

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

CLAIMANTS: Renee E. Hofeldt; Scott L. Tuxbury

76N-0046-R-2024
76N 30109013

OBJECTOR: ~~United States of America (USDA Forest Service)~~

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 30109013 appeared in the Basin 76N Preliminary Decree issued September 21, 2023. It received an objection from the United States of America (USDA Forest Service)

2. On December 5, 2024, the United States withdrew its objection to claim 76N 30109013.

3. Claim 76N 30109013 received a DNRC notice issue remark stating:
THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 76N DECREE ISSUED 02/28/1984.

The issue remark has served its purpose of providing notice and should be removed from the claim.

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. No evidence was presented to overcome the prima facie status of the claims in this case.

2. All issue remarks to claims that are not resolved through the filing of an objection must be resolved pursuant to § 85-2-248, MCA. § 85-2-248(2), MCA. However, the requirement to resolve issue remarks does not eliminate the prima facie status granted to water rights, nor does it change the burden of proof required to modify or invalidate a claim. 43Q 200996-00 et al., Order Establishing Volume and Order Closing Case, at 18, June 8, 2015. The issue remark appearing on claim 76N 30109013 does not overcome the prima facie status of the claim and should be removed.

RECOMMENDATIONS

1. The issue remark should be removed from claim 76N 30109013.

A Post Decree Abstract of Water Right Claim is served with the Report to confirm that the issue remark has been removed.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via Electronic Mail:

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Note: Caption and Service List Updated 1-6-2025

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

Water Right Number: 76N 30109013 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: RENEE E HOFELDT
300 LITTLE BEAVER CREEK RD
TROUT CREEK, MT 59874

SCOTT L TUXBURY
300 LITTLE BEAVER CREEK RD
TROUT CREEK, MT 59874-9604

Priority Date: MAY 23, 1919

***Type of Historical Right:** USE

Purpose (Use): DOMESTIC

Flow Rate: 25.00 GPM

Volume: 3.50 AC-FT

Households: 1

Maximum Acres: 1.00

***Source Name:** SPRING, UNNAMED TRIBUTARY OF LITTLE BEAVER CREEK

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		NENESE	18	22N	30W	SANDERS

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DEVELOPED SPRING

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	1.00		N2SWSE	8	22N	30W	SANDERS

Total: 1.00