

Montana Water Court
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MONTANA WATER COURT
UPPER MISSOURI DIVISION
MADISON RIVER BASIN
BASIN 41F
PRELIMINARY DECREE

* * * * *

CLAIMANTS: Bonnie Hamilton Family Trust; Devonna G.
Owens Family Trust

OBJECTOR: Devonna G. Owens Family Trust

NOTICE OF INTENT TO APPEAR: United States, DOI Bureau
of Reclamation

CASE 41F-0116-R-2024

41F 32968-00

41F 32970-00

41F 32971-00

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 have **13 days** from the service date of the notice of filing of this report to file a written objection or request an extension of the objection period. Rule 23, Water Right Adjudication Rules; Rule 6, Montana Rules of Civil Procedure. 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

Statement of the case

The Devonna G. Owens Family Trust filed an objection to the acres irrigated/place of use

and means of diversion/point of diversion for the captioned claims. The United States, DOI Bureau of Reclamation (“BOR”) filed a notice of intent to appear for each claim.

Each of the claims appeared in the Preliminary Decree with a version of the following notice issue remark.

XXXX WERE MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

Issue remarks result from Department of Natural Resources and Conservation (“DNRC”) claims examination. Montana law requires the Water Court to resolve issue remarks.

On July 21, 2025, the Devonna G. Owens Family Trust and the Bonnie Hamilton Family Trust (“Trusts”), filed a Verified Motion to Amend the captioned claims. On July 21, 2025, the BOR filed a Notice of Withdrawal of Notice of Intent to Appear.

Issues

1. Should the court modify the claims pursuant to the Verified Motion to Amend?
2. Is the notice issue remark on each claim resolved?

Findings of fact

1. The maximum acres irrigated, place of use, point of diversion, and means of diversion for irrigation claim 41F 32968-00 should be reduced pursuant to the Verified Motion to Amend.
2. The Verified Motion to Amend provides a preponderance of evidence that the historically accurate point of diversion and place of use for stock claims 41F 32970-00 and 41F 32971-00 should be increased pursuant to the Verified Motion to Amend.

Principles of law

1. A properly filed Statement of Claim for Existing Water Right is prima facie proof of its content. Mont. Code Ann. § 85-2-227 (2025). Prima facie proof may be overcome by other evidence that proves, by a preponderance of the evidence, that an element of the prima facie claim is incorrect. This is the burden of proof for every assertion that a claim is incorrect. Rule 19, W.R.Adj.R. A preponderance of the evidence is a “modest standard” and is evidence that demonstrates the fact to be proved is “more probable than not.” *Hohenlohe v. State*, 2010 MT 203, ¶ 33, 357 Mont. 348, 240 P.3d 628.

2. The Montana Water Court is permitted to use information submitted by the Department of Natural Resources and Conservation, the statement of claim, information from approved compacts, and any other data obtained by the Court to evaluate water right claims. § 85-2-231(2), MCA.

3. Settlement, including the documents filed by a claimant where the claimant is the only party, is subject to review and approval by the Water Court. Rule 17(a), W.R.Adj.R.

4. If the settlement agreement expands or enlarges an element of a claim, evidence meeting the burden of proof must be provided. If the evidence does not meet the burden of proof, the element shall not be expanded or enlarged. Rule 17(b), W.R.Adj.R.

5. The Water Court may accept a settlement agreement that reduces or limits an element of a claim and need not determine whether the burden of proof is met unless there is an unresolved issue remark on the claim. Rule 17(c), W.R.Adj.R.

6. When resolving issue remarks, the Montana Water Court must weigh the information resulting in the issue remark and the issue remark against the claimed water right. § 85-2-247(2), MCA.

7. The Montana Water Court has the authority to resolve issue remarks when the claim file and information available to the Court provide a sufficient basis to do so. § 85-2-248(3), MCA.

