

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

* * * * *

CLAIMANTS: Rocky Reef Ranch LLC; Leland F. Wilson
Living Trust

CASE 41K-0498-R-2024
41K 199333-00
41K 200199-00
41K 30136312
41K 30136313

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. Each of the above-captioned claims received issue remarks during the DNRC's review of the claims.

FINDINGS OF FACT

1. Claim 41K 200199-00 received the following substantive issue remark:

THIS CLAIM PRESENTS ISSUES OF FACT AND LAW THAT MAY BE ADDRESSED AT THE OBJECTION STAGE. IT APPEARS THAT 166.0 ACRES ARE ACTUALLY IRRIGATED AND PROBLEMS COULD EXIST WITH FLOW RATE AND VOLUME.

2. On February 8, 2024, the Court consolidated the above captioned claims into Water Court Case 41K-0498-R-2024 and set a filing deadline for the Claimants to file information or evidence to addressing and resolving the acres irrigated issue remark appearing on claim 41K 200199-00. Nothing was filed by the ordered deadline.

3. On May 6, 2024, the Water Court issued an Order requiring the Claimants to work with the DNRC to resolve the substantive issue remark appearing on claim 41K 200199-00.

4. On July 16, 2024, DNRC Water Resources Specialist Dixie Brough filed a *Memorandum* in this matter. The *Memo* states that the DNRC was contacted on July 9, 2024, by William Fanning, attorney for claimants Rocky Reef Ranch and Leland P. Wilson Living Trust who relayed to the DNRC that he would be submitting an Affidavit from Leland P. Wilson, the principal of Rocky Reef Ranch and trustee of Leland F. Wilson Living Trust that would address and resolve the acres irrigated issue remark appearing on claim 41K 200199-00. Ms. Brough's *Memo* further notes that on July 10, 2024, the DNRC received an Affidavit from Mr. Leland requesting to reduce the acres irrigated to 166.00 acres and requesting the following modifications to the place of use for claim 41K 200199-00:

| | | | | |
|-------|--------------|------------|------|-----------------------------------|
| 1. | 20.00 | Govt Lot 2 | NWSE | Sec. 36, T21N R02W Cascade County |
| 2. | 30.00 | Govt Lot 3 | SESW | Sec. 36, T21N R02W Cascade County |
| 3. | 40.00 | | NWSW | Sec. 36, T21N R02W Cascade County |
| 4. | 38.00 | | SWSW | Sec. 36, T21N R02W Cascade County |
| 5. | <u>38.00</u> | | NESW | Sec. 36, T21N R02W Cascade County |
| Total | | 166.00 | | |

Based on the information received in the Affidavit, the DNRC made the following recommendation for modification to claim 41K 200199-00:

RECOMMENDATIONS:

41K 200199-00: Based on the above discussion, the DNRC recommends the place of use acreage for parcels 1, 2, 4 and 5 be reduced and the total acreage be reduced to 166.00 acres per Claimant's affidavit. The DNRC believes the GIIS issue remark is resolved. If the Water Court agrees with the DNRC's recommendations, the DNRC further recommends the GIIS issue remark be removed since it is resolved.

Digitally signed by Dixie Brough

5. Claim 41K 199333-00 received a notice-type issue remark denoting modifications made by the DNRC during its reexamination of claims in Basin 41K and claims 41K 30136312 and 41K 30136313 each received notice-type issue remarks noting that the claims were not included in the previous decree for Basin 41K. No Objections were filed.

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.
3. If a claimant agrees to reduce or limit a claim, the Water Court may accept the reduction or limitation without reviewing further evidence, unless an unresolved issue remark remains. Rule 17(c), W.R.Adj.R.

CONCLUSIONS OF LAW

1. Based on the information contained Ms. Brough's *Memo*, including the *Affidavit* filed by Leland P. Wilson for claim 41K 200199-00, the claim should be modified as described in Finding of Fact No. per Rule 17(c), W.R.Adj.R. and the acres irrigated remark should be removed from the claim.
2. The notice-type issue remarks appearing on claims 41K 199333-00, 41K 30136312, and 41K 30136313 served their notice purpose and should be removed from the claims.

RECOMMENDATIONS

Based on the foregoing Findings of Fact and Conclusions of Law, this Water Master recommends that the Court modify claim 41K 200199-00 as described in Finding of Fact No. 4 and remove all issue remarks from the claims.

