

Montana Water Court
PO Box 1389
Bozeman, MT 59771-1389
1-800-624-3270
(406) 586-4364
watercourt@mt.gov

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

CLAIMANTS: Hidden Hollow Hideaway Ranch Inc.; Gregory W.
Field

OBJECTOR: Gregory W. Field

NOTICE OF INTENT TO APPEAR: Thomas F. Odonnell

CASE 41I-0079-R-2023

41I 49379-00

41I 49380-00

41I 120851-00

41I 216103-00

41I 216105-00

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

The above-captioned claims appeared in the Preliminary Decree for the Missouri River above Holter Dam (Basin 41I) issued on June 24, 2022. Claims 41I 49379-00 and

41I 49380-00 are owned by Hidden Hollow Hideaway Ranch Inc. (“Hidden Hollow”).¹ The remaining claims are owned by Gregory W. Field (“Field”). Field filed objections to all of the claims except claim 41I 216103-00. Thomas F. O’Donnell (“O’Donnell”) filed notices of intent to appear on claims 41I 49379-00 and 41I 49380-00. All of 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.

FINDINGS OF FACT

41I 49379-00 and 41I 49380-00

Decree Exceeded Issue Remark

1. Claims 41I 49379-00 and 41I 49380-00 appeared in the Basin 41I Preliminary Decree as sprinkler/flood irrigation claims. Claim 41I 49379-00 was decreed with a priority date of June 1, 1869 and claim 41I 49380-00 was decreed with a priority date of June 1, 1867.

2. The claims received the following issue remark:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE FILED ON THE SAME FORMERLY DECREED WATER RIGHT. THE SUM OF THE CLAIMED FLOW RATES EXCEEDS THE 25 MINER'S INCHES DECREED IN CASE NO. 1918 , BROADWATER COUNTY. 41I 49379-00, 41I 49380-00.

3. Although both rights are based on the same district court decree, they are based on two separate rights granted in the decree. Howard Matthews was awarded at least two distinct water rights in Case No. 1918. The first right was for 25 miner’s inches from Clear Creek with a priority date of June 1, 1869:

¹ A Notice of Appearance filed by counsel stated claims 41I 49379-00 and 41I 49380-00 are owned by Gregory W. Field. However, the DNRC’s database lists the current owner of the claims as Hidden Hollow Hideaway Ranch Inc. No ownership updates are pending for these claims.

18.

That Howard Matthews is the owner of, and entitled to the beneficial use and enjoyment of, and the right to use, Twenty-five (25) miner's inches of the water of Clear Creek, a tributary

49379

20

49379

of Confederate Creek, which said right was initiated and perfected as of June 1, 1869, for beneficial use upon the:

N $\frac{1}{2}$ Sec. 22,
E $\frac{1}{2}$ NE $\frac{1}{4}$ Sec. 21, T. 9, N.R. 2 E.

Said water is to be diverted through ten (10) ditches coming out of the creek, some on the south side of the creek and some on the north side of the creek, all of said diversion points being in the:

N $\frac{1}{2}$ Sections 21 and 22,
W $\frac{1}{2}$ Sec. 23, T. 9, N.R. 2 E.

This right is the basis for 41I 49379-00.

4. The second right was also for 25 miner's inches from Clear Creek, but with a priority date of June 1, 1867:

13.

That Howard Matthews is the owner of, and entitled to the beneficial use and enjoyment of, and the right to use, Twenty-five (25) miner's inches of the waters of Clear Creek, a tributary of Confederate Creek, which said right was initiated and perfected as of June 1, 1867, for beneficial use upon the

N $\frac{1}{2}$ Sec. 22,
E $\frac{1}{2}$ NE $\frac{1}{4}$ Sec. 21, T. 9, N.R. 2 E.

Said water is to be diverted through ten (10) ditches coming out of the creek, some on the south side of the creek and some on the north side of the creek, all of said diversion points being in the:

N $\frac{1}{2}$ Sections 21 and 22,
W $\frac{1}{2}$ Section 23, T. 9, N.R. 2 E.

This right is the basis for 41I 49380-00.

