FILED
AUG 29 2019
Montana Water Court

NOTICE TO MUSSELSHELL RIVER, ABOVE ROUNDUP (BASIN 40A) WATER USERS

Harlan C. Adams and Asja M. Adams (Adams) filed an objection with the Montana Water Court that seeks to reinstate Water Rights Statements of Claim Nos. 40A 198554-00, 40A 198555-00, 40A 198556-00, and 40A 198557-00. The claims are to divert water from Cherry Creek and Simmons Creek for irrigation use. The claims were dismissed by the Water Court in 1993. Adams contends the claims should not have been dismissed. A full copy of Adams's objection is available on the "Notices & Information" page of the Montana Water Court's website at https://courts.mt.gov/courts/water. Interested parties may file a response or objection.

RESPONSE OR OBJECTION FILING DEADLINE

Any response, objection or other correspondence related to the reinstatement request must be filed in Case 40A-R501, Montana Water Court, PO Box 1389, Bozeman, MT 59771-1389. A copy must also be served to CUSICK, FARVE, MATTICK & REFLING, P.C., PO Box 1288, Bozeman, MT 59771-1288. Any response or objection must be filed within 45 days of the last publication of this notice. Therefore, the filing deadline is: **November 4, 2019**.

FILED
JUN 04 2018
Montana Water Court

MONTANA WATER COURT, LOWER MISSOURI DIVISION
MUSSELSHELL RIVER ABOVE ROUNDUP - BASIN 40A

NOTICE OF OBJECTION AND REQUEST FOR HEARING

1. Claim #: 40A-198554.00 **2.** County: Golden Valley
(One Claim Number Per Form)

3. Page number in Decree: 8654 **4.** Source: Cherry Creek

5. Name of Owner(s) to whom the water right was issued: Harlan C. Adams + Asja M. Adams

6. Objector's Name, Address, and Phone Number:

Adams Harlan C.
LAST NAME FIRST NAME MID. INITIAL
3323 NW Golden Place
STREET ADDRESS OR PO BOX
Seattle WA 98117
CITY STATE ZIP CODE
(206) 789-1898 harlan.c.adams@gmail.com
PHONE NUMBER E-MAIL

7. Objector's Attorney name, address, and phone number:

LAST NAME FIRST NAME MID. INITIAL
STREET ADDRESS OR PO BOX
CITY STATE ZIP CODE
( )
PHONE NUMBER E-MAIL

8. Basis of Objection:

BSS X All Elements
___ Flow Rate/Volume
___ Ownership
___ Period of Diversion/Period of Use
___ Place of Use/Maximum Acres
___ Point of Diversion/Means of Diversion
___ Priority Date
___ Purpose of Right
___ Source
___ Abandonment/Non-Perfection
X Other: Request for reinstatement

9. State the changes you think should be made to this claim and why. State the specific grounds and evidence on which the Objection is based. (*Use additional paper if necessary*)

Please see attached letter

DATED this 27th day of May, 2018.

Harlan C Adams
SIGNATURE OF OBJECTOR OR OBJECTOR'S ATTORNEY

(TURN FORM OVER AND COMPLETE OTHER SIDE)

BSS
83592-le

⇒ *You **must** mail a copy of this Objection to all the Owners on the water right. If you are objecting to your own water right and are the sole owner listed on the water right then you do not need to fill out the Certificate of Mailing.*

⇒ *If you are objecting to your own water right and there are multiple owners on the claim you **must** mail a copy of this Objection to all the other Owners listed on your water right.*

⇒ *The Certificate of Mailing **must** be completed and mailed **when** filing the original Objection with the Water Court.*

CERTIFICATE OF MAILING

I, Harlan C. Adams (YOUR NAME), declare under penalty of perjury, that on the 31st day of May, 2018, I mailed a copy of this Objection, postage prepaid, addressed to the following owner(s): (*Use additional paper if needed for more names & addresses*)

OWNER: Asja M. Adams	OWNER:
STREET ADDRESS OR PO BOX: 3323 NW Golden Place	STREET ADDRESS OR PO BOX:
CITY: Seattle STATE: WA ZIP CODE: 98117	CITY: STATE: ZIP CODE:

Harlan C Adams
SIGNATURE FOR CERTIFICATE OF MAILING

Please send this completed original to: **Montana Water Court**
PO Box 1389
Bozeman, MT 59771-1389

Questions? Call the Montana Water Court at 1-800-624-3270 (In-state only) or (406) 586-4364.
Fax: (406) 522-4131 or Email: watercourt@mt.gov

OBJECTIONS MUST BE RECEIVED AT THE WATER COURT BY 5:00 PM ON JUNE 4, 2018.

