigwam Creek through “Cord & Russler Ditch” for irrigation and other useful and beneficial purposes to Frank H. Russler and Charles M. Wilkins, as administrator of the Estate of Mary E. Russler.
- April 1, 1884, 5.00 MI of Wigwam Creek through “Russler Ditch No. 3” (runs through the milk house) for domestic and other useful and beneficial purposes to Frank H. Russler and Charles M. Wilkins, as administrator of the Estate of Mary E. Russler.

The claims appeared in the Preliminary Decree with the following issue remarks:

All Claims

IT APPEARS MORE THAN ONE WATER RIGHT MAY BE INVOLVED WITH THIS CLAIM. THE CLAIMANT HAS IDENTIFIED TWO SEPARATE DECREED RIGHTS THAT HAVE THE SAME OWNER AND PRIORITY DATE.

Stock Claim 41F 136467-00

POINT OF DIVERSION 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.

Irrigation Claim 41F 140851-00

A LATE OBJECTION HAS BEEN FILED TO THE OWNERSHIP, PLACE OF USE, ACRES IRRIGATED, VOLUME AND FLOW RATE OF THIS WATER RIGHT CLAIM. IT WILL BE RESOLVED DURING THE ADJUDICATION OF OBJECTIONS TO 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.

Issue remarks result from Department of Natural Resources and Conservation (“DNRC”) claims examination. If claims examination cannot confirm some aspect of a

claim, an issue remark is added to the claim. In some instances, the Water Court adds an issue remark to a claim. Irrigation claim 41F 140851-00 received late objections from Roy Reed, John F. Kent, and Virgil W. Benson after issuance of the Basin 41F Temporary Preliminary Decree. The court added the late objection issue remark to claim 41F 140851-00 after claims examination by the DNRC.

Montana law requires the Water Court to resolve objections and issue remarks. The issue remark on each claim noting the possibility of two water rights was not resolved through the objection process and there was not enough information in the claim files or before the court to resolve the issue remark. Pursuant to § 85-2-248(3), MCA, the court may first contact a claimant for further evidence in an attempt to resolve an issue remark. Therefore, a deadline was set for TBLC Ltd. to file evidence resolving the issue remark. On February 19, 2025, TBLC Ltd. filed its Proposed Resolution of the Issue Remarks. TBLC Ltd. proposed implying an irrigation claim from irrigation claim 41F 140851-00.

All elements of the claims appeared on the Basin 41F objection list.

Issues

1. Are the late objections and the late objection issue remark on irrigation claim 41F 140851-00 resolved?
2. Is the issue remark on each claim noting that claimant identified two separate decreed water rights with the same ownership and priority date in one claim resolved?
3. Should the court generate an implied claim for irrigation purposes from irrigation claim 41F 140851-00?
4. Are the notice issue remarks on stock claim 41F 136467-00 and irrigation claim 41F 140851-00 resolved?

Findings of fact

1. An implied irrigation claim should be generated from irrigation claim 41F 140851-00.

2. Stock claim 41F 136467-00-00 and irrigation claim 41F 140851-00 are multiple uses of the same 50.00 MI Wigwam Creek water right decreed to Frank H. Russler and Charles M. Wilkins, as administrator of the Estate of Mary E. Russler. Stock claim 41F 136459-00 and implied irrigation claim 41F 30170735 are multiple uses of the 5.00 MI Wigwam Creek water right decreed to Frank H. Russler and Charles M. Wilkins, as administrator of the Estate of Mary E. Russler.

Principles of law

1. A properly filed Statement of Claim for Existing Water Right or an amended claim for Existing Water Right is prima facie proof of its content. Section 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 an element of the prima facie claim is incorrect. This is the burden of proof for every assertion that a claim is incorrect. Rule 19, W.R.Adj.R. A preponderance of the evidence is a “modest standard” and is evidence that demonstrates the fact to be proved is "more probable than not." *Hohenlohe v. State*, 2010 MT 203, ¶ 33, 357 Mont. 348, 240 P.3d 628.

2. The Montana Water Court is permitted to use information submitted by the Department of Natural Resources and Conservation, the statement of claim, information from approved compacts, and any other data obtained by the Court to evaluate water right claims. Section 85-2-231(2), MCA.

