

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

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CLAIMANT: Brewer Ranch LLC

CASE 41I-0165-R-2025
41I 204201-00

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

Claim 41I 204201-00 appeared in the Preliminary Decree for the Missouri River above Holter Dam (Basin 41I) issued on June 24, 2022. The claim is owned by Brewer Ranch LLC. The claim 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

1. Claim 41I 204201-00 was decreed as a commercial claim for a well in the SWSESE §14 T6N R7E Meagher County.
2. The claim was decreed with a flow rate of 1.00 GPM and a volume of 1.60 AC-FT.
3. The claim received the following issue remarks:

VOLUME APPEARS TO BE EXCESSIVE FOR A HAND PUMP MEANS OF DIVERSION
VOLUME MAY BE EXCESSIVE. BASED ON THE FLOW RATE AND PERIOD OF USE, THE SYSTEM WOULD HAVE TO RUN 23.8 HOURS PER DAY TO DELIVER THE CLAIMED VOLUME. NO INFORMATION EXISTS IN THE CLAIM FILE TO CONFIRM THIS FIGURE.
4. On June 3, 2025, Brewer Ranch LLC filed a statement requesting the volume be reduced to 0.67 AC-FT. (Doc.¹ 2.00). This volume represents the pump running for “not more than 10 hours a day at the decreed flow rate.”

PRINCIPLES OF LAW

1. A properly filed Statement of Claim for an existing water right is prima facie proof of its content. Mont. Code Ann. § 85-2-227 (2025); 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. §§ 85-2-227, -231(2), MCA.

¹ “Doc.” numerical references correlate to case file docket numbers in the Water Court’s Full Court case management system.

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. § 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.

CONCLUSIONS OF LAW

1. The volume issue remarks overcome the prima facie status of claim 41I 204201-00. Based on the information provided by Brewer Ranch LLC, the volume should be reduced to 0.67 AC-FT, which represents the pump running for 10 hours a day or less at the decreed flow rate of 1.00 GPM.

RECOMMENDATIONS

1. The volume of claim 41I 204201-00 should be reduced to 0.67 AC-FT.
2. The issue remarks should be removed from the claim abstract.

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

ELECTRONICALLY SIGNED AND DATED BELOW.

SERVICE VIA ELECTRONIC MAIL

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

Water Right Number: 41I 204201-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: BREWER RANCH LLC
PO BOX 83
RINGLING, MT 59642-0083

Priority Date: NOVEMBER 10, 1951

Type of Historical Right: USE

Purpose (Use): COMMERCIAL
Purpose Clarification: RAILROAD STATION AND OFFICE BUILDING

Flow Rate: 1.00 GPM

Volume: 0.67 AC-FT

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		SWSESE	14	6N	7E	MEAGHER

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: WELL
THE MEANS OF DIVERSION IS A HAND PUMP.

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			SWSESE	14	6N	7E	MEAGHER