FILED

JUN 04 2018

Montana Water Cou

MONTANA WATER COURT, LOWER MISSOURI DIVISION
MUSSELSHELL RIVER ABOVE ROUNDUP - BASIN 40A

NOTICE OF OBJECTION AND REQUEST FOR HEARING

1. Claim #: 40A-198555-00 **2.** County: Golden Valley
(One Claim Number Per Form)

3. Page number in Decree: 8655 **4.** Source: Cherry Creek

5. Name of Owner(s) to whom the water right was issued: Harlan C. Adams + Asja M. Adams

6. Objector's Name, Address, and Phone Number:

Adams Harlan C
LAST NAME FIRST NAME MID. INITIAL
3323 NW Golden Place
STREET ADDRESS OR PO BOX
Seattle WA 98117
CITY STATE ZIP CODE
(206) 789-1898 harlan.c.adams@gmail.com
PHONE NUMBER E-MAIL

7. Objector's Attorney name, address, and phone number:

LAST NAME FIRST NAME MID. INITIAL
STREET ADDRESS OR PO BOX
CITY STATE ZIP CODE
( )
PHONE NUMBER E-MAIL

8. Basis of Objection:

BSS X All Elements
___ Flow Rate/Volume
___ Ownership
___ Period of Diversion/Period of Use
___ Place of Use/Maximum Acres
___ Point of Diversion/Means of Diversion
___ Priority Date
___ Purpose of Right
___ Source
___ Abandonment/Non-Perfection
X Other: Request for reinstatement

9. State the changes you think should be made to this claim and why. State the specific grounds and evidence on which the Objection is based. (*Use additional paper if necessary*)

Please see attached letter

DATED this 27th day of May, 2018.

Harlan C Adams
SIGNATURE OF OBJECTOR OR OBJECTOR'S ATTORNEY

(TURN FORM OVER AND COMPLETE OTHER SIDE)

BSS
83591-a

⇒ *You **must** mail a copy of this Objection to all the Owners on the water right. If you are objecting to your own water right and are the sole owner listed on the water right then you do not need to fill out the Certificate of Mailing.*

⇒ *If you are objecting to your own water right and there are multiple owners on the claim you **must** mail a copy of this Objection to all the other Owners listed on your water right.*

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OWNER: Asja M. Adams	OWNER:
STREET ADDRESS OR PO BOX: 3323 NW Golden Place	STREET ADDRESS OR PO BOX:
CITY: Seattle STATE: WA ZIP CODE: 98117	CITY: STATE: ZIP CODE:

Harlan C Adams
SIGNATURE FOR CERTIFICATE OF MAILING

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FILED

JUN 04 2018

Montana Water Court

MONTANA WATER COURT, LOWER MISSOURI DIVISION
MUSSELSHELL RIVER ABOVE ROUNDUP - BASIN 40A

NOTICE OF OBJECTION AND REQUEST FOR HEARING

1. Claim #: 40A-198556-00 (One Claim Number Per Form) 2. County: Golden Valley

3. Page number in Decree: 8656 4. Source: Simmons Creek

5. Name of Owner(s) to whom the water right was issued: Harlan C. Adams + Asja M. Adams

6. Objector's Name, Address, and Phone Number:

Adams Harlan C
LAST NAME FIRST NAME MID. INITIAL
3323 NW Golden Pl
STREET ADDRESS OR PO BOX
Seattle WA 98117
CITY STATE ZIP CODE
(206) 789-1898 harlan.c.adams@gmail.com
PHONE NUMBER E-MAIL

7. Objector's Attorney name, address, and phone number:

LAST NAME FIRST NAME MID. INITIAL
STREET ADDRESS OR PO BOX
CITY STATE ZIP CODE
( )
PHONE NUMBER E-MAIL

8. Basis of Objection:

BSS
X All Elements
___ Flow Rate/Volume
___ Ownership
___ Period of Diversion/Period of Use
___ Place of Use/Maximum Acres
___ Point of Diversion/Means of Diversion
___ Priority Date
___ Purpose of Right
___ Source
___ Abandonment/Non-Perfection
X Other: Request for reinstatement

9. State the changes you think should be made to this claim and why. State the specific grounds and evidence on which the Objection is based. (*Use additional paper if necessary*)

Please see attached letter

DATED this 27th day of May, 2018.