5. Field objected to the claims to resolve the decree exceeded issue remark, but later withdrew his objection based on the evidence above. (Doc.² 9.00).

² "Doc." numerical references correlate to case file docket numbers in the Water Court's Full Court case management system.

Motion to Amend

6. Claims 41I 49379-00 and 41I 49380-00 use the same points of diversion and apply to the same 61.20-acre place of use. Both water right claims divert water via headgates – one in the SWNWNW § 23 T9N R2E and one in the SWSWNW § 23 T9N R2E. Both points of diversion were decreed in the Basin 41I Preliminary Decree.

7. As part of the proceedings in this matter, Field filed a *Motion to Amend* for claims 41I 49379-00 and 41I 49380-00. (Doc. 7.00).

8. The *Motion* requests the Court add the following points of diversion to both claims:

3	NESWNW	22	9N	2E	BROADWATER	PUMP
4	NESENE	22	9N	2E	BROADWATER	DAM

Reservoir: ONSTREAM
 Diversion to Reservoir: DIVERSION #4
 Dam Height: 9.0 FEET
 Depth: 6.0 FEET
 Surface Area: 0.6 ACRES
 Capacity: 3.5 ACRE-FEET

9. The statement of claim for 41I 49379-00 and 41I 49380-00 originally claimed two points of diversion:

5 Source of Water

Stream Name Clear Creek Tributary of Confederate Cr.

Spring

Well

Lake Name _____ Stream _____

Tributary of _____

Reservoir Name _____ Stream _____

Tributary of _____

6 Point of Diversion County Broadwater

W 1/2 SE 1/4 NE 1/4 Section 22 T 9 N/S, R 2 E/W

03 County BROADWATER

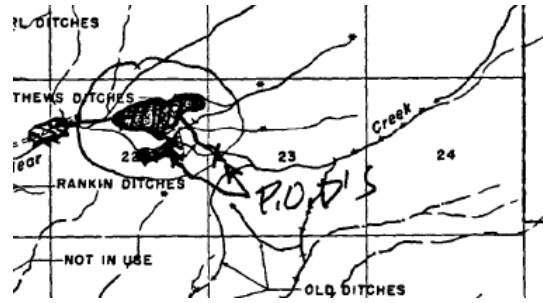
SW 1/4 SW 1/4 NW 1/4 Section 23 T 9 N/S, R 2 E/W

10. The decree establishing the water rights claimed under 41I 49379-00 and 41I 49380-00 claimed ten points of diversion as follows:

Said water is to be diverted through ten (10) ditches coming out of the creek, some on the south side of the creek and some on the north side of the creek, all of said diversion points being in the:

N 1/2 Sections 21 and 22,
 W 1/2 Sec. 23, T. 9, N.R. 2 E.

11. The map attached to the statements of claim is from the Water Resources Survey. The map shows points of diversion in both §22 and §23 T9N R2E:



12. In 1989, Mr. and Mrs. Frank Flynn and their son, Kelly Flynn, met with the DNRC on behalf of Hidden Hollow Ranch. Frank Flynn was very familiar with the historical use of these water rights, however at the time of the interview his eyesight was so poor he could not review the aerial photographs and maps provided by the DNRC. Based on their interview with Frank Flynn, the DNRC modified the points of diversion to two points in § 23 T9N R2E. However, the interviewer noted:

As much as

possible we explained what the concerns were, however without him being able to see the aerials or the claims, the solutions may be less than accurate

13. The *Motion* provides evidence that two points of diversion in §22 T9N R2E were used by claims 41I 49379-00 and 41I 49380-00 prior to July 1, 1973:

Water is also collected in a manmade, onstream reservoir in the SENENE and NESENE of Section 22, T9N, R2E behind a dam in the NESENE of Section 22, T9N, R2E to supplement a gravity-flow irrigation system. The reservoir stores a small volume of water and is primarily used as part of the direct-flow system. The reservoir was in place when the Flynn family purchased the property in the early 1960s. Historical imagery shows that the reservoir was installed sometime before May 8, 1947. See **Exhibit 2** (historical image). The reservoir's capacity is less than five acre-feet. Claimant estimates the surface area of the reservoir is approximately 0.6 acres, the depth is approximately 6 feet, the dam height is approximately 9 feet, and the storage capacity of the reservoir is approximately 3.6 acre-feet. **Exhibit 1**. The reservoir does not increase water usage from the source, it merely allows Claimant to more efficiently utilize the flow Claimant was decreed as part of a direct flow irrigation system.

