

IN THE WATER COURT OF THE STATE OF MONTANA  
UPPER MISSOURI DIVISION  
MISSOURI RIVER ABOVE HOLTER DAM BASIN (41I)  
PRELIMINARY DECREE

\*\*\*\*\*

CLAIMANT: South Ranch LLC

**CASE 41I-1021-R-2024**

41I 143115-00

41I 143116-00

41I 143121-00

41I 143122-00

**NOTICE OF FILING OF MASTER'S REPORT**

This Master's Report was filed with the Clerk of the Montana Water Court. Please review this Report carefully.

You may file a written objection to this Master's Report if you disagree or find errors with the Master's Findings of Fact, Conclusions of Law, or Recommendations. The above stamped date indicates the date this Master's Report was filed and mailed. Rule 23 of the Water Right Adjudication Rules requires written objections to a Master's Report be filed within 10 days of the date of the Master's Report. Because this Master's Report was mailed to you, Rule 6(d) of the Montana Rules of Civil Procedure provides an additional 3 days to the 10-day objection period.

If you file an objection, you must mail a copy of the objection to all parties on the Service List found at the end of this 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 above-captioned claims appeared in the Preliminary Decree for the Missouri River above Holter Dam (Basin 41I) issued on June 24, 2022. The claims received issue

remarks. Issue remarks are notations identifying potential legal or factual issues with water rights and the Water Court is required to resolve these potential issues.

The claims were consolidated into Case 41I-1021-R-2024 and an Order Setting Filing Deadline was issued by the Water Court requesting any additional information needed to resolve the issue remarks.

### FINDINGS OF FACT

1. Claim 41I 143115-00 received the following substantive issue remarks:

THE CLAIMED PERIOD OF USE EXCEEDS THE USUAL GROWING SEASON FOR THIS CLIMATIC AREA WHICH IS APRIL 15 TO OCTOBER 15.

Claim 41I 143116-00 received the following substantive issue remarks:

THE CLAIMED PERIOD OF USE EXCEEDS THE USUAL GROWING SEASON FOR THIS CLIMATIC AREA WHICH IS APRIL 15 TO OCTOBER 15.

Claim 41I 143121-00 received the following substantive issue remarks:

THE CLAIMED FLOW RATE EXCEEDS THE 17 GPM PER ACRE GUIDELINE AND CANNOT BE CONFIRMED DUE TO LACK OF DATA. THE FLOW RATE EQUALS 22.00 GPM PER ACRE.

Claim 41I 143122-00 received the following substantive issue remarks:

THE CLAIMED FLOW RATE EXCEEDS THE 100 MINERS INCHES OF CONFEDERATE CREEK DECREED IN CASE NO. 1918, BROADWATER COUNTY.

2. Currently, the abstract for claim 41I 143122-00 displays 109.00 cubic feet per second (“cfs”) as the flow rate while the Statement of Claim for claim 41I 143122-00 shows “100” but does not designate between cfs, gpm, or miner’s inches. Documentation found in the claim file indicates that the original decree of this right was to Bruce Wallace in 1913 for 100 miner’s inches. For reference, 100 miner’s inches is equal to 2.5 cfs.

3. On September 13, 2024, the Court consolidated the above-captioned claims into case 41I-1021-R-2024 and set a filing deadline for the Claimant to respond if they did not agree with the proposed modifications. Nothing was filed by the ordered deadline. The Order Setting Filing Deadline included the following language regarding the above-listed issue remarks:

ORDERED that the Claimant review this order and, *if necessary*, file information or evidence if they believe that the period of use for claims 41I 143115-00 and 41I 143116-00 and the flow rate of claim 41I 143121-00 should be modified by **Wednesday, October 23, 2024**. *If nothing is filed by the deadline, this Master will conclude that the Claimant agrees that the period of use of 41I 143115-00 and 41I 143116-00 and the flow rate of claim 41I 143121-00 are historically accurate, no modifications will be made, and the issue remarks will be removed from claims 41I 143115-00, 41I 143116-00, and 41I 143121-00.*

ORDERED that the Claimant review this order and, *if necessary*, file information or evidence if they do not believe that the flow rate should be modified to reflect the 100 miner's inches (2.5cfs) shown on the documentation found in the claim file by **Wednesday, October 23, 2024**. *If nothing is filed by the deadline, this Master will conclude that the Claimant agrees that the flow rate shown on the claim documentation is historically accurate, the flow rate of claim 41I 143122-00 will be modified to 2.5cfs, and the issue remarks will be removed from claim 41I 143122-00.*

4. Claim 41I 143115-00 also received a notice-type issue remark from the DNRC during its reexamination of claims. No objections were filed.

