

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: Holdaway Place LLC; Daniel D. Williams

CASE 41E-0288-R-2024  
41E 30115722

**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, 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 30115722 appeared in the Preliminary Decree with the following issue remark:

THE CLAIMED FLOW RATE EXCEEDS THE 35 GPM GUIDELINE FOR THIS PURPOSE AND CANNOT BE CONFIRMED DUE TO LACK OF DATA.

The issue remark was 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 set filing deadlines for the Montana Department of Natural Resources and Conservation [“DNRC”] and the claimants. On March 11, 2024 the DNRC Memorandum was filed stating recommendations. The May 15, 2024 Order Setting Filing Deadline Pursuant To 85-2-248, MCA states:

The February 6, 2024 Order Consolidating Case and Order Setting Filing Deadlines Pursuant To Section 85-2-248(5), MCA set filing deadlines for the DNRC *and for the claimants*. On March 11, 2024 the DNRC filed its Memorandum with recommendations. The DNRC sent the Memorandum to the claimants. Nothing was filed by the claimants. If the claimants agree with the recommendations, they do not need to file anything. If the claimants disagree with the recommendations, a written response must be filed stating the items of disagreement. Therefore, it is

ORDERED that the deadline is **June 14, 2024** for Holdaway Place LLC and Daniel D. Williams to file a written response to the DNRC recommendations *if they disagree with these recommendations*. If no written response is filed by June 14, 2024, the Court will conclude that Holdaway Place LLC and Daniel D. Williams agree with the DNRC recommendations.

Nothing was filed by the claimants. 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.

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.

FINDINGS OF FACT

1. The Preliminary Decree states that the flow rate is 50.00 GPM. The flow rate should be 35.00 GPM. The flow rate issue remark should be removed as addressed and resolved.

2. The Preliminary Decree also includes the following notice remark:

THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 41E DECREE ISSUED 06/20/1985.

The remark does not raise an unresolved issue which needs to be addressed. The remark should be removed as having served its notice purpose.

CONCLUSION OF LAW

The information provided by the DNRC is sufficient to resolve the issue remark without evidentiary hearing. Sections 85-2-248(3) and (11), MCA.

RECOMMENDATIONS

Based upon the above Findings of Fact and Conclusion of Law, this Master recommends that the Court make the changes specified in the Findings of Fact to correct the Preliminary Decree for this Basin. A Post Decree Abstract of Water Right 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:**

Holdaway Place LLC  
306 Lone Mountain Rd  
Toston, MT 59643

Daniel D. Williams  
974 MT Highway 285  
Toston, MT 59643

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

**Water Right Number:** 41E 30115722 STATEMENT OF CLAIM

**Version:** 2 -- POST DECREE

**Status:** ACTIVE

**Owners:** DANIEL D WILLIAMS  
974 MT HIGHWAY 285  
TOSTON, MT 59643-9735  
  
HOLDAWAY PLACE LLC  
306 LONE MOUNTAIN RD  
TOSTON, MT 59643-9746

**Priority Date:** MAY 1, 1865

**Type of Historical Right:** USE

**Purpose (Use):** STOCK

**Flow Rate:** 35.00 GPM

**\*Volume:** THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCKWATERING 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:** SPRING, UNNAMED TRIBUTARY OF SAND CREEK

**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		SWNESE	22	6N	2W	JEFFERSON

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

**Diversion Means:** PIPELINE

**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			SWNESE	22	6N	2W	JEFFERSON