

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

\*\*\*\*\*

CLAIMANTS: N & R Corporation; NR & EJ Limited Partnership;  
Sugarloaf Mountain LLC

**CASE 41E-0145-R-2024**  
41E 89288-00

OBJECTOR: United States of America (Bureau of Land Management)

**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**

The United States of America (Bureau of Land Management) objected to this claim. The March 6, 2024 Court Minutes, Order Entering Default, and Order Setting Filing Deadline entered the default of Sugarloaf Mountain LLC for its failure to appear at the March 6, 2024 scheduling

conference. On August 9, 2024 the United States' Notice Of Stipulation And Motion For Show Cause Order was filed. The Stipulation To Resolve Objection is signed by N & R Corporation, NR & EJ Limited Partnership, and the United States of America (Bureau of Land Management). Sugarloaf Mountain LLC did not file a response to the motion.

On August 13, 2024, while this Master was on leave, another Master issued an Order Setting Show Cause Filing Deadline which states:

ORDERED that the Motion For Show Cause Order is GRANTED and  
ORDERED that the deadline is **September 13, 2024** for Sugarloaf Mountain LLC to show cause in writing why the Court should not add the stipulated information remark to claim 41E 89288-00. If nothing is filed by Sugarloaf Mountain LLC, the Court will conclude it agrees with the addition of the stipulated information remark.

Nothing was filed by Sugarloaf Mountain LLC. These documents are 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. The following remark should be added to the abstract of claim: THE POINTS OF DIVERSION AND PLACES OF USE ARE LIMITED TO PRIVATE LAND.

2. The Preliminary Decree includes the following notice remarks:

CLAIM WAS IMPROPERLY DESIGNATED TO BASIN 41I . CLAIM WAS NOT INCLUDED IN THE BASIN 41E TEMPORARY DECREE ISSUED 06/20/1985.

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 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 is sufficient to contradict and overcome the prima facie claim.

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 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 USPS Mail:**

Sugarloaf Mountain LLC  
1821 South Ave W Ste 407  
Missoula, MT 59801

**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 89288-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** N & R CORPORATION  
PO BOX 1715  
33 LAST CHANCE GULCH  
HELENA, MT 59624  
  
NR & EJ LIMITED PARTNERSHIP  
PO BOX 1715  
33 LAST CHANCE GULCH  
HELENA, MT 59624

SUGARLOAF MOUNTAIN LLC  
1821 SOUTH AVE W STE 407  
MISSOULA, MT 59801-6521

**Priority Date:** AUGUST 31, 1868

**Type of Historical Right:** FILED

**Purpose (Use):** MINING

**Flow Rate:** 1.25 CFS

**\*Volume:** THIS RIGHT IS LIMITED TO THE VOLUME OF WATER HISTORICALLY USED FOR MINING PURPOSES.

**Source Name:** HIGH ORE 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	8	NENWNW	1	6N	5W	JEFFERSON
<b>Period of Diversion:</b> APRIL 1 TO NOVEMBER 1						
<b>Diversion Means:</b> PUMP						
2	1	SWNWNW	31	7N	4W	JEFFERSON
<b>Period of Diversion:</b> APRIL 1 TO NOVEMBER 1						
<b>Diversion Means:</b> PUMP						
3		NESWSE	36	7N	5W	JEFFERSON
<b>Period of Diversion:</b> APRIL 1 TO NOVEMBER 1						
<b>Diversion Means:</b> PUMP						
4	8	NWNWNW	1	6N	5W	JEFFERSON
<b>Period of Diversion:</b> APRIL 1 TO NOVEMBER 1						
<b>Diversion Means:</b> PUMP						
<b>Period of Use:</b> APRIL 1 TO NOVEMBER 1						

**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			SWNWNW	31	7N	4W	JEFFERSON
2			SWSWSE	36	7N	5W	JEFFERSON
3			SWNWNW	1	6N	5W	JEFFERSON
4			NENWNW	1	6N	5W	JEFFERSON

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**Remarks:**

THE POINTS OF DIVERSION AND PLACES OF USE ARE LIMITED TO PRIVATE LAND.