

Montana Water Court  
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**FILED**  
03/18/2025  
Sara Calkins  
CLERK  
Montana Water Court  
STATE OF MONTANA  
By: D'Ann CIGLER  
41I-0121-R-2024  
Lockman, Melissa  
6.00

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

\* \* \* \* \*

CLAIMANT: Montana Environmental Trust Group LLC

**CASE 41I-0121-R-2024**

41I 46238-00  
41I 89105-00  
41I 89106-00  
41I 89109-00  
41I 89110-00  
41I 89117-00  
41I 89118-00

**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. The following claims are owned by Montana Environmental Trust Group LLC. 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 46238-00

1. Claim 41I 46238-00 was decreed as a flood irrigation claim from Prickly Pear Creek. The claim was decreed with the following place of use:

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	40.00		SWNW	25	10N	3W	LEWIS AND CLARK
2	60.00		W2SW	25	10N	3W	LEWIS AND CLARK
3	70.00		S2NE	26	10N	3W	LEWIS AND CLARK
4	60.00		E2SE	26	10N	3W	LEWIS AND CLARK
<b>Total:</b>	230.00						

2. Claim 41I 46238-00 received the following place of use issue remarks:

AN AMENDMENT WAS SUBMITTED ON 08/09/2021 REQUESTING TO AMEND THE PLACE OF USE. THE AMENDMENT WAS NOT PROCESSED. THE AMENDMENT WILL BE REVIEWED AFTER THE ISSUANCE OF THE PRELIMINARY DECREE.

FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.

THE LEWIS AND CLARK COUNTY WATER RESOURCES SURVEY ( 1956 ) APPEARS TO INDICATE 52.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

THE LEWIS AND CLARK COUNTY WATER RESOURCES SURVEY ( 1957 ) APPEARS TO INDICATE 125.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

USDA AERIAL PHOTOGRAPH NO(S). 278-17 , DATED 09/02/1978 , APPEARS TO INDICATE 173.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

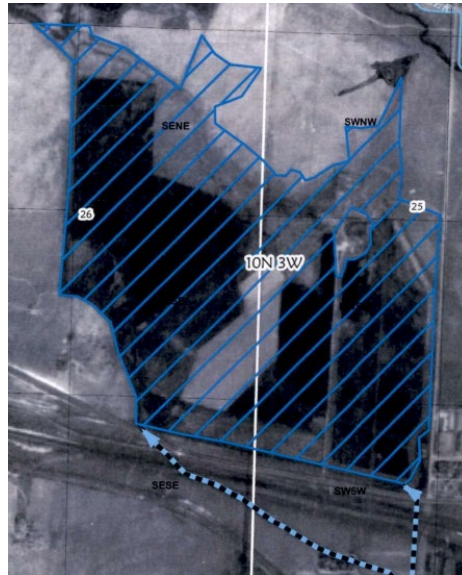
3. As noted in the issue remark, Claimant submitted an amendment to modify the place of use. The amendment requests the place of use and maximum acres be reduced as follows:

7. Place of Use: County - ☒ See attachment

12 acres	Lot	Block	1/4	SW	1/4	NW	1/4	Section 25	T 10N	R 3W
50 acres	Lot	Block	1/4	W2	1/4	SW	1/4	Section 25	T 10N	R 3W
34 acres	Lot	Block	1/4	S2	1/4	NE	1/4	Section 26	T 10N	R 3W
42 acres	Lot	Block	1/4	E2	1/4	NE	1/4	Section 26	T 10N	R 3W
138 acres	Lot	Block	1/4		1/4		1/4	Section	T	R
Total Acres		Subdivision								

☒ Replaces claimed information ☐ Supplements claimed information ☐ Addendum included

4. The amendment also included a map that shows the amended place of use overlaying a 1946 aerial photo that clearly displays a field:



5. Claim 41I 46238-00 also received the following priority date issue remark:

THE PRIORITY DATE MAY BE QUESTIONABLE. THIS CLAIM IS FOR A DECREE ON PRICKLY PEAR CREEK WITH A PRIORITY DATE 06/26/1984 CASE NO. 00964 , LEWIS AND CLARK COUNTY.

