

Montana Water Court
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IN THE WATER COURT OF THE STATE OF MONTANA
UPPER MISSOURI DIVISION
BOULDER RIVER—TRIBUTARY OF THE JEFFERSON RIVER (BASIN 41E)
PRELIMINARY DECREE

CLAIMANT: Lockhart Meadows LLC

CASE 41E-0283-R-2024
41E 94323-00

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 finding of fact, conclusion 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 mail 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

Claim 41E 94323-00 appeared in the Preliminary Decree with the following issue remark:

THE PLACE OF USE NO. 1 APPEARS INCORRECT. THE PLACE OF USE NO. APPEARS TO BE NWNWNW SEC 31 TWP 6N RGE 7W JEFFERSON COUNTY.

The issue remark was not addressed through the objection process. The Water Court is required to resolve the issues raised by each issue remark. Section 85-2-248, MCA. Under Section 85-2-248(3), MCA, information in the claim file or other information obtained by the Court can be reviewed to determine if it provides a sufficient basis to resolve the issue raised by a remark and the Court can provide the claimant an opportunity to file additional information or evidence. The January 16, 2024 Order Consolidating Case And Setting Filing Deadline states: "For this claim, it appears the township listed in place of use parcel #1 should be changed from T5N to T6N as suggested in the issue remark." On March 18, 2024 Lockhart Meadows LLC filed a Notice Of Concurrence With DNRC Issue Remark. The settlement is viewable in the Court's FullCourt Enterprise case management system.

APPLICABLE LAW

"All issue remarks to claims that are not resolved through the filing of an objection as provided in 85-2-233 must be resolved as provided in this section." Section 85-2-248(2), MCA.

A properly filed Statement of Claim for Existing Water Right is prima facie proof of its content pursuant to section 85-2-227, MCA. This prima facie proof may be contradicted and overcome by other evidence that proves, by a preponderance of the evidence, that the elements of the claim do not accurately reflect the beneficial use of the water right as it existed prior to July 1, 1973. This is the burden of proof for every assertion that a claim is incorrect including for claimants objecting to their own claims. Rule 19, W.R.Adj.R.

FINDING OF FACT

The Preliminary Decree states that the legal description for the place of use parcel in section 31 is the NWNWNW section 31, T5N, R7W, JEFFERSON. The legal description should be the NWNWNW section 31, T6N, R7W, JEFFERSON. The place of use issue remark should be removed as resolved.

CONCLUSION OF LAW

The information provided by the claimant is sufficient to resolve the issue remark without evidentiary hearing. Sections 85-2-248(3) and (11), MCA.

RECOMMENDATIONS

Based upon the above Finding of Fact and Conclusion of Law, this Master recommends that the Court make the changes specified in the Finding of Fact to correct the Preliminary Decree for this Basin. A Post Decree Abstract of Water Right Claim is served with this Report to confirm the recommended changes have been made in the state's centralized record system.

ELECTRONICALLY SIGNED AND DATED BELOW

Service via USPS Mail:

Last Order:

Lockhart Meadows LLC
502 Lower Valley Rd
Boulder, MT 59632

Service Via Electronic Mail:

**William Driscoll
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Note: Service List Updated 3-19-24

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
BOULDER RIVER, TRIBUTARY TO JEFFERSON RIVER
BASIN 41E

Water Right Number: 41E 94323-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: LOCKHART MEADOWS LLC
502 LOWER VALLEY RD
BOULDER, MT 59632-9728

Priority Date: JANUARY 1, 1881

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: BOULDER 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			30	6N	7W	JEFFERSON
Period of Diversion:		JUNE 1 TO OCTOBER 31				
Diversion Means:		LIVESTOCK DIRECT FROM SOURCE				
2		NWNWNW	31	6N	7W	JEFFERSON
Period of Diversion:		JUNE 1 TO OCTOBER 31				
Diversion Means:		LIVESTOCK DIRECT FROM SOURCE				
3		E2E2	36	6N	8W	JEFFERSON
Period of Diversion:		JUNE 1 TO OCTOBER 31				
Diversion Means:		LIVESTOCK DIRECT FROM SOURCE				

Period of Use: JUNE 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			NWNWNW	31	6N	7W	JEFFERSON
2				30	6N	7W	JEFFERSON
3			E2E2	36	6N	8W	JEFFERSON