

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

CLAIMANT: Longhorn Ranch, LLC

CASE 41F-0166-R-2025

41F 35555-00

41F 35572-00

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 captioned claims appeared in the Preliminary Decree for this Basin with issue remarks. Issue remarks result from Department of Natural Resources and Conservation (“DNRC”) claims examination. If claims examination cannot confirm some aspect of a

claim, an issue remark is added to the claim. DNRC may also add issue remarks providing some sort of notice to water users concerning a claim.

Stock claim 41F 35555-00 appeared in the Preliminary Decree for this Basin with the following issue remarks:

IT APPEARS THAT THE POINT OF DIVERSION AND MEANS OF DIVERSION MAY BE INCORRECT. THIS WILL BE HEARD AFTER PROPER NOTICE IN THE NEXT OBJECTION LIST.

POINT OF DIVERSION, MEANS OF DIVERSION, AND DITCH NAME WERE 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.

Irrigation claim 41F 35572-00 appeared in the Preliminary Decree for this Basin with the following issue remarks:

THE CLAIMED MEANS OF DIVERSION CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

THIS CLAIM APPEARS TO BE CLAIMING TWO SEPARATE SOURCES OF WATER. MORE THAN ONE WATER RIGHT MAY BE INVOLVED.

Montana law requires the Water Court to resolve issue remarks. Claimant, Longhorn Ranch, LLC (“Longhorn”), completed the issue remark resolution process. Included with Longhorn’s proposed resolution of the issue remarks was an amendment to the place of use identified by stock claim 41F 35555-00.

Issues

1. Are the issue remarks resolved?
2. Should Longhorn’s amendment to the place of use for stock claim 41F 35555-00 be granted?

Findings of fact

1. On September 5, 2025, DNRC filed a Memorandum concerning resolution of the means of diversion issue remark appearing on irrigation claim 41F 35572-00. DNRC reported the means of diversion issue remark was resolved.

2. The historical point of diversion and means of diversion for irrigation claim 41F 35572-00 should be the S2 of Section 23 and the E2 of Section 26, both in Township

6 South, Range 1 West. The historical means of diversion is a pump moveable along the source within the point of diversion legal land description.

3. On March 6, 2026, DNRC filed a Memorandum concerning resolution of the point of diversion and means of diversion issue remark appearing on stock claim 41F 35555-00. DNRC reported the point of diversion and means of diversion issue remark was resolved.

4. The historical point of diversion and means of diversion for stock claim 41F 35555-00 should be all of Section 26, in Township 6 South, Range 1 West. The historical means of diversion is a drain ditch within the point of diversion legal land description.

5. The historical place of use for stock claim 41F 35555-00 should be amended and reduced to Section 26, Township 6 South, Range 1 West only.

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. If the settlement agreement expands or enlarges an element of a claim, the

burden of proof must be met. If evidence does not meet the burden of proof, the element shall not be expanded or enlarged. Rule 17(b), W.R.Adj.R.

5. The Montana 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.

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. 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.

8. The Montana Water Court has jurisdiction to review a motion to amend pursuant to § 85-2-233(6), MCA.

9. Notice by publication of the motion to amend is required if there is the possibility of adverse affect to other water users. Section 85-2-233(6)(a)(i)-(ii), MCA.

10. Rule 15 M.R.Civ.P. restricts the scope of an amendment to the conduct, transaction, or occurrence set forth in the original pleading - the “same set of operative facts as contained in the original pleading.” *Sooy v. Petrolane Steel Gas, Inc.*, 218 Mont. 418, 422-23, 708 P.2d 1014, 1017 (1985). An amendment “merely makes more specific that which has already been alleged...or corrects specific factual details.” *Prentice Lumber Co. v. Hukill*, 161 Mont. 8, 15, 504 P.2d 277, 281 (1972).

Analysis

Issue remark resolution and amended place of use for stock claim 41F 35555-00

DNRC recommended that the historical means of diversion and point of diversion for stock claim 41F 35555-00 is an unnamed drain ditch running through all of Section 26, Township 6 South, Range 1 West. DNRC recommended removal of the means of

diversion and point of diversion issue remark appearing on stock claim 41F 35555-00. Longhorn also proposed an amended reduced place of use matching the point of diversion for stock claim 41F 35555-00. The place of use did not appear on the objection list for claim 41F 35555-00. The proposed amendment reduced the place of use and therefore had no potential to adversely affect other water users. Notice of the proposed amendment to stock claim 41F 35555-00 was not necessary.

DNRC recommended that the historical means of diversion for irrigation claim 41F 35572-00 is a moveable pump along the source, Bear Creek, within the S2 of Section 23 and the E2 of Section 26, both in Township 6 South, Range 1 West. DNRC recommended removal of the means of diversion issue remark appearing on irrigation claim 41F 35572-00.

