

Montana Water Court
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FILED
MAY 10 2016
Montana Water Court

MONTANA WATER COURT, LOWER MISSOURI DIVISION
BEAVER CREEK TRIBUTARY OF MILK RIVER - BASIN 40M

C LAIMANTS: Virginia L. Koss Trust; Jeanne Mae Engebretson; Margaret A. Bergsagel; Susan L. Snyder; Lucy W. Arnott; Thomas L. Watson	CASE 40M-9 40M 182861-00 40M 182862-00 40M 182864-00
OBJECTORS: Thomas L. Watson; Kelly C. Orahood; James J. Orahood; Margaret A. Bergsagel; Virginia L. Koss; United States of America (Bureau of Land Management)	40M 184898-00 40M 184899-00 40M 184900-00 40M 184901-00
COUNTEROBJECTORS: Thomas L. Watson; Kelly C. Orahood; James J. Orahood	40M 186391-00 40M 186392-00 40M 186394-00
NOTICE OF INTENT TO APPEAR: Bruce A. Christofferson	40M 186395-00 40M 186396-00 40M 186398-00

**ORDER REGARDING OBJECTIONS TO MASTER'S REPORT AND
ORDER SETTING FILING DEADLINE**

I. STATEMENT OF THE CASE

The parties to this action own water rights on Sage Creek and its tributaries in Phillips County.

This matter involves objections to a Master's Report. The Master's Report was issued after a three day trial in Malta, Montana. The Master's Report addressed thirteen water rights. The objections to the Master's Report involve six of those rights.

Claimant	Claim	Source	Person Objecting to Master's Report
Watson	40M 182861-00	Sage Creek	Orahood
Watson	40M 182862-00	Sage Creek	Orahood
Koss	40M 184899-00	Gumbo Coulee	Watson
Koss	40M 184900-00	Sage Creek	Watson
Watson	40M 186395-00	Gumbo Coulee	Watson
Watson	40M 186396-00	Sage Creek	Watson

The Watson rights are owned by Thomas L. Watson. Watson was represented by Thomas Sheehy. Watson objected to the Master's Report and responded to Orahood's objection.

The Koss rights are owned by the Virginia L. Koss Trust, Margaret A. Bergsagel, Susan L. Snyder, Lucy W. Arnott, and Jeanne Mae Engebretson. Koss et al. were represented by John R. Christiansen and Joseph Breitenbach. Koss did not object to the Master's Report, but responded to Watson's objection.

James J. and Kelly C. Orahood were represented by Holly Franz. The Orahoods objected to the Master's Report and also responded to Watson's objection.

The names Gumbo Coulee and Unnamed Coulee were used to describe two drainages south of Sage Creek. There was disagreement over which drainage should be called by what name. This order uses the name Gumbo Coulee to describe the drainage immediately south of Sage Creek. The same drainage is also labeled Gumbo Coulee in the Phillips County Water Resources Survey. Gumbo Coulee flows from east to west across the north half of Section 7, T25N, R32E. A second drainage, also located in Section 7 but further south, is referenced in this order as Unnamed Coulee.

A site inspection of the Sage Creek area was conducted by the undersigned judge on April 4, 2016. Most of the parties and all counsel were present. A hearing on the objections to the Master's Report occurred in Malta, Montana on April 5, 2016.

II. OBJECTIONS TO THE MASTER'S REPORT

The abstract attached to the Master's Report describes the means of diversion for claim 40M 182861-00 as a ditch. Orahood objected to the means of diversion, asserting it should have been described as a dike rather than a ditch.

Orahood also objected to the Master's findings regarding place of use and acres irrigated for Watson claim 40M 182862-00. This claim was based on a notice of appropriation filed by Patrick Wickham on June 5, 1915. The Wickham notice of appropriation was filed for irrigation of 320 acres of land in Sections 30 and 31, T26N, R32E. Watson's claim based on this notice includes 620 acres, most of which is not within the boundaries of the lands described in the Wickham notice of appropriation.

Orahood objected that Watson should only be allowed to claim irrigation for lands within the Wickham notice of appropriation. Orahood objected that recognition of Watson's 620 acre claim was an expansion the Wickham right and was not consistent with the intent expressed by Wickham.

