FILED
10/23/2026
Melissa Lockman
CLERK
Montana Water Court
STATE OF MONTANA
By: D'Ann CIGLER
41F-0152-R-2025
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19.00

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

* *

CLAIMANT: Granger Ranches LP

OBJECTOR: Granger Ranches LP

CASE 41F-0152-R-2025
41F 30124093

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

Granger Ranches LP ("Granger") filed a self-objection to the place of use for the captioned stock claim. Bar K Ranch LLC filed a counterobjection to all elements of the

claim, unconditionally withdrawing its counterobjection on June 5, 2026.

The claim appeared in the Preliminary Decree with a notice issue remark.

On August 12, 2026, Granger filed a Notice of Filing Additional Evidence to support the resolution of its self-objection.

Issues

1. Should the court accept Granger's proposed resolution of its amended self-objection?

2. Is the notice issue remark on claim 41F 30124093 resolved?

Finding of Fact

The W2W2 of Section 1, Township 7 South, Range 1 West, Madison County should be added to the point of diversion and place of use for livestock direct from source claim 41F 30124093.

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

6. 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.

7. 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, 422-423, 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).

8. 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.

9. 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

Issue 1 – acceptance of proposed resolution of amended self-objection

The additional legal land description proposed by Granger was not included on the prima facie statement of claim or its attachments. Therefore, the court requested evidence to support the historical stock use of Bear Creek in the W2W2 of Section 1, Township 7 South, Range 1 West, Madison County. Granger's Notice of Filing of

Additional Evidence and its attachments may be viewed on the court's case management system, FullCourt Enterprise, at document sequence 18.00.

Granger provided the following evidence to support the historical stock use of the W2W2 of Section 1, Township 7 South, Range 1 West, Madison County: 1) an 1870 Census that identified Osman B. Varney as a Stock Farmer (FCE Doc. 18.00, Ex. C) that according to an excerpt from *Wheat v. Cameron*, 64 Mont. 494, 210 P. 761 (1922), (FCE Doc. 18.00, Ex. B) homesteaded Section 1, while it was public domain which then passed by mesne conveyances to respondents in *Wheat*, and eventually to Granger; 2) an 1870 Government Land Office Survey depicting fencing in Sections 1 and 12, Township 7 South, Range 1 West labeled "Varney" (FCE Doc. 18.00, Ex. C); and 3) a September 23, 1936 Indenture from Elkhorn Livestock Company to David Granger, Sr. that includes all of Section 1, Township 7 South, Range 1 West (FCE Doc. 18.00, Ex. A).

Granger's proposed resolution included an amendment to its timely filed objection to include point of diversion. The amendment proposes the same legal land description modification for the point of diversion as the place of use. Due to the means of diversion for the claim - livestock direct from source - points of diversion and places of use match. Therefore, other water users were effectively notified that point of diversion would be modified. The amended objection does not have the potential to adversely affect other water users. Notice of the proposed amendment to the objection is not necessary. Section 85-2-233(6), MCA.

Conclusions of law

The evidence entered into the record for the modified point of diversion and place of use for claim 41F 30124093 overcomes the prima facie proof afforded the statement of claim and justifies the modified point of diversion and place of use for the claim.

Granger's proposed modifications should be accepted by the court, thereby resolving Granger's amended self-objection to the claim.

Issue 2 – issue remark resolution

Claim 41F 30124093 appeared in the Preliminary Decree with the following issue

remark:

THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 41F DECREE ISSUED 07/25/1984.

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

Conclusion of law

The issue remark served its notice purpose.

Recommendations

Stock claim 41F 30124093 should be modified as follows to accurately reflect historical use:

POINT OF DIVERSION AND PLACE OF USE:

ID	GOVT LOT	QTR SEC	SEC	TWP	RGE	COUNTY
		E2E2	35	6S	1W	MADISON
		E2	11	7S	1W	MADISON
			14	7S	1W	MADISON
		E2	23	7S	1W	MADISON
		W2W2	**1**	**7S**	**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 the recommendations have been implemented in the state's centralized water right record system.

Service via Electronic Mail

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Electronically Signed By:
Hon. Judge Anna Stradley
Fri, Oct 23 2026 10:03:40 AM

POST DECREE

ABSTRACT OF WATER RIGHT CLAIM

MADISON RIVER

BASIN 41F

Water Right Number: **41F 30124093** STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: GRANGER RANCHES LP
PO BOX 691
ENNIS, MT 59729-0691

Priority Date: APRIL 1, 1902

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: BEAR CREEK

Source Type: SURFACE WATER

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

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		E2E2	35	6S	1W	MADISON
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
2		E2	11	7S	1W	MADISON
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
3			14	7S	1W	MADISON
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
4		E2	23	7S	1W	MADISON
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
5		W2W2	1	7S	1W	MADISON
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:**

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1			E2E2	35	6S	1W	MADISON
2			E2	11	7S	1W	MADISON
3				14	7S	1W	MADISON
4			E2	23	7S	1W	MADISON
5			W2W2	1	7S	1W	MADISON