

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

CLAIMANT: C5 Rodeo MT LLLP

CASE 41I-1043-R-2024

41I 100492-00

41I 100493-00

41I 100496-00

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 water rights listed above appeared in the Preliminary Decree for the Missouri River above Holter Dam (Basin 41I) issued on June 24, 2022. Claims 41I 100492-00, 41I 100493-00, and 41I 100496-00 each received issue remarks identifying potential legal or

factual issues with the water right.

The claims were consolidated into Case 41I-1043-R-2024 and an Order Requiring the Claimant to work with the DNRC to resolve the issue remarks was issued by the Water Court to resolve the issue remarks.

FINDINGS OF FACT

1. Claim 41I 100492-00 received the following substantive issue remark:

ACCORDING TO INFORMATION IN THE CLAIM FILE, THE PERIOD OF USE IS JANUARY 1 TO DECEMBER 31. THE PERIOD OF USE HAS NOT BEEN AMENDED AS AN AMENDMENT FORM WAS NOT PROPERLY FILED.

Claim 41I 100493-00 received the following substantive issue remark:

THE CLAIMED VOLUME EXCEEDS THE 2.5 ACRE-FEET GUIDELINE FOR THIS PURPOSE. ACCORDING TO INFORMATION IN THE CLAIM FILE, A REQUEST TO AMEND THE VOLUME TO 2.0 ACRE- FEET WAS MADE ON 03/14/88. DNRC REQUESTED A SIGNED AND NOTARIZED AMENDMENT FORM BE SUBMITTED. THE VOLUME HAS NOT BEEN AMENDED AS AN AMENDMENT FORM HAS NOT BEEN PROPERLY FILED.

Claim 41I 100496-00 received the following substantive issue remark:

ACCORDING TO INFORMATION IN THE CLAIM FILE, THE DAM IS IN DISREPAIR AND IS NOT CURRENTLY BEING USED.

2. On October 9, 2024, the Court consolidated the claims and issued an order for the Claimant to work with the DNRC to address and resolve the issue remarks.

3. On January 6, 2025, DNRC Water Resource Specialist Jason Larsen filed a *Memorandum* in this matter. Mr. Larsen stated that at the time of filing the *Memo*, the DNRC had not received any claimant contact. Further, the DNRC notes that based on available information, there was a letter written by the attorney for the previous claimant requesting an amended period of use for claim 41I 100492-00 to year round, an amended volume on claim 41I 100493-00 to 2.0 acre-feet, and a modification of the means of diversion on claim 41I 100496-00. Therefore, the DNRC made recommendations to facilitate resolution of the issue remarks. Those recommendations are as follows:

RECOMMENDATION(S):

For claim 41I 100492-00 the DNRC recommends changing the period of use to January 1 to December 31, per the request of the prior claimant's attorney. The DNRC recommends changing the Period of Diversion to January 1 to December 31 to be consistent with the period of use. The DNRC recommends that the PEIS remark be removed.

For claim 41I 100493-00 the DNRC recommends changing the volume to 2.0 acre-feet, per the request of the prior claimant's attorney. The DNRC recommends that the VMIS remark be removed.

For claim 41I 100496-00 the DNRC recommends changing the means of diversion to 'Diversion Dam' to be consistent with the court's prior ruling on multiple use claim 41I 100497-00 (Case No. 41I-524, 06/03/1997). The DNRC recommends that the RNIS remark be removed.

4. On February 25, 2025, the Court issued an Order Setting Filing Deadline for the Claimant to file a statement if they disagreed with the above-listed recommendations from the DNRC. Nothing was filed by the deadline. The Order Setting Filing Deadline included the following language:

ORDERED that the deadline is **March 19, 2025**, for claimant C5 Rodeo MT, LLLP to file a written response to the DNRC recommendations *if they disagree with these recommendations*. If no written response is filed by the above-listed deadline, the Court will conclude that the Claimant agrees with the DNRC recommendations.

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. 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.

CONCLUSION OF LAW

1. The information in the record is sufficient to resolve the substantive issue remarks appearing on each of the above-captioned claims. Based on the information

contained Mr. Larsen's *Memo*, and the lack of response to the February 25, 2025 Order Setting Filing Deadline, the claims should be modified as described in Finding of Fact No. 3. The substantive issue remarks should be removed from the claims.

RECOMMENDATIONS

Based on the foregoing Findings of Fact and Conclusions of Law, this Water Master recommends that the Court modify each claim as described above and remove all 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:

(Last Order)

C5 Rodeo MT LLLP
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Lac La Biche AB T0A 2C0
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Service Via Electronic Mail:

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****Note: Service List Updated 5-13-2025****

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

Water Right Number: 41I 100492-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: C5 RODEO MT LLLP
PO BOX 1885
LAC LA BICHE AB T0A 2C0
CANADA

Priority Date: APRIL 10, 1905

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 BEARTOOTH 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		SWNENE	20	13N	3W	LEWIS AND CLARK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: UNDEVELOPED SPRING

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			SWNENE	20	13N	3W	LEWIS AND CLARK
2			NESWNE	20	13N	3W	LEWIS AND CLARK

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.

100492-00 100493-00 100494-00

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

Water Right Number: 41I 100493-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: C5 RODEO MT LLLP
PO BOX 1885
LAC LA BICHE AB T0A 2C0
CANADA

Priority Date: APRIL 10, 1905

Type of Historical Right: USE

Purpose (Use): LAWN AND GARDEN

Flow Rate: 15.00 GPM

Volume: 2.00 AC-FT

Maximum Acres: 1.00

Source Name: SPRING, UNNAMED TRIBUTARY OF BEARTOOTH CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SWNE	20	13N	3W	LEWIS AND CLARK

Period of Diversion: APRIL 10 TO NOVEMBER 1

Diversion Means: UNDEVELOPED SPRING

Period of Use: APRIL 10 TO NOVEMBER 1

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	1.00		NESWNE	20	13N	3W	LEWIS AND CLARK
Total:	1.00						

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.

100492-00100493-00100494-00

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

Water Right Number: 41I 100496-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: C5 RODEO MT LLLP
PO BOX 1885
LAC LA BICHE AB T0A 2C0
CANADA

Priority Date: MAY 1, 1915

Type of Historical Right: USE

Purpose (Use): STOCK

***Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. 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: TOWHEAD 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		NESWNE	32	13N	3W	LEWIS AND CLARK

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

Diversion Means: DIVERSION DAM

Ditch Name: HILGER DITCH

Reservoir: ONSTREAM **Reservoir Name:** HILGER DAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NESWNE	32	13N	3W	LEWIS AND CLARK

Diversion to Reservoir: DIVERSION # 1

Period of Use: APRIL 10 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			N2	32	13N	3W	LEWIS AND CLARK

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.

100496-00

100497-00