

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

CLAIMANTS: Ronnie L. Kaler; Tracy L. Kaler
OBJECTORS: Ronnie L. Kaler; Tracy L. Kaler
NOTICE OF INTENT TO APPEAR: Hidden Hollow Ranch
ON MOTION OF THE MONTANA WATER COURT

CASE 41I-2067-R-2025
41I 6229-00
41I 6231-00
41I 6230-00
41I 30129552

**ORDER CALLING CLAIM 41I 6230-00 IN ON MOTION AND
ORDER CLOSING CASE**

Claims 41I 6229-00, 41I 6231-00, and 41I 30129552 were included in the Preliminary Decree for the Missouri River above Holter Dam, Basin 41I, issued on June 24, 2022. The claims are owned by Ronnie L. Kaler and Tracy L. Kaler (“the Kalers”). The Kalers filed objections to all three claims. Claim 41I 30129552 also received issue remarks resulting from examination by the Department of Natural Resources and Conservation (“DNRC”). Hidden Hollow Ranch filed a Notice of Intent to Appear (“NOIA”) on claims 41I 6229-00 and 41I 6231-00. However, on May 15, 2025, Hidden Hollow Ranch withdrew the NOIAs in this case.

The Kalers’ Proposed Resolution

On February 9, 2026, information was filed explaining how the Kalers propose their objections be resolved. The information also asserted corrections to resolve the issue remarks on claim 41I 30129552. According to the Kalers’ filing, there are errors in

legal descriptions of the place of use for claims 41I 6229-00, 41I 6230-00, and 41I 6231-00. Claim 41I 6230-00 is not in this case and did not receive any objections or issue remarks in the Preliminary Decree. The Kalers assert that errors made in the legal descriptions stem from modifications during DNRC’s examination and prior correction during the Temporary Preliminary Decree. To correct these errors and resolve the objections, the Kalers request the following corrections be made to the legal descriptions within the places of use to match the maps filed with the Statements of Claim and accurately reflect historical use.

ID	Acres	Qtr Sec	Sec	Twp	Rge
1	9.50	S2SESE S2S2SE	15	6N	2E
2	20.50	W2SW E2SW	15	6N	2E

The Kalers also filed an objection to claim 41I 30129552. The claim was subject to following issue remarks:

THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 41I DECREE ISSUED 03/08/1995.

THE TYPE OF HISTORICAL RIGHT AND PRIORITY DATE MAY BE QUESTIONABLE. DOCUMENTATION TO SUPPORT THE TYPE OF HISTORICAL RIGHT AND PRIORITY DATE WAS NOT SUBMITTED WITH THIS CLAIM.

The first issue remark is a notice type remark and will be removed. The second remark references the fact that claim 41I 30129552 was identified as a decreed stock water right with a May 10, 1869, priority date. However, no information was filed in support of its decreed status. The Kalers identify that claim 41I 6230-00 is a decreed irrigation right with a May 10, 1869, priority date and that the claims are multiple use.

Applicable Law

The Court evaluates motions to amend water right claims under Rule 10, W.R.Adj.R., which states in relevant part:

Pursuant to § 85-2-2233(6), MCA, claimants may file motions to amend their own claims***. A motion to amend must specify the requested amendment and the grounds for such amendment. Upon review, the water court will determine the notice required pursuant to § 85-2-233(6), and issue an appropriate order.

Section 85-2-233(6), MCA, says:

(6)(a) After the issuance of a temporary preliminary decree or preliminary decree, notice must be published once a week for 3 consecutive weeks in two newspapers of general circulation in the basin where the decree was issued for:

(i) in a motion to amend a statement of claim that may adversely affect other water rights; or

(ii) a motion to amend a timely objection that may adversely affect other water rights.

(b) The notice must specify that any response or objection to the proposed amendment must be filed within 45 days of the date of the last notice.

(c) The water judge may order any additional notice of the motion as the water judge considers necessary.

