

Montana Water Court
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Montana Water Court
STATE OF MONTANA
By: D'Ann CIGLER
41K-0459-R-2023
White, Eugene
10.00

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

* * * * *

CLAIMANTS: Michelle Neuman; James Neuman

CASE 41K-0459-R-2023

41K 214976-00

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 214976-00 received an issue remark during the DNRC's review of the claims.

The claim was consolidated into Case 41K-0459-R-2023 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 214976-00 received the following substantive issue remarks:
FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.

THE CASCADE COUNTY WATER RESOURCES SURVEY (1961) APPEARS TO INDICATE 0.00 ACRES IRRIGATED.

USDA AERIAL PHOTOGRAPH NO(S). 177-150 CS, DATED 07/29/1980, APPEARS TO INDICATE 0.00 ACRES IRRIGATED.

2. On August 1, 2024, DNRC Water Resources Specialist Jamie Verploegen filed a *Memorandum* in this matter. The *Memo* states that claimant James Neuman contacted the DNRC regarding the aforementioned issue remarks. Further, the *Memo* states that the Claimants provided WRS aerial photos and maps dated February 27, 2019, which detail the acres irrigated by claim 41K 214976-00. Based on the information provided by the Claimants, the DNRC recommends removing the issue remarks.

3. Claim 41K 214976-00 also received notice-type issue remarks from the DNRC during its claims examination. 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 substantive issue remarks appearing on claim 41K 214976-00. Based on the information contained Ms. Verploegen's *Memo*, the substantive issue remarks should be removed from the claim.

2. The notice-type issue remarks appearing on claim 41K 214976-00 served their 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 remove the issue remarks from claim 214976-00.

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:

Michelle Neuman
James Neuman
173 Sun Loop Lane
Great Falls, MT 59404

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

Water Right Number: **41K 214976-00 STATEMENT OF CLAIM**

Version: 3 -- POST DECREE

Status: ACTIVE

Late Claim: B

Owners:
JAMES NEUMAN
173 SUN LOOP LN
GREAT FALLS, MT 59404

MICHELLE NEUMAN
173 SUN LOOP LN
GREAT FALLS, MT 59404

Priority Date: MAY 30, 1973

Enforceable Priority Date: JUNE 30, 1973

CLAIM FILED LATE 03/01/1996 . AS MANDATED BY SECTION 85-2-221(3), MCA, THIS CLAIM IS SUBORDINATE, AND THEREFORE JUNIOR, TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW.

Type of Historical Right: USE

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 290.00 GPM

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

Climatic Area: 2 - MODERATELY HIGH

Maximum Acres: 43.60

***Source Name:** SUN RIVER

Source Type: SURFACE WATER

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

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SWSENE	31	21N	2E	CASCADE

Period of Diversion: MARCH 1 TO NOVEMBER 30

Diversion Means: PUMP

Period of Use: MARCH 1 TO NOVEMBER 30

***Place of Use:**

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	12.00		S2NENE	31	21N	2E	CASCADE
2	2.00		NWSENE	31	21N	2E	CASCADE
3	29.60		W2NW	32	21N	2E	CASCADE
Total:	43.60						