

Montana Water Court
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MONTANA WATER COURT
UPPER MISSOURI DIVISION
SUN RIVER
BASIN 41K
PRELIMINARY DECREE

* * * * *

CLAIMANTS: Linda J. Papagni; Nicholas A. Papagni; Tari F.
Mord; Front Range Wrestling Club; Mona J. Troy;
Timothy J. Troy; James P. Troy

NOTICE OF INTENT TO APPEAR: Tee Bar Ranch Co.

CASE 41K-0350-R-2023

41K 4885-00

41K 96362-00

41K 96600-00

41K 96601-00

41K 215755-00

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 have **13 days** from the service date of the notice of filing of this report to file a written objection or request an extension of the objection period. Rule 23, Water Right Adjudication Rules; Rule 6, Montana Rules of Civil Procedure. 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

Statement of the case

The United States, DOA Forest Service ("Forest Service") filed objections to claims 41K 96601-00 and 41K 215755-00. On December 12, 2023, the Forest Service filed an unconditional withdrawal of objection for claim 41K 96601-00. On March 24, 2026, the Forest Service filed an unconditional withdrawal of objection for claim 41K 215755-00. On May 19, 2026, the court dismissed the Forest Service from the case. Tee Bar Ranch Co. ("Tee Bar") filed a notice of intent to appear for each claim in this case.

Each claim received issue remarks. Issue remarks result from Department of Natural Resources and Conservation ("DNRC") claims examination. Montana law requires the Water Court to resolve issue remarks. The claims received the following issue remarks:

41K 4885-00

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE FILED ON THE SAME FORMERLY DECREED WATER RIGHT. THE SUM OF THE CLAIMED FLOW RATES EXCEEDS THE 125 MINER'S INCHES DECREED IN CASE NO. 4742, LEWIS AND CLARK COUNTY. 41K 4885-00, 41K 96362-00, 41K 96600-00, 41K 96601-00, 41K 215755-00.

THE TIMELY FILED OBJECTION OF THE UNITED STATES OF AMERICA WAS AMENDED BY AGREEMENT OF THE PARTIES TO INCLUDE FLOW RATE. BECAUSE THIS ELEMENT WAS NOT INCLUDED ON THE OBJECTION LIST, ANY WATER USER WHOSE RIGHTS MAY BE ADVERSELY AFFECTED BY ENFORCEMENT OF THIS CHANGE MAY PETITION THE APPROPRIATE COURT FOR RELIEF OR MAY FILE AN OBJECTION AT THE PRELIMINARY DECREE.

MEANS OF DIVERSION WAS MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

IT APPEARS THAT INITIAL DIVERSION FROM ELK CREEK IS A HEADGATE IN THE NENWNW SEC 20 TWP 20N RGE 6W, WHERE EBERL DITCH HEADGATE SHOULD BE LOCATED BUT CANNOT BE CONFIRMED.

THE CLAIMED PRIORITY DATE MAY BE QUESTIONABLE. THE PRIORITY DATE ON THE SUBMITTED DECREE IS 04/01/1875.

41K 96362-00

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE FILED ON THE SAME FORMERLY DECREED WATER RIGHT. THE SUM OF THE CLAIMED FLOW RATES EXCEEDS THE 125 MINER'S INCHES DECREED IN CASE NO. 4742, LEWIS AND CLARK COUNTY. 41K 4885-00, 41K 96362-00, 41K

96600-00, 41K 96601-00, 41K 215755-00.

THE TIMELY FILED OBJECTION WAS AMENDED BY THE OBJECTORS TO INCLUDE SOURCE. BECAUSE THIS ELEMENT WAS NOT INCLUDED ON THE OBJECTION LIST, ANY WATER USER WHOSE RIGHTS MAY BE ADVERSELY AFFECTED BY ENFORCEMENT OF THIS CHANGE MAY PETITION THE APPROPRIATE COURT FOR RELIEF OR MAY FILE AN OBJECTION AT THE PRELIMINARY DECREE.

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT WERE FILED BY DIFFERENT PARTIES WHO CLAIM OVERLAPPING PLACES OF USE. 41K 131425-00, 41K 131426-00, 41K 131427-00, 41K 131428-00, 41K 096362-00.

