

Montana Water Court
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FILED

FEB 04 2014

Montana Water Court

IN THE WATER COURT OF THE STATE OF MONTANA
UPPER MISSOURI DIVISION
BIG HOLE RIVER BASIN (41D)

CLAIMANT: Big Hole Double Creek Ranch LLC;
Nigel R. Pashley and Helen Pashley

OBJECTOR: Big Hole Double Creek Ranch LLC;
United States of America (Bureau of Reclamation)

NOTICE OF INTENT TO APPEAR: Frank Cardello and
Rita Cardello

CASE 41D-210
41D 196226-00

**ORDER ALTERING DECEMBER 5, 2013 ORDER AND
ORDER CORRECTING ABSTRACT**

On January 2, 2014, Claimant Big Hole Double Creek Ranch LLC (BHDCR) filed a Rule 59(e) Motion to Alter or Amend Judgment or Alternative Rule 60 Motion for Relief from Order. In this Motion, Claimant requests the Court alter or correct the information remark under the ditch name in its December 5, 2013 Order and on the corresponding abstract for water right claim 41D 196226-00. The information remark only lists one secondary point of diversion.

However, two secondary points of diversion exist. Claimant acknowledges “multiple secondary points of diversion for this claim from the Owsley Slough ... delivered water to the places of use.” BDCHR’s Motion, p. 3. Specifically, Claimant requests the following changes:

DITCH NAME: OWSLEY SLOUGH

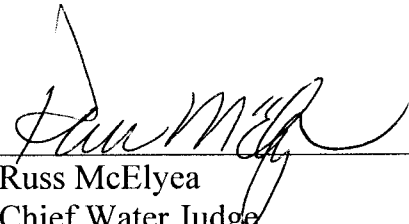
WATER DIVERTED FROM THE BIG HOLE RIVER IS CONVEYED BY THE OWSLEY SLOUGH TO SECONDARY POINTS OF DIVERSION IN THE **SWSWNW AND THE SWSNW** OF SECTION 12, T4S, R7W, MADISON COUNTY.

The changes to the ditch information remark are reflected in bold. Claimant requests this correction as both secondary diversion locations are more accurate and depict the historical use for the irrigated acreage.

The information remark is altered in the Court's December 5, 2013 *Order Amending and Adopting Master's Report* and the abstract for water right claim 41D 196226-00. Accordingly,

IT IS ORDERED that the above changes are made to this Court's December 5, 2013 Order, and a Post Decree Abstract of Water Right Claim 41D 196226-00 is served with this Order to confirm the changes have been made in the State's centralized record system.

DATED this *4th* day of *February*, 2014.


Russ McElyea
Chief Water Judge

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**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
BIG HOLE RIVER
BASIN 41D
IMPORTANT NOTICE**

AN ASTERISK (*) HAS BEEN PLACED NEXT TO EACH ITEM CHANGED BY ORDER OF THE MONTANA WATER COURT AFTER ISSUANCE OF THE PREVIOUS DECREE.

Water Right Number: 41D 196226-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners:

HELEN PASHLEY
544 FILLMORE ST
DENVER, CO 80206 4326

BIG HOLE DOUBLECREEK RANCH LLC
42 GLOUCESTER RD
SUMMIT, NJ 07901 3023

NIGEL RT PASHLEY
544 FILLMORE ST
DENVER, CO 80206 4326

Priority Date: JANUARY 1, 1914

Type of Historical Right: FILED

Purpose (use): IRRIGATION

Irrigation Type: FLOOD

***Flow Rate:** 22.00 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:** 197.00

Source Name: BIG HOLE RIVER

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 | | NESEW | 11 | 4S | 7W | MADISON |

Period of Diversion: APRIL 1 TO NOVEMBER 19

Diversion Means: HEADGATE

Ditch Name: OWSLEY SLOUGH

WATER RELEASED FROM BIG HOLE RIVER USES OWSLEY SLOUGH AS A NATURAL CARRIER TO CONVEY WATER TO THE PLACE OF USE.

WATER DIVERTED FROM THE BIG HOLE RIVER IS CONVEYED BY THE OWSLEY SLOUGH TO SECONDARY POINTS OF DIVERSION IN THE SWSWNW AND THE SWSNW OF SECTION 12, T4S, R7W, MADISON COUNTY.

Period of Use: APRIL 1 TO NOVEMBER 19

***Place of Use:**

| <u>ID</u> | <u>Acres</u> | <u>Govt Lot</u> | <u>Qtr</u> | <u>Sec</u> | <u>Twp</u> | <u>Rge</u> | <u>County</u> |
|---------------|--------------|-----------------|------------|------------|------------|------------|---------------|
| 1 | 48.00 | | S2SW | 1 | 4S | 7W | MADISON |
| 2 | 149.00 | | NW | 12 | 4S | 7W | MADISON |
| Total: | 197.00 | | | | | | |

Remarks:

THE FOLLOWING ELEMENTS WERE AMENDED BY THE CLAIMANT ON 01/20/1993: PLACE OF USE, MAXIMUM ACRES.

STARTING IN 2008, PERIOD OF DIVERSION WAS ADDED TO MOST CLAIM ABSTRACTS, INCLUDING THIS ONE.