

Montana Water Court  
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IN THE WATER COURT OF THE STATE OF MONTANA  
UPPER MISSOURI DIVISION  
MADISON RIVER BASIN (41F)  
PRELIMINARY DECREE

\*\*\*\*\*

CLAIMANT: Granger Ranches LP

OBJECTOR: Granger Ranches LP

**CASE 41F-0153-R-2025**

41F 30124097

41F 30124120

**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**

### **Statement of the case**

Stock claims 41F 30124097 and 41F 30124120 received self-objections from claimant Granger Ranches LP. Granger Ranches LP objected to refine the point of diversion and correct the place of use identified by claim 41F 30124097 and correct the period of use and period of diversion identified by claim 41F 30124120.

Each claim received the following notice issue remark:

THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 41F DECREE ISSUED 07/25/1984 .

Issue remarks result from Department of Natural Resources and Conservation ("DNRC") claims examination. Montana law requires the Water Court to resolve issue remarks and objections.

### **Issues**

1. Are Granger Ranches LP's objections to each claim resolved?
2. Is the notice issue remark on each claim resolved?

### **Findings of fact**

1. The historically accurate point of diversion for stock claim 41F 30124097 is **Gov't. Lot 3**, SWNWSW of Section 15, Township 7 South, Range 1 East and the historically accurate place of use for parcel ID currently identified as No. 3 is the NWSE of Section **7**, Township 7 South, Range 1 East.

2. The historically accurate period of use and period of diversion for stock claim 41F 30124120 is April **1** to August 1.

### **Principles of law**

1. A properly filed Statement of Claim for Existing Water Right is prima facie proof of its content. Section 85-2-227, MCA. Prima facie proof may be overcome by other evidence that proves, by a preponderance of the evidence, that an element of the prima facie claim is incorrect. This is the burden of proof for every assertion that a claim

is incorrect. Rule 19, W.R.Adj.R. A preponderance of the evidence is a “modest standard” and is evidence that demonstrates the fact to be proved is “more probable than not.” *Hohenlohe v. State*, 2010 MT 203, ¶ 33, 357 Mont. 348, 240 P.3d 628.

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.

3. Settlement, including the documents filed by a claimant where the claimant is the only party, is subject to review and approval by the Water Court. Rule 17(a), W.R.Adj.R.

4. When resolving issue remarks, the Montana Water Court must weigh the information resulting in the issue remark and the issue remark against the claimed water right. Section 85-2-247(2), MCA.

5. The Montana Water Court has the authority to resolve issue remarks when the claim file and information available to the Court provide a sufficient basis to do so. Section 85-2-248(3), MCA.

6. A clerical mistake or mistake arising from omission or oversight may be corrected by the court at any time. Rule 60(a), M.R.Civ.P.

## **Analysis**

### **Issues 1 and 2 - Objection and issue remark resolution**

Granger Ranches LP asserts the point of diversion and place of use should be modified to match the maps attached to and in support of stock statement of claim 41F 30124097 instead of the written point of diversion and place of use identified by the statement of claim.

Granger Ranches LP asserts the period of use and period of diversion identified by the statement of claim is correct and historically accurate. The period of use and period of diversion identified by the Preliminary Decree abstract is a clerical error made at the time of data entry by the DNRC.

The claim appeared in the Preliminary Decree with the following issue remark:  
THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 76D DECREE ISSUED 03/22/1984.

Water users were given the opportunity to review the claim and file an objection. The deadline to file objections expired. The only objections filed to these claims are resolved by these case proceedings.

### **Conclusions of law**

For stock claim 41F 30124097, the modified point of diversion is a refinement within the parameters of the prima facie statement of claim, and the modified place of use is supported by the maps attached to and in support of the prima facie statement of claim. The record before the court justifies the modifications proposed by Granger Ranches LP's objection and resolves its objection to claim 41F 30124097.

Clerical errors may be corrected at any time. The requested correction to period of use and period of diversion for stock claim 41F 30124120 should be completed, thereby resolving Granger Ranches LP's objection to claim 41F 30124120.

The issue remark on each claim noting the lack of the claim's inclusion in the previous Basin 41F decree served its notice purpose.

### **Recommendations**

Stock claim 41F 30124097 should be modified as follows to accurately reflect historical use.