THE CLAIMED POINT OF DIVERSION IS IN QUESTION. THE LOCATION OF THE CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

IT APPEARS THAT INITIAL DIVERSION FROM ELK CREEK IS A HEADGATE IN THE NENWNW SEC 20 TWP 20N RGE 6W, WHERE EBERL DITCH HEADGATE SHOULD BE LOCATED BUT CANNOT BE CONFIRMED.

THE CLAIMED PRIORITY DATE MAY BE QUESTIONABLE. THE PRIORITY DATE ON THE SUBMITTED DECREE IS 04/01/1874.

41K 96600-00

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE FILED ON THE SAME FORMERLY DECREED WATER RIGHT. THE SUM OF THE CLAIMED FLOW RATES EXCEEDS THE 125 MINER'S INCHES DECREED IN CASE NO. 4742, LEWIS AND CLARK COUNTY. 41K 4885-00, 41K 96362-00, 41K 96600-00, 41K 96601-00, 41K 215755-00.

THIS CLAIM WAS USED HISTORICALLY, PRIOR TO 1964, TO IRRIGATE APPROXIMATELY 36.00 ACRES.

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT WERE FILED BY DIFFERENT PARTIES WHO CLAIM OVERLAPPING PLACES OF USE. 41K 096597-00, 41K 096599-00, 41K 096600-00, 41K 038466-00.

THE POINT OF DIVERSION APPEARS TO BE INCORRECT. THE POINT OF DIVERSION APPEARS TO BE IN THE NESESW SEC 17 TWP 20N RGE 6W LEWIS AND CLARK COUNTY.

DITCH NAME WAS MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

41K 96601-00

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE FILED ON THE SAME FORMERLY DECREED WATER RIGHT. THE SUM OF THE CLAIMED FLOW RATES EXCEEDS THE 125 MINER'S INCHES DECREED IN CASE NO. 4742, LEWIS AND CLARK COUNTY. 41K 4885-00, 41K 96600-00, 41K 215755-00, 41K 96362-00, 41K 96601-00.

THE CLAIMED POINT OF DIVERSION IS IN QUESTION. THE LOCATION OF THE HEADGATE CANNOT

BE IDENTIFIED FROM AVAILABLE DATA.

THE CLAIMED PRIORITY DATE MAY BE QUESTIONABLE. THE PRIORITY DATE ON THE SUBMITTED DECREE IS 04/01/1875.

41K 215755-00

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE FILED ON THE SAME FORMERLY DECREED WATER RIGHT. THE SUM OF THE CLAIMED FLOW RATES EXCEEDS THE 125 MINER'S INCHES DECREED IN CASE NO. 4742, LEWIS AND CLARK COUNTY. 41K 4885-00, 41K 96362-00, 41K 96600-00, 41K 96601-00, 41K 215755-00.

FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE. THE CLAIMED FLOW RATE EXCEEDS THE 17 GPM PER ACRE GUIDELINE AND CANNOT BE CONFIRMED DUE TO LACK OF DATA. THE FLOW RATE EQUALS 27.00 GPM PER ACRE.

CLAIM WAS NOT INCLUDED IN THE BASIN 41K TEMPORARY PRELIMINARY DECREE ISSUED 05/14/1985. CLAIM FILED LATE 07/01/1996. IN ADDITION TO BEING SUBORDINATE TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW, THIS RIGHT MAY ALSO BE SUBORDINATE TO CERTAIN PERMITS AND RESERVATIONS OF WATER. SEE SECTION 85-2-221 MCA.

THE LEWIS AND CLARK COUNTY WATER RESOURCES SURVEY (1957) APPEARS TO INDICATE 18.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

THE CLAIMED POINT OF DIVERSION IS IN QUESTION. THE LOCATION OF THE HEADGATE CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

On November 13, 2024, Tee Bar Ranch Co. filed a Motion to Resolve Issue Remarks and Objections. No parties filed a response to Tee Bar Ranch Co.'s Motion. Tee Bar's Motion and its attachments may be viewed on the court's case management system, FullCourt Enterprise, at document sequence 13.00.

