

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: HRMT Land LLC

OBJECTOR: HRMT Land LLC

CASE 41F-0114-R-2025

41F 13806-00

41F 13808-00

41F 13809-00

41F 136440-00

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

Claimant HRMT Land LLC assumed the timely filed objections of its predecessor in interest to the period of use and period of diversion identified by stock claims 41F 13806-00, 41F 13808-00, and 41F 13809-00 and the maximum acres irrigated by claim 41F 136440-00. HRMT Land LLC unconditionally withdrew its objection to the maximum acres irrigated for claim 41F 136440-00.

Irrigation claim 41F 136440-00 received two issue remarks.

POINT OF DIVERSION, MEANS OF DIVERSION, AND DITCH NAME WERE MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

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

These issue remarks resulted from Department of Natural Resources and Conservation ("DNRC") claims examination.

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

On July 18, 2025, HRMT Land LLC filed its Submission of Documentation Resolving Issues.

Issues

1. Is the objection to claims 41F 13806-00, 41F 13808-00, and 41F 13809-00 resolved?

2. Are the issue remarks on claim 41F 136440-00 resolved?

Findings of fact

1. Stock statements of claim 41F 13806-00, 41F 13808-00, and 41F 13809-00 identified a November 15 to May 15 period of use.

2. A preponderance of evidence establishes the period of use for stock claims 41F 13806-00, 41F 13808-00, and 41F 13809-00 should be year-round.

3. HRMT Land LLC unconditionally withdrew its objection to the maximum

acres irrigated by irrigation claim 41F 136440-00.

4. The Preliminary Decree abstract for irrigation claim 41F 136440-00 identifies the accurate type of historical right - “filed.”

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. If the settlement agreement expands or enlarges an element of a claim, evidence meeting the burden of proof must be provided. If the evidence does not meet the burden of proof, the element shall not be expanded or enlarged. Rule 17(b), W.R.Adj.R.

5. 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.

6. 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. Section 85-2-248(3), MCA.

Analysis

Issue 1 - objection resolution stock claims 41F 13806-00, 41F 13808-00, and 41F 13809-00

The Declaration of Thomas C. Bryson supports the historical accuracy of the proposed increase in period of use and period of diversion for stock claims 41F 13806-00, 41F 13808-00, and 41F 13809-00. Mr. Bryson declares that:

- he was born in 1951 and has lived his entire life near Three Forks, Montana,
- he worked in some capacity for HRMT Land LLC's predecessor in interest Climbing Arrow Ranch, Inc.'s Madison Unit from 1997-2019, and was the Ranch Manager for the Madison Unit between 2008 and 2019,
- prior to working with Climbing Arrow Ranch, Inc. he worked on his family's ranch, the Bryson Ranch, from the time of being a small child to about 1996,
- the Bryson Ranch is south of Climbing Arrow Ranch, Inc.'s Madison Unit,
- his time in the area and proximity to Climbing Arrow Ranch, Inc.'s Madison Unit provided him with "personal knowledge and familiarity...with the ranching practices of the Madison Unit," and
- during his management of Climbing Arrow Ranch, Inc. he "was responsible for the day-to-day care of livestock on the property" and that all sources of stock water "were utilized year-round when cattle and/or other livestock were on the property."

HRMT Land LLC's Submission of Documentation Resolving Issues and its attachments including the Thomas C. Bryson Declaration may be viewed on the court's case management system, FullCourt Enterprise, at document sequence 6.00.

Conclusions of law

The evidence entered into the record for period of use and period of diversion

overcomes the period of use identified by prima facie statements of claim 41F 13806-00, 41F 13808-00, and 41F 13809-00, justifies the modifications to each claim, and resolves HRMT Land LLC's objection to claims 41F 13806-00, 41F 13808-00, and 41F 13809-00.

Issue 2 – issue remark resolution

Irrigation claim 41F 136440-00 appeared in the Preliminary Decree with the following issue remarks:

DITCH NAME WAS MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

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

The ditch name issue remark provided the opportunity for Claimant and other water users to object to the ditch name of the claim. No one, including HRMT Land LLC, objected to the ditch name identified by irrigation claim 41F 136440-00.

The type of historical right issue remark was placed on the abstract in error. The statement of claim attachments include a June 1, 1904 filed notice of appropriation. The claim correctly identifies "filed" as the type of historical right.

