

IN THE WATER COURT OF THE STATE OF MONTANA
UPPER MISSOURI DIVISION
BOULDER RIVER—TRIBUTARY OF THE JEFFERSON RIVER (BASIN 41E)
PRELIMINARY DECREE

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CLAIMANTS: Karen E. Davidson; Steve Olson

CASE 41E-0239-R-2024
41E 34380-00

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

All water right claims that appeared in the Preliminary Decree for Boulder River (Basin 41E) were subject to "issue remarks" resulting from pre-decree examination by the DNRC, objections, and counterobjections. Claim 41E 34380-00-00 received an issue remark during the DNRC's review of the claims.

The claim was consolidated into Case 41E-0239-R-2024 and an Order Requiring the Claimants to consult with the DNRC to resolve the issue remark was issued by the Water Court.

FINDINGS OF FACT

1. Claim 41E 34380-00 appeared in the Preliminary Decree with the following issue remark:

THE POINT OF DIVERSION APPEARS TO BE INCORRECT. THE POINT OF DIVERSION APPEARS TO BE IN THE SENENW SEC 21 TWP 6N RGE 6W JEFFERSON COUNTY.

2. On May 15, 2024, DNRC Water Resources Specialist Jason Larsen filed a *Memorandum* in this matter. A corrected version of the *Memo* was filed with the Water Court on May 20, 2024. The *Memo* states that the DNRC was contacted by claimant Steve Olsen regarding the aforementioned issue remark on March 8, 2024. The *Memo* goes on to note that Mr. Olsen stated that he had gone to the location of the headgate and gotten GPS coordinates which he relayed to the DNRC. The coordinates provided to the DNRC by Mr. Olsen confirmed the location of the headgate as it appears on the abstract. Therefore, the DNRC made the following recommendations regarding the disposition of the issue remark:

RECOMMENDATION(S):

Claim 41E 34380-00

Based on the mapped coordinates that were provided by the claimant, there is no need to modify the legal land description of the point of diversion. The current legal land description should remain on the abstract.

The DNRC recommends removing the P40 issue remark from the claim.

3. On June 6, 2024, the Court set a filing deadline for claimants Karen E. Davidson and Steve Olsen to file a statement if they disagreed with the above-listed recommendations from the DNRC to resolve the issue remark on claim 41E 34380-00. Nothing was filed by the deadline. the Order Setting Filing Deadline included the following language:

ORDERED that the deadline is **July 5, 2024** for Karen E. Davidson and Steve Olson to file a written response to the DNRC recommendations *if they disagree with these recommendations*. If no written response is filed by July 5, 2024, the Court will conclude that Karen E. Davidson and Steve Olson agree with the DNRC recommendations.

4. Claim 41E 34380-00 also received a notice-type issue remark from the DNRC denoting modifications made by the DNRC during its claim reexamination. No objections were filed.

PRINCIPLES OF LAW

1. Section 85-2-248(2), MCA, requires that the Water Court resolve all issue remarks that are not resolved through the objection process. *See also* Rule 7, W.R.Adj.R.

2. The Water Court 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.

CONCLUSIONS OF LAW

1. The information in the record is sufficient to resolve the issue remark appearing on claim 41E 34380-00. Based on the information contained Mr. Larsen's *Memo*, the point of diversion for claim 41E 34380-00 should remain as it appears on the abstract, and the point of diversion issue remark should be removed from the claim.

2. The notice-type issue remark appearing on claim 41E 34380-00 served its notice purpose and should be removed from the claim.

RECOMMENDATIONS

Based on the foregoing Findings of Fact and Conclusion of Law, this Water Master recommends that the Court remove the issue remarks from the claim.

A post decree abstract of the water right claim reflecting the recommended changes is attached to this Report.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

Karen E. Davidson
Steve Olson
PO Box 53
Basin, MT 59631

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
BOULDER RIVER, TRIBUTARY TO JEFFERSON RIVER
BASIN 41E

Water Right Number: 41E 34380-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: KAREN E DAVIDSON
PO BOX 53
BASIN, MT 59631-0053

STEVE OLSON
PO BOX 53
BASIN, MT 59631-0053

Priority Date: MAY 27, 1904

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 1.14 CFS

***Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 5 - LOW

Maximum Acres: 30.00

***Source Name:** BOULDER 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		NENWNW	21	6N	6W	JEFFERSON
Period of Diversion:		APRIL 20 TO OCTOBER 10				
Diversion Means:		HEADGATE				
Ditch Name:		CARLSON DITCH				
Period of Use:		APRIL 20 TO OCTOBER 10				

***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	10.00		N2SENE	21	6N	6W	JEFFERSON
2	20.00		SWNW	22	6N	6W	JEFFERSON
Total:		30.00					