

Montana Water Court
PO Box 1389
Bozeman, MT 59771-1389
(406) 586-4364
1-800-624-3270
watercourt@mt.gov

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

CLAIMANT: Granger Ranches LP

OBJECTOR: United States, DOI Bureau of Reclamation

COUNTEROBJECTORS: Christopher L. Evans; John P. Scully;
Antoinette C. Scully; Kristy A. Saier;
Karl M. Saier; Lucie L. Jones;
Margaret L. Wachtler; Joel Wachtler;
Quarter Circle One, LLC; Reints
Family Revocable Trust; Richard L.
& Donna H. Jones Revocable Trust;
South Jeffers Ranch, LLC; Tim
Whitman; Tryston J. Reints

NOTICE OF INTENT TO APPEAR: Two Creeks Estate, LLC;
Larry L. Love; Theresa I.
Love; West Madison
Canal Company; Peter &
Kelly C. McLoughlin
Revocable Living Trust;
Sampson Investments
LLC

CASE 41F-0145-R-2025

41F 8981-00

41F 8984-00

41F 8985-00

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, DOI Bureau of Reclamation (“BOR”) filed an objection to all elements of the captioned irrigation claims. Counterobjections to the claims and notices of intent to appear for the claims were also filed.

Claims 41F 8981-00 and 41F 8985-00 appeared in the Preliminary Decree with notice issue remarks.

On February 27, 2026, Granger Ranches LP (“Granger”) and the BOR filed a Stipulation to Resolve Objections. Upon review, the stipulated place of use and maximum acres irrigated for claim 41F 8984-00 required additional supporting evidence. On April 7, 2026, Granger filed a Notice of Filing of Additional Evidence. No modifications were made to the stipulated terms. The Stipulation stated the stipulated terms would resolve all counterobjections and notices of intent to appear for the captioned claims.

On April 21, 2026, withdrawals were filed by the counterobjectors and notice of intent to appear parties Two Creeks Estate LLC, Theresa I. Love, and Larry L. Love conditioned upon the court accepting the stipulated terms.

Issues

1. Should the court accept the stipulated terms?

2. Are the notice issue remarks on claims 41F 8981-00 and 41F 8985-00 resolved?

Findings of Fact

1. For irrigation claim 41F 8981-00:
 - the flow rate should be reduced from 7.50 CFS to **3.60 CFS**,
 - the volume should be reduced from 1,352.70 AF to **978.00 AF**, and
 - the historical place of use and maximum acres irrigated should be reduced from 200.00 to **95.00**.
2. For irrigation claim 41F 8984-00:
 - the flow rate should be reduced from 5.31 CFS to **4.00 CFS**, and
 - the historical place of use and maximum acres irrigated should be reduced from 140.00 to **80.00**.
3. For irrigation claim 41F 8985-00:
 - the flow rate should be reduced from 30.13 CFS to **20.00 CFS**, and
 - the historical place of use and maximum acres irrigated should be reduced from 795.00 to **520.00**.

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, including the documents filed by a claimant where the claimant is the only party, is subject to review and approval by the Water Court. Rule 17(a), W.R.Adj.R.

4. The Water Court may accept a settlement agreement that reduces or limits an element of a claim and need not determine whether the burden of proof is met unless there is an unresolved issue remark on the claim. Rule 17(c), W.R.Adj.R.

5. If the settlement agreement expands or enlarges an element of a claim, evidence meeting the burden of proof must be provided. If the evidence does not meet the burden of proof, the element shall not be expanded or enlarged. Rule 17(b), W.R.Adj.R.

6. 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.

7. The Montana Water Court has the authority to resolve issue remarks when the claim file and information available to the Court provide a sufficient basis to do so. Section 85-2-248(3), MCA.

Analysis

Issue 1 – acceptance of stipulated terms

While Granger and the BOR agreed to a reduced number of acres irrigated for claim 41F 8984-00, the legal land description for the stipulated place of use included a legal land description not included on the prima facie statement of claim. The court requested further evidence to support the historical irrigation of the stipulated 22.00-acre place of use in the S2SE of Section 17, Township 6 South, Range 1 West, Madison County. Granger provided: 1) a June 25, 1951 Warranty Deed from Wetmore Hodges and Dorothy C. Hodges to Jeffrey S. Granger and David Granger, Jr. for the S2SE of Section 17, Township 6 South, Range 1 West, Madison County, with all appurtenances (FCE Doc. 20.00, Att. 1 and 2) and 2) 1947 and 1968 aerial photographs depicting the irrigated

place of use and the McKay Ditch running from Section 20 into the S2SE of Section 17, Township 6 South, Range 1 West, Madison County (FCE Doc. 20.00, Att. 5 and 6).

