

Montana Water Court
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ELECTRONICALLY FILED

41J-0218-P-2021

September 24, 2021

Montana Water Court

IN THE WATER COURT OF THE STATE OF MONTANA
UPPER MISSOURI DIVISION
SMITH RIVER - BASIN (41J)

CLAIMANT: Fopp Family Trust

OBJECTOR: Shelley A. Liknes

41J-0218-P-2021

41J 207331-00

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. If 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. On July 7, 2021, the above-captioned claim was consolidated into case 41J-0218-P-2021. A filing deadline was set ordering the claimants to file documentation stating whether they wished to prosecute their objection to the claim. The order stated that “[i]f nothing is filed by the deadline, this Master will conclude that the claimants no longer wish to pursue the objection that was filed and the objection will be dismissed”. Nothing was filed by the deadline.

2. A just sanction against the Objector is dismissal of the objection.

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. 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.

CONCLUSION OF LAW

1. The objection to claim 41J 207331-00 should be dismissed pursuant to the Objector's failure to prosecute the objection and comply with Order of this Court.

RECOMMENDATIONS

1. Upon review of the record in this case, the objection should be dismissed as discussed above.

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

Nathan Block
Water Master

Service via USPS Mail:

Fopp Family Trust
Shelley Liknes Trustee
705 Forest Ave.
Great Falls, MT 59404-3520

Shelly Liknes
705 Forest Ave.
Great Falls, MT 59404-3520

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
SMITH RIVER
BASIN 41J**

Water Right Number: 41J 207331-00 STATEMENT OF CLAIM
Version: 2 -- POST DECREE
Status: ACTIVE

Owners: FOPP FAMILY TRUST
LIKNES, SHELLEY D TRUSTEE
705 FOREST AVE
GREAT FALLS, MT 59404 3520

Priority Date: APRIL 15, 1971

Type of Historical Right: USE

Purpose (Use): DOMESTIC

Flow Rate: 10.00 GPM

Volume: 1.50 AC-FT

Households: 1

Maximum Acres: 0.25

Source Name: SMITH RIVER

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		NESESW	6	13N	4E	MEAGHER

Period of Diversion: APRIL 1 TO DECEMBER 1

Diversion Means: PUMP

Period of Use: APRIL 1 TO DECEMBER 1

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	0.25		NESESW	6	13N	4E	MEAGHER

Total: 0.25