

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

* * * * *

CLAIMANTS: Barbara H. Edgmond; **Mary K. Frisbie¹**; High
Camp LLC

OBJECTOR: United States, DOA Forest Service

CASE 41F-0108-R-2024

41F 13848-00

41F 13849-00

41F 13850-00

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.

¹ DNRC processed an ownership update for the captioned claims transferring the interest of Kathleen M. Frisbie to Mary K. Frisbie. The caption and service list are updated to reflect this information.

MASTER’S REPORT

Statement of the case

The United States, DOA Forest Service (“Forest Service”) filed an objection to the captioned claims.

Each claim appeared in the Basin 41F Preliminary Decree with the following notice issue remark as a result of claims examination by the Department of Natural Resources and Conservation (“DNRC”).

DITCH 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.

Montana law requires the Water Court to resolve issue remarks and objections.

The Water Master held a scheduling conference May 28, 2026. Present was Romney S. Philpott attorney for objector the United States, DOA Forest Service (“Forest Service”). Claimants failed to appear.²

The Forest Service moved for the captioned claims to be dismissed based upon the objection to each claim. Pursuant to Rule 22, W.R.Adj.R., a deadline was set for claimants to Show Cause why the claims should not be dismissed. Claimants did not respond by the deadline.

Issue

Should irrigation claims 41F 13848-00 and 41F 13849-00 and stock claim 41F 13850-00 be dismissed?

Findings of fact

Irrigation claims 41F 13848-00 and 41F 13849-00 and stock claim 41F 13850-00 should be dismissed.

² High Camp LLC cannot appear as it did not retain legal counsel pursuant to the Court’s March 17, 2026 hearing track order.

Principles of law

1. A properly filed Statement of Claim for Existing Water Right or an amended claim for Existing Water Right is prima facie proof of its content. Section 85-2-227, MCA. This prima facie proof may be contradicted and 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. All parties subject to the jurisdiction of the Montana Water Court in this adjudication have the obligation to comply with Orders of this Court, including Orders issued by a Master appointed by the Court. 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 its own initiative or upon motion, can among other actions: 1) modify 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. Rule 22, W.R.Adj.R.

Analysis

Requested sanction and objection resolution

The Forest Service filed an objection to each captioned claim stating, “Claim appears to have been abandoned or never perfected; place of use and point of diversion contain NFS lands. Air imagery shows no discernible conveyance and no irrigated acres.”

In support of its requested sanction and resolution of objections, on August 14, 2026, the Forest Service filed the Declaration of Thor Burbach and aerial photographs dated 1995, 2006, 2009, 2011, 2014, 2020, and 2024. Mr. Burbach has been employed as

a Hydrologist with the Forest Service since 2010. Mr. Burbach declares, “I routinely examine aerial photographs, claim files, special use permits, and other materials to assess the historical use of water rights....I estimate that I have reviewed thousands of water right claims in connection with my employment.” (*See* Aug. 14, 2026 United States’ Response to Court Order, Declaration of Thor Burbach ¶¶ 1-2.)

Based upon Mr. Burbach’s review, none of the aerial photographs indicate “irrigation within the place of use from the ditch originating on Forest Service-managed land in the NESWNW of Section 32, Township 3 S, Range 2W....The claimants do not have authorization for a diversion or for grazing on Forest Service-managed land (and much of the place of use is either on Forest Service land or land owned by private owners do not appear to be associated with the claimants). Further, the claim is a multiple use of the other two claims...the claimants do not appear to be using the relevant ditch for irrigation of the lands within the place of use, and therefore presumably are not for associated stock use either.” Mr. Burbach concluded that the water rights have not been beneficially used for 30 years. (*See* Declaration of Thor Burbach ¶¶ 4-6.)

The Forest Service response and its attachments may be viewed on the court’s case management system, FullCourt Enterprise, at document sequence 24.00.

Conclusions of law

Based upon the Forest Service’s objections, and Barbara H. Edgmond’s and Kathleen M. Frisbie’s repeated failure to comply with orders issued by the Water Master, the requested sanctions and resolution of objections, dismissal of claims 41F 13848-00, 41F 13849-00, and claim 41F 13850-00, appears just. The dismissal of claims 41F 13848-00, 41F 13849-00, and claim 41F 13850-00 resolves the Forest Service’s objections and moots the issue remark appearing on the claims.

Recommendations

Irrigation claims 41F 13848-00 and 41F 13849-00 and stock claim 41F 13850-00 should be dismissed.

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

Service via USPS Mail

Barbara H. Edgmond
625 E Davis St
Bozeman, MT 59715

Mary K. Frisbie
PO Box 71
McAllister, MT 59740

Last Order:
Kathleen M. Frisbie
PO Box 71
McAllister, MT 59740

Service via Electronic Mail

Romney S. Philpott, Senior Attorney
US Department of Justice
ENRD, Natural Resources Section
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montanabasins.enrd@usdoj.gov
(Attorney for United States, DOA Forest Service)

High Camp LLC
awillett@bozeman.legal

Note: Caption and Service List Updated 9-29-2026

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

Water Right Number: 41F 13848-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: DISMISSED

Owners: BARBARA H EDGMOND
625 E DAVIS ST
BOZEMAN, MT 59715

MARY K FRISBIE
PO BOX 71
MCALLISTER, MT 59740-0071

HIGH CAMP LLC
875 AUGER LN
BOZEMAN, MT 59718-3208

Priority Date:

Type of Historical Right:

Purpose (Use): IRRIGATION

Flow Rate:

Volume:

Source Name: NORTH MEADOW 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.

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

Water Right Number: 41F 13849-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: DISMISSED

Owners: BARBARA H EDMOND
625 E DAVIS ST
BOZEMAN, MT 59715

MARY K FRISBIE
PO BOX 71
MCALLISTER, MT 59740-0071

HIGH CAMP LLC
875 AUGER LN
BOZEMAN, MT 59718-3208

Priority Date:

Type of Historical Right:

Purpose (Use): IRRIGATION

Flow Rate:

Volume:

Source Name: NORTH MEADOW 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.

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

Water Right Number: 41F 13850-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: DISMISSED

Owners: BARBARA H EDGMOND
625 E DAVIS ST
BOZEMAN, MT 59715

MARY K FRISBIE
PO BOX 71
MCALLISTER, MT 59740-0071

HIGH CAMP LLC
875 AUGER LN
BOZEMAN, MT 59718-3208

Priority Date:

Type of Historical Right:

Purpose (Use): STOCK

Flow Rate:

Volume:

Source Name: NORTH MEADOW 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.