

Montana Water Court
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MONTANA WATER COURT
UPPER MISSOURI DIVISION
MISSOURI RIVER ABOVE HOLTER DAM
BASIN (41I)
PRELIMINARY DECREE

* * * * *

CLAIMANT: Bernice M. Middlemas

NOTICE OF INTENT TO APPEAR: RV Ranch Co.

CASE 41I-0508-R-2025

41I 89669-00

CLOSING ORDER

Claim 41I 89669-00 was included in the Preliminary Decree for the Missouri River above Holter Dam, Basin 41I, issued on June 24, 2022. The claim received the following issue remark as a result of examination by the Department of Natural Resources and Conservation:

THE CLAIMED FLOW RATE EXCEEDS THE 17 GPM PER ACRE GUIDELINE AND CANNOT BE CONFIRMED DUE TO LACK OF DATA. THE FLOW RATE EQUALS 25.14 GPM PER ACRE.

The Water Court is required to resolve issue remarks pursuant to Mont. Code Ann. § Section 85-2-248(2). The Water Court may use information in the Statement of claim and other information to evaluate the issues. *See §§ 85-2-227 – 231(2), MCA.* Claim 41I 89669-00 is a decreed right, meaning the flow rate was set pursuant to a prior District Court Case. Thus, the issue remark should be removed.

The claim also received an issue remark stating at the time of the priority date, the place of use was part of an Indian Reservation. Based on a September 22, 2011 DNRC Memorandum, this issue remark should be removed from all claims in 41I with a priority date post-dating April 15, 1856, the ratification date of the Treaty with the Blackfeet. The remark notes that the land associated with the claim may have been part of the Blackfeet

Reservation. However, the land was later restored to the public domain. The 1868 priority date of claim 41I 89669-00 post-dates April 15, 1865. Therefore, the issue remark should be removed.

The Court set a deadline for Notice of Intent to Appear party RV Ranch Co. to show cause why the Notice of Intent to Appear should not be dismissed based on resolution of the issue remarks. On December 16, 2025, RV Ranch Co. filed a withdrawal of its Notice of Intent to Appear. There are no further issues in this case.

Therefore, it is

ORDERED that the issue remarks are removed from the abstract of claim 41I 89669-00. A post decree abstracted is filed with this order for review.

ORDERED that the Notice of Intent to Appear was withdrawn and proceedings in this case are CLOSED.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

Bernice M. Middlemas
% Frances Stevens, PA
4290 N Montana Ave
Helena, MT 59602

Service Via Electronic Mail:

Betsy R. Story
PARSONS BEHLE & LATIMER
bstory@parsonsbehle.com
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POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MISSOURI RIVER, ABOVE HOLTER DAM
BASIN 41I

Water Right Number: **41I 89669-00** STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners:
BERNICE M MIDDLEMAS
% FRANCES STEVENS, PA
4290 N MONTANA AVE
HELENA, MT 59602

Priority Date: APRIL 30, 1868

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 2.00 CFS

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

Climatic Area: 3 - MODERATE

Maximum Acres: 35.70

Source Name: TENMILE CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County	
1		SWSESW		7	10N	3W	LEWIS AND CLARK

Period of Diversion: APRIL 15 TO OCTOBER 15

Diversion Means: HEADGATE

Ditch Name: LAMB DITCH

Period of Use: APRIL 15 TO OCTOBER 15

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	26.30		SESE	7	10N	3W	LEWIS AND CLARK
2	9.40		SWSE	7	10N	3W	LEWIS AND CLARK
Total:	35.70						

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.

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.

89668-00 89669-00

IMPLIED CLAIM NO. 41I 214198-00 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM.