

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

CLAIMANT: Kathy C. Crawford

CASE 41K-0170-R-2024
41K 30134273
41K 30134279

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, conclusion 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. Claims 41K 30134273 and 41K 30134279 each received issue remarks during the DNRC's review of the claims. The claims were

consolidated into Case 41K-0170-R-2024 and an Order Setting Filing Deadline was issued by the Water Court to resolve the issue remarks.

FINDINGS OF FACT

1. Claim 41K 30134279 received the following substantive issue remark:

NO VOLUME HAS BEEN CLAIMED. THE VOLUME GUIDELINE FOR THIS PURPOSE IS 4.0 ACRE-FEET PER YEAR.

2. On April 18, 2024, the Water Court consolidated the claims and issued an Order Setting Filing Deadline. Nothing was filed at the ordered deadline by the Claimant. The Order Setting Filing Deadline included the following language regarding the above-listed issue remark:

ORDERED that the Claimant review this order and, *if necessary*, file a statement describing why the volume for claim 41K 30134279 should not be modified as proposed in the issue remark above by **Wednesday, May 22, 2024**. *If nothing is filed by the deadline, this Master will conclude that the Claimant agrees that the volume of claim 41K 30134279 should be modified to 4.00 acre-feet per year, the modification will be made, and the issue remark will be removed from the claim.*

4. Each claim received notice-type issue remarks from the DNRC during its claims reexamination denoting that the claim was not included in the previous Basin 41K decree. No Objections were filed.

PRINCIPLES OF LAW

1. A properly filed Statement of Claim for an existing water right is prima facie proof of its content. Section 85-2-227, MCA; Rule 10, W.R.Adj.R.

2. Prima facie proof may be contradicted and overcome by a preponderance of the evidence. Rule 19, W.R.Adj.R.

3. A preponderance of the evidence is evidence that shows a fact is “more probable than not.” *Hohenlohe v. State*, 2010 MT 203, ¶ 33, 357 Mont. 438, 240 P.3d 628.

4. If prima facie status is overcome, the burden shifts back to the claimant to demonstrate historical use. *79 Ranch v. Pitsch*, 204 Mont. 426, 432-33, 666 P.2d 215, 218 (1983).

CONCLUSIONS OF LAW

1. The information in the record resolves the issue remark appearing on claim 41K 30134279. Because nothing was filed at either filing deadline by the Claimant, a preponderance of the evidence shows that a volume of 4.0 acre-feet per year should be added to the abstract, based on the DNRC guidelines for domestic purpose, and the issue remark should be removed from the claim.

2. The notice type issue remark appearing on each claim 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 30134279 as described in Conclusion of Law No. 1 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:

Kathy C. Crawford
PO Box 253
Simms, MT 59477

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

Water Right Number: 41K 30134273 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: KATHY C CRAWFORD
PO BOX 253
SIMMS, MT 59477

Priority Date: JUNE 28, 2019

THIS IS AN EXISTING RIGHT. ITS POST-1973 PRIORITY DATE IS DECREED PURSUANT TO SECTION 85-2-306(4) MCA.

Type of Historical Right: FILED

Purpose (Use): STOCK

Flow Rate: 5.00 GPM

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: GROUNDWATER

Source Type: GROUNDWATER

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	5	NW	19	20N	2W	CASCADE

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: WELL

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		5	NW	19	20N	2W	CASCADE

Remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

30134273 30134279

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

Water Right Number: 41K 30134279 STATEMENT OF CLAIM
Version: 2 -- POST DECREE
Status: ACTIVE

Owners: KATHY C CRAWFORD
PO BOX 253
SIMMS, MT 59477

Priority Date: JUNE 28, 2019

THIS IS AN EXISTING RIGHT. ITS POST-1973 PRIORITY DATE IS DECREED PURSUANT TO SECTION 85-2-306(4) MCA.

Type of Historical Right: FILED

Purpose (Use): DOMESTIC

Flow Rate: 5.00 GPM

Volume: 4.00 AC-FT

Households: 1

Maximum Acres: 1.00

Source Name: GROUNDWATER

Source Type: GROUNDWATER

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	5	NW	19	20N	2W	CASCADE

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: WELL

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	1.00	5	NW	19	20N	2W	CASCADE
Total:	1.00						

Remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

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