

Montana Water Court
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IN THE WATER COURT OF THE STATE OF MONTANA
YELLOWSTONE DIVISION
SWEET GRASS - BASIN (43BV)

CLAIMANTS: Crazy Not To, LLC; J Bar L Ranches LLC

CASE 43BV-0063-R-2022

43BV 138469-00

43BV 30126697

CLOSING ORDER

The Water Court included claims 43BV 138469-00 and 43BV 30126697 in the Preliminary Decree for the Sweet Grass Creek Basin (Basin 43BV) issued on May 21, 2021. The claims are unrelated other than both are owned by Crazy Not To, LLC. J Bar L Ranches LLC also has an ownership interest in claim 43BV 138469-00 and appears to own a portion of the place of use.

These two claims are decreed as use rights to use water for stock water use. The source for claim 43BV 138469-00 is Sweet Grass Creek, as diverted to the Adam Intake Canal. Claim 43BV 30126697 is a direct from source stock water claim from an unnamed tributary of Sourdough Creek.

Both claims received Montana Department of Natural Resources and Conservation (“DNRC”) issue remarks from pre-decree examination. No one objected to either claim.

Claim 43BV 138469-00 received the following issue remarks:

DITCH NAME AND MEANS OF DIVERSION WERE 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.

THE PRIORITY DATE MAY BE QUESTIONABLE. THIS CLAIM IS FOR A USE RIGHT ON SWEET GRASS CREEK WITH A PRIORITY DATE PREDATING CASE NO. 342 , SWEET GRASS COUNTY.

The first remark (remark code P88) indicates DNRC standardized the ditch name, which is part of what the Water Court instructed in its Order Addressing Reexamination dated December 14, 2012. No objections were filed based on the remark, so the remark served its notice purpose and may be removed.

The priority date remark (remark code P370) does not necessarily call into question the validity of the priority date. Rather it alerts potential interested parties of the claimed use right in relation to a district court decree. Because district court decrees often did not include all water rights on a source, nor was there a clear mechanism for doing so. The Supreme Court has recognized the validity of non-decreed rights on a decreed source on several occasions. *See, e.g., State ex rel. McKnight v. Dist. Court*, 111 Mont. 520, 111 P.2d 292 (1941); *Tucker v. Jones*, 8 Mont. 225, 232, 19 P. 571, 574 (1888). The P370 remark put parties with decreed rights from the prior district court decree in Case 342 on notice of a potential priority date issue. The remark on the claims in this case provided that notice and did not generate any objections. The remark served its purpose and should be removed.

Claim 43BV 30126697 received the following two remarks:

THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 43BV DECREE ISSUED 12/19/1984.

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT WERE FILED BY DIFFERENT PARTIES WHO CLAIM OVERLAPPING PLACES OF USE. 30126697, 30137385.

Claim 43BV 30126697 was filed as an “exempt” claim under the provisions of House Bill 110 (“HB 110”) passed by the 2017 Montana Legislature (codified at § 85-2-222, MCA). HB 110 authorized owners of certain exempt claims the option of filing the

claims prior to a June 30, 2019 filing deadline. The issue remark gave notice that the claim did not appear in the temporary preliminary decree (“TPD”) for Basin 43BV, which the Water Court issued in 1985, because the TPD predated the exempt claim filing deadline.

The second remark (which was included twice on the abstract) provided notice that the decreed place of use overlapped with the place of use of claim 43BV 30137385. Both claims cover the same place of use, but have different ownerships. The Court addressed and closed claim 43BV 30137385 in case no. 43BV-0027-R-2022. The Court did not receive any objections to claim 43BV 30126697 based on place of use, point of diversion, or ownership, nor has the Water Court received any request to split either claim. Absent any objection, the remark does not raise any factual or legal issues that need to be addressed by the Court.

No further proceedings are required to resolve the remarks and the remarks will be removed from the abstract of each claim in this case.

Therefore, it is ORDERED that the claims are consolidated into this case. The issue remarks are removed from the claims and this case is CLOSED.

Post-decree abstracts of the claims are included with this Order to confirm the removal of the issue remarks in the state’s centralized water right record system.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service Via USPS Mail:

Crazy Not To, LLC
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Service Via Electronic Mail:

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**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
SWEET GRASS CREEK
BASIN 43BV**

Water Right Number: 43BV 138469-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: CRAZY NOT TO, LLC
PO BOX 789
KIRKLAND, WA 98083

J BAR L RANCHES LLC
PO BOX 11925
BOZEMAN, MT 59719-1925

Priority Date: DECEMBER 5, 1906

Type of Historical Right: USE

Purpose (Use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING 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: SWEET GRASS CREEK

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		SWNWNE	34	4N	15E	SWEET GRASS

Period of Diversion: APRIL 15 TO OCTOBER 15

Diversion Means: HEADGATE

Ditch Name: ADAM INTAKE CANAL

Period of Use: APRIL 15 TO OCTOBER 15

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			SWSW	2	3N	15E	SWEET GRASS
2			W2	11	3N	15E	SWEET GRASS
3			SWSE	11	3N	15E	SWEET GRASS

