

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

\*\*\*\*\*

CLAIMANT: Denver P. Harris

**CASE 41K-0662-R-2024**  
41K 160625-00

**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. Claim 41K 160625-00 received an issue remark during the DNRC's review of the claims.

The claim was consolidated into Case 41K-0662-R-2024 and an Order Requiring the Claimant to consult with the DNRC to resolve the issue remark was issued by the Water Court.

### FINDINGS OF FACT

1. Claim 41K 160625-00 received the following substantive issue remarks:

THE CLAIM APPEARS TO DIVERT WATER FROM TWO SEPARATE SOURCES. MORE THAN ONE WATER RIGHT MAY BE INVOLVED.

2. On May 30, 2024, DNRC Water Resources Specialist Dixie Brough filed a *Memorandum* in this matter. The *Memo* states that the DNRC was never contacted by the Claimant regarding the aforementioned issue remark. However, the *Memo* states that, upon review, there was no documentation in the claim file supporting the remark which was apparently added in error during reexamination. Therefore, the DNRC recommends removing the issue remark.

### 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 multiple source issue remark appearing on claim 41K 160625-00. Based on the information contained Ms. Brough's *Memo*, the 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 remove the issue remark from claim 160625-00.

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

**ELECTRONICALLY SIGNED AND DATED BELOW.**

**Service via USPS Mail:**

Denver P. Harris  
822 1<sup>st</sup> Rd NW  
Fairfield, MT 59436

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

**Water Right Number:** 41K 160625-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** DENVER P HARRIS  
822 1ST RD NW  
FAIRFIELD, MT 59436-9417

**Priority Date:** DECEMBER 31, 1890

**Type of Historical Right:** FILED

**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 BIG 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		SWNE	2	21N	5W	TETON
<b>Period of Diversion:</b>		JANUARY 1 TO DECEMBER 31				
<b>Diversion Means:</b>		LIVESTOCK DIRECT FROM SOURCE				
2		SENE	2	21N	5W	TETON
<b>Period of Diversion:</b>		JANUARY 1 TO DECEMBER 31				
<b>Diversion Means:</b>		LIVESTOCK DIRECT FROM SOURCE				
3		S2NW	1	21N	5W	TETON
<b>Period of Diversion:</b>		JANUARY 1 TO DECEMBER 31				
<b>Diversion Means:</b>		LIVESTOCK DIRECT FROM SOURCE				
4		E2NESE	2	21N	5W	TETON
<b>Period of Diversion:</b>		JANUARY 1 TO DECEMBER 31				
<b>Diversion Means:</b>		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			SWSWNE	2	21N	5W	TETON
2			SESWNE	2	21N	5W	TETON
3			SWSENE	2	21N	5W	TETON
4			SESENE	2	21N	5W	TETON

5	SWSWNW	1	21N	5W	TETON
6	NWSWNW	1	21N	5W	TETON
7	NESWNW	1	21N	5W	TETON
8	NWSENW	1	21N	5W	TETON
9	NESENW	1	21N	5W	TETON
10	NENESE	2	21N	5W	TETON
11	SENESE	2	21N	5W	TETON