The furthest west portion of Claimant's place of use is also irrigated using a pump that draws directly from Clear Creek in the NESWNW of Section 22, T9N, R2E. As with the pond, the pump has been a part of the irrigation system since before the Flynn family acquired the property. **Exhibit 1**. The Water Resource Survey field notes confirm that Claimant's predecessor used a pump for irrigation at least as early as 1955. **Exhibit 3** (WRS Field Notes).

41I 120851-00

14. Claim 41I 120851-00 appeared in the Basin 41I Preliminary Decree as a stock claim for stock drinking directly from the source in the SENWSE of Section 22, T9N, R2E, Broadwater County and in Section 27, T9N, R2E, Broadwater County.

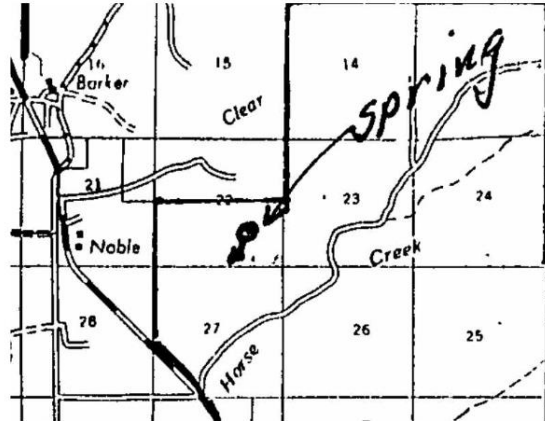
15. The claim was decreed with the following sources:

*Source Name: SPRING, UNNAMED TRIBUTARY OF HORSE CREEK
Source Type: SURFACE WATER
*Source Name: UNNAMED TRIBUTARY OF HORSE CREEK
Source Type: SURFACE WATER
ALSO KNOWN AS NILSON SPRING

16. The claim received the following issue remark:

THIS CLAIM APPEARS TO BE CLAIMING TWO SEPARATE SOURCES OF WATER. MORE THAN ONE WATER RIGHT MAY BE INVOLVED.

17. The statement of claim only listed the SENWSE §22 as the point of diversion and place of use. The following map was attached to the statement of claim:



18. During adjudication of the claim during the Basin 41I Temporary Preliminary Decree, the Water Court added §27 as a point of diversion and place of use. Case 41I-389, *Master's Report*. The addition was based on Field's affidavit, which stated:

4. The Place of Use on claim number 41I-W-120851-00 should be changed to include Section 27, TWP 09N, RGE 02E, Broadwater County, because the creek flowing from the spring also runs in that section, and is used for by Claimant's livestock on that section.

19. The post decree abstract attached to the *Master's Report* and adopted by the Water Judge listed the source as follows:

SOURCE: SPRING, TRIB OF HORSE CREEK
SOURCE TYPE: SURFACE WATER
ALSO KNOWN AS NILSON SPRING

20. It is unclear when or why a second source name – Unnamed Tributary of Horse Creek – was added to claim 41I 120851-00. The second source name is redundant

of the claimed source. There is no evidence in the claim or case file showing claim 41I 120851-00 uses two separate sources.

21. Claim 41I 120851-00 also received the following notice-type issue remark:

THE TIMELY FILED OBJECTION OF GREGORY W FIELD WAS AMENDED BY GREGORY W FIELD TO INCLUDE POINT OF DIVERSION AND MEANS OF DIVERSION BECAUSE THESE ELEMENTS WERE NOT INCLUDED ON THE OBJECTION LIST, ANY WATER USER WHOSE RIGHTS MAY BE ADVERSELY AFFECTED BY ENFORCEMENT OF THESE CHANGES MAY PETITION THE APPROPRIATE COURT FOR RELIEF OR MAY FILE AN OBJECTION AT THE PRELIMINARY DECREE.

