

Montana Water Court
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IN THE WATER COURT OF THE STATE OF MONTANA
YELLOWSTONE DIVISION
LITTLE MISSOURI RIVER BASIN
ABOVE LITTLE BEAVER CREEK (39F)

CLAIMANT: River Bottom Ranch, LLC

OBJECTOR: River Bottom Ranch, LLC

CASE 39F-0015-I-2024

39F 30139126

39F 30139147

39F 30139286

39F 30139292

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 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
FINDINGS OF FACT

1. River Bottom Ranch, LLC (River Bottom) is the record owner of stock claims 39F 30139126, 39F 30139147, 39F 30139286, and 39F 30139292.

2. Claims 39F 30139126, 39F 30139147, 39F 30139286, and 39F 30139292 were decreed with a DNRC issue remark indicating the claims were not included in the 2019 decree Preliminary Decree. The remark does not require further attention.

Additionally, the following issue remarks were decreed on claims:

39F 30139126:

THE OWNERSHIP OF THIS RIGHT MAY BE QUESTIONABLE. PART OF THE PLACE OF USE APPEARS TO BE ON USDI BUREAU OF LAND MANAGEMENT.

39F 30139147:

THE OWNERSHIP OF THIS RIGHT MAY BE QUESTIONABLE. PART OR ALL OF THE PLACE OF USE APPEARS TO BE ON FEDERAL LAND. (BLM)

3. River Bottom objected to claims 39F 30139126, 39F 30139147, 39F 30139286, and 39F 30139292. Generally, the Objections indicate additional points of diversion and places of use for the claims should be added. Evidence supporting the historical use of the claims as identified in the Objections was not included with the Objections, nor were maps, or proposed abstracts.

4. A deadline was set for River Bottom to file additional information supporting the Objections to claims 39F 30139126, 39F 30139147, 39F 30139286, and 39F 30139292. The BLM was added to that Order to provide notice of its potential ownership interest in at least part of claims 39F 30139126 and 39F 30139147.

5. On June 28, 2024, River Bottom filed its Response to Order Setting Filing Deadline. (Doc.¹2.00).

6. **Claim 39F 30139126:** The Response explained that claim 39F 30139126 was filed entirely on federal land. A Request to Withdraw Statement of Claim was attached to the Response.

¹ “Doc.” numerical references correlate to case file docket numbers in the Water Court’s Full Court case management system.

7. **Claim 39F 30139147:** The Response explained that when filing claim 39F 30139147 errors were made in the point of diversion and place of use legal land descriptions, placing a portion of the claim on federal land resulting in the ownership issue remark. River Bottom requested the following point of diversion and place of use legal land description modification be made to claim 39F 30139147 resolving the ownership issue remark:

<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			SENE	20	5S	60E	CARTER
2			SENE	20	5S	60E	CARTER
3			NESE	20	5S	60E	CARTER
4			S2NWSE	20	5S	60E	CARTER
5			W2NENW	29	5S	60E	CARTER
6			W2SENW	29	5S	60E	CARTER
7			NESW	29	5S	60E	CARTER

8. **Claim 39F 30139286:** The Response explained that when filing claim 39F 30139286 errors were made in the point of diversion and place of use legal land descriptions, omitting a portion of Mud Creek from the claim. River Bottom requested the following point of diversion and place of use legal land description modification be made to claim 39F 30139286:

<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			N2SW	28	5S	62E	CARTER
2			S2NW SWSENW	28	5S	62E	CARTER

9. **Claim 39F 30139292:** The Response explained that when filing claim 39F 30139292 errors were made in the point of diversion and place of use legal land descriptions, omitting a portion of Roburge Creek from the claim and included land the creek does not flow through. River Bottom requested the following point of diversion and place of use legal land description modifications be made to claim 39F 30139292:

<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		1		28	5S	62E	CARTER
2			NENE	27	5S	62E	CARTER
3			S2S2	22	5S	62E	CARTER

10. On July 19, 2024, potential owner BLM filed a Response in River Bottom Ranch Filing stating:

The United States believes that the modifications proposed by River Bottom Ranch resolve any issues related to the United States' interests in this case. If other changes to these two claims are proposed by the Court or the parties prior to the issuance of a final order in this case, the United States reserves its right to participate further in these proceedings.

(Doc. 4.00).