In her Report, the Water Master recognized the acreage claimed by Watson even though it was outside the boundaries described in the Wickham notice. The Master concluded that Orahood had the burden of overcoming the prima facie status of Watson's claim, and had not shown that the Watson land was not irrigated at the time the Wickham notice was filed.

Watson objected to the Master's recognition of claim 40M 184899-00. Watson contends this claim was abandoned by Koss and should be terminated.

Watson objected to the point of diversion selected by the Water Master for Koss claim 40M 184900-00. Watson asserts that the point of diversion should be in the E2SESW of Section 6 rather than in the location selected by the Master. Orahood contends the Master's Report is correct, and Koss asserts that an additional point of diversion should be added in the location asserted by Watson.

The Master's Report assigned a 1959 priority date to Watson claim 40M 186395-00. This priority date was based on evidence of dike construction in 1959. Watson objects, contending that a lease agreement for a portion of this area, together with other evidence, justifies an earlier priority date of 1931.

Watson objected to the legal description selected by the Master for the place of use of claim 40M 186396-00. Watson contends that, although the legal description is correct, it should be refined to more accurately reflect the lands he owns and irrigates.

III. STANDARD OF REVIEW FOR MASTER'S REPORTS

The Water Court may appoint a Water Master to prepare a report containing the Master's findings of fact and conclusions of law. Rule 53(a)(1)(C), M. R. Civ. P.; Rule 23, W.R.Adj.R. The Water Court reviews the Master's findings of fact for clear error and the Master's conclusions of law to determine whether they are correct. *Skelton Ranch, Inc. v. Pondera County Canal & Reservoir Co.*, 2014 MT 167, ¶ 25, 328 P.3d 644 (citing *Heavirland v. State*, 2013 MT 313, ¶ 13, 372 Mont. 300, 311 P.3d 813). Based on these standards of review, the water judge "may adopt, modify, or reject the [Master's] report, in whole or in part, or may receive further evidence or recommit it with instructions." Rule 23, W.R.Adj.R.

The Montana Supreme Court follows a three-part test to determine if a trial court's findings of fact are clearly erroneous. See *Interstate Production Credit Assn. v. DeSaye*, 250 Mont. 320, 323, 820 P.2d 1285, 1287 (1991). The Water Court uses a similar test for reviewing objections to a Master's findings of fact. Rule 11(c), W.R.Adj.R. (referencing Rule 53(e), M. R. Civ. P.). See *In re the Existing Rights within the Jefferson River Drainage Area, Nos. 41G-137, 41G-W-182145-00*, 1999 Mont. Water LEXIS 1 at 3-4 (Dec. 27, 1999).

First, this Court reviews the record to see if the findings are supported by substantial evidence. Second, even if the findings are supported by substantial evidence, this Court may determine a finding is clearly erroneous if the Master misapprehended the effect of the evidence. Third, if substantial evidence exists and the effect of the evidence has not been misapprehended, this Court may still determine that a finding is clearly erroneous when, although there is evidence to support it, a review of the record leaves the Court with the definite and firm conviction that a mistake has been committed. *Skelton Ranch*, ¶ 27 (citing *Heavirland*, ¶ 16). "Substantial evidence is evidence which a reasonable mind might accept as adequate to support a conclusion, even if the evidence is weak or conflicting." *Skelton Ranch*, ¶ 27 (quoting *Arnold v. Boise Cascade Corp.*, 259 Mont. 259, 265, 856 P.2d 217, 220 (1993)). The Montana Supreme Court has long recognized that "substantial evidence and clearly erroneous are not synonymous."

Heavirland, ¶16 (quoting *DeSaye*, 250 Mont. at 323, 820 P.2d at 1287). Therefore, this Court may determine a finding clearly erroneous even though there is evidence to support it. *Skelton Ranch*, ¶ 27 (citing *Heavirland*, ¶ 16).

This Court reviews a Master's conclusions of law to determine whether they are correct. *Heavirland*, ¶ 14 (citing *Geil v. Missoula Irr. Dist.*, 2002 MT 269, ¶ 22, 312 Mont. 320, 59 P.3d 398). "Thus, the Water Court reviews the Water Master's findings of fact for clear error and the Water Master's conclusions of law for correctness." *Heavirland*, ¶ 14 (citing Rule 53(e)(2), M. R. Civ. P.; *Geil*, ¶ 22).