The modifications proposed by Tee Bar's Motion did not resolve all issue remarks appearing on the claims. Montana law requires the Water Court to resolve issue remarks. An order set a filing deadline for claimants James P. Troy, Mona J. Troy, and Timothy J. Troy to provide evidence resolving the issue remarks. None of the Troys filed evidence by the deadline. The court then issued orders for Troys to file evidence showing cause why claims 41K 96601-00 and 41K 215755-00 should not be dismissed. The Troys failed to comply with the show cause filing deadline. The order included language that the failure to comply with the order would result in the dismissal of claims 41K 96601-00 and 41K 215755-00.

Issues

1. Is the decree exceeded issue remark resolved?
2. Are the priority date issue remarks on claims 41K 4885-00 and 41K 96362-00 resolved?
3. Are the point of diversion issue remarks resolved?
4. Are the overlapping place of use issue remarks on claims 41K 96362-00 and 41K 96600-00 resolved?
5. Are the notice issue remarks resolved?
6. Are Tee Bar's notices of intent to appear resolved?

Findings of fact

1. Irrigation claims 41K 96601-00 and 41K 215755-00 should be dismissed.
2. The type of historical right for irrigation claim 41K 96362-00 should be corrected from "Decreed" to "Use."
3. The priority date for irrigation claim 41K 4885-00 should be corrected from April 1, 1874 to April 1, 1875.
4. The elements of irrigation claim 41K 96600-00 do not require modification.

Principles of law

1. 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. A preponderance of the evidence is a "modest standard" and is evidence that demonstrates the fact to be proved is "more probable than not." *Hohenlohe v. State*, 2010 MT 203, ¶ 33, 357 Mont. 348, 240 P.3d 628.

2. 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.

3. Settlement, including the documents filed by a claimant where the claimant is the only party, is subject to review and approval by the Water Court. Rule 17(a), W.R.Adj.R.

4. When resolving issue remarks, the Montana 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.

5. The Montana Water Court has the authority to resolve issue remarks when the claim file and information available to the Court provide a sufficient basis to do so. Section 85-2-248(3), MCA.

6. All parties subject to the jurisdiction of the Montana Water Court in this adjudication have the obligation to comply with Orders of this Court, including Orders issued by a Master appointed by the Court. If a claimant fails to comply with an Order issued by the Court in its review of issue remarks, the Court may terminate the claim to conform with information found in the claim file. Section 85-2-248(9)(d), MCA.

7. A clerical mistake or mistake arising from omission or oversight may be corrected by the court at any time. Rule 60(a), M.R.Civ.P.

8. Late claim fees may be waived by the court. Rule 30, W.R.Adj.R.

Analysis

Issues 1 and 2 – decree exceeded issue remark resolution and priority date issue remark resolution, claims 41K 4885-00 and 41K 96362-00

The irrigation claims in this case identified an April 1, 1875, 3.125 CFS (125.00 MI) water right decreed to Axel Swanson for the South Fork of the Sun River in Cause No. 4742, *McIver v. Campbell*, Eighth Judicial District, Cascade County (“Cause No. 4742”), as their historical basis, resulting in the DNRC’s identification of a decree exceeded between the claims.

Tee Bar's Motion explains irrigation claim 41K 4885-00 was in previous Water Court proceedings. (Case 41K-24, Master's Report Sep. 1, 1994, adopted Sep. 22, 1994.) During these previous proceedings, the court accepted a settlement agreement that modified the historical basis of the claim to the April 1, 1875 right decreed to Axel Swanson by Cause No. 4742. The stipulation mistakenly identified the priority date as April 1, 1874, as noted by the issue remark appearing on the claim. This clerical error should be corrected. The priority date should be corrected to April 1, **1875**.

Tee Bar's Motion explains irrigation claim 41K 96362-00 was in previous Water Court proceedings. (Case 41K-239, Master's Report Jan. 15, 1998, adopted May 26, 1998.) During these previous proceedings, the court accepted a settlement agreement that modified the historical basis of claim 41K 96362-00 to an April 1, 1965 "Use" right. However, the "Abstract of Water Right Claim as Modified by the Water Court" after proceedings in Case 41K-239 continued to identify the claim as a "Decreed" right. This clerical error should be corrected. The type of historical right should be corrected to "Use."

Mona J. Troy's and Timothy J. Troy's failure to provide any evidence establishing the historical point of diversion for claim 41K 96601-00 coupled with their failure to comply with the order to respond or provide evidence, brings into question the validity of the claim and indicates that claim 41K 96601-00 should be dismissed.

