FILED
10/08/2026
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CLERK
Montana Water Court
STATE OF MONTANA
By: D'Ann CIGLER
41F-0044-R-2024
Stradley, Anna
27.00

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

* *

CLAIMANT: TBLC Ltd. OBJECTORS: TBLC Ltd.; United States, DOI Bureau of Reclamation NOTICE OF INTENT TO APPEAR: West Madison Canal Co.	**CASE 41F-0044-R-2024** 41F 136450-00 41F 136453-00 41F 136470-00 41F 140852-00

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

On September 3, 1992, Jean E. Thom and Leroy W. Thom ("Thoms") filed late objections to the maximum acres irrigated and place of use for irrigation claims 41F 136450-00 and 41F 140852-00. The court added issue remarks to the claims noting the elements included in the late objections and noting that the late objections would be heard after proper notice on the next objection list. During these case proceedings, claimant TBLC Ltd. ("TBLC") assumed the late objections of its predecessors in interest, the Thoms, for irrigation claims 41F 136450-00 and 41F 140852-00. TBLC also filed self-objections to the place of use for stock claims 41F 136453-00 and 41F 136470-00.

The United States, DOI Bureau of Reclamation ("BOR") filed an objection to the flow rate, volume, acres irrigated, place of use, and priority date of irrigation claim 41F 136450-00. West Madison Canal Co. filed a notice of intent to appear for irrigation claim 41F 136450-00.

On August 25, 2025, TBLC filed a Status Report resolving its self-objections to stock claims 41F 136453-00 and 41F 136470-00. On June 5, 2026, TBLC filed a Motion to Amend irrigation claims 41F 136450-00 and 41F 140852-00. On June 15, 2026, the BOR filed its Response to Motion to Amend, agreeing with the Motion, and proposing a correction to a place of use legal land description. On June 18, 2026, West Madison Canal Co. filed its Response to Motion to Amend, agreeing with and joining the BOR's Response to Motion Amend. A final deadline was set for TBLC to comment on the proposed correction to the place of use legal land description. On July 24, 2026, TBLC filed its response agreeing with the proposed correction to the place of use legal land description.

Issues

1. Are the objections to the captioned claims resolved?
2. Is the notice of intent to appear resolved for irrigation claim 41F 136450-00?
3. Are the issue remarks on each claim resolved?

4. Should the volume information remark on irrigation claim 41F 136450-00 be corrected?

Findings of fact

1. Irrigation claims 41F 136450-00 and 41F 140852-00 historically irrigated a 215.00-acre place of use.

2. The place of use for stock claims 41F 136453-00 and 41F 136470-00 should reflect the historical traverse of Shewmaker Ditch across TBLC's property.

3. The volume information remark on irrigation claim 41F 136450-00 should be corrected to reflect the information remark adjudicated by the Water Court.

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, 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.

5. 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.

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.

8. 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.

9. Judicial notice of facts may be taken from a source "whose accuracy cannot be reasonably questioned." Rule 201, M.R.Ev.

Analysis

Issues 1-4 – irrigation claims - objection resolution, notice of intent to appear resolution, issue remark resolution, correction to claim 41F 136450-00

The Thoms filed a late objection to the maximum acres irrigated and place of use for irrigation claims 41F 136450-00 and 41F 140582-00. The Thoms late objection identified the historical irrigation of the 215.00-acre place of use as 98.00 acres in Section 32, and 100.00 acres in Section 29, Township 7 South, Range 1 West, and 17.00 acres in Section 4, Township 8 South, Range 1 West, Madison County. (*See* claim files) Documents in support of Thoms late objections are:

- the Thoms Amendment to Statement of Claim, notarized by then Regional Manager for the Bozeman DNRC, Scott Compton, confirming 215.00 acres were historically irrigated, and
- aerial photography depicting the historical irrigation of the 215.00-acre place of use attached to the Thoms Amendment to Statement of Claim.

TBLC proposes the same number of acres irrigated and place of use proposed by the Thoms and provides the Thoms late objection to support its proposed resolution. The Thoms late objections support and confirm the historical accuracy of the proposed increase to a 215.00-acre place of use. (*See* claim files and Attachments to TBLC Motion)

TBLC agreed with the BOR's proposed correction to the legal land description for the 215.00-acre place of use identified by claim 41F 136450-00. This report recommends the same place of use legal land description for both claims because the Thoms late objection to each claim is identical.