3. Settlement, including the documents filed by a claimant where the claimant is the only party, is subject to review and approval by the Water Court. Rule 17(a), W.R.Adj.R.

4. The Montana Water Court shall request additional evidence if the settlement agreement expands or enlarges an element of a claim and the burden of proof is not met. If additional evidence does not meet the burden of proof, the element shall not be expanded or enlarged. Rule 17(b), W.R.Adj.R.

5. The Montana Water Court may accept a settlement agreement that reduces or limits an element of a claim and need not determine whether the burden of proof is met

unless there is an unresolved issue remark on the claim. Rule 17(c), W.R.Adj.R.

6. When resolving issue remarks, the Montana Water Court must weigh the information resulting in the issue remark and the issue remark against the claimed water right. Section 85-2-247(2), MCA.

7. 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. Section 85-2-248(3), MCA.

8. The Water Court has acknowledged its authority to generate implied claims during adjudication. *Bergin v. Nelson*, Case 40C-47 at p. 16, (MT Water Court Memorandum Opinion Feb. 21, 2001); *See* Rule 35, W.R.C.E.R. If a statement of claim was timely filed, and the form contains multiple rights, the statutory deadline set by § 85-2-221, MCA has been met for the multiple rights. *Bergin* at p. 16.

9. Pursuant to *Eliasson Ranch Company v. Rodeghiero*, Case 40A-115 at p. 4-5, (MT Water Court Order Amending and Adopting Master's Report Jun. 28, 2004). When generating an implied claim the following guidelines apply.

- An implied claim may be generated based only on the attachments to a statement of claim, but typically it is based on the statement of claim itself.
- There is usually evidence of two or more claims on the face of the statement of claim, most commonly indicated by an overstatement of an element, or the identification of multiple purposes, multiple priority dates, or multiple sources.
- The generation of an implied claim must come from the statement of claim as originally filed.

“A statement of claim cannot be amended after the filing deadline or changed through the objection process to expand the elements of the filed statement of claim and thereby create the groundwork to add additional water rights through the implied claim process. The implied claim process cannot be used to circumvent the claim filing process in order to cure a failure to file a water right claim in a timely fashion. That practice would be contrary to the late claim provisions

of the statutes.” Section 85-2-221 and 85-2-225, MCA. *Adjudication of Water Rights of Yellowstone River*, 253 Mont. 167, 832 P.2d 1210 (1992) (emphasis added).

10. *Foss v. Van Arsdale*, Case 76HF-580 at p. 20, 23, (MT Water Court Order Amending and Partially Adopting Master's Report as Amended Jan. 31, 2013), added an additional layer of review to the above analysis for generating implied claims. Three criteria must be met by the party requesting an implied claim.

- Evidence corroborating the actual historic use of the implied claim must exist.
- Supplemental evidence that explains or clarifies the statement of claim may be considered.
- The creation of an implied claim should not change the historic use of water or increase the historic burden on other water users.

If these criteria are not met, water rights are lost even when “ample evidence of historic use otherwise exists” thereby establishing “an appropriate balance between recognition of legitimate claims and upholding the substance of the forfeiture statute.” Section 85-2-226, MCA.

Analysis

Issue 1 – Irrigation claim 41F 140851-00, late objections resolution and late objection issue remark resolution

The court provided late objectors Roy Reed, John F. Kent, and Virgil W. Benson the opportunity to appear and prosecute their objections. These late objectors did not appear. The court provided claimant TBLC Ltd. the opportunity to assume the late objections. TBLC Ltd. did not wish to assume the late objections. The court dismissed the late objectors and their objections.

Conclusions of law

The late objections were dismissed and the late objection issue remark appearing on irrigation claim 41F 140851-00 is resolved.