Post decree abstracts of the water right claims reflecting the recommended changes are attached to this Report.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

Leland F. Wilson Living Trust
Leland F. Wilson, Trustee
179 North Fort Shaw Rd
Fort Shaw, MT 59443

Service Via Electronic Mail:

William Fanning
Fanning Law PLLC
15 S. Idaho St., Ste. 4
Dillon, MT 59725
(406) 220-2805
william@fanninglawpllc.com
becki@fanninglawpllc.com

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
SUN RIVER
BASIN 41K

Water Right Number: 41K 199333-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: ROCKY REEF RANCH LLC
% LELAND F WILSON
179 N FORT SHAW RD
FORT SHAW, MT 59443-9730

Priority Date: MARCH 17, 1909

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD/FURROW

Flow Rate: 2.67 CFS

*Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 90.00

Source Name: UNNAMED TRIBUTARY OF SUN RIVER

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 | | NWSWSE | 35 | 21N | 2W | CASCADE |
| Period of Diversion: | | APRIL 1 TO OCTOBER 15 | | | | |
| Diversion Means: | | PUMP | | | | |

Period of Use: APRIL 1 TO OCTOBER 15

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 | 45.00 | | SE | 35 | 21N | 2W | CASCADE |
| 2 | 27.00 | | E2SW | 35 | 21N | 2W | CASCADE |
| 3 | 18.00 | | E2W2SW | 35 | 21N | 2W | CASCADE |
| Total: | | 90.00 | | | | | |

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
SUN RIVER
BASIN 41K

Water Right Number: 41K 200199-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: ROCKY REEF RANCH LLC
% LELAND F WILSON
179 N FORT SHAW RD
FORT SHAW, MT 59443-9730

Priority Date: JULY 16, 1971

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 10.00 CFS

*Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 166.00

Source Name: SPRING, UNNAMED TRIBUTARY OF SUN RIVER

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

| ID | Govt Lot | Qtr Sec | Sec | Twp | Rge | County |
|----|----------|---------|-----|-----|-----|---------|
| 1 | | NWSWSW | 36 | 21N | 2W | CASCADE |

Period of Diversion: APRIL 1 TO NOVEMBER 30

Diversion Means: PUMP

Period of Use: APRIL 1 TO NOVEMBER 30

Place of Use:

| ID | Acres | Govt Lot | Qtr Sec | Sec | Twp | Rge | County |
|--------|--------|----------|---------|-----|-----|-----|---------|
| 1 | 20.00 | 2 | NWSE | 36 | 21N | 2W | CASCADE |
| 2 | 30.00 | 3 | SESW | 36 | 21N | 2W | CASCADE |
| 3 | 40.00 | | NWSW | 36 | 21N | 2W | CASCADE |
| 4 | 38.00 | | SWSW | 36 | 21N | 2W | CASCADE |
| 5 | 38.00 | | NESW | 36 | 21N | 2W | CASCADE |
| Total: | 166.00 | | | | | | |

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
SUN RIVER
BASIN 41K

Water Right Number: 41K 30136312 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: ROCKY REEF RANCH LLC
% LELAND F WILSON
179 N FORT SHAW RD
FORT SHAW, MT 59443-9730

WILSON, LELAND F LIVING TRUST
LELAND F WILSON, TRUSTEE
179 NORTH FORT SHAW RD
FORT SHAW, MT 59443-9730

Priority Date: JUNE 30, 1867

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: SUN RIVER

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 | 7 | NESWNE | 4 | 20N | 2W | CASCADE |
| Period of Diversion: JANUARY 1 TO DECEMBER 31 | | | | | | |
| Diversion Means: LIVESTOCK DIRECT FROM SOURCE | | | | | | |
| 2 | 8 | NESENE | 4 | 20N | 2W | CASCADE |
| Period of Diversion: JANUARY 1 TO DECEMBER 31 | | | | | | |
| Diversion Means: LIVESTOCK DIRECT FROM SOURCE | | | | | | |
| 3 | 5 | SWSWNW | 3 | 20N | 2W | CASCADE |
| Period of Diversion: JANUARY 1 TO DECEMBER 31 | | | | | | |
| Diversion Means: LIVESTOCK DIRECT FROM SOURCE | | | | | | |
| 4 | 8 | SWNWSW | 3 | 20N | 2W | CASCADE |
| Period of Diversion: JANUARY 1 TO DECEMBER 31 | | | | | | |
| Diversion Means: LIVESTOCK DIRECT FROM SOURCE | | | | | | |
| 5 | 7 | SENESE | 3 | 20N | 2W | CASCADE |
| Period of Diversion: JANUARY 1 TO DECEMBER 31 | | | | | | |

