

Montana Water Court
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MONTANA WATER COURT
UPPER MISSOURI DIVISION
TETON RIVER
BASIN 41O
INTERLOCUTORY DECREE

* * * * *

CLAIMANT: Copper Horse LLC

CASE 41O-0015-I-2026
41O 30127373

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. Copper Horse LLC is the record owner of claim 41O 30127373 (Claimant).
2. Claim 41O 30127373 was decreed with Montana Department of Natural Resources and Conservation ("DNRC") issue remarks:

- THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 41O DECREE ISSUED 12/29/2005.

- NO FLOW RATE HAS BEEN CLAIMED. THE FLOW RATE GUIDELINE FOR THIS PURPOSE IS 35 GPM.

3. The first issue remark provided notice that claim 41O 30127373 was not included in the previous decree in the basin.

4. The second remark provided notice that claim 41O 30127373 was decreed without a flow rate and the flow rate guideline for the purpose (stock) is 35.00 gallons per minute (gpm).

5. An Order was issued to determine if the Claimant agreed or disagreed that the flow rate for claim 41O 30127373 is 35.00 gpm. (Doc. ¹ The Order indicated that if nothing were filed by the deadline, it would be determined that Claimant Copper Horse LLC agrees the flow rate for claim 41O 31027373 is 35.00 gpm. The Order following language was included in the Order:

Failure to comply with the terms of this Order may result in sanctions, up to and including entry of default and termination of a water right claim or dismissal of objections. Rule 22, W.R.Adj.R.

Nothing was filed.

PRINCIPLES OF LAW

1. 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.

2. A properly filed Statement of Claim for an existing water right is prima facie proof of its content. Mont. Code Ann. § 85-2-227 (2025); Rule 10, W.R.Adj.R.

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

¹ “Doc.” numerical references correlate to case file docket numbers in the Water Court’s Full Court case management system.

4. 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. §§ 85-2-227, -231(2), MCA.

5. Pursuant to Rule 22, W.R.Adj.R., if a claimant, objector, or intervenor fails to appear at a scheduled conference or hearing or fails to comply with an order issued by the Water Court, the Water Court may issue such orders of sanction with regard thereto as are just.

CONCLUSIONS OF LAW

1. Claim 41O 30127373 was decreed with a remark indicating the claim was not included in the 2005 Temporary Preliminary Decree (“TPD”) for Basin 41O. The issue remark provided notice that the claim was filed as an “exempt” claim under the provisions of House Bill 110 (“HB 110”) passed by the 2017 Montana Legislature (codified at § 85-2-222, MCA). HB 110 provided owners of certain exempt claims the option of filing the claims before a June 30, 2019 filing deadline.

The DNRC examined the exempt claims under its claim examination rules. Based on the DNRC examination, the issue remark was placed on the claim, providing notice that the claim did not appear in the temporary preliminary decree (“TPD”) for Basin 41O, issued in 2005, because the TPD predated the exempt claim filing deadline.

The claim did not receive objections during the objection periods. Absent objections, the issue remark does not raise factual or legal issues that need to be addressed. No further proceedings are required to resolve the remark.

2. No information has been provided by the Claimant regarding the flow rate for claim 41O 30127373. It is reasonable to apply the flow rate guideline for stock claims from wells. Rule 24(b)(1), W.R.C.E.R.

RECOMMENDATIONS

1. The flow rate for claim 41O 30127373 should be 35.00 gpm.

2. The issue remarks should be removed from claim 41O 30127373.

A post decree abstract is enclosed.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail

Copper Horse LLC
640 19th Rd. NW
Choteau, MT 59422-9102

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
TETON RIVER
BASIN 41O**

Water Right Number: 41O 30127373 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: COPPER HORSE LLC
640 19TH RD NW
CHOTEAU, MT 59422-9102

***Priority Date:** DECEMBER 31, 1911

Type of Historical Right: USE

Purpose (Use): STOCK

Flow Rate: 35.00 GPM

***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: GROUNDWATER

Source Type: GROUNDWATER

***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		NENWNE	33	25N	4W	TETON

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: WELL

Period of Use: JANUARY 1 TO DECEMBER 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			NENWNE	33	25N	4W	TETON