

MONTANA WATER COURT
YELLOWSTONE DIVISION
LITTLE BIGHORN RIVER
BASIN 43O
INTERLOCUTORY DECREEE

* * * * *

CLAIMANTS: Dianna L. Neal; Lyle M. Neal

CASE 43O-0012-I-2025
43O 30145572

OBJECTORS: Dianna L. Neal; Lyle M. Neal; United
States, DOI 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, 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

The United States, DOI Bureau of Indian Affairs objected to Dianna L. Neal and Lyle M. Neal claim 43O 30145572. This claim also appeared in the Interlocutory Decree with remarks which need to be addressed. On June 9, 2025 the parties filed a Stipulation addressing the objections and the issue remarks. The Stipulation is viewable in the Court's FullCourt Enterprise case management system, document number 4.

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. Claim 43O 30145572 appeared in the Interlocutory Decree with the following notice remarks:

THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 43O DECREE ISSUED 03/25/2010.

ACCORDING TO CADASTRAL PROPERTY OWNERSHIP RECORDS, AS OF 08/29/2022 , THE PROPERTY ON WHICH THIS WATER RIGHT IS USED APPEARS TO BE OWNED BY KEITH S. LASALLE AND JUDITH E. FOY, 2220 MILLER AVE., ANN ARBOR, MI 48103.

The first remark provides notice that the claim was not included in the Preliminary Decree.

The February 21, 2025 Order Consolidating Case And Order Setting Filing Deadline states: “If the Claimants or Mr. Lasalle and Ms. Foy believe the ownership is incorrect, they should contact DNRC to update the ownership.” The state's centralized record system (the DNRC database) indicates no ownership update was filed. The Stipulation states that the ownership should be changed. Ownership updates need to be pursued with the DNRC as stated in the February 21, 2025 Order Consolidating Case And Order Setting Filing Deadline.

Both of these remarks should be removed as having served their notice purposes.

2. The Interlocutory Decree includes the following issue remarks:

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.

The type of historical right should be RESERVED and the following two remarks should be added to the priority date:

THIS WATER RIGHT IS A WALTON RIGHT.

THIS WATER RIGHT IS NOT PART OF THE TRIBAL WATER RIGHT AS DEFINED IN THE CROW COMPACT.

The issue remarks should be removed as addressed and resolved.

CONCLUSION OF LAW

The settlement filed by the parties is sufficient to contradict and overcome the prima facie claim and to resolve the issue remarks 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 Preliminary 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 Electronic Mail:

Claren Neal
Attorney at Law
c.neal@bresnan.net

David W Harder
US DOJ-ENRD-TRS
David.Harder@usdoj.gov
Efile_Denver.enrd@usdoj.gov

Service via USPS Mail:

Potential Owners:
Keith S. Lasalle
Judith E. Foy
2220 Miller Ave.
Ann Arbor, MI 48103

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

Water Right Number: 43O 30145572 RESERVED CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: DIANNA L NEAL
HC 45 BOX 922
LODGE GRASS, MT 59050

LYLE M NEAL
1232 ROSEBUD RD
DENTON, MT 59430

Priority Date: MAY 7, 1868

Type of Historical Right: RESERVED

THIS WATER RIGHT IS A WALTON RIGHT.

THIS WATER RIGHT IS NOT PART OF THE TRIBAL WATER RIGHT AS DEFINED IN
THE CROW COMPACT.

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: LITTLE BIGHORN RIVER

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		E2SESE	20	4S	35E	BIG HORN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

2		SW	21	4S	35E	BIG HORN
---	--	----	----	----	-----	----------

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			E2SESE	20	4S	35E	BIG HORN
2			SW	21	4S	35E	BIG HORN

Remarks:

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