

IN THE WATER COURT OF THE STATE OF MONTANA
UPPER MISSOURI DIVISION
JEFFERSON RIVER BASIN (41G)
PRELIMINARY DECREE

* * * * *

CLAIMANTS: Beth Morgan; Hal L. Morgan

OBJECTOR: Hal L. Morgan

41G-0173-R-2020
41G 195568-00

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

Water right claim 41G 195568-00 appeared in the Preliminary Decree for the Jefferson River Basin (Basin 41G) dated February 15, 2018. The claim received a late objection and an issue remark providing notice of the objection. The claim was consolidated into Case 41G-0173-R-2020 to resolve the late objection and issue remark.

FINDINGS OF FACT

1. In 1996, Claimant Hal Morgan filed an objection to claim 41G 195568-00 (the Objection).
2. The Objection sought to modify the purpose of the right to include domestic and commercial uses.
3. The Court held a Status Conference with the Claimants on January 1, 2021, to discuss the Objection and requested that the Claimants submit evidence supporting the Objection by March 22, 2021. Nothing was filed by the deadline.
4. The Court then issued an order requiring Claimant Hal Morgan to contact the Court with evidence sufficient to show cause why his 1996 Objection should not be dismissed. The Court informed Mr. Morgan that if nothing were filed by the deadline, the Court would dismiss the Objection. Nothing was filed by the deadline.

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 an objector 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. Sanctions applied against objectors may include dismissal of the objection. Rule 22, W.R.Adj.R.

CONCLUSIONS OF LAW

1. The Claimant-Objector has failed to participate meaningfully in the resolution of his 1996 Objection, despite being given opportunity to do so. *See Court Minutes and Order Setting Filing Deadline*, January 22, 2021; *Order to Show Cause*,

April 1, 2021. Accordingly, the record supports the dismissal of Claimant Hal Morgan's 1996 Objection pursuant to Rule 22, W.R.Adj.R. The issue remark providing notice of the Objection has served its notice purpose and can be removed from the claim.

RECOMMENDATIONS

Based on the foregoing Findings of Fact and Conclusions of Law, this Master recommends that the Court dismiss the Objection to the above-captioned claim and remove the issue remark from the claim.

A post decree abstract of the water right claim is attached to this Report for review.

Eyvind Ostrem
Water Master

Service via Electronic Mail

Beth Morgan
Hal L Morgan
PO Box 724
Silver Star, MT 59751

**WATER COURT
ABSTRACT OF WATER RIGHT CLAIM
JEFFERSON RIVER
BASIN 41G**

Water Right Number: 41G 195568-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: BETH MORGAN
PO BOX 724
SILVER STAR, MT 59751

HAL L MORGAN
PO BOX 724
SILVER STAR, MT 59751

Priority Date: DECEMBER 31, 1865

Type of Historical Right: FILED

Purpose (Use): COMMERCIAL
SWIMMING POOL

Flow Rate: 2.77 CFS

***Volume:** 1,687.88 AC-FT

Source Name: SPRING, UNNAMED TRIBUTARY OF JEFFERSON RIVER

Source Type: GROUNDWATER

ALSO KNOWN AS BARKELL HOT SPRINGS

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWNWNW	12	2S	6W	MADISON

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: HEADGATE

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			NENENW	12	2S	6W	MADISON