

Montana Water Court
PO Box 1389
Bozeman, MT 59771-1389
(406) 586-4364
1-800-624-3270
watercourt@mt.gov

FILED
03/13/2024
Sara Calkins
CLERK
Montana Water Court
STATE OF MONTANA
By: D'Ann CIGLER
41E-0165-R-2024
Lambert, Kathryn
4.00

IN THE WATER COURT OF THE STATE OF MONTANA
UPPER MISSOURI DIVISION
BOULDER RIVER—TRIBUTARY OF THE JEFFERSON RIVER (BASIN 41E)
PRELIMINARY DECREE

CLAIMANT: Carlson Ranch Limited Partnership

OBJECTOR: United States of America (USDA Forest Service)

CASE 41E-0165-R-2024
41E 30128738

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 may file a written objection to this Master's Report within **10 days** of the stamped date if you disagree or find errors with the Master's finding of fact, conclusion of law, or recommendations. Rule 23, W.R.Adj.R. If the Master's Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days to be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must mail 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

The United States of America (USDA Forest Service) objected to Carlson Ranch Limited Partnership claim 41E 30128738. On September 5, 2023 the claimant filed a response stating its agrees with the objection ["claimant's response"]. On March 5, 2024 United States' Response

To Court Order states that implementation of the requested change addresses its objection and the objection may be deemed resolved if the change is made [“objector’s response”]. The responses are viewable in the Court’s FullCourt Enterprise case management system.

APPLICABLE LAW

A properly filed Statement of Claim for Existing Water Right is prima facie proof of its content pursuant to 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 the elements of the claim do not accurately reflect the beneficial use of the water right as it existed prior to July 1, 1973. This is the burden of proof for every assertion that a claim is incorrect including for claimants objecting to their own claims. Rule 19, W.R.Adj.R.

FINDING OF FACT

The Preliminary Decree states that the place of use legal description is the NWNESE section 14, T6N, R6W, JEFFERSON. The objection states that the legal description should be the SENENW section 14, T6N, R6W, JEFFERSON. The claimant’s response states it agrees with the objection, specifically stating that the legal description should be the SENENW section 14, T6N, R6W, JEFFERSON. The objector’s response reiterates the requested change and states that, if implemented, its objection is resolved. The place of use legal description should be the SENENW section 14, T6N, R6W, JEFFERSON.

CONCLUSION OF LAW

The responses filed by the parties are sufficient to contradict and overcome the prima facie claim.

RECOMMENDATIONS

Based upon the above Finding of Fact and Conclusion of Law, this Master recommends that the Court make the changes specified in the Finding of Fact to correct the Preliminary Decree for this Basin. A Post Decree Abstract of Water Right Claim is served with this Report to confirm the recommended changes have been made in the state's centralized record system.

ELECTRONICALLY SIGNED AND DATED BELOW

Service via USPS Mail:

Carlson Ranch Limited Partnership
27 Mountain View Rd
Clancy, MT 59634

Service Via Electronic Mail:

Maggie Woodward
US Dept of Justice
PO Box 7611
Washington, DC 20044-7611
(202) 305-4224
Maggie.Woodward@usdoj.gov
MontanaBasins.ENRD@USDOJ.GOV

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
BOULDER RIVER, TRIBUTARY TO JEFFERSON RIVER
BASIN 41E**

Water Right Number: 41E 30128738 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: CARLSON RANCH LIMITED PARTNERSHIP
27 MOUNTAIN VIEW RD
CLANCY, MT 59634-9502

Priority Date: MARCH 6, 1894

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: SPRING, UNNAMED TRIBUTARY OF RED ROCK CREEK

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		SENENW	14	6N	6W	JEFFERSON

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: SPRING BOX

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			SENENW	14	6N	6W	JEFFERSON