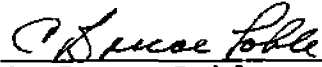




Fork River Between the Blackfoot River and Flathead River Basin  
(76M).

DATED this *6<sup>th</sup>* day of *MARCH*, 1992.

  
\_\_\_\_\_  
C. Bruce Loble  
Chief Water Judge

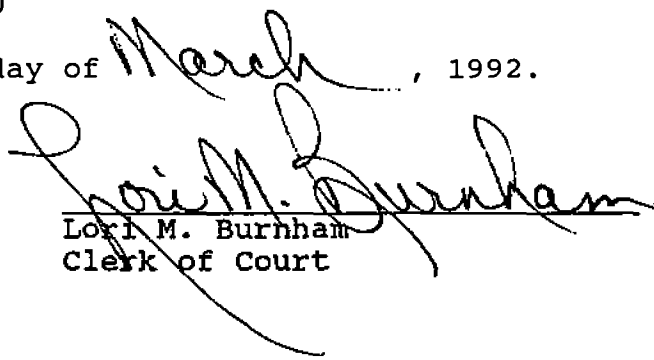
CERTIFICATE OF SERVICE

I, Lori M. Burnham, Clerk of Court of the Montana Water Court, hereby certify that a true and correct copy of the above ORDER ADOPTING MASTER'S REPORT was duly served upon the persons listed below by depositing the same, postage prepaid, in the United States mail.

Kenneth C. Peters  
P. O. Box 446  
Superior, MT 59872

Tim D. Hall, Attorney  
Dept. of Natural Resources  
1520 East Sixth  
Helena, MT 59620

DATED this *6<sup>th</sup>* day of *March*, 1992.

  
\_\_\_\_\_  
Lori M. Burnham  
Clerk of Court

IN THE WATER COURT OF THE STATE OF MONTANA

\* \* \* \* \*

**FILED**

NOTICE OF FILING OF MASTER'S REPORT

FEB 11 1992

TO: ALL PARTIES

**Montana Water Court**

RE: Case 76M-81

This is to provide you with Notice that the Water Master has filed a Master's Report (Findings of Fact and Conclusions of Law) with the Clerk of the Water Court for the water right(s) listed above. A copy of the Master's Report is enclosed with this Notice.

Please review this Master's Report carefully. If there are any corrections or changes that need to be made, you have 10 days from service of this Notice to file a written objection. You must mail a copy of your written objection to all the other parties who have been involved in this proceeding and file a certificate of such mailing with the Water Court. (This procedure is required by Rule 1.II. Water Right Claims Examination Rules and by Rules 5 and 53 of the Montana Rules of Civil Procedure.)

DATED this 11th day of February, 1992.

LORI M. BURNHAM  
Clerk of Court  
Montana Water Court  
P. O. Box 879  
Bozeman, MT 59771-0879  
(406) 586-4364  
1-800-624-3270 (in Montana)

IN THE WATER COURT OF THE STATE OF MONTANA  
 CLARK FORK DIVISION - CLARK FORK RIVER BETWEEN THE  
 BLACKFOOT RIVER AND FLATHEAD RIVER BASIN (76M)  
 \* \* \* \* \*

IN THE MATTER OF THE ADJUDICATION ) Case No. 76M-81  
 OF THE EXISTING RIGHTS TO THE USE )  
 OF ALL THE WATER, BOTH SURFACE AND ) 76M-W-131062-00  
 UNDERGROUND, WITHIN THE CLARK FORK )  
 RIVER BETWEEN THE BLACKFOOT RIVER )  
 AND FLATHEAD RIVER DRAINAGE AREA, )  
 INCLUDING ALL TRIBUTARIES OF THE )  
 CLARK FORK RIVER BETWEEN THE BLACKFOOT )  
 RIVER AND FLATHEAD RIVER IN )  
 LAKE, MINERAL, MISSOULA AND SANDERS )  
 COUNTIES, MONTANA. )

**FILED**

FEB 11 1992

CLAIMANT: Kenneth C. Peters

**Montana Water Court**

ON MOTION OF THE WATER COURT

OBJECTOR: Montana Dept. of Natural Resources & Conservation

MASTER'S REPORT

STATEMENT OF CASE

The Montana Department of Natural Resources and Conservation ("Department") objected to the acres irrigated, volume and flow rate of this Kenneth C. Peters irrigation claims

This claim was called in On Motion of the Water Court due to the gray area remark concerning acres irrigated, volume and flow rate.

On March 17, 1986 Kenneth C. Peters was sent the Order Setting First Prehearing Conference. This Order specified that the prehearing would be held by telephone conference call on April 18, 1986 at 8:00 AM. He also received a letter from Judge Lessley specifically requiring him to provide the telephone number to be used for the prehearing. The Order and letter were not returned as undeliverable. Mr. Peters did not send us a phone number. There

is no phone number on his original claim. There is no listing for him in Superior, Montana. Candace West, Attorney for the Department moved for a default for failure to appear.

