

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

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CLAIMANT: William L. McLaughlin

**CASE 41K-0194-R-2024**  
41K 199346-00

**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. The above-captioned claim received issue remarks during the DNRC's review of the claims.

The claim was consolidated into Case 41K-0194-R-2024 and an Order Requiring the Claimant to work with the DNRC was issued by the Water Court to resolve the issue remarks.

### FINDINGS OF FACT

1. Claim 41K 199346-00 received the following substantive issue remark:

THIS CLAIM PRESENTS ISSUES OF FACT AND LAW THAT MAY BE ADDRESSED AT THE OBJECTION STAGE. THE TYPE OF RIGHT, PRIORITY DATE, AND FLOW RATE ARE ALL IN QUESTION.

THE PLACE OF USE OF THIS RIGHT WAS ALSO CLAIMED BY THE CLAIMANT OF FILE NO. 41 K 210352-00. THE WATER COURT DECREES THIS RIGHT AND MAKES BOTH CLAIMS A MATTER OF RECORD.

2. On May 14, 2024, the Court consolidated the claim and issued an order for the Claimant to work with the DNRC to address and resolve the issue remarks.

3. On July 25, 2024, DNRC Water Resource Specialist Jamie Verploegen filed a *Memorandum* in this matter. Ms. Verploegen states that as of the filing of the *Memo*, the DNRC had not received any contact or information from the Claimant. Based in the information found in the claim file, the DNRC made recommendations for the resolution of the issue remarks. Those recommendations are as follows<sup>1</sup>:

**Recommendation:**

GIIS General Information Issue: Based on the above discussion, DNRC recommends the type of right be changed from Filed to Use and the claimed priority date of December 5, 1941, should be retained on the claim. Regarding the flow rate, DNRC recommends it be modified from 3000 GPM to 2500 GPM based on the shared pump information. This issue remark should then be removed from the claim if the recommendation is accepted.

PLIS Place of Use Issue: Based on the above discussion, DNRC recommends the place of use issue remark be removed from the claim.

4. On September 6, 2024, the Court issued an Order Setting Filing Deadline for the Claimant to file a statement if they disagreed with the above-listed recommendations from the DNRC. Nothing was filed by the deadline. The Order Setting Filing Deadline included the following language:

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<sup>1</sup> The DNRC recommendation for the flow rate is listed in gallons per minute, however, this change will be reflected on the abstract as cubic feet per second. Therefore, 3000gpm=6.68cfs and 2500gpm=5.57cfs.

ORDERED that the deadline is **October 9, 2024**, for claimant William L. McLaughlin to file a written response to the DNRC recommendations *if they disagree with these recommendations*. If no written response is filed by the above-listed deadline, the Court will conclude that the claimant agrees with the DNRC recommendations.

5. Claim 41K 199346-00 also received a notice-type issue remark denoting modifications made by the DNRC during its claims reexamination. 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. The information in the record is sufficient to resolve the substantive issue remarks appearing on claim 41K 199346-00. Based on the information contained in Ms. Verploegen's *Memo*, and the lack of response to the September 6, 2024 Filing Deadline, the claim should be modified as described in Finding of Fact No. 3. The substantive issue remarks should be removed from the claim.
2. The notice-type issue remark appearing on claim 41K 199346-00 served its notice purpose and 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 199346-00 as described above and remove all 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:**

William L. McLaughlin  
2200 5<sup>th</sup> St NW  
Great Falls, MT 59404

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

**Water Right Number:** 41K 199346-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Late Claim:** A

**Owners:** WILLIAM L MCLAUGHLIN  
2200 5TH ST NW  
GREAT FALLS, MT 59404

**Priority Date:** DECEMBER 5, 1941

CLAIM FILED LATE 05/03/1982 . AS MANDATED BY SECTION 85-2-221(3), MCA, THIS CLAIM IS SUBORDINATE, AND THEREFORE JUNIOR, TO ALL FEDERAL AND INDIAN RESERVED WATER RIGHTS.

**Type of Historical Right:** USE

**Purpose (Use):** IRRIGATION

**Irrigation Type:** FLOOD

**Flow Rate:** 5.57 CFS

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT USE THE SAME PUMP. THE COMBINED FLOW RATE FOR THESE RIGHTS IS LIMITED TO THE HISTORICAL PUMP CAPACITY. 41K 199346-00, 41K 208704-00, 41K 210352-00.

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

**Climatic Area:** 2 - MODERATELY HIGH

**Maximum Acres:** 5.06

**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		NENWSE	35	21N	2E	CASCADE

**Period of Diversion:** MAY 15 TO SEPTEMBER 30

**Diversion Means:** PUMP

**Period of Use:** MAY 15 TO SEPTEMBER 30

**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	5.06		SWSESW	35	21N	2E	CASCADE

**Total:** 5.06