James P. Troy's failure to provide any evidence establishing the historical basis and beneficial use of claim 41K 215755-00 coupled with Mr. Troy's failure to comply with the orders to respond or provide evidence, indicates that claim 41K 215755-00 should be dismissed.

Conclusions of law

Based upon previous court proceedings, the priority date identified by claim 41K 4885-00 should be modified as indicated by the priority date issue remark appearing on the claim, thereby resolving the priority date issue remark appearing on the claim.

Based upon previous court proceedings, DNRC added the priority date and the decree exceeded issue remarks to claim 41K 96362-00 in error.

Based upon the issue remarks on claims 41K 96601-00 and 41K 215755-00, the DNRC claim examination worksheets in the claim files, and the failure of Mona J. Troy, Timothy J. Troy, and James P. Troy to comply with orders issued by the court, irrigation claims 41K 96601-00 and 41K 215755-00 should be dismissed. Dismissal of claims 41K 96601-00 and 41K 215755-00 moots the issue remarks appearing on the claims.

The dismissal of claim 41K 96601-00 and 41K 215755-00 and the modified priority date and type of historical right for claim 41K 96362-00 resolve the decree exceeded issue remark on claims 41K 4885-00 and 41K 96600-00. There is no longer an overfiling of the April 1, 1875, 3.125 CFS (125.00 MI) water right decreed to Axel Swanson by Cause No. 4742.

Issue 3 - point of diversion issue remark resolution, claims 41K 4885-00, 41K 96362-00, and 41K 96600-00

Tee Bar's Motion explains that previous proceedings in Case 41K-24 confirmed that the point of diversion identified by the prima facie statement of claim 41K 4885-00, the SWSWNE of Section 17, Township 20 North, Range 6 West, Lewis & Clark County, is the historically accurate point of diversion for the claim. Sworn testimony provided by Victor Krueger (claim 41K 93632-00), Kathleen Troy (claim 41K 96600-00), and James P. Troy (claim 41K 215755-00) established the point of diversion identified by the issue remark washed out in 1964. (Motion, Exs. L, M, and N respectively) The historically accurate point of diversion for the claim after 1964 became the point of diversion in the SWSWNE of Section 17, Township 20 North, Range 6 West, Lewis & Clark County. Based upon the previous court proceedings, DNRC added the point of diversion issue remark to claim 41K 4885-00 in error.

Tee Bar's Motion explains that previous proceedings in Case 41K-239 found that the historically accurate point of diversion for claim 41K 96362-00 is in the SENWSW of Section 17, Township 20 North, Range 6 West, Lewis & Clark County. Sworn testimony provided by Victor Krueger (claim 41K 93632-00), Kathleen Troy (claim 41K 96600-00), and James P. Troy (claim 41K 215755-00) established the point of diversion

identified by the issue remark washed out in 1964. (Motion, Exs. L, M, and N respectively) Case 41K-239 held that the historically accurate point of diversion for the claim after 1964 became the point of diversion in the SENWSW of Section 17, Township 20 North, Range 6 West, Lewis & Clark County. Based upon the previous court proceedings in Case 41K-239, DNRC added the point of diversion issue remarks to claim 41K 96362-00 in error.

Tee Bar's Motion explains that previous proceedings in Case 41K-14 resolved a point of diversion issue remark, finding that the historically accurate point of diversion for claim 41K 96600-00 is in the SESW of Section 17, Township 20 North, Range 6 West, Lewis & Clark County. Sworn testimony provided by Victor Krueger (claim 41K 93632-00), Kathleen Troy (claim 41K 96600-00), and James P. Troy (claim 41K 215755-00) established the point of diversion identified by the previous issue remark washed out in 1964. (Motion, Exs. L, M, and N respectively) The historically accurate point of diversion for the claim after 1964 became the point of diversion in the SESW of Section 17, Township 20 North, Range 6 West, Lewis & Clark County. Based upon the previous court proceedings, the Water Court already resolved the question of the location of the historical point of diversion for claim 41K 96600-00.

Conclusions of law

Based upon previous court proceedings, DNRC added the point of diversion issue remarks to claims 41K 4885-00 and 41K 96362-00 in error.

