

Montana Water Court
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IN THE WATER COURT OF THE STATE OF MONTANA
YELLOWSTONE DIVISION
TONGUE RIVER BELOW HANGING WOMAN CREEK - BASIN 42C
INTERLOCUTORY DECREE

* * * * *

CLAIMANT: Double H Ranch Inc.

CASE 42C-0020-I-2024

42C 30103552

42C 30103553

42C 30103580

42C 30103584

42C 30103585

42C 30103587

42C 30103588

OBJECTOR: United States, DOA Forest Service

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 have **13 days** from the service date of the notice of filing of this report to file a written objection or request an extension of the objection period. Rule 23, Water Right Adjudication Rules; Rule 6, Montana Rules of Civil Procedure. 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 United States, DOA Forest Service objected to each of these claims. On August 11, 2025 the parties filed their Stipulation To Resolve Objections ["Stipulation"]. As all of the requested changes are to elements that were not included in the objections, this is deemed a

motion to amend the claims pursuant to section 85-2-233(6), MCA. The Stipulation is viewable in the Court's FullCourt Enterprise case management system.

APPLICABLE LAW

The Montana Water Court has jurisdiction to review a motion to amend pursuant to section 85-2-233(6), MCA.

Rule 15 M.R.Civ.P. restricts the scope of the amendments to the conduct, transaction, or occurrence set forth in the original pleading or, in other words, the "same set of operative facts as contained in the original pleading." *Sooy v. Petrolane Steel Gas, Inc.*, 218 Mont. 418, 422-423, 708 P.2d 1014, 1017 (1985). The requested amendment "merely makes more specific that which has already been alleged." *Prentice Lumber Company v. Hukill*, 161 Mont. 8, 15, 504 P.2d 277, 281 (1972).

Notice must be published by newspaper if the requested amendments "may adversely affect other water rights." Section 85-2-233(6)(a)(i), MCA.

A properly filed Statement of Claim for Existing Water Right is *prima facie* proof of its content pursuant to section 85-2-222, 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 including for claimants amending their own claims. Rule 19, W.R.Adj.R.

FINDINGS OF FACT

1. The changes requested in the motion to amend arise out of the same conduct, transaction, or occurrence specified on the original Statements of Claim, are based on the same operative facts specified in the original Statements of Claim, and merely make more specific that which was already claimed on the original Statements of Claim.

2. For claims 42C 30103552, 42C 30103553, 42C 30103580, 42C 30103584, 42C 30103587, and 42C 30103588, the Interlocutory Decree states the flow rate is 10.42 GPM. For these livestock direct from source claims, the quantification should be removed and the following standard remark should be added:

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.

3. For each of these claims, the Interlocutory Decree states the source type is GROUNDWATER. The source type should be SURFACE.
4. For each of these claims, the Interlocutory Decree states that the means of diversion is either SPRING BOX or DEVELOPED SPRING. They should all be LIVESTOCK DIRECT FROM SOURCE.
5. For each of the claims in this Case, the Interlocutory Decree states that the period of diversion and period of use are JANUARY 1 TO DECEMBER 31. The period of diversion and period of use should be MAY 1 TO NOVEMBER 30.

6. All of these claims appeared in the Interlocutory Decree with the following notice remark:

THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 42C DECREE ISSUED 02/28/2008.

The remarks should be removed as having served their notice purpose.

CONCLUSIONS OF LAW

1. The requested amendments do not adversely affect other water rights as they are reductions or corrections to the abstracts which do not make any changes to the actual historical use of the claimed rights on the ground. Notice by publication of these amendments is not required. Section 85-2-233(6), MCA.
2. Each requested amendment "merely makes more specific that which has already been alleged." *Prentice Lumber Company v. Hukill*, 161 Mont. 8, 15, 504 P.2d 277, 281 (1972).
3. The Stipulation is sufficient to contradict and overcome the *prima facie* claims as they appeared in the Interlocutory Decree.

RECOMMENDATIONS

Based upon the above, this Master recommends that the Court grant the motion to amend these claims and make the changes specified in the Findings of Fact to correct the Interlocutory Decree for this Basin. A Post Decree Abstract of Water Right Claim for each claim is served with this Report to confirm the recommended changes have been made in the state's centralized record system.