Analysis

Issue 1 - VMTA

Irrigation statement of claim 41F 32968-00 identified a 135.00-acre place of use in the SE of Section 19 and the NWSW of Section 20, Township 4 South, Range 1 West, Madison County. The VMTA explains:

- In 1998, Lynn Owens and Devonna Owens began conveying the SW and W2SE of Section 11, Township 4S, Range 1W to their daughter Bonnie Hamilton, culminating with a quit claim deed to Ms. Hamilton for claim 41F 32968-00. (See Ex. 1 and 2, VMTA)
- The place of use and points of diversion should be reduced to reflect the Bonnie Hamilton Family Trust's beneficial use.

Stock statements of claim 41F 32970-00 and 41F 32971-00 taken together identified

places of use in Sections 19, 20, 29, and 30, Township 4S, Range 1W and identified the means of diversion as both direct from source and ditch. The VMTA explains:

- The statements of claim filed by then claimant, Lynn Owens, demonstrated the intent to water stock from every ditch on his property, and from the source itself.
- DNRC clarified the points of diversion and places of use during claims examination, narrowing the legal land descriptions “in a manner inconsistent with historical use.”
- The current beneficial use of the water is consistent with historical beneficial use.
- The Trusts historically watered stock “directly from both branches of North Meadow Creek and North Meadow Creek’s tributaries where those sources pass through their properties...[and] from every ditch that carries Northern Meadow Creek water on their properties.”

The VMTA and its exhibits may be viewed on the court’s case management system, FullCourt Enterprise, at document sequence 4.00.

Conclusions of law

The evidence entered into the record for irrigation claim 41F 32968-00 is a reduction within the parameters of the statement of claim, justifies the modifications to the claim, and resolves the BOR’s notice of intent to appear for the claim. The modifications proposed by the VMTA should be accepted by the court.

The Trusts provided a preponderance of evidence supporting the increased point of diversion and place of use for stock claims 41F 32970-00 and 41F 32971-00, thereby overcoming the prima facie statements of claim, justifying the modifications to the claims, and resolving the BOR’s notice of intent to appear for the claims. The modifications proposed by the VMTA should be accepted by the court.

Issue 2 – issue remark resolution

Irrigation claim 41F 32968-00 appeared in the Preliminary Decree with the following issue remark.

POINT OF DIVERSION AND DITCH NAME WERE MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

Stock claims 41F 32970-00 and 41F 32971-00 appeared in the Preliminary Decree with the following issue remark.

POINT OF DIVERSION, MEANS OF DIVERSION, AND DITCH NAME WERE MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

Water users were given the opportunity to review the claims and file an objection. Each claim received an objection from the Devonna G. Owens Family Trust to its point of diversion and means of diversion. The Devonna G. Owens Family Trust objections to the elements identified by the notice issue remarks are resolved by these proceedings.

Conclusion of law

The issue remark on each claim served its notice purpose.

Recommendations

Irrigation claim 41F 32968-00, and stock claims 41F 32970-00 and 41F 32971-00 should be modified pursuant to the Trusts' Verified Motion to Amend.

The issue remark should be removed from the claim abstracts.

Post Decree Abstracts of Water Right Claim accompany this report to confirm implementation of the recommendations in the state's centralized water right record system.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service Via Electronic Mail:

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****Note: Service List Updated 11-17-2025****

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MADISON RIVER
BASIN 41F

Water Right Number: 41F 32968-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: HAMILTON, BONNIE FAMILY TRUST
%HAMILTON, RYAN T TRUSTEE
PO BOX 462
MCALLISTER, MT 59740-0462

Priority Date: MAY 1, 1903

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 1.25 CFS

*Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 32.00

Source Name: NORTH MEADOW 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		SWNWSE	19	4S	1W	MADISON
Period of Diversion:		MAY 1 TO JULY 31				
Diversion Means:		HEADGATE				
Ditch Name:		BAUER DITCH NO. 1				
2		NWSWSE	19	4S	1W	MADISON
Period of Diversion:		MAY 1 TO JULY 31				
Diversion Means:		HEADGATE				
Ditch Name:		BAUER DITCH NO. 2				
Period of Use:		MAY 1 TO JULY 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	30.00		SWSE	19	4S	1W	MADISON
2	1.00		SWNWSE	19	4S	1W	MADISON
3	1.00		NESESW	19	4S	1W	MADISON
Total:		32.00					

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.