Harlan C Adams
SIGNATURE OF OBJECTOR OR OBJECTOR'S ATTORNEY

(TURN FORM OVER AND COMPLETE OTHER SIDE)

BSS
83596-2l

⇒*You **must** mail a copy of this Objection to all the Owners on the water right. If you are objecting to your own water right and are the sole owner listed on the water right then you do not need to fill out the Certificate of Mailing.*

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Asja M. Adams OWNER	OWNER
3323 NW Golden Place STREET ADDRESS OR PO BOX	STREET ADDRESS OR PO BOX
Seattle WA 98117 CITY STATE ZIP CODE	CITY STATE ZIP CODE

Harlan C Adams
SIGNATURE FOR CERTIFICATE OF MAILING

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Bozeman, MT 59771-1389

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FILED
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Montana Water Court

MONTANA WATER COURT, LOWER MISSOURI DIVISION
MUSSELSHELL RIVER ABOVE ROUNDUP - BASIN 40A

NOTICE OF OBJECTION AND REQUEST FOR HEARING

1. Claim #: 40A-198557-00 (One Claim Number Per Form) **2.** County: Golden Valley

3. Page number in Decree: 8657 **4.** Source: Cherry Creek

5. Name of Owner(s) to whom the water right was issued: Harlan C. Adams & Asja M. Adams

6. Objector's Name, Address, and Phone Number:

Adams Harlan C
LAST NAME FIRST NAME MID. INITIAL
3323 NW Golden Pl.
STREET ADDRESS OR PO BOX
Seattle WA 98117
CITY STATE ZIP CODE
(206) 789-1898 harlan.c.adams@gmail.com
PHONE NUMBER E-MAIL

7. Objector's Attorney name, address, and phone number:

LAST NAME FIRST NAME MID. INITIAL
STREET ADDRESS OR PO BOX
CITY STATE ZIP CODE
( )
PHONE NUMBER E-MAIL

8. Basis of Objection:

BS X All Elements
___ Flow Rate/Volume
___ Ownership
___ Period of Diversion/Period of Use
___ Place of Use/Maximum Acres
___ Point of Diversion/Means of Diversion
___ Priority Date
___ Purpose of Right
___ Source
___ Abandonment/Non-Perfection
X Other: Request for reinstatement

9. State the changes you think should be made to this claim and why. State the specific grounds and evidence on which the Objection is based. (*Use additional paper if necessary*)

Please see attached letter

DATED this 27th day of May, 2018.

Harlan C Adams
SIGNATURE OF OBJECTOR OR OBJECTOR'S ATTORNEY

(TURN FORM OVER AND COMPLETE OTHER SIDE)

BS
83589-ne

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STREET ADDRESS OR PO BOX: 3323 NW Golden Pl.	STREET ADDRESS OR PO BOX:
CITY: Seattle STATE: WA ZIP CODE: 98117	CITY: STATE: ZIP CODE:

Harlan C Adams
SIGNATURE FOR CERTIFICATE OF MAILING

Please send this completed original to: **Montana Water Court**
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Bozeman, MT 59771-1389

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Fax: (406) 522-4131 or Email: watercourt@mt.gov

OBJECTIONS MUST BE RECEIVED AT THE WATER COURT BY 5:00 PM ON JUNE 4, 2018.

Harlan C. Adams
3323 NW Golden Pl.
Seattle, WA 98117

Montana Water Court
P.O. Box 1389
Bozeman, MT 59771-1389

May 27, 2018

Re: Claims no. 198554, 198555, 198556, 198557

Ladies and Gentlemen:

This letter accompanies Notices of Objection to be filed in your Court to request the reinstatement of the above-listed Water Right Claims, which were withdrawn by the previous holder, Edgar M. Adams Jr. on September 15, 1992. Please note that three additional holders of a small percentage of these water claims also submitted documents withdrawing the claims in the period from September 19, 1992 through October 30, 1992. On April 26, 1997, Edgar M. Adams Jr. passed away, and ownership of his ranch and the water claims associated with it passed to me and to my wife, Asja M. Adams. An Ownership Update for these claims was submitted to the Department of Natural Resources and Conservation in 2002 and acknowledged on April 11, 2003 (Ownership Update ID# 5944.)

I believe that Edgar M Adams, my father, withdrew the claims under duress. I respectfully request that the claims therefore be reinstated.

Here is a brief recapitulation of the history of this matter, as I have determined from Court records and attorney letters in my possession.

In 1982, in accordance with the processes and procedures being undertaken to update the water rights holdings in the State of Montana, Edgar Adams submitted claims for irrigation rights reflecting the claims filed by previous owners of the land under irrigation. These claims dated back to 1911 during the homestead period (198554, 198556, and 198557) and to 1940 (198555), when a dam and reservoire were created on Cherry Creek.

