

IN THE WATER COURT OF THE STATE OF MONTANA
CLARK FORK DIVISION
CLARK FORK RIVER BELOW THE FLATHEAD RIVER BASIN (76N)
PRELIMINARY DECREE

CLAIMANT: Frederick M. & Lisa A. Schneider Trust

76N-0089-R-2025

76N 133262-00

76N 30124759

OBJECTOR: ~~United States of America Department of
Agriculture Forest Service~~

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. Claims 76N 133262-00 and 76N 30124759 appeared in the Preliminary Decree for the Clark Fork River Below the Flathead River Basin (Basin 76N) issued September 21, 2023. The claims received objections from the United States Department of Agriculture Forest Service.

2. On April 7, 2025, the United States filed a Notice of Withdrawal of Objections to claims 76N 133262-00 and 76N 30124759.

3. Claim 76N 30124759 received a DNRC notice issue remark stating: THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 76N DECREE ISSUED 02/28/1984.

The issue remark was placed on the abstract to provide notice that this claim has not been included in previous water court decrees. The issue remark has served its purpose of providing notice and should be removed from the claim.

CONCLUSIONS OF LAW

1. A properly filed claim of an existing right or an amended claim of existing right is prima facie proof of its content. § 85-2-227, MCA. No evidence was presented to overcome the prima facie status of the claim.

2. All issue remarks to claims that are not resolved through the filing of an objection must be resolved pursuant to § 85-2-248, MCA. § 85-2-248(2), MCA. However, the requirement to resolve issue remarks does not eliminate the prima facie status granted to water rights, nor does it change the burden of proof required to modify or invalidate a claim. 43Q 200996-00 et al., Order Establishing Volume and Order Closing Case, at 18, June 8, 2015. The issue remark appearing on claim 76N 30124759 does not overcome the prima facie status of the claim and should be removed.

RECOMMENDATIONS

1. The issue remark should be removed from claim 76N 30124759.

2. The elements of claims 76N 133262-00 and 76N 30124759 should remain unchanged from how they appeared in the 76N Preliminary Decree.

Post Decree Abstracts of Water Right Claim are served with the Report to confirm the recommendation in this report have been implemented in the state's centralized database.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

Frederick M. & Lisa A. Schneider Trust
31W138 Army Trail Road
Wayne, IL 60184-2135

Service via Electronic Mail:

Last Order:

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Note: Caption and Service List Updated 4-10-2025

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**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
CLARK FORK, BELOW FLATHEAD RIVER
BASIN 76N**

Water Right Number: 76N 133262-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: SCHNEIDER, FREDERICK M & LISA A TRUST
31W138 ARMY TRAIL RD
WAYNE, IL 60184-2135

Priority Date: SEPTEMBER 1, 1914

Type of Historical Right: FILED

Purpose (Use): DOMESTIC

Flow Rate: 25.00 GPM

Volume: 1.50 AC-FT

Households: 6

Source Name: SPRING, UNNAMED TRIBUTARY OF ELK CREEK, EAST FORK

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		SWNESW	28	26N	34W	SANDERS

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: FLOWING

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			SWNESW	28	26N	34W	SANDERS

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
CLARK FORK, BELOW FLATHEAD RIVER
BASIN 76N

Water Right Number: 76N 30124759 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: SCHNEIDER, FREDERICK M & LISA A TRUST
31W138 ARMY TRAIL RD
WAYNE, IL 60184-2135

***Priority Date:** DECEMBER 31, 1914

Type of Historical Right: USE

Purpose (Use): STOCK

***Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

***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: ELK CREEK, EAST 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		SW	28	26N	34W	SANDERS

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

2		E2NWNW	33	26N	34W	SANDERS
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***Period of Diversion:** JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

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			SW	28	26N	34W	SANDERS
2			E2NWNW	33	26N	34W	SANDERS

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.

30124759

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