6. There is no evidence before the Court that the claimed priority date is historically inaccurate.

#### **41I 89105-00 and 41I 89106-00**

7. Claim 41I 89105-00 was decreed as a domestic claim for a single home and two acres of irrigation that diverts groundwater via a well. Claim 41I 89106-00 was decreed as a stock claim from the same well. Both claims received the following issue remark:

THE PRIORITY DATE IS IN QUESTION. THE SUBMITTED FORM GW2, NOTICE OF COMPLETION OF GROUNDWATER APPROPRIATION, WAS NOT FILED AT THE COURTHOUSE AS REQUIRED BY THE 1961 GROUNDWATER CODE.

8. The claims also received the following issue remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT APPEAR TO BE DUPLICATE FILINGS. IT APPEARS ONLY ONE WATER RIGHT IS INVOLVED.

35461-00    89105-00

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT APPEAR TO BE DUPLICATE FILINGS. IT APPEARS ONLY ONE WATER RIGHT IS INVOLVED.

35461-00    89106-00

9. 41I 35461-00 is a groundwater certificate with a priority date of August 20, 1981. The well logs and invoices from Lindsay Drilling in both files are identical. 41I 35461-00 represents the following uses: Domestic (1.5 acre-feet, includes a presumed 0.2

acres of irrigation) and Stock (2.25 acre-feet, includes 150 cattle and horses). Together, claims 41I 89105-00 and 41I 89106-00 duplicate groundwater certificate 41I 35461-00.

10. Claimant filed their *Response Relating to Issue Remarks*. (Doc.<sup>1</sup> 5.00). Claimant's *Response* states that they will withdraw Groundwater Certificate 41I 35461-00.

11. The *Response* also states that Claimant was unable to locate a GW2 form filed during the applicable time period. (Doc. 5.00). Therefore, Claimant requests that the priority date of each claim be modified to the date the statements of claim were filed, April 30, 1982, and the type of right be modified to "filed". *Id.*

**41I 89109-00, 41I 89110-00, 41I 89117-00, and 41I 89118-00**

12. Claims 41I 89109-00, 41I 89110-00, 41I 89117-00, and 41I 89118-00 were decreed as supplemental claims for flood irrigation claims of 188.00 acres as follows:

**\*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	38.00		SESE	24	10N	3W	LEWIS AND CLARK
2	150.00		NE	25	10N	3W	LEWIS AND CLARK
<b>Total:</b>	<b>188.00</b>						

13. The claims received the following issue remarks:

THE LEWIS AND CLARK COUNTY WATER RESOURCES SURVEY ( 1956 ) APPEARS TO INDICATE 26.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.  
THE LEWIS AND CLARK COUNTY WATER RESOURCES SURVEY ( 1957 ) APPEARS TO INDICATE 89.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

14. In 2021, Claimant submitted an amendment to modify the place of use. The amendment requests the place of use and maximum acres be reduced as follows:

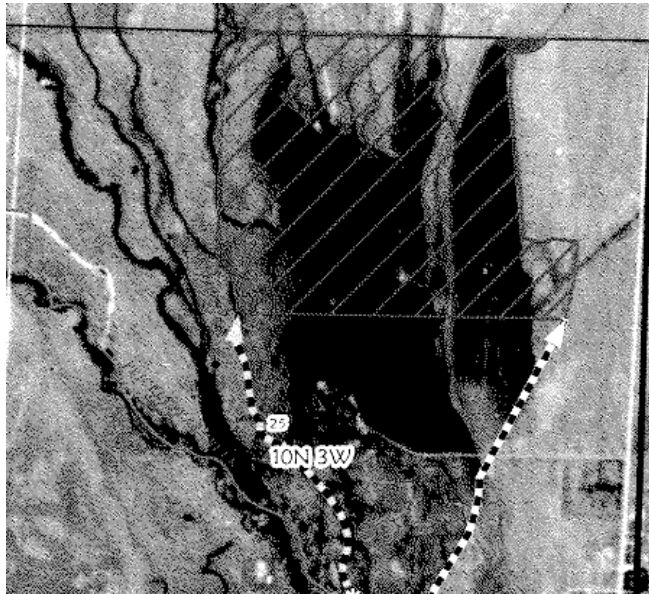
**7. Place of Use:** County - \_\_\_\_\_ ☒ See attachment

77 acres	Lot	Block	1/4	1/4	NE	1/4	Section 25	T 10N	R 3W
3 acres	Lot	Block	E2 1/4	E2 1/4	NW	1/4	Section 25	T 10N	R 3W
_____ acres	Lot	Block	1/4	1/4	1/4	1/4	Section _____	T _____	R _____
_____ acres	Lot	Block	1/4	1/4	1/4	1/4	Section _____	T _____	R _____
_____ acres	Lot	Block	1/4	1/4	1/4	1/4	Section _____	T _____	R _____
80	<b>Total Acres</b>		Subdivision _____						

☒ Replaces claimed information ☐ Supplements claimed information ☐ Addendum included

15. The amendment also included a map that shows the amended place of use overlaying a 1946 aerial photo that clearly displays a field:

<sup>1</sup> "Doc." numerical references correlate to case file docket numbers in the Water Court's Full Court case management system.