In 1985 the Montana Department of Natural Resources and Conservation filed Objections to the claims in question on the basis of flow rate, volune, maximum acres, and place of use. An additional party, the Otts, objected to 198556. On July 14, 1987, DNRC withdrew their objections for budgetary reasons with the understanding that the need for clarification of these claims would be dealt with by the Water Court. Indeed, Case 40A-164 in the Water Courts of the State of Montana resulted. My father engaged an attorney, Conrad B. Fredricks of Big Timber, to help him defend the claims in this case again these objections. On November 12, 1987, the First Status Conference was held in Lewistown with Edgar Adams, Mr. Fredricks and Gene Gibson of the Water Rights Bureau Field Office present. The parties reviewed various maps, aerial photographs, and other materials and came up with reduced acreages on the four claims which the parties agreed to. Remaining to be

negotiated were appropriate reductions in flow rates and/or volumes to correspond with the reduced acreages. The Claimants agreed to the principle of revision of the amount of water claimed and the methods of specifying it. The Otts appeared to be ready to withdraw their objection if the Claim no. 198556 was reduced to twelve acres, as proposed, and flow rates and volumes were reduced accordingly.

The next actions I am aware of in the case came in 1991, when Edgar Adams's attorney, now R. Mark Josephson, also of Big Timber, talked to the Water Court and reported that the matter could be settled if the conclusions of the 1987 Status Conference were submitted to the Court in the form of an affadavit from the Claimants. Some delays were experienced because the small-percentage Claimants lived out of state and abroad. A Second Status Conference was ordered then cancelled. The affadavits were filed. Nevertheless, a hearing was scheduled by the Court for January 29, 1992., in Harlowton. The purpose of the hearing was "to determine whether there is substantive evidence for the claimants' position that valid rights exist." Mr. Adams, through his attorney objected on various grounds, as it was still hoped that the conclusions of the 1987 First Status Conference would be the basis for settlement.

The hearing took place anyway. Present were Mr. Josephson and Water Rights Specialist Craig Dubois of the Lewistown Water Resources Regional Office. The parties reviewed the historical documentation and reestablished, with one small modification the conclusions of the 1987 Status Conference. The Court was asked to send information about water spreading volume standards to be applied to the clarified aceages, which the Claimants indicated they would accept. The Claimants were charged with filing all necessary documents with the Court. On June 16, 1992, Mr. Josephson's law firm submitted to Water Master Edward Dobson of the Montana Water Court a document titled Case 40A-164 Report to Court June 16, 1992 pp. 1-6. A copy is attached.

On June 25, 1992, Water Master Dobson filed an Order for Field Investigation (attached.) The Order summaries the chronology of the case ending with the January 29, 1992, meeting in Harlowton. There is no mention of the Report to Court submitted by Mr. Josephson on Edgar Adams's behalf on June 16, 1992.

The next documents in my possession date to September, 1992, at which time Mr. Josephson filed with the Court the Claimants' withdrawal of claims no. 40A-W-198554, 40A-W-198555, 40A-W-198556, and 40A-W-198557.

So what happened? I have been unable to find written sources which explain why Mr. Adams withdrew his claims. But I submit that he became exhausted by all the procedures. After literally years of working to document and clarify the claims in accordance with the historical records going back to 1940 and 1911, and seemingly good and steady progress (albeit slow) in arriving at common ground with the DNRC and the Water Court representatives, the Water Court initiated a new inquiry which seemed to disregard all the progress to date.

It is also possible that Mr. Adams simply decided that it didn't make sense to "send good money after bad" to use a poker metaphor. After years of costs in time and treasure (legal representation) and the achievement of what Edgar Adams and his attorney believed to be

very close to a compromise settlement accurately reflecting the historical reacord and acceptable to all the parties, The Water Court stepped away and ordered a field investigation.

The Court is requested to take into consideration the state of Edgar Adams's health in September, 1992. Two year previously, in September, 1990, at the age of 70 he suffered a serious stroke while cleaning out a spring on his ranch where he still lived (in retirement.) The stroke resulted in the paralysis of the right (dominant) side of his body and loss of his ability to speak, aphasia. His treatment and rehab lasted throughout most of the fall. Through the excellent care of the staff at Deaconess Hospital in Billings and Edgar Adams's persistance and incredibly hard work he regained enough control of his right leg to walk, although his right arm remained paralyzed. He recovered the ability to speak but because of brain damage due to the stroke struggled to find the correct words. Compromise of muscle control in his throat and tongue made it hard to articulate words correctly as well. He moved to Big Timber in early 1991 and went on with his life to the best of his ability. But life for him was something of a struggle given his serious level of disability. I believe that Edgar Adams simply ran out of energy to dispute the opposition to his irrigations claims any further. While I think he was of sound mind when he withdrew his claims, I think he just ran out of will to keep fighting, even though he believed his irrigation claims were legitimate.

Sincerely,

Harlan C Adams

Enclosure