

Montana Water Court
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IN THE WATER COURT OF THE STATE OF MONTANA
UPPER MISSOURI DIVISION
JEFFERSON RIVER BASIN (41G)
PRELIMINARY DECREE

CLAIMANT: Treasured Mountains Holdings LLC

CASE 41G-6006-A-2026
41G 212596-00

ORDER ON MOTION TO AMEND

On June 23, 2026, Claimant Treasured Mountains Holdings LLC (“Treasured Mountains”) filed a Verified Motion to Amend Water Right Claim 41G 212596-00. The motion asks the court to modify the source type from groundwater to surface water. The Water Court opens this case to address the motion. For the reasons set forth below, the Court grants the motion.

BACKGROUND

The Water Court included claim 41G 212596-00 in the Preliminary Decree for the Jefferson River Basin (Basin 41G), issued on February 15, 2018. The Preliminary Decree decreed the claim as a right to use water from a spring that is an unnamed tributary of the Jefferson River for irrigation use. The preliminary decree abstract indicates the spring also is known as Willow Spring. The source type is classified as groundwater. The claim received a late claim remark, which the Court resolved in a closing order in case 41G-R348. Neither the issue remarks nor the closing order addressed the source type.

Treasured Mountains' motion states that when compiling information in connection with a proposed change application, it discovered that the source type was incorrectly described as groundwater but should be surface water. The motion does not ask for any modifications any other element of the claim.

DISCUSSION

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

The Water Use Act does not specifically preclude motions to amend at any particular point prior to issuance of a final decree. However motions to amend filed after a claim has been included in a decree and closed without objections potentially pose problems because they ask for modifications to claims without preliminary decree safeguards such as notice and an objection process. Because this motion falls in the category of a post-decree motion to amend, it receives an especially careful review from the Court. As the Court previously has explained, post-decree motions run the risk of being disguised objections filed after the close of the objection period. *In re Brewer Ranch LLC*, 2023 Mont. Water LEXIS 393. The Court also is wary of allowing motions to amend that seem to be efforts to avoid a change proceeding under § 85-2-402, MCA. However, if a motion identifies clerical-type errors, the Court may allow the motion. *In re Haven*, Case 42L-6003-A-2022, 2022 Mont. Water LEXIS 441.

The Court first examines the motion to determine whether it appears to be a disguised late objection. The nature of this motion indicates it is not. The motion indicates Treasured Mountains discovered the source type discrepancy during the process of preparing a change application and filed the motion to correct the errors. Based on information included with the motion, including an affidavit of Andrew Brummond, a

water conservation specialist with the Montana Department of Fish, Wildlife and Parks, the claim was apparently coded as groundwater with no supporting reason to do so.

As a general matter, the Department of Natural Resources and Conservation (“DNRC”) claim examination manual calls for a spring to be classified as groundwater when the spring is “developed.” As “developed spring” is “a spring with some man-made development at or below the point of extrusion which brings additional flow to the surface which would not naturally be available for use and is classified as groundwater.” DNRC Claim Examination Manual, at 35 (May 2013). There is nothing in the claim file to support classifying the Willow Spring as groundwater. The classification appears to be a clerical coding error.

The second question is whether additional notice should be required. The nature of this motion indicates it is unlikely the motion will result in a modified water use causing adverse effect to other water users.

Treasured Mountains’ motion meets the standard for motions to amend. The evidence provided by Treasured Mountains proves that the surface water source type more accurately describes what already has been decreed without affecting other water users.

ORDER

Therefore, it is ORDERED that Treasured Mountains’ Verified Motion to Amend Water Right Claim is GRANTED. The source type is modified to “surface water.”

A post-decree abstract of the claim is included with this Order to confirm the modification has been made in the State’s centralized water rights record system.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

Treasured Mountains Holdings LLC
5653 Monterey Drive
Frisco, TX 75034-4076

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
JEFFERSON RIVER
BASIN 41G**

Water Right Number: 41G 212596-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Late Claim: B

Owners: TREASURED MOUNTAINS HOLDINGS LLC
5653 MONTEREY DRIVE
FRISCO, TX 75034-4076

Priority Date: DECEMBER 31, 1947

Enforceable Priority Date: JUNE 30, 1973

CLAIM FILED LATE 09/12/1988 . AS MANDATED BY SECTION 85-2-221(3), MCA, THIS CLAIM IS SUBORDINATE, AND THEREFORE JUNIOR, TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW.

Type of Historical Right: USE

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER

Flow Rate: 2.05 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: 73.00

Source Name: SPRING, UNNAMED TRIBUTARY OF JEFFERSON RIVER

Source Type: SURFACE WATER

ALSO KNOWN AS WILLOW SPRING

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		SW	13	1S	5W	MADISON

Period of Diversion: MAY 1 TO OCTOBER 15

Diversion Means: PUMP

Period of Use: MAY 1 TO OCTOBER 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	73.00		S2SW	13	1S	5W	MADISON

Total: 73.00