IV. ISSUES

1. Should the means of diversion for claim 40M 182861-00 be described as a dike?
2. Did the Master correctly describe the place of use and acres irrigated for Watson claim 40M 182862-00?
3. Should the Master have determined that Koss claim 40M 184899-00 was abandoned?
4. Did the Master correctly describe the point of diversion for claim 40M 184900-00?
5. Was the Master's decision to assign a 1959 priority date to claim 40M 186395-00 correct?
6. Should the place of use for claim 40M 186396-00 be narrowed to more accurately reflect lands owned and irrigated by Watson?

V. ANALYSIS

1. Should the means of diversion for claim 40M 182861-00 be described as a dike?

The Master found that the Watson Ditch, which Watson asserted should be a point of diversion for claim 40M 182861-00, was built after July 30, 1985. Finding of Fact ("FOF") 39, Master's Report, at 12. Based on this finding, the Master concluded the Watson Ditch should not be included as a point of diversion for this claim. The Master

determined the point of diversion should be as originally described in the SENENW of Section 6, T25N, R32E.

The Master also found that the original point of diversion for this claim was a dike rather than a ditch. Despite this finding, the abstract for claim 40M 182861-00 shows the point of diversion as a ditch. The abstract has been changed from ditch to dike in accordance with the Master's finding.

Although water rights in this area use dikes to spread water, those dikes are not always used to remove water directly from Sage Creek. Instead, dikes may be used to control water once it overflows the banks of Sage Creek. That means points of diversion identified for this and other rights may not be located directly on the source. Points of diversion may refer to locations where water escapes the banks of Sage Creek prior to being controlled through the use of dikes or other structures.

A visual inspection of the site indicated these characteristics apply to claim 40M 182861-00.

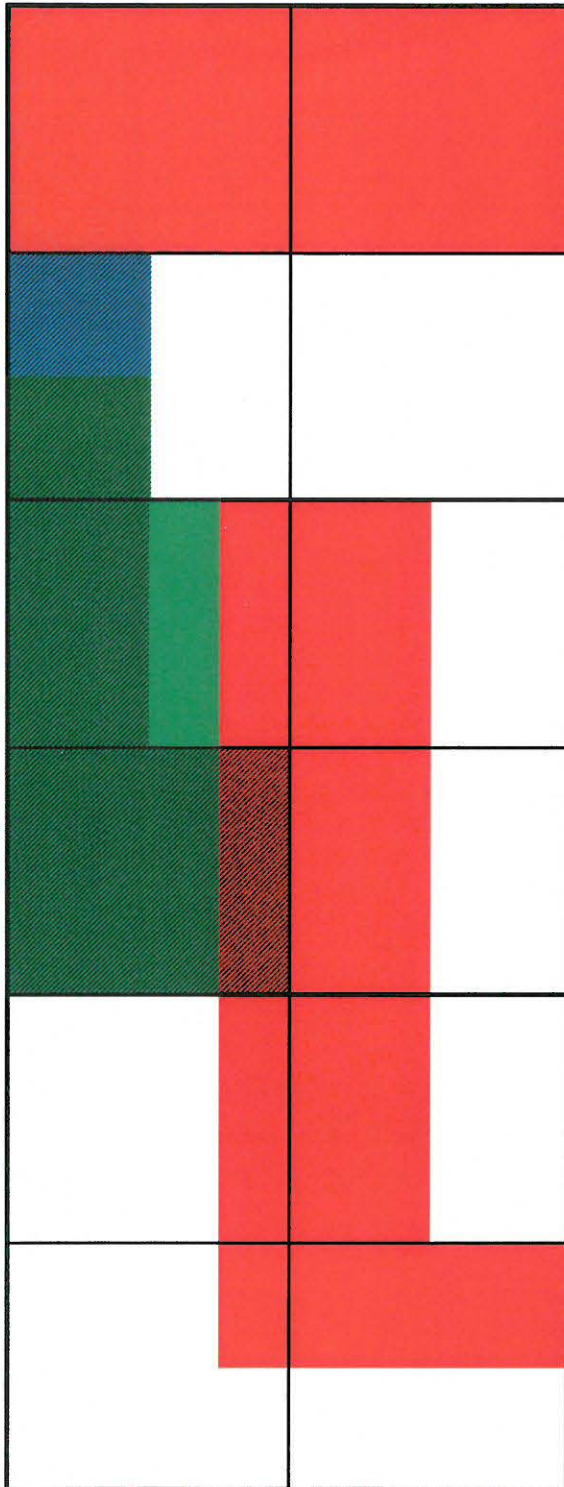
2. Did the Master correctly describe the place of use and acres irrigated for Watson claim 40M 182862-00?

