

Montana Water Court
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IN THE WATER COURT OF THE STATE OF MONTANA
YELLOWSTONE RIVER BELOW POWDER RIVER - BASIN (42M)
INTERLOCUTORY DECREE
* * * * *

CLAIMANTS: Merle K. Rasmussen: Alice Rasmussen

CASE 42M-0015-I-2023

42M 30068998

42M 30103769

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 findings of fact, conclusions 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 be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must serve 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

FINDINGS OF FACT

1. The record owners of claims 42M 30068998 and 42M 30103769 are Merle K. Rasmussen and Alice Rasmussen

2. Stock water claim 42M 30068998 was decreed with a notice-type remark indicating that the claim was not in the previous decree for the Basin. Claim 42M 30103769 was decreed with the following DNRC issue remark:

THE VOLUME IS MISSING.

All issue remarks must be resolved.

3. To determine the volume of claim 42M 30068998 and address a possibly erroneous associated rights remark decreed on claims 42M 30068998 and 42M 30103769, an Order was issued setting a deadline for Claimants Merle K. Rasmussen and Alice Rasmussen to file a statement agreeing or disagreeing that a 1.50 acre-feet volume be added to claim 42M 30103769 and to agree or disagree that references to associated rights be removed from the claims.

4. On September 29, 2023, Claimant Merle K. Rasmussen telephoned this Water Master and confirmed the associated rights references should be removed from claims 42M 30068998 and 42M 30103769 and the volume of claim 42M 30103769 is 1.50 acre feet.

PRINCIPLES AND CONCLUSIONS OF LAW

1. The Water Court is required to address all issue remarks decreed on a claim Sections 85-2-247 and 85-2-248, MCA.

2. A properly filed Statement of Claim for an existing water right is *prima facie* proof of its content. Section 85-2-227, MCA. This *prima facie* validity may be overcome by evidence showing that one or more elements of the claim are incorrect. This standard of proof applies to objectors or claimants objecting to their own water right claims. Rule 19, W.R.Adj.R., *Nelson v. Brooks*, 2014 MT 120; 375 Mont. 86, 95; 329 P.3d 558, 564.

3. Rule 19(b)(2), W.R.C.E.R. sets volume guidelines. A 1.50 acre-feet volume is consistent with the volume guideline for claim 43A 30103769, which claimed one household.

4. The notice-type issue remark decreed on claim 42M 30068998 has served its purpose. As no objections were filed, no further proceedings are required.

RECOMMENDATIONS

1. The volume for claim 42M 30103769 should be 1.50 acre feet.
2. References to associated rights should be removed from claims 42M 30068998 and 42M 30103769.
3. The issue remarks should be removed from claims 42M 30068998 and 42M 30103769.

Post Decree Abstracts of Water Right Claims are served with the Report for review.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

Merle K. Rasmussen
Alice Rasmussen
11386 County Road 350
Sidney, MT 59270-9532

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
YELLOWSTONE RIVER, BELOW POWDER RIVER
BASIN 42M

Water Right Number: **42M 30068998** STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners:
MERLE K RASMUSSEN
11386 COUNTY ROAD 350
SIDNEY, MT 59270 9532

ALICE RASMUSSEN
11386 COUNTY ROAD 350
SIDNEY, MT 59270 9532

Priority Date: MAY 11, 1972

Type of Historical Right: USE

Purpose (use): STOCK

Flow Rate: 10.00 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: GROUNDWATER

Source Type: GROUNDWATER

***Point of Diversion and Means of Diversion:**

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	1	SENW NW	30	21N	59E	RICHLAND

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: WELL

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		1	NWNW	30	21N	59E	RICHLAND
2			NENENE	30	21N	59E	RICHLAND
3			SESW	20	21N	59E	RICHLAND
4			SWNW NE	29	21N	59E	RICHLAND
5			SWNW SE	29	21N	59E	RICHLAND
6			SWSE NE	20	21N	59E	RICHLAND
7			NENE	20	21N	59E	RICHLAND

Remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

30068998

30103769

IMPLIED CLAIM NO. 42M 30103769 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM.

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
YELLOWSTONE RIVER, BELOW POWDER RIVER
BASIN 42M

Water Right Number: **42M 30103769 STATEMENT OF CLAIM**

Version: **2 -- POST DECREE**

Status: **ACTIVE**

Owners:
MERLE K RASMUSSEN
11386 COUNTY ROAD 350
SIDNEY, MT 59270 9532

ALICE RASMUSSEN
11386 COUNTY ROAD 350
SIDNEY, MT 59270 9532

Priority Date: **MAY 11, 1972**

Type of Historical Right: **USE**

Purpose (use): **DOMESTIC**

Flow Rate: **10.00 GPM**

Volume: **1.50 AC-FT**

Households: **1**

Source Name: **GROUNDWATER**

Source Type: **GROUNDWATER**

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	1	SENW NW	30	21N	59E	RICHLAND

Period of Diversion: **JANUARY 1 TO DECEMBER 31**

Diversion Means: **WELL**

Period of Use: **JANUARY 1 TO DECEMBER 31**

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		1	SENW NW	30	21N	59E	RICHLAND

Remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

30068998 30103769

THIS IMPLIED CLAIM WAS AUTHORIZED BY THE WATER COURT BASED ON INFORMATION IN CLAIM NO. 42M 30068998.