

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

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

\*\*\*\*\*

CLAIMANT: Cold Springs Ranch Montana LLC

OBJECTOR: Cold Springs Ranch Montana LLC

**CASE 41F-0030-R-2024**

41F 13767-00

41F 13768-00

41F 13769-00

41F 13813-00

41F 136434-00

**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

Stock claims 41F 13767-00, 41F 13768-00, 41F 13769-00, and 41F 13813-00 received an objection from claimant Cold Springs Ranch Montana LLC to the period of use and period of diversion. Irrigation claim 41F 136434-00 received an objection from claimant Cold Springs Ranch Montana LLC to flow rate.

Irrigation claim 41F 136434-00 also received 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.

Issue remarks often 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.

Montana law requires the Water Court to resolve issue remarks and objections.

### Issues

1. Are Cold Springs Ranch Montana LLC’s objections to each claim resolved?
2. Is the notice issue remark on claim 41F 136434-00 resolved?

### Findings of fact

1. The historical period of use and period of diversion for stock claims 41F 13767-00, 41F 13768-00, 41F 13769-00, and 41F 13813-should be May 15 to September 1 and November 15 to February 20.

2. The historically accurate flow rate for claim 41F 136434-00 is 6.98<sup>1</sup> CFS.

### 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.

---

<sup>1</sup> The Department of Natural Resources and Conservation database does not allow flow rates to the thousandth place. Accordingly, the court rounded the flow rate up from 6.975 CFS to 6.98 CFS.

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. 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.

5. 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 – period of use/period of diversion and flow rate objections**

Cold Springs Ranch Montana LLC asserts the period of use identified by statements of claim 41F 13767-00, 41F 13768-00, 41F 13769-00, and 41F 13813-00 are historically accurate and the flow rate identified by statement of claim 41F 136434-00 is historically accurate.

Stock statements of claim 41F 13767-00, 41F 13768-00, 41F 13769-00, and 41F 13813-00 identified a May 15 to September 1 period of use for 200 cows and 800 yearlings and a November 15 to February 20 period of use for 1800 cows. The Temporary Preliminary Decree abstracts for each stock claim reflected these two periods of use as closely as possible given computer programming limitations for abstracts at that time. The Preliminary Decree abstracts for these stock claims reflected different periods of use due to what appears to be clerical error during reexamination of the basin in preparation for issuance of the Preliminary Decree. The periods of use for stock claims 41F 13767-00, 41F 13768-00, 41F 13769-00, and 41F 13813-00 should match those

identified by each prima facie statement of claim.

The period of diversion should match the period of use for stock claims 41F 13767-00, 41F 13768-00, 41F 13769-00, and 41F 13813-00 pursuant to the court's November 10, 2014 Second Amended Order on Period of Diversion – Statewide.

The flow rate for irrigation claim 41F 136434-00 should be the 6.98 CFS flow rate identified by the prima facie statement of claim, supported by the filed notice of appropriation attached to statement of claim 41F 136434-00.

### **Conclusions of law**

The modifications to the period of use and period of diversion for stock claims 41F 13767-00, 41F 13768-00, 41F 13769-00, and 41F 13813-00 and the modified flow rate for irrigation claim 41F 136434-00 are supported by their respective prima facie statements of claim. The record before the court justifies the modifications proposed by Cold Springs Ranch Montana LLC's objections and resolves its objections to each claim.

### **Issue 2 – issue remark resolution**

Irrigation claim 41F 136434-00 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.

The foregoing issue remark provided the opportunity for claimant and other water users to object to the claim. No one, including Cold Springs Ranch Montana LLC, objected to the element identified by the issue remark on claim 41F 136434-00.

### **Conclusions of law**

The Preliminary Decree abstract for irrigation claim 41F 136434-00 identifies the historically accurate ditch name. The issue remark appearing on the claim served its notice purpose.