32964-00	32968-00	33053-00	33054-00	35214-00
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**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MADISON RIVER
BASIN 41F**

Water Right Number: 41F 32970-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: HAMILTON, BONNIE FAMILY TRUST
%HAMILTON, RYAN T TRUSTEE
PO BOX 462
MCALLISTER, MT 59740-0462

OWENS DEVONNA G FAMILY TRUST
BRETT L OWENS TRUSTEE
PO BOX 126
MCALLISTER, MT 59740

Priority Date: APRIL 15, 1868

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: NORTH MEADOW CREEK

Source Type: SURFACE WATER

Source Name: UNNAMED TRIBUTARY OF NORTH MEADOW 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		W2SE	19	4S	1W	MADISON

Source Name: NORTH MEADOW CREEK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

2		NENWNE	30	4S	1W	MADISON
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Source Name: NORTH MEADOW CREEK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

3		W2NENE	30	4S	1W	MADISON
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Source Name: NORTH MEADOW CREEK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means:	LIVESTOCK DIRECT FROM SOURCE
4	SWSWNW 29 4S 1W MADISON
Source Name:	NORTH MEADOW CREEK
Period of Diversion:	JANUARY 1 TO DECEMBER 31
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE
5	20 4S 1W MADISON
Source Name:	UNNAMED TRIBUTARY OF NORTH MEADOW CREEK
Period of Diversion:	JANUARY 1 TO DECEMBER 31
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE
6	NE 29 4S 1W MADISON
Source Name:	UNNAMED TRIBUTARY OF NORTH MEADOW CREEK
Period of Diversion:	JANUARY 1 TO DECEMBER 31
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE
7	NESESW 12 4S 2W MADISON
Source Name:	NORTH MEADOW CREEK
Period of Diversion:	JANUARY 1 TO DECEMBER 31
Diversion Means:	HEADGATE
Ditch Name:	BOWERSOX-BAUER DITCH
8	SESESW 12 4S 2W MADISON
Source Name:	NORTH MEADOW CREEK
Period of Diversion:	JANUARY 1 TO DECEMBER 31
Diversion Means:	HEADGATE
Ditch Name:	SCHABARKER DITCH
9	SWNWSE 19 4S 1W MADISON
Source Name:	NORTH MEADOW CREEK
Period of Diversion:	JANUARY 1 TO DECEMBER 31
Diversion Means:	HEADGATE
Ditch Name:	BAUER DITCH NO. 1
10	NWSWSE 19 4S 1W MADISON
Source Name:	NORTH MEADOW CREEK
Period of Diversion:	JANUARY 1 TO DECEMBER 31
Diversion Means:	HEADGATE
Ditch Name:	BAUER DITCH NO. 2
11	SWSWSE 19 4S 1W MADISON
Source Name:	NORTH MEADOW CREEK
Period of Diversion:	JANUARY 1 TO DECEMBER 31
Diversion Means:	HEADGATE
Ditch Name:	OLIVER DITCH NO. 3
12	NWNWSE 19 4S 1W MADISON
Source Name:	NORTH MEADOW CREEK
Period of Diversion:	JANUARY 1 TO DECEMBER 31

Diversion Means:

Ditch Name:

13

Source Name:

Period of Diversion:

Diversion Means:

Ditch Name:

14

Source Name:

Period of Diversion:

Diversion Means:

Ditch Name:

Period of Use:

Place of Use:

HEADGATE
SHINGLETON DITCH NO. 2
NWNENE 30 4S 1W MADISON
NORTH MEADOW CREEK
JANUARY 1 TO DECEMBER 31
HEADGATE
ALLEN-VINCENT DITCH
SWNENE 30 4S 1W MADISON
NORTH MEADOW CREEK
JANUARY 1 TO DECEMBER 31
HEADGATE
SHELHAMER DITCH
JANUARY 1 TO DECEMBER 31

<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			SE	19	4S	1W	MADISON
2				20	4S	1W	MADISON
3			N2	29	4S	1W	MADISON
4			NENE	30	4S	1W	MADISON
5			NENWNE	30	4S	1W	MADISON

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.