| | | | | | | |
|-----------------------------|------------------------------|--------|----|-----|----|---------|
| Diversion Means: | LIVESTOCK DIRECT FROM SOURCE | | | | | |
| 6 | 11 | SESWSE | 3 | 20N | 2W | CASCADE |
| Period of Diversion: | JANUARY 1 TO DECEMBER 31 | | | | | |
| Diversion Means: | LIVESTOCK DIRECT FROM SOURCE | | | | | |
| 7 | 12 | SESWSE | 3 | 20N | 2W | CASCADE |
| Period of Diversion: | JANUARY 1 TO DECEMBER 31 | | | | | |
| Diversion Means: | LIVESTOCK DIRECT FROM SOURCE | | | | | |
| 8 | 12 | NESESE | 3 | 20N | 2W | CASCADE |
| Period of Diversion: | JANUARY 1 TO DECEMBER 31 | | | | | |
| Diversion Means: | LIVESTOCK DIRECT FROM SOURCE | | | | | |
| 9 | 3 | NESESW | 36 | 21N | 2W | CASCADE |
| Period of Diversion: | JANUARY 1 TO DECEMBER 31 | | | | | |
| Diversion Means: | LIVESTOCK DIRECT FROM SOURCE | | | | | |
| 10 | 2 | SESWSE | 36 | 21N | 2W | CASCADE |
| Period of Diversion: | JANUARY 1 TO DECEMBER 31 | | | | | |
| Diversion Means: | LIVESTOCK DIRECT FROM SOURCE | | | | | |
| 11 | 1 | NENESE | 36 | 21N | 2W | CASCADE |
| Period of Diversion: | JANUARY 1 TO DECEMBER 31 | | | | | |
| Diversion Means: | LIVESTOCK DIRECT FROM SOURCE | | | | | |
| 12 | 4 | NENESE | 36 | 21N | 2W | 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 | | 7 | NESWNE | 4 | 20N | 2W | CASCADE |
| 2 | | 8 | NESENE | 4 | 20N | 2W | CASCADE |
| 3 | | 5 | SWSWNW | 3 | 20N | 2W | CASCADE |
| 4 | | 8 | SWNWSW | 3 | 20N | 2W | CASCADE |
| 5 | | 7 | SESWSE | 3 | 20N | 2W | CASCADE |
| 6 | | 11 | SESWSE | 3 | 20N | 2W | CASCADE |
| 7 | | 12 | SESWSE | 3 | 20N | 2W | CASCADE |
| 8 | | 12 | NESESE | 3 | 20N | 2W | CASCADE |
| 9 | | 3 | NESESW | 36 | 21N | 2W | CASCADE |
| 10 | | 2 | SESWSE | 36 | 21N | 2W | CASCADE |
| 11 | | 1 | NENESE | 36 | 21N | 2W | CASCADE |
| 12 | | 4 | NENESE | 36 | 21N | 2W | CASCADE |

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
SUN RIVER
BASIN 41K

Water Right Number: 41K 30136313 STATEMENT OF CLAIM
Version: 2 -- POST DECREE
Status: ACTIVE

Owners: ROCKY REEF RANCH LLC
% LELAND F WILSON
179 N FORT SHAW RD
FORT SHAW, MT 59443-9730

Priority Date: JUNE 30, 1867

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: SURFACE WATER

THE UNNAMED TRIBUTARY OF SUN RIVER IDENTIFIED BY POINT OF DIVERSION 2 IS ALSO KNOWN AS NO NAME SPRING CREEK

THE UNNAMED TRIBUTARY OF SUN RIVER IDENTIFIED BY POINTS OF DIVERSION 3-7 IS ALSO KNOWN AS ROCKY REEF SPRING CREEK

THE UNNAMED TRIBUTARY OF SUN RIVER IDENTIFIED BY POINT OF DIVERSION 1 IS ALSO KNOWN AS DUCK FORK OF ROCKY REEF SPRING CREEK

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 | | NESESE | 35 | 21N | 2W | CASCADE |
| Period of Diversion: JANUARY 1 TO DECEMBER 31 | | | | | | |
| Diversion Means: LIVESTOCK DIRECT FROM SOURCE | | | | | | |
| 2 | | SESENW | 2 | 20N | 2W | CASCADE |
| Period of Diversion: JANUARY 1 TO DECEMBER 31 | | | | | | |
| Diversion Means: LIVESTOCK DIRECT FROM SOURCE | | | | | | |
| 3 | 2 | NENWNE | 3 | 20N | 2W | CASCADE |
| Period of Diversion: JANUARY 1 TO DECEMBER 31 | | | | | | |
| Diversion Means: LIVESTOCK DIRECT FROM SOURCE | | | | | | |
| 4 | | SESESE | 34 | 21N | 2W | CASCADE |
| Period of Diversion: JANUARY 1 TO DECEMBER 31 | | | | | | |
| Diversion Means: LIVESTOCK DIRECT FROM SOURCE | | | | | | |
| 5 | | NESESE | 35 | 21N | 2W | CASCADE |

| <u>ID</u> | <u>Acres</u> | <u>Govt Lot</u> | <u>Qtr Sec</u> | <u>Sec</u> | <u>Twtp</u> | <u>Rge</u> | <u>County</u> |
|-----------|--------------|-----------------|----------------|------------|-------------|------------|---------------|
| 1 | | | NESESE | 35 | 21N | 2W | CASCADE |
| 2 | | | SESENW | 2 | 20N | 2W | CASCADE |
| 3 | | 2 | NENWNE | 3 | 20N | 2W | CASCADE |
| 4 | | | SESESE | 34 | 21N | 2W | CASCADE |
| 5 | | | NESESE | 35 | 21N | 2W | CASCADE |
| 6 | | 2 | SWNWSE | 36 | 21N | 2W | CASCADE |
| 7 | | | SENESE | 36 | 21N | 2W | CASCADE |