

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

\*\*\*\*\*

CLAIMANT: Alvin G. McKamey

**CASE 41K-0421-R-2024**  
41K 210366-00  
41K 210367-00

**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 claims received issue remarks during the DNRC's review of the claims.

The claims were consolidated into Case 41K-0421-R-2024 and an Order Setting Filing Deadline was issued by the Water Court to resolve the issue remarks.

### FINDINGS OF FACT

1. Each of the above-captioned claims received the following substantive issue remark:

NO PRIORITY DATE WAS CLAIMED.

2. On January 3, 2024, the Court consolidated the claims and set a filing deadline for the Claimant to file information or evidence regarding the historically accurate priority date for each of the claims.

3. On February 2, 2024, claimant Alvin G. McKamey filed a *Response*. The *Response* states that Mr. McKamey had been in contact with personnel from the Lewistown DNRC Regional Office who had helped potentially locate documentation regarding the priority dates for the above-captioned claims. However, no documentation was filed with the *Response*. Therefore, the Court set a second filing deadline for Mr. McKamey to file the necessary documents.

4. On February 22, 2024, Mr. McKamey filed a second *Response*. In his second *Response*, Mr. McKamey stated he needed assistance locating the required documentation and requested to formally work with the DNRC to resolve the priority date issue remarks appearing on the claims.

5. On March 4, 2024, the Court vacated the second filing deadline and issued an order directing Mr. McKamey and the DNRC to work together to resolve the priority date issue remarks appearing on the claims.

6. On May 20, 2024, DNRC Water Resource Specialist Dixie Brough filed a *Memorandum* in this matter. In her *Memo*, Ms. Brough notes that claimant Alvin G. McKamey submitted a statement to the DNRC Havre Regional Office on March 22, 2024, stating that the spring for the claims had been used since December 6, 1953. Additionally, the *Memo* notes that the DNRC Havre Regional office researched the claim file and located the same documentation previously discovered by the Lewistown Regional office evidencing historical use of the claims between 1950 and 1955 which

helps to corroborate the Mr. McKamey's statement that the claims had been used since December 6, 1953.

7. Based on the information, including the statement submitted by Mr. McKamey and the evidence in the claim files, the DNRC made the following recommendations for modifications to claims 41K 210366-00 and 41K 210367-00 to resolve the issue remarks:

RECOMMENDATIONS:

Claim 41K 210366-00 and 41K 210367-00:

Based on the above discussion, DNRC recommends that the priority date of December 6, 1953, be added to both claims and the P380 issue remarks be removed as they are now resolved.

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.

3. If a claimant agrees to reduce or limit a claim, the Water Court may accept the reduction or limitation without reviewing further evidence, unless an unresolved issue remark remains. Rule 17(c), W.R.Adj.R.

CONCLUSION OF LAW

1. The information in the record is sufficient to resolve the substantive issue remarks appearing on claims 41K 210366-00 and 41K 210367-00. Based on the information contained Ms. Brough's *Memo*, the priority date of each claim should be listed as December 6, 1953, and the issue remarks 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 claims 41K 210366-00 and 41K 210367-00 as described in Conclusion of Law No. 1 and remove the 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:**

Alvin G. McKamey  
101 Meridan Ln  
Vaughn, MT 59487

\\JUDHLNSRV-DATA\Share\JUDGALH2OSRV (Data\vol)\Share\WC-BASIN FOLDERS\41K PD\41K Cases\421\41K-0421-R-2024 MR (multiple claims, 248 memo resolves priority date IRs on both, modify and remove IRs) 6-13-24 jbc.docx

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

**Water Right Number:** 41K 210366-00 STATEMENT OF CLAIM  
**Version:** 3 -- POST DECREE  
**Status:** ACTIVE

**Owners:** ALVIN G MCKAMEY  
101 MERIDAN LN  
VAUGHN, MT 59487

**Priority Date:** DECEMBER 6, 1953

**Type of Historical Right:** USE

**Purpose (Use):** DOMESTIC

**Flow Rate:** 25.00 GPM

**Volume:** 1.50 AC-FT

**Households:** 1

**Source Name:** SPRING, UNNAMED TRIBUTARY OF LARGENT COULEE

**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		NWNWNW	6	21N	1E	CASCADE

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** PUMP

**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			SWNWNW	6	21N	1E	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.

210366-00      210367-00

CLAIM FILED 05/03/82 . THIS IS AN EXEMPT RIGHT VOLUNTARILY FILED UNDER SECTION 85-2-222, MCA.

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

**Water Right Number:** 41K 210367-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** ALVIN G MCKAMEY  
101 MERIDAN LN  
VAUGHN, MT 59487

**Priority Date:** DECEMBER 6, 1953

**Type of Historical Right:** USE

**Purpose (Use):** STOCK

**Flow Rate:** 20.00 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:** SPRING, UNNAMED TRIBUTARY OF LARGENT COULEE

**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		NWNWNW	6	21N	1E	CASCADE

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** PUMP

**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			SWNWNW	6	21N	1E	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.

210366-00      210367-00

CLAIM FILED 05/03/1982 . THIS IS AN EXEMPT RIGHT VOLUNTARILY FILED UNDER SECTION 85-2-222, MCA.