ELECTRONICALLY SIGNED AND DATED BELOW:
Electronically Signed By:
3 Hon. Judge Kathryn Lambert
Thu, Dec 18 2025 02:35:57 PM

Service via USPS Mail:

Double H Ranch Inc.
71 E Fork Otter Stacey Rd
Ashland, MT 59003

Service Via Electronic Mail:

Judith E. Coleman
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US Dept of Justice, ENRD-NRS
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POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
TONGUE RIVER, BELOW HANGING WOMAN CREEK
BASIN 42C

Water Right Number: **42C 30103552 STATEMENT OF CLAIM**

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: DOUBLE H RANCH INC
71 E FORK OTTER STACEY RD
ASHLAND, MT 59003-9400

Priority Date: DECEMBER 19, 1910

Type of Historical Right: USE

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 STOCKWATERING 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: MAXWELL SPRING

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		NENWSE	10	2S	46E	POWDER RIVER

Period of Diversion: MAY 1 TO NOVEMBER 30

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Period of Use: MAY 1 TO NOVEMBER 30

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1			NENWSE	10	2S	46E	POWDER RIVER

ALL OR A PART OF THE PLACE OF USE CONSISTS OF FEDERAL PUBLIC LANDS. THE WATER RIGHT USED ON THE PUBLIC LANDS IS APPURTEnant TO THE FOLLOWING PRIVATE LANDS: SW SEC. 27 T2S R46E.

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
TONGUE RIVER, BELOW HANGING WOMAN CREEK
BASIN 42C

Water Right Number: **42C 30103553 STATEMENT OF CLAIM**

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: DOUBLE H RANCH INC
71 E FORK OTTER STACEY RD
ASHLAND, MT 59003-9400

Priority Date: DECEMBER 19, 1910

Type of Historical Right: USE

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.

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Source Name: SPRING, UNNAMED TRIBUTARY OF DEER CREEK

Source Type: SURFACE WATER

ALSO KNOWN AS EAST CREEK SPRING

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		NESWSW	9	2S	46E	POWDER RIVER

Period of Diversion: MAY 1 TO NOVEMBER 30

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Period of Use: MAY 1 TO NOVEMBER 30

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1			NESWSW	9	2S	46E	POWDER RIVER

ALL OR A PART OF THE PLACE OF USE CONSISTS OF FEDERAL PUBLIC LANDS. THE WATER RIGHT USED ON THE PUBLIC LANDS IS APPURTEnant TO THE FOLLOWING PRIVATE LANDS: SW SEC 27 T2S R46E.

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
TONGUE RIVER, BELOW HANGING WOMAN CREEK
BASIN 42C

Water Right Number: **42C 30103580** STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: DOUBLE H RANCH INC
71 E FORK OTTER STACEY RD
ASHLAND, MT 59003-9400

Priority Date: DECEMBER 19, 1910

Type of Historical Right: USE

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 STOCKWATERING 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: SPRING, UNNAMED TRIBUTARY OF MAXWELL CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

ID	Govt Lot	Otr Sec	Sec	Twp	Rge	County
1		NWSENE	22	2S	46E	POWDER RIVER

Period of Diversion: MAY 1 TO NOVEMBER 30

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Period of Use: MAY 1 TO NOVEMBER 30

Place of Use:

ID	Acres	Govt Lot	Otr Sec	Sec	Twp	Rge	County
1			NWSENE	22	2S	46E	POWDER RIVER

ALL OR A PART OF THE PLACE OF USE CONSISTS OF FEDERAL PUBLIC LANDS. THE WATER RIGHT USED ON THE PUBLIC LANDS IS APPURTEnant TO THE FOLLOWING PRIVATE LANDS: SW SEC 27 T2S R46E.

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
TONGUE RIVER, BELOW HANGING WOMAN CREEK
BASIN 42C

Water Right Number: **42C 30103584** STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: DOUBLE H RANCH INC
71 E FORK OTTER STACEY RD
ASHLAND, MT 59003-9400

Priority Date: DECEMBER 19, 1910

Type of Historical Right: USE

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.

