



WATER-RIGHT DOCKET

Grant-Kohrs Ranch National Historic Site

Docket No: 16

KOHR'S-MANNING DITCH

State Water Rights Documentation

09-26-1990: memorandum to superintendent from chief, water rights branch regarding water rights--case no. 76c-319

September 26, 1990

154(479)
GRRD/Water Rights

Memorandum

To: Superintendent, Grant-Kohrs Ranch National Historic Site
From: Chief, Water Rights Branch, Water Resources Division
Subject: Water Rights--Case No. 76C-319

Attached for your information is a copy of Case No. 76C-319 regarding a water right claimed by Conrad K. Warren and subsequently transferred to the United States of America, National Park Service. Based on Superintendent Lopez's affidavit, the objector, Kohrs-Manning Ditch Company has withdrawn their objection.

If you need further information, please call me or Ken Czarnowski at (303) 221-8301 or (303) 221-8339, respectively.



Attachment

cc: RNR - Rouse, Hermance

FNP:KCZARNOWSKI:jt:(303)221-8339:09/26/90:WANG ID #664

SEP 17 1990

IN THE WATER COURT OF THE STATE OF MONTANA
CLARK FORK DIVISION
CLARK FORK RIVER BASIN ABOVE THE BLACKFOOT RIVER(76G)

NOTICE OF FILING OF MASTER'S REPORT

TO: ALL PARTIES

RE: 76G-W-092044-00, Case No. 76G-319

This is to provide you with Notice that the Water Master has filed a Master's Report (Findings of Fact and Conclusions of Law) with the Clerk of the Water Court for the water right(s) referenced above. A copy of the Master's Report is enclosed with this Notice.

Please review this Master's Report carefully. If there are any corrections or changes that need to be made, you have 10 days from receipt of this Notice to file a written objection. (The procedure is required by Rule 1.II. Water Right Claims Examination Rules and in Rule 53(e)(2) of the Montana Rules of Civil Procedure.)

DATED this 14th day of September 1990.

LORI M. BURNHAM
Clerk of Court
Montana Water Court
P. O. Box 879
Bozeman, MT 59771-0879
(406) 586-4364
1-800-624-3270 (in Montana)

m 9/17/90
GD 09/17/90
SE-09/17/90

IN THE WATER COURT OF THE STATE OF MONTANA
CLARK FORK DIVISION
CLARK FORK RIVER BASIN ABOVE THE BLACKFOOT RIVER (76G)

SEP 17 1990

IN THE MATTER OF THE ADJUDICATION OF) CASE NO. 76G-319
THE EXISTING RIGHTS TO THE USE OF ALL)
THE WATER, BOTH SURFACE AND UNDERGROUND) 76G-W-092044-00
WITHIN THE CLARK FORK RIVER DRAINAGE)
AREA ABOVE THE BLACKFOOT RIVER,)
INCLUDING ALL TRIBUTARIES OF THE)
CLARK FORK RIVER ABOVE THE BLACKFOOT)
RIVER IN DEER LODGE, GRANITE, LEWIS)
AND CLARK, MISSOULA, POWELL AND)
SILVERBOW COUNTIES, MONTANA.)

FILED

SEP 14 1990

Montana Water Court

CLAIMANT: Conrad K. Warren (previous owner)
United States of America (National Park Service)

OBJECTOR: Kohrs & Manning Ditch Co.

MASTER'S REPORT

FINDINGS OF FACT

1. Water right claim 76G-W-092044-00 was filed by Conrad K. Warren for irrigation purposes.
2. On December 6, 1988 a Water Right Transfer Certificate was filed with this Court concerning this claim. The Transfer Certificate indicates that this claim was transferred to the United States of America, National Park Service.
3. The Kohrs-Manning Ditch Company filed with this Court an objection to claim 76G-W-092044-00 concerning ownership and flow rate.
4. On November 30, 1988, Conrad K. Warren filed an Affidavit which states that 125 miner's inches of water diverted from the Kohrs-Manning Ditch was transferred to the United States on June 16, 1988.

5. On May 29, 1990 the United States filed with this Court the Affidavit of Eddie L. Lopez, Superintendent of the Grant-Kohrs Ranch National Historic Site. The Affidavit states that Conrad Warren transferred to the United States 125 miner's inches (3.13 cfs) of appurtenant water rights with the lands purchased by the United States from Mr. Warren on June 16, 1988.

6. On May 30, 1990 James Masar, Attorney for Kohrs-Manning Ditch Co., filed a Withdrawal of Objection to claim 76G-W-092044-00.

7. After review of the facts, the Master finds that the information contained in the above-mentioned Affidavit of Eddie L. Lopez appears to be true and correct. The Court accepts the Affidavit.

8. The Master finds that the Withdrawal of Objection filed on behalf of the Kohrs-Manning Ditch Co. was done so without error or misunderstanding. The Withdrawal is accepted by this Court.

9. This is a direct flow irrigation 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.

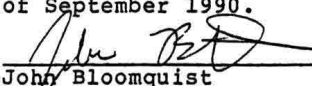
II

The flow rate for claim 76G-W-092044-00 does not require change. The flow rate shall be 3.13 cfs.

