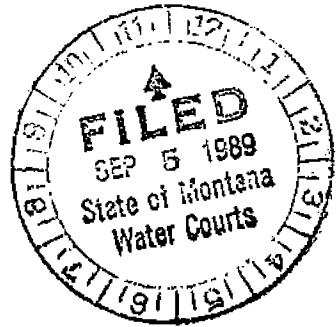


IN THE WATER COURTS OF THE STATE OF MONTANA  
CLARK FORK DIVISION - FLINT CREEK BASIN (76GJ)  
\* \* \* \* \*

IN THE MATTER OF THE ADJUDICATION OF )  
THE EXISTING RIGHTS TO THE USE OF ALL )  
THE WATER, BOTH SURFACE AND UNDERGROUND, ) CASE NO. 76GJ-22  
WITHIN THE FLINT CREEK DRAINAGE AREA ) 76GJ-W-101695-00  
INCLUDING ALL TRIBUTARIES OF THE FLINT )  
CREEK IN GRANITE AND DEER LODGE )  
COUNTIES, MONTANA. )

CLAIMANT: Black Pine Mining Co.  
OBJECTOR: Samuel T. McGowan



MASTER'S REPORT  
FINDINGS OF FACT

1. Samuel T. McGowan objected to the source and place of use of this Black Pine Mining Company mining claim.
2. This objection was filed after the deadline but it was included on the objection list for the Flint Creek Temporary Preliminary Decree.
3. Notices of Intent to Appear were filed by Eugene Manley, Daniel D. McLaughlin on behalf of Black Pine Mining Company, John T. Mason, and Edward H. James.
4. On May 31, 1985 Eugene Manley filed a Withdrawal of Objection.
5. On August 26, 1985 Edward H. James and Samuel T. McGowan filed a Withdrawal of Objection referencing a Stipulation.
6. On August 26, 1985 Edward H. James, Samuel T. McGowan and Black Pine Mining Company filed a Stipulation specifying that the following remark shall be added to this claim:

THE OVERFLOW FROM THE STORAGE TANK MUST BE PIPED SO THAT IT FLOWS INTO THE LOWER WILLOW CREEK DRAINAGE AND THE WATER FROM THE ADIT MUST CONTINUE TO BE PUMPED SO THAT IT FLOWS INTO THE SOUTH WILLOW CREEK DRAINAGE.

7. On July 31, 1989 John T. Mason filed a Withdrawal of Notice of Intent to Appear.

8. The remark stated in Finding of Fact 6 above should be added to the abstract of this claim.

CONCLUSIONS OF LAW

I.

The Water Court has jurisdiction to review all objections to temporary preliminary decrees pursuant to Mont. Code Ann. sec. 85-2-233.

II.

Section 85-2-233(1)(b) Montana Code Annotated states that "a person does not waive the right to object to a preliminary decree." As the objection was included on the objection list and notice thereby given, the Water Court can proceed with hearing the objection at the Temporary Preliminary Decree stage rather than waiting for issuance of the Preliminary Decree.

III.


Upon review of the Stipulation, it appears that the addition of the following remark is proper and is accepted by this Court:

THE OVERFLOW FROM THE STORAGE TANK MUST BE PIPED SO THAT IT FLOWS INTO THE LOWER WILLOW CREEK DRAINAGE AND THE WATER FROM THE ADIT MUST CONTINUE TO BE PUMPED SO THAT IT FLOWS INTO THE SOUTH WILLOW CREEK DRAINAGE.

IV.

The remark stated in Conclusion of Law III above shall be added to the abstract of this claim.

DATED this 5 day of September, 1989.

  
Kathryn L. W. Lambert  
Water Master

CERTIFICATE OF SERVICE

I, Lori M. Burnham, Clerk of Court of the Montana Water Court, hereby certify that a true and correct copy of the above MASTER'S REPORT was duly served upon the following persons by depositing the same, postage prepaid, in the United States mail:

Black Pine Mining Co.  
c/o Daniel D. McLaughlin  
Philipsburg, MT 59858

Lisa Semansky, Attorney  
P. O. Box 509  
Butte, MT 59703

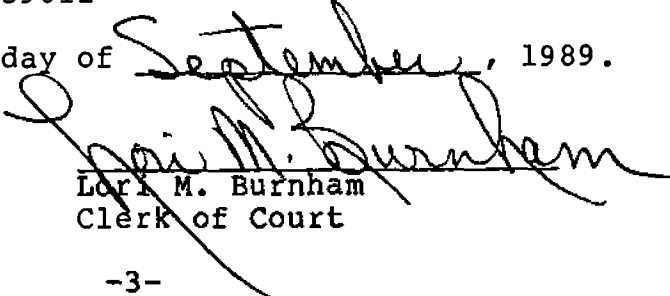
Samuel T. McGowan  
Box 17  
Hall, MT 59837

Edward H. James  
81 Lower Willow Creek Road  
Hall, MT 59837

John T. Mason  
35 Mason Lane  
Hall, MT 59837

Richard W. Josephson  
Attorney at Law  
P. O. Box 1047  
Big Timber, MT 59011

DATED this 5~~th~~ day of September, 1989.

  
Lori M. Burnham  
Clerk of Court