(d) The costs of the notice required pursuant to this subsection must be borne by the moving party.

Pursuant to the rule and statute, notice provisions are triggered if the Court determines the motion to amend “may adversely affect” other water rights. The purpose of the notice requirement is to “ensure other parties are not injured by such amendments.” *In re Alton living Trust*, Case 41F-A4, 2014 Mont. Water LEXIS 7, *11.

Pursuant to Rule 8 of the Water Right Adjudication Rules, the Court may call claims in on motion to review the claim and identify elements requiring review. In calling in claims on motion, the Court “shall identify the elements of the claim and issues to be reviewed.”

Pursuant to Rule 7, W.R.Adj.R., the Water Court is required to resolve all issue remarks pursuant to Sections 85-2-247 through 85-2-250, MCA. The Court may resolve issue remarks based on information submitted by DNRC or any other data and information it obtains. §§ 85-2-248 through 85-2-250, MCA.

Analysis

Here, water users had notice of potential corrections to the claims that received objections from the Kalers, but no notice of a potential correction to claim 41I 6230-00. No objections were filed to claim 41I 6230-00, and the claim did not receive any issue remarks. However, the claim has the same place of use as claims 41I 6229-00 and 41I 6231-00. The corrections propose to correct the legal description so it conforms with the maps filed with the Statements of Claim and conforms to historical use. There are no

corrections proposed to the maximum acres, points of diversion, or elements that may cause adverse effect to other water users. Additional notice is not required pursuant to Section 85-2-233(6), MCA.

Further, the Kalers require the Court to identify claim 41I 6230-00 as multiple use with claim 41I 30129552. Identifying the claim as multiple use does not expand any elements of the claim and will clarify both claims 41I 6230-00 and 41I 30129552. Therefore, additional notice is also not required for the multiple use identification.

To correct claim 41I 6230-00, the Court will call the claim in on motion. Rule 8, W.R.Adj.R. The elements and issues requiring review are the legal description of the place of use and the multiple use relationship between 41I 6230-00 and 41I 30129552. The addition of the multiple use remark also addresses the remaining issue remark on claim 41I 30129552, as information concerning the basis of the decreed right is in the claim file for 41I 6230-00.

Conclusion

With claim 41I 6230-00 called in on motion, no further notice is required, and the Kalers' proposed resolution of the objections and issue remarks is sufficient. Therefore, it is

ORDERED that claim 41I 6230-00 is called in On Motion of the Court for correction to the legal description of the place of use and identification of the claim as multiple use with claim 41I 30129552.

ORDERED that the amendments to the places of use of claims 41I 6229-00, 41I 6230-00, and 41I 6231-00 are GRANTED to resolve the objections and on motion.

ORDERED that the issue remarks on claim 41I 30129552 are resolved pursuant to the addition of an information remark identifying the claim as multiple use with claim 41I 6230-00.

ORDERED that this case is CLOSED. Abstracts are provided with this order for review.

ELECTRONICALLY SIGNED AND DATED BELOW.

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

Water Right Number: 411 6230-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: RONNIE L KALER
217 SHELLEY RD
TOWNSEND, MT 59644-9525

TRACY L KALER
217 SHELLEY RD
TOWNSEND, MT 59644-9525

Priority Date: MAY 10, 1869

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER

***Flow Rate:** 138.00 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:** 30.00

Source Name: GREYSON 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		SESESE	15	6N	2E	BROADWATER
Period of Diversion:		APRIL 1 TO OCTOBER 31				
Diversion Means:		HEADGATE				

2		SWSESE	15	6N	2E	BROADWATER
Period of Diversion:		APRIL 1 TO OCTOBER 31				
Diversion Means:		PUMP				

Period of Use: APRIL 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	20.50		E2SW	15	6N	2E	BROADWATER
2	9.50		S2S2SE	15	6N	2E	BROADWATER
Total:	30.00						

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.

6229-00 6230-00 6231-00

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.

6230-00 30129552