

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: Golden Sunlight Mines Inc.

OBJECTOR: Golden Sunlight Mines Inc.

CASE 41E-0198-R-2024

41E 143436-00

41E 143437-00

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, 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

Golden Sunlight Mines Inc. objected to its claims 41E 143436-00 and 41E 143437-00. On April 3, 2024 Claimant/Objector's Filing of Documentation To Address And Resolve Objections was filed. This settlement documentation is 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.

FINDINGS OF FACT

1. For claim 41E 143436-00, the Preliminary Decree states that the point of diversion and means of diversion are:

<u>GOVT LOT</u>	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
2	NWNE	2	1N	3W	JEFFERSON

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

For claim 41E 143437-00, the Preliminary Decree states that the point of diversion and means of diversion are:

<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
SENENW	35	2N	3W	JEFFERSON

Diversion Means: DITCH
Ditch Name: CARDWELL DITCH

For both claims, the point of diversion and means of diversion should be:

<u>GOVT LOT</u>	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
S2NE		26	2N	3W	JEFFERSON

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

W2NESE	26	2N	3W	JEFFERSON
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Diversion Means: LIVESTOCK DIRECT FROM SOURCE

SENWSE	26	2N	3W	JEFFERSON
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Diversion Means: LIVESTOCK DIRECT FROM SOURCE

N2SWSE	26	2N	3W	JEFFERSON
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Diversion Means: LIVESTOCK DIRECT FROM SOURCE

SESW	26	2N	3W	JEFFERSON
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Diversion Means: LIVESTOCK DIRECT FROM SOURCE

E2W2 35 2N 3W JEFFERSON

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

W2W2SE 35 2N 3W JEFFERSON

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

W2NWNE 2 1N 3W JEFFERSON

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

E2NW 2 1N 3W JEFFERSON

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

SESWNW 2 1N 3W JEFFERSON

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

NESWSE 26 2N 3W JEFFERSON

Diversion Means: DITCH

SENENW 35 2N 3W JEFFERSON

Diversion Means: DITCH

Ditch Name: CARDWELL DITCH

NWSENW 35 2N 3W JEFFERSON

Diversion Means: DITCH

Ditch Name: SHAW DITCH

NWNWNE 2 1N 3W JEFFERSON

Diversion Means: DITCH

Ditch Name: HUCKABA DITCH

2. For claim 41E 143436-00, the Preliminary Decree states that the place of use is:

<u>GOVT LOT</u>	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
2	NWNE	2	1N	3W	JEFFERSON

For claim 41E 143437-00, the Preliminary Decree states that the place of use is:

<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
NW	35	2N	3W	JEFFERSON
SWNE	35	2N	3W	JEFFERSON
W2SE	35	2N	3W	JEFFERSON
E2	2	1N	3W	JEFFERSON

For both claims, the place of use should be:

<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
S2NE	26	2N	3W	JEFFERSON
SE	26	2N	3W	JEFFERSON
SESW	26	2N	3W	JEFFERSON

	35	2N	3W	JEFFERSON
N2	2	1N	3W	JEFFERSON
N2SE	2	1N	3W	JEFFERSON
SESE	2	1N	3W	JEFFERSON

3. The abstract of claim 41E 143436-00 includes the following notice remarks:

POINT OF DIVERSION AND PLACE OF USE 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.

This remark provides notice of these changes made prior to issuance of the Preliminary Decree. The remark does not raise unresolved issues which need to be addressed. There are no proceedings required for this remark. The remark should be removed as having served its notice purpose.

CONCLUSION OF LAW

The settlement filed by the claimant is sufficient to contradict and overcome the *prima facie* claims.

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 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 Electronic Mail:

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

Water Right Number: 41E 143436-00 STATEMENT OF CLAIM
Version: 5 -- POST DECREE
Status: ACTIVE

Owners: GOLDEN SUNLIGHT MINES INC
310 S MAIN ST STE 1150
SALT LAKE CITY, UT 84101-2114

Priority Date: DECEMBER 31, 1886

Type of Historical Right: FILED

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: BOULDER RIVER
Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Otr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		S2NE	26	2N	3W	JEFFERSON
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
2		W2NESE	26	2N	3W	JEFFERSON
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
3		SENWSE	26	2N	3W	JEFFERSON
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
4		N2SWSE	26	2N	3W	JEFFERSON
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
5		SESW	26	2N	3W	JEFFERSON
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
6		E2W2	35	2N	3W	JEFFERSON
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					

7 W2W2SE 35 2N 3W JEFFERSON
Period of Diversion: JANUARY 1 TO DECEMBER 31
Diversion Means: LIVESTOCK DIRECT FROM SOURCE
8 W2NWNE 2 1N 3W JEFFERSON
Period of Diversion: JANUARY 1 TO DECEMBER 31
Diversion Means: LIVESTOCK DIRECT FROM SOURCE
9 E2NW 2 1N 3W JEFFERSON
Period of Diversion: JANUARY 1 TO DECEMBER 31
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10 SESWNW 2 1N 3W JEFFERSON
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Diversion Means: LIVESTOCK DIRECT FROM SOURCE
11 NESWSE 26 2N 3W JEFFERSON
Period of Diversion: JANUARY 1 TO DECEMBER 31
Diversion Means: DITCH
12 SENENW 35 2N 3W JEFFERSON
Period of Diversion: JANUARY 1 TO DECEMBER 31
Diversion Means: DITCH
Ditch Name: CARDWELL DITCH
13 NWSENW 35 2N 3W JEFFERSON
Period of Diversion: JANUARY 1 TO DECEMBER 31
Diversion Means: DITCH
Ditch Name: SHAW DITCH
14 NWNWNE 2 1N 3W JEFFERSON
Period of Diversion: JANUARY 1 TO DECEMBER 31
Diversion Means: DITCH
Ditch Name: HUCKABA DITCH
Period of Use: JANUARY 1 TO DECEMBER 31
Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Otr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			S2NE	26	2N	3W	JEFFERSON
2			SE	26	2N	3W	JEFFERSON
3			SESW	26	2N	3W	JEFFERSON
4				35	2N	3W	JEFFERSON
5			N2	2	1N	3W	JEFFERSON
6			N2SE	2	1N	3W	JEFFERSON
7			SESE	2	1N	3W	JEFFERSON

Remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

THIS APPROPRIATION OF WATER TAKES WATER FROM THE BOULDER RIVER, TRIBUTARY TO JEFFERSON RIVER DRAINAGE (BASIN 41E) AND USES IT IN THE JEFFERSON RIVER DRAINAGE (BASIN 41G) AND THE BOULDER RIVER, TRIBUTARY TO JEFFERSON RIVER DRAINAGE (BASIN 41E). ANY OBJECTION TO THIS RIGHT MAY BE FILED DURING THE OBJECTION PERIODS FOR EITHER THE POINT OF DIVERSION OR PLACE OF USE BASIN.

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

Water Right Number: 41E 143437-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: GOLDEN SUNLIGHT MINES INC
310 S MAIN ST STE 1150
SALT LAKE CITY, UT 84101-2114

Priority Date: DECEMBER 31, 1868

Type of Historical Right: FILED

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.

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Source Type: SURFACE WATER

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Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
Ditch Name:	CARDWELL DITCH					
2		W2NESE	26	2N	3W	JEFFERSON
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
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1			S2NE	26	2N	3W	JEFFERSON
2			SE	26	2N	3W	JEFFERSON

3	SESW	26	2N	3W	JEFFERSON	
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143432-00 143437-00

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