

Montana Water Court
PO Box 1389
Bozeman, MT 59771-1389
(406) 586-4364
1-800-624-3270
watercourt@mt.gov

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

CLAIMANT: Valley Garden Land & Cattle LLC

OBJECTOR: Valley Garden Land & Cattle LLC

CASE 41F-0203-R-2025

41F 45975-00

41F 133878-00

41F 133880-00

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 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

Claimant Valley Garden Land & Cattle LLC (“Valley Garden”) filed objections to the point of diversion and place of use identified by stock claims 41F 45975-00 and 41F

133878-00 and the point of diversion and means of diversion identified by stock claim 41F 133880-00.

On December 10, 2025, Valley Garden filed its Additional Information Supporting Objections.

Issue

Is the objection to each claim resolved?

Findings of fact

1. A preponderance of evidence establishes the modifications proposed by Valley Garden to each captioned stock claim are historically accurate.

2. The historical point of diversion and place of use for stock well claim 41F 45975-00 is the SESWSE of Section 19, Township 5 South, Range 1 West, Madison County.

3. The historical point of diversion for stock well claim 41F 133878-00 is the SESWSE of Section 19, Township 5 South, Range 1 West, Madison County and the historical place of use for stock well claim 41F 133878-00 is the NWNENE of Section 30, Township 5 South, Range 1 West, Madison County.

4. The historical point of diversion and means of diversion for stock claim 41F 133880-00 should include a point of diversion for a dam in the NESWSW of Section 32, Township 5 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. 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.

Analysis

Objection resolution

The evidence provided by Valley Garden supports the historical accuracy of the proposed modifications for stock claims 41F 45975-00, 41F 133878-00, and 41F 138880-00.

For stock claims 41F 45975-00 and 41F 133878-00, Valley Garden provided several 1976 aerial photographs depicting the historical locations of the well claimed by both claims and the stock tanks for each claim.

For stock claim 41F 133880-00, Valley Garden provided a series of aerial photographs dated 1968, 1984, and 2023 depicting and confirming the historical location of the dam and reservoir claimed by the claim.

Valley Garden’s Additional Information Supporting Objections and its attachments may be viewed on the court’s case management system, FullCourt Enterprise, at document sequence 2.00.

Conclusions of law

The evidence entered into the record for point of diversion and place of use overcomes the point of diversion and place of use identified by prima facie statements of claim 41F 45975-00 and 41F 133878-00 and the point of diversion and means of diversion identified by prima facie claim 41F 133880-00, justifies the modifications to each claim, and resolves Valley Garden’s objections to the claims.

Recommendations

Stock claim 41F 45975-00 should be modified as follows to accurately reflect historical use.

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>
SESWSE	SWSWSE	19	5S	1W	MADISON

Stock claim 41F 133878-00 should be modified as follows to accurately reflect historical use.

POINT OF DIVERSION:

<u>GOVT LOT</u>	<u>QTR SEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
SESWSE	NENWNW	19 29	5S	1W	MADISON

PLACE OF USE:

<u>GOVT LOT</u>	<u>QTR SEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
NWNENE	NWNWNW	30 29	5S	1W	MADISON
	SENWNW	29	5S	1W	MADISON

Stock claim 41F 133880-00 should be modified as follows to accurately reflect historical use.

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		S2SW	32	5S	1W	MADISON

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

2		NESWSW	32	5S	1W	MADISON
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Diversion Means: DAM

Reservoir: ONSTREAM

GOVT LOT QTR SEC SEC TWP RGE COUNTY
S2SW 32 5S 1W MADISON

Diversion to Reservoir: Diversion # 2 †

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:

Rick C. Tappan
Tappan Law Firm, PLLC
retappan@tappanlawfirm.com
office@tappanlawfirm.com

****Note: Service List Updated 2-24-2026****

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

Water Right Number: 41F 45975-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: VALLEY GARDEN LAND & CATTLE LLC
3000 TURTLE CREEK BLVD
DALLAS, TX 75219-6268

Priority Date: DECEMBER 31, 1950

Type of Historical Right: FILED

Purpose (Use): STOCK

Flow Rate: 10.00 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		SESWSE	19	5S	1W	MADISON

Period of Diversion: MAY 1 TO DECEMBER 1

Diversion Means: WELL
WINDMILL WITH PUMP

Period of Use: MAY 1 TO DECEMBER 1

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			SESWSE	19	5S	1W	MADISON

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

Water Right Number: 41F 133878-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: VALLEY GARDEN LAND & CATTLE LLC
3000 TURTLE CREEK BLVD
DALLAS, TX 75219-6268

Priority Date: MAY 31, 1925

Type of Historical Right: USE

Purpose (Use): STOCK

Flow Rate: 30.00 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		SESWSE	19	5S	1W	MADISON

Period of Diversion: MAY 15 TO NOVEMBER 15

Diversion Means: WELL

Period of Use: MAY 15 TO NOVEMBER 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			NWNENE	30	5S	1W	MADISON

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

Water Right Number: 41F 133880-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: VALLEY GARDEN LAND & CATTLE LLC
3000 TURTLE CREEK BLVD
DALLAS, TX 75219-6268

Priority Date: JUNE 13, 1913

Type of Historical Right: FILED

Purpose (Use): STOCK

***Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. 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: UNNAMED TRIBUTARY OF MOORES 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		S2SW	32	5S	1W	MADISON

***Period of Diversion:** JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

2		NESWSW	32	5S	1W	MADISON
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Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DAM

Reservoir: ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	S2SW	32	5S	1W	MADISON

Diversion to Reservoir: DIVERSION # 2

Period of Use: MAY 15 TO NOVEMBER 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			S2SW	32	5S	1W	MADISON