Conclusions of law

The ditch name issue remark appearing on claim 41F 136440-00 served its notice purpose. The type of historical right issue remark appeared on the abstract of claim 41F 136440-00 in error.

Recommendations

Stock claims 41F 13806-00, 41F 13808-00, and 41F 13809-00 should be modified as follows to accurately reflect historical use.

PERIOD OF USE AND PERIOD OF DIVERSION:

~~NOVEMBER 15 TO MAY 15~~

JANUARY 1 TO DECEMBER 31

Irrigation claim 41F 136440-00 accurately reflects historical use. No changes to the elements of the claim should be made. The issue remarks should be removed from the abstract of claim 41F 136440-00. The multiple use information remark appearing on claim 41F 136440-00 should be updated to remove irrigation claim 41F 133699-00.¹

Post Decree Abstracts of Water Right Claim accompany 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

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¹ Pursuant to the Montana Water Court's Dec. 14, 2012 Order Addressing Reexamination, during reexamination of Basin 41F, DNRC added a multiple use information remark to claims 41F 133688-00, 41F 133699-00, and 41F 136440-00. Although not at issue in this case, HRMT Land LLC noted that the multiple use information remark on irrigation claim 41F 136440-00 may not be accurate. Upon review of the claims identified by the multiple use information remark, irrigation claim 41F 133699-00 was the subject of previous Water Court proceedings and no longer identifies the same filed notice of appropriation as its historical basis. (See May 11, 1995 Master's Report and Aug. 10, 1995 Order Adopting) Claim 41F 133699-00 should be removed from the multiple use information remark. Stock statement of claim 41F 133688-00 was filed by Wilbur E. Smith, the same claimant that filed irrigation statement of claim 41F 136440-00. These statements of claim attached the same filed notice of appropriation to support the historical basis for each claim. Therefore, stock claim 41F 133688-00 and irrigation claim 41F 136440-00 remain multiple uses of the same filed notice of appropriation. No objections were filed to claim 41F 133688-00. Claim 41F 133699-00 received an objection. Both claims received issue remarks and are currently owned by the same individual. The court will consolidate cases immediately to resolve the outstanding issues for the claims and update the multiple use information remark on claim 41F 133688-00, removing claim 41F 133699-00 from the remark, and will remove the multiple use information remark from claim 41F 133699-00. The modifications to the claims shall be made as closely as possible to the issuance of this Master's Report.

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

Water Right Number: 41F 13806-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: HRMT LAND, LLC
101 N MAIN STREET, SUITE 410
ANN ARBOR, MI 48104

Priority Date: JANUARY 1, 1936

Type of Historical Right: USE

Purpose (Use): STOCK

Flow Rate: 25.00 GPM

***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: 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		NESW	20	1S	2E	GALLATIN

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			NESW	20	1S	2E	GALLATIN

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

Water Right Number: 41F 13808-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: HRMT LAND, LLC
101 N MAIN STREET, SUITE 410
ANN ARBOR, MI 48104

Priority Date: APRIL 17, 1981

Type of Historical Right: USE

Purpose (Use): STOCK

Flow Rate: 25.00 GPM

***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: 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		SWNW	23	1S	2E	GALLATIN

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			SWNW	23	1S	2E	GALLATIN

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

Water Right Number: 41F 13809-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: HRMT LAND, LLC
101 N MAIN STREET, SUITE 410
ANN ARBOR, MI 48104

Priority Date: DECEMBER 31, 1930

Type of Historical Right: USE

Purpose (Use): STOCK

Flow Rate: 25.00 GPM

***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: 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	21	1S	2E	GALLATIN

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			NESE	21	1S	2E	GALLATIN

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

Water Right Number: 41F 136440-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: HRMT LAND, LLC
101 N MAIN STREET, SUITE 410
ANN ARBOR, MI 48104

Priority Date: JUNE 1, 1904

Type of Historical Right: FILED

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: 3 - MODERATE

Maximum Acres: 81.00

Source Name: MADISON RIVER

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		NWSESW	7	2S	2E	GALLATIN	
Period of Diversion:		APRIL 15 TO OCTOBER 15					
Diversion Means:		HEADGATE					
Ditch Name:		HUTCHINSON DITCH					
Period of Use:		APRIL 15 TO OCTOBER 15					
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	40.00		NWNW	28	1S	2E	GALLATIN
2	14.00		NENW	28	1S	2E	GALLATIN
3	27.00		SWNW	28	1S	2E	GALLATIN
Total:		81.00					

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.

133688-00 136440-00