

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

CLAIMANT: Carolyn G. Sturgis

CASE 42M-0022-I-2023
42M 30116985

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. Carolyn G. Sturgis is the record owner of stock claim 42M 30116985.
2. Claim 42M 30116985 was decreed with DNRC issue remarks:

All DNRC issue remarks must be resolved.

3. Carolyn Sturgis is also the record owner of stock claim 42M 49188-00, the claim referenced in the “redundant claim” issue remark decreed on claim 42M 30116985. Except for the periods of diversion and periods of use, all elements of claims 42M 49188-00 and 42M 30116985 are identical. The period of diversion and period of use for claim 49188-00 are November 1 to December 31.

4. The record shows that Carolyn G. Sturgis filed exempt claim 42M 30116985 to account for the period of diversion and period of use from January 1 to October 31.

CONCLUSIONS OF LAW

1. The Water Court must 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. The duplicate claim issue remark decreed on claim 42M 30116985 does not overcome the prima facie statement of claim.

3. The issue remark indicating claim 42M 30116985 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 30116985 with no changes to the elements.

A Post Decree Abstract of Water Right Claim is served with the Report for review.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

Carolyn G. Sturgis
146 Rd. 530
Savage, MT 59262-9508

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

Water Right Number: 42M 30116985 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: CAROLYN G STURGIS
146 RD 530
SAVAGE, MT 59262 9508

Priority Date: DECEMBER 31, 1938

Type of Historical Right: USE

Purpose (use): STOCK

***Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

***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 BURNS CREEK

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 | | SWSENE | 4 | 19N | 56E | DAWSON |

Period of Diversion: JANUARY 1 TO OCTOBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Period of Use: JANUARY 1 TO OCTOBER 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 | | | SWSENE | 4 | 19N | 56E | DAWSON |