

Montana Water Court
PO Box 1389
Bozeman MT 59771-1389
(406) 586-4364
1-800-624-3270
watercourt@mt.gov

IN THE WATER COURT OF THE STATE OF MONTANA
UPPER MISSOURI DIVISION
TWO MEDICINE RIVER – BASIN (41M)

CLAIMANTS: Phyllis H. Connolly; David L. Horn; George Horn;
James Horn; B.L. Everybody Talks About; Charles
Everybody Talks About; Darr Everybody Talks About;
E.J. Everybody Talks About; Ger Everybody Talks
About; Kare Everybody Talks About; Lero Everybody
Talks About; Leta Everybody Talks About; Mary
Everybody Talks About; Rog Everybody Talks About;
Sam Everybody Talks About; Ver Everybody Talks
About; William Everybody Talks About; Oral M. Site;
Marie Young Runer Carlson; Dale Young Running
Crane; Gerald Young Running Crane; Marlys Young
Running Crane

41M-0083-P-2024
41M 124386-00
41M 124387-00

OBJECTOR: United States of America (Bureau of Indian Affairs)

NOTICE OF INTENT TO APPEAR: Blackfeet Tribe; Pondera
County Canal & Reservoir Co.

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, conclusions 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 be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must serve 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

ISSUE

Should the above captioned claims be dismissed?

STATEMENTS OF APPLICABLE LAW

Burden of Proof

1. A properly filed Statement of Claim for Existing Water Right is prima facie proof of its content. Section 85-2-227, MCA. This prima facie proof may be contradicted and overcome by other evidence that proves an element of the prima facie claim is incorrect. This is the standard of proof whether objectors are adverse to the claimants or are the claimants objecting to their own claims. Rule 19, W.R.Adj.R.

2. The Montana Water Court is permitted to use information submitted by the Department of Natural Resources and Conservation, the statement of claim, information from approved compacts, and any other data obtained by the Court to evaluate water right claims. Section 85-2-231(2), MCA.

Sanctions

3. All parties subject to the jurisdiction of the Montana Water Court in this adjudication have the obligation to comply with Orders of this Court, including Orders issued by a Master appointed by the Court. When a claimant fails to comply with an Order issued by the Water Court, including an order issued by a Water Master appointed by the Court, the Court upon its own initiative or upon motion, can among other actions: 1) modify the elements of the claim to conform with the information in the claim file, information obtained by the Court, or information included in an objection, or 2) terminate the claim. Rule 22, W.R.Adj.R.

FINDINGS OF FACT

1. The above captioned stock claims received issue remarks concerning potential ownership by the “USA in Trust” and questioning whether the claims are state-based or part of the tribal water right defined by the Blackfeet-Montana-United States Compact.

2. The United States of America (Bureau of Indian Affairs) filed objections to all elements of the claims stating the claims are on land held in trust and should be withdrawn. The Blackfeet Tribe filed a Notice of Intent to Appear stating, “The Blackfeet Tribe adopts the objections of the U.S. BIA...” Pondera County Canal & Reservoir Co. filed a Notice of Intent to Appear for claim 41M 124387-00 stating it “has claims that may be affected by the adjudication of this claim.”

3. The court held a status conference and set several filing deadlines. Claimants failed to participate in any proceedings. Several orders issued by the Court included a written warning that failure to participate in proceedings could result in sanctions, up to and including termination of the claims.

4. On September 9, 2024, the United States of America (Bureau of Indian Affairs) and the Blackfeet Tribe filed a Joint Motion for Show Cause Order pursuant to Rule 22, W.R.Adj.R., based upon claimants’ failure to participate in these proceedings.

Notice of intent to appear party Pondera County Canal & Reservoir Co. did not concur with the motion. The court placed the motion on its motions calendar. Pondera County Canal & Reservoir Co. did not file an objection to the motion.

5. The United States of America (Bureau of Indian Affairs) and the Blackfeet Tribe requested to terminate the claims. The evidence in support was a United States of America (Bureau of Indian Affairs) Title Status Report.

The Title Status Report establishes the point of diversion and place of use legal land descriptions identified by the claims are currently held in trust by the United States on behalf of the Blackfeet Tribe. Based upon this ownership, it appears any water right claim appurtenant to this property would be part of the tribal water right defined by the Blackfeet-Montana-United States Compact.

