

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

CLAIMANT: Wall Mountain Ranch LLC

CASE 41I-0758-R-2026

41I 117795-00

41I 117800-00

ORDER CONSOLIDATING CLAIMS AND CLOSING CASE

The Water Court decreed water right claims 41I 117795-00 and 41I 117800-00 in the Preliminary Decree for the Missouri River Basin Above Holter Dam (Basin 41I) issued on June 24, 2022. The Preliminary Decree describes claim 41I 117795-00 as a right to use water from Sixteenmile Creek for stock purposes with a June 1, 1868 priority date. The Preliminary Decree describes claim 41I 117800-00 as a right to use water from an unnamed tributary of Hay Creek, also known as Shaw Spring, for stock purposes with a March 1, 1865 priority date. The Decree and the State's water rights record system identifies Wall Mountain Ranch LLC ("Wall Mountain") as the owner of the claims.

The Decree abstracts for the claims include issue remarks. The Montana Water Use Act requires the Water Court to resolve all issue remarks prior to including the claim in a final decree. Sections 85-2-234(1), 85-2-247, 85-2-248(2), MCA. Claim 41I 117795-00 received the following issue remark:

THE PRIORITY DATE MAY BE QUESTIONABLE. THIS CLAIM IS FOR A USE RIGHT ON SIXTEENMILE CREEK WITH A PRIORITY DATE PREDATING CASE NO 625, MEAGHER COUNTY. IF NO OBJECTIONS ARE FILED TO PRIORITY DATE OR TYPE OF

HISTORICAL RIGHT, THESE ELEMENTS WILL BE DECREED AS SHOWN ON THIS ABSTRACT AND THIS REMARK WILL BE REMOVED.

This remark does not necessarily call into question the validity of the priority date because district court decrees often did not include all water rights on a source, nor was there a clear mechanism for doing so. The Supreme Court has recognized the validity of non-decreed rights on a decreed source on several occasions. *See, e.g., State ex rel. McKnight v. Dist. Court*, 111 Mont. 520, 111 P.2d 292 (1941); *Tucker v. Jones*, 8 Mont. 225, 232, 19 P. 571, 574 (1888). The remark put parties with decreed rights from old district court cases on notice of a potential priority date issue. The remark served its notice purpose and no one objected based on the issue remark on this claim. Therefore, nothing further is required from Wall Mountain to resolve it.

Claim 41I 117800-00 received the following issue remark:

OWNER DAVIS BAR TRIANGLE 'T' RANCH CO AND THREE D RANCH CO WERE ADDED BASED ON TRANSFERS RECEIVED 12/21/1988. OWNERSHIP OF THE WATER RIGHT IS UNCLEAR. OWNERS LISTED APPEAR TO REPRESENT BONA FIDE INTEREST THAT CONFLICT. SEE DNRC MEMO DATED JANUARY 18, 1991 IN CLAIM FILE.

A DNRC telephone conversation record dated December 2, 2021, in claim 41I 117800-00's claim file clarifies Wall Mountain as the owner of claim 41I 117800-00 and indicates copies of withdrawal of interest and ownership update forms were sent to Wall Mountain. Nothing further is required to resolve the issue remark on claim 41I 117800-00.¹

Neither claim received any objections.

¹ It appears that On May 28, 2026, ownership of claim 41I 117800-00 was transferred from Wall Mountain to Ben J. Woods. Any further updating of the ownership records will be addressed by the Department of Natural Resources and Conservation.

ORDER

Therefore, it is ORDERED:

1. Water right claims 41I 117795-00 and 41I 117800-00 are consolidated into this case to resolve the issue remarks.
2. All issue remarks on claims 41I 117795-00 and 41I 117800-00 are RESOLVED as provided in this Order.
3. Proceedings in this case are CLOSED.

Post decree abstracts of the claims are included with this Order to confirm the modifications have been made in the State's centralized water rights record system.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail

Wall Mountain Ranch LLC
131 Dry Hollow Road
Townsend, MT 59644

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

Water Right Number: 41I 117795-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: WALL MOUNTAIN RANCH LLC
131 DRY HOLLOW ROAD
TOWNSEND, MT 59644-9733

Priority Date: JUNE 1, 1868

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 STOCKWATERING 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: SIXTEENMILE 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		S2	12	5N	5E	MEAGHER

Period of Diversion: APRIL 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

2			7	5N	6E	MEAGHER
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Period of Diversion: APRIL 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

3		NW	8	5N	6E	MEAGHER
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Period of Diversion: APRIL 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

4		SE	5	6N	6E	MEAGHER
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Period of Diversion: APRIL 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Period of Use: APRIL 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			S2	12	5N	5E	MEAGHER
2			SE	5	5N	6E	MEAGHER
3				7	5N	6E	MEAGHER
4			NW	8	5N	6E	MEAGHER

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

Water Right Number: 41I 117800-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: WALL MOUNTAIN RANCH LLC
131 DRY HOLLOW ROAD
TOWNSEND, MT 59644-9733

Priority Date: MARCH 1, 1865

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 HAY CREEK

Source Type: SURFACE WATER

ALSO KNOWN AS SHAW SPRING

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		SWSWSE	30	6N	5E	BROADWATER

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

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			SWSWSE	30	6N	5E	BROADWATER