

IN THE WATER COURT OF THE STATE OF MONTANA
UPPER MISSOURI DIVISION
SUN RIVER BASIN (41K)
PRELIMINARY DECREE

CLAIMANTS: Brian Little; Timothy Little; Tina Little

CASE 41K-0407-R-2024
41K 16460-00

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

All water right claims that appeared in the Preliminary Decree for Sun River (Basin 41K) were subject to "issue remarks" resulting from pre-decree examination by the DNRC, objections, and counterobjections. Claim 41K 16460-00 received an issue remark during the DNRC's review of the claims.

The claim is being consolidated into Case 41K-0407-R-2024 to resolve the issue remark.

FINDINGS OF FACT

1. Claim 41K 16460-00 appeared with the following issue remark:

BY STIPULATION FILED WITH THE WATER COURT ON OCTOBER 6, 1989, THE CLAIMANT AGREES THAT THE UNITED STATES BUREAU OF RECLAMATION AND THE FORT SHAW IRRIGATION DISTRICT HAVE PRIOR EXISTING WATER RIGHTS TO ALL RETURN OF IRRIGATION FLOWS AND WASTE WATER WITHIN THE FORT SHAW IRRIGATION DISTRICT AREA. THE UNITED STATES BUREAU OF RECLAMATION AND THE FORT SHAW IRRIGATION DISTRICT MAINTAIN THE RIGHT TO REDUCE OR ELIMINATE THE RETURN FLOWS OR WASTE WATER THROUGH IMPROVED EFFICIENCY OR SALE OF WATER SERVICE.

2. Claim 41K 16460-00 was previously adjudicated during the Temporary Preliminary Decree for Basin 41K in Case 41K-50. The Master's Report for Case 41K-50 states that the above-listed remark should be added to the abstract of the claim per the stipulation between then-claimant Gertrude Baune and objector United States Bureau of Reclamation. It appears from information in the claim file that the remark was intended to remain on the abstract as an information remark rather than appear as an issue remark requiring resolution.

PRINCIPLES OF LAW

1. Section 85-2-248(2), MCA, requires that the Water Court resolve all issue remarks that are not resolved through the objection process. *See also* Rule 7, W.R.Adj.R.
2. The Water Court may use information submitted by the DNRC, the Statement of Claim, and any other data obtained by the Court to evaluate a water right. Sections 85-2-227, -231(2), MCA.

CONCLUSIONS OF LAW

1. The information in the record resolves the issue remark appearing on claim 41K 16460-00. Based on the previous Master's Report for Case 41K-50, the issue remark should be converted to an information remark to ensure it remains on the abstract indefinitely. The issue remark is resolved.

RECOMMENDATIONS

Based on the foregoing Findings of Fact and Conclusions of Law, this Water Master recommends that the Court convert the issue remark for claim 41K 16460-00 to an information remark.

A post decree abstract of the water right claim reflecting the conversion of the issue remark is attached to this Report.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

Brian Little
Timothy Little
Tina Little
9 Birdtail Rd
Sun River, MT 59483

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM**

**SUN RIVER
BASIN 41K**

Water Right Number: 41K 16460-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: BRIAN LITTLE
9 BIRDTAIL RD
SUN RIVER, MT 59483

TIMOTHY LITTLE
9 N BIRDTAIL RD
SUN RIVER, MT 59483

TINA LITTLE
9 N BIRDTAIL RD
SUN RIVER, MT 59483

Priority Date: AUGUST 31, 1910

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 SUN RIVER

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		NWSE	4	20N	1W	CASCADE

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

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			NWSE	4	20N	1W	CASCADE

Remarks:

BY STIPULATION FILED WITH THE WATER COURT ON OCTOBER 6, 1989, THE CLAIMANT AGREES THAT THE UNITED STATES BUREAU OF RECLAMATION AND THE FORT SHAW IRRIGATION DISTRICT HAVE PRIOR EXISTING WATER RIGHTS TO ALL RETURN OF IRRIGATION FLOWS AND WASTE WATER WITHIN THE FORT SHAW IRRIGATION DISTRICT AREA. THE UNITED STATES BUREAU OF RECLAMATION AND THE FORT SHAW IRRIGATION DISTRICT MAINTAIN THE RIGHT TO REDUCE OR ELIMINATE THE RETURN FLOWS OR WASTE WATER THROUGH IMPROVED EFFICIENCY OR SALE OF WATER SERVICE.