

IN THE WATER COURT OF THE STATE OF MONTANA
UPPER MISSOURI DIVISION
SUN RIVER BASIN (41K)
PRELIMINARY DECREE

CLAIMANT: Shaw Butte Land Co., LLC

OBJECTOR: Shaw Butte Land Co., LLC

CASE 41K-0055-R-2023
41K 208425-00

CLOSING ORDER

PROCEDURAL BACKGROUND

On November 28, 2025, the Court issued an order reinstating claim 41K 208425-00. *In re Shaw Butte Land Co., LLC*, 2025 Mont. Water LEXIS 455; 2025 LX 537208. The order restored the claim to its pre-dismissal status, which requires resolution of the self-objection Shaw Butte Land Co., LLC (“Shaw Butte”) filed and a single issue remark on the preliminary decree abstract that states:

THIS CLAIM PRESENTS ISSUES OF FACT AND LAW THAT MAY BE ADDRESSED AT THE OBJECTION STAGE. IT APPEARS THAT 00.00 ACRES ARE ACTUALLY IRRIGATED AND PROBLEMS COULD EXIST WITH FLOW RATE AND VOLUME.

Shaw Butte’s self-objection states the water right claim is more accurately described as a water spreading system covering 27 acres. The objection asks the Court to modify the claim to reflect the actual historical use. Shaw Butte supported its objection with evidence that included photographs and maps. No one else objected to the claim, nor did anyone seek to appear after the Court published the objection list for this basin.

Following the reinstatement order, the Court held a status conference and set a deadline for Shaw Butte to file any additional evidence to address the objection and issue remark. On January 20, 2026, Shaw Butte filed a statement, along with a proposed revised abstract.

DISCUSSION

The Water Court included claim 41K 208425-00 in the Preliminary Decree for Basin 41K, which covers the Sun River Basin. The Preliminary Decree abstract describes the claim as a right to divert up to 5.00 cfs and 76.00 acre feet from Prevo Coulee for irrigation use by water spreading on 40.00 acres. Prevo Coulee is a drainage on the north side of Shaw Butte in Cascade County.

The evidence contained in Shaw Butte's objection and supplemental filing are sufficient to modify the claim and resolve the issue remark. The photographic evidence shows an impoundment on a coulee with water spreading ditches that operate when water is available, generally during spring runoff. The aerial photographs included with the objection depict the area irrigated with this system, which consists of the 27 acre proposed revised place of use. The photographs provide an evidentiary basis to resolve the issue remark.

The objection also explains the basis for decreeing this type of water spreading system with a volume and not a flow rate. The explanation is consistent with Rules 14(d) and 15(e) of the Department of Natural Resources and Conservation claim examination rules, which provide a basis to modify the elements of this claim, which resolves the objection.

ORDER

Therefore, it is ORDERED that the following elements of claim 41K 208425-00 are modified: (1) the acres irrigated is reduced to 27 acres with the legal land descriptions provided in Shaw Butte's response; (2) the method of irrigation is modified to water spreading; (3) the numeric flow rate is deleted and replaced with a water spreading information remark; (4) the volume is reduced to 51.3 acre feet. Shaw Butte's objection to the claim is DISMISSED as RESOLVED. The claim and this case are CLOSED with the issue remark on the claim also RESOLVED.

A post decree abstract of claim 41K 208425-00 is included with this Order to confirm the modifications have been made in the State's centralized water rights record system.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via Electronic Mail:

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**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
SUN RIVER
BASIN 41K**

Water Right Number: 41K 208425-00 STATEMENT OF CLAIM
Version: 4 -- POST DECREE
Status: ACTIVE

Owners: SHAW BUTTE LAND CO LLC
300 CENTRAL AVE
FL 7
GREAT FALLS, MT 59401-3127

Priority Date: JUNE 26, 1967

Type of Historical Right: USE

Purpose (Use): IRRIGATION

Irrigation Type: WATER SPREADING

Flow Rate: NO FLOW RATE HAS BEEN DECREED BECAUSE THIS USE CONSISTS OF DIRECT FLOW WATER SPREADING.

Volume: 51.30 AC-FT

Climatic Area: 3 - MODERATE

Maximum Acres: 27.00

Source Name: PREVO COULEE

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		NESWNW	23	20N	2W	CASCADE

Period of Diversion: MAY 1 TO OCTOBER 31

Diversion Means: DIVERSION DAM

Period of Use: MAY 1 TO OCTOBER 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	12.50		W2NWNW	23	20N	2W	CASCADE
2	1.00		NESWNW	23	20N	2W	CASCADE
3	13.50		S2NENE	22	20N	2W	CASCADE

Total: 27.00