On April 21, 1992 the Order Setting Hearing to Show Cause was sent to Kenneth C. Peters. It was not returned as undeliverable. On May 5, 1986 at 11:05 AM the Hearing to Show Cause why Kenneth C. Peters should not be held in default was held by telephone conference call. Kenneth C. Peters did not appear nor was he represented. By Order dated May 6, 1986 the Court granted the Motion for Default and stated that water right claim 76M-W-131062-00 shall be changed to conform to the objections filed by the Montana Department of Natural Resources and Conservation.

Upon review of the Department's objection and the Department's verification worksheets it appears that this water right has either been abandoned or was never perfected.

Therefore, claim 76M-W-131062-00 should be dismissed and should not appear in the Preliminary or Final Decree of the Clark Fork River Between the Blackfoot River and Flathead River Basin (76M).

DATED this 11 day of February, 1992.

  
\_\_\_\_\_  
Kathryn L. W. Lambert  
Water Master

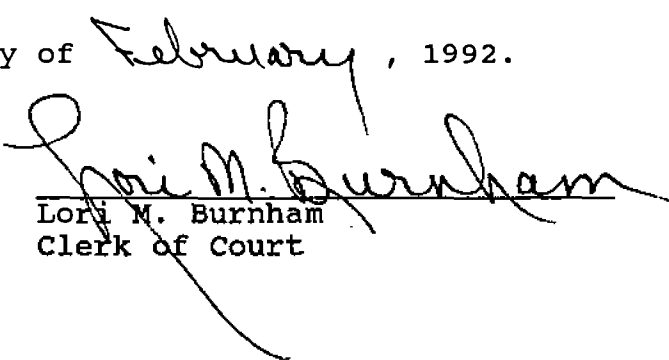
CERTIFICATE OF SERVICE

I, Lori M. Burnham, Clerk of Court of the Montana Water Court, hereby certify that a true and correct copy of the above MASTER'S REPORT was duly served upon the persons listed below by depositing the same, postage prepaid, in the United States mail.

Kenneth C. Peters  
P. O. Box 446  
Superior, MT 59872

Tim D. Hall, Attorney  
Dept. of Natural Resources  
1520 East Sixth  
Helena, MT 59620

DATED this 11 day of February, 1992.

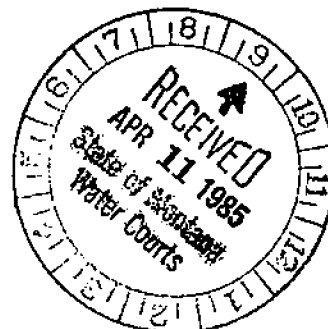
  
Lori M. Burnham  
Clerk of Court

IN THE WATER COURTS OF THE STATE OF MONTANA  
 CLARK FORK DIVISION - CLARK FORK RIVER BETWEEN THE  
 BLACKFOOT RIVER AND FLATHEAD RIVER BASIN

\*\*\*\*\*

IN THE MATTER OF THE ADJUDICATION )  
 OF THE EXISTING RIGHTS TO THE USE )  
 OF ALL THE WATER, BOTH SURFACE )  
 AND UNDERGROUND, WITHIN THE CLARK )  
 FORK RIVER BETWEEN THE BLACKFOOT )  
 RIVER AND FLATHEAD RIVER DRAINAGE )  
 AREA, INCLUDING ALL TRIBUTARIES OF )  
 THE CLARK FORK RIVER BETWEEN THE )  
 BLACKFOOT RIVER AND FLATHEAD RIVER )  
 IN LAKE, MINERAL, MISSOULA, AND )  
SANDERS COUNTIES, MONTANA. )

NOTICE OF OBJECTION AND  
 REQUEST FOR HEARING  
 BASIN 76M



1. Claim # W-131062
2. Source Thompson Creek; County Mineral
3. Type of Claim:  Irr  Dom  Stock  Other Uses
4. Name of Party to whom the water right was issued:  
Kenneth Peters
5. Objector's name, address and phone number:  
Department of Natural Resources & Conservation (DNRC)  
 Last Name                      First Name                      Middle Initial  
32 South Ewing  
 Street Address or Post Office Box  
Helena, Montana 59620  
 City                                      State                                      Zip Code  
406                                      444-6698  
 Area Code                      Phone Number
6. Name of objecting party's attorney and address, if any:  
West                                      Candace                                      F.  
 Last Name                      First Name                      Middle Initial  
32 South Ewing  
 Street Address or Post Office Box  
Helena, Montana 59620  
 City                                      State                                      Zip Code  
406                                      444-6698  
 Area Code                      Phone Number
7. Basis of Objection:  
 Ownership                       Place of Use                       Point of Diversion  
 Priority date                       Acres Irrigated                       Means of Diversion  
 Purpose of Right                       Source                       Volume or Flow Rate  
 Period of Use
8. Signature of Objector: Candace L. West Date 3/11/85
9. Attach on separate sheet of paper an explanation of the reason for your objection.
10. Send completed objection form to: Montana Water Courts  
 P.O. Box 879  
 Bozeman, MT 59715

*152*

ATTACHMENT TO NOTICE OF OBJECTION FORM (WCR6)

Claim No. W-131062

1. Findings and conclusions with which the DNRC disagrees:

Maximum Acres: 60

Place of Use:

20 Acres NWNW Sec 33 T17N R26W

40 Acres NENW Sec 33 T17NR26W

60 Acres total

Flow Rate: 1.00 CFS

Volume: 180 Ac-Ft/year

(b) Page No. 1667, Paragraph No. 4,5,7,11 of Preliminary Decree.

