

MONTANA WATER COURT
CLARK FORK DIVISION
FLATHEAD RIVER, MIDDLE FORK
(BASIN 76I)
PRELIMINARY DECREE

CLAIMANTS: Davy T. Hoag; Jonna M. Hoag; Anne H. Wheeler

CASE 76I-0012-R-2026

76I 124176-00

76I 124177-00

OBJECTOR: Davy T. Hoag

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

The above-captioned claims appeared in the Preliminary Decree for the Middle Fork of the Flathead River (Basin 76I) issued on December 6, 2024. Claim 76I 124177-00 received an objection from Davy T. Hoag, and both claims received issue remarks. Issue remarks are notations identifying potential legal or factual issues with water rights, and the Water Court is required to resolve these potential issues.

FINDINGS OF FACT

1. The record owners of claim 76I 124176-00 are Davy T. Hoag, Jonna M. Hoag, and Anne H. Wheeler (collectively “Claimants”), and the record owners of claim 76I 124177-00 are Davy T. Hoag and Jonna M. Hoag.

2. Claims 76I 124176-00 and 76I 124177-00 received the following issue remark from the Montana Department of Natural Resources and Conservation:

ALTHOUGH NOT OBJECTED TO, THE PLACE OF USE WAS CHANGED
TO REFLECT THE REDUCTION IN MAXIMUM ACRES IRRIGATED.

This issue remark served its notice purpose and does not require additional review by the Water Court.

3. Davy T. Hoag’s objection stated that the

Source name should be McDonald Lake not McDonald Creek. This water right is for Tract 1B+ (see attached map) in Lot 3 of Sec 11 Twp 33N Rge 18W which borders the shore of Lake McDonald and is ½ mile from McDonald Creek. In the past water was pumped out of the Lake to water the yard.

4. The Statement of Claim identifies Lake McDonald as the source for claim 76I 124177-00. Based on the information in the claim file, it appears the source name was erroneously modified to “McDonald Creek” and that the correct source name is “Lake McDonald.”

4. On May 13, 2026, the court ordered the claimants to file a statement indicating whether they agree or disagree with modifying the source name for claim 76I 124177-00 from “McDonald Creek” to “Lake McDonald.” The order stated that if nothing is filed by the deadline, the court will conclude that the claimants agreed with the proposed source name modification.

5. Nothing was filed by the deadline.

PRINCIPLES AND CONCLUSIONS OF LAW

1. “A properly filed Statement of Claim for an existing water right is prima facie proof of its content.” Mont. Code Ann. § 85-2-227. This prima facie proof may be overcome by other evidence that proves, by a preponderance of the evidence, that one or more elements of the claim are incorrect; this standard of proof applies to both objectors

and claimants objecting to their own claims. Rule 19, W.R.Adj.R.; *Nelson v. Brooks*, 2014 MT 120, ¶ 34, 375 Mont. 86, 329 P.3d 558.

2. Information in the claim file indicates that McDonald Lake is the correct source name for claim 76I 124177-00.

3. The Water Court must address all issue remarks decreed on a claim. § 85-2-248, MCA.

4. The issue remark on claims 76I 124176-00 and 76I 124177-00 served its notice purpose and does not require additional review by the Water Court.

RECOMMENDATIONS

1. The source name for claim 76I 124177-00 should be corrected to “McDonald Lake.”

2. The issue remarks should be removed from claims 76I 124176-00 and 76I 124177-00.

Post Decree Abstracts of Water Right Claim reflecting these recommendations are served with the Report.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service Via USPS Mail

Davy T. Hoag
85 W View Dr
Kalispell, MT 59901-3365

Jonna M. Hoag
150 Liahona Ln
Kalispell, MT 59901-7618

Anne H. Wheeler
PO Box 147
West Glacier, MT 59936-0147

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
FLATHEAD RIVER, MIDDLE FORK
BASIN 76I**

Water Right Number: 76I 124176-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: DAVY T HOAG
85 W VIEW DR
KALISPELL, MT 59901-3365

JONNA M HOAG
150 LIAHONA LN
KALISPELL, MT 59901-7618

ANNE H WHEELER
PO BOX 147
WEST GLACIER, MT 59936-0147

Priority Date: JUNE 30, 1940

Type of Historical Right: USE

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER

***Flow Rate:** 25.50 GPM

THE FLOW RATE OF THIS CLAIM HAS BEEN REDUCED TO 17 GPM PER ACRE. THE FLOW RATE MAY BE CONTESTED BY PROPER OBJECTION.

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

Climatic Area: 5 - LOW

***Maximum Acres:** 1.50

***Source Name:** MCDONALD LAKE

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	3	SWSWNE	11	33N	18W	FLATHEAD

Period of Diversion: JUNE 1 TO OCTOBER 15

Diversion Means: PUMP

Period of Use: JUNE 1 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	1.50	3	SWNE	11	33N	18W	FLATHEAD

Total: 1.50

POST DECREE
 ABSTRACT OF WATER RIGHT CLAIM
 FLATHEAD RIVER, MIDDLE FORK
 BASIN 76I

Water Right Number: 76I 124177-00 STATEMENT OF CLAIM
 Version: 3 -- POST DECREE
 Status: ACTIVE

Owners: DAVY T HOAG
 85 W VIEW DR
 KALISPELL, MT 59901-3365
 JONNA M HOAG
 150 LIAHONA LN
 KALISPELL, MT 59901-7618

Priority Date: JUNE 5, 1946

Type of Historical Right: USE

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER

*Flow Rate: 25.50 GPM
 THE FLOW RATE OF THIS CLAIM HAS BEEN REDUCED TO 17 GPM PER ACRE. THE FLOW RATE MAY BE CONTESTED BY PROPER OBJECTION.

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

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 Period of Diversion: JUNE 1 TO OCTOBER 15
 Diversion Means: PUMP
 Period of Use: JUNE 1 TO OCTOBER 15

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<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	1.50	3	SWNE	11	33N	18W	FLATHEAD
Total:		1.50					