#### PRINCIPLES OF LAW

1. Section 85-2-248(2), MCA, requires that the Water Court resolve all issue remarks that are not resolved through the objection process. *See also* Rule 7, W.R.Adj.R.

2. A properly filed Statement of Claim for an existing water right is prima facie proof of its content. Section 85-2-227, MCA; Rule 10, W.R.Adj.R.

3. A preponderance of the evidence is evidence that shows a fact is "more probable than not." *Hohenlohe v. State*, 2010 MT 203, ¶ 33, 357 Mont. 438, 240 P.3d 628.

4. If prima facie status is overcome, the burden shifts back to the claimant to demonstrate historical use. *79 Ranch v. Pitsch*, 204 Mont. 426, 432-33, 666 P.2d 215, 218 (1983).

#### CONCLUSION OF LAW

1. The information in the record resolves issue remarks appearing on claims 41I 143115-00, 41I 143116-00, and 41I 143121-00. Because nothing was filed at the filing deadline by the Claimants, and the DNRC did not provide sufficient information supporting the issue remarks, the issue remarks do not overcome the prima facie status

afforded the Statement of Claim for claims 41I 143115-00, 41I 143116-00, and 41I 143121-00. The issue remarks should be removed from the claims.

2. The information in the record resolves issue remark appearing on claim 41I 143122-00. Because nothing was filed at the filing deadline by the Claimants, and the DNRC provided sufficient information supporting the issue remark, the issue remark overcomes the prima facie status afforded the Statement of Claim for claim 41I 143122-00, a preponderance of the evidence shows that the place of use should be modified as described in Finding of Fact No. 2, and the issue remark should be removed from the claim.

3. The notice-type issue remark appearing on claim 41I 143115-00 served its notice purpose and should be removed from the claim.

### RECOMMENDATIONS

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

Post decree abstracts of the water right claims reflecting the recommended changes are attached to this Report.

**ELECTRONICALLY SIGNED AND DATED BELOW.**

**Service via USPS Mail:**

South Ranch LLC  
3430 Harmony Rd  
Helena, MT 59602

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

**Water Right Number:** 411 143115-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** SOUTH RANCH LLC  
3430 HARMONY RD  
HELENA, MT 59602-8848

**Priority Date:** MARCH 1, 1951

**Type of Historical Right:** USE

**Purpose (Use):** IRRIGATION

**Irrigation Type:** SPRINKLER/FLOOD

**Flow Rate:** 5.00 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:** 269.00

**Source Name:** SPRING, UNNAMED TRIBUTARY OF MISSOURI RIVER

**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         |                 | SESENW         | 20         | 9N         | 2E         | BROADWATER    |

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

**Diversion Means:** HEADGATE

**Ditch Name:** BRUCE DITCH

**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         | 100.00       |                 | E2             | 25         | 9N         | 1E         | BROADWATER    |
| 2         | 65.00        |                 | SE             | 19         | 9N         | 2E         | BROADWATER    |
| 3         | 18.00        |                 | NWNE           | 30         | 9N         | 2E         | BROADWATER    |
| 4         | 86.00        |                 | NW             | 30         | 9N         | 2E         | BROADWATER    |

**Total:** 269.00

**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.

143115-00      143116-00      143121-00      143122-00      143123-00      143124-00

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE ASSOCIATED WHICH MEANS THE RIGHTS SHARE THE SAME PLACE OF USE.

|           |           |           |           |           |           |
|-----------|-----------|-----------|-----------|-----------|-----------|
| 22071-00  | 143115-00 | 143116-00 | 143117-00 | 143118-00 | 143119-00 |
| 143120-00 | 143121-00 | 143122-00 | 143123-00 | 143124-00 |           |

