

Montana Water Court
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FILED
01/08/2025
Sara Calkins
CLERK
Montana Water Court
STATE OF MONTANA
By: D'Ann CIGLER
76N-0026-R-2024
Weisz, Madeleine
4.00

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

CLAIMANT: Clark Fork LLC

OBJECTOR: United States of America (USDA Forest
Service)

76N-0026-R-2024
76N 116348-00

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
FINDINGS OF FACT

1. Claim 76N 116348-00 appeared in the Basin 76N Preliminary Decree. It is a claim for industrial use owned by Clark Fork LLC. The claim received an objection from the United States Department of Agriculture Forest Service (the United States).
2. On December 10, 2024, the parties filed a Stipulation to resolve the objection.
3. In the Stipulation, the parties agree that the flow rate for claim 76N 116348-00 should be reduced from 2.5 cfs to 35 gpm.

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. 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. Rule 19, W.R.Adj.R.
2. The claimant of a water right claim may waive the advantage of § 85-2-227, MCA by requesting a reduction or limitation of an element of a water right claim. The water court may accept a claimant's requested reduction or limitation without further presentation of evidence unless there is an unresolved issue remark on the claim. Rule 17(c), W.R.Adj.R. The requested reduction to flow rate may be accepted without further presentation of evidence.
3. Settlement agreements are subject to review and approval of the Water Court. Rule 17(a), W.R.Adj.R. The settlement documentation in this Case should be accepted by the Court.

RECOMMENDATIONS

1. The flow rate for claim 76N 116348-00 should be reduced pursuant to the Stipulation filed in this case.

A Post Decree Abstracts of Water Right Claim us served with the Report to confirm that the recommended modifications have been made in the state's centralized record system.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

Clark Fork LLC
21 Dead End Road
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Thompson Falls, MT 59873

Service via Electronic Mail:

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Note: Service List Updated 12-19-2024

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

Water Right Number: 76N 116348-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: CLARK FORK LLC
PO BOX 1587
THOMPSON FALLS, MT 59873

Priority Date: OCTOBER 22, 1886

Type of Historical Right: FILED

Purpose (Use): INDUSTRIAL

Flow Rate: 35.00 GPM

Volume: 4.00 AC-FT

Source Name: SPRING, UNNAMED TRIBUTARY OF THOMPSON RIVER

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		SESESW	7	21N	28W	SANDERS

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: HEADGATE

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			NENENW	18	21N	28W	SANDERS