

Montana Water Court
PO Box 1389
Bozeman, MT 59771-1389
(406) 586-4364
1-800-624-3270
Fax: (406) 522-4131
watercourt@mt.gov

FILED

JUN 22 2020

Montana Water Court

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

CLAIMANT: Westling Ranch Inc.

CASE 43A-0107-R-2020
43A 13863-00

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. Claim 43A 13863-00 was decreed with the following point of diversion:

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SE	SE	5	3N	10E PARK

2. The following DNRC point of diversion issue remark was decreed on claim 43A 13863-00:

THE POINT OF DIVERSION LEGAL LAND DESCRIPTION COULD NOT BE REFINED FROM INFORMATION IN THE CLAIM FILE.

3. The DNRC examination notes did not provide any information explaining why the issue remark was placed on claim 43A 13863-00.
4. No objections were filed.

PRINCIPLE 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 issue remark appearing on claim 43A 13863-00 is not supported by evidence sufficient to overcome the prima facie status afforded the point of diversion of the claim.

RECOMMENDATION

1. The issue remark should be removed from claim 43A 13863-00 with no changes to the elements of the claim.

A Post Decree Abstract of Water Right Claim is served with the Report to confirm the recommended change has been made in the state's centralized record system.

DATED this *27th* day of *June*, 2020.



Anika M. Stern
Senior Water Master

Service Via Usps Mail:

Westling Ranch Inc.
% Pepper Lane
25 Pepper Ln.
Wilsall, Mt 59086