

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: Beaver Dam Ranch LLC

OBJECTOR: United States of America (USDA – Forest Service)

CASE 41F-0017-R-2024

41F 132111-00

41F 132113-00

41F 132114-00

41F 132138-00

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 (USDA – Forest Service) (“Forest Service”) filed an objection to the maximum acres irrigated and place of use identified by irrigation claims 41F 132111-00, 41F 132113-00, and 41F 132114-00 and an objection to domestic claim 41F 132138-00 stating claim 41F 132138-00 should be terminated because it duplicates domestic claim 41F 132137-00.

On February 18, 2025, claimant Beaver Dam Ranch LLC filed an Amendment of Water Right and Withdrawal of Statement of Claim.

On February 20, 2025, the Forest Service filed a Notice of Resolution of Two Objections and Withdrawal of Remaining Objections.

Issues

Should the court accept the amendment of irrigation claim 41F 132111-00 and the withdrawal of domestic claim 41F 132138-00?

Findings of Fact

1. The historical place of use identified by irrigation claim 41F 132111-00 does not include 19.40 acres of Forest Service owned land in the NWNE of Section 28, Township 4 South, Range 2 West. The acres should be removed from the claim abstract.
2. Domestic claim 41F 132138-00 should be dismissed.
3. The Preliminary Decree abstracts for claims 41F 132113-00 and 41F 132114-00 reflect previously stipulated terms. These claims do not require modification.

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. The Water Court may accept a settlement agreement that reduces or limits an element of a claim and need not determine whether the burden of proof is met unless there is an unresolved issue remark on the claim. Rule 17(c), W.R.Adj.R.

Analysis

Issues – amendment to claim 41F 132111-00 and withdrawal of claim 41F 132138-00

Beaver Dam Ranch LLC proposed removal of land owned by the Forest Service from the maximum acres irrigated and the place of use for irrigation claim 41F 132111-00.

The Preliminary Decree abstracts for irrigation claims 41F 132113-00 and 41F 132114-00 correctly identify the previously stipulated maximum acres irrigated and place of use. The Forest Service unconditionally withdrew its objections to these claims.

Beaver Dam Ranch LLC withdrew domestic claim 41F 132138-00. The DNRC Database identifies Beaver Dam Ranch LLC as the current claimant of water right claim 41F 132138-00. 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 claim 41F 132138-00.

Conclusions of law

The evidence entered into the record is a reduction within the parameters of

statement of claim 41F 132111-00, justifies the modifications to the claim, and resolves the Forest Service's objection to the claim. The proposed reduction should be accepted by the court.

The Preliminary Decree abstracts for irrigation claims 41F 132113-00 and 41F 132114-00 correctly identify their maximum acres irrigated and place of use.

The proposed withdrawal of domestic claim 41F 132138-00 is properly filed with the court and should be accepted by the court

Recommendations

Irrigation claim 41F 132111-00 should be modified as follows to accurately reflect historical use.

<u>MAXIMUM ACRES:</u>		74.40	55.00				
<u>PLACE OF USE:</u>							
	<u>ACRES</u>	<u>GOVT LOT</u>	<u>QTR SEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
	10.00		NENE	28	4S	2W	MADISON
	35.00		SWNE	28	4S	2W	MADISON
	10.00		SENE	28	4S	2W	MADISON
	49.40		NWNE	28	4S	2W	MADISON
TOTAL:	55.00	74.40					

No changes should be made to the elements of irrigation claims 41F 132113-00 and 41F 132114-00.

Domestic claim 41F 132138-00 should be dismissed. The multiple use information remark on the claims¹ in the multiple use information remark should be updated by removing claim 41F 132138-00 from the remark.

Post Decree Abstracts of Water Right Claim accompany this report to confirm the recommendations have been implemented in the state's centralized water right record system.

ELECTRONICALLY SIGNED AND DATED BELOW.

¹ Stock claim 41F 132160-00 was the subject of a Closing Order. The updated claim abstract is included with this Master's Report for the administrative purposes of removing dismissed claim 41F 132138-00 from the multiple use information remark. Stock claim 41F 132161-00 did not receive objections or issue remarks during Preliminary Decree proceedings. The updated claim abstract is included with this Master's Report for the administrative purposes of removing dismissed claim 41F 132138-00 from the multiple use information remark.