Issues 2 and 3 – Resolution of two separate water rights issue remark and generation of implied irrigation claim 41F 30170735

Madison County District court decree, Case No. 944, *Wiles v. Thompson*, attached to irrigation statement of claim 41F 140851-00 identifies two water rights decreed to the same parties with the same priority date from Wigwam Creek with different flow rates – one for 50.00 miner’s inches and one for 5.00 miner’s inches. Both the 50.00 miner’s inches and the 5.00 miner’s inches were filed for irrigation and stock purposes during the claim filing period for Montana’s adjudication of historical water rights, identified by the captioned claims. Stock claims 41F 136459-00 and 41F 136467-00 are multiple uses of the decreed water rights claimed by irrigation claim 41F 140851-00. Multiple uses of a water right occur when one water right is used for more than one purpose and are limited to the historical beneficial use of the water right.

The district court decree attached to irrigation statement of claim 41F 140851-00 supports the request to generate an implied irrigation claim. The total flow rate of the two decreed water rights, 55.00 miner’s inches, historically irrigated the place of use identified by irrigation claim 41F 140851-00, thereby supporting the actual historic use of the implied irrigation claim. TBLC Ltd. provided a patent, issued to Jacob Russler, that identifies some of the historically irrigated place of use reasoning that the broader legal land description identified by the patent supports the historical use of the larger 50.00 miner’s inches decreed water right, thereby aligning with irrigation claim 41F 140851-00 and its multiple use stock claim 41F 136467-00.

TBLC Ltd. reasoned that the smaller decreed water right for 5.00 miner’s inches should be used to support implied irrigation claim 41F 30170735 and its multiple use, stock claim 41F 136459-00. The generation of implied irrigation claim 41F 30170735 will not increase the historic burden on the source as it was already claimed within the parameters of irrigation statement of claim 41F 140851-00.

TBLC Ltd.’s suggestions accomplish a clean administrative separation of the two decreed water rights into their respective claims and multiple uses. The multiple use

information remark on the claims should be updated to reflect the generation of the implied claim and the separation of the two decreed water rights.

The explanation and evidence filed by TBLC Ltd. to resolve the issue remark may be viewed on the court's case management system, FullCourt Enterprise, at document sequence 3.00.

Conclusions of law

Implied irrigation claim 41F 30170735 should be generated from irrigation statement of claim 41F 140851-00. Generation of implied irrigation claim 41F 30170735, thereby separating the two decreed water rights into separate claims and their multiple uses, identified by the updated multiple use information remark on the captioned claims resolves the issue remark on claims 41F 136459-00, 41F 136467-00, and 41F 140851-00 noting claimant identified two separate decreed water rights with the same ownership and priority date in one claim.

Issue 4 – Claims 41F 136467-00 and 41F 140851-00, notice issue remark resolution

Claim 41F 136467-00 received an issue remark providing notice to water users that the point of diversion was modified by DNRC during reexamination. Claim 41F 140851-00 received an issue remark providing notice to water users that the ditch name was modified by DNRC during reexamination. Water users were given the opportunity to review the claims and file an objection. The deadline to file objections passed. No water users filed objections against the claims at the Preliminary Decree stage.

Conclusion of law

The point of diversion issue remark on claim 41F 136467-00 and ditch name issue remark on claim 41F 140851-00 served their notice purpose.

Recommendations

Claim 41F 140851-00-00 should be modified as follows to accurately reflect historical use.

Irrigation Claim 41F 140851-00

FLOW RATE: ~~1.38 CFS~~ 1.25 CFS

ADD REMARK UNDER VOLUME:

THE FOLLOWING CLAIM NUMBERS SHALL NOT EXCEED THE TOTAL VOLUME OF 215.90 AF.
41F 140851-00, 41F 30170735.

ADD REMARK AT END OF ABSTRACT:

IMPLIED CLAIM NO. 41F 30170735 WAS AUTHORIZED AND GENERATED BASED ON
INFORMATION IN THIS CLAIM.

Implied Irrigation Claim 41F 30170735 (same elements as 41F 140851-00 except those below)

FLOW RATE: 58.34 GPM

ADD REMARK UNDER VOLUME:

THE FOLLOWING CLAIM NUMBERS SHALL NOT EXCEED THE TOTAL VOLUME OF 215.90 AF.
41F 140851-00, 41F 30170735.

ADD REMARK AT END OF ABSTRACT:

THIS IMPLIED CLAIM WAS AUTHORIZED BY THE WATER COURT BASED ON INFORMATION IN
CLAIM NO. 41F 140851-00.

