

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

* * * * *

CLAIMANT: Carter Miklovich

OBJECTOR: United States, DOI Bureau of Indian Affairs

CASE 43O-0015-I-2024

43O 30143648

43O 30145652

43O 30145655

43O 30145658

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 Carter Miklovich claims 43O 30143648, 43O 30145652, 43O 30145655, and 43O 30145658. On July 9, 2025 the parties filed a Stipulation. The Stipulation is viewable in the Court's FullCourt Enterprise case management system, document number 10.

APPLICABLE LAW

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. For each of these claims, the Interlocutory Decree states that the type of historical right is USE. For each, the type of historical right should be RESERVED and the following remark should be added to the priority date:

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

2. Each of these claims appeared in the Interlocutory Decree with the following remark:

THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 430 DECREE ISSUED 03/25/2010.

This remark provides notice that the claim was not included in the Preliminary Decree. Each should be removed as having served its notice purpose.

CONCLUSION OF LAW

The settlement filed by the parties is sufficient to contradict and overcome the prima facie claims.

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 for each 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:

Carter Miklovich
PO Box 152
Lodge Grass, MT 59050-0152

Service Via Electronic Mail:

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

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

Water Right Number: 43O 30143648 RESERVED CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: CARTER MIKLOVICH
PO BOX 152
LODGE GRASS, MT 59050-0152

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:** UNNAMED TRIBUTARY OF SIOUX PASS 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 | | S2 | 25 | 6S | 36E | BIG HORN |
| Period of Diversion: | JANUARY 1 TO DECEMBER 31 | | | | | |
| Diversion Means: | LIVESTOCK DIRECT FROM SOURCE | | | | | |
| 2 | | N2N2 | 36 | 6S | 36E | BIG HORN |
| Period of Diversion: | JANUARY 1 TO DECEMBER 31 | | | | | |
| Diversion Means: | LIVESTOCK DIRECT FROM SOURCE | | | | | |
| 3 | | S2NE | 36 | 6S | 36E | BIG HORN |
| Period of Diversion: | JANUARY 1 TO DECEMBER 31 | | | | | |
| Diversion Means: | LIVESTOCK DIRECT FROM SOURCE | | | | | |
| 4 | | SE | 36 | 6S | 36E | BIG HORN |
| Period of Diversion: | JANUARY 1 TO DECEMBER 31 | | | | | |
| Diversion Means: | LIVESTOCK DIRECT FROM SOURCE | | | | | |
| 5 | | SENW | 31 | 6S | 37E | BIG HORN |
| Period of Diversion: | JANUARY 1 TO DECEMBER 31 | | | | | |
| Diversion Means: | LIVESTOCK DIRECT FROM SOURCE | | | | | |
| 6 | | E2SW | 31 | 6S | 37E | BIG HORN |

| | | | | | | |
|-----------------------------|------------------------------|------|----|----|-----|----------|
| Period of Diversion: | JANUARY 1 TO DECEMBER 31 | | | | | |
| Diversion Means: | LIVESTOCK DIRECT FROM SOURCE | | | | | |
| 7 | | N2 | 1 | 7S | 36E | BIG HORN |
| Period of Diversion: | JANUARY 1 TO DECEMBER 31 | | | | | |
| Diversion Means: | LIVESTOCK DIRECT FROM SOURCE | | | | | |
| 8 | | N2S2 | 1 | 7S | 36E | BIG HORN |
| Period of Diversion: | JANUARY 1 TO DECEMBER 31 | | | | | |
| Diversion Means: | LIVESTOCK DIRECT FROM SOURCE | | | | | |
| 9 | | SESE | 1 | 7S | 36E | BIG HORN |
| Period of Diversion: | JANUARY 1 TO DECEMBER 31 | | | | | |
| Diversion Means: | LIVESTOCK DIRECT FROM SOURCE | | | | | |
| 10 | | E2NE | 12 | 7S | 36E | BIG HORN |
| Period of Diversion: | JANUARY 1 TO DECEMBER 31 | | | | | |
| Diversion Means: | LIVESTOCK DIRECT FROM SOURCE | | | | | |
| 11 | | | 5 | 7S | 37E | BIG HORN |
| Period of Diversion: | JANUARY 1 TO DECEMBER 31 | | | | | |
| Diversion Means: | LIVESTOCK DIRECT FROM SOURCE | | | | | |
| Subdivision: | TRACT/LOT: 4 | | | | | |
| 12 | | | 6 | 7S | 37E | BIG HORN |
| Period of Diversion: | JANUARY 1 TO DECEMBER 31 | | | | | |
| Diversion Means: | LIVESTOCK DIRECT FROM SOURCE | | | | | |
| Subdivision: | TRACT/LOT: 1 | | | | | |
| 13 | | N2 | 7 | 7S | 37E | 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 | | | S2 | 25 | 6S | 36E | BIG HORN |
| 2 | | | N2N2 | 36 | 6S | 36E | BIG HORN |
| 3 | | | S2NE | 36 | 6S | 36E | BIG HORN |
| 4 | | | SE | 36 | 6S | 36E | BIG HORN |
| 5 | | | SENE | 31 | 6S | 37E | BIG HORN |
| 6 | | | E2SW | 31 | 6S | 37E | BIG HORN |
| 7 | | | N2 | 1 | 7S | 36E | BIG HORN |
| 8 | | | N2S2 | 1 | 7S | 36E | BIG HORN |
| 9 | | | SESE | 1 | 7S | 36E | BIG HORN |
| 10 | | | E2NE | 12 | 7S | 36E | BIG HORN |
| 11 | | 4 | | 5 | 7S | 37E | BIG HORN |
| 12 | | 1 | | 6 | 7S | 37E | BIG HORN |
| 13 | | | N2 | 7 | 7S | 37E | BIG HORN |