16. Claim 89110-00 also received the following issue remark:

CAUSE NO. 15537, LEWIS & CLARK CO., PROVIDES TESTIMONY THAT INDIVIDUALS WITH DECREEED RIGHTS FROM CASE NO.4643 LEWIS & CLARK CO., HAVE HISTORICALLY USED THE HIGH, FLOOD AND SURPLUS WATERS OF PRICKLY PEAR CREEK IN ADDITION TO THIER DECREEED RIGHTS.

17. This issue remark was added during adjudication of the Basin 41I Temporary Preliminary Decree, however it should have been added as an information remark not an issue remark:

3. The following clarification remark should be added to the abstracts of flood right claims 41I-W-089109-00 and 41I-W-089110-00:

CAUSE NO. 15537, LEWIS & CLARK CO., PROVIDES TESTIMONY THAT INDIVIDUALS WITH DECREEED RIGHTS FROM CASE NO. 4643, LEWIS & CLARK CO., HAVE HISTORICALLY USED THE HIGH, FLOOD AND SURPLUS WATERS OF PRICKLY PEAR CREEK IN ADDITION TO THEIR DECREEED RIGHTS.

18. Finally, the claims 41I 89109-00 and 41I 89110-00 also received the following notice-type issue remark:

THE TIMELY FILED OBJECTION OF UNITED STATES OF AMERICA WAS AMENDED BY AGREEMENT TO INCLUDE PRIORITY DATE 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.

19. The claims did not receive objections, and the remark served its notice purpose.

### 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. 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.

### CONCLUSIONS OF LAW

#### **41I 46238-00**

1. The issue remarks overcome the prima facie status of claim 41I 46238-00. The evidence submitted with the amendment shows the historical place of use is 138.00 acres as described above. This is a reduction to the claimed elements and resolves the issue remarks.

2. The priority date issue remark does not overcome the prima facie status of claim 41I 46238-00. There is no evidence supporting the issue remark.



### 41I 89105-00 and 41I 89106-00

3. The priority date issue remark overcomes the prima facie status of claims 41I 89105-00 and 41I 89106-00. Claimant's request to reduce the priority date to match the filing date of the statement of claim resolves the issue remark and is a reduction to the claimed element. Groundwater Certificate 41I 35461-00 should be withdrawn as soon as possible if it has not already been withdrawn.

### 41I 89109-00, 41I 89110-00, 41I 89117-00, and 41I 89118-00

4. The issue remarks overcome the prima facie status of claims 41I 89109-00, 41I 89110-00, 41I 89117-00, and 41I 89118-00. The evidence submitted with the amendments shows the historical place of use for all four claims is 80.00 acres as described above. This is a reduction to the claimed elements and resolves the issue remarks.

5. The priority date issue remark that appeared on claim 41I 89110-00 is an information remark that was accidentally coded as an issue remark.

6. The notice-type issue remark on claims 41I 89109-00 and 41I 89110-00 served its notice purpose.

### RECOMMENDATIONS

1. The place of use and maximum acres for claim 41I 46238-00 should be reduced as follows:

7. Place of Use: County - _____										<input checked="" type="checkbox"/> See attachment	
12	acres	Lot	Block	1/4	SW	1/4	NW	1/4	Section 25	T 10N	R 3W
50	acres	Lot	Block	1/4	W2	1/4	SW	1/4	Section 25	T 10N	R 3W
34	acres	Lot	Block	1/4	S2	1/4	NE	1/4	Section 26	T 10N	R 3W
42	acres	Lot	Block	1/4	E2	1/4	NE	1/4	Section 26	T 10N	R 3W
_____	acres	Lot	Block	1/4	_____	1/4	_____	1/4	Section _____	T _____	R _____
138	Total Acres		Subdivision _____								
<input checked="" type="checkbox"/> Replaces claimed information <input type="checkbox"/> Supplements claimed information <input type="checkbox"/> Addendum included											

2. The priority date and type of right for claims 41I 89105-00 and 41I 89106-00 should be modified to "April 30, 1982" and "filed".

