

Montana Water Court
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**IN THE WATER COURT OF THE STATE OF MONTANA
UPPER MISSOURI DIVISION
MISSOURI RIVER ABOVE HOLTER DAM BASIN (41I)
PRELIMINARY DECREE**

CLAIMANT: Carl Christianson

CASE 41I-2018-R-2023

41I 2752-00

41I 2753-00

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 may file a written objection to this Master’s Report within **10 days** of the stamped date if you disagree or find errors with the Master’s findings of fact, conclusions of law, or recommendations. Rule 23, W.R.Adj.R. If the Master’s Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days to be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. 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

Water right claims 41I 2752-00 and 41I 2753-00 appeared in the Preliminary Decree for the Missouri River above Holter Dam (Basin 41I) issued on June 24, 2022.

The claims did not receive objections but did receive issue remarks from the Department of Natural Resources and Conservation (DNRC) raising potential legal or factual issues with the claims. The claims are consolidated into Case **41I-2018-R-2023** to address these issues.

FINDINGS OF FACT

1. Water right claims 41I 2752-00 and 41I 2753-00 appeared in the Preliminary Decree as claims to springs that are unnamed tributaries of Staubach Creek. As they appeared in the decree, claim 41I 2752-00 is for the irrigation of up to 65 acres and claim 41I 2753-00 is for irrigation of up to 50 acres. They received the following substantive issue remarks:

Claim 41I 2752-00:

THE BROADWATER COUNTY WATER RESOURCES SURVEY(1956)APPEARS TO INDICATE 22.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

USDA AERIAL PHOTOGRAPH NO(S). 479-52 , DATED 08/29/1979 , APPEARS TO INDICATE 46.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

THE MAXIMUM COMBINED ACRES FOR THIS GROUP OF SUPPLEMENTAL CLAIMS MAY REQUIRE MODIFICATION PENDING RESOLUTION OF MAXIMUM IRRIGATED ACRES ISSUE.

Claim 41I 2753-00:

THE BROADWATER COUNTY WATER RESOURCES SURVEY(1956)APPEARS TO INDICATE 16.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

USDA AERIAL PHOTOGRAPH NO(S). 479-52 , DATED 08/29/1979 , APPEARS TO INDICATE 23.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

THE MAXIMUM COMBINED ACRES FOR THIS GROUP OF SUPPLEMENTAL CLAIMS MAY REQUIRE MODIFICATION PENDING RESOLUTION OF MAXIMUM IRRIGATED ACRES ISSUE.

2. The Water Court previously addressed the number of acres irrigated for these claims in a January 15, 1998 Master's Report in Case 41I-229 (Adopted February 12, 1998). Case 41I-229 resulted from an objection the United States Bureau of Reclamation filed to the place of use and flow rate of the claim. The issue remarks described above were on the claims at the time. While the United States withdrew its

objections, the Water Master held that “no evidence has been submitted to overcome the prima facie status of the original claims. . . .” Accordingly, the Water Master made the factual finding that “[a]cres irrigated . . . do not require change on these claims.” Master’s Report, Case 41I-229, Master’s Report, January 15, 1998. The Water Court was not required to resolve and remove the issue remarks at that time, and the remarks remained on the claims.

CONCLUSIONS OF LAW

1. The issues raised in the issue remarks were addressed by the Court in Case 41I-229. No modification of these claims is required, and the issue remarks should be removed.

RECOMMENDATIONS

Based on the foregoing Findings of Fact and Conclusions of Law, this Master recommends that the Court remove the issue remarks from the claims.

A Post Decree Abstract of each water right claim reflecting the recommended changes is attached to this Report for review.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail

Carl Christianson
244 Filson Rd
Winston, MT 59647

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

Water Right Number: 411 2752-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: CARL CHRISTIANSON
244 FILSON RD
WINSTON, MT 59647-8401

Priority Date: JUNE 30, 1954

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 282.74 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: 65.00

Source Name: SPRING, UNNAMED TRIBUTARY OF STAUBACH CREEK

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		NWNWNE	36	9N	1W	BROADWATER

Period of Diversion: APRIL 1 TO NOVEMBER 15

Diversion Means: HEADGATE

Ditch Name: FILSON DITCH

Period of Use: APRIL 1 TO NOVEMBER 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	10.00		NESE	25	9N	1W	BROADWATER
2	40.00		SESE	25	9N	1W	BROADWATER
3	15.00		SWSE	25	9N	1W	BROADWATER
Total:	65.00						

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.

2743-00

2752-00

2753-00

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

Water Right Number: 411 2753-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: CARL CHRISTIANSON
244 FILSON RD
WINSTON, MT 59647-8401

Priority Date: DECEMBER 31, 1958

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

THIS WATER RIGHT ALSO INCLUDES SUBIRRIGATION AS AN INCIDENTAL TYPE OF IRRIGATION.

Flow Rate: 282.74 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: 50.00

Source Name: SPRING, UNNAMED TRIBUTARY OF STAUBACH CREEK

Source Type: GROUNDWATER

SOURCE IS COMPOSED OF FOUR DEVELOPED SPRINGS WITHIN THE POINT OF DIVERSION LEGAL LAND DESCRIPTION.

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		SE	25	9N	1W	BROADWATER

Period of Diversion: APRIL 1 TO NOVEMBER 15

Diversion Means: DITCH

THE POINT OF DIVERSION CONSISTS OF SEVERAL SPRINGS LOCATED IN THE SE SEC 25 TWP 09N RGE 01W BROADWATER COUNTY.

Period of Use: APRIL 1 TO NOVEMBER 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	30.00		NESE	25	9N	1W	BROADWATER
2	10.00		NWSE	25	9N	1W	BROADWATER
3	5.00		SESE	25	9N	1W	BROADWATER
4	5.00		SWSE	25	9N	1W	BROADWATER
Total:	50.00						

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.

2743-00

2752-00

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