

41H-1251-R-2021

July 20, 2021

Montana Water Court

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

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CLAIMANT: Ole Springhill Ranch LLC

CASE 41H-1251-R-2021  
41H 42380-00

**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 within **10 days** of the stamped date if you disagree or find errors with the Master's findings of fact, conclusion of law, or recommendations. Rule 23, W.R.Adj.R. If the Master's 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. 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**

INTRODUCTION

Water right claim 41H 42380-00 appeared in the Preliminary Decree for the Gallatin River (Basin 41H) with issue remarks from the Montana Department of Natural Resources and Conservation's (DNRC) preparation of the preliminary decree. Specifically, the water right claim received issue remarks stating:

THE RIGHT TO EXERCISE DIVERSIONS FROM THE POINT OF DIVERSION THROUGH THE MEANS OF DIVERSION SET FORTH FOR THIS WATER RIGHT IS RESTRICTED BY AGREEMENT CONTAINED IN THE SETTLEMENT AGREEMENT FILED 08/02/1999 AND LOCATED IN THE CLAIM FILE.

THE PRIORITY DATE MAY BE QUESTIONABLE. THIS CLAIM IS FOR A USE RIGHT ON LIMESTONE CREEK WITH A PRIORITY DATE PREDATING CASE NO. 1596, GALLATIN COUNTY.

The Water Court consolidated water right claim 41H 42380-00 into Water Court case 41H-1251-R-2021 and presently resolves the issue in this case.

### ISSUES

1. *Whether the issue remark regarding the agreement should appear on the claim's post-decree abstract as an information remark.*

### APPLICABLE LAW

“The Montana [W]ater [C]ourt has a statutory obligation and the exclusive authority to adjudicate claims of existing water rights.” Rule 1(a), W.R.Adj.R. The Water Court resolves issue remarks before issuance of a final decree and may use information submitted by the DNRC, the statement of claim, and any other data obtained by the court to evaluate a water right. Sections 85-2-227, -231(2), MCA.

The Water Court may correct a clerical mistake found in a judgment, order, or other part of the record on motion or on its own, with or without notice. Rule 60(a), M.R.Civ.P.

### DISCUSSION

1. *Whether the issue remark regarding the agreement should appear on the claim's post-decree abstract as an information remark.*

Water right claim 41H 42380-00 is a stock-use claim for surface water direct from Limestone Creek in Gallatin County, Montana. An issue remark appearing on the claim states:

THE RIGHT TO EXERCISE DIVERSIONS FROM THE POINT OF DIVERSION THROUGH THE MEANS OF DIVERSION SET FORTH FOR THIS WATER RIGHT IS RESTRICTED BY AGREEMENT CONTAINED IN THE SETTLEMENT AGREEMENT FILED 08/02/1999 AND LOCATED IN THE CLAIM FILE.

DNRC mistakenly classified what is an information remark as an issue remark. The court presently takes the opportunity to correct the oversight. The same remark will appear on the claim's post-decree abstract as an information remark.

Additionally, water right claim 41H 42380-00 received an issue remark stating:

THE PRIORITY DATE MAY BE QUESTIONABLE. THIS CLAIM IS FOR A USE RIGHT ON LIMESTONE CREEK WITH A PRIORITY DATE PREDATING CASE NO. 1596, GALLATIN COUNTY.

No information before the court indicates the reason Case No. 1596, Gallatin County, does not include claim 41H 42380-00. The priority-date issue remark is not supported by evidence in the record sufficient to overcome the prima facie status afforded to the claim's priority date. Water right claim 41H 42380-00 did not receive objections, no additional proceedings are required, and the issue remark can be removed.

### RECOMMENDATIONS

This Water Master recommends the Water Court to remove the resolved issue remarks and to add the following information remark to the claim's post-decree abstract:

THE RIGHT TO EXERCISE DIVERSIONS FROM THE POINT OF DIVERSION THROUGH THE MEANS OF DIVERSION SET FORTH FOR THIS WATER RIGHT IS RESTRICTED BY AGREEMENT CONTAINED IN THE SETTLEMENT AGREEMENT FILED 08/02/1999 AND LOCATED IN THE CLAIM FILE.

The court attaches a post-decree abstract to this Master's Report to reflect the changes made.

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Kirsa Shelkey  
Water Master  
*she/her/hers*

### **Service via USPS Mail:**

Ole Springhill Ranch LLC  
D/B/A Ole Springhill Homestead, LLC  
10711 Corbly Gulch Rd  
Belgrade, MT 59714

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
GALLATIN RIVER  
BASIN 41H**

**Water Right Number:**      **41H 42380-00**      STATEMENT OF CLAIM

**Version:**      3 -- POST DECREE

**Status:** ACTIVE

**Owners:**      OLE SPRINGHILL RANCH LLC  
D/B/A OLE SPRINGHILL HOMESTEAD, LLC  
10711 CORBLY GULCH RD  
BELGRADE, MT 59714

**Priority Date:**      NOVEMBER 28, 1894

**Type of Historical Right:**      USE

**Purpose (Use):**      STOCK

**Flow Rate:**

**Volume:**      THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

**Source Name:**      LIMESTONE CREEK

**Source Type:**      SURFACE WATER

**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		NENE	12	1N	5E	GALLATIN

**Period of Diversion:**      JANUARY 1 TO DECEMBER 31

**Diversion Means:**      LIVESTOCK DIRECT FROM SOURCE

2		NENW	7	1N	6E	GALLATIN
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**Period of Diversion:**      JANUARY 1 TO DECEMBER 31

**Diversion Means:**      MULTIPLE

**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			E2NE	12	1N	5E	GALLATIN

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**Remarks:**

THE RIGHT TO EXERCISE DIVERSIONS FROM THE POINT OF DIVERSION SET FORTH FOR THIS WATER RIGHT IS RESTRICTED BY AGREEMENT CONTAINED IN THE SETTLEMENT AGREEMENT FILED 08/02/1999 AND LOCATED IN THE CLAIM FILE.