

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

* * * * *

CLAIMANT: Bar K Ranch LLC

OBJECTOR: United States, DOA Forest Service

CASE 41F-0235-R-2025
41F 133932-00

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

The United States, DOA Forest Service ("Forest Service") filed an objection to Bar K Ranch LLC stock claim 41F 133932-00.

On May 6, 2026, the Forest Service filed a Motion to Dismiss Water Right (“Motion”). Bar K Ranch LLC did not oppose the motion.

Issues

1. Should stock claim 41F 133932-00 be dismissed?
2. Is the Forest Service’s objection resolved?

Finding of fact

Stock claim 41F 133932-00 should be dismissed.

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 is subject to review and approval by the Water Court. Rule 17(a), W.R.Adj.R.

Analysis

Issues 1 and 2 – dismissal of claim and objection resolution

The Forest Service explains that in 1984 it became the owner of the land where the point of diversion and place of use for stock claim 41F 133932-00 are located, and that

this is not an area that can be used for stock watering. (*See* Motion, Thor Burbach Dec., Ex. 1, ¶ 3-4, Att. A-B) The Motion and its attachments may be viewed on the court's case management system, FullCourt Enterprise, at document sequence 7.00.

The DNRC Database identifies Bar K Ranch LLC as the current claimant of water right claim 41F 133932-00. The Montana Cadastral Database located at <https://svc.mt.gov/msl/mtcadastral>, identifies the Forest Service as the current property owner of the place of use identified by claim 41F 133932-00. Both parties agree stock claim 41F 133932-00 should be withdrawn.

Conclusion of law

The motion to dismiss claim 41F 133932-00 should be granted. Dismissal of claim 41F 133932-00 resolves the Forest Service's objection.

Recommendation

Stock claim 41F 133932-00 should be dismissed.

A Post Decree Abstract of Water Right Claim accompanies this report to confirm dismissal of the claim in the state's centralized water right record system.

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 133932-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: DISMISSED

Owners: BAR K RANCH LLC
PO BOX 1865
BOZEMAN, MT 59771-1865

Priority Date:

Type of Historical Right:

Purpose (Use): STOCK

Flow Rate:

Volume:

Source Name: TRAIL FORK BEAR CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

Remarks:

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.