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
SWEET GRASS CREEK
BASIN 43BV**

Water Right Number: 43BV 30126697 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: CRAZY NOT TO, LLC
PO BOX 789
KIRKLAND, WA 98083

Priority Date: FEBRUARY 3, 1898

Type of Historical Right: USE

Purpose (Use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING 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: SOURDOUGH CREEK

Source Type: SURFACE WATER

Source Name: UNNAMED TRIBUTARY OF SOURDOUGH CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		E2SE	15	3N	16E	SWEET GRASS
Source Name:		UNNAMED TRIBUTARY OF SOURDOUGH CREEK				
Period of Diversion:		JANUARY 1 TO DECEMBER 31				
Diversion Means:		LIVESTOCK DIRECT FROM SOURCE				
2		NENE	15	3N	16E	SWEET GRASS
Source Name:		UNNAMED TRIBUTARY OF SOURDOUGH CREEK				
Period of Diversion:		JANUARY 1 TO DECEMBER 31				
Diversion Means:		LIVESTOCK DIRECT FROM SOURCE				
3		E2SE	21	3N	16E	SWEET GRASS
Source Name:		UNNAMED TRIBUTARY OF SOURDOUGH CREEK				
Period of Diversion:		JANUARY 1 TO DECEMBER 31				
Diversion Means:		LIVESTOCK DIRECT FROM SOURCE				
4		SESE	22	3N	16E	SWEET GRASS
Source Name:		UNNAMED TRIBUTARY OF SOURDOUGH CREEK				
Period of Diversion:		JANUARY 1 TO DECEMBER 31				
Diversion Means:		LIVESTOCK DIRECT FROM SOURCE				

5	NWSE	22	3N	16E	SWEET GRASS
Source Name:	UNNAMED TRIBUTARY OF SOURDOUGH CREEK				
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE				
6	NENE	22	3N	16E	SWEET GRASS
Source Name:	UNNAMED TRIBUTARY OF SOURDOUGH CREEK				
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE				
7	NENW	27	3N	16E	SWEET GRASS
Source Name:	UNNAMED TRIBUTARY OF SOURDOUGH CREEK				
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE				
8	N2NE	27	3N	16E	SWEET GRASS
Source Name:	UNNAMED TRIBUTARY OF SOURDOUGH CREEK				
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE				
9	NW	27	3N	16E	SWEET GRASS
Source Name:	SOURDOUGH CREEK				
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE				
10	SESW	22	3N	16E	SWEET GRASS
Source Name:	SOURDOUGH CREEK				
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE				
11	SWSE	22	3N	16E	SWEET GRASS
Source Name:	SOURDOUGH CREEK				
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE				
12	NWSE	22	3N	16E	SWEET GRASS
Source Name:	SOURDOUGH CREEK				
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE				
13	SWNE	22	3N	16E	SWEET GRASS
Source Name:	SOURDOUGH CREEK				
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE				
14	E2NE	22	3N	16E	SWEET GRASS
Source Name:	SOURDOUGH CREEK				
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE				
15	W2SE	28	3N	16E	SWEET GRASS
Source Name:	SOURDOUGH CREEK				

Period of Diversion: JANUARY 1 TO DECEMBER 31
Diversion Means: LIVESTOCK DIRECT FROM SOURCE
 16 N2NESE 28 3N 16E SWEET GRASS

Source Name: SOURDOUGH CREEK
Period of Diversion: JANUARY 1 TO DECEMBER 31
Diversion Means: LIVESTOCK DIRECT FROM SOURCE

17 SENE 28 3N 16E SWEET GRASS

Source Name: SOURDOUGH CREEK
Period of Diversion: JANUARY 1 TO DECEMBER 31
Diversion Means: LIVESTOCK DIRECT FROM SOURCE

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			E2SE	15	3N	16E	SWEET GRASS
2			NENE	15	3N	16E	SWEET GRASS
3			E2SE	21	3N	16E	SWEET GRASS
4			SESE	22	3N	16E	SWEET GRASS
5			NWSE	22	3N	16E	SWEET GRASS
6			NENE	22	3N	16E	SWEET GRASS
7			NENW	27	3N	16E	SWEET GRASS
8			N2NE	27	3N	16E	SWEET GRASS
9			NW	27	3N	16E	SWEET GRASS
10			SESW	22	3N	16E	SWEET GRASS
11			SWSE	22	3N	16E	SWEET GRASS
12			NWSE	22	3N	16E	SWEET GRASS
13			SWNE	22	3N	16E	SWEET GRASS
14			E2NE	22	3N	16E	SWEET GRASS
15			W2SE	28	3N	16E	SWEET GRASS
16			N2NESE	28	3N	16E	SWEET GRASS
17			SENE	28	3N	16E	SWEET GRASS