

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

* * * * *

CLAIMANTS: Kroenke Land & Livestock LLC; Jeffers Ranch
LLC; Betty Klein; Jeffrey Klein

CASE 41F-0267-R-2026
41F 133742-00

OBJECTOR: Kroenke Land & Livestock LLC

NOTICE OF INTENT TO APPEAR: United States, DOI Bureau
of Reclamation

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

Irrigation claim 41F 133742-00 received the following issue remarks:

THE POINT OF DIVERSION APPEARS TO BE INCORRECT. THE POINT OF DIVERSION APPEARS TO BE IN THE NWNENW SEC 21 TWP 06S RGE 01E MADISON COUNTY.

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.

Issue remarks result from Department of Natural Resources and Conservation (“DNRC”) claims examination. If claims examination cannot confirm an element of a claim based upon historical resources, or water right claim examination rules require identification of an issue, or a Water Court order requires identification of an issue, an issue remark is added to the claim. An issue remark may also provide notice to water users concerning a claim.

Irrigation claim 41F 133742-00 received a self-objection from co-claimant Kroenke Land & Livestock LLC (“Kroenke”). Co-claimants Jeffers Ranch LLC, Betty Klein, and Jeffrey Klein were provided the opportunity to state whether they agreed or disagreed with Kroenke’s objection to the claim. Co-claimants Jeffers Ranch LLC, Betty Klein, and Jeffrey Klein agreed with Kroenke’s proposed resolution of the issues. Notice of intent to appear party, the United States, DOI Bureau of Reclamation (“BOR”) was provided the opportunity to state whether it agreed or disagreed with Kroenke’s objection to the claim. The BOR agreed with Kroenke’s proposed resolution of the issues.

Montana law requires the Water Court to resolve issue remarks, objections, and notices of intent to appear.

Issues

1. Is the objection to irrigation claim 41F 133742-00 resolved?
2. Is the notice of intent to appear for irrigation claim 41F 133742-00 resolved?
3. Are the issue remarks appearing on claim 41F 133742-00 resolved?

Findings of fact

1. The Preliminary Decree abstract identifies the historical point of diversion for irrigation claim 41F 133742-00.
2. The quantified volume identified by the Preliminary Decree abstract should be removed and replaced with the standard volume information remark for a direct flow irrigation claim.

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. 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. 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 1-3 – resolution of objection, notice of intent to appear, and issue remarks

Kroenke objected to the quantified volume identified by the Preliminary Decree abstract requesting that it be replaced by the standard volume information remark. The DNRC, pursuant to the court's December 14, 2012 Order Addressing Reexamination, correctly removed the quantified volume from this direct flow irrigation claim and added the standard information remark while preparing the claim for issuance in the Preliminary Decree. The quantified volume was mistakenly added back to the claim when the court corrected the priority date for the claim also in preparation for issuing the Preliminary Decree. (*See claim file.*)

Kroenke confirmed that the point of diversion identified by the Preliminary Decree abstract is historically accurate and matches the map attached to the statement of claim, disagreeing with the point of diversion issue remark on the claim.

The claim appeared in the Preliminary Decree with the following issue remark:

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.

The ditch name issue remark provided the opportunity for claimants and other water users to object to the claim. No one, including claimants, objected to the ditch name.

Conclusions of law

Clerical errors may be corrected at any time. Kroenke's requested correction to the volume results in the standardization of the claim pursuant to the court's December 14, 2012 Order Addressing Reexamination. The clerical correction to the volume for irrigation claim 41F 133742-00 should be completed.

Kroenke resolved the point of diversion issue remark. Kroenke confirms the map attached to the statement of claim identifies the correct location of the point of diversion, thereby overcoming the prima facie proof afforded the point of diversion legal land description identified by prima facie statement of claim 41F 133742-00.

Kroenke's objection to the claim and BOR's notice of intent to appear for the claim are resolved.

The issue remark concerning ditch name served its notice purpose.

Recommendations

Based upon the foregoing, irrigation claim 41F 133742-00 should be corrected as follows.

VOLUME: ~~600.00 AF~~

THE TOTAL VOLUME OF THIS RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

The issue remarks appearing on the claim should be removed.

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.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

Last Order:

Jeffers Ranch LLC
8025 Maryland Ave, 11C
Saint Louis, MO 63105

Betty Klein
Jeffrey Klein
PO Box 1405
Ennis, MT 59729

Service via Electronic Mail:

Jeffers Ranch LLC
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(Attorney for United States, DOI Bureau of Reclamation)

Note: Service List Updated 9-1-2026

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

Water Right Number: 41F 133742-00 STATEMENT OF CLAIM

Version: 5 -- POST DECREE

Status: ACTIVE

Owners:

BETTY KLEIN

PO BOX 1405

ENNIS, MT 59729

JEFFREY KLEIN

PO BOX 1405

ENNIS, MT 59729

JEFFERS RANCH LLC

8025 MARYLAND AVE, 11C

SAINT LOUIS, MO 63105

KROENKE LAND & LIVESTOCK LLC

% DEBORAH STEPHENSON DMS NATURAL RESOURCES, LLC

602 S FERGUSON AVE, STE 2

BOZEMAN, MT 59718

Priority Date: OCTOBER 13, 1905

Type of Historical Right: DECREEED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 2.50 CFS

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 713.00

Source Name: CEDAR CREEK

Source Type: SURFACE WATER

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

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NENENW	22	6S	1E	MADISON

Period of Diversion: APRIL 15 TO OCTOBER 31

Diversion Means: HEADGATE

Ditch Name: CEDAR CREEK DITCH

Period of Use: APRIL 15 TO OCTOBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	58.00		W2SW	3	6S	1E	MADISON
2	156.00		SE	4	6S	1E	MADISON

3	265.00	E2	9	6S	1E	MADISON
4	42.00	NW	15	6S	1E	MADISON
5	74.00	SW	15	6S	1E	MADISON
6	12.00	SE	16	6S	1E	MADISON
7	106.00	NE	16	6S	1E	MADISON
Total:						
	713.00					

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

133736-00	133740-00	133741-00	133742-00	133743-00	133744-00
133745-00	133753-00	133764-00			