3. The place of use and maximum acres for claims 41I 89109-00, 41I 89110-00, 41I 89117-00, and 41I 89118-00 should be reduced as follows:

7. **Place of Use:** County - \_\_\_\_\_ ☒ See attachment

77	acres	Lot	Block	1/4	1/4	NE	1/4	Section	25	T	10N	R	3W		
3	acres	Lot	Block	E2	1/4	E2	1/4	NW	1/4	Section	25	T	10N	R	3W
	acres	Lot	Block		1/4		1/4		1/4	Section		T		R	
	acres	Lot	Block		1/4		1/4		1/4	Section		T		R	
	acres	Lot	Block		1/4		1/4		1/4	Section		T		R	

80 **Total Acres** Subdivision \_\_\_\_\_

☒ Replaces claimed information ☐ Supplements claimed information ☐ Addendum included

4. The priority date issue remark on claim 41I 89110-00 should be re-coded as an information remark.

5. The 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**

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(atty MT Environmental Trust)



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

**Water Right Number:** 41I 46238-00 STATEMENT OF CLAIM  
**Version:** 5 -- POST DECREE  
**Status:** SEVERED

**Owners:** MONTANA ENVIRONMENTAL TRUST GROUP LLC  
TRUSTEE OF THE MT ENVIRONMENTAL CUSTODIAL TRUST  
PO BOX 1390  
HELENA, MT 59624-1390

**Priority Date:** JUNE 15, 1867

**Type of Historical Right:** DECREEED

**Purpose (Use):** IRRIGATION

**Irrigation Type:** FLOOD

**Flow Rate:** 3.35 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:** 138.00

**Source Name:** PRICKLY PEAR 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		NENWSE	36	10N	3W	LEWIS AND CLARK

**Period of Diversion:** MARCH 1 TO OCTOBER 31

**Diversion Means:** HEADGATE

**Ditch Name:** WILSON DITCH

BROWN DITCH IS A SECONDARY POINT OF DIVERSION LOCATED IN THE NWNWSE SEC 26 TWP 10N RGE 03W IN LEWIS & CLARK COUNTY. THE BROWN DITCH, IN CONJUNCTION WITH THE WILSON DITCH CONVEYS WATER TO THE PLACE OF USE.

**Period of Use:** MARCH 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	12.00		SWNW	25	10N	3W	LEWIS AND CLARK
2	50.00		W2SW	25	10N	3W	LEWIS AND CLARK
3	34.00		S2NE	26	10N	3W	LEWIS AND CLARK
4	42.00		E2NE	26	10N	3W	LEWIS AND CLARK

**Total:** 138.00

THIS WATER RIGHT HAS BEEN SEVERED FROM THE PLACE OF USE.

**Remarks:**

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.

46237-00

46238-00

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

**Water Right Number:** 41I 89105-00 STATEMENT OF CLAIM  
**Version:** 3 -- POST DECREE  
**Status:** ACTIVE

**Owners:** MONTANA ENVIRONMENTAL TRUST GROUP LLC  
TRUSTEE OF THE MT ENVIRONMENTAL CUSTODIAL TRUST  
PO BOX 1390  
HELENA, MT 59624-1390

**Priority Date:** APRIL 30, 1982  
THIS IS AN EXISTING RIGHT. ITS POST-1973 PRIORITY DATE IS DECREED PURSUANT TO SECTION 85-2-306(4) MCA.

**Type of Historical Right:** FILED

**Purpose (Use):** DOMESTIC

**Flow Rate:** 20.00 GPM

**Volume:** 5.00 AC-FT

**Households:** 1

**Maximum Acres:** 2.00

**Source Name:** GROUNDWATER

**Source Type:** GROUNDWATER  
ALSO KNOWN AS DARTMAN WELL

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		SESWNE	25	10N	3W	LEWIS AND CLARK	
Period of Diversion:		JANUARY 1 TO DECEMBER 31					
Diversion Means:		WELL					
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	2.00		SESWNE	25	10N	3W	LEWIS AND CLARK
Total:		2.00					

**Remarks:**

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.

