

Montana Water Court
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FILED
03/10/2025
Sara Calkins
CLERK
Montana Water Court
STATE OF MONTANA
By: D'Ann CIGLER
41I-2060-R-2024
Stern, Anika
13.00

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

* * * * *

CLAIMANT: 71 Ranch LP

OBJECTOR: United States of America (Bureau of Reclamation)

CASE 41I-2060-R-2024

41I 89235-00

41I 89245-00

41I 30143682

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 to 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

Claims 41I 89235-00, 41I 89245-00, and 41I 30143682 were decreed in the Preliminary Decree for the Missouri River above Holter Dam (Basin 41I) issued on June 24, 2022.

The claims were decreed with Department of Natural Resources and Conservation (DNRC) issue remarks raising potential legal or factual issues with the claims. The United States Bureau of Reclamation also objected to claims 41I 89235-00, 41I 89245-00, and 41I 30143682. The Water Court consolidated the claims into case 41I-2060-R-2024 to address the issues and Objections.

On December 4, 2024, Claimant 71 Ranch LP filed a Proposal to Resolve Objections to Claim 41I 30143682 (Doc.¹ 8.00) and a Notice of Withdrawal of Claims 41I 89235-00 and 41I 89245-00 (Doc. 9.00). The December 4, 2024 filing proposed modification to the point of diversion and place of use legal land description for claim 41I 30143682.

On December 19, 2024, the United States filed a response stating that the requested amendments and withdrawals, if implemented, resolve the United States' Objections in this Case. (Doc. 11.00).

FINDINGS OF FACT

1. Claim 41I 30143682 was decreed with the following substantive issue remarks:

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

THE TYPE OF HISTORICAL RIGHT MAY BE QUESTIONABLE. DOCUMENTATION SUBMITTED WITH THE CLAIM INDICATES A FILED RIGHT

2. Claimant 71 Ranch Inc.'s Proposal to Resolve Objections states that the point of diversion and place of use legal land description for the well requires a minor correction to claim and should be modified as follows, resolving the point of diversion the issue remark:

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¹ "Doc." refers to the docket number of a document filed in the Water Court's Full Court Enterprise Case Management system.

The United States agreed with the proposed modification.

3. A deadline was set for the parties to agree or disagree that the type of historical right for claim 41I 30143682 should be modified from “use” to “filed.” The Order indicated that if nothing were filed by the February 25, 2025 deadline, it would be determined that the parties agree with the type of right correction; nothing was filed.

PRINCIPLES OF LAW

1. Section 85-2-248(2), MCA requires the Water Court to resolve all issue remarks that are not resolved through the objection process. 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. § 85-2-248(3), MCA.

2. A properly filed claim of an existing right or an amended claim of existing right is prima facie proof of its content. § 85-2-227, MCA. This prima facie proof may be contradicted and overcome by other evidence that proves, by a preponderance of the evidence, that the elements of the claim do not accurately reflect the beneficial use of the water right as it existed prior to July 1, 1973. This is the burden of proof for every assertion that a claim is incorrect. Rule 19, W.R.Adj.R.

CONCLUSIONS OF LAW

1. The Claimant’s withdrawal of claims 41I 89235-00 and 41I 89245-00 is accepted.

2. The Findings of Fact above are supported by a preponderance of the evidence. Claim 41I 30143682 should be modified accordingly.

3. The requested modifications resolve the substantive issue remarks on claim 41I 30143682. The claim also received a Notice Only remark that has served its notice purpose and does not raise legal or factual issues for the Court to resolve. The issue remarks should be removed.

RECOMMENDATIONS

Claims 41I 89235-00 and 41I 89245-00 should be dismissed. Claim 41I should be modified as described in Finding of Fact No. 2. Abstracts are attached for review.

ELECTRONICALLY SIGNED AND DATED BELOW.

SERVICE VIA ELECTRONIC MAIL

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

Water Right Number: **41I 89235-00** STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: **DISMISSED**

Owners: 71 RANCH LP
 40 71 RANCH LN
 MARTINSDALE, MT 59053-8709

Priority Date:

Type of Historical Right:

Purpose (Use): IRRIGATION

Flow Rate:

Volume:

Source Name: BILK GULCH

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
MISSOURI RIVER, ABOVE HOLTER DAM
BASIN 41I**

Water Right Number: **41I 89245-00** STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: **DISMISSED**

Owners: 71 RANCH LP
 40 71 RANCH LN
 MARTINSDALE, MT 59053-8709

Priority Date:

Type of Historical Right:

Purpose (Use): IRRIGATION

Flow Rate:

Volume:

Source Name: LITTLE HELLGATE GULCH

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
MISSOURI RIVER, ABOVE HOLTER DAM
BASIN 41I

Water Right Number: 41I 30143682 STATEMENT OF CLAIM
Version: 2 -- POST DECREE
Status: ACTIVE

Owners: 71 RANCH LP
40 71 RANCH LN
MARTINSDALE, MT 59053-8709

*Priority Date: JULY 1, 2019

Type of Historical Right: FILED

Purpose (Use): DOMESTIC

Flow Rate: 35.00 GPM

Volume: 10.00 AC-FT

Households: 1

Maximum Acres: 5.00

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		NESE	18	10N	1E	LEWIS AND CLARK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: WELL

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	5.00		NESE	18	10N	1E	LEWIS AND CLARK
Total:	5.00						