

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

CLAIMANTS: Bonnie C. Bugni; Raymond J. Bugni; Anker B.
Henningsen; Mary Ann McNamee; Amber
Henningsen Post

OBJECTOR: United States of America (USDA Forest Service)

CASE 41E-0161-R-2024

41E 12919-00

41E 12920-00

41E 12921-00

41E 12922-00

41E 12923-00

41E 12924-00

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 finding 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 to 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

The United States of America (USDA Forest Service) objected to each of these mining claims. On March 26, 2024 Amber Post filed an email stating the claimants have no interest in maintaining these claims. On April 8, 2024 the United States’ Response To Court Order And

Motion For Filing Deadline Show Cause Order was filed with the supporting Declaration of Thor Burbach which describes his review of aerial photographs and his site visit. The April 9, 2024 Order Granting Motion And Setting Show Cause Filing Deadline states:

On March 26, 2024 co-claimant Amber Post filed the following statement:

The owners of the property referenced in the above case have conferred with our prospective buyers. We respectfully withdraw our request for an extension of the deadline for settlement discussions. We have determined that we have no interest in maintaintint [sic] the water rights at issue in this case since none of the owners or prospective busyers [sic] have an intent to mine the property.

I have copied all the owners on this email.

On April 8, 2024 the United States' Response To Court Order And Motion For Filing Deadline Show Cause Order was filed. In addition to the above statement, it states that its research shows there is no functional means of diversion and conveyance for these claimed rights and it appears the claimed water rights have not been used for years. Upon review of Ms. Post's statement and the Motion, it is

ORDERED that the deadline is **May 9, 2024** for the claimants to show cause in writing why claims 41E 12919-00, 41E 12920-00, 41E 12921-00, 41E 12922-00, 41E 12923-00, and 41E 12924-00 should not be dismissed as withdrawn by the claimants. If nothing is filed, the Court will proceed with dismissing the claims.

Nothing was filed by the claimants. These documents are viewable in the Court's FullCourt Enterprise case management system.

APPLICABLE LAW

A properly filed Statement of Claim for Existing Water Right is prima facie proof of its content pursuant to section 85-2-227, MCA. This prima facie proof may be contradicted and overcome by other evidence that proves, by a preponderance of the evidence, that the elements of the claim do not accurately reflect the beneficial use of the water right as it existed prior to July 1, 1973. This is the burden of proof for every assertion that a claim is incorrect including for claimants objecting to their own claims. Rule 19, W.R.Adj.R.

FINDING OF FACT

Each of these claims should be dismissed as withdrawn by the claimants.

CONCLUSION OF LAW

The documentation filed by the parties is sufficient to contradict and overcome the prima facie claims.

RECOMMENDATIONS

Based upon the above Finding of Fact and Conclusion of Law, this Master recommends that the Court dismiss each of these claims as withdrawn by the claimants. A Post Decree Abstract of Water Right Claim for each claim is served with this Report to confirm the recommended changes have been made in the state's centralized record system.

ELECTRONICALLY SIGNED AND DATED BELOW

Service via USPS Mail:

Bonnie C. Bugni
Raymond J. Bugni
2901 Kennedy Ave
Butte, MT 59701

Anker B. Henningsen
4320 Fern Valley Rd
Medford, OR 97504

Mary Ann McNamee
(Return mail received)

Amber Henningsen Post
301 Valley View Dr
Medford, OR 97504

Service Via Electronic Mail:

Maggie Woodward
US Dept of Justice
PO Box 7611
Washington, DC 20044-7611
(202) 305-4224
Maggie.Woodward@usdoj.gov
MontanaBasins.ENRD@USDOJ.GOV

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

Water Right Number: 41E 12919-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: **DISMISSED**

Owners:

BONNIE C BUGNI
2901 KENNEDY AVE
BUTTE, MT 59701

RAYMOND J BUGNI
2901 KENNEDY AVE
BUTTE, MT 59701

ANKER B HENNINGSEN
4320 FERN VALLEY RD
MEDFORD, OR 97504-9405

MARY ANN MCNAMEE
1 SKYLINE DR APT 3514
MEDFORD, OR 97504-2504

AMBER HENNINGSEN POST
301 VALLEY VIEW DR
MEDFORD, OR 97504-6975

Priority Date:

Type of Historical Right:

Purpose (Use): MINING

Flow Rate:

Volume:

Source Name: SLAUGHTERHOUSE GULCH

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

Remarks:

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.

