

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

CLAIMANTS: Chris Music; Helen Music

CASE 41K-0450-R-2024
41K 30125980

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. Claim 41K 30125980 received issue remarks during the DNRC's review of the claims.

The claim was consolidated into Case 41K-0450-R-2024 and an Order Requiring the Claimant to consult with the DNRC to resolve the issue remarks was issued by the Water Court.

FINDINGS OF FACT

1. Claim 41K 30125980 received the following substantive issue remark:

THE TYPE OF HISTORICAL RIGHT AND PRIORITY DATE MAY BE QUESTIONABLE. DOCUMENTATION TO SUPPORT THE TYPE OF HISTORICAL RIGHT AND PRIORITY DATE WAS NOT SUBMITTED WITH THIS CLAIM.

2. On May 21, 2024, DNRC Water Resources Specialist Jamie Verploegen filed a *Memorandum* in this matter. The *Memo* states that the DNRC was contacted by claimant Chris Music regarding the aforementioned issue remark on January 23, 2024. However, the *Memo* states that neither the claimant nor the DNRC could find documentation supporting the claim as a decreed right. Therefore, the DNRC recommended that the type of right be modified from “decreed” to “use” to address and resolve the priority date and type of right issue remark. If the type of right is modified by the Court, the DNRC recommends removing the issue remark. Documentation found in the claim file corroborates the DNRC recommendation that the type of be changed from “filed” to “use.”

3. Claim 41K 30125980 also received a notice-type issue remark denoting that the claim was not included in the Basin 41K Decree issued on May 14, 1985. 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 is sufficient to resolve the priority date and type of right issue remark appearing on claim 41K 30125980. Based on the information

contained Ms. Verploegen's *Memo*, the type of right should be modified from "decreed" to "use" and the issue remark should be removed from the claim.

2. The notice-type issue remark appearing on claim 41K 30125980 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 the type of right for claim 41K 30125980 as described in Conclusion of Law No. 1 and remove the issue remarks from 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:

Chris Music
Helen Music
1231 County Line Rd
Vaughn, MT 59487

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

Water Right Number: 41K 30125980 STATEMENT OF CLAIM
Version: 2 -- POST DECREE
Status: ACTIVE

Owners: CHRIS MUSIC
1231 COUNTY LINE RD
VAUGHN, MT 59487

HELEN MUSIC
1231 COUNTY LINE RD
VAUGHN, MT 59487

Priority Date: DECEMBER 31, 1947

Type of Historical Right: USE

Purpose (Use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

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: UNNAMED TRIBUTARY OF TANK COULEE

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		W2NWSE	34	22N	1W	TETON

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

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			W2NWSE	34	22N	1W	TETON