

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

CLAIMANTS: Regina Knapp; Stephen J. Knapp

OBJECTOR: Stephen J. Knapp

CASE 41I-1035-R-2024
41I 30127975

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 30127975 received a

self-objection from claimant Stephen J. Knapp and an issue remark from the DNRC. 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 claim was consolidated into Case 41I-1035-R-2024 and an Order Setting Filing Deadline was issued by the Water Court requesting any additional information needed to resolve the self-objection and issue remark.

FINDINGS OF FACT

1. Claim 41I 30127975 received a self-objection from Claimant Stephen J. Knapp. In his objection, Mr. Knapp states that he mistakenly filed the claim as a “multiple domestic” purpose claim with two households. However, the objections explains that the claim should have been filed as a “single domestic” purpose claim with only one household.

2. On September 30, 2024, the Court consolidated claim 41I 30127975 into case 41I-1035-R-2024 and set a filing deadline for the Claimants to respond if they had any additional evidence or information needed to resolve the self-objection. Nothing was filed by the ordered deadline.

3. Claim 41I 30127975 also received a notice-type issue remark from the DNRC during its reexamination of claims. The objection filed is not in regard to the issue remark.

PRINCIPLES OF LAW

1. 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.

2. A properly filed Statement of Claim for an existing water right is prima facie proof of its content. Section 85-2-227, MCA; Rule 10, W.R.Adj.R.

3. A preponderance of the evidence is evidence that shows a fact is “more probable than not.” *Hohenlohe v. State*, 2010 MT 203, ¶ 33, 357 Mont. 438, 240 P.3d 628.

4. If prima facie status is overcome, the burden shifts back to the claimant to demonstrate historical use. *79 Ranch v. Pitsch*, 204 Mont. 426, 432-33, 666 P.2d 215, 218 (1983).

5. If a claimant agrees to reduce or limit a claim, the Water Court may accept the reduction or limitation without reviewing further evidence, unless an unresolved issue remark remains. Rule 17(c), W.R.Adj.R.

CONCLUSIONS OF LAW

1. The information in the record resolves the self-objection filed for claim 30127975. Based on the information contained in the self-objection, the purpose should be modified from “multiple” to “single” domestic, and the number of households reduced from two to one per Rule 17(c), W.R.Adj.R.

2. The notice-type issue remark appearing on claim 41I 30127975 served its notice purpose and should be removed from the claim.

RECOMMENDATIONS

Based on the foregoing Findings of Fact and Conclusions of Law, this Master recommends that the Court modify the purpose of claim 41I 30127975 from multiple domestic to single domestic, reduce the number of households from two to one, 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:

Regina Knapp
Stephen J. Knapp
1420 Hilmen Rd
Helena, MT 59602

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

Water Right Number: 41I 30127975 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: REGINA KNAPP
1420 HILMEN RD
HELENA, MT 59602-6613

STEPHEN J KNAPP
1420 HILMEN RD
HELENA, MT 59602-6613

Priority Date: JUNE 29, 1973

Type of Historical Right: FILED

Purpose (Use): DOMESTIC

Flow Rate: 20.00 GPM

Volume: 1.63 AC-FT

Households: 1

Maximum Acres: 0.57

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		NWNESW	32	11N	3W	LEWIS AND CLARK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: WELL

Subdivision: VANDENBERGH VILLAGE EAST SUBD TRACT/LOT: 40

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	0.57		NWNESW	32	11N	3W	LEWIS AND CLARK

Subdivision: VANDENBERGH VILLAGE EAST SUBD TRACT/LOT: 40

Total: 0.57