

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 15 2020
Montana Water Court

IN THE WATER COURT OF THE STATE OF MONTANA
YELLOWSTONE DIVISION
BIGHORN RIVER, BELOW GREYBULL RIVER (43P)

CLAIMANTS: Joseph S. Redding; Shirley A. Redding

OBJECTOR: United States of America (Bureau of Reclamation)

CASE 43P-119
43P 201096-00

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. Claim No. 43P 201096-00, owned by Joseph and Shirley Redding, appeared in the Preliminary Decree for the Bighorn River, Below Greybull River (Basin 43P) with an issue remark. The United States of America (Bureau of Reclamation) (“BOR”) filed an Objection to the claim.

2. On November 22, 2019, the above-captioned claim was consolidated into Case 43P-119 and on January 7, 2020 a Status Conference was held. The BOR withdrew their Objection at the Status Conference.

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. A properly filed claim of an existing right or an amended claim of existing right is prima facie proof of its content. § 85-2-227, MCA. This prima facie proof may be contradicted and overcome by other evidence that proves, by a preponderance of the evidence, that the elements of the claim do not accurately reflect the beneficial use of the water right as it existed prior to July 1, 1973. This is the burden of proof for every assertion that a claim is incorrect. Rule 19, W.R.Adj.R.

3. Section 85-2-248(2), MCA requires the Water Court to resolve all issue remarks that are not resolved through the objection process. 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. § 85-2-248(3), MCA.

CONCLUSIONS OF LAW

1. The issue remark does not overcome the prima facie status of the claim nor requires additional information to be resolved. The issue remark should be removed from the claim.

RECOMMENDATIONS

1. Upon review of the record in this case, the Objection by the BOR should be dismissed pursuant to its withdrawal. The issue remark should be removed from the claim.

A Post Decree Abstract of Water Right Claim is attached to this Master's Report for review.

DATED this 15th day of June, 2020.



Nathan Block
Water Master

Service via USPS Mail:

Joseph S. Redding
Shirley A. Redding
PO Box 7506
Fort Smith, MT 59035

Service Via Electronic Mail:

James J. DuBois, Attorney
US Department of Justice
999 18th Street, South Terrace Suite 370
Denver, CO 80202
(303) 844-1375
james.dubois@usdoj.gov
Carla.Valentino@usdoj.gov
Amber.Engelkes@usdoj.gov
MontanaBasins.ENRD@USDOJ.GOV