

Montana Water Court
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FILED

AUG 14 2014

Montana Water Court

**MONTANA WATER COURT, UPPER MISSOURI DIVISION
BEAVERHEAD RIVER (BASIN 41B) AND REDROCK RIVER (BASIN 41A)**

ORDER GRANTING EXTENSION OF COUNTEROBJECTION PERIOD

On July 23, 2014, Walter E. Congdon filed a motion for extension of the counterobjection period in Basins 41A and 41B. The basis of the request was that various water rights claimants had not received copies of objections to their claims filed by the United States Bureau of Reclamation; or had received copies of those objections after the filing deadline, and that they did not therefore have the ability to assess the need for filing counterobjections.

Max Hansen filed a brief in support of the motion. No opposing brief was filed by the United States.

Mr. Congdon's assertion that copies of objections by the United States were untimely is corroborated by the certificates of service filed by the United States. These certificates indicate objections were not mailed to claimants until almost a month after the United States filed them with the Court. Some of these certificates also indicate the United States did not provide copies of objections to all owners of water rights owned by multiple parties. Instead, it appears the United States only notified the first owner listed on the ownership list for claims with more than one owner.

A hearing was held on August 12, 2014. During that hearing, the United States represented that it did not oppose the requested extension. During the hearing, the United States indicated it had received 39 undelivered objections back via returned mail. It was not clear at the hearing what list of water rights owners or claims the United States used to mail objections. The United States represented that it mailed objections late because

the Water Court previously authorized a similar late mailing of objections in Basin 40J. The United States did not represent that it received permission to mail late objections in Basin 41A or 41B.

Water Right Adjudication Rule 5(b) requires objectors to mail copies of objections to claimants “before filing the original objection with the water court.” The United States did not comply with this requirement. In addition, the United States did not provide copies of objections to each owner of a water right owned by multiple owners. Water Right Adjudication Rule 5(b) requires objectors to mail copies of objections to “each claimant.” The notice provided by the United States also failed to meet this requirement. Based on the foregoing, the Court issues the following Order:

The motion to extend the counterobjection period is GRANTED. The counterobjection period is extended until **October 31, 2014**.

The Clerk of the Water Court is ORDERED to prepare a current list of claimants in Basins 41A and 41B whose rights have received objections. The Clerk of the Water Court is ORDERED to mail notice of this Order extending the counterobjection period to all persons on that list no later than **August 20, 2014**.

The Clerk of the Water Court is ORDERED to send a copy of the foregoing list via email and regular mail to the United States Bureau of Reclamation no later than **August 20, 2014**.

The Clerk of the Water Court is ORDERED to post a list of water rights claims that have received objections, together with the names of the owners of those claims, on the Water Court Website no later than **August 20, 2014**.

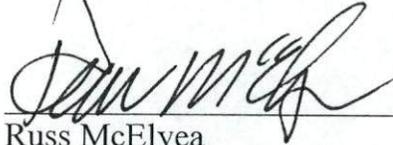
The Clerk of the Water Court is ORDERED to publish notice of extension of the counterobjection period once in newspapers of general circulation that cover the water division or divisions in which Basins 41A and 41B are located. Publication of such notice shall commence no later than **August 22, 2014**.

The United States Bureau of Reclamation is ORDERED to send a copy of the objections it has filed to all persons or entities who are owners of rights to which it has objected no later than **September 2, 2014**. Objections shall be sent to all owners of each

water right, including all owners of claims owned by more than one party. The United States Bureau of Reclamation shall file with this Court a written status report stating that it has complied with this Order by **September 12, 2014**.

All parties, including the United States Bureau of Reclamation, are hereby advised that Water Court staff may not authorize delays in the mailing of objections to claimants, and that failure to mail objections in accordance with Water Right Adjudication Rule 5(b) may result in sanctions, including dismissal of objections. The only exception to the foregoing policy is written Orders issued or adopted by a Water Master or Judge.

DATED this *14th* day of *August*, 2014.



Russ McElyea
Chief Water Judge

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Note: Service List Updated 8/14/2014