FILED
10/19/2026
Melissa Lockman
CLERK
Montana Water Court
STATE OF MONTANA
By: D'Ann CIGLER
41F-0277-R-2026
Stradley, Anna
4.00

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

* *

CLAIMANT: United States, DOA Forest Service

OBJECTOR: Kroenke Land & Livestock Co. LLC

CASE 41F-0277-R-2026
41F 54276-00

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

United States, DOA Forest Service ("Forest Service") stock claim 41F 54276-00 received an objection from Kroenke Land & Livestock Co. LLC ("Kroenke"). Kroenke objected to the point of diversion and place of use identified by the claim.

On July 28, 2026, the Forest Service filed a Motion to Amend. The Motion was unopposed by Kroenke. On October 13, 2026, the Forest Service filed an Unopposed Motion to Amend modifying its previously filed Motion to Amend. The Motion was unopposed by Kroenke.

Issue

Is Kroenke's objection to stock claim 41F 54276-00 resolved?

Findings of fact

The historically accurate point of diversion and place of use for Forest Service stock claim 41F 54276-00 should not include land owned by Kroenke. Sections 22 and 26, Township 6 South, Range 1 East, Madison County should be removed from the point of diversion and place of use identified by stock claim 41F 54276-00.

The Forest Service proposed two refinements and corrections to the point of diversion and place of use so the two elements match for this livestock direct from source claim. The point of diversion should be refined to the **E2** of Section 7, Township 7 South, Range 2 East to match the place of use. The place of use should be refined to the **S2** of Section 30, Township 6 South, Range 2 East to match the point of diversion.

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.

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 resolution and clerical correction

The Forest Service explained some of Kroenke's land was mistakenly included in the point of diversion and place of use legal land descriptions. This mistake occurred because the Forest Service submitted its claims via computer tape. The program used by the Forest Service to enter its data for the computer tape claims allowed the identification of one point of diversion legal land description and one place of use legal land description. The Forest Service used one as the beginning of where livestock drank from the source and the other as the end of where livestock drank from the source, intending to include the entirety of the source between the two points. (*See* Declaration of Thor

Burbach, ¶ 3-5 and Ex. A and B) The Forest Service further explains that the point of diversion and place of use identified by the computer tape includes a clerical error made at the time of data entry by the Forest Service. Cedar Creek crosses the Forest Service boundary in the NENESE of Section 26, not Section 22, T6S, R1E. (*See* Declaration of Thor Burbach, ¶ 7) Correcting this error excludes the private lands owned by Kroenke in Sections 22 and 26, Township 6 South, Range 1 East, thereby resolving Kroenke's objection to Forest Service stock claim 41F 54276-00.

The Forest Service proposed corrections to the place of use and point of diversion legal land descriptions, resulting in the legal land descriptions matching for livestock direct from source claim 41F 54276-00.

The Forest Service Motions to Amend including its proposed clerical corrections, the Thor Burbach Declaration, and exhibits, may be viewed on the court's case management system, FullCourt Enterprise, at document sequences 2.00 and 3.00.

Conclusions of law

For stock claim 41F 54276-00, the modified and corrected point of diversion and place of use refines the point of diversion and place of use. The record before the court justifies the modifications and corrections proposed by the Forest Service's Motions to Amend and resolves Kroenke's objection to the claim.

Recommendations

Stock claim 41F 54276-00 should be modified as follows to accurately reflect historical use.

POINT OF DIVERSION:

ID	GOVT LOT	QTR SEC	SEC	TWP	RGE	COUNTY
		~~N2~~	~~22~~	6S	1E	MADISON
		~~N2~~	~~26~~	6S	~~1E~~	MADISON
		S2	30	6S	2E	MADISON
			32	6S	2E	MADISON
			6	7S	2E	MADISON
		E2	7	7S	2E	MADISON

PLACE OF USE:

ID	GOVT LOT	QTR SEC	SEC	TWP	RGE	COUNTY
		E2	7	7S	2E	MADISON
		~~N2~~	~~22~~	6S	1E	MADISON
		~~N2~~	~~26~~	6S	~~1E~~	MADISON
		S2	30	6S	2E	MADISON
			32	6S	2E	MADISON
			6	7S	2E	MADISON

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.

Service via Electronic Mail

United States, DOA Forest Service
Water Rights Program Manager, Northern Region
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Electronically Signed By:
Hon. Judge Anna Stradley
Mon, Oct 19 2026 12:07:43 PM

POST DECREE

ABSTRACT OF WATER RIGHT CLAIM

MADISON RIVER

BASIN 41F

Water Right Number: **41F 54276-00** STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: USA (DEPT OF AGRICULTURE FOREST SERVICE)
WATER RIGHTS PROGRAM MANAGER, NORTHERN REGION
26 FORT MISSOULA RD
MISSOULA, MT 59804-7203

Priority Date: MARCH 7, 1906

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: CEDAR CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		S2	30	6S	2E	MADISON
Period of Diversion:	JULY 1 TO SEPTEMBER 30					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
2			32	6S	2E	MADISON
Period of Diversion:	JULY 1 TO SEPTEMBER 30					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
3			6	7S	2E	MADISON
Period of Diversion:	JULY 1 TO SEPTEMBER 30					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
4		E2	7	7S	2E	MADISON
Period of Diversion:	JULY 1 TO SEPTEMBER 30					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					

Period of Use: JULY 1 TO SEPTEMBER 30

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1			E2	7	7S	2E	MADISON
2			S2	30	6S	2E	MADISON
3				32	6S	2E	MADISON

4				6	7S	2E	MADISON