Watson claim 40M 182862-00 was based on the Wickham notice of appropriation, but the majority of the lands claimed were outside the area identified by Wickham. Koss also filed a claim based on the Wickham notice, but the Koss claim lies mostly within the Wickham lands.

The lands identified as irrigated in the Wickham notice of appropriation amounted to approximately 320 acres. The lands claimed by Koss amounted to 300 acres, while Watson claimed 620 acres. The 920 acre total of the two claims substantially exceeded the original Wickham acreage.

The boundaries of the Wickham notice, and the lands claimed by Koss and Watson, are shown below.

Depiction of 40M 182862-00 and 40M 184900-00 Claimed Lands and Wickham Notice of Appropriation



Note: Only 160 acres are claimed by Watson in the N2 of Section 30. The entire N2 is shaded for ease of illustration and does not indicate Watson's irrigation of all 320 acres in the N2 of the Section.

Section 30, T26N, R32E

Section 31, T26N, R32E

Section 6, T25N, R32E



Orahood asserts that Watson's acreage should be limited to lands identified in the Wickham notice. The Master rejected this approach and declined to reduce the acreage of either the Koss or Watson claims to conform to the footprint of the Wickham right. The Master justified this decision by finding that the "evidence was insufficient to show that the acres claimed by either Watson or by Koss were not historically irrigated." FOF 53, Master's Report, at 14. This finding is based on an incorrect interpretation of the facts, and a misstatement of the burden faced by claimants and objectors when they assert ownership of the same right.

Water rights in Montana have prima facie status under Section 85-2-227(1), MCA. The effect of this statute is to place the burden of proof on the objector "to prove by a preponderance of the evidence that the elements of the original claim 'do not accurately reflect the beneficial use of the water right as it existed prior to July 1, 1973.'" *Nelson v. Brooks*, 2014 MT 120, ¶ 37, 375 Mont. 86, 329 P.3d 558 (quoting Rule 19, W.R.Adj.R.).

The prima facie status of a water right can be overcome in a number of ways. Here, two different parties claimed the same water right. The lands irrigated by that water right were defined in the Wickham notice.

The Master's analysis was that both parties could prevail on their claims for the entirety of the Wickham right so long as there was no evidence showing that the lands they claimed were not irrigated. This analysis expanded the Wickham right by nearly three hundred percent.

Several factors operate to overcome the prima facie status of the Koss and Watson claims. First, both parties are seeking to quiet title to the same property interest. Second, both parties claim lands outside the boundaries of the Wickham notice. Third, the combined acreage claimed, and the consequent scope of irrigation, is much larger than the original right.

These factors overcome the prima facie status of both rights and shift the burden of proof to the claimants.

Other than forty acres in the E2E2SW of Section 31, T26N, R32E, there was no evidence that any of the lands claimed by Watson were irrigated by Wickham, and no

evidence that the Wickham right was severed from Wickham land and moved elsewhere. Although the Master correctly observed that the lands claimed by Watson were irrigated, there was no evidence to indicate those lands were irrigated using the Wickham right.

Because of the unique topography of this area, Watson's property may receive some benefit as dispersed water from Sage Creek crosses his land to reach lands within the original Wickham notice. Despite this arrangement, Watson does not have an ownership interest in the Wickham right enabling him to irrigate lands outside the Wickham notice.

Watson's ability to irrigate the lands outside the scope of the Wickham right is covered by other water rights. Among these is 40M 186392-00, which covers the same place of use as his claim for the Wickham right, but with a priority date of June 30, 1951.