III

The volume quantification for this direct flow
irrigation claim shall be removed as specified in Mont. Code Ann.
Sec. 85-2-234(6)(b)(i).

DATED this 14th day of September 1990.



John Bloomquist
Water Master

CERTIFICATE OF SERVICE

I, Janet Lackey, Deputy Clerk of Court, Montana State
Water Court, hereby certify that a true and correct copy of the
above MASTER'S REPORT, FINDINGS OF FACT, CONCLUSIONS OF LAW, was
duly served upon the following persons listed herein, by
depositing the same, postage prepaid, in the United States mail.

Jody Miller
Special Assistant, U. S. Attorney
Office of General Counsel
P. O. Box 7669
Missoula, MT 59807

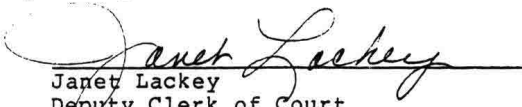
Kohrs-Manning Ditch Co.
391 N. Frontage Rd.
Deer Lodge, MT 59722

William Mosier
391 Freezeout Lane
Deer Lodge, MT 59722

James J. Masar, Attorney
P. O. Box 8957
Missoula, MT 59807-8957

Conrad K. Warren
P. O. Box 597
Helena, MT 59624

DATED this 14th day of September 1990.



Janet Lackey
Deputy Clerk of Court

IN THE WATER COURTS OF THE STATE OF MONTANA
CLARK FORK DIVISION
CLARK FORK RIVER BASIN ABOVE THE BLACKFOOT RIVER (76G)

IN THE MATTER OF THE ADJUDICATION OF)
THE EXISTING RIGHTS TO THE USE OF ALL)
THE WATER, BOTH SURFACE AND UNDERGROUND)
WITHIN THE CLARK FORK RIVER DRAINAGE)
AREA ABOVE THE BLACKFOOT RIVER, INCLUD-)
ING ALL TRIBUTARIES OF THE CLARK FORK)
RIVER ABOVE THE BLACKFOOT RIVER IN DEER)
LODGE, GRANITE, LEWIS AND CLARK,)
MISSOULA, POWELL AND SILVER BOW)
COUNTIES, MONTANA.)



AFFIDAVIT

STATE OF MONTANA)
: SS.
COUNTY OF POWELL)

Conrad K. Warren, being first duly sworn, says:

1. I have lived at R.F.D. #1 N. in Deer Lodge, Montana since 1930. During that time I have been responsible for the overall operation of my ranch. The ranch produced both irrigated crops and livestock.
2. Until June 16, 1988, I was the owner of the following parcels of land.

100 acres located in W $\frac{1}{2}$, W $\frac{1}{2}$, S28, T8N, R9W, M.P.M.
26 acres located in SW $\frac{1}{4}$, SE $\frac{1}{4}$, S21, T8N, R9W, M.P.M.
74 acres located in E $\frac{1}{2}$, W $\frac{1}{2}$, S28, T8N, R9W, M.P.M.
16 acres located in E $\frac{1}{2}$, E $\frac{1}{2}$, E $\frac{1}{2}$, S29, T8N, R9W, M.P.M.

The above lands are located immediately adjacent to the Kohrs-Manning Ditch.

3. For at least the last 50 years, I have irrigated the above lands, without interruption, with water from the Kohrs-Manning Ditch. I pumped the water from the ditch and irrigated my fields with a sprinkler system. I have also flood irrigated portions of the above lands. These actions were taken with the knowledge and consent of the Kohrs-Manning Ditch Company.
4. On April 19, 1982 I filed a statement of claim with the Water Courts of the State of Montana for the above water. The water, in the amount of 125 miner's inches, was first put to beneficial use for irrigation on September 1, 1895 and has been used continuously since that time.

CB

5. On June 16, 1988, I sold the above-mentioned lands and the appurtenant water rights totaling 125 miner's inches to the United States.

Conrad K. Warren
CONRAD K. WARREN

Subscribed and sworn to me this 20th day of July, 19 88.

Gaye M. Mezure
Notary Public for the State of Montana
Residing at Deer Lodge, Montana
My commission expires 10-8-88

IN THE WATER COURTS OF THE STATE OF MONTANA
CLARK FORK DIVISION
CLARK FORK RIVER BASIN ABOVE THE BLACKFOOT RIVER (76G)

IN THE MATTER OF THE ADJUDICATION OF)
THE EXISTING RIGHTS TO THE USE OF ALL) Case No. 76G-319
THE WATER, BOTH SURFACE AND UNDERGROUND)
WITHIN THE CLARK FORK RIVER DRAINAGE)
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ING ALL TRIBUTARIES OF THE CLARK FORK)
RIVER ABOVE THE BLACKFOOT RIVER IN DEER)
LODGE, GRANITE, LEWIS AND CLARK,)
MISSOULA, POWELL AND SILVER BOW)
COUNTIES, MONTANA)



