

Montana Water Court
PO Box 1389
Bozeman, MT 59771-1389
1-800-624-3270
(406) 586-4364
watercourt@mt.gov

IN THE WATER COURT OF THE STATE OF MONTANA
UPPER MISSOURI DIVISION
MISSOURI RIVER ABOVE HOLTER DAM BASIN (41I)
PRELIMINARY DECREE

CLAIMANT: TJL Properties, LP

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

CASE 41I-1029-R-2024
41I 30134871

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

The above-captioned claim appeared in the Preliminary Decree for the Missouri River above Holter Dam (Basin 41I) issued on June 24, 2022. Claim 41I 30134871 received an objection from the United States Bureau of Land Management (“BLM”). The

claim also received an issue remark. Issue remarks are notations identifying potential legal or factual issues with water rights and the Water Court is required to resolve these potential issues.

The above-captioned claim was were consolidated into Case 41I-1029-R-2024 to resolve the objection and issue remark.

FINDINGS OF FACT

1. A Status Conference for Case 41I-1029-R-2024 took place on November 12, 2024, by telephone conference call. Senior Water Master Eugene C. White presided; Michelle Ramus was present on behalf of objector BLM; a representative for claimant TJJ Properties, LP was not in attendance.

During the conference, Ms. Ramus explained to the Court that the parties had filed a *Stipulation* (Doc. 4.00)¹ that morning, prior to the conference, resolving the outstanding issues in the case.

2. On November 12, 2024, objector BLM and claimant TJJ Properties, LP filed a *Stipulation*. The *Stipulation* proposed the following modifications to resolve the objection and issue remark for claim 41I 30134871:

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

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
2			30	4N	5E4E	GALLATIN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

3		N2	31	4N	5E4E	GALLATIN
---	--	----	----	----	------	----------

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Period of Use: JANUARY 1 TO DECEMBER 31

***Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			E2NESE	24	4N	4E	GALLATIN
2				30	4N	5E4E	GALLATIN
3			N2	31	4N	5E4E	GALLATIN

¹ “Doc.” Numerical references correlate to case file docket numbers in the Water Court’s Full Court case management system.

3. Claim 41I 30134871 also received a notice-type issue remark from the DNRC denoting that the claim was not included in the previous decree for Basin 41I.

PRINCIPLES OF LAW

1. The Water Court is not bound by parties' settlement agreements. Any settlement reached by the parties is subject to review and approval by the Water Court. Rule 17(a), W.R.Adj.R.

2. Section 85-2-248(2), MCA, requires that the Water Court resolve all issue remarks that are not resolved through the objection process. *See also* Rule 7, W.R.Adj.R.

3. The Water Court may use information submitted by the DNRC, the Statement of Claim, and any other data obtained by the Court to evaluate a water right. Sections 85-2-227, -231(2), MCA.

CONCLUSIONS OF LAW

1. Based on the information contained in the *Stipulation*, the proposed modifications should be made to claim 41I 30134871 as described in Finding of Fact No.

2. These modifications resolve the BLM objection.

2. The notice-type issue remark appearing on claim 41I 30134871 served its notice purpose and should be removed from the claim.

RECOMMENDATIONS

Based on the foregoing Findings of Fact and Conclusions of Law, this Water Master recommends that the Court modify the claim as described above and remove the issue remark from the claim.

A post decree abstract of the water right claim reflecting the recommended changes is attached to this Report.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

TJL Properties, LP
% Thomas J. Louderback
2415 San Ramon Valley Blvd, Ste 4380
San Ramon, CA 94583

Service Via Electronic Mail:

Michelle Ramus
Trial Attorney
US Dept of Justice, ENRD-NRS
PO Box 7611
Washington, DC 20044-7611
(202) 514-2598
michelle.ramus@usdoj.gov
MontanaBasins.ENRD@USDOJ.GOV

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MISSOURI RIVER, ABOVE HOLTER DAM
BASIN 41I**

Water Right Number: 41I 30134871 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: TJI PROPERTIES, LP
C/O THOMAS J. LOUDERBACK
2415 SAN RAMON VALLEY BLVD, STE 4380
SAN RAMON, CA 94583-5381

Priority Date: MARCH 29, 1915

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 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: BREMMER CREEK

Source Type: SURFACE WATER

SOURCE IS COMPOSED OF BREMMER CREEK WITHIN THE POINT OF DIVERSION LEGAL LAND DESCRIPTION.

***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		E2NESE	24	4N	4E	GALLATIN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

2			30	4N	5E	GALLATIN
---	--	--	----	----	----	----------

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

3		N2	31	4N	5E	GALLATIN
---	--	----	----	----	----	----------

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

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			E2NESE	24	4N	4E	GALLATIN
2				30	4N	5E	GALLATIN
3			N2	31	4N	5E	GALLATIN