Service via Electronic Mail

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

Water Right Number: 41F 132111-00 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: JUNE 20, 1885

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 2.08 CFS

*Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 5 - LOW

Maximum Acres: 55.00

Source Name: 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		SENENW	28	4S	2W	MADISON
Period of Diversion:		JUNE 1 TO SEPTEMBER 30				
Diversion Means:		HEADGATE				
Ditch Name:		SOUTH GORDON DITCH				
2		SENENW	28	4S	2W	MADISON
Period of Diversion:		JUNE 1 TO SEPTEMBER 30				
Diversion Means:		HEADGATE				
Ditch Name:		NORTH GORDON DITCH				
Period of Use:		JUNE 1 TO SEPTEMBER 30				

*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	10.00		NENE	28	4S	2W	MADISON
2	35.00		SWNE	28	4S	2W	MADISON
3	10.00		SENE	28	4S	2W	MADISON
Total:		55.00					

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

132111-00 132113-00 132114-00

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.

132111-00 132130-00 132133-00 132136-00

NOTWITHSTANDING THE PRIORITY DATE DESIGNATED HEREIN, AFTER JUNE 30TH OF ANY GIVEN YEAR, THIS RIGHT SHALL BE ADMINISTERED AS IF IT WERE JUNIOR IN TIME TO EACH AND ALL OF THE FOLLOWING RIGHTS, AND TO THESE RIGHTS ONLY, ALL AS FINALLY ADJUDICATED BY THE WATER COURT: 41F 39095-00, 41F 39096-00, 41F 39097-00, 41F 39098-00, 41F 39099-00, 41F 39100-00, 41F 39101-00, 41F 39102-00, 41F 39103-00, 41F 39104-00, 41F 39105-00, 41F 39106-00, 41F 39109-00. INsofar AS THIS RIGHT IS ADMINISTERED AS JUNIOR TO THE DESIGNATED RIGHTS, SUCH RIGHT SHALL HAVE THE SAME INCIDENTS OF ANY OTHER JUNIOR APPROPRIATION.

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

Water Right Number: 41F 132113-00 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: JUNE 1, 1909

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 1.25 CFS

THIS RIGHT IS LIMITED TO HIGH OR FLOOD WATERS OF LEONARD CREEK.

***Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 5 - LOW

***Maximum Acres:** 74.40

Source Name: 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		SENENW	28	4S	2W	MADISON

Period of Diversion: MAY 1 TO AUGUST 31

Diversion Means: HEADGATE

Ditch Name: SOUTH GORDON DITCH

2		SENENW	28	4S	2W	MADISON
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Period of Diversion: MAY 1 TO AUGUST 31

Diversion Means: HEADGATE

Ditch Name: NORTH GORDON DITCH

Period of Use: MAY 1 TO AUGUST 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	10.00		NENE	28	4S	2W	MADISON
2	35.00		SWNE	28	4S	2W	MADISON
3	10.00		SENE	28	4S	2W	MADISON
4	19.40		NWNE	28	4S	2W	MADISON

Total: 74.40

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

132111-00 132113-00 132114-00

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.

132113-00 132160-00 132161-00

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

Water Right Number: 41F 132114-00 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: JUNE 1, 1885

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 1.25 CFS

***Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 5 - LOW

***Maximum Acres:** 74.40

Source Name: 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		SENENW	28	4S	2W	MADISON

Period of Diversion: MAY 1 TO AUGUST 31

Diversion Means: HEADGATE

Ditch Name: SOUTH GORDON DITCH

2		SENENW	28	4S	2W	MADISON
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Period of Diversion: MAY 1 TO AUGUST 31

Diversion Means: HEADGATE

Ditch Name: NORTH GORDON DITCH

Period of Use: MAY 1 TO AUGUST 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	10.00		NENE	28	4S	2W	MADISON
2	35.00		SWNE	28	4S	2W	MADISON
3	10.00		SENE	28	4S	2W	MADISON
4	19.40		NWNE	28	4S	2W	MADISON

Total: 74.40

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

132111-00 132113-00 132114-00

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.

132114-00 132131-00 132132-00 132137-00

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

Water Right Number: **41F 132138-00** 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): DOMESTIC

Flow Rate:

Volume:

Source Name: LEONARD CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

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 132160-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: BEAVER DAM RANCH LLC
1140 N TOWN CENTER DR STE 120
LAS VEGAS, NV 89144-0605

Priority Date: JUNE 1, 1909

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: 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		SENENW	28	4S	2W	MADISON	
Period of Diversion:		JUNE 1 TO OCTOBER 31					
Diversion Means:		HEADGATE					
Ditch Name:		NORTH GORDON DITCH					
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			S2NE	28	4S	2W	MADISON
2			NENE	28	4S	2W	MADISON

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.

132113-00132160-00132161-00

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

Water Right Number: 41F 132161-00 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: JUNE 1, 1909

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: 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		S2NE	28	4S	2W	MADISON
Period of Diversion:		JUNE 1 TO OCTOBER 31				
Diversion Means:		LIVESTOCK DIRECT FROM SOURCE				
2		NENE	28	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			S2NE	28	4S	2W	MADISON
2			NENE	28	4S	2W	MADISON

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.

132113-00 132160-00 132161-00