UPDATE MULTIPLE USE INFORMATION REMARKS TO READ:

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.
136459-00, ~~136467-00~~, 30170735.

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.
~~136467-00~~, 140851-00.

The issue remarks should be removed from the claim abstracts.

Post Decree Abstracts of Water Right Claim accompany this report to confirm the
recommendations have been implemented in the state's centralized water right record
system.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via Electronic Mail

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POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MADISON RIVER
BASIN 41F

Water Right Number: 41F 136459-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: TBLC LTD
PO BOX 1047
HASTINGS, NE 68902-1047

Priority Date: APRIL 1, 1884

Type of Historical Right: DECREEED

Purpose (Use): STOCK

***Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREEED 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 STOCK WATERING 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: WIGWAM 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		SW	20	7S	1W	MADISON
Period of Diversion: FEBRUARY 1 TO MAY 15						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						
Period of Use: FEBRUARY 1 TO MAY 15						
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			SW	20	7S	1W	MADISON

Remarks:

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.

136459-00 30170735

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MADISON RIVER
BASIN 41F**

Water Right Number: 41F 136467-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: TBLC LTD
PO BOX 1047
HASTINGS, NE 68902-1047

Priority Date: APRIL 1, 1884

Type of Historical Right: DECREED

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 STOCK WATERING 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: WIGWAM 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		N2SW	20	7S	1W	MADISON

Period of Diversion: NOVEMBER 1 TO JUNE 15

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

2		N2	20	7S	1W	MADISON
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Period of Diversion: NOVEMBER 1 TO JUNE 15

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Period of Use: NOVEMBER 1 TO JUNE 15

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	7S	1W	MADISON

Remarks:

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.

136467-00

140851-00

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MADISON RIVER
BASIN 41F**

Water Right Number: 41F 140851-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: TBLC LTD
PO BOX 1047
HASTINGS, NE 68902-1047

Priority Date: APRIL 1, 1884

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 1.25 CFS

Volume: 215.90 AC-FT

THE FOLLOWING CLAIM NUMBERS SHALL NOT EXCEED THE TOTAL VOLUME OF
215.90 AF: 41F 140851-00, 41F 30170735.

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 25.40

Source Name: WIGWAM 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		SWNWSW	20	7S	1W	MADISON

Period of Diversion: APRIL 15 TO OCTOBER 1

Diversion Means: HEADGATE

Ditch Name: SHEWMAKER-RANKIN DITCH

Period of Use: APRIL 15 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	6.70		NWSW	20	7S	1W	MADISON
2	10.80		NESW	20	7S	1W	MADISON
3	7.90		SENW	20	7S	1W	MADISON

Total: 25.40

Remarks:

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.

136467-00 140851-00

IMPLIED CLAIM NO. 41F 30170735 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MADISON RIVER
BASIN 41F**

Water Right Number: 41F 30170735 STATEMENT OF CLAIM

Version: 1 -- ORIGINAL RIGHT

Status: ACTIVE

Owners: TBLC LTD
PO BOX 1047
HASTINGS, NE 68902-1047

Priority Date: APRIL 1, 1884

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 58.34 GPM

Volume: 215.90 AC-FT

THE FOLLOWING CLAIM NUMBERS SHALL NOT EXCEED THE TOTAL VOLUME OF
215.90 AF: 41F 140851-00, 41F 30170735.

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 25.40

Source Name: WIGWAM 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		SWNWSW	20	7S	1W	MADISON

Period of Diversion: APRIL 15 TO OCTOBER 1

Diversion Means: HEADGATE

Ditch Name: SHEWMAKER-RANKIN DITCH

Period of Use: APRIL 15 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	6.70		NWSW	20	7S	1W	MADISON
2	10.80		NESW	20	7S	1W	MADISON
3	7.90		SENW	20	7S	1W	MADISON

Total: 25.40

Remarks:

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.

136459-00 30170735

THIS IMPLIED CLAIM WAS AUTHORIZED BY THE WATER COURT BASED ON INFORMATION IN CLAIM NO. 41F 140851-00.