

Montana Water Court
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Montana Water Court
STATE OF MONTANA
By: D'Ann CIGLER
43O-0007-I-2024
Nordlund, Julia
4.00

IN THE WATER COURT OF THE STATE OF MONTANA
YELLOWSTONE DIVISION
LITTLE BIGHORN RIVER - BASIN 430
INTERLOCUTORY

* * * * *

CLAIMANT: Royal Crest Dairy Inc.

CASE 43O-0007-I-2024

43O 30129576

OBJECTOR: United States of America (Dept. of
Interior Bureau of Indian Affairs)

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

FINDINGS OF FACT

1. On February 24, 2025, Claimant Royal Crest Dairy Inc. and Objector USA

(BIA) submitted a Stipulation wherein the parties agreed to changes to claim 43O 30129576 as a resolution of objections and issue remarks.

2. The Stipulation is viewable on the Water Court's Full Court Enterprises case management system, Doc #3.

3. Claim 43O 30129576 was claimed as a "filed" right for livestock from groundwater. No Notice of Appropriation was included to support the filed type.

4. The parties agree to change the claim to a use right.

5. The remaining issue remark is for notice purposes only and can be removed.

CONCLUSIONS 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. This *prima facie* proof may be contradicted and 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.

2. The degree or weight of evidence needed to contradict or overcome the *prima facie* proof statute is a preponderance of the evidence. *Burkhartsmeier et al. v. Burkhartsmeier et al.*, Case 40G-2, (MT Water Court Memorandum Opinion and Order Adopting Master's Report, Mar. 11, 1997). The Montana Supreme Court has defined preponderance as "a relatively modest standard that the statutory criteria are 'more probable than not' to have been met." *Hohenlohe v. State*, 2010 MT 203 ¶ 33, 357 Mont. 438, 240 P.3d 628.

3. The change from filed right to use right resolves all objections and issue remarks.

RECOMMENDATIONS

Based upon the above Findings of Fact and Conclusions of Law, this Master recommends the Court make the changes specified above.

A Post Decree Abstract of Water Right Claim is served with this Report to confirm the recommended corrections have been made in the state's centralized record system.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

Last Order:
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Service Via Electronic Mail:

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POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
LITTLE BIGHORN RIVER
BASIN 43O

Water Right Number: **43O 30129576** STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: ROYAL CREST DAIRY INC
350 S PEARL ST
DENVER, CO 80209

Priority Date: MAY 1, 1940

Type of Historical Right: USE

Purpose (Use): STOCK

Flow Rate: 10.00 GPM

***Volume:** THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCKWATERING 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: GROUNDWATER

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		NENENE	16	4S	36E	BIG HORN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: WELL

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			NENENE	16	4S	36E	BIG HORN

Remarks:

THIS WATER RIGHT IS ASSOCIATED WITH WATER RIGHT NO. 43O 103505-00 . THEY ARE BASED ON THE SAME HISTORIC WATER RIGHT.

THIS WATER RIGHT IS LOCATED, IN WHOLE OR IN PART, WITHIN THE BOUNDARY OF THE CROW INDIAN RESERVATION.