The remainder of the stipulated modifications - flow rate, volume, and maximum acres irrigated for claim 41F 8981-00 and flow rate, maximum acres irrigated, and place of use for claims 41F 8984-00 and 41F 8985-00 - resulted in a reduction of those elements. There is no burden of proof for the parties to meet for these reductions.

The Stipulation included aerial photos depicting the modified place of use for each captioned irrigation claim. The Stipulation and aerial photos may be viewed on the court's case management system, FullCourt Enterprise, at document sequence 16.00. Granger's Notice of Filing of Additional Evidence and its attachments may be viewed at document sequence 20.00.

Conclusions of law

The evidence entered into the record for the modified place of use for claim 41F 8984-00 overcomes the prima facie proof afforded the statement of claim and justifies the modified place of use for irrigation claim 41F 8984-00.

For the remainder of the proposed modifications to each irrigation claim, the evidence entered into the record is a reduction within the parameters of each statement of claim and justifies the modifications to the claims.

The stipulated terms should be accepted by the court, thereby resolving the BOR's objection to each claim, the counterobjections to each claim, and the concerns of the notice of intent to appear parties for each claim.

Issue 2 – issue remark resolution irrigation claims 41F 8981-00 and 41F 8985-00

Claim 41F 8981-00 appeared in the Preliminary Decree with the following issue remarks:

THE TIMELY FILED OBJECTION OF THE MONTANA DEPARTMENT OF STATE LANDS WAS AMENDED BY THE PARTIES TO INCLUDE MAXIMUM ACRES IRRIGATED AND PLACE OF USE BECAUSE THESE ELEMENTS WERE NOT INCLUDED ON THE OBJECTION LIST, ANY WATER USER WHOSE RIGHTS MAY BE ADVERSELY AFFECTED BY ENFORCEMENT OF THESE CHANGES MAY PETITION THE APPROPRIATE COURT FOR RELIEF OR MAY FILE AN OBJECTION AT THE PRELIMINARY DECREE.

DITCH NAME WAS MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

Claim 41F 8985-00 appeared in the Preliminary Decree with the following issue remark:

DITCH NAME WAS MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

Water users were given the opportunity to review the claims and file an objection. The deadline to file objections passed. The only objections to the claims are resolved by these case proceedings.

Conclusions of law

The issue remarks served their notice purpose.

Recommendations

Irrigation claim 41F 8981-00 should be modified as follows to accurately reflect historical use.

<u>FLOW RATE:</u>	7.50 CFS	3.60 CFS
<u>VOLUME:</u>	1,352.70 AF	978.00 AF
<u>MAXIMUM ACRES:</u>	200.00	95.00

PLACE OF USE:

	<u>ACRES</u>	<u>GOVT LOT</u>	<u>QTR SEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
10.00	20.00		SWSE	4	6S	1W	MADISON
31.00	60.00		W2NE	9	6S	1W	MADISON
27.00	50.00		E2NW	9	6S	1W	MADISON
27.00	40.00		W2SW	9	6S	1W	MADISON
	30.00		E2SW	9	6S	1W	MADISON
TOTAL: 95.00	200.00						

Irrigation claim 41F 8984-00 should be modified as follows to accurately reflect historical use.

<u>FLOW RATE:</u>	5.31 CFS	4.00 CFS
<u>MAXIMUM ACRES:</u>	140.00	80.00

PLACE OF USE:

	<u>ACRES</u>	<u>GOVT LOT</u>	<u>QTR SEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
	22.00		S2SE	17	6S	1W	MADISON
40.00	100.00		W2NE	20	6S	1W	MADISON
	12.00		W2NENE	20	6S	1W	MADISON
	6.00	W2NWSE	N2SE	20	6S	1W	MADISON
TOTAL:	80.00						

Irrigation claim 41F 8985-00 should be modified as follows to accurately reflect historical use.

