

Montana Water Court
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FILED
10/17/2023
Sara Calkins
CLERK
Montana Water Court
STATE OF MONTANA
By: D'Ann CIGLER
42M-0019-I-2023
Stern, Anika
1.00

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

CLAIMANTS: William E. Labree; Glenda Labree

CASE 42M-0019-I-2023
42M 30113488

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. Claim 42M 30113488 was decreed with a 2.00 acre-feet volume and the following volume issue remark:

THE CLAIMED VOLUME EXCEEDS THE 1.50 ACRE-FEET GUIDELINE FOR THIS PURPOSE. ITS ACCURACY CANNOT BE CONFIRMED DUE TO LACK OF DATA.

2. Claim 42M 30113488 was also decreed with an issue remark indicating the claim was not included in the 2014 decree.

3. No objections were filed.

PRINCIPLES OF LAW

1. 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.

2. The Water Court must address all issue remarks decreed a claim. Section 85-2-248, MCA.

CONCLUSION OF LAW

1. The volume issue remark decreed on claim 42M 30113488 is not supported by evidence sufficient to overcome the prima facie status afforded the volume of the claim.

2. The remark indicating claim 42M 30113488 was not in the 2014 decree is a notice-type issue remark. As no objections were filed, no further proceedings are required.

RECOMMENDATION

1. The issue remarks should be removed from claim 42M 30113488. A Post Decree Abstract of Water Right Claim is served with the Report for review.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

William E. Labree
Glenda Labree
164 River Rd. Loop
Glendive, MT 59330-9522

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

Water Right Number: 42M 30113488 STATEMENT OF CLAIM
Version: 2 -- POST DECREE
Status: ACTIVE

Owners: WILLIAM E LABREE
164 RIVER RD LOOP
GLENDDIVE, MT 59330 9522

GLENDIA LABREE
164 RIVER RD LOOP
GLENDDIVE, MT 59330 9522

***Priority Date:** JUNE 28, 2017
THIS IS AN EXISTING RIGHT. ITS POST-1973 PRIORITY DATE IS DECREED PURSUANT TO SECTION 85-2-306(4) MCA.

***Type of Historical Right:** FILED

Purpose (use): DOMESTIC
Flow Rate: 10.00 GPM
Volume: 2.00 AC-FT
Households: 1

Source Name: GROUNDWATER
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		SESE	33	16N	55E	DAWSON

Period of Diversion: JANUARY 1 TO DECEMBER 31
Diversion Means: WELL

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			SESE	33	16N	55E	DAWSON