DECLARATION OF EDDIE L. LOPEZ

I, Eddie L. Lopez do declare that:

1. I am the Superintendent of Grant-Kohrs Ranch National Historic Site. My position involves the acquisition of land and interests in land as additions to the National Historic Site.
2. I am familiar with the fact that on June 16, 1988, the USA purchased the following parcels of land from Mr. Conrad Warren as an addition to the Grant-Kohrs Ranch National Historic Site:

100 acres located in W1/2, W1/2, S28, T8N, R9W, M.P.M.
26 acres located in SW1/4, SE1/4, S21, T8N, R9W, M.P.M.
74 acres located in E1/2, W1/2, S28, T8N, R9W, M.P.M.
16 acres located in E1/2, E1/2, E1/2, S29, T8N, R9W, M.P.M.

The above lands are located immediately adjacent to the Kohrs-Manning Ditch.
3. I am also aware that Mr. Conrad Warren sold the above mentioned lands and appurtenant water rights totaling no more than 125 miner's inches to the USA.
4. Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed this 21st day of May, 1990 in Deer Lodge, Montana.


Eddie L. Lopez

MAY 21 1990

IN THE WATER COURTS OF THE STATE OF MONTANA
CLARK FORK DIVISION
CLARK FORK RIVER BASIN ABOVE THE BLACKFOOT RIVER (76G)

IN THE MATTER OF THE ADJUDICATION OF)
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LODGE, GRANITE, LEWIS AND CLARK,)
MISSOULA, POWELL AND SILVER BOW)
COUNTIES, MONTANA.)

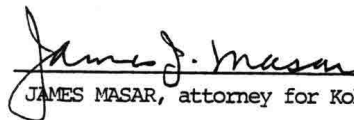
CASE NO. 76G- 319



WITHDRAWAL OF OBJECTION

The undersigned hereby withdraws the Notice of Objection to Claim
Number 76G-W-092044-00.

DATED this 30th day of May, 1990.


JAMES MASAR, attorney for Kohrs-Manning Ditch Co.

IN THE WATER COURT OF THE STATE OF MONTANA
CLARK FORK DIVISION
CLARK FORK RIVER BASIN ABOVE THE BLACKFOOT RIVER (76G)

RECEIVED
OCT 05 1990

IN THE MATTER OF THE ADJUDICATION OF) CASE 76G-319
THE EXISTING RIGHTS TO THE USE OF ALL) 76G-W-092044-00
THE WATER, BOTH SURFACE AND UNDERGROUND)
WITHIN THE CLARK FORK RIVER DRAINAGE)
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RIVER IN DEER LODGE, GRANITE, LEWIS)
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SILVERBOW COUNTIES, MONTANA.)

CLAIMANT: Conrad K. Warren (previous owner)
United States of America (National Park Service)

OBJECTOR: Kohrs & Manning Ditch-Co.

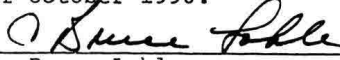
ORDER ADOPTING MASTER'S REPORT

Pursuant to Montana Code Annotated, Section
85-2-233(4), the above entitled case was assigned to Water
Master John Bloomquist. On September 14, 1990 the Water Master
issued a report containing Findings of Fact and Conclusions of
Law. Copies of the report were served upon the parties. Over
ten (10) days have elapsed since service, and no objections to
the Findings and Conclusions have been filed by any party.

The Court has reviewed carefully the Water Master's
Findings and Conclusions. Pursuant to Rule 53(e), Montana Rules
of Civil Procedure, the Court adopts the Master's Report and

ORDERS that the changes as recommended in the Master's
Conclusions of Law, are to be made to the abstract of claim
76G-W-092044-00 as it appears in the Temporary Preliminary
Decree for the Clark Fork River Basin Above The Blackfoot River
(76G).

DATED this 2nd day of October 1990.


C. Bruce Loble
Chief Water Judge

cc: NPS, Czarnowski
10/9/90

ERK GD 10/9/90
SE-R/CD

CERTIFICATE OF SERVICE

I, Janet Lackey, Deputy Clerk of Court, Montana State Water Court, hereby certify that a true and correct copy of the above ORDER ADOPTING MASTER'S REPORT, was duly served upon the following persons listed herein, by depositing the same, postage prepaid, in the United States mail:

Jody Miller
Special Assistant, U. S. Attorney
OGC-USDA Forest Service
P. O. Box 7669
Missoula, MT 59807

Kohrs-Manning Ditch Co.
391 N. Frontage Rd.
Deer Lodge, MT 59722

William Mosier
391 Freezeout Lane
Deer Lodge, MT 59722

James J. Masar, Attorney
P. O. Box 8957
Missoula, MT 59807-8957

Conrad K. Warren
P. O. Box 597
Helena, MT 59624

DATED this 4th day of October 1990.


Janet Lackey
Deputy Clerk of Court

Docket Information

Number of Documents in Docket 11
Documents Dated from 9/14/1990 to 9/26/1990
Docket Compiled: 3/28/2011