

IN THE WATER COURT OF THE STATE OF MONTANA  
UPPER MISSOURI DIVISION  
BOULDER RIVER, TRIBUTARY OF THE JEFFERSON RIVER - BASIN 41E

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McCAULEY FAMILY RANCH, LLC,

Petitioner,

vs.

MONTANA DEPARTMENT OF NATURAL RESOURCES  
AND CONSERVATION

Respondent,

UNITED STATES OF AMERICA FOREST SERVICE  
AND BUREAU OF LAND MANAGEMENT

Applicant

**CASE MAPA-0001-WC-2023**

Petition for Judicial Review

Application for Change No.  
41E 30148132

**ORDER GRANTING MOTION TO REMAND**

On July 13, 2023, Petitioner McCauley Family Ranch, LLC (“McCauley”), filed a Petition for Judicial Review (“Petition”) with the Water Court. The Petition seeks review of a Final Order of the Department of Natural Resources and Conservation (“DNRC”) granting the application of the United States of America, Department of Agriculture, Forest Service, and Department of Interior, Bureau of Land Management (collectively, “United States”) to change water right claim number 41E 54725-00, which the United States owns.

The Water Court opened this case to address the Petition. At the request of the parties, the Court stayed this case to allow adjudication matters in Basin 41E to proceed. (Doc. 24.00). Ultimately, the Water Court approved a settlement between McCauley and the United States that included a split of claim 41E 54725-00, and an agreement by McCauley not to oppose presentation of the Water Court adjudication decision as evidence in the DNRC proceedings. (Water Court case no. 41E-0301-R-2024, Doc. 26.00 (as corrected by Doc. 28.00)).

On December 12, 2025, the United States file an Unopposed Motion for Leave to Present Additional Evidence and Motion to Remand. (Doc. 32.00). The Motion asks the Court to remand this case to the DNRC to allow presentation of additional evidence, specifically the Water Court's decision splitting the claim 41E 54725-00. As authority, the Motion cites the provision of the Montana Administrative Procedure Act stating:

If, before the date set for hearing, application is made to the court for leave to present additional evidence and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the agency, the court may order that the additional evidence be taken before the agency upon conditions determined by the court. The agency may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court.

Section 2-4-703, MCA.

The Court agrees this statute provides a basis to remand the case to the DNRC. The motion also shows good cause because evidence of the change proceeding was not before the DNRC when it issued its final order on the change application.

### **ORDER**

Therefore, it is ORDERED that the United States' Unopposed Motion is GRANTED. Leave is hereby granted to the United States to present additional evidence relating to Change No. 41E 30148132.

It is FURTHER ORDERED that this matter is remanded to the Department of Natural Resources and Conservation with direction to receive the additional evidence presented by the United States.

Based upon the remand, this case is CLOSED, without prejudice should either party seek additional relief from the Water Court based upon any future order of the Department of Natural Resources and Conservation in this matter.

**ELECTRONICALLY SIGNED AND DATED BELOW.**

**Service Via Electronic Mail:**

John C. Chaffin  
Office of Field Solicitor  
John.chaffin@sol.doi.gov

Jennifer T. Newbold  
Department of Agriculture  
Office of the General Counsel  
Jennifer.newbold@usda.gov

Jack G. Connors  
Doney Crowley P.C.  
jconnors@doneylaw.com  
legalsec@doneylaw.com

Molly M. Kelly  
Jason Kampman  
Jean Saye  
Montana Department of  
Natural Resources and Conservation  
Molly.kelly2@mt.gov  
Jean.saye@mt.gov  
Jason.Kampman@mt.gov

Maggie Woodward  
NRS-ENRD US DOJ  
Maggie.Woodward@usdoj.gov  
MontanaBasins.ENRD@usdoj.gov

**Service via USPS Mail:**

*Courtesy Copy:*  
Edward K. McCauley  
PO Box 393  
Boulder, MT 59632