

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

CLAIMANT: PCH Diamond J, LLC

CASE 41F-6001-A-2025
41F 136438-00

ORDER GRANTING MOTION TO AMEND AND CLOSING CASE

On June 6, 2025, Claimant PCH Diamond J, LLC (“Diamond J”) filed a Motion to Amend claim 41F 136438-00. (Doc. 1.00). This Order addresses the Motion to Amend.

Background

Diamond J seeks to correct the legal descriptions of the point of diversion and place of use. According to Diamond J’s Motion, the current owners of the property would like to cure various issues concerning the water rights associated with the property and correcting claim 41F 136348-00 is a prerequisite to DNRC’s permitting process. *Id.*

Claim 41F 136438-00 was included in the Preliminary Decree for Basin 41F. The objection period for the 41F Preliminary Decree closed on January 22, 2024. Diamond J purchased the property on November 21, 2024. *Id.* Prior to Diamond J’s ownership, the property was operated as a guest ranch until the death of one of the owners in 2022. *Id.* From 2022 to Diamond J’s purchase in 2024, the property was part of an estate placed into probate, managed by a trustee appointed by First Interstate Bank. At the time of the objection period, the property associated with 41F 136438-00 was in probate. *Id.* As the current owner, Diamond J’s option to correct elements of the claim is via Motion to Amend.

No objections were filed to the claim in the Preliminary Decree and no other water user received notice of any correction to the claim. Therefore, the Court issued an order accepting the request to amend after the Preliminary Decree and requiring notice pursuant to Montana Code Annotated Section 85-2-233(6). (Doc. 2.00).

On December 5, 2025, Diamond J filed a Notice of Filing of Confirmation of Publication of Notice. (Doc. 5.00). As required by Section 85-2-233(6), MCA, the notice specified the requested amendments and provided the timeline for objecting to the amendments. No objections were filed.

Applicable Law

A properly filed Statement of Claim for an existing water right is prima facie proof of its content. § 85-2-227, MCA; Rule 10, W.R.Adj.R. Prima facie proof may be contradicted and overcome by a preponderance of the evidence. Rule 19, W.R.Adj.R. A preponderance of the evidence is evidence that shows a fact is “more probable than not.” *Hohenlohe v. State*, 2010 MT 203, ¶ 33, 357 Mont. 438, 240 P.3d 628.

After the issuance of a temporary preliminary decree and close of the objection period in a basin, a claimant may amend their Statement of Claim. § 85-2-233(6), MCA. Notice is required to other water users if a motion to amend may adversely affect other water rights. § 85-2-233(6), MCA. A claimant asserting an amendment to its claim has the burden to show that the historical use of the claim is accurately reflected by the requested amendment. *Nelson v. Brooks*, 2014 MT 120, ¶ 34, 375 Mont. 86, 329 P.3d 558.

Moreover, the party seeking to amend a water right claim has the burden to show, by a preponderance of the evidence, that the claim elements they challenge do not accurately reflect the beneficial use of the water rights as they existed prior to July 1, 1973. *Nelson v. Brooks*, 2014 MT 120, ¶ 34, 375 Mont. 86, 329 P.3d 558; Rule 19, W.R.Adj.R.

Analysis

Diamond J requests to amend the legal description of the point of diversion and place of use of claim 41F 136438-00. (Doc. 1.00). The Motion to Amend and evidence in support of the Motion to Amend are sufficient to prove by a preponderance of the evidence the amendments reflect historical use.

The point of diversion was identified in the Statement of Claim as located in the SWSE of Section 36, Township 5 South, Range 1 East. *See* Statement of Claim for 41F 136437-00. In the Preliminary Decree, the point of diversion appeared as SWNWSE of Section 36. Diamond J explains that DNRC clarified the point of diversion to be closer to a point of diversion associated with a different claim, 41F 136437-00. (Doc. 1.00).

Provided with the Motion to Amend are reports from Diamond J’s consultant Ben Davis of Downstream Research. *See* (Doc. 1.00 attachments). Mr. Davis reported the Water Resources Survey shows the location of the point of diversion as closer to a bridge in the SW of Section 36. *Id.* Diamond J asserts the correct legal description is NESWSW of Section 36, as shown in the Water Resource Survey. *Id.* Moreover, Diamond J requests to amend the point of diversion from the SWNWSE of Section 36 as it appeared in the Preliminary Decree to the NESWSW of Section 36, Township 5 South, Range 1 East, which is consistent with the Water Resources Survey. *Id.*

Additionally, Diamond J requests to correct the legal description of the place of use. Based on Mr. Davis’ reporting, the claimed place of use misallocates the historical acreage within the claimed legal descriptions. *Id.* Diamond J asserts the place of use should be corrected as follows:

ID	Acres		Qtr Sec	Sec	Twp	Rge
1	10.00	2.00	SE	36	5S	1E
2	10.00	18.00	SW	36	5S	1E
Total:	20.00					

Diamond J’s publication of the amendments was sufficient and complies with Section 85-2-233(6), MCA. No objections were filed to the Motion to Amend and the evidence submitted with the Motion supports the amendments requested. The evidence is sufficient to overcome the prima facie status of claim 41F 136438-00 and correct the claim to reflect historical use.

ORDER

Therefore, it is

ORDERED that Diamond J’s Motion to Amend is GRANTED. A post decree abstract of claim 41F 136438-00 is provided with this order.

ORDERED that Case 41F-6001-A-2025 is CLOSED.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service Via Electronic Mail:

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

Water Right Number: 41F 136438-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: PCH DIAMOND J LLC
PO BOX 708
THOMASTON, GA 30286-0009

Priority Date: JUNE 15, 1887

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 112.20 GPM

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

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 20.00

Source Name: JACK 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		NESWSW	36	5S	1E	MADISON

Period of Diversion: JUNE 1 TO OCTOBER 20

Diversion Means: HEADGATE

Ditch Name: DENTON DITCH

PUMP USED AS AN ADDITIONAL MEANS OF DIVERSION.

Period of Use: JUNE 1 TO OCTOBER 20

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	2.00		SE	36	5S	1E	MADISON
2	18.00		SW	36	5S	1E	MADISON
Total:	20.00						

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.