#### **POINT 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>
	3	SWNWSW	15	7S	1E	MADISON

#### **PLACE OF USE:**

<u>ID</u>	<u>GOVT LOT</u>	<u>QTR SEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
3		NWSE	7 8	7S	1E	MADISON

Stock claim 41F 30124120 should be modified as follows to accurately reflect historical use.

#### **PERIOD OF USE AND PERIOD OF DIVERSION:**

~~APRIL 4 TO AUGUST 1~~

**APRIL 1 TO AUGUST 1**

The notice issue remark should be removed from the claim abstracts.

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

**ELECTRONICALLY SIGNED AND DATED BELOW.**

**Service via Electronic Mail**

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**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
MADISON RIVER  
BASIN 41F**

**Water Right Number:** 41F 30124097 STATEMENT OF CLAIM

**Version:** 2 -- POST DECREE

**Status:** ACTIVE

**Owners:** GRANGER RANCHES LP  
PO BOX 691  
ENNIS, MT 59729-0691

**Priority Date:** JUNE 1, 1909

**Type of Historical Right:** USE

**Purpose (Use):** STOCK

**Flow Rate:** 17.08 GPM

**\*Volume:** THIS 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:** SPRING, UNNAMED TRIBUTARY OF MILL CREEK

**Source Type:** GROUNDWATER

ALSO KNOWN AS MILL CREEK SPRING

**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	3	SWNWSW	15	7S	1E	MADISON

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** DEVELOPED SPRING

PIPELINE IS SECONDARY MEANS OF DIVERSION.

**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			NWNW	7	7S	1E	MADISON
2			SESE	7	7S	1E	MADISON
3			NWSE	7	7S	1E	MADISON
4			SESW	8	7S	1E	MADISON
5			SWSW	8	7S	1E	MADISON
6			SWSW	8	7S	1E	MADISON
7			SWSW	8	7S	1E	MADISON
8			SWSW	8	7S	1E	MADISON
9			SWSW	8	7S	1E	MADISON
10			NESE	12	7S	1W	MADISON
11			NWSE	12	7S	1W	MADISON

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**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.

30124097

30124117

30124119

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
MADISON RIVER  
BASIN 41F**

**Water Right Number:** 41F 30124120 STATEMENT OF CLAIM

**Version:** 2 -- POST DECREE

**Status:** ACTIVE

**Owners:** GRANGER RANCHES LP  
PO BOX 691  
ENNIS, MT 59729-0691

**Priority Date:** APRIL 1, 1867

**Type of Historical Right:** USE

**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 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:** MILL 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		SWNWSE	7	7S	1E	MADISON
<b>Period of Diversion:</b>	APRIL 1 TO AUGUST 1					
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE					
2		SESE	7	7S	1E	MADISON
<b>Period of Diversion:</b>	APRIL 1 TO AUGUST 1					
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE					
3		N2SWSE	7	7S	1E	MADISON
<b>Period of Diversion:</b>	APRIL 1 TO AUGUST 1					
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE					
4		NESW	7	7S	1E	MADISON
<b>Period of Diversion:</b>	APRIL 1 TO AUGUST 1					
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE					
5		N2NWSW	7	7S	1E	MADISON
<b>Period of Diversion:</b>	APRIL 1 TO AUGUST 1					
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE					
6		SWSW	8	7S	1E	MADISON
<b>Period of Diversion:</b>	APRIL 1 TO AUGUST 1					
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE					



7	N2SE	12	7S	1W	MADISON
<b>Period of Diversion:</b> APRIL 1 TO AUGUST 1					
<b>Diversion Means:</b> LIVESTOCK DIRECT FROM SOURCE					
8	N2NESW	12	7S	1W	MADISON
<b>Period of Diversion:</b> APRIL 1 TO AUGUST 1					
<b>Diversion Means:</b> LIVESTOCK DIRECT FROM SOURCE					
<b>Period of Use:</b> APRIL 1 TO AUGUST 1					
<b>*Place of Use:</b>					

<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			SWNWSE	7	7S	1E	MADISON
2			SESE	7	7S	1E	MADISON
3			N2SWSE	7	7S	1E	MADISON
4			NESW	7	7S	1E	MADISON
5			N2NWSW	7	7S	1E	MADISON
6			SWSW	8	7S	1E	MADISON
7			N2SE	12	7S	1W	MADISON
8			N2NESW	12	7S	1W	MADISON