

Montana Water Court
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FILED

JUN 11 2020

Montana Water Court

IN THE WATER COURT OF THE STATE OF MONTANA
YELLOWSTONE DIVISION
CLARKS FORK YELLOWSTONE RIVER (BASIN 43D)
PRELIMINARY DECREE

CLAIMANTS: Prinkki Brothers LLC; John E. Prinkki

NOTICE OF INTENT TO APPEAR: Donald E. McComas Trust;
Sharlene S. McComas

43D-R332
43D 3525-00

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 the 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 the Master's Report was filed and mailed. Rule 23 of the Water Right Adjudication Rules requires written objections to the 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

Statement of the case

The Water Court issued two decrees for Basin 43D - the Temporary Preliminary Decree in 1993 and the Preliminary Decree in 2017. To prepare the Preliminary Decree for issuance, the Water Court ordered the Department of Natural Resources and Conservation ("DNRC") to standardize points of diversion, ditch names, and sources, and to add an issue remark to claims noting such modifications.

Prinkki Brothers, LLC and John E. Prinkki irrigation claim 43D 3525-00 appeared in the Preliminary Decree with an issue remark noting point of diversion was modified by the DNRC.

The issue remark instructed claimants and other water users that if no objections were filed to the modifications, the point of diversion would remain as it appears on the Preliminary Decree abstract.

Sharlene S. McComas and the Donald E. McComas Trust filed notice of intent to appear.

On April 1, 2020, Ms. McComas and the Donald E. McComas Trust filed a Withdrawal of Notice of Intent to Appear. The Withdrawal stated the concerns of the notice of intent to appear parties were resolved based upon the "understanding that no changes will be made to the point of diversion."

Montana law requires the Water Court to resolve issue remarks and notices of intent to appear.

Issues

1. Is the issue remark on claim 43D 3525-00 resolved?
2. Are the notice of intent to appear parties' concerns resolved?

Findings of fact

1. The Preliminary Decree abstract identifies the historically accurate point of

diversion.

2. The point of diversion issue remark is resolved.

Principle of law

The Montana Water Court has the authority to resolve issue remarks when the claim file and information available to the Court provide a sufficient basis to do so. Section 85-2-248(3), MCA.

Analysis

The point of diversion issue remark instructed claimants and other water users that if no objections were filed to the modifications, the point of diversion would remain as it appears on the Preliminary Decree abstract. No one objected to the point of diversion. No modifications to the point of diversion are required. The issue remark concerning point of diversion served its purpose and should be removed from the claim abstract.

Conclusion of law

The Preliminary Decree abstract identifies the historically accurate point of diversion, thereby resolving the point of diversion issue remark and the concern of the notice of intent to appear parties.

Recommendations

Irrigation claim 43D 3525-00 accurately reflects historical use. No changes to the elements of the claim should be made.

The point of diversion issue remark should be removed from the claim abstract.

A Post Decree Abstract of Water Right Claim accompanies this Report to confirm removal of the issue remark in the state's centralized water right record system.

DATED this // th day of JUNE, 2020.


Anna M. Stradley
Senior Water Master

Service via USPS Mail

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