32963-0032970-00

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MADISON RIVER
BASIN 41F**

Water Right Number: 41F 32971-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: HAMILTON, BONNIE FAMILY TRUST
%HAMILTON, RYAN T TRUSTEE
PO BOX 462
MCALLISTER, MT 59740-0462

OWENS DEVONNA G FAMILY TRUST
BRETT L OWENS TRUSTEE
PO BOX 126
MCALLISTER, MT 59740

Priority Date: MAY 1, 1897

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: NORTH MEADOW CREEK

Source Type: SURFACE WATER

Source Name: UNNAMED TRIBUTARY OF NORTH MEADOW 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		W2SE	19	4S	1W	MADISON

Source Name: NORTH MEADOW CREEK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Ditch Name: BAUER DITCH NO. 1

2		NENWNE	30	4S	1W	MADISON
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Source Name: NORTH MEADOW CREEK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

3		W2NENE	30	4S	1W	MADISON
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Source Name: NORTH MEADOW CREEK

Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE				
4	SWSWNW	29	4S	1W	MADISON
Source Name:	NORTH MEADOW CREEK				
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE				
5		20	4S	1W	MADISON
Source Name:	UNNAMED TRIBUTARY OF NORTH MEADOW CREEK				
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE				
6	NE	29	4S	1W	MADISON
Source Name:	UNNAMED TRIBUTARY OF NORTH MEADOW CREEK				
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE				
7	NESESW	12	4S	2W	MADISON
Source Name:	NORTH MEADOW CREEK				
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	HEADGATE				
Ditch Name:	BOWERSOX-BAUER DITCH				
8	SESESW	12	4S	2W	MADISON
Source Name:	NORTH MEADOW CREEK				
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	HEADGATE				
Ditch Name:	SCHABARKER DITCH				
9	SWNWSE	19	4S	1W	MADISON
Source Name:	NORTH MEADOW CREEK				
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	HEADGATE				
Ditch Name:	BAUER DITCH NO. 1				
10	NWSWSE	19	4S	1W	MADISON
Source Name:	NORTH MEADOW CREEK				
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	HEADGATE				
Ditch Name:	BAUER DITCH NO. 2				
11	SWSWSE	19	4S	1W	MADISON
Source Name:	NORTH MEADOW CREEK				
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	HEADGATE				
Ditch Name:	OLIVER DITCH NO. 3				
12	NWNWSE	19	4S	1W	MADISON
Source Name:	NORTH MEADOW CREEK				

Period of Diversion:

JANUARY 1 TO DECEMBER 31

Diversion Means:

HEADGATE

Ditch Name:

SHINGLETON DITCH NO. 2

13

NWNE

30

4S

1W

MADISON

Source Name:

NORTH MEADOW CREEK

Period of Diversion:

JANUARY 1 TO DECEMBER 31

Diversion Means:

HEADGATE

Ditch Name:

ALLEN-VINCENT DITCH

14

SWNE

30

4S

1W

MADISON

Source Name:

NORTH MEADOW CREEK

Period of Diversion:

JANUARY 1 TO DECEMBER 31

Diversion Means:

HEADGATE

Ditch Name:

SHELHAMER 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			SE	19	4S	1W	MADISON
2				20	4S	1W	MADISON
3			N2	29	4S	1W	MADISON
4			NENE	30	4S	1W	MADISON
5			NENWNE	30	4S	1W	MADISON

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.

32967-00

32971-00