Longhorn agreed with DNRC's recommendations. Longhorn provided DNRC the Declaration of Tim Gress and aerial photographs in support of the proposed modifications. Mr. Gress declared he:

- moved to Longhorn Ranch in 1968
- was the ranch manager for 47 years and has "direct operational and managerial experience with stockwatering and irrigation practices on the Longhorn Ranch"
- filed the statements of claim in 1981
- worked with his brother who managed the irrigation and farming operations, and
- managed the cattle operation.

The Gress Declaration also confirmed the historical use of the claims as identified by the post decree abstracts attached to this report. The DNRC Memorandums and their attachments may be viewed on the court's case management system, FullCourt Enterprise, at document sequences 8.00 and 20.00.

Stock claim 41F 35555-00 appeared in the Preliminary Decree with the following issue remark:

POINT OF DIVERSION, MEANS OF DIVERSION, AND DITCH NAME WERE 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 claim and file an objection. The deadline to file objections expired. No water users filed an objection to claim 41F 35555-00.

Irrigation claim 41F 35572-00 appeared in the Preliminary Decree with the following issue remark:

THIS CLAIM APPEARS TO BE CLAIMING TWO SEPARATE SOURCES OF WATER. MORE THAN ONE WATER RIGHT MAY BE INVOLVED.

Statement of claim 41F 35572-00 identified a singular source - Little Bear Creek Springs. During initial claims examination DNRC clarified the source to Little Bear Spring Creek and then to Bear Creek. The filed notice of appropriation attached to and in support of the statement of claim identifies the source as “water of the Little Bear Creek and the Little Bear Creek Springs” which supply “the waters to thereof.” The Preliminary Decree abstract identifies Bear Creek, a singular source. DNRC added the issue remark to claim 41F 35572-00 noting the claim may be claiming two separate sources of water in error.

Conclusions of law

The evidence entered into the record and evidence in the claim files supports and justifies the proposed modifications to claims 41F 35555-00 and 41F 35572-00, overcoming the prima facie statements of claim by a preponderance of evidence where necessary.

The amended place of use for claim 41F 35572-00 is a reduction within the parameters of the prima facie statement of claim. No further evidence is necessary to support the amendment.

The issue remarks on each claim are either resolved or served their notice purpose.

Recommendations

Stock claim 41F 35555-00 should be modified as follows to accurately reflect historical use.

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

Water Right Number: 41F 35555-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: LONGHORN RANCH LLC
602 S FERGUSON AVE STE 2
BOZEMAN, MT 59718-6483

Priority Date: MAY 1, 1928

Type of Historical Right: FILED

Purpose (Use): STOCK

***Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

***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: WASTE & SEEPAGE, UNNAMED TRIBUTARY OF BEAR CREEK

Source Type: SURFACE WATER

ALSO KNOWN AS WASTE AND SEEPAGE, TRIBUTARY OF LOWER BEAR CREEK.

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 | | | 26 | 6S | 1W | MADISON |

Period of Diversion: SEPTEMBER 1 TO FEBRUARY 1

Diversion Means: DRAIN DITCH

Period of Use: SEPTEMBER 1 TO FEBRUARY 1

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 | | | | 26 | 6S | 1W | MADISON |

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

Water Right Number: 41F 35572-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: LONGHORN RANCH LLC
602 S FERGUSON AVE STE 2
BOZEMAN, MT 59718-6483

Priority Date: OCTOBER 27, 1950

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 336.60 GPM

***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: 255.00

Source Name: BEAR CREEK

Source Type: SURFACE WATER

ALSO KNOWN AS LOWER BEAR CREEK AND AS LITTLE BEAR CREEK SPRINGS.

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 | | S2 | 23 | 6S | 1W | MADISON |

Period of Diversion: MAY 1 TO OCTOBER 31

Diversion Means: PUMP

| | | | | | | |
|---|--|----|----|----|----|---------|
| 2 | | E2 | 26 | 6S | 1W | MADISON |
|---|--|----|----|----|----|---------|

Period of Diversion: MAY 1 TO OCTOBER 31

Diversion Means: PUMP

PUMP IS MOVEABLE ALL ALONG SOURCE WITHIN LEGAL LAND DESCRIPTION.

Period of Use: MAY 1 TO OCTOBER 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 | 50.00 | | SW | 23 | 6S | 1W | MADISON |
| 2 | 155.00 | | | 26 | 6S | 1W | MADISON |
| 3 | 50.00 | | SE | 23 | 6S | 1W | MADISON |

Total: 255.00

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.

35571-00 35572-00 35573-00 35577-00

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE ASSOCIATED WHICH MEANS THE RIGHTS SHARE THE SAME PLACE OF USE.

6682-00 35571-00 35572-00 35573-00

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

35557-00 35572-00