Accordingly, it was error for the Water Master to expand the scope of the Wickham right by recognizing the entirety of Watson claim 40M 182862-00. There was no evidence the Wickham right was used on any of Watson's land other than the E2E2SW of Section 31, T26N, R32E. There is also no evidence this right was moved to other Watson land. Watson's claim for Wickham water outside the Wickham place of use is therefore invalid. Watson claim 40M 182862-00 should have been modified to reflect only the lands described in the Wickham notice and currently owned by Watson. The irrigated acreage and place of use on Watson claim 40M 182862-00 is limited to forty acres in the E2E2SW of Section 31, T26N, R32E.¹

Claim 40M 182862-00 was supplemental to 40M 186392-00, 40M 186396-00, 40M 186397-00 (in case 40M-130, which is now closed), and 40M 186398-00, meaning the claims had overlapping places of use. These claims are no longer supplemental with claim 40M 182862-00. The supplemental rights remark will be removed from 40M 182862-00, 40M 186392-00, 40M 186396-00, and 40M 186398-00. The supplemental rights remark will be removed from 40M 186397-00 (in case 40M-130) by separate order. Corrected abstracts for 40M 186392-00, 40M 186396-00, and

¹ Watson owns other lands within the Wickham notice, but did not claim these lands for water right 40M 182862-00. The lands Watson did not claim are in the NWSW of Section 30, T26N, R32E and will not be included in 40M 182862-00. This parcel is shown on the map, *supra*, in blue.

40M 186398-00 are attached to this order to reflect the removal of the supplemental rights remark.

The reduction in acreage requires a corresponding reduction in the quantified volume of Watson claim 40M 182862-00. Watson originally claimed a volume of 930.00 acre-feet for irrigation of 620 acres. This results in a ratio of 1.5 acre-feet per acre. The volume will be calculated using the same 1.5 acre-feet per acre ratio. Therefore, the adjusted volume should be 60.00 acre-feet (1.5 acre-feet per acre x 40 acres). An abstract reflecting the place of use and volume changes is attached to this order.

Likewise, it was error for the Master to allow an expansion of the Koss claim for the Wickham right by recognizing acreage outside the area defined in the Wickham notice. Koss acknowledged at the hearing on the objections to the Master's Report that removal of irrigated acreage outside the scope of the Wickham right would be appropriate. Accordingly, the irrigated acreage and place of use for Koss claim 40M 184900-00 is reduced by forty acres in the W2E2NW and a duplicative twenty acres in the W2SESW, both in Section 31, T26N, R32E.

The volume will also be reduced for Koss claim 40M 184900-00. The claim was originally filed with a volume of 409.23 acre-feet for irrigation of 272.82 acres, resulting in the same 1.5 acre-feet per acre ratio as Watson claim 40M 182862-00.² Therefore, the adjusted volume should be 360.00 acre-feet (1.5 acre-feet per acre x 240 acres). An abstract reflecting these changes is attached to this order.

The points of diversion for Watson's claim should also be changed to reflect the more limited historical place of use on Wickham land. At trial, Watson testified that the Wickham point of diversion was in the W2NE of Section 6. This point of diversion is marked with an "X" and the number "6" on Watson Exhibit 30. It appears the remaining points of diversion for this right, which were located in the SENENW and the NESE of Section 6, should be removed from this right. These changes to the point of diversion are

² The DNRC amended the claimed acreage by increasing the acreage to 310.01, thereby reducing the ratio to 1.32 acre-feet per acre. Because the claims are based on the same notice of appropriation and to maintain consistency between the Watson and Koss claims (40M 182862-00 and 40M 184900-00, respectively), the Court will use the 1.5 acre-feet per acre ratio for calculating the reduced volume for both claims.

being made to permit irrigation of Watson's piece of the Wickham land. The parties will be given a chance to comment on these changes to the point of diversion.

3. Should the Master have determined that Koss claim 40M 184899-00 was abandoned?

Koss claim 40M 184899-00 was based on a notice of appropriation filed by Anton Werginz for a water right from Gumbo Coulee with a December 5, 1934 priority date. This water right is diverted using a dike that intercepts Gumbo Coulee and diverts water northward.

