

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: HRMT Land, LLC

OBJECTOR: HRMT Land, LLC

NOTICE OF INTENT TO APPEAR PARTY: United States of
America (Bureau of Reclamation)

CASE 41F-0005-R-2024
41F 13822-00

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

Montana law requires the Water Court to resolve objections, notices of intent to appear, and issue remarks. Dancing Madison LLC, HRMT Land, LLC's predecessor in interest, filed an objection to its irrigation claim 41F 13822-00 stating the place of use legal land description "should be updated to include the S2NW of Section 9, in T1S R2E." On January 28, 2025, the court granted Dancing Madison LLC's and HRMT Land LLC's motion to substitute party. HRMT Land, LLC was substituted as objector for Dancing Madison LLC. The United States of America (Bureau of Reclamation) ("BOR") filed a notice of intent to appear for irrigation claim 41F 13822-00. Irrigation claim 41F 13822-00 appeared in the Preliminary Decree with a notice issue remark concerning ditch name. Issue remarks result from Department of Natural Resources and Conservation ("DNRC") claims examination. If claims examination cannot confirm some aspect of a claim, an issue remark is added to the claim.

On May 27, 2025, HRMT Land, LLC filed Documentation to Resolve Claimant's Objection. On May 30, 2025, the BOR filed a Statement Regarding Documentation to Resolve Claimant's Objection. The BOR stated claimant's proposed modifications to irrigation claim 41F 13822-00 would resolve the BOR's notice of intent to appear.

Issues

1. Should the court accept HRMT Land, LLC's proposed modifications to irrigation claim 41F 13822-00?
2. Is the notice issue remark resolved?

Findings of fact

A preponderance of evidence establishes that the historically accurate place of use legal land description should be modified as proposed by HRMT Land, LLC to 33.00 acres in the S2NW and 113.00 acres in the SW of Section 9, Township 1 South, Range 2 East, Gallatin County.

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. If the settlement agreement expands or enlarges an element of a claim, evidence meeting the burden of proof must be provided. If the evidence does not meet the burden of proof, the element shall not be expanded or enlarged. Rule 17(b), W.R.Adj.R.

5. 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.

6. 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.

Analysis

Issue 1 – proposed modifications and resolution of objection and notice of intent to appear

HRMT Land, LLC's documentation includes:

- a 1976 aerial photograph depicting the claimed 146.00-acre place of use (Ex. 1),
- an enlargement of the 1976 aerial photograph depicting the claimed 146.00-acre place of use (Ex. 2), and
- a 2024 aerial photograph depicting the same 146.00-acre place of use.

HRMT Land, LLC explains the place of use "historically included the S2NW of Section 9, Township 1 South, Range 2 East." The resolution proposed by HRMT Land, LLC does not modify the number of acres irrigated, instead reducing the number of acres irrigated in the claimed place of use legal land description by 33.00 acres and adding an adjoining legal land description for those 33.00 acres.

The hand drawn map attached to the statement of claim appears to match the aerial photos depicting the historical place of use attached to HRMT Land, LLC's Documentation to Resolve Claimant's Objection.

HRMT Land, LLC's Documentation to Resolve Claimant's Objection and exhibits may be viewed on the court's case management system, FullCourt Enterprise, at document sequence 9.00.

Conclusions of law

HRMT Land, LLC provided a preponderance of evidence supporting the additional place of use legal land description, overcoming prima facie statement of claim 41F 13822-00, and providing the justification for modifying the claim.

HRMT Land, LLC's proposed resolution should be accepted by the court thereby resolving HRMT Land, LLC's objection to and the BOR's notice of intent to appear for irrigation claim 41F 13822-00.

Issue 2 – issue remark resolution

Claim 41F 13822-00 appeared in the Preliminary Decree with the following issue

remark:

DITCH NAME 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.

Water users were given the opportunity to review the claim and file an objection to the noted element. The deadline to file objections expired. The only objection filed to claim 41F 13822-00 was resolved during these case proceedings, and did not involve modification of the ditch name.

Conclusion of law

The ditch name issue remark served its notice purpose.

Recommendations

Irrigation claim 41F 13822-00 should be modified as follows to accurately reflect historical use.

PLACE OF USE:

	<u>ACRES</u>	<u>GOVT LOT</u>	<u>QTR SEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
113.00	146.00		SW	9	1S	2E	GALLATIN
	<u>33.00</u>		S2NW	9	1S	2E	GALLATIN
TOTAL:	146.00						

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

A Post Decree Abstract of Water Right Claim accompanies 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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Service List Updated 8/6/2025

\\JUDHLNSRV-DATA\Share\JUDGALH2OSRV (Datavol)\Share\WC-BASIN FOLDERS\41F\41F PD\Cases\5R\MR--41F-5R sjs.docx

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

Water Right Number: 41F 13822-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: HRMT LAND, LLC
101 N MAIN STREET, SUITE 410
ANN ARBOR, MI 48104

Priority Date: JUNE 10, 1882

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER

Flow Rate: 3.65 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: 146.00

Source Name: MADISON RIVER

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		SENESE	31	1S	2E	GALLATIN

Period of Diversion: APRIL 15 TO OCTOBER 1

Diversion Means: HEADGATE

Ditch Name: DELL DITCH

Period of Use: APRIL 15 TO OCTOBER 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	113.00		SW	9	1S	2E	GALLATIN
2	33.00		S2NW	9	1S	2E	GALLATIN
Total:	146.00						