

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: Pullman North Ranch LLC

OBJECTOR: Pullman North Ranch LLC

CASE 41E-0284-R-2024

41E 2275-00

41E 2276-00

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

Pullman North Ranch LLC objected to each of these claims. On April 9, 2024 Pullman North Ranch LLC filed a Statement And Motion To Resolve Issue Remarks [“Motion”]. This settlement document is 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. For claim 41E 2275-00, the Preliminary Decree states that the volume is 493.50 AC-FT. For claim 41E 2276-00, the Preliminary Decree states that the volume is 227.40 AC-FT. Each of these claims were addressed during the Temporary Preliminary Decree proceedings. Each claim had a separate Master’s Report and Order Adopting Master’s Report. Each Master’s Report includes the following Finding of Fact and Conclusion of Law:

Finding of Fact 6. Pursuant to Mont. Code Ann. Section 85-2-234 (6) (b) (1) the volume amount should be removed at a later date.

Conclusion of Law IV. The volume shall be removed at a later date as directed by Mont. Code Ann. Section 85-2-234 (6) (b) (1).

As requested in the Motion, the volume quantifications should now be removed and the following standard direct flow volume remark for irrigation claims should be added: THE TOTAL VOLUME OF THIS RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

2. The following issue remark on claim 41E 2275-00 should be removed as no longer relevant:

THE CLAIMED VOLUME EXCEEDS THE MAXIMUM FEASIBLE VOLUME. BASED ON THE FLOW RATE AND PERIOD OF USE, THE MAXIMUM VOLUME POSSIBLE IS 483.02 ACRE-FEET PER YEAR.

3. The Preliminary Decree includes the following notice remark on claim 41E 2275-00:

POINT OF DIVERSION AND DITCH NAME 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 Preliminary Decree includes the following notice remark on claim 41E 2276-00:

POINT OF DIVERSION 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.

These remarks provide notice of these changes made prior to issuance of the Preliminary Decree and do not raise unresolved issues which need to be addressed. The remarks should be removed as having served their notice purposes.

CONCLUSION OF LAW

The settlement filed by the claimant is sufficient to contradict and overcome the prima facie claims and 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 grant the Motion and 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 2275-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: PULLMAN NORTH RANCH LLC
2599 GLEN GREEN
LOS ANGELES, CA 90068

Priority Date: MARCH 20, 1892

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

***Flow Rate:** 1.98 CFS

***Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 52.50

Source Name: BOULDER RIVER

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		SWNWSE	12	2N	3W	JEFFERSON

Period of Diversion: MAY 1 TO AUGUST 31

Diversion Means: HEADGATE

Ditch Name: DOWNS DITCH

Period of Use: MAY 1 TO AUGUST 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	10.00		W2SENE	23	2N	3W	JEFFERSON
2	8.50		E2SWNE	23	2N	3W	JEFFERSON
3	7.00		E2NWSE	23	2N	3W	JEFFERSON
4	19.00		NESE	23	2N	3W	JEFFERSON
5	8.00		N2SESE	23	2N	3W	JEFFERSON

Total: 52.50

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

Water Right Number: 41E 2276-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: PULLMAN NORTH RANCH LLC
2599 GLEN GREEN
LOS ANGELES, CA 90068

Priority Date: JUNE 30, 1889

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER

***Flow Rate:** 408.40 GPM

***Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 24.20

Source Name: UNNAMED TRIBUTARY OF BOULDER RIVER

Source Type: SURFACE WATER
ALSO KNOWN AS WARM SPRING CREEK

***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		SWSWSW	23	2N	3W	JEFFERSON

Period of Diversion: MAY 1 TO SEPTEMBER 30

Diversion Means: PUMP

Period of Use: MAY 1 TO SEPTEMBER 30

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	1.25		NENESW	23	2N	3W	JEFFERSON
2	0.60		NWNESW	23	2N	3W	JEFFERSON
3	8.20		SWNESW	23	2N	3W	JEFFERSON
4	1.25		SENWSW	23	2N	3W	JEFFERSON
5	6.90		NESWSW	23	2N	3W	JEFFERSON
6	3.00		NWSESW	23	2N	3W	JEFFERSON
7	3.00		W2SWSW	23	2N	3W	JEFFERSON

Total: 24.20