Watson contends the Koss claim from Gumbo Coulee was abandoned. Watson asserts the dike across Gumbo Coulee failed shortly after construction and has not functioned for decades.

Koss asserts that problems with the dike occurred because Watson breached the dike to allow water to flow westward towards his lands in Section 12, rather than northward to Koss lands. Koss argues that damage to the dike was repaired and that it functioned as intended.

The first step in proving abandonment is to show a prolonged period of nonuse. "[A] long period of continuous nonuse raises the rebuttable presumption of an intention to abandon, and shifts the burden of proof onto the nonuser to explain the reasons for nonuse." *79 Ranch v. Pitsch*, 204 Mont. 426, 432-33, 666 P.2d 215, 218 (1983). "To rebut the presumption of abandonment, there must be established some fact or condition excusing long periods of nonuse, not merely expressions of desire or hope." *79 Ranch*, 204 Mont. at 433, 666 P.2d at 218 (internal citations omitted).

The Master determined that Watson did not show a prolonged period of nonuse.

The record is in conflict regarding historical use of this claim. The Master found that aerial photos showed the dike in existence in 1939, 1953, and 1959. The Master also found that the dike had been periodically maintained.

Although not cited in the Master's findings, the record also shows photos of water flowing northward along the dike. Finally, Watson claimed a portion of the 1934 Werginz right for himself by filing claim 40M 186395-00.

In contrast to this evidence, Watson asserts the ditch never functioned as intended and was not properly maintained by Koss. Watson contends the Master should have accepted his version of events over the one offered by Koss.

A Master's obligation is to base findings on substantial evidence. "Substantial evidence is evidence which a reasonable mind might accept as adequate to support a conclusion, even if the evidence is weak or conflicting." *Boise Cascade Corp.*, 259 Mont. at 265, 856 P.2d at 221 (internal citations omitted).

The Master's conclusion that there was not prolonged nonuse of claim 40M 184899-00 was supported by substantial evidence. Accordingly, the Master's decision on the abandonment issue will not be overturned.

4. Did the Master correctly describe the point of diversion for claim 40M 184900-00?

The abstract attached to the Master's Report identified the point of diversion for claim 40M 184900-00 as the NWNENW of Section 6, T25N, R32E. The Master's decision was based on the original claim identifying this point of diversion. Watson objected, asserting the point of diversion should be in the E2SESW of Section 6. Koss responded that another point of diversion should be added in the location suggested by Watson. Orahood asserted the Master was correct and that no changes to the point of diversion should be made.

Watson was not able to point out credible evidence showing that the point of diversion in the NWNENW of Section 6 was incorrect. In the absence of such evidence, the Master's decision stands.

Bill Koss testified to water usage below the second bridge. The second bridge is located on Content Road south of Sage Creek and crosses a small unnamed drainage that connects to Sage Creek. This drainage receives water from overflows out of Sage Creek. Sage Creek water flows through the second bridge in Section 7, and continues downstream into Section 6. This water is dispersed below the second bridge rather than from Sage Creek directly.

The Master's findings regarding the single point of diversion identified for this claim were based on substantial evidence. However, the Koss testimony clarified historical usage of this right, and was sufficient to add a point of diversion to this claim in the E2SESW of Section 6. It appears the Master may have overlooked or misapprehended the significance of this testimony in shaping the historical use of this claim. Accordingly, this point of diversion will be added to the abstract for claim 40M 184900-00.

5. Was the Master's decision to assign a 1959 priority date to claim 40M 186395-00 correct?

The Master's assignment of a 1959 priority date to Watson claim 40M 186395-00 was based on evidence of dike construction on Watson land that year. This evidence was included in the claim file and consisted of an affidavit stating the dikes were built in 1959. The affidavit was signed by Roy A. Baeth, who built the dikes. The affidavit was attached to the claim by claimant Thomas Watson. The Baeth Affidavit constitutes substantial evidence, and supports the Master's finding regarding priority date.

Nevertheless, Watson contends the priority date should be 1931. This contention was based on a discussion between Watson and his mother in the early 1990s during which Mrs. Watson referenced a lease of lands in Section 12. Watson offered this lease as evidence that his priority date should be amended to 1931.

