

Montana Water Court
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FILED
03/29/2024
Sara Calkins
CLERK
Montana Water Court
STATE OF MONTANA
By: D'Ann CIGLER
41E-0175-R-2024
Lambert, Kathryn
3.00

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

CLAIMANTS: Tom Carey Cattle Co.; Dunn Canyon Cattle Co.;
X-C Ranch Inc.

OBJECTORS: Tom Carey Cattle Co.; Dunn Canyon Cattle Co.;
X-C Ranch Inc.

CASE 41E-0175-R-2024
41E 94270-00

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 or recommendation. 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

Tom Carey Cattle Co., Dunn Canyon Cattle Co., and X-C Ranch Inc. objected to this claim. On March 18, 2024 the parties filed a Motion To Modify Preliminary Decree Of Water Right 41E

94270-00 To Resolve Objections. The settlement is viewable in the Court's FullCourt Enterprise case management system.

APPLICABLE LAW

Judicial notice is taken of the Temporary Preliminary Decree proceedings for Case 41E-70. Rule 202, M.R.Evid.R.

FINDING OF FACT

This claim was in Temporary Preliminary Decree Case 41E-70 in which it was determined the source is BOULDER RIVER. The abstract was incorrectly modified at that time. Consequently, the Preliminary Decree states that the source is SPRING, BOULDER RIVER. The source should be BOULDER RIVER.

RECOMMENDATION

Based upon the above Finding of Fact, this Master recommends that the Court grant the motion and make the change 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 change has been made in the state's centralized record system.

ELECTRONICALLY SIGNED AND DATED BELOW

Service Via Electronic Mail:

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

Water Right Number: 41E 94270-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: CAREY, TOM CATTLE CO
2120 MT HWY 69
BOULDER, MT 59632-9730

DUNN CANYON CATTLE CO
CHRIS CAREY
2300 MT HWY 69
BOULDER, MT 59632-9732

X-C RANCH INC
2235 MT HIGHWAY 69
BOULDER, MT 59632-9731

Priority Date: MAY 1, 1912

Type of Historical Right: USE

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

***Flow Rate:** 4.80 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:** 96.00

***Source Name:** BOULDER RIVER

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		NWSWSWNE	30	4N	2W	JEFFERSON

Period of Diversion: MAY 1 TO OCTOBER 1

Diversion Means: HEADGATE

Period of Use: MAY 1 TO OCTOBER 1

***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	24.00		SWNE	30	4N	2W	JEFFERSON
2	52.00		W2SE	30	4N	2W	JEFFERSON
3	20.00		SESE	30	4N	2W	JEFFERSON

Total: 96.00

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.

93901-00	94249-00	94251-00	94252-00	94254-00	94256-00
94258-00	94259-00	94270-00			