

Montana Water Court  
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ELECTRONICALLY FILED

43A-0558-R-2020

September 15, 2021

Montana Water Court

**IN THE WATER COURT OF THE STATE OF MONTANA  
YELLOWSTONE DIVISION  
SHIELDS RIVER BASIN 43A  
PRELIMINARY DECREE**

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CLAIMANT: Sacagawae Meadows Ranch, LP

OBJECTOR: Sacagawae Meadows Ranch, LP

NOTICE OF INTENT TO APPEAR: Westering Home, LLC

**CASE 43A-0558-R-2020**

43A 60166-00

43A 60486-00

**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

### FINDINGS OF FACT

1. The record owner of claims 43A 60166-00 and 43A 60486-00 is Sacagawae Meadows Ranch, LP (SMR).

2. Claim 43A 60166-00 was decreed with an issue remark:

A CLERICAL CORRECTION HAS BEEN MADE TO THE PURPOSE. BECAUSE THIS ELEMENT WAS NOT INCLUDED ON THE OBJECTION LIST, ANY WATER USER WHOSE RIGHT MAY BE ADVERSELY AFFECTED BY ENFORCEMENT OF THIS CHANGE MAY PETITION THE APPROPRIATE COURT FOR RELIEF OR MAY FILE AN OBJECTION AT THE PRELIMINARY DECREE.

3. SMR is objected to claims 43A 60166-00 and 43A 60486-00 and Westering Home, LLC (Westering Home) filed a Notice of Intent to Appear to claim 43A 60166-00.

4. The parties filed a Stipulation on June 14, 2021, resolving the Objections and the Notice of Intent to Appear. Pursuant to the Stipulation, the purpose of claim 43A 60166-00 should be changed from “institutional” to “domestic recreation.”

5. The DNRC Water Rights Database has limitations and unfortunately, claim purposes are limited to a standardized purpose list referenced in Rule 27(a), W.R.C.E.R. and listed in Figure VI-1 of the DNRC Claim Examination Manual. Remarks can be added to claims, providing additional information.

6. As “domestic recreation” is not a standardized purpose, an Order Setting Filing Deadline was issued, ordering the parties in Case 43A-0558-R-2020 to file a statement clarifying the purpose of 43A 60166-00.

7. On July 28, 2021, SWR filed a Response to the Order Setting Filing Deadline clarifying the purpose for claim 43A 60166-00 as “domestic” and indicated that the following remark be added “THE PURPOSE IS DOMESTIC USE AT A RECREATIONAL SITE.” The July 28, 2021 filing indicated Westering Home did not object to the proposed change.

8. The June 17, 2021 Order Setting Filing Deadline also set a deadline for SMR to indicate how its Objection to claim 43A 60486-00 should be resolved. The August 7, 2019 Objection to claim 43A 60486-00 stated:

The Period of Diversion and Period of Use should be year-round. The abstract for this Water Right Claim shows a Period of Diversion and Period of Use of July 1 to September 30. These dates are inconsistent with historical and current practice.

The July 28, 2021 filing indicates the period of diversion and period of use for claim 43A 60486-00 should be changed from “July 1 to September 30” to year round.

CONCLUSIONS OF LAW

1. The Water Court is required to address all issue remarks that appear on a claim as well as any objections the claim receives. Sections 85-2-233, 85-2-247, and 85-2-248, MCA.

2. A properly filed Statement of Claim for an existing water right is prima facie proof of its content. Section 85-2-227, MCA. This prima facie validity may be overcome by evidence showing that one or more elements of the claim are incorrect. This standard of proof applies to objectors or claimants objecting to their own water right claims. Rule 19, W.R.Adj.R.; *Nelson v. Brooks*, 2014 MT 120, 375 Mont.86, 95, 329 P.3d 558, 564.

RECOMMENDATIONS

1. Claim 43A 60166-00 should be changed as follows:

~~Purpose (Use):~~      ~~INSTITUTIONAL~~ DOMESTIC  
PU: THE PURPOSE IS DOMESTIC USE AT A RECREATIONAL SITE.

The issue remark should be removed from claim 43A 60166-00.

2. The period of diversion and period of use for claim 43A 60486-00 should be changed to January to December 31.

Post Decree Abstracts of Water Right Claims are served with the Report to confirm that the recommended changes have been made in the DNRC’s water rights database.

  
Digitally signed by Anika M. Stern  
Date: 2021.09.14 14:24:01 -06'00'

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Anika M. Stern  
Senior Water Master

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**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
SHIELDS RIVER  
BASIN 43A**

**Water Right Number:** 43A 60166-00 STATEMENT OF CLAIM  
**Version:** 3 -- POST DECREE  
**Status:** ACTIVE

**Owners:** SACAGAWAE MEADOWS RANCH LP  
PO BOX 3238  
WALNUT CREEK, CA 94598 0238

**Priority Date:** JULY 1, 1930

**Type of Historical Right:** USE

**\*Purpose (Use):** DOMESTIC  
THE PURPOSE IS DOMESTIC USE AT A RECREATIONAL SITE.

**\*Flow Rate:** 26.92 GPM

**Volume:** 0.20 AC-FT

**Source Name:** BRACKETT CREEK, MIDDLE FORK

**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		SWSWSE	6	1N	7E	GALLATIN

**Period of Diversion:** JUNE 1 TO SEPTEMBER 30

**Diversion Means:** OTHER DIVERSION  
THE MEANS OF DIVERSION IS A BUCKET.

**Period of Use:** JUNE 1 TO SEPTEMBER 30

**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			SWSWSE	6	1N	7E	GALLATIN

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
SHIELDS RIVER  
BASIN 43A**

**Water Right Number:** 43A 60486-00 STATEMENT OF CLAIM  
**Version:** 3 -- POST DECREE  
**Status:** ACTIVE

**Owners:** SACAGAWAE MEADOWS RANCH LP  
PO BOX 3238  
WALNUT CREEK, CA 94598 0238

**Priority Date:** JULY 1, 1878

**Type of Historical Right:** USE

**Purpose (Use):** STOCK

**Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

**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:** BRACKETT CREEK, MIDDLE FORK

**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		S2S2S2	6	1N	7E	GALLATIN

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

**Diversion Means:** LIVESTOCK DIRECT FROM SOURCE

**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			S2S2S2	6	1N	7E	GALLATIN