The point of diversion issue remark appearing on claim 41K 96600-00 is resolved by previous court proceedings.

Issue 4 – overlapping place of use issue remark resolution, claims 41K 96362-00 and 41K 96600-00

The court removed the overlapping place of use issue remark on all claims appearing in the remark except claim 41K 96362-00. (See Closing Order, Case 41K-0057-R-2023 and Oct. 11, 2023 Master's Report Case 41K-0622-R-2023, Adopted Oct.

30, 2023.) Based upon the previous court proceedings, the overlapping place of use issue remark appearing on claim 41K 96362-00 no longer raises an issue requiring resolution.

The court removed the overlapping place of use issue remark on all claims appearing in the remark except claim 41K 96600-00. (*See* Closing Order, Case 41K-0558-R-2023 and Jan. 23, 2024 Master's Report Case 41K-0440-R-2024, Adopted Jan. 26, 2024.) Based upon the previous court proceedings, the overlapping place of use issue remark appearing on claim 41K 96600-00 no longer raises an issue requiring resolution.

Conclusion of law

Previous court proceedings resolved the overlapping place of use issue remark on claims 41K 96362-00 and 41K 96600-00.

Issue 5 – notice issue remark resolution, claims 41K 4885-00, 41K 96362-00, and 41K 96600-00

Claims 41K 4885-00 and 41K 96600-00 received a version of the following issue remark:

XXXX WAS MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

Claims 41K 4885-00 and 41K 96362-00 appeared with a version of the following issue remark:

THE TIMELY FILED OBJECTION OF THE UNITED STATES OF AMERICA WAS AMENDED BY AGREEMENT OF THE PARTIES TO INCLUDE XXXX. BECAUSE THIS ELEMENT WAS NOT INCLUDED ON THE OBJECTION LIST, ANY WATER USER WHOSE RIGHTS MAY BE ADVERSELY AFFECTED BY ENFORCEMENT OF THIS CHANGE MAY PETITION THE APPROPRIATE COURT FOR RELIEF OR MAY FILE AN OBJECTION AT THE PRELIMINARY DECREE.

Water users were given the opportunity to review the claims and file an objection. The objection deadline passed. No objections were filed to these claims.

Conclusion of law

The above noted issue remarks on claims 41K 4885-00, 41K 96362-00, and 41K 96600-00 served their notice purpose.

Issue 6 – notice of intent to appear resolution

DNRC incorrectly coded a stipulated information remark concerning the place of use as an issue remark on claim 41K 96600-00. (Case 41K-24) The previously stipulated remark reading, “This claim was used historically, prior to 1964, to irrigate approximately 36.00 acres.” should appear as an information remark under the place of use element on the abstract. DNRC incorrectly coded this information remark as an issue remark. This clerical error should be corrected.

Conclusion of law

Correcting the remark code for the above identified remark moves the remark to a place of use information remark. There is no issue for the court to resolve.

The requested modifications and corrections to the claims, and the resolution of the issue remarks appearing on each claim resolves the concerns of notice of intent to appear party, Tee Bar.

Recommendations

Irrigation claim 41K 4885-00 should be modified as follows to accurately reflect historical use.

<u>PRIORITY DATE:</u>	APRIL 1, 1874	APRIL 1, 1875
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Irrigation claim 41K 92362-00 should be modified as follows to accurately reflect historical use.

<u>TYPE OF HISTORICAL RIGHT:</u>	DECREED	USE
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Irrigation claim 41K 96600-00 accurately reflects historical use. No changes to the elements of the claim should be made. The following issue remark should be modified to a place of use information remark.

THIS CLAIM WAS HISOTRICALLY USED, PRIOR TO 1964, TO IRRIGATE APPROXIMATELY 36.00 ACRES.

Irrigation claims 41K 96601-00 and 41K 215755-00 should be dismissed. Dismissal of the claims moots the issue remarks on the claims.

The issue remarks should be removed from the abstracts of claims 41K 4885-00,

41K 96362-00, and 41K 96600-00.

The late claim fee assessment for irrigation claim 41K 215755-00 should be waived as authorized by Rule 30, W.R.Adj.R.