FLOW RATE: 30.13 CFS 20.00 CFS

MAXIMUM ACRES: 795.00 520.00

PLACE OF USE:

	<u>ACRES</u>	<u>GOVT LOT</u>	<u>QTR SEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
210.00	300.00		W2	4	7S	1W	MADISON
	150.00		W2E2	4	7S	1W	MADISON
	300.00		E2	5	7S	1W	MADISON
	10.00		E2W2	5	7S	1W	MADISON
TOTAL:	520.00						

The issue remarks should be removed from the abstracts of claims 41F 8981-00 and 41F 8985-00.

Post Decree Abstracts of Water Right Claim accompany this report to confirm the recommendations have been implemented in the state's centralized water right record system.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service Via Electronic Mail:

William C. Fanning
FANNING LAW PLLC
william@fanninglawpllc.com
becki@fanninglawpllc.com
(Atty for: *Granger Ranches LP*)

Michael J. L. Cusick
Cusick & Michael, P.C.
office@cmrlawmt.com
(Atty for: *O'Dell Ditch Co. Shareholders Group*)

Peter G. Scott
Peter G. Scott, Law Offices, PLLC
peter@scott-law.com
office@scott-law.com
(Atty for: *West Madison Canal Co.*)

W. John Tietz
Browning Kaleczyc Berry & Hoven PC
john@bkbh.com
wcfilings@bkbh.com
(Atty for: *Peter & Kelly C. McLoughlin Revocable Trust; Sampson Investments LLC*)

Alexa Penalosa, Trial Attorney
Michelle Nkeng, Trial Attorney
U.S. Dept of Justice, ENRD-NRS
Alexa.Penalosa@usdoj.gov
Michelle.Nkeng@usdoj.gov
MontanaBasins.ENRD@usdoj.gov
(Attys for: *United States, DOI Bureau of Reclamation*)

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

Water Right Number: 41F 8981-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: GRANGER RANCHES LP
PO BOX 691
ENNIS, MT 59729-0691

Priority Date: OCTOBER 22, 1885

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 3.60 CFS

Volume: 978.00 AC-FT

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 95.00

Source Name: ODELL CREEK

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		NWNWNW	16	6S	1W	MADISON

Period of Diversion: MAY 1 TO SEPTEMBER 15

Diversion Means: HEADGATE

Ditch Name: BUFORD DITCH

Period of Use: MAY 1 TO SEPTEMBER 15

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	10.00		SWSE	4	6S	1W	MADISON
2	31.00		W2NE	9	6S	1W	MADISON
3	27.00		E2NW	9	6S	1W	MADISON
4	27.00		SW	9	6S	1W	MADISON

Total: 95.00

Remarks:

IMPLIED CLAIM NO. 41F 214428 00 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM.

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

Water Right Number: 41F 8984-00 STATEMENT OF CLAIM
Version: 4 -- POST DECREE
Status: ACTIVE

Owners: GRANGER RANCHES LP
PO BOX 691
ENNIS, MT 59729-0691

Priority Date: NOVEMBER 9, 1906

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 4.00 CFS

***Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 80.00

Source Name: MADISON RIVER

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		SWNWSE	20	6S	1W	MADISON

Period of Diversion: MAY 1 TO SEPTEMBER 15

Diversion Means: HEADGATE

Period of Use: MAY 1 TO SEPTEMBER 15

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	22.00		S2SE	17	6S	1W	MADISON
2	40.00		W2NE	20	6S	1W	MADISON
3	12.00		W2NENE	20	6S	1W	MADISON
4	6.00		W2NWSE	20	6S	1W	MADISON
Total:	80.00						

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

Water Right Number: 41F 8985-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: GRANGER RANCHES LP
PO BOX 691
ENNIS, MT 59729-0691

Priority Date: JULY 29, 1902

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 20.00 CFS

***Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 520.00

Source Name: MADISON RIVER

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		SESESE	33	7S	1W	MADISON

Period of Diversion: MAY 1 TO SEPTEMBER 15

Diversion Means: HEADGATE

Ditch Name: EIKLAND DITCH

Period of Use: MAY 1 TO SEPTEMBER 15

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	210.00		W2	4	7S	1W	MADISON
2	300.00		E2	5	7S	1W	MADISON
3	10.00		E2W2	5	7S	1W	MADISON

Total: 520.00

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

8985-00

8986-00