

Montana Water Court
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MONTANA WATER COURT
UPPER MISSOURI DIVISION
MISSOURI RIVER ABOVE HOLTER DAM
BASIN 41I
PRELIMINARY DECREE

CLAIMANTS: Frank W. McArthur Jr.; Leisa N. McArthur

OBJECTORS: Frank W. McArthur Jr.; Leisa N. McArthur;
City of Townsend

CASE 41I-0005-R-2023

41I 3834-00

41I 3839-00

41I 3840-00

ORDER AMENDING AND ADOPTING

Pursuant to Montana Code Annotated, § 85-2-233(5), this case was assigned to Senior Water Master Melissa Lockman. On October 21, 2025, the Water Master filed a Master's Report that contained Findings of Fact and Conclusions of Law. On November 3, 2025, Leisa N. McArthur ("McArthur") filed an objection to the Master's Report. McArthur identified an error in the Master's Report in that the point of diversion in the SENENE of Section 2, Township 6 North, Range 2 East was incorrectly identified as located in Township 7 North.

The Findings of Fact 12 and 16 incorrectly list the township of the point of diversion in the SENENE of Section 2, Township 6 North Range 2 East as Township 7 North. The correct location is in Township 6 North. Conclusion of Law 2, Recommendation 2, and the post decree abstracts of the claims also repeat this error.

Therefore, it is

ORDERED that Finding of Fact 12, and 16; Conclusion of Law 2; and Recommendation 2 are AMENDED to reflect the correct location of the point of

diversion in the SENENE of Section 2, **Township 6 North**, Range 2 East. The abstracts of claims 41I 3834-00, 41I 3839-00, and 41I 3840-00 are also corrected accordingly.

ORDERED that pursuant to Rule 53(e), Montana Rules of Civil Procedure, the Master's Report and its Recommendations are **ADOPTED as AMENDED** in this order. The Post Decree Abstracts provided with this order have been amended and are **APPROVED** by this Court.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail

Frank W. McArthur, Jr.
Leisa N. McArthur
574 Lower Deep Creek Rd
Townsend, MT 59644

Service via Electronic Mail

Breeann M. Johnson
Kirsia A. Shelkey
Western Roots Law PLLC
johnson@westrootslaw.com
shelkey@westrootslaw.com
(Attorney for City of Townsend)

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

Water Right Number: 41I 3834-00 STATEMENT OF CLAIM

Version: 10 -- POST DECREE

Status: ACTIVE

Owners: FRANK W MCARTHUR JR
574 LOWER DEEP CREEK RD
TOWNSEND, MT 59644-9738

LEISA N MCARTHUR
574 LOWER DEEP CREEK RD
TOWNSEND, MT 59644-9738

Priority Date: DECEMBER 31, 1885

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

***Flow Rate:** 133.88 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:** 174.33

Source Name: DEEP 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		NWNWNW	1	6N	2E	BROADWATER
Period of Diversion:	APRIL 1 TO OCTOBER 15					
Diversion Means:	HEADGATE					
Ditch Name:	MITCHELL-HEUER DITCH 1					
2		NENESE	36	7N	2E	BROADWATER
Period of Diversion:	APRIL 1 TO OCTOBER 15					
Diversion Means:	HEADGATE					
Ditch Name:	MITCHELL-PROSSER-ZUBRICH-FLYNN DITCH					
3		SENWSE	36	7N	2E	BROADWATER
Period of Diversion:	APRIL 1 TO OCTOBER 15					
Diversion Means:	HEADGATE					
Ditch Name:	STROH-MITCHELL-HEUER DITCH					
4		SESESW	36	7N	2E	BROADWATER
Period of Diversion:	APRIL 1 TO OCTOBER 15					
Diversion Means:	HEADGATE					

Ditch Name:

MITCHELL-HEUER DITCH 2

5

SENENE

2

6N

2E

BROADWATER

Period of Diversion:

APRIL 1 TO OCTOBER 15

Diversion Means:

HEADGATE

Period of Use:

APRIL 1 TO OCTOBER 15

*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	101.33		NW	1	6N	2E	BROADWATER
2	73.00		NE	2	6N	2E	BROADWATER
Total:	174.33						

THE PLACE OF USE IN SECTION 1 IS PART OF THE REMAINDER TRACT OF COS NO. 145A RECORDED IN BOOK 12 MICRO PAGE 145 AND ALL OF THE E2NE OF SECTION 2 LYING SOUTH OF THE COUNTY ROAD.

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.

