FILED
10/23/2026
Melissa Lockman
CLERK
Montana Water Court
STATE OF MONTANA
By: D'Ann CIGLER
41I-0720-R-2026
Hyatt, Robert J.
3.00

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MONTANA WATER COURT
UPPER MISSOURI DIVISION
MISSOURI RIVER ABOVE HOLTER DAM
BASIN 41I
PRELIMINARY DECREE

* *

CLAIMANT: Steven W. Austin

CASE 41I-0720-R-2026
41I 1919-00

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. Claimant Steven W. Austin is the record owner of claim 41I 1919-00.

2. The captioned claim received an issue remark. 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.

3. Claim 41I 1919-00 received the following substantive issue remark:

> VOLUME APPEARS TO BE EXCESSIVE FOR A BUCKET MEANS OF DIVERSION. "THE VOLUME WOULD REQUIRE DIVERTING 890 GALLONS PER DAY FOR THE ENTIRE PERIOD OF USE."

4. On September 10, 2026, Claimant was ordered to meet with the DNRC to address the unresolved issue remark on the above captioned claim. (Doc.[1] 1.00)

5. DNRC Water Conservation Specialist Katherine Berreman filed a Memorandum on October 15, 2026. (Doc. 2.00). Ms. Berreman reported that Claimant contacted the DNRC as ordered.

6. During her review of the claim, Ms. Berreman stated that the standard flow rate for domestic claims without reservoirs is 10 gpm. For delivery to be feasible the claims examinations rules state that the time it takes for delivery must be less than 10 hours a day. With a stated four individuals being served by the domestic claim, Ms. Berreman in her memorandum states, a total volume of 1 acre-foot with a flow rate of 10 gpm would be feasible. A family of four would have to spend approximately 89 minutes (1.48 hours) per day to divert that amount of water.

7. In her memorandum, Ms. Berreman recommends that as the volume meets guideline standards and that the issue remark should be removed.

8. Claim 41I 1919-00 also received the following notice-type issue remarks:

> SOURCE NAME WAS 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 PRIORITY DATE MAY BE QUESTIONABLE. THIS CLAIM IS FOR A USE RIGHT ON PRICKLY PEAR CREEK WITH A PRIORITY DATE POSTDATING CASE NO. 668 , JEFFERSON COUNTY.
>
> THE PRIORITY DATE MAY BE QUESTIONABLE. THIS CLAIM IS FOR A USE ON PRICKLY PEAR CREEK WITH A PRIORITY DATE POSTDATING CASE NO 668, JEFFERSON COUNTY. IF NO OBJECTIONS ARE FILED TO PRIORITY DATE OR TYPE OF HISTORICAL RIGHT, THESE ELEMENTS WILL BE DECREED AS SHOWN ON THIS ABSTRACT AND THIS REMARK WILL BE REMOVED.

9. No objections were filed on claim 41I 1919-00.

PRINCIPLES OF LAW

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

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. 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.

5. 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.

6. 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.

CONCLUSIONS OF LAW

1. Based upon the claim file, evidence included with DNRC's Memorandum, and DNRC's recommendation, there is no needed change to the volume of claim 41I 1919-00.

2. The notice type issue remarks received on claim 41I 1919-00 have served their purposes.

RECOMMENDATION

1. The issue remarks on claim 41I 1919-00 should be removed.

A post decree abstract of the water right claims reflecting the recommendations is attached to this Report.

Service via USPS Mail

Steven W. Austin
3495 Curlew St
Helena, MT 59602

Electronically Signed By:
Hon. Judge Robert John Hyatt, III
Fri, Oct 23 2026 01:31:40 PM

POST DECREE

ABSTRACT OF WATER RIGHT CLAIM

MISSOURI RIVER, ABOVE HOLTER DAM

BASIN 41I

Water Right Number: **41I 1919-00** STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: STEVEN W AUSTIN
3495 CURLEW ST
HELENA, MT 59602-0556

Priority Date: DECEMBER 31, 1938

Type of Historical Right: USE

Purpose (Use): DOMESTIC

Flow Rate: 10.00 GPM

Volume: 1.00 AC-FT

***Source Name:** UNNAMED TRIBUTARY OF PRICKLY PEAR CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		NWSENW	16	7N	3W	JEFFERSON

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: BUCKET

THE POINT OF DIVERSION IS LOCATED IN CERTIFICATE OF SURVEY NO. 161184 F400A , JEFFERSON COUNTY.

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1			NWSENW	16	7N	3W	JEFFERSON

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.

1918-00 1919-00