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

**Water Right Number:** 411 143116-00 STATEMENT OF CLAIM  
**Version:** 3 -- POST DECREE  
**Status:** ACTIVE

**Owners:** SOUTH RANCH LLC  
3430 HARMONY RD  
HELENA, MT 59602-8848

**Priority Date:** MARCH 1, 1951

**Type of Historical Right:** FILED

**Purpose (Use):** IRRIGATION

**Irrigation Type:** SPRINKLER/FLOOD

**Flow Rate:** 4.46 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:** 269.00

**Source Name:** GROUNDWATER

**Source Type:** GROUNDWATER

**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         | 19         | 9N         | 2E         | BROADWATER    |

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

**Diversion Means:** WELL

**Period of Use:** MAY 1 TO NOVEMBER 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             | 100.00        |                 | E2             | 25         | 9N         | 1E         | BROADWATER    |
| 2             | 65.00         |                 | SE             | 19         | 9N         | 2E         | BROADWATER    |
| 3             | 18.00         |                 | NWNE           | 30         | 9N         | 2E         | BROADWATER    |
| 4             | 86.00         |                 | NW             | 30         | 9N         | 2E         | BROADWATER    |
| <b>Total:</b> | <b>269.00</b> |                 |                |            |            |            |               |

**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.

143115-00      143116-00      143121-00      143122-00      143123-00      143124-00

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE ASSOCIATED WHICH MEANS THE RIGHTS SHARE THE SAME PLACE OF USE.

|           |           |           |           |           |           |
|-----------|-----------|-----------|-----------|-----------|-----------|
| 22071-00  | 143115-00 | 143116-00 | 143117-00 | 143118-00 | 143119-00 |
| 143120-00 | 143121-00 | 143122-00 | 143123-00 | 143124-00 |           |



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

**Water Right Number:** 411 143121-00 STATEMENT OF CLAIM

**Version:** 5 -- POST DECREE

**Status:** ACTIVE

**Owners:** SOUTH RANCH LLC  
3430 HARMONY RD  
HELENA, MT 59602-8848

**Priority Date:** APRIL 1, 1902

**Type of Historical Right:** DECREED

**Purpose (Use):** IRRIGATION

**Irrigation Type:** SPRINKLER/FLOOD

**Flow Rate:** 5.00 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:** 100.00

**Source Name:** CONFEDERATE GULCH

**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         | 16         | 9N         | 2E         | BROADWATER    |

**\*Period of Diversion:** APRIL 15 TO OCTOBER 15

**Diversion Means:** HEADGATE

**Ditch Name:** BRUCE DITCH

**\*Period of Use:** APRIL 15 TO OCTOBER 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         | 100.00       |                 | E2             | 25         | 9N         | 1E         | BROADWATER    |

**Total:** 100.00

**Remarks:**

AUTHORIZATION TO CHANGE (SEVER/SELL) (ADD A) PLACE OF USE COMPLETED 08/03/1988 . FILE REFLECTS RIGHT AS IT EXISTED PRIOR TO JULY 1973. APPROVED CHANGES WILL BE RECORDED AFTER FINAL DECREE.

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

**Water Right Number:** 411 143122-00 STATEMENT OF CLAIM

**Version:** 5 -- POST DECREE

**Status:** ACTIVE

**Owners:** SOUTH RANCH LLC  
3430 HARMONY RD  
HELENA, MT 59602-8848

**Priority Date:** DECEMBER 31, 1913

**Type of Historical Right:** DECREED

**Purpose (Use):** IRRIGATION

**Irrigation Type:** SPRINKLER/FLOOD

**Flow Rate:** 2.50 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:** 109.00

**Source Name:** CONFEDERATE GULCH

**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         | 16         | 9N         | 2E         | BROADWATER    |

**\*Period of Diversion:** APRIL 15 TO OCTOBER 15

**Diversion Means:** HEADGATE

**Ditch Name:** BRUCE DITCH

**\*Period of Use:** APRIL 15 TO OCTOBER 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         | 109.00       |                 | N2             | 30         | 9N         | 2E         | BROADWATER    |

**Total:** 109.00

**Remarks:**

AUTHORIZATION TO CHANGE (SEVER/SELL) (ADD A) PLACE OF USE COMPLETED 08/03/1988 . FILE REFLECTS RIGHT AS IT EXISTED PRIOR TO JULY 1973. APPROVED CHANGES WILL BE RECORDED AFTER FINAL DECREE.