

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

CLAIMANT: Valley Garden Land & Cattle LLC

OBJECTOR: Valley Garden Land & Cattle LLC

NOTICE OF INTENT TO APPEAR: Howard M. Sheridan;
Bring Em LLC

CASE 41F-0196-R-2025
41F 3854-00

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

Stock claim 41F 3854-00 received self-objections from claimant, Valley Garden Land & Cattle Co. to the point of diversion, means of diversion, and place of use. Valley Garden also agreed with and assumed the late objection filed to the point of diversion identified by the claim. Howard M. Sheridan and Bring Em LLC filed notices of intent to appear for the claim.

The claim received the following issue remark:

A LATE OBJECTION HAS BEEN FILED TO THE POINT OF DIVERSION LEGAL DESCRIPTION TO NWSWSW SEC 07 TWP 05S RGE 01W MADISON COUNTY OF THIS WATER RIGHT CLAIM. IT WILL BE RESOLVED DURING THE ADJUDICATION OF OBJECTIONS TO THE PRELIMINARY DECREE.

Montana law requires the Water Court to resolve issue remarks, objections, and notices of intent to appear.

On January 7, 2026, Valley Garden filed its Proposed Resolutions for Claim 41F 3854-00. An order set a filing deadline for notice of intent to appear parties Howard M. Sheridan and Bring Em LLC to indicate whether their concerns were addressed by Valley Garden's proposed resolutions. The order included language that if no comment was filed by the deadline, it would be deemed their agreement with the proposed resolutions. Howard M. Sheridan did not file a comment. Bring Em LLC filed a Response in Support of Claimant's Proposed Resolutions for claim 41F 3854-00.

Issues

1. Is Valley Garden's objection to the claim resolved?
2. Are the notices of intent to appear resolved?
3. Is the issue remark on the claim resolved?

Finding of fact

The historical point of diversion and place of use for livestock direct from source claim 41F 3854-00 is the NWSWSE of Section 7, Township 5 South, Range 1 West, Madison County.

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. 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.

5. 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

Issues 1 and 2 - objection and issue remark resolution

Stock statement of claim 41F 3854-00 identifies a spring as its source. Valley Garden asserts the point of diversion and place of use identified by the statement of claim and map attached to and in support of the statement of claim for the claimed spring are

not historically accurate. Valley Garden provided 1976 and 1984 aerial photographs supporting the proposed and historically accurate spring location in agreement with the legal land description identified by the late objection and the issue remark noting the late objection.

Stock claim 41F 3854-00 appeared in the Preliminary Decree with the following issue remark:

A LATE OBJECTION HAS BEEN FILED TO THE POINT OF DIVERSION LEGAL DESCRIPTION TO NWSWSW SEC 07 TWP 05S RGE 01W MADISON COUNTY OF THIS WATER RIGHT CLAIM. IT WILL BE RESOLVED DURING THE ADJUDICATION OF OBJECTIONS TO THE PRELIMINARY DECREE.

The issue remark was added by the court to provide notice to water users about the late objection. On March 1, 1999, Valley Garden’s predecessor in interest, Davidson Trust Co., filed a late objection to the point of diversion identified by stock claim 41F 3854-00. On September 24, 2025, Davidson Trust Company withdrew its late objection and Valley Garden assumed the objection. The late objection issue remark is resolved by these proceedings.

Conclusions of law

The evidence in the record overcomes, by a preponderance of evidence, the prima facie proof afforded the point of diversion and place of use for stock claim 41F 3854-00, justifies the modification proposed by Valley Garden’s objection, resolves its objection to claim 41F 3854-00, resolves the notices of intent to appear, and resolves the late objection issue remark appearing on the claim.

Recommendations

Stock claim 41F 3854-00 should be modified as follows to accurately reflect historical use.

POINT OF DIVERSION AND PLACE OF USE:

<u>ID</u>	<u>GOVT LOT</u>	<u>QTR SEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
	NWSWSW	NWSESW	7	5S	1W	MADISON

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:

Howard M. Sheridan
842 Cal Cove Dr
Fort Myers FL 33919

Service Via Electronic Mail:

Rick C. Tappan
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(Atty for: Valley Garden Land & Cattle LLC)

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(Atty for: Bring Em LLC)

Note: Service List Updated 3/24/2026

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

Water Right Number: 41F 3854-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: VALLEY GARDEN LAND & CATTLE LLC
3000 TURTLE CREEK BLVD
DALLAS, TX 75219-6268

Priority Date: JULY 9, 1897

Type of Historical Right: USE

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: SPRING, UNNAMED TRIBUTARY OF FLETCHER 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		NWSWSW	7	5S	1W	MADISON

Period of Diversion: MAY 15 TO DECEMBER 15

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Period of Use: MAY 15 TO DECEMBER 15

OCTOBER 15 TO DECEMBER 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			NWSWSW	7	5S	1W	MADISON