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**FILED**  
JUN 18 2020  
Montana Water Court

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

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CLAIMANTS: Cindy L. Warren; Don D. Warren Jr.; Iven R. Abell;  
Bertha J. Rider; Walter T. Rider

**CASE 43P-136**  
43P 106374-00  
43P 182444-00

OBJECTORS: Apsaalooke (Crow) Tribe; United States of America  
(Bureau of Indian Affairs)

**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, or if there are errors in the Report.

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 Nos. 43P 106374-00 and 43P 182444-00 appeared in the Preliminary Decree for the Bighorn River, Below Greybull River (Basin 43P) with issue remarks. The Apsaalooke (Crow) Tribe and the United States of America (Bureau of Indian Affairs) filed Objections to the claims based on the possible coverage of the claim by the Two Leggins Water Users Association Claim No. 185058-00.

2. During the Montana Department of Natural Resources and Conservation's (DNRC) examination period, both claims received the following issue remarks:

THIS CLAIM APPEARS TO BE FOR WATER PROVIDED BY THE TWO LEGGINS WATER USERS ASSOCIATION UNDER CLAIM NO. 185058-00. THIS CLAIM APPEARS TO BE REDUNDANT. THE TYPE OF HISTORICAL RIGHT, PRIORITY DATE, AND FLOW RATE MAY BE QUESTIONABLE. THERE ARE 263 WATER RIGHT CLAIMS FOR THE WATER FROM THE TWO LEGGINS CANAL THAT CLAIM A TOTAL COMBINED FLOW RATE OF 1362.404 CUBIC FEET PER SECOND. THE TOTAL COMBINED CLAIMED FLOW RATES EXCEED THE 600 CUBIC FEET PER SECOND OF THE SHEPARD, BAIR, EDWARDS, 5/21/1909 FILED APPROPRIATION FOR THE TWO LEGGINS CANAL. A LIST OF THE WATER RIGHTS CLAIMS INVOLVED HAS BEEN ADDED TO THE CLAIM FILE.

3. On December 19, 2019, the above-captioned claim was consolidated into Water Court Case 43P-136 and a status conference was held on January 29, 2020. No Claimants or potential owners appeared at the status conference. On January 30, 2020, filing deadline was set to file evidence showing why the claims should not be terminated based on their coverage by the Two Leggins Water Users Association. The Order stated that "failure to comply with this filing deadline will be viewed as agreement that the claims in this Case should be terminated". Potential Owners Victor Uffelman, Denise Uffelman and Justin Lee Watson filed a Withdrawal of Interest in Statements of Claim on February 10, 2020. Nothing else was filed in response to the Order.

**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.

2. If a claimant, objector, or intervenor fails to appear at a scheduled conference or hearing, or fails to comply with an order issued by the water court, the water court, upon motion, or its own initiative, may issue such orders of sanction with regard thereto as

are just. Rule 22, W.R.Adj.R. Sanctions applied against claimants may include termination of the water right claim. Rule 22, W.R.Adj.R.

3. Active participation by water users, especially claimants, is imperative for the accuracy of the statewide adjudication effort. *In re Korman*, 2014 Mont. Water LEXIS 17, \*6. Further, “[t]he time required to process these cases is extended substantially when litigants do not comply with deadlines imposed by the Court.” *Huntsman v. Huntsman Ranch Co.*, 2015 Mont. Water LEXIS 2, \*6. It is within the power of this Court to terminate a water right claim if a claimant fails to participate. Rule 22, W.R.Adj.R.

### CONCLUSIONS OF LAW

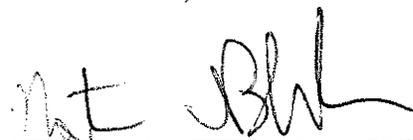
1. The Claimants have failed to participate meaningfully in this case, despite being given opportunity to do so. *See Order Consolidating Case and Order Setting Filing Deadline*, December 19, 2019; *Court Minutes and Order Setting Filing Deadline*, January 30, 2020. Accordingly, the record supports the termination of Claim Nos. 43P 106374-00 and 43P 182444-00 as a sanction for failing to comply with this Court’s previous Orders and as a duplicate filing of the Two Leggins Water Users Association Claim No. 43P 185058-00.

### RECOMMENDATIONS

1. Upon review the record in this case, Claim Nos. 43P 106374-00 and 43P 182444-00 should be dismissed for failure to comply with Orders of the Court and as a duplicate filing of the Two Leggins Water Users Association Claim No. 43P 185058-00.

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

DATED this 18<sup>th</sup> day of June, 2020.



Nathan Block  
Water Master

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