3834-00

3839-00

3840-00

THE MAXIMUM ACRES, PLACE OF USE WERE AMENDED BY THE WATER COURT PURSUANT TO SECTION 85-2-233(6), MCA.

THE SPLIT CLAIMS LISTED FOLLOWING THIS STATEMENT WERE AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM. 41I 30109807, 41I 30109808, 41I 30109809, 41I 30109810, 41I 30109811, 41I 30109812, 41I 30109813, 41I 30109814 AND 41I 30109815.

AUTHORIZATION TO CHANGE POINT OF DIVERSION COMPLETED 11/30/1987. FILE REFLECTS RIGHT AS IT EXISTED PRIOR TO JULY 1973. APPROVED CHANGES WILL BE RECORDED AFTER FINAL DECREE. SEE 41I 3834-00.

AUTHORIZATION TO CHANGE POINT OF DIVERSION COMPLETED. 11/30/1987. FILE REFLECTS RIGHT AS IT EXISTED PRIOR TO JULY 1973. APPROVED CHANGES WILL BE RECORDED AFTER FINAL DECREE. SEE 41I 3834-01.

AUTHORIZATION TO CHANGE THE PLACE OF USE COMPLETED 07/29/1992. FILE REFLECTS RIGHT AS IT EXISTED PRIOR TO JULY 1973. APPROVED CHANGES WILL BE RECORDED AFTER FINAL DECREE. SEE 41I 3834-02.

AUTHORIZATION TO CHANGE THE PLACE OF USE COMPLETED 10/01/1999. FILE REFLECTS RIGHT AS IT EXISTED PRIOR TO JULY 1973. APPROVED CHANGES WILL BE RECORDED AFTER FINAL DECREE. SEE 41I 3834-03.

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

Water Right Number: 41I 3839-00 STATEMENT OF CLAIM

Version: 10 -- POST DECREE

Status: ACTIVE

Owners: FRANK W MCARTHUR JR
574 LOWER DEEP CREEK RD
TOWNSEND, MT 59644-9738

LEISA N MCARTHUR
574 LOWER DEEP CREEK RD
TOWNSEND, MT 59644-9738

Priority Date: SEPTEMBER 30, 1881

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

***Flow Rate:** 334.88 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:** 174.33

Source Name: DEEP 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		NWNWNW	1	6N	2E	BROADWATER
Period of Diversion:	APRIL 1 TO OCTOBER 15					
Diversion Means:	HEADGATE					
Ditch Name:	MITCHELL-HEUER DITCH 1					
2		NENESE	36	7N	2E	BROADWATER
Period of Diversion:	APRIL 1 TO OCTOBER 15					
Diversion Means:	HEADGATE					
Ditch Name:	MITCHELL-PROSSER-ZUBRICH-FLYNN DITCH					
3		SENWSE	36	7N	2E	BROADWATER
Period of Diversion:	APRIL 1 TO OCTOBER 15					
Diversion Means:	HEADGATE					
Ditch Name:	STROH-MITCHELL-HEUER DITCH					
4		SESESW	36	7N	2E	BROADWATER
Period of Diversion:	APRIL 1 TO OCTOBER 15					
Diversion Means:	HEADGATE					

Ditch Name:

MITCHELL-HEUER DITCH 2

5

SENENE26N2EBROADWATER

Period of Diversion:

APRIL 1 TO OCTOBER 15

Diversion Means:

HEADGATE

Period of Use:

APRIL 1 TO OCTOBER 15

*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	101.33		NW	1	6N	2E	BROADWATER
2	73.00		NE	2	6N	2E	BROADWATER
Total:	174.33						

THE PLACE OF USE IN SECTION 1 IS PART OF THE REMAINDER TRACT OF COS NO. 145A RECORDED IN BOOK 12 MICRO PAGE 145, AND ALL OF THE E2NE OF SECTION 2 LYING SOUTH OF THE COUNTY ROAD.

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.

3834-003839-003840-00

THE MAXIMUM ACRES, PLACE OF USE WERE AMENDED BY THE WATER COURT PURSUANT TO SECTION 85-2-233(6), MCA.

THE SPLIT CLAIMS LISTED FOLLOWING THIS STATEMENT WERE AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM. 41I 30109816, 41I 30109817, 41I 30109818, 41I 30109819, 41I 30109820, 41I 30109821, 41I 30109822, 41I 30109823 AND 41I 30109824.