TBLC's Motion to Amend with explanation and evidence in support of the increase in maximum acres irrigated and place of use may be viewed on the court's case management system, FullCourt Enterprise, at document sequence 22.00.

The notice issue remark on each irrigation claim concerning means of diversion and point of diversion provided the opportunity for claimant and other water users to object to the claims. No water users filed an objection to these elements of irrigation claims 41F 136450-00 and 41F 140582-00.

The January 30, 1991 Order Amending and Adopting Master's Report for claim 41F 136450-00 stated:

> The Court has reviewed carefully the objection filed and the Water Master's Findings and Conclusions. Based upon this review the following changes shall be made.
>
> FINDINGS OF FACT
>
> 9. The volume will be unquantified and the following remark added:
>
> THE TOTAL VOLUME OF THIS RIGHT SHALL NOT BE EXCEED THE AMOUNT PUT TO HISTORIC AND BENEFICIAL USE. IN NO EVENT SHALL THE VOLUME EXCEED 826.20 ACRE FEET PER YEAR.

The volume information remark should be corrected to reflect the information remark adjudicated by the Water Court in 1991.

Conclusions of law

TBLC's proposed modifications to the maximum acres irrigated and place of use for irrigation claims 41F 136450-00 and 41F 140852-00 are historically accurate and overcome by a preponderance of evidence the prima facie proof afforded each statement of claim, justify the modifications to each claim, resolve the late objection issue remark on each claim, resolve TBLC's objection to the claims, resolve the BOR objection to claim 41F 136450-00, and resolve West Madison Canal Co.'s notice of intent to appear for claim 41F 136450-00.

The point of diversion and ditch name issue remark on irrigation claims 41F 136450-00 and 41F 140852-00 served its notice purpose.

Clerical errors may be corrected at any time. The correction to the volume information remark on claim 41F 136450-00 should be completed.

Issues 1 and 3 – stock claims - objection resolution and issue remark resolution

Judicial notice is taken of the Madison County Water Resources Survey (1954) ("WRS"). For stock claim 41F 136453-00, the WRS page 43 Part II Maps Showing Irrigated Areas, depicts the Shewmaker Ditch running through the E2W2 of Section 29, and the SE of Section 32, both in Township 7 South, Range 1 West. The map attached to statement of claim 41F 136453-00 is overlapped poorly resulting in difficulty discerning exactly where the ditch flowed, but the map states, "Place of use stockwatering along this length of ditch" with arrows pointing to the ditch in Sections 32 and 29. The Madison County Water Resources Survey and information in claim file 41F 136453-00 support TBLC's objection. For stock claim 41F 136470-00, the WRS page 49 of Part II Maps Showing Irrigated Areas, depicts the Shewmaker Ditch running through the NESW of Section 4, Township 8 South, Range 1 West as stated by TBLC. This also matches the map attached to the statement of claim. The Madison County Water Resources Survey and information in claim file 41F 136470-00 support TBLC's objection.

The notice issue remark on each stock claim concerning point of diversion, means of diversion, and ditch name provided the opportunity for claimant and other water users to object to the claims. No water users filed an objection to these elements of stock

claims 41F 136453-00 and 41F 136470-00.

Conclusions of law

TBLC's proposed modifications to the place of use for stock claims 41F 136453-00 and 41F 136470-00 are historically accurate and overcome by a preponderance of evidence the prima facie proof afforded each statement of claim, justify the modifications to each claim, and resolve TBLC's objection to the claims.

The point of diversion, means of diversion, and ditch name issue remark appearing on stock claims 41F 136453-00 and 41F 136470-00 served its notice purpose.

Recommendations

Irrigation claim 41F 136450-00 should be modified as follows to accurately reflect historical use.

VOLUME:

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

THE TOTAL VOLUME OF THIS RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE. IN NO EVENT SHALL THE VOLUME EXCEED 826.20 ACRE FEET PER YEAR.

MAXIMUM ACRES: ~~97.20~~ **215.00**

PLACE OF USE:

SEE MODIFIED ABSTRACT ATTACHED TO THIS REPORT.

