

Montana Water Court  
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FILED

JUN 30 2020

Montana Water Court

IN THE WATER COURT OF THE STATE OF MONTANA  
UPPER MISSOURI DIVISION  
MARIAS RIVER - BASIN 41P

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CLAIMANTS: O Ramsey Offerdal; Betty Ann Offerdal

OBJECTOR: William C. Mancoronal

NOTICE OF INTENT TO APPEAR: Pondera County Canal &  
Reservoir Co.

**CASE 41P-71**

41P 181935-00

41P 181936-00

41P 181937-00

41P 181938-00

41P 181939-00

41P 181944-00

**NOTICE OF FILING OF MASTER'S REPORT**

You may file a written objection to the Report if you disagree with the Master's Findings of Fact, Conclusions of Law, or Recommendations.

The above stamped date indicates the date the Master's Report was filed and mailed. Rule 23 of the Water Right Adjudication Rules requires that written objections to a Master's Report must be filed within 10 days of the date of the Master's Report. Because the Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days be added to the 10 day objection period. Rule 6(d), M. R. Civ. P. This means your objection must be received no later than 13 days from the above stamped date.

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**  
**FINDINGS OF FACT**

1. The above-captioned claims appeared in the Preliminary Decree for the Marias River (Basin 41P). William Mancoronal filed Objections to the claims and the Pondera County Canal & Reservoir Co. ("PCCRC") filed Notices of Intent to Appear ("NOIA").

2. On November 2, 2017, the above captioned claims were consolidated into Case 41P-71, and the Claimant was ordered to work with the Department of Natural Resources and Conservation ("DNRC") to attempt to resolve the issue remarks.

3. On January 22, 2018, the DNRC filed a Memorandum. Among other recommendations, the Memo recommended the removal of the issue remarks from Claim Nos. 41P 181937-00 and 41P 181938-00. A copy of the Memorandum shall be placed in the claim file for Claim No. 41P 181935-00.

4. On December 3, 2019, the parties filed a Stipulation resolving the Objections, NOIAs, and issue remarks. A copy of the Stipulation shall be placed in the claim file for Claim No. 41P 181935-00.

5. Pursuant to the Stipulation, Claim No. 41P 181939-00 shall be withdrawn and dismissed.

6. Pursuant to the Stipulation, the parties propose adding the following remarks to each of the above-captioned claims except Claim No. 41P 181939-00:

THIS CLAIM IS SUBORDINATE TO CLAIMS 41P 44133-00, 41P 44135-00 AND 41P 162057-00. NO CALL MAY BE MADE FOR WATER ASSOCIATED WITH THIS CLAIM AGAINST CLAIMS 41P 44133-00, 41P 44135-00 AND 41P 162057-00.

USE OF THIS CLAIM IS SUBJECT TO A PRIVATE WATER USE AGREEMENT ON FILE WITH THE MONTANA WATER COURT.

7. Pursuant to the Stipulation, the parties propose the following modifications to Claim No. 41P 181935-00:

Flow Rate: ~~12.69 CFS~~ **5.95 CFS**

Maximum Acres: 335.00 **157.00**

Period of Diversion and Period of Use:

January 1 to December 31 **April 15 to October 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>
<del>1</del>	<del>38.30</del>		<del>SENE</del>	<del>1</del>	<del>27N</del>	<del>1E</del>	<del>Pondera</del>
<del>2</del>	<del>35.40</del>		<del>SWNE</del>	<del>1</del>	<del>27N</del>	<del>1E</del>	<del>Pondera</del>
<del>3</del>	<del>32.54</del>		<del>SENW</del>	<del>1</del>	<del>27N</del>	<del>1E</del>	<del>Pondera</del>
<del>4</del>	<del>35.11</del>		<del>SWNW</del>	<del>1</del>	<del>27N</del>	<del>1E</del>	<del>Pondera</del>
<del>5</del>	<del>35.00</del>		<del>NESW</del>	<del>1</del>	<del>27N</del>	<del>1E</del>	<del>Pondera</del>
<del>6</del>	<del>10.55</del>	<del>1</del>	<del>NENE</del>	<del>2</del>	<del>27N</del>	<del>1E</del>	<del>Pondera</del>
<del>7</del>	<del>31.44</del>	<del>2</del>	<del>NWNE</del>	<del>2</del>	<del>27N</del>	<del>1E</del>	<del>Pondera</del>
<del>8</del>	<del>36.70</del>		<del>SENE</del>	<del>2</del>	<del>27N</del>	<del>1E</del>	<del>Pondera</del>
<del>9</del>	<del>3.36</del>		<del>NESWNE</del>	<del>2</del>	<del>27N</del>	<del>1E</del>	<del>Pondera</del>
<del>10</del>	<del>25.57</del>		<del>W2SE</del>	<del>35</del>	<del>28N</del>	<del>1E</del>	<del>Pondera</del>
<del>11</del>	<del>11.26</del>		<del>SESW</del>	<del>35</del>	<del>28N</del>	<del>1E</del>	<del>Pondera</del>
<b><u>1</u></b>	<b><u>4.00</u></b>		<b><u>SESW</u></b>	<b><u>35</u></b>	<b><u>28N</u></b>	<b><u>1E</u></b>	<b><u>Pondera</u></b>
<b><u>2</u></b>	<b><u>4.00</u></b>		<b><u>SWSE</u></b>	<b><u>35</u></b>	<b><u>28N</u></b>	<b><u>1E</u></b>	<b><u>Pondera</u></b>
<b><u>3</u></b>	<b><u>27.75</u></b>		<b><u>SENE</u></b>	<b><u>1</u></b>	<b><u>27N</u></b>	<b><u>1E</u></b>	<b><u>Pondera</u></b>
<b><u>4</u></b>	<b><u>29.00</u></b>		<b><u>SWNE</u></b>	<b><u>1</u></b>	<b><u>27N</u></b>	<b><u>1E</u></b>	<b><u>Pondera</u></b>
<b><u>5</u></b>	<b><u>24.75</u></b>		<b><u>SENW</u></b>	<b><u>1</u></b>	<b><u>27N</u></b>	<b><u>1E</u></b>	<b><u>Pondera</u></b>
<b><u>6</u></b>	<b><u>20.50</u></b>		<b><u>SWNW</u></b>	<b><u>1</u></b>	<b><u>27N</u></b>	<b><u>1E</u></b>	<b><u>Pondera</u></b>
<b><u>7</u></b>	<b><u>13.50</u></b>		<b><u>NESW</u></b>	<b><u>1</u></b>	<b><u>27N</u></b>	<b><u>1E</u></b>	<b><u>Pondera</u></b>
<b><u>8</u></b>	<b><u>12.50</u></b>		<b><u>NWNE</u></b>	<b><u>2</u></b>	<b><u>27N</u></b>	<b><u>1E</u></b>	<b><u>Pondera</u></b>
<b><u>9</u></b>	<b><u>7.00</u></b>		<b><u>NENE</u></b>	<b><u>2</u></b>	<b><u>27N</u></b>	<b><u>1E</u></b>	<b><u>Pondera</u></b>
<b><u>10</u></b>	<b><u>14.00</u></b>		<b><u>SENE</u></b>	<b><u>2</u></b>	<b><u>27N</u></b>	<b><u>1E</u></b>	<b><u>Pondera</u></b>

Total: ~~295.23~~ **157.00**

8. Pursuant to the Stipulation, the parties propose the following modifications to Claim No. 41P 181936-00:

Maximum Acres: 347.00 **157.00**

Period of Diversion and Period of Use:

January 1 to December 31 **April 15 to October 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>
<del>1</del>	<del>38.30</del>		<del>SENE</del>	<del>1</del>	<del>27N</del>	<del>1E</del>	<del>Pondera</del>
<del>2</del>	<del>35.40</del>		<del>SWNE</del>	<del>1</del>	<del>27N</del>	<del>1E</del>	<del>Pondera</del>
<del>3</del>	<del>32.54</del>		<del>SENW</del>	<del>1</del>	<del>27N</del>	<del>1E</del>	<del>Pondera</del>
<del>4</del>	<del>35.11</del>		<del>SWNW</del>	<del>1</del>	<del>27N</del>	<del>1E</del>	<del>Pondera</del>
<del>5</del>	<del>35.00</del>		<del>NESW</del>	<del>1</del>	<del>27N</del>	<del>1E</del>	<del>Pondera</del>
<del>6</del>	<del>10.55</del>	<del>1</del>	<del>NENE</del>	<del>2</del>	<del>27N</del>	<del>1E</del>	<del>Pondera</del>
<del>7</del>	<del>31.44</del>	<del>2</del>	<del>NWNE</del>	<del>2</del>	<del>27N</del>	<del>1E</del>	<del>Pondera</del>
<del>8</del>	<del>36.70</del>		<del>SENE</del>	<del>2</del>	<del>27N</del>	<del>1E</del>	<del>Pondera</del>
<del>9</del>	<del>3.36</del>		<del>NESWNE</del>	<del>2</del>	<del>27N</del>	<del>1E</del>	<del>Pondera</del>
<del>10</del>	<del>25.57</del>		<del>W2SE</del>	<del>35</del>	<del>28N</del>	<del>1E</del>	<del>Pondera</del>
<del>11</del>	<del>11.26</del>		<del>SESW</del>	<del>35</del>	<del>28N</del>	<del>1E</del>	<del>Pondera</del>
<b>1</b>	<b>4.00</b>		<b>SESW</b>	<b>35</b>	<b>28N</b>	<b>1E</b>	<b>Pondera</b>
<b>2</b>	<b>4.00</b>		<b>SWSE</b>	<b>35</b>	<b>28N</b>	<b>1E</b>	<b>Pondera</b>
<b>3</b>	<b>27.75</b>		<b>SENE</b>	<b>1</b>	<b>27N</b>	<b>1E</b>	<b>Pondera</b>
<b>4</b>	<b>29.00</b>		<b>SWNE</b>	<b>1</b>	<b>27N</b>	<b>1E</b>	<b>Pondera</b>
<b>5</b>	<b>24.75</b>		<b>SENW</b>	<b>1</b>	<b>27N</b>	<b>1E</b>	<b>Pondera</b>
<b>6</b>	<b>20.50</b>		<b>SWNW</b>	<b>1</b>	<b>27N</b>	<b>1E</b>	<b>Pondera</b>
<b>7</b>	<b>13.50</b>		<b>NESW</b>	<b>1</b>	<b>27N</b>	<b>1E</b>	<b>Pondera</b>
<b>8</b>	<b>12.50</b>		<b>NWNE</b>	<b>2</b>	<b>27N</b>	<b>1E</b>	<b>Pondera</b>
<b>9</b>	<b>7.00</b>		<b>NENE</b>	<b>2</b>	<b>27N</b>	<b>1E</b>	<b>Pondera</b>
<b>10</b>	<b>14.00</b>		<b>SENE</b>	<b>2</b>	<b>27N</b>	<b>1E</b>	<b>Pondera</b>

Total: ~~295.23~~ **157.00**

9. Pursuant to the Memo, the parties agree the elements of Claim No. 41P 181937-00 should appear as follows:

Flow Rate: ~~1.31 CFS~~ **0.80 CFS**

Maximum Acres: ~~35.00~~ **21.00**

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	25.00	<b>16.00</b>	NESE	34	28N	1E	Pondera
2	10.00	<b>5.00</b>	NWSW	35	28N	1E	Pondera

Total: ~~35.00~~ **21.00**

10. Pursuant to the Memo, the parties agree the elements of Claim No. 41P 181937-00 should appear as follows:

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	3.10	<u>4.75</u>	NENESE	34	28N	1E	Pondera
2	4.69	<u>5.25</u>	NWNWSW	35	28N	1E	Pondera
Total: 7.79		<u>10.00</u>					

### PRINCIPLES OF LAW

1. The Montana Water Court has the authority to determine the extent of all water rights in the state as they existed prior to July 1, 1973. *Fellows v. Saylor*, 2016 MT 45, ¶ 25, 382 Mont. 298, 367 P.3d 732; §§ 85-2-233, -102(12), MCA. The purpose of the Water Court is to adjudicate rights to the use of water as they existed on July 1, 1973. *In re Clark Fork River*, 254 Mont. 11, 17, 833 P.3d 1120 (Mont. 1992).

2. “The Water Court is not bound by settlement agreements. Any settlement reached by the parties is subject to review and approval by the Water Court.” Rule 17(a), W.R.Adj.R.; *In re Argabright*, 2014 Mont. Water LEXIS 9, 411 265 (December 12, 2014).

3. Where a claimant agrees to reduce or limit an element of a claim, “the water court does not need to determine whether the burden of proof has been met.” Rule 17(c), W.R.Adj.R. The Court may accept the requested reduction or limitation “without further presentation of evidence.” Rule 17(c), W.R.Adj.R.

### CONCLUSIONS OF LAW

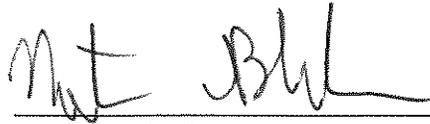
1. The Stipulation entered into by the parties conforms to applicable law and, accordingly, the record supports the modifications discussed above and the removal of the issue remarks appearing on the claims. Adoption of the modifications should resolve the Objections and NOIAs to the claims.

### RECOMMENDATIONS

1. Upon review of the record in this case, the claims should be modified as discussed above. The issue remarks should be removed.

Post Decree Abstracts of Water Right Claims are attached to this Master’s Report for review.

DATED this 30<sup>th</sup> day of June, 2020.



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Nathan Block  
Water Master

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