22. No water users filed a petition with the Court or filed an objection to the point or means of diversion.

41I 216103-00

23. Claim 41I 216103-00 appeared in the Basin 41I Preliminary Decree as a claim for stock drinking directly from Deer Gulch.

24. The claim received the following issue remark:

CLAIM FILED 07/02/96. THIS CLAIM APPEARS TO BE AN EXEMPT RIGHT VOLUNTARILY FILED UNDER SECTION 85-2-222 MONTANA CODE ANNOTATED.

25. This is a notice-type remark that does not raise issues requiring resolution by the Court.

41I 216105-00

26. Claim 41I 216105-00 appeared in the Basin 41I Preliminary Decree as a claim for stock drinking directly from the source in the NWNWNW §2 T8N R2E and the NE §3 T8N R2E.

27. The claim was decreed with the following sources:

Source Name:	SPRING, UNNAMED TRIBUTARY OF DUCK CREEK, NORTH FORK
Source Type:	SURFACE WATER
Source Name:	UNNAMED TRIBUTARY OF DUCK CREEK, NORTH FORK
Source Type:	SURFACE WATER
	ALSO KNOWN AS LOWER ANGLER SPRING

28. The claim received the following issue remark:

THIS CLAIM APPEARS TO BE CLAIMING TWO SEPARATE SOURCES OF WATER. MORE THAN ONE WATER RIGHT MAY BE INVOLVED.

29. The source for claim 41I 216105-00 appeared in the Basin 41I Temporary Preliminary Decree as:

SOURCE: SPRING, TRIB OF DUCK CREEK, NORTH FORK
SOURCE TYPE: SURFACE WATER
ALSO KNOWN AS LOWER ANGLER SPRING

30. It is unclear when or why a second source name – Unnamed Tributary of Duck Creek, North Fork – was added to claim 41I 216105-00. The second source name is

redundant of the claimed source. There is no evidence in the claim or case file showing claim 41I 216105-00 uses two separate sources.

PRINCIPLES 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; Rule 10, W.R.Adj.R.
2. Prima facie proof may be contradicted and overcome by a preponderance of the evidence. Rule 19, 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).
5. 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.
6. The Water Court may use information submitted by the DNRC, the Statement of Claim, and any other data obtained by the Court to evaluate a water right. Sections 85-2-227, -231(2), MCA.
7. When resolving issue remarks, the 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. The factual evidence on which an issue remark is based must meet the preponderance of evidence standard before the prima facie status of a claim is overcome. 43Q 200996-00 et al., Order Establishing Volume and Order Closing Case, at 18, June 8, 2015.
8. The party seeking to overcome the prima facie status of a Statement of Claim bears the burden of proof; this burden also applies to a claimant’s objection to his own claim. *Nelson v. Brooks*, 2014 MT 120, ¶¶ 34, 37, 375 Mont. 86, 329 P.3d 558.
9. After the issuance of a temporary preliminary decree and close of the objection period in a basin, a claimant may amend their Statement of Claim. Section 85-2-233(6), MCA.

10. If an element of a claim did not appear on the objection list for a basin, and a motion to amend that element is filed with the Court, notice by publication of the amendment is required if there is the possibility of adverse affect to other water users. §85-2-233(6), MCA.

11. Rule 15 M.R.Civ.P. restricts the scope of an amendment to the conduct, transaction, or occurrence set forth in the original pleading - 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).

12. The party seeking to amend a water right claim has the burden to show, by a preponderance of the evidence, that the claim elements they challenge do not accurately reflect the beneficial use of the water rights as they existed prior to July 1, 1973. *Nelson v. Brooks*, 2014 MT 120, ¶34, 375 Mont. 86, 329 P.3d 558; Rule 19, W.R.Adj.R.

