

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

CLAIMANTS: Cayuse Livestock Co.; Cremer Rodeo Land &
Livestock Co.

OBJECTORS: Cremer Rodeo Land & Livestock Co.; United
States, Bureau of Reclamation

NOTICE OF INTENT TO APPEAR: Crazy Not To, LLC

CASE 43BV-0220-R-2024
43BV 150308-00
43BV 150323-00

CLOSING ORDER

The Water Court included water right claims 43BV 150308-00 and 43BV 150323-00 in the Preliminary Decree for the Sweet Grass Creek Basin (Basin 43BV). Cremer Rodeo Land & Livestock (“Cremer”) owns claim 43BV 150308-00. Cremer and Cayuse Livestock Co. (“Cayuse”) jointly own claim 43BV 150323-00.

The Preliminary Decree describes claim 43BV 150308-00 as a decreed right to use water from Sweet Grass Creek for stock water use with a priority date of July 1, 1885. The Preliminary Decree describes claim 43BV 150323-00 as a decreed right to use water from Sweet Grass Creek for irrigation use with the same priority date as claim 43BV 150308-00. The claims are based on a 130 miner’s inch (3 1/4 cfs) right decreed to Matilda A. Medley in the case *W.A. Harrison et al. v. Paul L. Van Cleve et al.* (Case 342, Mont. Sixth Jud. Dist., Sweet Grass County).

The preliminary decree abstracts for both claims include the following issue remarks:

THE POINTS OF DIVERSION APPEAR TO BE INCORRECT. SEE CLAIM FILE FOR ADDITIONAL INFORMATION.

DITCH NAME AND RESERVOIR RECORD 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 APPEARED ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

Cremer objected to the point of diversion and means of diversion for claim 43BV 150308-00. The United States of America, on behalf of the Department of Interior Bureau of Reclamation (“Reclamation”) objected to the period of diversion for claim 43BV 150323-00. J Bar L Ranches (“J Bar L”) and Crazy Not To, LLC (“Crazy Not To”) filed Notices of Intent to Appear for both claims. The Court consolidated the claims into this case to resolve the common issue remarks and objections. On March 19, 2024, J Bar L withdrew its NOIA.¹ On July 8, 2024, Reclamation filed a stipulation (“Stipulation”) with Cayuse and Cremer to resolve the United States’ objection claim 43B 150323-00.

DISCUSSION

The preliminary decree abstract describes the period of diversion and use of the claim as January 1 to December 31. In the Stipulation the parties agree the period of diversion and use should be April 15 to October 15, consistent with the DNRC’s standards for Climatic Area III. The Water Court may accept a claimant’s requested reduction or limitation without further presentation of evidence unless there is an unresolved issue remark on the claim. Rule 17(c), W.R.Adj.R. As this is a reduction in the period of diversion and use agreed to by Cremer and Cayuse, the Stipulation is approved.

The Stipulation does not address the self-objections or the issue remarks. This remark was placed on the claims during the DNRC’s pre-decree examination of Basin

¹ As part of its withdrawal, J Bar L requested a courtesy copy of the master’s report in this case. As there is no master’s report, the Court provides a copy of this Order.

43BV in preparation for the Preliminary Decree. Prior to issuance of the decree, but after the claims were examined, Cremer filed a motion to amend numerous claims, including 43BV 150308-00 and 43BV 150323-00. On October 1, 2020, the Court issued a final order on Cremer's motion to amend, modifying both claims. The modifications eliminated all the points of diversion but one through the Cremer-Nollmeyer Ditch in the SWNESW of Section 5, T4N, R14E.

To confirm the motion to amend order resolves the self-objections, the Court issued a show cause order on August 16, 2024. The order called for any response to be filed by September 17, 2024. Nothing was filed, so the Court concludes the objections are resolved.

Based on the motion to amend, the point of diversion on both claims is correct and the issue remark shall be removed. To better reflect the terms of the Court's final order on the motion to amend, the Cremer-Nollmeyer ditch name will be added to claim 43BV 150308-00.

ORDER

Therefore, it is ORDERED the period of diversion and use for claim 43BV 150323-00 is April 15 to October 15. The issue remarks are removed from the claims and the objections in this case are DISMISSED as resolved.

Post-decree abstracts of the claims are included with this Order to confirm the modifications have been made to the State's centralized water rights record system.

ELECTRONICALLY SIGNED AND DATED BELOW.

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****Service List Updated 10/1/2024****

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

Water Right Number: 43BV 150308-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: CREMER RODEO LAND & LIVESTOCK CO
PO BOX 276
MELVILLE, MT 59055-0276

Priority Date: JULY 1, 1885

Type of Historical Right: DECREED

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 WATER 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: 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		SWNESW	5	4N	14E	SWEET GRASS

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: HEADGATE

Ditch Name: CREMER-NOLLMEYER DITCH

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			SW	6	3N	16E	SWEET GRASS
2				7	3N	16E	SWEET GRASS
3			W2W2	8	3N	16E	SWEET GRASS
4			W2W2	17	3N	16E	SWEET GRASS
5			E2E2	18	3N	16E	SWEET GRASS
6			NW	20	3N	16E	SWEET GRASS
7			N2	24	4N	14E	SWEET GRASS
8			W2	23	4N	14E	SWEET GRASS
9				15	4N	14E	SWEET GRASS
10				14	4N	14E	SWEET GRASS
11				21	4N	14E	SWEET GRASS
12				22	4N	14E	SWEET GRASS

13	26	4N	14E	SWEET GRASS
14	25	4N	14E	SWEET GRASS

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.

150308-00

150323-00

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

Water Right Number: 43BV 150323-00 STATEMENT OF CLAIM

Version: 5 -- POST DECREE

Status: ACTIVE

Owners: CAYUSE LIVESTOCK CO
 316A MELVILLE RD
 BIG TIMBER, MT 59011-7704

CREMER RODEO LAND & LIVESTOCK CO
 PO BOX 276
 MELVILLE, MT 59055-0276

Priority Date: JULY 1, 1885

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 3.25 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:** 447.00

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		SWNESW	5	4N	14E	SWEET GRASS

Period of Diversion: APRIL 15 TO OCTOBER 15

Diversion Means: HEADGATE

Ditch Name: CREMER-NOLLMMEYER DITCH

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	189.00		N2	2	4N	14E	SWEET GRASS
2	148.00		N2	3	4N	14E	SWEET GRASS
3	10.00		SE	34	5N	14E	SWEET GRASS
4	100.00		SW	34	5N	14E	SWEET GRASS

Total: 447.00

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.

150308-00 150323-00

AUTHORIZATION TO CHANGE THE POINT OF DIVERSION AND PLACE OF USE ISSUED 03/10/00. SEE 43BV-G (W)150309-00 .