89105-00      89106-00

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

**Water Right Number:** 41I 89106-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** MONTANA ENVIRONMENTAL TRUST GROUP LLC  
TRUSTEE OF THE MT ENVIRONMENTAL CUSTODIAL TRUST  
PO BOX 1390  
HELENA, MT 59624-1390

**Priority Date:** APRIL 30, 1982

THIS IS AN EXISTING RIGHT. ITS POST-1973 PRIORITY DATE IS DECREED  
PURSUANT TO SECTION 85-2-306(4) MCA.

**Type of Historical Right:** FILED

**Purpose (Use):** STOCK

**Flow Rate:** 20.00 GPM

**Volume:** THIS WATER 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:** GROUNDWATER

**Source Type:** GROUNDWATER

ALSO KNOWN AS DARTMAN WELL

**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		SESWNE	25	10N	3W	LEWIS AND CLARK

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

**Diversion Means:** WELL

**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			SESWNE	25	10N	3W	LEWIS AND CLARK

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**Remarks:**

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.

89105-00

89106-00

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

**Water Right Number:** 411 89109-00 STATEMENT OF CLAIM

**Version:** 4 -- POST DECREE

**Status:** ACTIVE

**Owners:** MONTANA ENVIRONMENTAL TRUST GROUP LLC  
TRUSTEE OF THE MT ENVIRONMENTAL CUSTODIAL TRUST  
PO BOX 1390  
HELENA, MT 59624-1390

**\*Priority Date:** OCTOBER 8, 1918

CAUSE NO. 15537, LEWIS & CLARK CO., PROVIDES TESTIMONY THAT INDIVIDUALS WITH DECREED RIGHTS FROM CASE NO.4643 LEWIS & CLARK CO., HAVE HISTORICALLY USED THE HIGH, FLOOD AND SURPLUS WATERS OF PRICKLY PEAR CREEK IN ADDITION TO THEIR DECREED RIGHTS.

**\*Type of Historical Right:** USE

**\*Purpose (Use):** IRRIGATION

**Irrigation Type:** FLOOD

**\*Flow Rate:** 7.13 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:** 80.00

**\*Source Name:** PRICKLY PEAR 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		SE	25	10N	3W	LEWIS AND CLARK

**Period of Diversion:** APRIL 1 TO AUGUST 31

**Diversion Means:** HEADGATE

**Ditch Name:** WILDCAT DITCH

2		NE	25	10N	3W	LEWIS AND CLARK
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**Period of Diversion:** APRIL 1 TO AUGUST 31

**Diversion Means:** HEADGATE

**Ditch Name:** STOCKBURGER DITCH

**\*Period of Use:** APRIL 1 TO AUGUST 31

THIS RIGHT INCLUDES HIGH OR FLOOD WATERS OF PRICKLY PEAR CREEK.

**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	77.00		NE	25	10N	3W	LEWIS AND CLARK

2	3.00	E2E2NW	25	10N	3W	LEWIS AND CLARK
Total:	80.00					

THIS WATER RIGHT HAS BEEN SEVERED FROM THE PLACE OF USE.

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.

89109-00	89110-00	89117-00	89118-00
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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.

89109-00	89114-00
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SPLIT CLAIM NO. 41I 30151529 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM.

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

**Water Right Number:** 41I 89110-00 STATEMENT OF CLAIM

**Version:** 4 -- POST DECREE

**Status:** ACTIVE

**Owners:** MONTANA ENVIRONMENTAL TRUST GROUP LLC  
TRUSTEE OF THE MT ENVIRONMENTAL CUSTODIAL TRUST  
PO BOX 1390  
HELENA, MT 59624-1390

**\*Priority Date:** OCTOBER 14, 1918

CAUSE NO. 15537, LEWIS & CLARK CO., PROVIDES TESTIMONY THAT INDIVIDUALS WITH DECREED RIGHTS FROM CASE NO.4643 LEWIS & CLARK CO., HAVE HISTORICALLY USED THE HIGH, FLOOD AND SURPLUS WATERS OF PRICKLY PEAR CREEK IN ADDITION TO THIER DECREED RIGHTS.

