

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

CLAIMANTS: Amanda S. Hendrickson; Bonnie L. Larsen

CASE 41K-0240-R-2024
41K 5004-00

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 an issue remark during the DNRC’s review of the claims.

The claim was consolidated into Case 41K-0240-R-2024 and an Order Requiring the Claimants to work with the DNRC was issued by the Water Court to resolve the issue remark.

FINDINGS OF FACT

1. Claim 41K 5004-00 received the following substantive issue remark:

THIS CLAIM PRESENTS ISSUES OF FACT AND LAW THAT MAY BE ADDRESSED AT THE OBJECTION STAGE. IT APPEARS THE OWNER MADE AN UNAUTHORIZED CHANGE IN THE POINT OF DIVERSION AFTER JULY 1, 1973. 85-2-402 REQUIRES DEPARTMENT APPROVAL OF THIS CHANGE TO PERFECT THIS RIGHT.

2. On May 15, 2024, the Court consolidated the claim and issued an order for the Claimants to work with the DNRC to address and resolve the issue remark.

3. On July 30, 2024, DNRC Water Resource Specialist Jamie Verploegen filed a *Memorandum* in this matter. Ms. Verploegen states that the DNRC was contacted on May 20, 2024, by claimant Bonnie Larsen who stated that she was not aware of any unauthorized changes to the point of diversion of claim 41K 5004-00. Based on the information found in the claim file, the DNRC notes that there was an application to change the water right filed by the claimant’s predecessor, Roger K. Larsen, on August 22, 1986. The *Memo* states that the changes from that application are already reflected on the abstract for claim 41K 5004-00. Therefore, the DNRC made recommendations for the resolution of the issue remarks. Those recommendations are as follows:

RECOMMENDATION:

General Information Issue GIIS: DNRC recommends this issue remark be removed from the water right and replaced with the CT2 remark code which reads:

THIS WATER RIGHT WAS SUBJECT TO A CHANGE APPLICATION APPROVED BY THE MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERCATION. THE MONTANA WATER COURT INCLUDED SOME OR ALL OF THE CHANGES APPROVED BY THE DEPARTMENT IN THE DECREE OF THIS WATER RIGHT.

4. On September 6, 2024, the Court issued an Order Setting Filing Deadline for the Claimants 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:

ORDERED that the deadline is **October 9, 2024**, for claimants Amanda S. Hendrickson and Bonnie L. Larsen 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 claimants agree with the DNRC recommendations.

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 is sufficient to resolve the substantive issue remark appearing on claim 41K 5004-00. Based on the information contained Ms. Verploegen's *Memo*, and the lack of response from the Claimants to the September 6, 2024 Filing Deadline, the claim should be modified by adding the information remark as described in Finding of Fact No. 3. The substantive issue remark 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 5004-00 by adding the information remark described above and remove the issue remark 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:

Amanda S. Hendrickson
215 Riverfront Ln
Great Falls, MT 59405

Bonnie L. Larsen
230 Riverfront Ln
Great Falls, MT 59404

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**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM**

**SUN RIVER
BASIN 41K**

Water Right Number: 41K 5004-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: AMANDA S HENDRICKSON
215 RIVERFRONT LN
GREAT FALLS, MT 59405-6238

BONNIE L LARSEN
230 RIVERFRONT LN
GREAT FALLS, MT 59404

Priority Date: OCTOBER 7, 1892

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER

***Flow Rate:** 38.40 GPM

***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: 6.20

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		SESENE	31	21N	2E	CASCADE

Period of Diversion: MAY 1 TO OCTOBER 31

Diversion Means: PUMP

Subdivision: TWIN SILOS RANCHETTES TRACT/LOT: 1 BLOCK: 5

Period of Use: MAY 1 TO OCTOBER 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	2.12		SESENE	31	21N	2E	CASCADE
		Subdivision: TWIN SILOS RANCHETTES					
2	3.78		SWSWNW	32	21N	2E	CASCADE
		Subdivision: TWIN SILOS RANCHETTES					
3	0.12		NWNWSW	32	21N	2E	CASCADE
		Subdivision: TWIN SILOS RANCHETTES					
4	0.18		NENESE	31	21N	2E	CASCADE

Subdivision: _____ TWIN SILOS RANCHETTES

Total: 6.20

THE PLACE OF USE IS LOCATED IN LOTS 1, 2 AND 3 OF BLOCK 5, TWIN SILOS RANCHETTES.

Remarks:

THIS WATER RIGHT WAS SUBJECT TO A CHANGE APPLICATION APPROVED BY THE MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION. THE MONTANA WATER COURT INCLUDED SOME OR ALL OF THE CHANGES APPROVED BY THE DEPARTMENT IN THE DECREE OF THIS WATER RIGHT.