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Source Name: SPRING, UNNAMED TRIBUTARY OF CABIN CREEK

Source Type: SURFACE WATER

ALSO KNOWN AS CABIN CREEK SPRING NO. 2

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		NWNENW	17	2S	46E	POWDER RIVER

Period of Diversion: MAY 1 TO NOVEMBER 30

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Period of Use: MAY 1 TO NOVEMBER 30

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1			NWNENW	17	2S	46E	POWDER RIVER

ALL OR A PART OF THE PLACE OF USE CONSISTS OF FEDERAL PUBLIC LANDS. THE WATER RIGHT USED ON THE PUBLIC LANDS IS APPURTEnant TO THE FOLLOWING PRIVATE LANDS: S2 SW SEC 29 T2S R46E .

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
TONGUE RIVER, BELOW HANGING WOMAN CREEK
BASIN 42C

Water Right Number: **42C 30103585 STATEMENT OF CLAIM**

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: DOUBLE H RANCH INC
71 E FORK OTTER STACEY RD
ASHLAND, MT 59003-9400

Priority Date: DECEMBER 19, 1910

Type of Historical Right: USE

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.

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Source Name: MAXWELL CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

ID	Govt Lot	Otr Sec	Sec	Twp	Rge	County
1		SENENE	22	2S	46E	POWDER RIVER

Period of Diversion: MAY 1 TO NOVEMBER 30

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Period of Use: MAY 1 TO NOVEMBER 30

Place of Use:

ID	Acres	Govt Lot	Otr Sec	Sec	Twp	Rge	County
1			SENENE	22	2S	46E	POWDER RIVER

ALL OR A PART OF THE PLACE OF USE CONSISTS OF FEDERAL PUBLIC LANDS. THE WATER RIGHT USED ON THE PUBLIC LANDS IS APPURTEnant TO THE FOLLOWING PRIVATE LANDS: SW SEC 27 T2S R46E.

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
TONGUE RIVER, BELOW HANGING WOMAN CREEK
BASIN 42C

Water Right Number: **42C 30103587 STATEMENT OF CLAIM**

Version: 2 -- POST DECREE

Status: ACTIVE

Owners:
DOUBLE H RANCH INC
71 E FORK OTTER STACEY RD
ASHLAND, MT 59003-9400

Priority Date: DECEMBER 19, 1910

Type of Historical Right: USE

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.

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Source Name: SPRING, UNNAMED TRIBUTARY OF DEER CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Otr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NENESW	16	2S	46E	POWDER RIVER

Period of Diversion: MAY 1 TO NOVEMBER 30

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Period of Use: MAY 1 TO NOVEMBER 30

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Otr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			NENESW	16	2S	46E	POWDER RIVER

ALL OR A PART OF THE PLACE OF USE CONSISTS OF FEDERAL PUBLIC LANDS. THE WATER RIGHT USED ON THE PUBLIC LANDS IS APPURTEnant TO THE FOLLOWING PRIVATE LANDS: SW SEC 27 T2S R46E.

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
TONGUE RIVER, BELOW HANGING WOMAN CREEK
BASIN 42C

Water Right Number: **42C 30103588** STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners:
DOUBLE H RANCH INC
71 E FORK OTTER STACEY RD
ASHLAND, MT 59003-9400

Priority Date: DECEMBER 19, 1910

Type of Historical Right: USE

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.

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Source Name: SPRING, DEER CREEK SPRING

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Otr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SWNENW	21	2S	46E	POWDER RIVER

Period of Diversion: MAY 1 TO NOVEMBER 30

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Period of Use: MAY 1 TO NOVEMBER 30

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Otr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			SWNENW	21	2S	46E	POWDER RIVER

ALL OR A PART OF THE PLACE OF USE CONSISTS OF FEDERAL PUBLIC LANDS. THE WATER RIGHT USED ON THE PUBLIC LANDS IS APPURTEnant TO THE FOLLOWING PRIVATE LANDS: SW SEC 27 T2S R46E.