**\*Type of Historical Right:** USE

**\*Purpose (Use):** IRRIGATION

**Irrigation Type:** FLOOD

**\*Flow Rate:** 7.13 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:** 80.00

**\*Source Name:** PRICKLY PEAR 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		SE	25	10N	3W	LEWIS AND CLARK

**Period of Diversion:** APRIL 1 TO AUGUST 31

**Diversion Means:** HEADGATE

**Ditch Name:** WILDCAT DITCH

2		NE	25	10N	3W	LEWIS AND CLARK
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**Period of Diversion:** APRIL 1 TO AUGUST 31

**Diversion Means:** HEADGATE

**Ditch Name:** STOCKBURGER DITCH

**\*Period of Use:** APRIL 1 TO AUGUST 31

THIS RIGHT INCLUDES HIGH OR FLOOD WATERS OF PRICKLY PEAR CREEK.

**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	77.00		NE	25	10N	3W	LEWIS AND CLARK



2	3.00	E2E2NW	25	10N	3W	LEWIS AND CLARK
Total:	80.00					

THIS WATER RIGHT HAS BEEN SEVERED FROM THE PLACE OF USE.

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.

89109-00	89110-00	89117-00	89118-00
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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.

89110-00	89113-00
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SPLIT CLAIM NO. 41I 30151530 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM.

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

**Water Right Number:** 41I 89117-00 STATEMENT OF CLAIM

**Version:** 4 -- POST DECREE

**Status:** ACTIVE

**Owners:** MONTANA ENVIRONMENTAL TRUST GROUP LLC  
TRUSTEE OF THE MT ENVIRONMENTAL CUSTODIAL TRUST  
PO BOX 1390  
HELENA, MT 59624-1390

**\*Priority Date:** APRIL 20, 1866

**\*Type of Historical Right:** DECREED

**\*Purpose (Use):** IRRIGATION

**Irrigation Type:** FLOOD

**\*Flow Rate:** 358.59 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:** 80.00

**\*Source Name:** PRICKLY PEAR 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		SENWSE	25	10N	3W	LEWIS AND CLARK

**Period of Diversion:** APRIL 1 TO NOVEMBER 30

**Diversion Means:** HEADGATE

**Ditch Name:** WILDCAT DITCH

2		NESWSE	25	10N	3W	LEWIS AND CLARK
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**Period of Diversion:** APRIL 1 TO NOVEMBER 30

**Diversion Means:** HEADGATE

**Ditch Name:** STOCKBURGER DITCH

**\*Period of Use:** APRIL 1 TO NOVEMBER 30

**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	77.00		NE	25	10N	3W	LEWIS AND CLARK
2	3.00		E2E2NW	25	10N	3W	LEWIS AND CLARK

**Total:** 80.00

THIS WATER RIGHT HAS BEEN SEVERED FROM THE PLACE OF USE.

**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.

89109-00                      89110-00                      89117-00                      89118-00

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.

89115-00                      89117-00

SPLIT CLAIM NO. 41I 30151535 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM.

RIGHT WAS DECREED AS UNDIVIDED INTEREST GEARY 3/4 & HARDGROVE 1/4

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

**Water Right Number:** 41I 89118-00 STATEMENT OF CLAIM

**Version:** 4 -- POST DECREE

**Status:** ACTIVE

**Owners:** MONTANA ENVIRONMENTAL TRUST GROUP LLC  
TRUSTEE OF THE MT ENVIRONMENTAL CUSTODIAL TRUST  
PO BOX 1390  
HELENA, MT 59624-1390

**\*Priority Date:** MAY 1, 1868

**\*Type of Historical Right:** DECREED

**\*Purpose (Use):** IRRIGATION

**Irrigation Type:** FLOOD

**\*Flow Rate:** 2.40 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:** 80.00

**\*Source Name:** PRICKLY PEAR 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		SE	25	10N	3W	LEWIS AND CLARK

**Period of Diversion:** APRIL 1 TO NOVEMBER 30

**Diversion Means:** HEADGATE

**Ditch Name:** WILDCAT DITCH

2		NE	25	10N	3W	LEWIS AND CLARK
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**Period of Diversion:** APRIL 1 TO NOVEMBER 30

**Diversion Means:** HEADGATE

**Ditch Name:** STOCKBURGER DITCH

**\*Period of Use:** APRIL 1 TO NOVEMBER 30

**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	77.00		NE	25	10N	3W	LEWIS AND CLARK
2	3.00		E2E2NW	25	10N	3W	LEWIS AND CLARK

**Total:** 80.00

THIS WATER RIGHT HAS BEEN SEVERED FROM THE PLACE OF USE.

**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.

89109-00                      89110-00                      89117-00                      89118-00

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.

89116-00                      89118-00

SPLIT CLAIM NO. 41I 30151536 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM.