

41H-0306-R-2021

July 1, 2021

Montana Water Court

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

CLAIMANT: Valley Ditch Co.

LATE OBJECTOR: Joel Bos

CASE: 41H-0306-R-2021

41H 15852-00

41H 213028-00

ORDER SETTING FILING DEADLINE

A Late Objection to claim 41H 15823-00 was filed on August 25, 1999, stating:

A remark should be added to this claim to ensure that it is administered consistent with historical use as decreed in Bell v. Armstrong, Cause No. 3850 (Gallatin County, 1909). Claim 41H-W-015852-00 is based on two rights historically decreed in Cause No. 3850: (1) the 200 miner's inch Alfred Leach right from Godfrey Creek, priority date 6/15/1893, and (2) the 200 miner's inch Martin Leach right from Godfrey Creek of the same date. The decree states that the Leach water rights from Godfrey Creek are only "to be used. . .at such times as the flow from the said West Gallatin River through the said ditch known as the Valley Ditch is inadequate for the irrigation of his said lands." These lands are specifically described in the Cause 3850 decree. (See attachment.)

An Order Setting Filing Deadline was issued to provide Late Objector Joel Bos the opportunity to file proposed language for a remark to resolve the Objection. On June 9, 2021, counsel for Joel Bos filed a Notice with language for a proposed information remark to be added to claim 41H 15823-00, resolving the Late Objection:

THIS WATER RIGHT IS BASED ON THE 200 MINER'S INCH MARTIN LEACH RIGHT FROM GODFREY CREEK, PRIORITY DATE 6/15/1893, AND THE 200 MINER'S INCH ALFRED LEACH RIGHT FROM GODFREY CREEK, PRIORITY DATE 6/15/1893, DECREED IN BELL V. ARMSTRONG, CAUSE NO. 3850 (GALLATIN COUNTY, 1909). THE MARTIN LEACH AND ALFRED LEACH GODFREY CREEK RIGHTS CAN ONLY BE USED AT SUCH TIMES AS THE FLOW FROM THE WEST GALLATIN RIVER THROUGH THE VALLEY DITCH IS INADEQUATE FOR THE IRRIGATION OF THE HISTORICALLY DECREED PLACE OF USE OF THE MARTIN LEACH AND ALFRED LEACH WATER

To determine if Claimant Valley Ditch Co. agrees with the proposed remark to claim 41H 15852-00, it is

ORDERED that an authorized representative of Claimant Valley Ditch Co. file a statement agreement or disagreeing that the above-listed remark be added to claim 41H 15852-00 by **July 28, 2021**. If nothing is filed by the deadline this Master will conclude Valley Ditch Co. agrees the remark should be added to claim 41H 15852-00 and a Master's Report will be issued.

Failure to comply with the terms of this Order may result in sanctions, up to and including entry of default and termination of a water right claim or dismissal of objections. Rule 22, W.R.Adj.R. Motions to continue or for extensions shall be in writing, shall state the position of all other parties regarding the motion, and must include a showing of good cause. If such a motion does not state the position of the other parties, the motion shall be subject to Rule 2, M.U.D.C.R., and may be deemed dead on arrival if sufficient time is not available for the other parties to respond prior to the date the motion seeks to continue or extend. The Court may grant an untimely motion for continuance or extension upon a showing of exigent circumstances. If such a motion is filed, you must include a proposed Order with the request. The proposed Order must be in Water Court format. It must have a caption including all information in this Order and it must include a service list.

Anika M. Stern
Senior Water Master

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