

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

* * * * *

CLAIMANT: BMW Family Holdings LLC

CASE 41F-0242-R-2026
41F 141173-00

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 above captioned stock claim appeared in the Preliminary Decree with the following issue remark:

THE VOLUME, FLOW RATE AND MEANS OF DIVERSION SHOULD BE CHANGED TO REFLECT THE CHANGE OF USE TO STOCKWATER.

The court may add issue remarks providing some sort of notice to water users concerning a claim. The court ordered the addition of the above identified issue remark to the claim during Temporary Preliminary Decree proceedings. Montana law requires the Water Court to resolve issue remarks.

Claimant, BMW Family Holdings LLC (“BMW”) was ordered to meet with DNRC to attempt resolution of the issue remark. BMW failed to complete the issue remark process. The court set a show cause filing deadline for BMW. On May 8, 2026, attorney Brooke E. Reynolds filed a Notice of Appearance for BMW. On May 8, 2026, Ms. Reynolds filed a Statement Agreeing to DNRC’s Recommendation on behalf of BMW. The service list should be updated to reflect Ms. Reynolds’ appearance on behalf of BMW.

Issue

Is the issue remark appearing on stock claim 41F 141173-00 resolved?

Findings of fact

1. On April 17, 2026, DNRC filed a Memorandum recommending resolution of the issue remark.
2. The historically accurate means of diversion for stock claim 41F 141173-00 is developed spring.

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. This prima facie proof may be contradicted and 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. When resolving issue remarks, the Montana Water Court must weigh the information resulting in the issue remark and the issue remark against the claimed water right. Section 85-2-247(2), MCA.

4. If the Montana Water Court cannot resolve issue remarks based upon information in the claim file or information available to the Court, claimants shall be required to confer with the DNRC to attempt resolution of the issue remarks. Claimants shall file documentation to resolve the issue remarks, and the DNRC shall submit recommendations regarding disposition of the issue remarks. Section 85-2-248(5), MCA.

Analysis

Issue remark resolution

BMW was ordered to meet with DNRC to attempt resolution of the issue remark. On April 17, 2026, DNRC filed its Memorandum. DNRC reported that BMW failed to contact DNRC. DNRC recommended that the means of diversion be modified from “flowing” to “developed spring” to resolve the issue remark appearing on stock claim 41F 141173-00.

BMW did not file written agreement with the proposed modification to claim 41F 141173-00 thereby failing to complete the issue remark resolution process. An order issued for BMW to show cause why the claim should not be modified as recommended by DNRC. BMW then filed its agreement with DNRC’s proposed modification.

Conclusions of law

Based upon the claim file¹, BMW’s response to the show cause order, and

¹ The means of diversion is blank on the prima facie statement of claim, DNRC modified the means of diversion to “flowing” during claim examination.

DNRC's recommendation, the means of diversion for stock claim 41F 141173-00 should be modified to "developed spring" to resolve the issue remark appearing on the claim.

Recommendations

Stock claim 41F 141173-00 should be modified as follows to accurately reflect historical use.

<u>MEANS OF DIVERSION:</u>	FLOWING	DEVELOPED SPRING
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The issue remark should be removed from the claim abstract.

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

ELECTRONICALLY SIGNED AND DATED BELOW.

Service Via USPS Mail:

Last Order:

BMW Family Holdings LLC
99 Wisconsin Creek Rd W
Sheridan MT 59749

Service Via Electronic Mail:

Brooke E. Reynolds
Reynolds Law PLLC
brooke@reynoldslawmt.com
(Atty for: BMW Family Holdings LLC)

****Note: Service List Updated 7-1-2026****

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

Water Right Number: 41F 141173-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: BMW FAMILY HOLDINGS LLC
99 WISCONSIN CREEK RD W
SHERIDAN, MT 59749

Priority Date: DECEMBER 31, 1915

Type of Historical Right: FILED

***Purpose (Use):** STOCK

Flow Rate: 1.00 GPM

***Volume:** THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

***Source Name:** SPRING, UNNAMED TRIBUTARY OF FRIELER CREEK

Source Type: GROUNDWATER

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		SWSENE	17	6S	2W	MADISON

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DEVELOPED SPRING

Period of Use: JANUARY 1 TO DECEMBER 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			SENE	17	6S	2W	MADISON