

Montana Water Court
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MONTANA WATER COURT
UPPER MISSOURI DIVISION
MADISON RIVER
BASIN 41F
PRELIMINARY DECREE

CLAIMANT: South Jeffers Ranch, LLC

OBJECTOR: South Jeffers Ranch, LLC

CASE 41F-0185-R-2025
41F 30134122

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 have **13 days** from the service date of the notice of filing of this report to file a written objection or request an extension of the objection period. Rule 23, Water Right Adjudication Rules; Rule 6, Montana Rules of Civil Procedure. 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

South Jeffers Ranch, LLC ("SJR") stock claim 41F 30134122 appeared in the Preliminary Decree with the following issue remarks:

THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 41F DECREE ISSUED 07/25/1984.

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

SJR filed an objection to the source name, means of diversion, and point of diversion identified by the Preliminary Decree Abstract.

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

On September 23, 2025, SJR filed its Motion to Resolve Objection and DNRC Issue Remarks.

Issues

1. Is SJR's objection to claim 41F 30134122 resolved?
2. Are the issue remarks on claim 41F 30134122 resolved?

Findings of Fact

The historically accurate source name for stock claim 41F 30134122 is O'Dell Creek.

The historically accurate point of diversion and place of use for livestock direct from source claim 41F 30134122 is the SWSENW of Section 3, Township 6 South, Range 1 West, Madison County.

Principles of law

1. A properly filed Statement of Claim for Existing Water Right is prima facie proof of its content. Mont. Code Ann. § 85-2-227 (2025). 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 (“DNRC”), the statement of claim, information from approved compacts, and any other data obtained by the Court to evaluate water right claims. § 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. § 85-2-247(2), MCA.

4. 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.

Analysis

Issues 1 and 2 – self-objection resolution and issue remark resolution

SJR’s brief in support of its Motion to Resolve Objection and DNRC Issue Remarks explains:

- the source name, point of diversion, and place of use “were incorrectly modified by the DNRC,”
- the prima facie statement of claim identified O’Dell Creek as its source and the means of diversion as livestock direct from source (Ex. A),
- the prima facie statement of claim identified the point of diversion and place of use as “NW corner of” and “NWNW” in Section 3, Township 6S, Range 1W but also noted to see attached paperwork (Ex. B),
- an area on the western side of SJR property in Section 3, Township 6S, Range 1W was circled as the place of use on the map attached to the statement of claim and includes a notation “stream” (Ex. B) and an aerial photo attached to the statement of claim circled a small area in the NW corner of SJR property which would overlap with the Mitchell-Hubner-Jeffers-Ditch (Ex. B),
- the Madison County Water Resources Survey (1965) map depicts O’Dell Creek and the Mitchell-Hubner-Jeffers-Ditch (Montana Cadastral labels the ditch as

Bear Creek Ditch) in the circled area identified by the map attached to the statement of claim (Ex. C),

- during DNRC claims examination, the point of diversion and place of use were modified to include the area where the Mitchell-Hubner-Jeffers-Ditch/Bear Creek Ditch were located and the source was modified to Unnamed Tributary of O'Dell Creek as it appears the claims examiner thought the ditches were an Unnamed Tributary of O'Dell Creek,
- SJR confirms its intent, identified by the prima facie statement of claim, to claim only stock drinking directly from O'Dell Creek, requesting a refined and reduced point of diversion and place of use to" accurately cover the portion of O'Dell Creek on the SJR property."

The evidence filed with the court and information in claim file 41F 30134122 support SJR's objection. DNRC erred when it modified the source name, point of diversion, and place of use for livestock direct from source claim 41F 30134122.

SJR agrees with the issue remark stating the claim is a "use" right and that the type of historical right should be modified to "use" to resolve the issue remark.

The notice issue remark noting the claim was not in the previous Basin 41F decree provided the opportunity for claimant and other water users to object to the claim. SJR filed the only objection to stock claim 41F 30134122. SJR's objection is resolved by these proceedings.

SJR's Motion to Resolve Objection and DNRC Issue Remarks and Exhibits may be viewed on the court's case management system, FullCourt Enterprise, at document sequence 6.00.

Conclusions of law

The evidence before the court justifies the modifications to the claim and resolves both SJR's objection to and the issue remarks appearing on claim 41F 30134122.

Recommendations

Stock claim 41F 30134122 should be modified as follows to accurately reflect historical use.

TYPE OF HISTORICAL RIGHT: ~~DECREE~~ **USE**

SOURCE NAME: ~~UNNAMED TRIBUTARY OF O'DELL CREEK~~

POINT OF DIVERSION AND PLACE OF USE:

<u>GOVT LOT</u>	<u>QTR SEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
	NWNWNE	3	6S	1W	MADISON
SWSNW	E2NW	3	6S	1W	MADISON

The issue remarks should be removed from the claim abstract.

A Post Decree Abstract of Water Right Claim accompanies this report to confirm implementation of the recommendations in the state's centralized water right record system.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service Via Electronic Mail:

Jeremy A. Michael
Cusick, Farve & Michael, P.C.
office@cmrlawmt.com
(Atty for: South Jeffers Ranch, LLC)

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

Water Right Number: 41F 30134122 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: SOUTH JEFFERS RANCH LLC
56 JEFFERS RD
ENNIS, MT 59729-9025

***Priority Date:** DECEMBER 31, 1935

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: ODELL 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		SWSENW	3	6S	1W	MADISON

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

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			SWSENW	3	6S	1W	MADISON