

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

CLAIMANT: Chadam Inc.

OBJECTOR: United States Forest Service

CASE 41K-0017-R-2023

41K 200231-00

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 claim received an

objection to the place of use and maximum acres elements from the United States Forest Service (“Forest Service”) as well as an issue remark during the DNRC’s claims reexamination.

The claim was consolidated into Case 41K-0017-R-2023 to resolve the objection and issue remarks.

FINDINGS OF FACT

1. Claim 41K 200231-00 received the following issue remark:

THIS CLAIM PRESENTS ISSUES OF FACT AND LAW THAT MAY BE ADDRESSED AT THE OBJECTION STAGE. IT APPEARS THAT FEWER ACRES ARE ACTUALLY IRRIGATED AND PROBLEMS COULD EXIST WITH FLOW RATE AND VOLUME.

2. On August 29, 2023, the Court consolidated the above-captioned claim and set a filing deadline for the Claimant and Objector to file settlement documents resolving the objection to claim 41K 200231-00.

3. On January 12, 2023, claimant Chadam Inc. and objector Forest Service filed a *Stipulation*. (Doc 7.00)¹ The *Stipulation* contains proposed modifications to claim 41K 200231-00 that would resolve the objection and acres irrigated issue remark appearing on the claim. Those proposed modification are as follows:

1. The point of diversion should be amended as follows:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	<u>NENWSW</u>	NWNESW	26	22N	10W	LEWIS AND CLARK

2. The place of use and maximum acres should appear as follows:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	1.00		SESWNW	26	22N	10W	LEWIS AND CLARK
2	4.00		SWSNW	26	22N	10W	LEWIS AND CLARK
3	5.00		NENWSW	26	22N	10W	LEWIS AND CLARK
Total: 10.00							

3. The following remark should be added:

PLACE OF USE AND POINT OF DIVERSION ARE ENTIRELY ON PRIVATE LAND

¹ “Doc.” Numerical references correlate to case file docket numbers in the Water Court’s Full Court case management system.

PRINCIPLES OF LAW

1. 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.

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. When resolving issue remarks, the Water Court must weigh the information resulting in the issue remark and the issue remark against the claimed water right. Section 85-2-247(2), MCA. The factual evidence on which an issue remark is based must meet the preponderance of evidence standard before the prima facie status of a claim is overcome. 43Q 200996-00 et al., Order Establishing Volume and Order Closing Case, at 18, June 8, 2015.

4. The Water Court is not bound by parties' settlement agreements. Any settlement reached by the parties is subject to review and approval by the Water Court. Rule 17(a), W.R.Adj.R.

CONCLUSIONS OF LAW

1. The proposed modifications included in the parties' *Stipulation* resolve the objection and acres irrigated issue remark appearing on claim 41K 200231-00.

2. The claim should be modified as described in Finding of Fact No. 3, the objection should be considered resolved, and the acres irrigated 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 modify the maximum acres and place of use elements, add the information remark regarding the point of diversion and place of use, and remove the issue remark as outlined above.

A post decree abstract of the water right claim reflecting the recommended changes is attached to this Report.

ELECTRONICALLY SIGNED AND DATED BELOW.

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

Water Right Number: 41K 200231-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: CHADAM INC
1917 WILSON AVE
CHESTERFIELD, MO 63005-4739

Priority Date: DECEMBER 31, 1947

Type of Historical Right: USE

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER

Flow Rate: 256.00 GPM

***Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 5 - LOW

Maximum Acres: 10.00

Source Name: SUN RIVER, NORTH FORK

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		NENWSW	26	22N	10W	LEWIS AND CLARK

Period of Diversion: APRIL 30 TO SEPTEMBER 30

Diversion Means: PUMP

Period of Use: APRIL 30 TO SEPTEMBER 30

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		SESWNW	26	22N	10W	LEWIS AND CLARK
2	5.00		NENWSW	26	22N	10W	LEWIS AND CLARK
3	4.00		SWSENW	26	22N	10W	LEWIS AND CLARK
Total:	<u>10.00</u>						

Remarks:

PLACE OF USE AND POINT OF DIVERSION ARE ENTIRELY ON PRIVATE LAND.