

Montana Water Court  
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**FILED**  
02/21/2025  
Sara Calkins  
CLERK  
Montana Water Court  
STATE OF MONTANA  
By: Swithin Shearer  
41F-0036-R-2024  
Stradley, Anna  
2.00

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

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CLAIMANT: Beaver Dam Ranch LLC

**CASE 41F-0036-R-2024**  
41F 117337-00  
41F 117344-00

**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**

The captioned stock claims received the following issue remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT APPEAR TO BE DUPLICATE FILINGS. IT APPEARS ONLY ONE WATER RIGHT IS INVOLVED. 41F 117337-00, 41F 117344-00.

MEANS OF DIVERSION AND DITCH NAME WERE 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.

Issue remarks result from Department of Natural Resources and Conservation (“DNRC”) claims examination. Claims examination confirms the historical use of water right claims and identifies issues with claims. If claims examination cannot confirm some aspect of a claim, an issue remark is added to the claim.

Montana law requires the Water Court to resolve issue remarks. The duplicate claim issue remark was not resolved through the objection process and while there appeared to be enough information in the claim files and before the court to resolve the duplicate claim issue remark, pursuant to § 85-2-248(11), MCA the court may not resolve an issue remark modifying an element without agreement from the claimants. An order set a filing deadline for claimant to file evidence resolving the duplicate claim issue remark. Beaver Dam Ranch LLC did not file evidence by the deadline. The order included language that the failure to comply with the order may result in modification of the claims.

## **Issue**

Are the issue remarks resolved?

## **Findings of fact**

1. Duplicate stock claim 41F 117344-00 should be dismissed.
2. The Preliminary Decree abstract for stock claim 41F 117337-00 reflects the historically accurate means of diversion and ditch name.

## **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. 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.

4. If the Montana Water Court cannot resolve issue remarks based upon information in the claim file or information available to the Court, claimants shall be required to confer with the DNRC to attempt resolution of the issue remarks. Claimants shall file documentation to resolve the issue remarks, and the DNRC shall submit recommendations regarding disposition of the issue remarks. Section 85-2-248(5), MCA.

5. 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. If a claimant fails to comply with an Order issued by the Court in its review of issue remarks, the Court may terminate the claim to conform with information found in the claim file. Section 85-2-248(9)(d), MCA.

## **Analysis**

### **Issue remark resolution**

Beaver Dam Ranch LLC’s failure to provide any evidence to address or resolve the duplicate claim issue remark on the claims leaves the information before the court and the issue remark as evidence that one of the captioned stock claims should be dismissed from the adjudication.

Claim 41F 117337-00 also received an issue remark providing notice to water users that the means of diversion and ditch name were modified by DNRC during reexamination. Water users were given the opportunity to review the claim and file an objection. The deadline to file objections passed. No water users filed objections against the claim.

### **Conclusions of law**

Based upon the duplicate claim issue remark on the claims, the DNRC claim examination worksheets in the claim files, and the claimant's failure to comply with an order issued by the court, stock claim 41F 117344-00 should be dismissed. The dismissal of stock claim 41F 117344-00 resolves the duplicate claim issue remark on stock claim 41F 117337-00.

The means of diversion and ditch name issue remark on stock claim 41F 117337-00 served its notice purpose.

### **Recommendations**

Stock claim 41F 117344-00 should be dismissed. The multiple use information remark on the claims<sup>1</sup> in the multiple use remark should be updated by removing claim 41F 117344-00 from the remark.

The issue remarks should be removed from the abstract of stock claim 41F 117337-00.

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.**

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<sup>1</sup> Irrigation claim 41F 117365-00 was the subject of a Closing Order. The updated claim abstract is included with this Master's Report for the administrative purposes of removing dismissed claim 41F 117344-00 from the multiple use information remark.

**Service via USPS Mail**

Beaver Dam Ranch LLC

~~% Timothy Cashman~~

~~540 S Meadow Creek Rd~~

~~McAllister MT 59740~~

**(Returned Mail Received 12/5/2024)**

*Potential Alternate Address:*

Beaver Dam Ranch LLC

1140 N Town Center Dr Ste 120

Las Vegas, NV 89144

**Note: Service List Updated 2/21/2025**

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

**Water Right Number:** 41F 117337-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** BEAVER DAM RANCH LLC  
1140 N TOWN CENTER DR STE 120  
LAS VEGAS, NV 89144-0605

**Priority Date:** JUNE 1, 1888

**Type of Historical Right:** DECREED

**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 STOCK WATERING 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:** NORTH MEADOW 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		NWNESE	30	4S	1W	MADISON

**Period of Diversion:** MAY 1 TO OCTOBER 1

**Diversion Means:** HEADGATE

**Ditch Name:** COMPANY DITCH

2		SWNESE	30	4S	1W	MADISON
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**Period of Diversion:** MAY 1 TO OCTOBER 1

**Diversion Means:** HEADGATE

**Ditch Name:** LOWER SHELLHAMER DITCH

3		SW	29	4S	1W	MADISON
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**Period of Diversion:** MAY 1 TO OCTOBER 1

**Diversion Means:** LIVESTOCK DIRECT FROM SOURCE

**Period of Use:** MAY 1 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			SW	29	4S	1W	MADISON
2			NW	32	4S	1W	MADISON

**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.

117337-00

117365-00

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

**Water Right Number:** 41F 117344-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** **DISMISSED**

**Owners:** BEAVER DAM RANCH LLC  
1140 N TOWN CENTER DR STE 120  
LAS VEGAS, NV 89144-0605

**Priority Date:**

**Type of Historical Right:**

**Purpose (Use):** STOCK

**Flow Rate:**

**Volume:**

**Source Name:** NORTH MEADOW CREEK

**Source Type:** SURFACE WATER

**Point of Diversion and Means of Diversion:**

**Period of Use:**

**Place of Use:**

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**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 117365-00 STATEMENT OF CLAIM  
**Version:** 4 -- POST DECREE  
**Status:** ACTIVE

**Owners:** BEAVER DAM RANCH LLC  
1140 N TOWN CENTER DR STE 120  
LAS VEGAS, NV 89144-0605

**Priority Date:** JUNE 1, 1888

**Type of Historical Right:** DECREED

**Purpose (Use):** IRRIGATION

**Irrigation Type:** FLOOD

**Flow Rate:** 336.60 GPM

**\*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:** 85.00

**Source Name:** NORTH MEADOW 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		NWNESE	30	4S	1W	MADISON

**Period of Diversion:** MAY 1 TO OCTOBER 1

**Diversion Means:** HEADGATE

**Ditch Name:** COMPANY DITCH

2		SWNESE	30	4S	1W	MADISON
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**Period of Diversion:** MAY 1 TO OCTOBER 1

**Diversion Means:** HEADGATE

**Ditch Name:** LOWER SHELLHAMER DITCH

**Period of Use:** MAY 1 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	25.00		N2SW	29	4S	1W	MADISON
2	60.00		S2SW	29	4S	1W	MADISON

**Total:** 85.00

**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.

117337-00

117365-00