

Montana Water Court
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FILED
06/20/2024
Sara Calkins
CLERK
Montana Water Court
STATE OF MONTANA
By: Vicki Heiser
41I-0009-R-2023
Lockman, Melissa
6.00

**IN THE WATER COURT OF THE STATE OF MONTANA
UPPER MISSOURI DIVISION
MISSOURI RIVER ABOVE HOLTER DAM BASIN (41I)
PRELIMINARY DECREE**

* * * * *

CLAIMANT: Ferrat Ranch LLC

OBJECTOR: United States of America Department of Interior
Bureau of Reclamation

CASE 41I-0009-R-2023
41I 46161-00

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

Claim 41I 46161-00 appeared in the Preliminary Decree for the Missouri River above Holter Dam (Basin 41I) issued on June 24, 2022. The claim received an objection from the United States Bureau of Reclamation (United States). The claim also received issue remarks. Issue remarks are notations identifying potential legal or factual issues with water rights and the Water Court is required to resolve these potential issues.

FINDINGS OF FACT

1. Claim 41I 46161-00 appeared in the Basin 41I Preliminary Decree as a claim to fill a private stockwater pond with water diverted from the Missouri River at the Crow Creek pump and conveyed through the Toston canal.

2. The United States objected to the claim, stating:

This is a claimed private right filed on a Toston Irrigation District pump diversion (owned jointly by the Bureau of Reclamation and Toston Irrigation District) to fill a stock reservoir on private land. An agreement exists for this use through Water Right Claim No. 41I 40803-00, but a water right is not applicable to this private use. This water right claim must be withdrawn.

3. The claim also received the following issue remarks:

THIS CLAIM APPEARS TO DUPLICATE CLAIM NO. 40803-00 FILED BY THE TOSTON IRRIGATION DISTRICT.
DITCH NAME WAS MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

4. On April 11, 2024, the parties filed a stipulation. (Doc.¹ 5.00).

5. The stipulation states claim 41I 46161-00 should be dismissed.

PRINCIPLES OF LAW

1. The Water Court is not bound by parties' settlement agreements. Any settlement reached by the parties is subject to review and approval by the Water Court. Rule 17(a), W.R.Adj.R.

2. If a claimant agrees to reduce or limit a claim, the Water Court may accept the reduction or limitation without reviewing further evidence, unless an unresolved issue remark remains. Rule 17(c), W.R.Adj.R.

CONCLUSION OF LAW AND RECOMMENDATION

1. The Court should approve the parties' stipulation and dismiss claim 41I 46161-00.

¹ "Doc." numerical references correlate to case file docket numbers in the Water Court's Full Court case management system.

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

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail

Ferrat Ranch LLC
191 Ferrat Ln
Toston, MT 59643

Service via Electronic Mail

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POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MISSOURI RIVER, ABOVE HOLTER DAM
BASIN 41I

Water Right Number: 41I 46161-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: **DISMISSED**

Owners: FERRAT RANCH LLC
191 FERRAT LN
TOSTON, MT 59643-9732

Priority Date:

Type of Historical Right:

Purpose (Use): STOCK

Flow Rate:

Volume:

Source Name: MISSOURI RIVER

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.