FILED
10/14/2026
Melissa Lockman
CLERK
Montana Water Court
STATE OF MONTANA
By: D'Ann CIGLER
41F-0519-R-2025
Hyatt, Robert J.
8.00

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

* *

CLAIMANT: Shining Mountains Airpark & Mustang Ranches OBJECTORS: United States, DOA Forest Service; United States, DOI Bureau of Reclamation	**CASE 41F-0519-R-2025** 41F 125482-00

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

FINDINGS OF FACT

1. Shining Mountains Airpark & Mustang Ranches ("Claimant") is the record owner of claim 41F 125482-00.

2. The United States of America DOI, Bureau of Reclamation filed an objection to all elements of the water right as well as abandonment of the above captioned claim.

3. The United States of America DOA, Forest Service filed an objection to the flow rate.

4. 41F 125482-00 received the following issue remarks:

THE CLAIMED FLOW RATE EXCEEDS THE 17 GPM PER ACRE GUIDELINE AND CANNOT BE CONFIRMED DUE TO LACK OF DATA. THE FLOW RATE EQUALS 37.00 GPM PER ACRE.

POINT OF DIVERSION AND DITCH NAME WERE MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

THE CLAIMED POINT OF DIVERSION IS IN QUESTION. THE LOCATION OF THE HEADGATE AND DITCH CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

All claims included in the Decree were subject to pre-decree examination by the Montana Department of Natural Resources and Conservation ("DNRC"). If during claims examination the DNRC cannot confirm some aspect of a claim, an issue remark is added to the claim for review by the Water Court.

5. On March 17, 2026, Claimant was ordered to attend a status conference on April 22, 2026. (Doc.[1] 1.00). Present was attorney Romney S. Philpott for objectors the United States of America, DOA Forest Service and DOI Bureau of Reclamation. Claimant Shining Mountains Airpark & Mustang Ranches did not appear. (Doc. 2.00).

6. During the conference a Rule 22 motion was made. Pursuant to Rule 22, W.R.Adj.R., when a claimant fails to comply with an Order issued by the Water Court, including an order issued by a Water Master appointed by the Court, the Court, upon motion, or its own initiative, can among other actions: 1) amend the elements of the claim to conform with the information in the claim file, information obtained by the Court, or information included in an objection or 2) terminate the claim.

[1] "Doc." numerical references correlate to case file docket numbers in the Water Court's Full Court case management system.

7. The record did not include evidence supporting the requested sanction. United States of America on behalf of the Bureau of Reclamation and Forest Service was ordered to file evidence in support of its requested sanction.

8. On August 6, 2026, the United States of America on behalf of the Bureau of Reclamation and Forest Service filed a Response to Court Order. (Doc. 6.00). Included in the response was a memorandum entitled *Declaration of Kraig S. Van Voast* detailing the abandonment claim. This declaration was created by Kraig S. Van Voast, a Water Rights Specialist with the DOI Bureau of Reclamation.

9. Mr. Van Voast utilized the 1953 Madison County Water Resource Survey ("WRS") field notes, the 1954 WRS Report, as well as aerial imagery from 2009, 2011, 2013, 2015, 2021, and 2023.

10. Mr. Van Voast, in the declaration, states that it appears that although the 1954 Madison County Water Resource Survey reports 139 acres irrigated within the place of use, his review of the aerial imagery from 2009, 2011, 2013, 2015, 2021, and 2023 shows 0.00 acres of irrigation in the claimed place of use.

11. On August 19, 2026, the Court issued an order setting a show cause filing deadline. This order contained the following language:

> Pursuant to Rule 22, W.R.Adj.R., it is
>
> ORDERED that claimant **Shining Mountains Airpark & Mustang Ranches** must now file evidence sufficient to **SHOW CAUSE** why claim 41F 125482-00 should not be dismissed.
>
> Shining Mountains Airpark and Mustang Ranches' evidence must be filed with the Montana Water Court no later than **September 24, 2026.**
>
> ORDERED that Shining Mountains Airpark and Mustang Ranches' failure to comply with this filing deadline will be viewed as agreement that the water right has been abandoned and the claim should be dismissed.

(Doc. 7.00). No evidence or response was filed.

PRINCIPLES OF LAW

1. A properly filed Statement of Claim for an existing water right is prima facie proof of its content. Section 85-2-227, MCA; Rule 10, W.R.Adj.R.

2. Prima facie proof may be contradicted and overcome by a preponderance of the evidence. Rule 19, W.R.Adj.R.

3. A preponderance of the evidence is evidence that shows a fact is "more probable than not." *Hohenlohe v. State*, 2010 MT 203, ¶ 33, 357 Mont. 438, 240 P.3d 628.

4. If prima facie status is overcome, the burden shifts back to the claimant to demonstrate historical use. *79 Ranch v. Pitsch*, 204 Mont. 426, 432-33, 666 P.2d 215, 218 (1983).

5. Section 85-2-248(2), MCA, requires that the Water Court resolve all issue remarks that are not resolved through the objection process. *See also* Rule 7, W.R.Adj.R.

6. The Water Court may use information submitted by the DNRC, the Statement of Claim, and any other data obtained by the Court to evaluate a water right. Sections 85-2-227, -231(2), MCA.

7. When resolving issue remarks, the Water Court must weigh the information resulting in the issue remark against the claimed water right. Section 85-2-247(2), MCA.

8. If a claimant fails to comply with an order issued by the Water Court, the Court may issue orders of sanction that are just. Rule 22, W.R.Adj.R.

9. Sanctions applied against a claimant may include modification of a claim to conform with data provided by the DNRC, information obtained by the Court, or information included in an objection, or the entry of default and termination of a water right claim. Rule 11, W.R.Adj.R.

CONCLUSION OF LAW

1. Based upon the evidence provided in the Van Voast declaration, and Rule 22, W.R.Adj.R., and Rule 11, W.R.Adj.R., water right claim 41F 125482-00 should be dismissed.

RECOMMENDATION

Claim 41F 125482-00 should be dismissed.

A post decree abstract of the water right claim reflecting the recommendation is attached to this Report.

Electronically Signed By:
Hon. Judge Robert John Hyatt, III
Wed, Oct 14 2026 01:10:20 PM

Service via USPS Mail

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Service via Electronic Mail

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POST DECREE

ABSTRACT OF WATER RIGHT CLAIM

MADISON RIVER

BASIN 41F

Water Right Number: **41F 125482-00** STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: **DISMISSED**

Owners: SHINING MOUNTAINS AIRPARK & MUSTANG RANCHES
PO BOX 841
ENNIS, MT 59729

Priority Date:

Type of Historical Right:

Purpose (Use): IRRIGATION

Flow Rate:

Volume:

Source Name: SHELL CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

Remarks:

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.