

Montana Water Court  
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IN THE WATER COURT OF THE STATE OF MONTANA  
CLARK FORK DIVISION  
KOOTENAI RIVER BASIN (76D)  
PRELIMINARY DECREE

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CLAIMANTS: Dora Girod; Marcus Girod

CASE 76D-0562-R-2024  
76D 30103148

**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

### Statement of the case

Domestic well claim 76D 30103148 appeared in the Preliminary Decree for this Basin with the following issue remarks:

THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 76D DECREE ISSUED 03/22/1984.

NO QUANTIFIED FLOW RATE WAS CLAIMED. THE FLOW RATE GUIDELINE FOR THIS PURPOSE IS 35 GPM.

NO PRIORITY DATE WAS CLAIMED.

NO TYPE OF HISTORICAL RIGHT WAS CLAIMED. DOCUMENTATION TO SUPPORT THE TYPE OF HISTORICAL RIGHT WAS NOT SUBMITTED WITH THIS CLAIM.

NO VOLUME HAS BEEN CLAIMED. THE VOLUME GUIDELINE FOR THIS PURPOSE IS 5.0 ACRE-FEET PER YEAR.

Issue remarks result from Department of Natural Resources and Conservation (“DNRC”) claims examination. Claims examination confirms the historical use of water right claims and identifies issues with claims. If claims examination cannot confirm some aspect of a claim, an issue remark is added to the claim.

On April 19, 2024, the DNRC filed a Memorandum recommending the withdrawal of claim 76D 30103148. Enclosed with the DNRC Memorandum, in agreement with DNRC, was a Request to Withdraw Statement of Claim 76D 30103148.

### Issue

Should domestic claim 76D 30103148 be dismissed?

### Finding of fact

Domestic claim 76D 30103148 should be dismissed.

### Principles of law

1. A properly filed Statement of Claim for Existing Water Right is prima facie proof of its content. Section 85-2-227, MCA. Prima facie proof may be overcome by other evidence that proves, by a preponderance of the evidence, that an element of the prima facie claim is incorrect. This is the burden of proof for every assertion that a claim

is incorrect. Rule 19, W.R.Adj.R. A preponderance of the evidence is a “modest standard” and is evidence that demonstrates the fact to be proved is “more probable than not.” *Hohenlohe v. State*, 2010 MT 203, ¶ 33, 357 Mont. 348, 240 P.3d 628.

2. The Montana Water Court is permitted to use information submitted by the Department of Natural Resources and Conservation, the statement of claim, information from approved compacts, and any other data obtained by the Court to evaluate water right claims. Section 85-2-231(2), MCA.

3. When resolving issue remarks, the Montana 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.

4. If the Montana Water Court cannot resolve issue remarks based upon information in the claim file or information available to the Court, claimants shall be required to confer with the DNRC to attempt resolution of the issue remarks. Claimants shall file documentation to resolve the issue remarks, and the DNRC shall submit recommendations regarding disposition of the issue remarks. Section 85-2-248(5), MCA.

### **Analysis**

The DNRC Database identifies Dora Girod and Marcus Girod as the current claimants of water right claim 76D 30103148. The Montana Cadastral Database located at <https://svc.mt.gov/msl/mtcadastral>, identifies Dora Girod and Marcus Girod as the current property owner of the place of use identified by claim 76D 30103148. Dora Girod and Marcus Girod agree domestic claim 76D 30103148 should be withdrawn.

### **Conclusion of law**

The Request to Withdraw Statement of Claim 76D 30103148 is properly filed with the court.

### **Recommendation**

Domestic claim 76D 30103148 should be dismissed.

A Post Decree Abstract of Water Right Claim accompanies this report to confirm dismissal of the claim in the state's centralized water right record system.

**ELECTRONICALLY SIGNED AND DATED BELOW.**

**Service via USPS Mail**

Dora Girod  
Marcus Girod  
467 Wards Rd  
Libby MT 59923-8381

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
KOOTENAI RIVER  
BASIN 76D**

**Water Right Number:** 76D 30103148 STATEMENT OF CLAIM

**Version:** 2 -- POST DECREE

**Status:** **DISMISSED**

**Owners:** DORA GIROD  
467 WARDS RD  
LIBBY, MT 59923-8381

MARCUS GIROD  
467 WARDS RD  
LIBBY, MT 59923-8381

**Priority Date:**

**Type of Historical Right:**

**Purpose (Use):** DOMESTIC

**Flow Rate:**

**Volume:**

**Source Name:** GROUNDWATER

**Source Type:** GROUNDWATER

**Point of Diversion and Means of Diversion:**

**Period of Use:**

**Place of Use:**

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**Remarks:**

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.