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

Water Right Number: 41E 12920-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: **DISMISSED**

Owners:

BONNIE C BUGNI
2901 KENNEDY AVE
BUTTE, MT 59701

RAYMOND J BUGNI
2901 KENNEDY AVE
BUTTE, MT 59701

ANKER B HENNINGSEN
4320 FERN VALLEY RD
MEDFORD, OR 97504-9405

MARY ANN MCNAMEE
1 SKYLINE DR APT 3514
MEDFORD, OR 97504-2504

AMBER HENNINGSEN POST
301 VALLEY VIEW DR
MEDFORD, OR 97504-6975

Priority Date:

Type of Historical Right:

Purpose (Use): MINING

Flow Rate:

Volume:

Source Name: ELKHORN CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

Remarks:

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.

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

Water Right Number: 41E 12921-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: **DISMISSED**

Owners:

BONNIE C BUGNI
2901 KENNEDY AVE
BUTTE, MT 59701

RAYMOND J BUGNI
2901 KENNEDY AVE
BUTTE, MT 59701

ANKER B HENNINGSEN
4320 FERN VALLEY RD
MEDFORD, OR 97504-9405

MARY ANN MCNAMEE
1 SKYLINE DR APT 3514
MEDFORD, OR 97504-2504

AMBER HENNINGSEN POST
301 VALLEY VIEW DR
MEDFORD, OR 97504-6975

Priority Date:

Type of Historical Right:

Purpose (Use): MINING

Flow Rate:

Volume:

Source Name: ELKHORN CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

Remarks:

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.

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

Water Right Number: 41E 12922-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: **DISMISSED**

Owners:

BONNIE C BUGNI
2901 KENNEDY AVE
BUTTE, MT 59701

RAYMOND J BUGNI
2901 KENNEDY AVE
BUTTE, MT 59701

ANKER B HENNINGSEN
4320 FERN VALLEY RD
MEDFORD, OR 97504-9405

MARY ANN MCNAMEE
1 SKYLINE DR APT 3514
MEDFORD, OR 97504-2504

AMBER HENNINGSEN POST
301 VALLEY VIEW DR
MEDFORD, OR 97504-6975

Priority Date:

Type of Historical Right:

Purpose (Use): MINING

Flow Rate:

Volume:

Source Name: SLAUGHTERHOUSE GULCH

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

Remarks:

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.

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

Water Right Number: 41E 12923-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: **DISMISSED**

Owners:

BONNIE C BUGNI
2901 KENNEDY AVE
BUTTE, MT 59701

RAYMOND J BUGNI
2901 KENNEDY AVE
BUTTE, MT 59701

ANKER B HENNINGSEN
4320 FERN VALLEY RD
MEDFORD, OR 97504-9405

MARY ANN MCNAMEE
1 SKYLINE DR APT 3514
MEDFORD, OR 97504-2504

AMBER HENNINGSEN POST
301 VALLEY VIEW DR
MEDFORD, OR 97504-6975

Priority Date:

Type of Historical Right:

Purpose (Use): MINING

Flow Rate:

Volume:

Source Name: SLAUGHTERHOUSE GULCH

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

Remarks:

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.

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

Water Right Number: 41E 12924-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: **DISMISSED**

Owners:

BONNIE C BUGNI
2901 KENNEDY AVE
BUTTE, MT 59701

RAYMOND J BUGNI
2901 KENNEDY AVE
BUTTE, MT 59701

ANKER B HENNINGSEN
4320 FERN VALLEY RD
MEDFORD, OR 97504-9405

MARY ANN MCNAMEE
1 SKYLINE DR APT 3514
MEDFORD, OR 97504-2504

AMBER HENNINGSEN POST
301 VALLEY VIEW DR
MEDFORD, OR 97504-6975

Priority Date:

Type of Historical Right:

Purpose (Use): MINING

Flow Rate:

Volume:

Source Name: SLAUGHTERHOUSE GULCH

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

Remarks:

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.