

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

CLAIMANTS: Ennis Hot Springs LLP; Patrick J. Goggins

OBJECTORS: United States of America (Bureau of
Reclamation); Patrick J. Goggins

CASE 41F-0120-R-2024

41F 8486-00

41F 148623-00

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 and issue remarks. The United States of America (Bureau of Reclamation) ("BOR") filed an objection to all elements of each captioned irrigation claim stating the claims if perfected, were abandoned. Each irrigation claim received issue remarks. 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. Irrigation claim 41F 8486-00 appeared in the Preliminary Decree with issue remarks noting a late objection to the flow rate of the claim, and a notice issue remark concerning ditch name. Irrigation claim 41F 148623-00 appeared in the Preliminary Decree with a notice issue remark concerning point of diversion.

The court held a status conference on January 23, 2025. Co-claimant Ennis Hot Springs LLP did not appear. On May 30, 2025, objector the BOR, and co-claimant/objector Patrick J. Goggins, filed a Stipulation to Resolve Objections. On May 30, 2025, the BOR filed a motion for a show cause order, and requested 30 days for co-claimant Ennis Hot Springs LLP to show cause why claim 41F 8486-00 should not be terminated, as agreed to by co-claimant Patrick J. Goggins in the May 30, 2025 Stipulation. A filing deadline was set for co-claimant Ennis Hot Springs LLP to Show Cause why the claim 41F 8486-00 should not be dismissed. On June 27, 2025, the BOR filed a Response to Court Order. The BOR attached a letter from Steven Kack, General Partner for Ennis Hot Springs LLP to its Response. Mr. Kack agreed with the dismissal of claim 41F 8486-00.

Issues

1. Are the objections to the captioned irrigation claims resolved?
2. Are the issue remarks on each claim resolved?

Findings of fact

1. Irrigation claim 41F 8486-00 should be dismissed.
2. The historical maximum acres irrigated identified by irrigation claim 41F 148623-00 should be reduced to 40.00 acres.

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. The Water Court may accept a settlement agreement that reduces or limits an element of a claim and need not determine whether the burden of proof is met unless there is an unresolved issue remark on the claim. Rule 17(c), 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 – resolution of objections

The parties agreed to the dismissal of irrigation claim 41F 8486-00.

The letter of agreement from Ennis Hot Springs LLP to the stipulated dismissal of irrigation claim 41F 8486-00 may be viewed on the court's case management system, FullCourt Enterprise, at document sequence 13.00.

The parties stipulated to reducing the maximum acres irrigated for claim 41F 148623-00.

The Stipulation to Resolve Objections and 1976 and 2005 aerial photos depicting the place of use may be viewed on the court's case management system, FullCourt Enterprise, at document sequence 10.00.

Conclusions of law

The dismissal of claim 41F 8486-00 resolves the BOR's objection to the claim and Patrick J. Goggins' objection to the claim. The evidence entered into the record is a reduction within the parameters of statement of claim 41F 148623-00, justifies the modifications to the claim, and resolves the BOR's objection to the claim. The stipulated terms should be accepted by the court.

Issue 2 –issue remark resolution

Claim 41F 8486-00 appeared in the Preliminary Decree with the following issue remarks:

A LATE OBJECTION HAS BEEN FILED TO THE INCREASE OF FLOW RATE TO 7.37 CFS OF THIS WATER RIGHT CLAIM. IT WILL BE RESOLVED DURING THE ADJUDICATION OF OBJECTIONS TO THE PRELIMINARY DECREE.

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.

The dismissal of claim 41F 8486-00 moots the issue remarks appearing on the claim.

Claim 41F 148623-00 appeared in the Preliminary Decree with the following issue remark:

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.

Water users were given the opportunity to review the claim and file an objection to the noted elements. The deadline to file objections expired. The only objection filed to the claim was resolved during these case proceedings, and did not involve modification of the point of diversion.

Conclusions of law

The dismissal of irrigation claim 41F 8486-00 moots the issue remarks on the claim.

The issue remark appearing on claim 41F 148623-00 served its notice purpose.

Recommendations

Irrigation claim 41F 8486-00 should be dismissed.

Irrigation claim 41F 148623-00 should be modified as follows to accurately reflect historical use.

<u>MAXIMUM ACRES:</u>	80.00	40.00
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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>
	40.00 80.00		W2NW	34	5S	1W	MADISON
TOTAL:	40.00 80.00						

The notice issue remark should be removed from the abstract of claim 41F 148623-00.

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

ELECTRONICALLY SIGNED AND DATED BELOW.

Service Via USPS Mail:

Ennis Hot Springs LLP
PO Box 512
Ennis, MT 59729-0512

Patrick J. Goggins
22 Goggins Dr
Ennis, MT 59729

Service via Electronic Mail:

Alexa Penalosa, Trial Attorney
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U.S. Dept of Justice, ENRD-NRS
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Michelle.Ramus@usdoj.gov
MontanaBasins.ENRD@usdoj.gov

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

Water Right Number: **41F 8486-00** STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: **DISMISSED**

Owners: PATRICK J GOGGINS
 22 GOGGINS DR
 ENNIS, MT 59729

 ENNIS HOT SPRINGS LLP
 PO BOX 512
 ENNIS, MT 59729-0512

Priority Date:

Type of Historical Right:

Purpose (Use): IRRIGATION

Flow Rate:

Volume:

Source Name: MADISON RIVER

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
MADISON RIVER
BASIN 41F

Water Right Number: 41F 148623-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: PATRICK J GOGGINS
22 GOGGINS DR
ENNIS, MT 59729

Priority Date: JUNE 30, 1913

Type of Historical Right: USE

Purpose (Use): IRRIGATION

Flow Rate: 3.03 CFS

*Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 40.00

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	4		3	6S	1W	MADISON	
Period of Diversion:		MAY 1 TO SEPTEMBER 1					
Diversion Means:		HEADGATE					
Period of Use:		MAY 1 TO SEPTEMBER 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	40.00		W2NW	34	5S	1W	MADISON
Total:		40.00					

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.

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