The lease does not mention irrigation of the leased lands or construction of dikes. Watson contends irrigation should be assumed because the lands would not have been leased unless they were irrigated. This assumption was not accepted by the Master.

Upon review, the Master's reliance on the Baeth Affidavit was proper. There was insufficient reason to accept Watson's presumption that irrigation occurred in Section 12 prior to 1959. The Master did not misapprehend the evidence or otherwise commit a mistake regarding priority date for claim 40M 186395-00.

6. Should the place of use for claim 40M 186396-00 be narrowed to more accurately reflect lands owned and irrigated by Watson?

The Master defined the place of use for this claim to include 100 acres in the N2 of Section 31, T26N, R32E. Watson objected on the basis that other persons own land in the N2 of Section 31, and that the legal description for this area should be refined to include only lands owned by him.

Watson's request is reasonable, and was not opposed by other parties. Although the Master did not err by describing Watson's place of use as the N2 of Section 31, a refinement of that legal description may avoid confusion in the future.

In his objection to the Master's Report, Watson states he irrigates approximately 100 acres in the northern portion of Section 31, but those 100 acres should be limited to the W2NE and the E2E2NW. Thomas Watson's Objections to Master's Report, January 15, 2016, at 1-2. There are 80 acres in the W2NE and 40 acres in the E2E2NW, which totals 120 acres. Watson states he does not irrigate approximately 20 acres of these lands, so the abstract should only reflect irrigation of 100 acres within these two legal descriptions. Thomas Watson's Objections to Master's Report, January 15, 2016, at 2. However, Watson does not indicate how the 100 acres should be apportioned between these two legal descriptions.

After reviewing Watson Exhibit 30, all 40 acres in the E2E2NW appear to be irrigated, but not all of the W2NE appears to be irrigated. Accordingly, the legal description for irrigation in Section 31 is changed to include 60 acres in the W2NE and 40 acres in the E2E2NW. The abstract for this right has been modified to reflect these changes.

VI. CONCLUSION AND ORDER

1. The means of diversion for claim 40M 182861-00 should be described as a dike.
2. The Master did not correctly describe the place of use and acres irrigated for Watson claim 40M 182862-00. The acreage for this claim should have been limited to lands owned and claimed by Watson that were within the Wickham notice of

appropriation. The point of diversion should be changed to reflect the diversion which delivers water to the reduced place of use. The reduced place of use eliminates the supplemental relationship between claims 40M 182862-00, 40M 186392-00, 40M 186396-00, 40M 186397-00, and 40M 186398-00. The supplemental rights remark should therefore be removed from claims 40M 182862-00, 40M 186392-00, 40M 186396-00, 40M 186397-00 (by separate order), and 40M 186398-00. The place of use and acreage irrigated for Koss claim 40M 184900-00 should also be limited in accordance with the Wickham notice. The volume of both claims 40M 182862-00 and 40M 184900-00 should be adjusted based on the reduced place of use.

3. The Master correctly determined that Koss claim 40M 184899-00 was not abandoned.

4. The Master correctly described the point of diversion for claim 40M 184900-00. However an additional point of diversion should be added to this right.

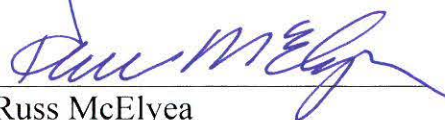
5. The Master correctly decided to assign a 1959 priority date to claim 40M 186395-00.

6. The place of use for claim 40M 186396-00 should be narrowed to more accurately reflect lands owned and irrigated by Watson.

ORDERED the parties shall have 30 days from issuance to comment upon, object to, or provide additional evidence regarding the correct point(s) of diversion for claim 40M 182862-00. Failure to file comments or objections will be deemed agreement with the above changes and the Court will issue an Order implementing these changes.

Post Decree Abstracts of the water right claims modified by this Order are attached to confirm the changes have been or will be made in the state's centralized record system. Those claims are 40M 182861-00, 40M 182862-00, 40M 184900-00, 40M 186392-00, 40M 186396-00, and 40M 186398-00. For Post Decree Abstracts of all other claims in this case, see the December 3, 2015 Master's Report.

DATED this 10 day of May, 2016.


Russ McElyea
Chief Water Judge

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