

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: Patrick J. Goggins

OBJECTOR: United States of America (Bureau of Land
Management)

CASE 41F-0121-R-2024
41F 136409-00

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 United States of America (Bureau of Land Management), objected to Patrick J. Goggins domestic claim 41F 136409-00, stating the legal land description for the place of use required correction to match the point of diversion legal land description correction adopted by a 1991 Water Court decision.

On January 23, 2025, claimant Patrick J. Goggins filed a statement agreeing with the correction proposed by the United States of America (Bureau of Land Management).

Issue

Is the objection to domestic claim 41F 136409-00 resolved?

Findings of fact

The place of use legal land description should be corrected to match the point of diversion legal land description for domestic well claim 41F 136409-00. The Range should be corrected from 2 West to 1 West.

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.

Analysis

Place of use objection

The same corrected legal land description for the point of diversion adopted and implemented by the court in 1991 should be made to the place of use for domestic well claim 41F 136409-00. (*See* claim file 41F 136409-00 Jan. 2, 1991 Master's Report and Jan. 24, 1991 Order Adopting Master's Report.)

Conclusions of law

The evidence in the record for place of use overcomes the place of use identified by prima facie statement of claim 41F 136409-00, justifies the modification to the claim, and resolves the United States of America (Bureau of Land Management's) objection to the claim.

Recommendations

Domestic claim 41F 136409-00 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>
1.00		NWSWNE	33	5S	1W 2W	MADISON

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 USPS Mail:

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

Water Right Number: **41F 136409-00** STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

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

Priority Date: JUNE 5, 1960

Type of Historical Right: USE

Purpose (Use): DOMESTIC

Flow Rate: 20.00 GPM

Volume: 3.00 AC-FT

Households: 2

Maximum Acres: 1.00

***Source Name:** GROUNDWATER

Source Type: GROUNDWATER

***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		NWSWNE	33	5S	1W	MADISON

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: WELL

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	1.00		NWSWNE	33	5S	1W	MADISON

Total: 1.00

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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