

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: Steven D. Wick; Patricia M. Wick

CASE 42M-0043-I-2023

42M 30133950

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 30133950 was decreed with a 13.00 acre-feet volume and the following DNRC issue remarks:

THE CLAIMED VOLUME EXCEEDS THE 4.00 ACRE-FEET GUIDELINE FOR THIS PURPOSE. ITS ACCURACY CANNOT BE CONFIRMED DUE TO LACK OF DATA.

2. Claim 42M 30133950 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 30133950 is not supported by evidence sufficient to overcome the *prima facie* status afforded the flow rate of the claim.

2. The remark indicating claim 42M 30133950 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 30133950. A Post Decree Abstract of Water Right Claim is served with the Report for review.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

Steven D. Wick
Patricia M. Wick
13729 County Rd. 338
Sidney, MT 59270-3568

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

Water Right Number: **42M 30133950 STATEMENT OF CLAIM**

Version: **2 -- POST DECREE**

Status: **ACTIVE**

Owners:
STEVEN D WICK
13729 COUNTY RD 338
SIDNEY, MT 59270 3568

PATRICIA M WICK
13729 COUNTY RD 338
SIDNEY, MT 59270 3568

***Priority Date:** **DECEMBER 31, 1949**

Type of Historical Right: **FILED**

Purpose (use): **DOMESTIC**

Flow Rate: **12.00 GPM**

Volume: **13.00 AC-FT**

Households: **1**

Maximum Acres: **1.00**

Source Name: **GROUNDWATER**

Source Type: **GROUNDWATER**

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

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SWNWSE	25	25N	56E	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	1.00		W2NWSE	25	25N	56E	RICHLAND
Total:	1.00						