PRINCIPLES AND CONCLUSIONS OF LAW

1. A properly filed Statement of Claim for an existing water right is prima facie proof of its content. Section 85-2-227, MCA. This prima facie validity may be overcome by evidence showing that one or more elements of the claim are incorrect. This standard of proof applies to objectors or claimants objecting to their own water right claims. Rule 19, W.R.Adj.R., *Nelson v. Brooks*, 2014 MT 120; 375 Mont.86, 95; 329 P.3d 558, 564.

2. If a claimant agrees to reduce or limit a claim, the Water Court may accept the reduction or limitation without reviewing further evidence, unless an unresolved issue remark remains. Rule 17(c), W.R.Adj.R.

3. The issue remarks noting that claims 39F 30139126, 39F 30139147, 39F 30139286, and 39F 30139292 were not included in the 2019 decree have served their purpose. As the Objections have been resolved, no further proceedings are required.

RECOMMENDATIONS

1. Claim 39F 30139126 should be dismissed as it has been withdrawn by River Bottom Ranch, LLC.

2. Claims 39F 30139147, 39F 30139286, and 39F 30139292 should be modified as shown in the Findings of Fact.

Abstracts are attached for review.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service Via Electronic Mail:

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Service List Updated: 7/23/2024

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
LITTLE MISSOURI RIVER, ABOVE LITTLE BEAVER CREEK
BASIN 39F

Water Right Number: 39F 30139126 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: **DISMISSED**

Owners: RIVER BOTTOM RANCH LLC
6806 ALEXANDER RD
BILLINGS, MT 59105-4541

Priority Date:

Type of Historical Right:

Purpose (Use): STOCK

Flow Rate:

Volume:

Source Name: UNNAMED TRIBUTARY OF LONE TREE CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

Remarks:

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
LITTLE MISSOURI RIVER, ABOVE LITTLE BEAVER CREEK
BASIN 39F

Water Right Number: 39F 30139147 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: RIVER BOTTOM RANCH LLC
6806 ALEXANDER RD
BILLINGS, MT 59105-4541

Priority Date: DECEMBER 31, 1915

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: UNNAMED TRIBUTARY OF LONE TREE CREEK

Source Type: SURFACE WATER

***Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SENE	20	5S	60E	CARTER
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
2		SENE	20	5S	60E	CARTER
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
3		NESE	20	5S	60E	CARTER
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
4		W2NENW	29	5S	60E	CARTER
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
5		W2SENW	29	5S	60E	CARTER
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
6		NESW	29	5S	60E	CARTER
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					

Period of Use: JANUARY 1 TO DECEMBER 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			SENE	20	5S	60E	CARTER
2			SENE	20	5S	60E	CARTER
3			NESE	20	5S	60E	CARTER
4			W2NENW	29	5S	60E	CARTER
5			W2SENW	29	5S	60E	CARTER
6			NESW	29	5S	60E	CARTER

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
LITTLE MISSOURI RIVER, ABOVE LITTLE BEAVER CREEK
BASIN 39F

Water Right Number: 39F 30139286 STATEMENT OF CLAIM
Version: 2 -- POST DECREE
Status: ACTIVE

Owners: RIVER BOTTOM RANCH LLC
6806 ALEXANDER RD
BILLINGS, MT 59105-4541

Priority Date: SEPTEMBER 16, 1897

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 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: MUD 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	28	5S	62E	CARTER

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

2		S2NW	28	5S	62E	CARTER
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Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Period of Use: JANUARY 1 TO DECEMBER 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			N2SW	28	5S	62E	CARTER
2			S2NW	28	5S	62E	CARTER

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
LITTLE MISSOURI RIVER, ABOVE LITTLE BEAVER CREEK
BASIN 39F

Water Right Number: 39F 30139292 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: RIVER BOTTOM RANCH LLC
6806 ALEXANDER RD
BILLINGS, MT 59105-4541

Priority Date: SEPTEMBER 22, 1898

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 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: ROBURGE 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	1		26	5S	62E	CARTER
Period of Diversion:		JANUARY 1 TO DECEMBER 31				
Diversion Means:		LIVESTOCK DIRECT FROM SOURCE				
2		NENE	27	5S	62E	CARTER
Period of Diversion:		JANUARY 1 TO DECEMBER 31				
Diversion Means:		LIVESTOCK DIRECT FROM SOURCE				
3		S2	22	5S	62E	CARTER
Period of Diversion:		JANUARY 1 TO DECEMBER 31				
Diversion Means:		LIVESTOCK DIRECT FROM SOURCE				

Period of Use: JANUARY 1 TO DECEMBER 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		1		26	5S	62E	CARTER
2			NENE	27	5S	62E	CARTER
3			S2	22	5S	62E	CARTER