

MONTANA WATER COURT
UPPER MISSOURI DIVISION
BIG HOLE RIVER
BASIN 41D
TEMPORARY PRELIMINARY DECREE

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CLAIMANT: Chillin Meadows Ranch LLC

CASE 41D-6008-A-2026

41D 182278-00

41D 182285-00

ORDER DENYING MOTION TO AMEND

This Order addresses a Motion to Amend claims 41D 182285-00 and 41D 182278-00. As set forth below, the Motion is denied.

BACKGROUND

On April 9, 2026, the Water Court received a Motion to Amend two claims owned by Chillin Meadows Ranch LLC (“Chillin Meadows”). (Docs. 1.00, 2.00). The Motion, filed with the letterhead of a consultant, requests to increase the irrigated acres of claims 41D 182285-00 and 41D 182278-00. *Id.*

The claims were included in a Temporary Preliminary Decree (“TPD”) issued on April 6, 2007. As included in the TPD, claim 41D 182285-00 reflected 129.00 acres irrigated. The claim was subject to issue remarks that indicated the 1979 aerial photograph showed 0.00 acres irrigated, the flow rate was in question, and the location of the point of diversion was not identified. The United States Forest Service (“Forest Service”) also objected to the claim.

As included in the TPD, claim 41D 182278-00 reflected 7.00 acres irrigated. The claim was subject to issue remarks stating both the 1955 Water Resources Survey and the 1980 aerial photograph showed 0.00 acres irrigated. The issue remarks also noted there may be 2.00 acres of subirrigation, that the flow rate was at issue, and the means of diversion was not identified.

On September 17, 2010, the Water Court consolidated claims 41D 182285-00 and 41D 182278-00 in TPD case 41D-107. *See* Scanned Documents for 41D 182285-00, 41D 182278-00. At the time of proceedings in case 41D-107, the claims were owned by Canyon Investment Limited Partnership. During case proceedings in 41D-107, agreements between parties, including an agreement with the Forest Service, were filed, and DNRC recommendations were made to resolve issue remarks. As a result of litigation in case 41D-107, the point of diversion of claim 41D 182285-00 was corrected; the acres of claim 41D 182278-00 were reduced to 2.00 acres; and the issue remarks were deemed resolved.

On January 18, 2013, a Master's Report was issued in case 41D-107. On March 1, 2013, an order corrected a clerical error but otherwise adopted the Master's Report.

Now, after TPD proceedings that resulted in resolution of acres irrigated issue remarks for both claims and a reduction to the irrigated acres of 41D 182278-00, Chillin Meadows requests to increase the acreage associated with the claims.

DISCUSSION

Motions to amend are authorized under Montana Code Annotated section 85-2-233(6) and Rule 10, W.R.Adj.R. If the Water Court determines the proposed modification may adversely affect other water users, the Court requires notice and the opportunity to object before approving the modification. When a claimant seeks to amend an element of their own water right, the claimant must prove by a preponderance of the evidence that the modification overcomes the prima facie status of the claim. Rule 19, W.R.Adj.R.; *Nelson v. Brooks*, 2014 MT 120, ¶ 34, 375 Mont. 86, 329 P.3d 558.

The Water Use Act does not always prohibit post-objection period motions to amend, but they also are not allowed in all circumstances. *In re Bluebird Spring Creek LLC*, 41J-6001-A-2025. When a motion to amend comes after the close of an objection period, the Water Court looks to whether the motion is functionally a disguised late objection. *In re Lyndes*, Case 43B-0792-R-2022, 2023 Mont. Water LEXIS 878. A claimant is required to provide evidence of a clerical error or another reason why the proposed modification could not have been brought during the objection period. Allowing unrestricted motions to amend after the objection period closes, even with notice to third

parties, undercuts the preliminary decree objection process and is unfair to claimants and objectors who adhere to the deadlines set by statute and Court orders. *In re Garman Ranch Revocable Trust*, Case 39F-0005-I-2024, 2024 Mont. Water LEXIS 512.

Establishing procedural sideboards to post-objection motions to amend is important to the overall efficiency of the statewide adjudication process. The Legislature charged the Water Court with responsibility to issue final decrees for the eighty-five basins in the State of Montana. Once a decree is issued in a basin, deadlines are set for objections and proceedings are held to resolve objections and issue remarks. Allowing motions to amend after deadlines and proceedings occur impedes adjudication progress.

Here, the circumstances heavily disfavor Chillin Meadows' Motion to Amend. The Motion was filed to increase the places of use, an element that was litigated and resolved in case 41D-107. The claim owners at that time worked with the DNRC and with the Forest Service to resolve issue remarks and objections, including issue remarks stating DNRC examination found 0.00 acres irrigated. Thus, the elements now sought to be increased were noticed in the TPD, and the acres irrigated were a subject of the proceedings in 41D-107.

There is no explanation in the Motion to Amend stating that these corrections are clerical in nature nor is there any other reason for the Water Court to consider the increases or conduct an adverse affect analysis pursuant to section 85-2-233(6), MCA. It appears Chillin Meadows may have acquired the property associated with the claims fairly recently. However, the Water Use Act does not recognize change in ownership as a reason to reopen and re-adjudicate elements of a closed claim, except in limited circumstances where there is a dispute over ownership. *In re Bluebird Spring Creek LLC*, 41J-6001-A-2025 (citing § 85-2-424(9), MCA). Further, the Motion requires the Water Court to use judicial resources to address issues that have already been litigated in front of this Court and resolved and takes the Court away from its task of adjudicating claims in progression to final decrees. The issue remarks and objection in the TPD have been resolved, and, therefore, the Motion to Amend those same elements shall not proceed.

ORDER

Therefore, it is
ORDERED that the Motion to Amend claims 41D 182285-00 and 41D 182278-00
is DENIED.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service Via USPS Mail

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