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

**Water Right Number:** 41F 13767-00 STATEMENT OF CLAIM  
**Version:** 3 -- POST DECREE  
**Status:** ACTIVE

**Owners:** COLD SPRINGS RANCH MONTANA LLC  
5 W MENDENHALL ST STE 310  
BOZEMAN, MT 59715

**Priority Date:** DECEMBER 31, 1936

**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:** SPRING, UNNAMED TRIBUTARY OF MADISON RIVER

**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		NWSW	28	2S	1E	MADISON

**Period of Diversion:** MAY 15 TO SEPTEMBER 1  
NOVEMBER 15 TO FEBRUARY 20

**Diversion Means:** FLOWING

**Period of Use:** MAY 15 TO SEPTEMBER 1  
NOVEMBER 15 TO FEBRUARY 20

**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			NWSW	28	2S	1E	MADISON

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

**Water Right Number:** 41F 13768-00 STATEMENT OF CLAIM  
**Version:** 3 -- POST DECREE  
**Status:** ACTIVE

**Owners:** COLD SPRINGS RANCH MONTANA LLC  
5 W MENDENHALL ST STE 310  
BOZEMAN, MT 59715

**Priority Date:** DECEMBER 31, 1936

**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:** SPRING, UNNAMED TRIBUTARY OF MADISON RIVER

**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		SESE	27	2S	1E	MADISON

**Period of Diversion:** MAY 15 TO SEPTEMBER 1  
NOVEMBER 15 TO FEBRUARY 20

**Diversion Means:** FLOWING

**Period of Use:** MAY 15 TO SEPTEMBER 1  
NOVEMBER 15 TO FEBRUARY 20

**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			SESE	27	2S	1E	MADISON

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

**Water Right Number:** 41F 13769-00 STATEMENT OF CLAIM  
**Version:** 3 -- POST DECREE  
**Status:** ACTIVE

**Owners:** COLD SPRINGS RANCH MONTANA LLC  
5 W MENDENHALL ST STE 310  
BOZEMAN, MT 59715

**Priority Date:** DECEMBER 31, 1936

**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:** SPRING, UNNAMED TRIBUTARY OF MADISON RIVER

**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		NWSW	33	2S	1E	MADISON

**Period of Diversion:** MAY 15 TO SEPTEMBER 1  
NOVEMBER 15 TO FEBRUARY 20

**Diversion Means:** FLOWING

**Period of Use:** MAY 15 TO SEPTEMBER 1  
NOVEMBER 15 TO FEBRUARY 20

**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			NWSW	33	2S	1E	MADISON



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

**Water Right Number:** 41F 13813-00 STATEMENT OF CLAIM  
**Version:** 3 -- POST DECREE  
**Status:** ACTIVE

**Owners:** COLD SPRINGS RANCH MONTANA LLC  
5 W MENDENHALL ST STE 310  
BOZEMAN, MT 59715

**Priority Date:** DECEMBER 31, 1936

**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:** SPRING, UNNAMED TRIBUTARY OF COLD SPRING CREEK

**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		SESW	21	2S	1E	MADISON

**Period of Diversion:** MAY 15 TO SEPTEMBER 1  
NOVEMBER 15 TO FEBRUARY 20

**Diversion Means:** FLOWING

**Period of Use:** MAY 15 TO SEPTEMBER 1  
NOVEMBER 15 TO FEBRUARY 20

**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			SESW	21	2S	1E	MADISON

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

**Water Right Number:** 41F 136434-00 STATEMENT OF CLAIM  
**Version:** 3 -- POST DECREE  
**Status:** ACTIVE

**Owners:** COLD SPRINGS RANCH MONTANA LLC  
5 W MENDENHALL ST STE 310  
BOZEMAN, MT 59715

**Priority Date:** JUNE 22, 1914

**Type of Historical Right:** FILED

**Purpose (Use):** IRRIGATION

**Irrigation Type:** FLOOD

**Flow Rate:** 6.98 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:** 3.00

**Source Name:** COLD SPRING CREEK

**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		SESESW	33	2S	1E	MADISON

**Period of Diversion:** MAY 31 TO SEPTEMBER 15

**Diversion Means:** HEADGATE

**Ditch Name:** SHIRLEY DITCH

**Period of Use:** MAY 31 TO SEPTEMBER 15

**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	3.00		NENENW	4	3S	1E	MADISON

**Total:** 3.00