

Montana Water Court
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FILED
01/17/2025
Sara Calkins
CLERK
Montana Water Court
STATE OF MONTANA
By: D'Ann CIGLER
41K-0262-R-2024
White, Eugene
3.00

IN THE WATER COURT OF THE STATE OF MONTANA
UPPER MISSOURI DIVISION
SUN RIVER BASIN (41K)
PRELIMINARY DECREE

CLAIMANT: John Hancock Mutual Life Insurance Co.

CASE 41K-0262-R-2024

41K 192919-00

41K 192920-00

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

All water right claims that appeared in the Preliminary Decree for Sun River (Basin 41K) were subject to "issue remarks" resulting from pre-decree examination by the DNRC, objections, and counterobjections. Each of the above-captioned claims received an issue remark during the DNRC's review of the claims.

The claims were consolidated into Case 41K-0262-R-2024 and the Water Court issued an Order Setting Filing Deadline to resolve the issue remarks.

FINDINGS OF FACT

1. Each of the above-captioned claims received the following substantive issue remark:

FILING FEE INSUFFICIENT TO COVER CLAIM. TOTAL AMOUNT DUE \$40.00.

2. On July 31, 2024, the Court consolidated the claims and set a filing deadline for the Claimant to file a receipt or other proof of payment made to the DNRC. Nothing was filed by the initial filing deadline.

3. On October 7, 2024, the Court issued a second Order Setting Filing Deadline for the Claimant to provide proof of payment of the filing fees from the DNRC. Again, nothing was filed by the deadline. The Order Setting Filing Deadline included the following language:

Under Section 85-2-225, MCA, the filing fee for claims 41K 192919-00 and 41K 192920-00 must be paid. Failure to pay the filing fee or swear to the validity of the claims may subject the claims to dismissal.

PRINCIPLES OF LAW

1. Section 85-2-248(2), MCA, requires that the Water Court resolve all issue remarks that are not resolved through the objection process. *See also* Rule 7, W.R.Adj.R.

2. Under Section 85-2-225, MCA, the filing fee for water right claims must be paid. Failure to pay the filing fee or swear to the validity of the claim may subject the claim to dismissal.

3. The Water Court may use information submitted by the DNRC, the Statement of Claim, and any other data obtained by the Court to evaluate a water right. Sections 85-2-227, -231(2), MCA.

CONCLUSION OF LAW

1. Based on the failure to pay the filing fees, and lack of response to either filing deadline by the Claimant, claims 41K 192919-00 and 41K 192920-00 should be dismissed per Section 85-2-225, MCA.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, this Master recommends that the Court dismiss claims 41K 192919-00 and 41K 192920-00.

Post decree abstracts of the water right claims reflecting the recommended dismissal are attached to this Report.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

John Hancock Mutual Life Insurance Co.
200 Berkley St. #1
Boston, MA 02116

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
SUN RIVER
BASIN 41K

Water Right Number: 41K 192919-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: **DISMISSED**

Owners: JOHN HANCOCK MUTUAL LIFE INSURANCE CO
% ABIGAIL ARMSTRONG, VP & CHIEF COUNSEL DISTRIB.
601 CONGRESS ST (Z-11-192)
BOSTON, MA 02210

Priority Date:

Type of Historical Right:

Purpose (Use): DOMESTIC

Flow Rate:

Volume:

Source Name: GROUNDWATER

Source Type: GROUNDWATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

Remarks:

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
SUN RIVER
BASIN 41K

Water Right Number: 41K 192920-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: **DISMISSED**

Owners: JOHN HANCOCK MUTUAL LIFE INSURANCE CO
% ABIGAIL ARMSTRONG, VP & CHIEF COUNSEL DISTRIB.
601 CONGRESS ST (Z-11-192)
BOSTON, MA 02210

Priority Date:

Type of Historical Right:

Purpose (Use): DOMESTIC

Flow Rate:

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Source Name: GROUNDWATER

Source Type: GROUNDWATER

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Period of Use:

Place of Use:

Remarks:

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.