

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

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CLAIMANT: Beaver Dam Ranch LLC

**CASE 41F-0016-R-2024**  
41F 132115-00  
41F 132116-00

**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**

Irrigation claims 41F 132115-00 and 41F 132116-00 appeared in the Preliminary Decree for this Basin with the following issue remark:

THE CLAIMED POINT OF DIVERSION IS IN QUESTION. THE LOCATION OF THE HEADGATES AND DITCHES CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

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. Claimant, Beaver Dam Ranch LLC was ordered to meet with DNRC to attempt resolution of the issue remark.

A DNRC Memorandum reported that Beaver Dam Ranch LLC did not meet with DNRC. The Memorandum stated no recommendation could be made to resolve the point of diversion issue remark on irrigation claims 41F 132115-00 and 41F 132116-00 as there was not enough information in the claim files or before the DNRC to locate the headgates identified by the claims. The lack of information provided by claimant coupled with its failure to comply with the order to visit DNRC, indicated claims 41F 132115-00 and 41F 132116-00 should be dismissed. The court set a filing deadline for claimant to show cause why the claims should not be dismissed. On February 25, 2025, Beaver Dam Ranch LLC filed a Withdrawal of Statement of Claim for claims 41F 132115-00 and 41F 132116-00.

### **Issue**

Should irrigation claims 41F 132115-00 and 41F 132116-00 be dismissed?

### **Finding of fact**

Irrigation claims 41F 132115-00 and 41F 132116-00 should be dismissed.

## **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 amend the claim to conform with information found in the claim file and information before the Court. Section 85-2-248(9)(a),(b), MCA.

## **Analysis**

The DNRC Database identifies Beaver Dam Ranch LLC as the current claimant of water right claims 41F 132115-00 and 41F 132116-00. The Montana Cadastral Database

located at <https://svc.mt.gov/msl/mtcadastral>, identifies Beaver Dam Ranch LLC as the current property owner of the place of use identified by claims 41F 132115-00 and 41F 132116-00. Beaver Dam Ranch LLC agrees irrigation claims 41F 132115-00 and 41F 132116-00 should be withdrawn.

### **Conclusion of law**

The Withdrawal of Statement of Claim for claims 41F 132115-00 and 41F 132116-00 is properly filed with the court and should be accepted by the court.

### **Recommendation**

Irrigation claims 41F 132115-00 and 41F 132116-00 should be dismissed. The multiple use information remark on the claims<sup>1</sup> in the multiple use information remark should be removed due to the withdrawal of the claims in this case.

Post Decree Abstracts of Water Right Claim accompany this report to confirm dismissal of the claims in the state's centralized water right record system.

**ELECTRONICALLY SIGNED AND DATED BELOW.**

### **Service via Electronic Mail**

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<sup>1</sup> Stock claims 41F 132134-00 and 41F 132162-00 did not receive objections or issue remarks during Preliminary Decree proceedings. The updated claim abstracts are included with this Master's Report for the administrative purposes of removing the multiple use information remark from the claims due to the dismissal of claims 41F 132115-00 and 41F 132116-00.

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

**Water Right Number:** 41F 132115-00 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):** IRRIGATION

**Flow Rate:**

**Volume:**

**Source Name:** DRY LEONARD 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 132116-00 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):** IRRIGATION

**Flow Rate:**

**Volume:**

**Source Name:** DRY LEONARD 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 132134-00 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:** AUGUST 12, 1909

**Type of Historical Right:** FILED

**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:** DRY LEONARD 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		S2	22	4S	2W	MADISON

**Period of Diversion:** JUNE 1 TO OCTOBER 31

**Diversion Means:** LIVESTOCK DIRECT FROM SOURCE

**Period of Use:** JUNE 1 TO OCTOBER 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			SW	22	4S	2W	MADISON
2			SE	22	4S	2W	MADISON

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

**Water Right Number:** 41F 132162-00 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:** APRIL 1, 1904

**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:** DRY LEONARD 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		S2	22	4S	2W	MADISON

**Period of Diversion:** JUNE 1 TO OCTOBER 31

**Diversion Means:** LIVESTOCK DIRECT FROM SOURCE

**Period of Use:** JUNE 1 TO OCTOBER 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			S2	22	4S	2W	MADISON