

Montana Water Court  
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MONTANA WATER COURT  
YELLOWSTONE DIVISION  
SHOSHONE RIVER  
BASIN 43N  
INTERLOCUTOROY DECREE

\* \* \* \* \*

CLAIMANT: Montana State Board of Land Commissioners –  
Forestry and Trust Lands Division

**CASE 43N-0007-I-2025**  
43N 30106487

**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, conclusion 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 to be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must mail 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**

Montana State Board of Land Commissioners – Forestry and Trust Lands Division ["Trust Lands"] claim 43N 30106487 appeared in the Interlocutory Decree with the following issue remark:

THE TYPE OF HISTORICAL RIGHT AND PRIORITY DATE MAY BE QUESTIONABLE. DOCUMENTATION TO SUPPORT THE TYPE OF HISTORICAL RIGHT AND PRIORITY DATE WAS NOT SUBMITTED WITH THIS CLAIM.

The issue remark was not addressed through the objection process. The Water Court is required to resolve the issues raised by each issue remark. Section 85-2-248, MCA.

Under Section 85-2-248(3), MCA, information in the claim file or other information obtained by the Court can be reviewed to determine if it provides a sufficient basis to resolve the issue raised by a remark and the Court can provide the claimant an opportunity to file additional information or evidence. On July 29, 2025 Trust Lands filed Claimant's Response To Show Cause Order And Verified Motion To Amend Water Right Claim 43N 30106487 ["Motion"]. As type of historical right and priority are already at issue, this is not a motion to amend filed pursuant to section 85-2-233(6), MCA. The Motion is viewable in the Court's FullCourt Enterprise case management system.

#### APPLICABLE LAW

"All issue remarks to claims that are not resolved through the filing of an objection as provided in 85-2-233 must be resolved as provided in this section." Section 85-2-248(2), MCA.

A properly filed Statement of Claim for Existing Water Right is prima facie proof of its content pursuant to 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 the elements of the claim do not accurately reflect the beneficial use of the water right as it existed prior to July 1, 1973. This is the burden of proof for every assertion that a claim is incorrect including for claimants objecting to their own claims. Rule 19, W.R.Adj.R.

#### FINDINGS OF FACT

1. The Interlocutory Decree states that the type of historical right is USE and the priority date is JANUARY 16, 1900. The type of historical right should not be changed. The priority date should be JANUARY 3, 1906. The issue remark should be removed as addressed and resolved.

2. The Interlocutory Decree also includes the following notice remark:

THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 43N DECREE ISSUED 06/13/2013.

This remark should be removed as having served its notice purpose.

### CONCLUSION OF LAW

The information provided by the claimant is sufficient to resolve the issue remark without evidentiary hearing. Sections 85-2-248(3) and (11), MCA.

### RECOMMENDATIONS

Based upon the above Findings of Fact and Conclusion of Law, this Master recommends that the Court make the changes specified in the Findings of Fact to correct the Interlocutory Decree for this Basin. A Post Decree Abstract of Water Right Claim is served with this Report to confirm the recommended changes have been made in the state's centralized record system.

### **ELECTRONICALLY SIGNED AND DATED BELOW**

#### **Service Via USPS Mail:**

##### ***(Last Order)***

Montana State Board of Land Commissioners  
Forestry And Trust Lands Division  
P.O. Box 201601  
Helena, MT 59620-1601

#### **Service Via Electronic Mail:**

**Brian Bramblett**  
**Montana Department of Natural Resources and Conservation**  
**bbramblett@mt.gov**  
**jean.saye@mt.gov**  
***(atty for: Montana State Board of Land Commissioners Forestry And Trust Lands Division)***

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
SHOSHONE RIVER  
BASIN 43N**

**Water Right Number:** 43N 30106487 STATEMENT OF CLAIM

**Version:** 2 -- POST DECREE

**Status:** ACTIVE

**Owners:** MONTANA STATE BOARD OF LAND COMMISSIONERS  
FORESTRY AND TRUST LANDS DIVISION  
PO BOX 201601  
HELENA, MT 59620-1601

**Priority Date:** JANUARY 3, 1906

**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:** PINEY CREEK

**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		S2SW	36	8S	25E	CARBON

**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			S2SW	36	8S	25E	CARBON