Stock claims 41F 136453-00 and 41F 136470-00 should be modified as follows to accurately reflect historical use.

PLACE OF USE:

SEE MODIFIED ABSTRACTS ATTACHED TO THIS REPORT.

Irrigation claim 41F 140852-00 should be modified as follows to accurately reflect historical use.

MAXIMUM ACRES: ~~64.10~~ **215.00**

PLACE OF USE:

SEE MODIFIED ABSTRACT ATTACHED TO THIS REPORT.

The issue remarks should be removed from the claim abstracts.

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

Service via Electronic Mail

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Electronically Signed By:
Hon. Judge Anna Stradley
Thu, Oct 08 2026 02:50:34 PM

POST DECREE

ABSTRACT OF WATER RIGHT CLAIM

MADISON RIVER

BASIN 41F

Water Right Number: **41F 136450-00** STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: TBLC LTD
PO BOX 1047
HASTINGS, NE 68902-1047

Priority Date: AUGUST 7, 1907

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

***Flow Rate:** 8.00 CFS

Volume: THE TOTAL VOLUME OF THIS RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE. IN NO EVENT SHALL THE VOLUME EXCEED 826.20 ACRE FEET PER YEAR.

Climatic Area: 4 - MODERATELY LOW

Households: 8

Maximum Acres: 215.00

Source Name: MADISON RIVER

Source Type: SURFACE WATER

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

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SWNESW	10	8S	1W	MADISON

Period of Diversion: APRIL 15 TO OCTOBER 1

Diversion Means: HEADGATE

Ditch Name: SHEWMAKER DITCH

Period of Use: APRIL 15 TO OCTOBER 1

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	17.00		E2E2	4	8S	1W	MADISON
2	100.00			29	7S	1W	MADISON
3	98.00		E2	32	7S	1W	MADISON
Total:	215.00						

Remarks:

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.

136450-00 136470-00

POST DECREE

ABSTRACT OF WATER RIGHT CLAIM

MADISON RIVER

BASIN 41F

Water Right Number: **41F 136453-00** STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: TBLC LTD
PO BOX 1047
HASTINGS, NE 68902-1047

Priority Date: AUGUST 31, 1884

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: MADISON RIVER

Source Type: SURFACE WATER

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

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SWNESW	10	8S	1W	MADISON

Period of Diversion: NOVEMBER 1 TO DECEMBER 31

Diversion Means: HEADGATE

Ditch Name: SHEWMAKER DITCH

Period of Use: NOVEMBER 1 TO DECEMBER 31

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1			NE	32	7S	1W	MADISON
2			SE	32	7S	1W	MADISON
3			E2W2	29	7S	1W	MADISON

POST DECREE

ABSTRACT OF WATER RIGHT CLAIM

MADISON RIVER

BASIN 41F

Water Right Number: **41F 136470-00** STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: TBLC LTD
PO BOX 1047
HASTINGS, NE 68902-1047

Priority Date: AUGUST 7, 1907

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: MADISON RIVER

Source Type: SURFACE WATER

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

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SWNESW	10	8S	1W	MADISON

Period of Diversion: NOVEMBER 1 TO JUNE 1

Diversion Means: HEADGATE

Ditch Name: SHEWMAKER DITCH

Period of Use: NOVEMBER 1 TO JUNE 1

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1			SE	4	8S	1W	MADISON
2			NESW	4	8S	1W	MADISON
3			NW	4	8S	1W	MADISON

Remarks:

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.

136450-00 136470-00

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

Water Right Number: **41F 140852-00** STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: TBLC LTD
PO BOX 1047
HASTINGS, NE 68902-1047

Priority Date: APRIL 25, 1908

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

***Flow Rate:** 6.00 CFS

Volume: 544.85 AC-FT

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 215.00

Source Name: MADISON RIVER

Source Type: SURFACE WATER

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

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SWNESW	10	8S	1W	MADISON

Period of Diversion: APRIL 15 TO OCTOBER 1

Diversion Means: HEADGATE

Ditch Name: SHEWMAKER DITCH

Period of Use: APRIL 15 TO OCTOBER 1

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	17.00		E2E2	4	7S	1W	MADISON
2	100.00			29	7S	1W	MADISON
3	98.00		E2	32	7S	1W	MADISON
Total:	215.00						