

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

CLAIMANT: Campion Family Revocable Living Trust

CASE 41E-0228-R-2024
41E 30113046

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

Claim 41E 30113046 appeared in the Preliminary Decree with the following issue remarks:

NO FLOW RATE HAS BEEN CLAIMED. THE FLOW RATE GUIDELINE FOR THIS PURPOSE IS 35 GPM.

NO PERIOD OF DIVERSION WAS CLAIMED.

NO PERIOD OF USE HAS BEEN CLAIMED. THE USUAL AND REASONABLE PERIOD OF USE IN THIS AREA IS JANUARY 1 TO DECEMBER 31.

NO VOLUME HAS BEEN CLAIMED.

These issue remarks were added because the claimant failed to include this required information on the Statement of Claim. The issue remarks were not addressed through the objection process. The Water Court is required to resolve the issues raised by each issue remark. Section 85-2-248, MCA.

Under Section 85-2-248(3), MCA, information in the claim file or other information obtained by the Court can be reviewed to determine if it provides a sufficient basis to resolve the issue raised by a remark and the Court can provide the claimant an opportunity to file additional information or evidence. The February 6, 2024 Order Consolidating Case and Order Setting Deadlines Pursuant To Section 85-2-248(5), MCA [“February 6, 2024 Orders”] set filing deadlines for the Montana Department of Natural Resources and Conservation [“DNRC”] and the claimant.

On April 25, 2024 the DNRC Memorandum was filed stating:

On April 24, 2024 the DNRC filed its Memorandum. The Memorandum states that the claimant did not contact the Helena Regional Office as directed in the February 6, 2024 Orders. The Memorandum reports the various resources DNRC used to try to make recommendations resolving the issue remarks and concludes with:

Without further information from the claimant regarding the volume, flow rate, period of diversion, or period of use the DNRC is unable to recommend any course of action that will resolve these issues and allow the issue remarks to be removed.

The May 14, 2024 Order Setting Show Cause Deadline Pursuant To Section 85-2-248(9)(d), MCA, And Rule 22, W.R.Adj.R. states:

It is noted that the Helena Regional Office sent this Memorandum to the claimant on April 24, 2024 and that it has not prompted a response from the claimant.

The Water Court may terminate a claim if the claimant fails to comply with an order issued by the Water Court in its review of issue remarks. Section 85-2-248(9)(d), MCA. In addition, Rule 22, W.R.Adj.R. states:

SANCTIONS. 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. Sanctions applied against claimants may include termination of the claim; or modification of the claim to conform with data provided by the department, information obtained by the court, or information included in an objection.

Sanctions applied against objectors and intervenors may include dismissal of the objector or intervenor from the proceeding. In this instance, the claimant failed to provide necessary information to describe the water right on the claim form, then subsequently failed to comply with the February 6, 2024 Orders trying to secure this needed information from the claimant with DNRC assistance. It is not possible for the Court to decree this claimed right without the missing information. Therefore, pursuant to section 85-2-248(9)(d), MCA, and Rule 22, W.R.Adj.R., it is

ORDERED that the deadline is **June 14, 2024** for claimant Campion Family Revocable Living Trust to show cause in writing why its claim 41E 30113046 should not be dismissed as a sanction for its failure to comply with the February 6, 2024 Orders. If nothing is filed, the Court will proceed with issuing an order dismissing this claim.

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

APPLICABLE LAW

"All issue remarks to claims that are not resolved through the filing of an objection as provided in 85-2-233 must be resolved as provided in this section." Section 85-2-248(2), MCA.

The Water Court may terminate a claim if the claimant fails to comply with an order issued by the Water Court in its review of issue remarks. Section 85-2-248(9)(d), MCA.

Rule 22, W.R.Adj.R. states:

SANCTIONS. 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. Sanctions applied against claimants may include termination of the claim; or modification of the claim to conform with data provided by the department, information obtained by the court, or information included in an objection. Sanctions applied against objectors and intervenors may include dismissal of the objector or intervenor from the proceeding.

FINDING OF FACT

Claim 41E 30113046 should be dismissed due to claimant Campion Family Revocable Living Trust's failure to show cause in writing why its claim 41E 30113046 should not be dismissed as a sanction for its failure to comply with the February 6, 2024 Orders.

CONCLUSION OF LAW

Claim 41E 30113046 should be dismissed due to claimant Campion Family Revocable Living Trust's failure to show cause in writing why its claim 41E 30113046 should not be dismissed as a sanction for its failure to comply with the February 6, 2024 Orders.

RECOMMENDATIONS

Based upon the above Finding of Fact and Conclusion of Law, this Master recommends that the Court dismiss Campion Family Revocable Living Trust claim 41E 30113046. A Post Decree Abstract of Water Right Claim is served with this Report to confirm the claim has been dismissed.

ELECTRONICALLY SIGNED AND DATED BELOW

Service via USPS Mail:

Campion Family Revocable Living Trust
1639 Greenbriar Ln
Brea, CA 92821

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

Water Right Number: 41E 30113046 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: **DISMISSED**

Owners: CAMPION FAMILY REVOCABLE LIVING TRUST
1639 GREENBRIAR LN
BREA, CA 92821-5917

Priority Date:

Type of Historical Right:

Purpose (Use): DOMESTIC

Flow Rate:

Volume:

Source Name: GROUNDWATER

Source Type: GROUNDWATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

Remarks:

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.