

Montana Water Court
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watercourt@mt.gov

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

* * * * *

CLAIMANTS: Angela Martel; Geoff Martel

CASE 41F-0223-R-2025
41F 30103766

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.

If you file an objection, you must mail 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

On August 7, 2025, Geoff Martel filed a Motion to Amend split claim 41F 30103766. Split claim 41F 30103766 resulted from Water Court proceedings in 2015 concerning a split request for parent claim 41F 132191-00. Split claims 41F 30103764 and 41F 30103765 also resulted from these same 2015 Water Court proceedings concerning claim 41F 132191-00.

In 2016, then claimants of split claim 41F 30103764, Christene MJ McDonnell and John R. McDonnell, and then claimants of split claim 41F 30103765, Bradley W. Kamerman and Sandra K. Kamerman, by and through respective counsels of record filed a Motion to Amend the point of diversion for their claims to “accurately reflect the historical use of the claims.”

On August 15, 2016, the Water Court issued a Master’s Report in Case 41F-A17 amending the point of diversion to reflect the historically accurate point of diversion as proposed and supported by evidence included with the Motion to Amend for split claims 41F 30103764 and 41F 30103765. (See Motion to Amend and Master’s Report for Case 41F-A17 in claim files 41F 30103764 and 41F 30103765.)

Given the foregoing, it appeared the same amendment made to the point of diversion for split claims 41F 30103764 and 41F 30103765 should also be made to split claim 41F 30103766. Current claimants of split claims 41F 30103764 and 41F 30103765 and co-claimant of claim 41F 30103766 were provided the opportunity to “file a written statement indicating whether they agree or disagree that the above modification correctly describes the historical point of diversion for split claim 41F 30103766 by October 16, 2025.” The Order Setting Filing Deadline also included language stating, “if no comments are filed by the deadline, it will be viewed as agreement that the point of diversion for split claim 41F 30103766 should reflect the same historically accurate point of diversion as split claims 41F 30103764 and 41F 30103765.” (emphasis in original)

On October 14, 2025, John McDonnell filed the only comment stating, “I would like to object to this motion by Martel on the grounds that The Crowley Ditch Co. has not

been notified of or given opportunity to comment.” A copy of this comment is included with this Master’s Report.

Findings of fact

1. The comment filed by Mr. McDonnell is not substantive in nature. Mr. McDonnell does not have standing to object on behalf of other water users.

2. To maintain consistency between the split claims and to reflect the historically accurate point of diversion, the point of diversion identified by claim 41F 30103766 should be corrected to match the historical point of diversion adjudicated by the court in Case 41F-A17. (*See* Aug. 15, 2016 Master’s Report, and Sep. 7, 2016 Order Adopting Master’s Report for Case 41F-A17.)

POINT OF DIVERSION:

<u>ID</u>	<u>QTR</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
1	NENWNE SWSWSE	28 33	1N	2E	GALLATIN

Diversion Means: HEADGATE
Ditch Name: CROWLEY DITCH

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). This prima facie proof may be contradicted and 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. § 85-2-231(2), MCA.

3. A clerical mistake or mistake arising from omission or oversight may be

corrected by the court at any time. Rule 60(a), M.R.Civ.P.

Conclusions of law

The evidence provided in support of the amended point of diversion for the split claims in Case 41F-A17 overcame the prima facie proof of the original statement of claim from which all three split claims were generated. The Master's Report for Case 41F-A17, adopted by the court September 7, 2016, found that the point of diversion identified by the motion to amend was historically accurate and should be identified by split claims 41F 30103764 and 41F 30103765. The evidence in Case 41F-A17 supports the historical accuracy of the amended point of diversion for split claim 41F 30103766.

The Martel motion to amend brought to light a clerical mistake. Clerical mistakes may be corrected by the court at any time. The modification of the point of diversion corrects split claim 41F 30103766.

Recommendations

Based upon the above Findings of Fact and Conclusions of Law, this Master recommends that the Court make the changes specified in the Findings of Fact to correct the Preliminary Decree for this Basin.

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 USPS Mail:

Angela Martel
Geoff Martel
2545 Buffalo Jump Rd
Three Forks MT 59752

Courtesy Copy:

TRB Dykema LLC
3825 Woodenshoe Rd
Manhattan MT 59741

Courtesy Copy:

John R McDonnell
1555 Buffalo Jump Rd
Three Forks MT 59752-9497

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41F-0223-R-2025

October 14, 2025

From: [John McDonnell](#)
To: [Watercourt \(Bozeman\)](#); mbwilcox@me.com
Subject: [EXTERNAL] Case 41F-02230R02025 41F 30103766
Date: Monday, October 13, 2025 7:06:55 AM

Montana Water Court

I would like to object to this motion by Martel on the grounds that The Crowley Ditch Co has not been notified of or given opportunity to comment. This was the procedure on the original point of diversion change and it should be on this request as well.

I have asked Shawn Wilcox, President of Crowley Ditch, as well as several other members and no one has been notified of this.

I have other objections/comments as well, that can be addressed in the comment period for Crowley Ditch members.

Thank You,

John McDonnell
1555 Buffalo Jump Rd
Three Forks, MT 59752

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

Water Right Number: 41F 30103766 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: ANGELA MARTEL
2545 BUFFALO JUMP RD
THREE FORKS, MT 59752

GEOFF MARTEL
2545 BUFFALO JUMP RD
THREE FORKS, MT 59752

***Priority Date:** DECEMBER 13, 1954

***Type of Historical Right:** FILED

***Purpose (Use):** IRRIGATION

Irrigation Type: SPRINKLER

***Flow Rate:** 4.52 CFS

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

Climatic Area: 3 - MODERATE

***Maximum Acres:** 254.00

***Source Name:** HOT SPRING CREEK

Source Type: SURFACE WATER

ALSO KNOWN AS SPRING CREEK

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Tw</u>	<u>Rge</u>	<u>County</u>
1		SWSWSE	33	1N	2E	GALLATIN

Period of Diversion: APRIL 15 TO OCTOBER 1

Diversion Means: HEADGATE

Ditch Name: CROWLEY DITCH

***Period of Use:** APRIL 15 TO OCTOBER 1

***Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Tw</u>	<u>Rge</u>	<u>County</u>
1	202.00		W2	10	1N	2E	GALLATIN
2	52.00		SE	10	1N	2E	GALLATIN

Total: 254.00

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.

30103758

30103766

THIS SPLIT CLAIM WAS AUTHORIZED BY THE WATER COURT BASED ON INFORMATION IN CLAIM NO. 41F
132191-00.