

IN THE WATER COURT OF THE STATE OF MONTANA
LOWER MISSOURI DIVISION
MISSOURI RIVER BELOW FORT PECK DAM BASIN 40S

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CLAIMANT: Wade and Laura Krauth Living Trust

CASE 40S-0013-I-2024
40S 30113340

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 40S 30113340 appeared in the Basin 40S Decree with issue remarks from Department of Natural Resources and Conservation examination. The claim received no objections, counterobjections or notice of intent to appear.

2. The issue remarks state:

THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 40S DECREE ISSUED 12/29/1999.

THE CLAIMED PRIORITY DATE INDICATES AN APPROPRIATION OF WATER AFTER JUNE 30, 1973.

NO TYPE OF HISTORICAL RIGHT WAS CLAIMED. DOCUMENTATION TO SUPPORT THE TYPE OF HISTORICAL RIGHT WAS NOT SUBMITTED WITH THIS CLAIM.

3. The claim was consolidated into case 40S-0013-I-2024 and a filing deadline was initially set for Claimant to file evidence to resolve the issue remarks no later than November 22, 2024. The Order stated that if nothing was filed by the deadline the Master will conclude that claim 40S 30113340 should be dismissed.

4. Nothing was submitted by Claimant as of the date of this Report.

CONCLUSIONS OF LAW

1. Section 85-2-248(2), MCA requires the Water Court to resolve all issue remarks that are not resolved through the objection process. When resolving issue remarks, the Water Court must weigh the information resulting in the issue remark and the issue remark against the claimed water right. Section 85-2-247(2), MCA.

2. A properly filed Statement of Claim for Existing Water Right is prima facie proof of its content. Section 85-2-227, MCA. This prima facie proof may be contradicted and overcome by other evidence that proves, by a preponderance of the evidence, that an element of the prima facie claim is incorrect. This is the burden of proof for every assertion that a claim is incorrect. Rule 19, W.R.Adj.R.

3. If a claimant, objector, or intervenor fails to appear at a scheduled

conference or hearing, or fails to comply with an order issued by the water court, the water court, upon motion, or its own initiative, may issue such orders of sanction with regard thereto as are just. Rule 22, W.R.Adj.R.

4. Pursuant to Section 85-2-248(9), MCA, and Rule 22, W.R.Adj.R., when a claimant fails to comply with an Order issued by the Water Court, including an Order issued by a Water Master appointed by the Court, the Court, upon motion, or its own initiative, can among other actions: 1) amend the elements of the claim to conform with the information in the claim file or information obtained by the Court, or 2) terminate the claim.

5. Claimant failed to provide any evidence to that this claim 40S 30113340 is a pre-1973 claim. The issue remarks combined with the lack of participation from Claimant are enough to justify a dismissal of the claim 40S 30113340.

RECOMMENDATIONS

The changes recommended above should be adopted. A Post Decree Abstract of Water Right Claim is served with the Report to confirm that claim 40S 30113340 has been dismissed.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

Wade and Laura Krauth Living Trust
432 MT Highway 528
Wolf Point, MT 59201-7042

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MISSOURI RIVER, BELOW FORT PECK DAM
BASIN 40S**

Water Right Number: 40S 30113340 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: **DISMISSED**

Owners: KRAUTH, WADE AND LAURA LIVING TRUST
432 MT HIGHWAY 528
WOLF POINT, MT 59201-7042

Priority Date:

Type of Historical Right:

Purpose (Use): DOMESTIC

Flow Rate:

Volume:

Source Name: GROUNDWATER

Source Type: GROUNDWATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

Remarks:

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.