

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
SMITH RIVER
BASIN 41J
INTERLOCUTORY DECREE

CLAIMANT: Galt Ranch LP

OBJECTOR: Montana State Board of Land Commissioners –
Forestry and Trust Lands Division

CASE 41J-0008-I-2025
41J 30134505

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 stock claim received an objection from the Montana State Board of Land Commissioners – Forestry and Trust Lands Division (“Trust Lands”) to the

ownership, place of use, and point of diversion. The claim received the following notice issue remark:

THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 41J DECREE ISSUED 12/16/2010.

Issue remarks result from Department of Natural Resources and Conservation (“DNRC”) claims examination. Montana law requires the Water Court to resolve issue remarks and objections.

Trust Lands proposed a resolution of its objection to the claim. The court issued an order setting a 30-day comment period for claimant Galt Ranch LP. The order included language stating that if Galt Ranch LP did not file a comment by the deadline, it would be deemed its agreement with the modifications proposed by Trust Lands. Galt Ranch LP did not comment by the deadline.

Issues

1. Is Trust Lands’ objection to the claim resolved?
2. Is the notice issue remark on the claim resolved?

Finding of fact

The historically accurate place of use and point of diversion in Section 16 for stock claim 41J 30134505 is the **SE and W2** of Section 16, Township 13 North, Range 3 East, Meagher County.

Principles of law

1. A properly filed Statement of Claim for Existing Water Right is prima facie proof of its content. Section 85-2-222, 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.

6. A clerical mistake or mistake arising from omission or oversight may be corrected by the court at any time. Rule 60(a), M.R.Civ.P.

Analysis

Issues 1 and 2 - objection and issue remark resolution

Trust Lands explains it objected to the captioned claim because a portion of the place of use and point of diversion identified by the Interlocutory Decree abstract for this livestock direct from source claim includes Trust Lands located in the NE of Section 16, Township 13 North, Range 3 East, Meagher County. Trust Lands notes that Galt Ranch LP did not claim this legal land description on its prima facie statement of claim. The statement of claim only claimed the W2 and the SE of Section 16, Township 13 North, Range 3 East, Meagher County. Therefore, Trust Lands proposes that the legal land description for the point of diversion and place of use be modified to exclude the NE of Section 16, Township 13 North, Range 3 East, Meagher County and only identify the W2 and the SE of Section 16, Township 13 North, Range 3 East, Meagher County as claimed. Galt Ranch LP did not file a comment concerning the proposed resolution by

the filing deadline, signaling its agreement with Trust Lands' proposed resolution.

The claim appeared in the Interlocutory Decree with the following issue remark:
THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 41J DECREE ISSUED 12/16/2010.

Water users were given the opportunity to review the claim and file an objection. The deadline to file objections expired. The only objection filed to the claim is resolved by these case proceedings.

Conclusions of law

Clerical errors may be corrected at any time. Trust Lands' requested correction to the Section 16, Township 13 North, Range 3 East legal land description matches the point of diversion and place of use identified by the prima facie statement of claim. The clerical correction to the point of diversion and place of use for stock claim 41J 30134505 should be completed, thereby resolving Trust Lands' objection to the claim.

The issue remark noting the lack of the claim's inclusion in the previous Basin 41J decree served its notice purpose.

Recommendations

The place of use and point of diversion for stock claim 41J 30134505 located in Section 16, Township 13 North, Range 3 East, Meagher County 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>
			16	13N	3E	MEAGHER
		SE	16	13N	3E	MEAGHER
		W2	16	13N	3E	MEAGHER

The notice 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 Electronic Mail:

Colleen Coyle
Coyle Law Firm
colleen@coylelawmt.com
(Atty for: Galt Ranch LP)

Kelley Lewis
Clare Ols
KLH Advisors PLLC
klh@klhadvisors.com
clare@klhadvisors.com
admin@klhadvisors.com
(Attys for: Montana State Board of Land Commissioners – Forestry and Trust Lands Division)

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
SMITH RIVER
BASIN 41J

Water Right Number: 41J 30134505 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: GALT RANCH LP
543 BIRCH CREEK RD
WHITE SULPHUR SPRINGS, MT 59645-9641

Priority Date: JUNE 1, 1923

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 STOCKWATERING 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:** FREEMAN CREEK

Source Type: SURFACE WATER

***Source Name:** UNNAMED TRIBUTARY OF FREEMAN CREEK

Source Type: SURFACE WATER

THE SOURCE INCLUDES UNNAMED TRIBUTARIES OF FREEMAN CREEK.

***Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		S2	12	13N	2E	MEAGHER

***Source Name:** UNNAMED TRIBUTARY OF FREEMAN CREEK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

2			8	13N	3E	MEAGHER
---	--	--	---	-----	----	---------

***Source Name:** UNNAMED TRIBUTARY OF FREEMAN CREEK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

3		SWSWSW	9	13N	3E	MEAGHER
---	--	--------	---	-----	----	---------

***Source Name:** UNNAMED TRIBUTARY OF FREEMAN CREEK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

4			14	13N	3E	MEAGHER
---	--	--	----	-----	----	---------

***Source Name:** UNNAMED TRIBUTARY OF FREEMAN CREEK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means:	LIVESTOCK DIRECT FROM SOURCE				
5		15	13N	3E	MEAGHER
*Source Name:	UNNAMED TRIBUTARY OF FREEMAN CREEK				
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE				
6		17	13N	3E	MEAGHER
Source Name:	FREEMAN CREEK				
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE				
7		18	13N	3E	MEAGHER
*Source Name:	UNNAMED TRIBUTARY OF FREEMAN CREEK				
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE				
8	N2N2	19	13N	3E	MEAGHER
*Source Name:	UNNAMED TRIBUTARY OF FREEMAN CREEK				
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE				
9	NENE	20	13N	3E	MEAGHER
*Source Name:	UNNAMED TRIBUTARY OF FREEMAN CREEK				
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE				
10	E2	21	13N	3E	MEAGHER
Source Name:	FREEMAN CREEK				
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE				
11		22	13N	3E	MEAGHER
Source Name:	FREEMAN CREEK				
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE				
12		23	13N	3E	MEAGHER
*Source Name:	UNNAMED TRIBUTARY OF FREEMAN CREEK				
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE				
13	N2	27	13N	3E	MEAGHER
Source Name:	FREEMAN CREEK				
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE				
14	SE	16	13N	3E	MEAGHER
Source Name:	FREEMAN CREEK				
Period of Diversion:	JANUARY 1 TO DECEMBER 31				
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE				
15	W2	16	13N	3E	MEAGHER

Source Name: FREEMAN CREEK
Period of Diversion: JANUARY 1 TO DECEMBER 31
Diversion Means: LIVESTOCK DIRECT FROM SOURCE
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			S2	12	13N	2E	MEAGHER
2				8	13N	3E	MEAGHER
3			SWSWSW	9	13N	3E	MEAGHER
4				14	13N	3E	MEAGHER
5				15	13N	3E	MEAGHER
6				17	13N	3E	MEAGHER
7				18	13N	3E	MEAGHER
8			N2N2	19	13N	3E	MEAGHER
9			NENE	20	13N	3E	MEAGHER
10			E2	21	13N	3E	MEAGHER
11				22	13N	3E	MEAGHER
12				23	13N	3E	MEAGHER
13			N2	27	13N	3E	MEAGHER
14			SE	16	13N	3E	MEAGHER
15			W2	16	13N	3E	MEAGHER