Post Decree Abstracts of Water Right Claim accompany this report to confirm implementation of the recommendations in the state's centralized water right record system.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service Via USPS Mail:

Linda J. Papagni
~~1373 Jewell Ave~~
~~Carson City, NV 89701~~
(Return mail received)

Nicholas A. Papagni
PO Box 342
Augusta, MT 59410

Tari F. Mord
PO Box 267
Havre, MT 59501

Front Range Wrestling Club
PO Box 686
Augusta, MT 59410

Mona J. Troy
44 Manix St
Augusta, MT 59410

Timothy J. Troy
PO Box 177
Augusta, MT 59410

James P. Troy
PO Box 241
Augusta, MT 59410

Service Via Electronic Mail:

William Driscoll
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Franz & Driscoll, PLLP
WPD@franzdriscoll.com
Office@franzdriscoll.com
Ryan@franzdriscoll.com:
(Atty for: Tee Bar Ranch Co.)

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

Water Right Number: 41K 4885-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: LINDA J PAPAGNI
1373 JEWELL AVE
CARSON CITY, NV 89701

NICHOLAS A PAPAGNI
PO BOX 342
AUGUSTA, MT 59410

Priority Date: APRIL 1, 1875

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

***Flow Rate:** 224.00 GPM

***Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 2.00

Source Name: ELK 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		SWSWNE	17	20N	6W	LEWIS AND CLARK

Period of Diversion: APRIL 15 TO OCTOBER 15

Diversion Means: PUMP

Period of Use: APRIL 15 TO OCTOBER 15

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	2.00		SWSWNE	17	20N	6W	LEWIS AND CLARK

Total: 2.00

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

Water Right Number: 41K 96362-00 STATEMENT OF CLAIM
Version: 4 -- POST DECREE
Status: ACTIVE

Owners: FRONT RANGE WRESTLING CLUB
PO BOX 686
AUGUSTA, MT 59410-0686

***Priority Date:** APRIL 1, 1965

Type of Historical Right: USE

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 269.30 GPM

***Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 9.00

***Source Name:** UNNAMED TRIBUTARY OF ELK 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		SENWSW	17	20N	6W	LEWIS AND CLARK

Period of Diversion: MAY 1 TO OCTOBER 1

Diversion Means: HEADGATE

Period of Use: MAY 1 TO OCTOBER 1

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	8.00		SWSNW	17	20N	6W	LEWIS AND CLARK
2	1.00		SESWNW	17	20N	6W	LEWIS AND CLARK

Total: 9.00

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

Water Right Number: 41K 96600-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: TARI F MORD
PO BOX 267
HAVRE, MT 59501-0267

Priority Date: APRIL 1, 1875

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 1.00 CFS

***Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 4 - MODERATELY LOW

***Maximum Acres:** 305.00

***Source Name:** ELK CREEK

Source Type: SURFACE WATER
ALSO KNOWN AS SUN RIVER, SOUTH FORK.

***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		SESW	17	20N	6W	LEWIS AND CLARK

Period of Diversion: MARCH 1 TO DECEMBER 1

Diversion Means: HEADGATE

Ditch Name: BERUBE-EBERL-TRAUTMAN DITCH

Period of Use: MARCH 1 TO DECEMBER 1

***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	250.00		N2	9	20N	6W	LEWIS AND CLARK
2	45.00		N2SW	9	20N	6W	LEWIS AND CLARK
3	10.00		S2SESE	4	20N	6W	LEWIS AND CLARK

Total: 305.00

THIS CLAIM WAS USED HISTORICALLY, PRIOR TO 1964, TO IRRIGATE APPROXIMATELY 36.00 ACRES.

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

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

Water Right Number: 41K 96601-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: DISMISSED

Owners: MONA J TROY
44 MANIX ST
AUGUSTA, MT 59410-3065

TIMOTHY J TROY
PO BOX 177
AUGUSTA, MT 59410

***Priority Date:**

Type of Historical Right:

Purpose (Use): IRRIGATION

Flow Rate:

Volume:

Source Name: ELK CREEK

Source Type: SURFACE WATER

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 215755-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: DISMISSED

Late Claim: B

Owners: JAMES P TROY
PO BOX 241
AUGUSTA, MT 59410-0241

Priority Date:

Enforceable Priority Date:

Type of Historical Right:

Purpose (Use): IRRIGATION

Flow Rate:

Volume:

Source Name: ELK CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

Remarks:

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.