13. Prior to July 1, 1973 when the Montana Water Use Act became law, a water user could change the point of diversion, place of use, or even purpose of a water right by simply implementing the change. The only restriction was that the change could not cause injury to other water users. §89-803 RCM (1947) (repealed 1973). The burden was on the party claiming an injury to prove that the change to the water right at issue adversely impacted their ability to exercise their water rights. *Hansen v. Larsen*, 44 Mont. 350, 353, 120 Pd. 229, 231 (1911).

CONCLUSIONS OF LAW

41I 49379-00 and 41I 49380-00

Decree Exceeded Issue Remark

1. The decreed exceeded issue remark does not overcome the prima facie status of the claims. The evidence in the claim file shows claims 41I 49379-00 and 41I 49380-00 are based on two separate decreed rights.

Motion to Amend

2. The modifications requested in the *Motion* arise out of the same conduct, transaction, or occurrence specified on the original statements of claim and are based on

the same operative facts specified in the statements of claim. The *Motion* and evidence in support of the *Motion* are sufficient to support the historical accuracy of the amended point of diversion and means of diversion for the additional points of diversion proposed by the amendment, thereby overcoming the prima facie proof afforded the point of diversion identified by the statements of claim.

3. All elements of claim 41I 49379-00 and 41I 49380-00 appeared on the Basin 41I Preliminary Decree, therefore no additional public notice is required.

41I 120851-00

4. The source issue remark does not overcome the prima facie status of claim 41I 120851-00. The evidence in the claim file shows claim 41I 120851-00 only uses one source – Spring, Unnamed Tributary of Horse Creek (aka Nilson Spring).

5. The notice-type issue remark regarding the modified objection served its notice purpose.

41I 216103-00

6. The notice-type issue remark regarding claim 41I 216103-00 being an exempt claim served its notice purpose and should be removed from the claim abstract.

41I 216105-00

7. The source issue remark does not overcome the prima facie status of claim 41I 216105-00. The evidence in the claim file shows claim 41I 216105-00 only uses one source – Spring, Unnamed Tributary of Duck Creek, North Fork (aka Lower Anglen Spring).

RECOMMENDATIONS

1. Claims 41I 49379-00 and 41I 49380-00 should be amended as follows:

3	NESWNW	22	9N	2E	BROADWATER	PUMP
4	NESENE	22	9N	2E	BROADWATER	DAM
Reservoir: ONSTREAM						
Diversion to Reservoir: DIVERSION #4						
Dam Height: 9.0 FEET						
Depth: 6.0 FEET						
Surface Area: 0.6 ACRES						
Capacity: 3.5 ACRE-FEET						

2. The duplicate source name “Unnamed Tributary of Horse Creek” should be removed from claim 41I 120851-00.

3. The duplicate source name “Unnamed Tributary of Duck Creek, North Fork” should be removed from claim 41I 216105-00.

4. All issue remarks should be removed from the claim abstracts.

A post decree abstract of each water right claim reflecting these recommendations is attached to this Report.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via Electronic Mail

Betsy R Story
Parsons Behle & Latimer
PO Box 104
Helena, MT 59624
(406) 410-5050
bstory@parsonsbehle.com
ecf@parsonsbehle.com
(*atty Field, Odonnell*)

Calli J Michaels
MICHAELS LAW PLLC
PO BOX 75
Silver Star, MT 59751
406-660-4265 W
cmichaels@mlawmt.com
(*atty Hidden Hollow Ranch*)

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

Water Right Number: 411 49379-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: HIDDEN HOLLOW HIDEAWAY RANCH INC
PO BOX 233
TOWNSEND, MT 59644-0233

Priority Date: JUNE 1, 1869

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 282.74 GPM

***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:** 61.20

Source Name: UNNAMED TRIBUTARY OF CLEAR 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		SWNWNW	23	9N	2E	BROADWATER
Period of Diversion:	MAY 1 TO OCTOBER 31					
Diversion Means:	HEADGATE					
Ditch Name:	H. MATTHEWS DITCH					
2		SWSWNW	23	9N	2E	BROADWATER
Period of Diversion:	MAY 1 TO OCTOBER 31					
Diversion Means:	HEADGATE					
Ditch Name:	H. MATTHEWS DITCH					
3		NESWNW	22	9N	2E	BROADWATER
Period of Diversion:	MAY 1 TO OCTOBER 31					
Diversion Means:	PUMP					
4		NESENE	22	9N	2E	BROADWATER
Period of Diversion:	MAY 1 TO OCTOBER 31					
Diversion Means:	DAM					

