

Montana Water Court
PO Box 1389
Bozeman, MT 59771-1389
(406) 586-4364
1-800-624-3270
watercourt@mt.gov

FILED
05/20/2025
Sara Calkins
CLERK
Montana Water Court
STATE OF MONTANA
By: D'Ann CIGLER
43P-0009-I-2025
Nordlund, Julia
7.00

IN THE WATER COURT OF THE STATE OF MONTANA
YELLOWSTONE DIVISION
BIGHORN RIVER, BELOW GREYBULL RIVER (43P)

CLAIMANT: Montana State Board of Land Commissioners

OBJECTOR: Sunlight Ranch Co.

CASE 43P-0009-I-2025
43P 30112161

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

The claim in this case appeared in the 43P Interlocutory Decree with an issue remark and Objection from Sunlight Ranch Co. The claim was consolidated into case 43P-0009-I-2025.

FINDINGS OF FACT

1. On March 11, 2025, the Claimant Montana State Board of Land Commissioners and Objector filed a Stipulation resolving the Objection.¹
2. The Statement of Claim originally described claim 43P 30112161 as direct from source with the POD and POU as the E2SW Sec. 36, Twp. 2N, Rge. 35E and the as Parties agree the legal land description is incorrect and should be changed to **W2SW** Sec. 36, Twp. 2N, Rge. 35E.
3. The Claimant in this case is not an enrolled member of the Crow Tribe.
4. The places of use for these claims as amended above are not located within the exterior boundaries of the Crow Irrigation Project nor are they located on Trust or any other special status lands.
5. The claim is properly designated as a state based water right.
6. The parties stipulate these changes resolve all issue remarks and objections.

CONCLUSIONS OF LAW

1. Section 85-2-248(2), MCA requires the Water Court to resolve all issue remarks that are not resolved through the objection process. When resolving issue remarks, the Water Court must weigh the information resulting in the issue remark and the issue remark against the claimed water right. Section 85-2-247(2), MCA.
2. A properly filed Statement of Claim for Existing Water Right is prima facie proof of its content. 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 an element of the prima facie claim is incorrect. This is the burden of proof for every assertion that a claim is incorrect. Rule 19, W.R.Adj.R.
3. The degree or weight of evidence needed to contradict or overcome the prima facie proof statute is a preponderance of the evidence. *Burkhartsmeier et al. v. Burkhardtmeier et al.*, Case 40G-2, (MT Water Court Memorandum Opinion and Order Adopting Master's Report, Mar. 11, 1997). The Montana Supreme Court has defined preponderance as "a relatively modest standard that the statutory criteria are 'more

¹ The Stipulation and all other case documents are viewable in the Water Court's FullCourt Enterprise case management system.

probable than not' to have been met.” *Hohenlohe v. State*, 2010 MT 203 ¶ 33, 357 Mont. 438, 240 P.3d 628.

4. The Montana Water Court is permitted to use information submitted by the Department of Natural Resources and Conservation, the statement of claim, information from approved compacts, and any other data obtained by the Court to evaluate water right claims. Section 85-2-231(2), MCA.

5. The above changes resolve all issue remarks and objections.

RECOMMENDATIONS

Based upon the above Findings of Fact and Conclusions of Law, this Master recommends that the issue remarks be removed and the corrections described in the Findings of Fact be applied.

Post decree abstract of the water right claim is attached to confirm that the above corrections have been made in the state's water right record system.

ELECTRONICALLY SIGNED AND DATED BELOW.

SERVICE VIA ELECTRONIC MAIL

~~Aislinn Brown~~
~~Terisa Oomens~~
Agency Legal Services Bureau
~~aislinn.brown@mt.gov~~
~~BLCWaterCourt@mt.gov~~
terisa.oomens@mt.gov
kayla.churchill@mt.gov

Laurence R. Martin
Martin Smith
Felt Martin Frazier & Weldon PC
lmartin@feltmartinlaw.com
msmith@feltmartinlaw.com
jbarz@feltmartinlaw.com
lcornish@feltmartinlaw.com

Notice: Service List Updated 5.14.25

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
BIGHORN RIVER, BELOW GREYBULL RIVER
BASIN 43P

Water Right Number: 43P 30112161 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: MONTANA STATE BOARD OF LAND COMMISSIONERS
FORESTRY AND TRUST LANDS DIVISION
PO BOX 201601
HELENA, MT 59620-1601

Priority Date: JUNE 4, 1920

Type of Historical Right: USE

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 STOCK WATERING 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: TULLOCK 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		W2SW	36	2N	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			W2SW	36	2N	35E	BIG HORN