

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

CLAIMANTS: Jonathan J. Kudrna; Stephanie A. Oblander

CASE 41K-0285-R-2024
41K 208758-00

NOTICE OF FILING OF MASTER'S REPORT

This Master's Report was filed with the Clerk of the Montana Water Court. Please review this Report carefully.

You may file a written objection to this Master's Report if you disagree or find errors with the Master's Findings of Fact, Conclusions of Law, or Recommendations. The above stamped date indicates the date this Master's Report was filed and mailed. Rule 23 of the Water Right Adjudication Rules requires written objections to a Master's Report be filed within 10 days of the date of the Master's Report. Because this Master's Report was mailed to you, Rule 6(d) of the Montana Rules of Civil Procedure provides an additional 3 days to the 10-day objection period.

If you file an objection, you must mail a copy of the objection to all parties on the Service List found at the end of this 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 208758-00 received issue remarks during the DNRC's review of the claims.

The claim was consolidated into Case 41K-0285-R-2024 and a filing deadline was issued by the Water Court to resolve the issue remarks.

FINDINGS OF FACT

1. Claim 41K 208758-00 received the following substantive issue remark:

THE POINT OF DIVERSION APPEARS TO BE INCORRECT. THE POINT OF DIVERSION APPEARS TO BE IN THE NENESW SEC 34 TWP 21N RGE 2E CASCADE COUNTY.

2. On January 26, 2024, the Court consolidated the claim into case 41K-0285-R-2024 and set a filing deadline for the Claimants to provide information or evidence regarding the proposed modification to the point of diversion for claim 41K 208758-00. Nothing was filed by the ordered deadline.

3. On April 30, 2024, the Water Court issued an Order Setting Show Cause Filing Deadline for the Claimants to provide information or evidence showing cause why the point of diversion for claim 41K 208758-00 should not be modified as described in the issue remark

4. On May 10, 2024, claimants Jonathan Kudrna and Stephane Oblander filed a *Response*. The *Response* states that the Claimants contacted the DNRC regional office in Lewistown, where they spoke with DNRC Water Resource Specialist Brandon Ahlgren. Mr. Ahlgren stated to the Claimants that the above-listed issue remark was incorrect and that the DNRC believed the point of diversion should remain as it appears on the abstract. Therefore, the Claimants requested that the issue remark be removed, and no modification made to the point of diversion.

5. Claim 41K 208758-00 also received a notice type issue remark from 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.

CONCLUSIONS OF LAW

1. The information in the record resolves issue remark appearing on claim 41K 208758-00. Based on the information presented in the *Response* filed by the Claimants, the issue remark should be removed, and no modification made to the point of diversion for claim 41K 208758-00.

2. The notice type issue remark appearing on claim 41K 208758-00 served its notice purpose and should be removed from the claim.

RECOMMENDATIONS

Based on the foregoing Findings of Fact and Conclusions of Law, this Master recommends that the Court remove the issue remarks from the claim.

A post decree abstract of the water right claim reflecting the removal of the issue remarks is attached to this Report.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

Jonathan J. Kudrna
Stephanie A. Oblander
18 Manchester Ln
Great Falls, MT 59404

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM**

**SUN RIVER
BASIN 41K**

Water Right Number: 41K 208758-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: JONATHAN J KUDRNA
18 MANCHESTER LN
GREAT FALLS, MT 59404

STEPHANIE A OBLANDER
18 MANCHESTER LN
GREAT FALLS, MT 59404

***Priority Date:** MAY 1, 1931

Type of Historical Right: USE

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

***Flow Rate:** 1.75 CFS

***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: 28.64

***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		NW	34	21N	2E	CASCADE

Period of Diversion: APRIL 1 TO NOVEMBER 1

Diversion Means: PUMP

Period of Use: APRIL 1 TO NOVEMBER 1

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	11.36		S2	34	21N	2E	CASCADE
2	0.70		S	34	21N	2E	CASCADE
3	7.52		N2	34	21N	2E	CASCADE
4	5.60		N	34	21N	2E	CASCADE
5	3.46		SE	34	21N	2E	CASCADE

Total: 28.64