Reservoir: ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NESENE	22	9N	2E	BROADWATER

Diversion to Reservoir: DIVERSION # 4

Dam Height: 9.00 FEET
Depth: 6.00 FEET
Surface Area: 0.60 ACRES
Capacity: 3.50 ACRE-FEET

Period of Use: MAY 1 TO OCTOBER 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	61.20		N2	22	9N	2E	BROADWATER
Total:	61.20						

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.

49379-00 49380-00

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

Water Right Number: 411 49380-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: HIDDEN HOLLOW HIDEAWAY RANCH INC
PO BOX 233
TOWNSEND, MT 59644-0233

Priority Date: JUNE 1, 1867

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 282.74 GPM

***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:** 61.20

Source Name: UNNAMED TRIBUTARY OF CLEAR 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		SWNWNW	23	9N	2E	BROADWATER
Period of Diversion:	MAY 1 TO OCTOBER 31					
Diversion Means:	HEADGATE					
Ditch Name:	H. MATTHEWS DITCH					
2		SWSWNW	23	9N	2E	BROADWATER
Period of Diversion:	MAY 1 TO OCTOBER 31					
Diversion Means:	HEADGATE					
Ditch Name:	H. MATTHEWS DITCH					
3		NESWNW	22	9N	2E	BROADWATER
Period of Diversion:	MAY 1 TO OCTOBER 31					
Diversion Means:	PUMP					
4		NESENE	22	9N	2E	BROADWATER
Period of Diversion:	MAY 1 TO OCTOBER 31					
Diversion Means:	DAM					

Reservoir: ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NESENE	22	9N	2E	BROADWATER

Diversion to Reservoir: DIVERSION # 4

Dam Height: 9.00 FEET
Depth: 6.00 FEET
Surface Area: 0.60 ACRES
Capacity: 3.50 ACRE-FEET

Period of Use: MAY 1 TO OCTOBER 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	61.20		N2	22	9N	2E	BROADWATER
Total:	61.20						

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.

49379-00 49380-00

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

Water Right Number: 41I 120851-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: GREGORY W FIELD
2927 MONTANA HWY 284
TOWNSEND, MT 59644-9622

Priority Date: NOVEMBER 9, 1914

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:** SPRING, UNNAMED TRIBUTARY OF HORSE CREEK

Source Type: SURFACE WATER
ALSO KNOWN AS NILSON SPRING

***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		SENWSE	22	9N	2E	BROADWATER

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

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

2			27	9N	2E	BROADWATER
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***Period of Diversion:** JANUARY 1 TO DECEMBER 1

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

***Period of Use:** JANUARY 1 TO DECEMBER 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			SENWSE	22	9N	2E	BROADWATER
2				27	9N	2E	BROADWATER

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

Water Right Number: 411 216103-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: GREGORY W FIELD
2927 MONTANA HWY 284
TOWNSEND, MT 59644-9622

Priority Date: DECEMBER 31, 1867

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: DEER 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		E2	29	9N	3E	BROADWATER

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			E2	29	9N	3E	BROADWATER

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

Water Right Number: 41I 216105-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: GREGORY W FIELD
2927 MONTANA HWY 284
TOWNSEND, MT 59644-9622

Priority Date: MARCH 10, 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 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: SPRING, UNNAMED TRIBUTARY OF DUCK CREEK, NORTH FORK

Source Type: SURFACE WATER
ALSO KNOWN AS LOWER ANGLLEN SPRING

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		NWNWNW	2	8N	2E	BROADWATER

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

2		NE	3	8N	2E	BROADWATER
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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			NWNWNW	2	8N	2E	BROADWATER
2			NE	3	8N	2E	BROADWATER