

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

\*\*\*\*\*

CLAIMANTS: Jamie Sieler; Daniel J. Sieler Jr.; Connie Mathews;  
Evanna F. Kropf; Jesse E. Kropf

**CASE 41K-0520-R-2023**  
41K 200298-00

**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 200298-00 received issue remarks during the DNRC's review of the claims.

The claim was consolidated into Case 41K-0520-R-2023 and an Order requiring the Claimants to work with the DNRC was issued by the Water Court to resolve the issue remarks.

### FINDINGS OF FACT

1. Claim 41K 200298-00 received the following substantive issue remarks:

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

THE CLAIMED POINT OF DIVERSION IS IN QUESTION. THE LOCATION OF THE HEADGATES CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

2. On July 20, 2023, the Court consolidated the claim and ordered the Claimants to work with the DNRC to resolve the issue remarks. Multiple extensions were granted by the Court to allow time for the DNRC to correctly determine the ownership of the claim.

3. On May 15, 2024, DNRC Water Resource Specialist Dixie Brough filed a *Memorandum* in this matter. In her *Memo*, Ms. Brough notes that claimant Daniel Sieler contacted the DNRC in October of 2023 to state that he had sold the property associated with claim 41K 200298-00 four years prior. Afterward, the DNRC determined the present owners of the property, and an ownership update was processed on April 15, 2024, to add claimant Connie Mathews as an owner of the right. On behalf of Ms. Mathews, Greg Luckman submitted multiple documents including maps identifying the points of diversion for the claim. Additionally, on April 12, 2024, Ms. Mathews submitted a statement indicating that there were 33.10 acres historically irrigated. Further, Ms. Mathews stated her agreement that the flow rate should be proportionally reduced based on the reduction of acres irrigated in her previous statement.

4. Based on the information, including the maps and statements filed by claimant Connie Mathews, the DNRC made the following recommendations for modification of claim 41K 200298-00 to resolve the issue remarks:

Flow Rate: 1.25 ~~3.00~~-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: 33.10 ~~94.00~~  
 Source Name: UNNAMED TRIBUTARY OF MILL COULEE CREEK  
 Source Type: SURFACE WATER  
 SPRING IS HYDROLOGICALLY RELATED TO SOURCE.

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

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	<del>NENWNE</del>	<del>SESENE</del>	<del>17 20</del>	21N	1W	CASCADE
Period of Diversion: APRIL 15 TO OCTOBER 15						
Diversion Means: HEADGATE						
2	<del>SWNWSE</del>	<del>NWNENE</del>	20	21N	1W	CASCADE
Period of Diversion: APRIL 15 TO OCTOBER 15						
Diversion Means: HEADGATE pump						

**Place of Use:**

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County	
1	9.00	<del>30.00</del>		NESE	20	21N	1W	CASCADE
2	7.70	<del>30.00</del>		NWSE	20	21N	1W	CASCADE
3	6.40	<del>34.00</del>		E2 NE	20	21N	1W	CASCADE
<b>Total:</b>	<u>10.00</u>	<del>94.00</del>		W2NE	20	21N	1W	Cascade
Total		33.10						

5. On June 26, 2024, the Court issued an Order Setting Filing Deadline for claimants Jesse E. and Evanna F. Kropf and claimants Daniel J. and Jamie Seiler to file a statement if they disagree to any of the above listed modifications. Nothing was filed by the deadline. The Order Setting Filing Deadline included the following language:

ORDERED that claimants Jesse E. and Evanna F. Kropf and claimants Daniel J. and Jamie Seiler, *if necessary*, file a statement if they disagree to any of the above listed changes by **Wednesday, July 17, 2024**. *If nothing is filed by the deadline, this Water Master will conclude that all claimants agree to the proposed modifications to claim 41K 200298-00, the modifications will be made, and the issue remarks will be removed from the claim.*

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.

#### CONCLUSION OF LAW

1. The information in the record is sufficient to resolve the substantive issue remark appearing on claim 41K 200298-00. Based on the information contained Ms. Brough's *Memo*, the points of diversion should be modified as described in Finding of Fact No. 4 to reflect historical usage. Based on the information and statements filed by Ms. Mathews, along with the lack of responses filed by claimants Jesse E. and Evanna F. Kropf and claimants Daniel J. and Jamie Seiler, the flow rate, maximum acres, and place of use should be modified as described in Finding of Fact No. 4 per Rule 17(c), W.R.Adj.R. The issue remarks should be removed from the claim.

#### RECOMMENDATIONS

Based on the foregoing Findings of Fact and Conclusions of Law, this Water Master recommends that the Court modify claim 41K 200298-00 as described in Finding of Fact No. 4 and remove the issue remarks from the claim.

A post decree abstract of the water right claim reflecting the recommended changes is attached to this Report.

**ELECTRONICALLY SIGNED AND DATED BELOW.**

**Service via USPS Mail:**

Jamie Sieler  
Daniel J. Sieler Jr.  
560 8<sup>th</sup> Lane NE  
Fairfield, MT 59436

Connie Mathews  
PO Box 44  
Sun River, MT 59483

Evanna F. Kropf  
Jesse E. Kropf  
1139 US HWY 89  
Sun River, MT 59483

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

**Water Right Number:** 41K 200298-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** CONNIE MATHEWS  
PO BOX 44  
SUN RIVER, MT 59483-0044

DANIEL J SIELER JR  
560 8TH LN NE  
FAIRFIELD, MT 59436

JAMIE SIELER  
560 8TH LN NE  
FAIRFIELD, MT 59436

**Priority Date:** DECEMBER 31, 1953

**Type of Historical Right:** USE

**Purpose (Use):** IRRIGATION

**Irrigation Type:** FLOOD

**Flow Rate:** 1.25 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:** 33.10

**Source Name:** UNNAMED TRIBUTARY OF MILL COULEE CREEK

**Source Type:** SURFACE WATER

SPRING IS HYDROLOGICALLY RELATED TO SOURCE.

**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		NENWNE	17	21N	1W	CASCADE

**Period of Diversion:** APRIL 15 TO OCTOBER 15

**Diversion Means:** HEADGATE

2		SWNWSE	20	21N	1W	CASCADE
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**Period of Diversion:** APRIL 15 TO OCTOBER 15

**Diversion Means:** PUMP

**Period of Use:** APRIL 15 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	9.00		NESE	20	21N	1W	CASCADE
2	7.70		NWSE	20	21N	1W	CASCADE
3	6.40		E2NE	20	21N	1W	CASCADE

4	<u>10.00</u>	W2NE	20	21N	1W	CASCADE
<b>Total:</b>	33.10					