

Montana Water Court  
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IN THE WATER COURT OF THE STATE OF MONTANA  
UPPER MISSOURI DIVISION  
DEARBORN RIVER BASIN (41U)  
PRELIMINARY DECREE

\* \* \* \* \*

CLAIMANT: C Bar N Mission Board

OBJECTORS: C Bar N Mission Board; United States of  
America (USDA Forest Service)

**CASE 41U-0077-R-2023**

41U 96703-00

41U 96704-00

**NOTICE OF FILING OF MASTER'S REPORT**

This Master's Report was filed with the Montana Water Court on the above-stamped date. 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, conclusions 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 serve 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. C Bar N Mission Boar (C Bar N) is the record owner of domestic claims 41U 96703-00 and 41U 96704-00.

2. Claim 41U 96703-00 was decreed with a DNRC issue remark indicating the point of diversion legal land description could not be refined from information in the claim file.

3. C Bar N filed self-Objections to both claims in this Case. The United States of America (Forest Service) objected to claim 41U 96703-00.

4. The Objections to claim 41U 96703-00 indicate the point of diversion and place of use legal land descriptions should be reinstated to the claimed legal land descriptions:

**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		SESE	NE 32	18N	7W	LEWIS AND CLARK

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

**Diversion Means:** FLOWING

**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	5.00		SESE	NE 32	18N	7W	LEWIS AND CLARK
2			SWSW	NW 33	18N	7W	LEWIS AND CLARK
<b>Total:</b>		5.00					

5. C Bar N also objected to the DNRC reducing the claimed 16.13 acre-feet volume for claim 41U 96703-00 to 12.00 acre-feet and to the DNRC reducing the claimed 32.25 acre-feet volume for claim 41U 96704-00 to 12.00 acre-feet.

6. A deadline was set for the parties to file a map supporting the legal land description Objection for claim 41U 96703-00. Also, a deadline was also set for C Bar N to provide evidence substantiating the claimed volumes for claims 41U 96703-00 and 41U 96704-00.

7. On July 10, 2023, the Forest Service filed a Status Report and Map. (Doc.<sup>1</sup>7.00). The July 10, 2023 filing included a proposed abstract and a map showing

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<sup>1</sup> “Doc.” numerical references correlate to case file docket numbers in the Water Court’s Full Court case

the point of diversion and place of use as described in Finding of Fact No. 4. And states that the corrections resolve the United States' objection.

8. On October 10, 2023, C Bar N filed its Statement in Response to Water Court Order. (Doc. 8.00). The October 8, 2023 Statement explains that DNRC erroneously reduced the volumes for multiple domestic claims 41U 96703-00 and 41U 96704-00 during examination:

With respect to 41U 96703-00 and 41U 96704-00, Claimant and Objector, C Bar N Mission Board disagree with the DNRC amending the claims and reducing the claimed acre feet volume. Claimant and Objector, C Bar N Mission Board, further request that the claimed volume for claim 41U 96703-00 be reinstated to 16.13 acre feet per year. The original claim filing on October 4, 1982 reflects that water usage is year round from 01/01-12/31 for approximately 250 people as this is a year round bible school. The original claim filing also includes irrigation for 5 acres. During the DNRC's review of this claim on August 5, 1983, the DNRC inserted "2" households, which was not the appropriate number of households based on the use of the water claimed by C Bar N Mission Board. The claimed use was for use by 250 people year-round.

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In addition, Claimant and Objector, C Bar N Mission Board further requests that the claimed volume for claim 41U 96704-00 be reinstated to 32.25 acre feet per year. The original claim filing on October 4, 1982 reflects that water usage is year round from 01/01-12/31 for approximately 250 people as this is a year round bible school. The original claim filing also includes irrigation for 5 acres. During the DNRC's review of this claim on August 5, 1983, the DNRC inserted "2" households which was not the appropriate number of households based on the use of the water claimed by C Bar N Mission Board. The claimed use was for use by 250 people year-round.

(Doc 8.00).

## PRINCIPLES AND CONCLUSIONS OF LAW

1. The Water Court is required to address all issue remarks decreed on a claim as well as any objections filed. 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.
3. Rule 19(b)(2), W.R.C.E.R. sets guideline volumes for these claims.

## RECOMMENDATIONS

1. Claim 41U 96703-00 should be modified to:

### 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		SESE	NE 32	18N	7W	LEWIS AND CLARK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: FLOWING

### 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	5.00		SESE	NE 32	18N	7W	LEWIS AND CLARK
2			SWSW	NW 33	18N	7W	LEWIS AND CLARK
<u>Total:</u>		5.00					

2. The claimed 16.13 acre-feet volume should be reinstated for claim 41U 96703-00 and the claimed 32.25 acre-feet volume should be reinstated for claim 41U 96704-00. Further, both claims should be modified to reflect that they are for 50 “households”, not 2.

Post Decree Abstracts of Water Right Claims are served with the Report for review.

**ELECTRONICALLY SIGNED AND DATED BELOW.**

**Service Via Electronic Mail:**

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**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
DEARBORN RIVER  
BASIN 41U**

**Water Right Number:** 41U 96703-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** C BAR N MISSION BOARD  
PO BOX 366  
AUGUSTA, MT 59410 0366

**Priority Date:** NOVEMBER 30, 1969

**Type of Historical Right:** USE

**Purpose (use):** DOMESTIC

**Flow Rate:** 10.00 GPM

**Volume:** 16.13 AC-FT

**Households:** 50

**Maximum Acres:** 5.00

**Source Name:** SPRING, UNNAMED TRIBUTARY OF DEARBORN RIVER

**Source Type:** GROUNDWATER

**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		SESENE	32	18N	7W	LEWIS AND CLARK

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

**Diversion Means:** FLOWING

**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	5.00		SESENE	32	18N	7W	LEWIS AND CLARK
2			SWSWNW	33	18N	7W	LEWIS AND CLARK

**Total:** 5.00

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
DEARBORN RIVER  
BASIN 41U**

**Water Right Number:** 41U 96704-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** C BAR N MISSION BOARD  
PO BOX 366  
AUGUSTA, MT 59410 0366

**Priority Date:** OCTOBER 15, 1972

**Type of Historical Right:** USE

**Purpose (use):** DOMESTIC

**Flow Rate:** 20.00 GPM

**Volume:** 32.25 AC-FT

**Households:** 50

**Maximum Acres:** 5.00

**Source Name:** DEARBORN 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		NESENE	32	18N	7W	LEWIS AND CLARK

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

**Diversion Means:** PUMP

**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	5.00		SESENE	32	18N	7W	LEWIS AND CLARK

**Total:** 5.00