

Montana Water Court
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FILED

JUN 08 2020

Montana Water Court

IN THE WATER COURT OF THE STATE OF MONTANA
YELLOWSTONE DIVISION
SHIELDS RIVER BASIN 43A
PRELIMINARY DECREE

CLAIMANT: CJA Properties LLC

43A-0040-R-2020
43A 24683-00
43A 24687-00
43A 24693-00

NOTICE OF FILING OF MASTER'S REPORT

This Master's Report was filed with the Clerk of the Montana Water Court. Please review this Report carefully.

You may file a written objection to this Master's Report if you disagree or find errors with the Master's Findings of Fact, Conclusions of Law, or Recommendations. The above stamped date indicates the date this Master's Report was filed and mailed. Rule 23 of the Water Right Adjudication Rules requires written objections to a Master's Report be filed within 10 days of the date of the Master's Report. Because this Master's Report was mailed to you, Rule 6(d) of the Montana Rules of Civil Procedure provides an additional 3 days to the 10-day objection period.

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 this 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. Claims 43A 24683-00 and 43A 24687-00 were decreed with 40.00 gallon per minute flow rates. Claim 43A 24693-00 was decreed with a 2.50 cubic feet per flow rate.
2. The claims were decreed with the following DNRC issue remark:
THE CLAIMED FLOW RATE EXCEEDS THE 35 GPM GUIDELINE FOR THIS PURPOSE AND CANNOT BE CONFIRMED DUE TO LACK OF DATA.
3. No objections were filed.

PRINCIPLES OF LAW

1. A properly filed Statement of Claim for an existing water right is prima facie proof of its content. Section 85-2-227, MCA. This prima facie validity may be overcome by evidence showing that one or more elements of the claim are incorrect. This standard of proof applies to objectors or claimants objecting to their own water right claims. Rule 19, W.R.Adj.R., *Nelson v. Brooks*, 2014 MT 120; 375 Mont.86, 95; 329 P.3d 558, 564.

CONCLUSION OF LAW

1. The DNRC issue remark is not supported by evidence sufficient to overcome the prima facie status afforded the flow rate of the claims.

RECOMMENDATION

1. The issue remark should be removed from the claims in this Case with no changes to the elements of the claims.

Post Decree Abstract of Water Right Claims are served with the Report to confirm the recommended changes have been made in the state's centralized record system.

DATED this 8th day of June, 2020.



Anika M. Stern
Senior Water Master

Service via Electronic Mail

Abigail R. Brown

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