The court did not set a thirty-day deadline for claimants to file evidence with the court showing cause why the claims should not be dismissed because no current mailing addresses were available for claimants.

6. The above captioned stock claims should be dismissed.

7. The issue remarks appearing on the claims are moot due to the dismissal of the claims.

CONCLUSIONS OF LAW

Based upon the objection to and the notices of intent to appear for the claims, the United States of America (Bureau of Indian Affairs') and the Blackfeet Tribe's request to terminate the claims and the evidence filed in support of the request to terminate, and the claimants' repeated failure to comply with orders issued by the court, the requested sanction appears just pursuant to Rule 22, W.R.Adj.R.

RECOMMENDATIONS

The above captioned stock claims should be dismissed. The dismissal of the claims moots the issue remarks appearing on the claims.

Post Decree Abstracts of Water Right Claim accompany this report to confirm dismissal of the claims in the state's centralized water right record system.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail

Phyllis H. Connolly
~~PO Box 145~~
Browning, MT 59417
(Mail undeliverable)

David L. Horn
George Horn
James Horn
B.L. Everybody Talks About
Charles Everybody Talks About
Darr Everybody Talks About
E.J. Everybody Talks About
Ger Everybody Talks About
Kare Everybody Talks About
Lero Everybody Talks About
Leta Everybody Talks About
Mary Everybody Talks About
Rog Everybody Talks About
Sam Everybody Talks About
Ver Everybody Talks About
William Everybody Talks About
Oral M. Site
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Gerald Young Running Crane
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Service via Electronic Mail

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POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
TWO MEDICINE RIVER
BASIN 41M

Water Right Number: 41M 124386-00 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: **DISMISSED**

Owners: PHYLLIS H CONNOLLY
PO BOX 145
BROWNING, MT 59417

DAVID L HORN
-
BROWNING, MT 59417

GEORGE HORN
-
BROWNING, MT 59417

JAMES HORN
-
BROWNING, MT 59417

Priority Date:

Type of Historical Right:

Purpose (Use): STOCK

Flow Rate:

Volume:

Source Name: LITTLE BADGER 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.

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
TWO MEDICINE RIVER
BASIN 41M

Water Right Number: 41M 124387-00 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: **DISMISSED**

Owners:

PHYLLIS H CONNOLLY
PO BOX 145
BROWNING, MT 59417

B L EVERYBODY TALKS ABOUT
-
BROWNING, MT 59417

CHARLES EVERYBODY TALKS ABOUT
-
BROWNING, MT 59417

DARR EVERYBODY TALKS ABOUT
-
BROWNING, MT 59417

E J EVERYBODY TALKS ABOUT
-
BROWNING, MT 59417

GER EVERYBODY TALKS ABOUT
-
BROWNING, MT 59417

KARE EVERYBODY TALKS ABOUT
-
BROWNING, MT 59417

LERO EVERYBODY TALKS ABOUT
-
BROWNING, MT 59417

LETA EVERYBODY TALKS ABOUT
-
BROWNING, MT 59417

MARY EVERYBODY TALKS ABOUT
-
BROWNING, MT 59417

ROG EVERYBODY TALKS ABOUT
-
BROWNING, MT 59417

SAM EVERYBODY TALKS ABOUT

-

BROWNING, MT 59417

VER EVERYBODY TALKS ABOUT

-

BROWNING, MT 59417

WILLIAM EVERYBODY TALKS ABOUT

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DAVID L HORN

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BROWNING, MT 59417

GEORGE HORN

-

BROWNING, MT 59417

JAMES HORN

-

BROWNING, MT 59417

ORAL M SITE

-

BROWNING, MT 59417

MARIE YOUNG RUNER CARLSON

-

BROWNING, MT 59417

DALE YOUNG RUNNING CRANE

-

BROWNING, MT 59417

GERALD YOUNG RUNNING CRANE

-

BROWNING, MT 59417

MARLYS YOUNG RUNNING CRANE

-

BROWNING, MT 59417

Priority Date:

Type of Historical Right:

Purpose (Use):

STOCK

Flow Rate:

Volume:

Source Name:

BIRCH 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.