

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: Reno L. Parker

CASE 41E-0138-R-2024

41E 109715-00

OBJECTORS: United States of America (USDA Forest Service);
United States of America (Bureau of Reclamation)

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 finding 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

The United States of America (USDI Bureau of Reclamation) and the (USDA Forest Service) each objected to this claim. This claim appeared in the Preliminary Decree with the following issue remarks:

THE CLAIMED POINT OF DIVERSION IS IN QUESTION. THE LOCATION OF THE HEADGATE CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

EXISTENCE OF THE CLAIMED RESERVOIR CANNOT BE CONFIRMED WITH AVAILABLE DATA.

NO TYPE OF HISTORICAL RIGHT WAS CLAIMED. DOCUMENTATION TO SUPPORT THE TYPE OF HISTORICAL RIGHT WAS NOT SUBMITTED WITH THIS CLAIM.

On May 1, 2024 the United States' Response To Court Order And Motion For Filing Deadline To Show Cause Order was filed by both objectors stating that the claim should be terminated as abandoned or never perfected. The June 18, 2024 Order Setting Show Cause Filing Deadline states:

On May 1, 2024 the United States' Response To Court Order And Motion For Filing Deadline To Show Cause Order was filed requesting an order for Reno L. Parker's successor to show cause why municipal claim 41E 109715-00 should not be terminated because it does not meet the statutory definition for municipal use under section 85-2-227, MCA, and there is no evidence a reservoir exists. The Motion states:

Claimant is deceased. Counsel for the United States has been in contact with Barbara Parker, through her representative, who says she is Claimant's next of kin. Mrs. Parker has indicated that the claimed water right is no longer in use and that she does not have an interest in participating in this proceeding.

Fourteen days have passed with no response filed by the claimant's successor. Therefore, it is

ORDERED that the Motion is GRANTED and

ORDERED that the deadline is **July 18, 2024** for Reno L. Parker's successor to show cause in writing why claim 41E 109715-00 should not be dismissed. If nothing is filed by Reno L. Parker's successor, the Court will conclude she agrees the claim should be dismissed.

Nothing was filed. This 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.

FINDING OF FACT

Claim 41E 109715-00 should be dismissed.

CONCLUSION OF LAW

The United States' Motion and the claimant's successor's failure to show cause are sufficient to contradict and overcome the prima facie claim.

RECOMMENDATIONS

Based upon the above Finding of Fact and Conclusion of Law, this Master recommends that the Court dismiss this claim as stated in the Finding of Fact to correct the Preliminary Decree for this Basin. A Post Decree Abstract of Water Right Claim is served with this Report to confirm the claim is dismissed in the state's centralized record system.

ELECTRONICALLY SIGNED AND DATED BELOW

Service via USPS Mail:

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

Water Right Number: 41E 109715-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: **DISMISSED**

Owners: RENO L PARKER
3110 WASHBURN ST APT 1A
MISSOULA, MT 59801-8380

Priority Date:

Type of Historical Right:

Purpose (Use): MUNICIPAL

Flow Rate:

Volume:

Source Name: UNNAMED TRIBUTARY OF CATARACT CREEK

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.