AUTHORIZATION TO CHANGE POINT OF DIVERSION COMPLETED 11/30/1987. FILE REFLECTS RIGHT AS IT EXISTED PRIOR TO JULY 1973. APPROVED CHANGES WILL BE RECORDED AFTER FINAL DECREE. SEE 41I 3834-00.

AUTHORIZATION TO CHANGE POINT OF DIVERSION COMPLETED. 11/30/1987. FILE REFLECTS RIGHT AS IT EXISTED PRIOR TO JULY 1973. APPROVED CHANGES WILL BE RECORDED AFTER FINAL DECREE. SEE 41I 3834-01.

AUTHORIZATION TO CHANGE THE PLACE OF USE COMPLETED 07/29/1992. FILE REFLECTS RIGHT AS IT EXISTED PRIOR TO JULY 1973. APPROVED CHANGES WILL BE RECORDED AFTER FINAL DECREE. SEE 41I 3834-02.

AUTHORIZATION TO CHANGE THE PLACE OF USE ISSUED 06/23/1999. NOTICE OF COMPLETION DUE 12/31/2000. SEE 41 3834-03.

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

Water Right Number: 41I 3840-00 STATEMENT OF CLAIM

Version: 10 -- POST DECREE

Status: ACTIVE

Owners: FRANK W MCARTHUR JR
574 LOWER DEEP CREEK RD
TOWNSEND, MT 59644-9738

LEISA N MCARTHUR
574 LOWER DEEP CREEK RD
TOWNSEND, MT 59644-9738

Priority Date: APRIL 1, 1870

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

***Flow Rate:** 1.19 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:** 174.33

Source Name: DEEP 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		NWNWNW	1	6N	2E	BROADWATER
Period of Diversion:	APRIL 1 TO OCTOBER 15					
Diversion Means:	HEADGATE					
Ditch Name:	MITCHELL-HEUER DITCH 1					
2		NENESE	36	7N	2E	BROADWATER
Period of Diversion:	APRIL 1 TO OCTOBER 15					
Diversion Means:	HEADGATE					
Ditch Name:	MITCHELL-PROSSER-ZUBRICH-FLYNN DITCH					
3		SENWSE	36	7N	2E	BROADWATER
Period of Diversion:	APRIL 1 TO OCTOBER 15					
Diversion Means:	HEADGATE					
Ditch Name:	STROH-MITCHELL-HEUER DITCH					
4		SESESW	36	7N	2E	BROADWATER
Period of Diversion:	APRIL 1 TO OCTOBER 15					
Diversion Means:	HEADGATE					

Ditch Name: MITCHELL-HEUER DITCH 2

5 SENENE 2 6N 2E BROADWATER

Period of Diversion: APRIL 1 TO OCTOBER 15

Diversion Means: HEADGATE

Period of Use: APRIL 1 TO OCTOBER 15

***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	101.33		NW	1	6N	2E	BROADWATER
2	73.00		NE	2	6N	2E	BROADWATER
Total:	174.33						

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3834-00 3839-00 3840-00

THE MAXIMUM ACRES, PLACE OF USE WERE AMENDED BY THE WATER COURT PURSUANT TO SECTION 85-2-233(6), MCA.

THE SPLIT CLAIMS LISTED FOLLOWING THIS STATEMENT WERE AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM. 41I 30109825, 41I 30110698, 41I 30110699, 41I 30110700, 41I 30110701, 41I 30110702, 41I 30110703, 41I 30110704 AND 41I 30110705.

AUTHORIZATION TO CHANGE POINT OF DIVERSION COMPLETED 11/30/1987. FILE REFLECTS RIGHT AS IT EXISTED PRIOR TO JULY 1973. APPROVED CHANGES WILL BE RECORDED AFTER FINAL DECREE. SEE 41I 3834-00.

AUTHORIZATION TO CHANGE POINT OF DIVERSION COMPLETED 11/30/1987. FILE REFLECTS RIGHT AS IT EXISTED PRIOR TO JULY 1973. APPROVED CHANGES WILL BE RECORDED AFTER FINAL DECREE. SEE 41I 3834-01.

AUTHORIZATION TO CHANGE THE PLACE OF USE COMPLETED 07/29/1992. FILE REFLECTS RIGHT AS IT EXISTED PRIOR TO JULY 1973. APPROVED CHANGES WILL BE RECORDED AFTER FINAL DECREE. SEE 41I 3834-02.

AUTHORIZATION TO CHANGE THE PLACE OF USE ISSUED 06/23/1999. NOTICE OF COMPLETION DUE 12/31/2000. SEE 41I 3834-03.