Remarks:

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

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

Water Right Number: 43O 30145652 RESERVED CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: CARTER MIKLOVICH
PO BOX 152
LODGE GRASS, MT 59050-0152

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:** UNNAMED TRIBUTARY OF KID CREEK

Source Type: SURFACE WATER

THE SOURCE INCLUDES UNNAMED TRIBUTARIES OF KID CREEK.

***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 | | N2 | 25 | 7S | 37E | BIG HORN |

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

| | | | | | | |
|---|--|------|----|----|-----|----------|
| 2 | | S2S2 | 24 | 7S | 37E | 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 | | | N2 | 25 | 7S | 37E | BIG HORN |
| 2 | | | S2S2 | 24 | 7S | 37E | BIG HORN |

Remarks:

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

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

Water Right Number: 43O 30145655 RESERVED CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: CARTER MIKLOVICH
PO BOX 152
LODGE GRASS, MT 59050-0152

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: UNNAMED TRIBUTARY OF GREY BLANKET 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 | | S2N2 | 20 | 6S | 36E | BIG HORN |
| Period of Diversion: | JANUARY 1 TO DECEMBER 31 | | | | | |
| Diversion Means: | LIVESTOCK DIRECT FROM SOURCE | | | | | |
| 2 | | SW | 20 | 6S | 36E | BIG HORN |
| Period of Diversion: | JANUARY 1 TO DECEMBER 31 | | | | | |
| Diversion Means: | LIVESTOCK DIRECT FROM SOURCE | | | | | |
| 3 | | N2 | 22 | 6S | 36E | BIG HORN |
| Period of Diversion: | JANUARY 1 TO DECEMBER 31 | | | | | |
| Diversion Means: | LIVESTOCK DIRECT FROM SOURCE | | | | | |
| 4 | | NE | 24 | 6S | 36E | BIG HORN |
| Period of Diversion: | JANUARY 1 TO DECEMBER 31 | | | | | |
| Diversion Means: | LIVESTOCK DIRECT FROM SOURCE | | | | | |
| 5 | | NENW | 29 | 6S | 36E | BIG HORN |
| Period of Diversion: | JANUARY 1 TO DECEMBER 31 | | | | | |
| Diversion Means: | LIVESTOCK DIRECT FROM SOURCE | | | | | |
| 6 | | S2 | 19 | 6S | 37E | BIG HORN |

Period of Diversion:JANUARY 1 TO DECEMBER 31

Diversion Means:LIVESTOCK DIRECT FROM SOURCE

7

SW206S37EBIG 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 | | | S2N2 | 20 | 6S | 36E | BIG HORN |
| 2 | | | SW | 20 | 6S | 36E | BIG HORN |
| 3 | | | N2 | 22 | 6S | 36E | BIG HORN |
| 4 | | | NE | 24 | 6S | 36E | BIG HORN |
| 5 | | | NENW | 29 | 6S | 36E | BIG HORN |
| 6 | | | S2 | 19 | 6S | 37E | BIG HORN |
| 7 | | | SW | 20 | 6S | 37E | BIG HORN |

Remarks:

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

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

Water Right Number: 43O 30145658 RESERVED CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: CARTER MIKLOVICH
PO BOX 152
LODGE GRASS, MT 59050-0152

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: UNNAMED TRIBUTARY OF OWL 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 | | SWSW | 22 | 6S | 36E | 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 | | | SWSW | 22 | 6S | 36E | BIG HORN |

Remarks:

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