2. Department contends these findings should be:

Maximum Acres: 0

Place of Use: 0

Flow Rate: 0

Volume: 0

3. Specific grounds and evidence upon which DNRC's objection is based:

Analysis of USDA Aerial Photo No. 979-115, dated 9/22/79, indicates 0 acres of irrigation.

4. Standing to object:

The DNRC's standing to object to the above-identified (Temporary) Preliminary Decree is granted under Section 85-2-233, MCA, and the DNRC's responsibility under the Water Use Act.



DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

05/03/83

ABSTRACT OF CLAIM FOR EXISTING WATER RIGHTS

CLAIM ID 76M -W-131062-00 PRIORITY DATE: \* 13:30 08/10/1914<sup>31</sup> TYPE OF RIGHT: DECREED CLAIM RECEIVED: 03/18/82 FEE PAID:

TYPE CODE: S MAX RATE: 1.00 C ( 40.00 MI) MAX VOLUME: 180.00 AF/YEAR MAX ACRES:

OWNERS: (M) I PETERS KENNETH C  
PO BOX 446  
SUPERIOR MT 59872

LOT BLK QTR SEC SEC TWP RGE CO

SOURCES: DV 01 THOMPSON CREEK SESENE 32 17N 26W MI MEANS DIVRS-HG

USE: IR 01 60.00 ACRES PERIOD OF USE 000199991000 TYPE IRR E CLIMATIC AREA 3

PARCELS:	ACRES	VER.	ACRES	WRS	1969	19	LOT BLK	QTR	SEC	SEC	TWP	RGE	CO	REMARKS
001	20.00	0	0				NWNW	33	17N	26W	MI			
002	40.00	0	0				NENW	33	17N	26W	MI			
TOTAL	60.00	0	0											

ADDENDUMS:  YES  NO COMMENTS Remark Record

SUPPLEMENTAL IF REF. RIGHT, MAX COMBINED VOLUME FOR ALL RIGHTS 0 AF MAX COMBINED ACRES FOR ALL RIGHTS 0

RIGHTS: IF SUPPLEMENTAL RIGHT, PURPOSE ID 0 AND CLAIM ID 0 OF REF. RIGHT

\*\*\*\*\* FIELD VERIFICATION FORM \*\*\*\*\*

COMPARISON STATISTICS: FLOW RATE 1.00 C ( 7.480 GPM/AC)  
VOLUME 180.00 ( 3.000 AF/AC)  
VOLUME BASED ON FLOW RATE AND PERIOD OF USE 313.163 AF/YR - OVER CLAIMED VOLUME

BASIN OK:  YES  NO COMMENTS \_\_\_\_\_

CLIMATIC AREA OK:  YES  NO COMMENTS \_\_\_\_\_

SOURCE NAME OK:  YES  NO COMMENTS \_\_\_\_\_

TYPE CD (S/G) OK:  YES  NO COMMENTS \_\_\_\_\_

POD OK: DV 01  YES  NO  APPEARS CORRECT  UNVERIFIED COMMENTS Map

MNS DIVRS OK:  YES  NO  APPEARS CORRECT  UNVERIFIED COMMENTS \_\_\_\_\_

POU OK: ACTUAL RANGE 55.8 - 64.2

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

05/03/83

ABSTRACT OF CLAIM FOR EXISTING WATER RIGHTS

CLAIM ID 76M -W-131062-00 (CONTINUED)

PROOF OF USE: CLAIMED FLOW RATE OK:  YES  NO COMMENTS \_\_\_\_\_

CLAIMED PRY DATE OK:  YES  NO COMMENTS Decree outlined states 9-31-14

FLOW RATE OK:  YES  NO  APPLY STANDARD COMMENTS \_\_\_\_\_

VOLUME OK:  YES  NO  APPLY STANDARD COMMENTS \_\_\_\_\_

PRIORITY DATE OK:  YES  NO COMMENTS Changed to 8-31-1911

PERIOD OF USE OK:  YES  NO  APPLY STANDARD COMMENTS \_\_\_\_\_

AIR PHOTO VERIFICATION OF DEVELOPMENT: PHOTO 979-115 PHOTO DATE 9-22-79

PHOTO \_\_\_\_\_ PHOTO DATE \_\_\_\_\_

PHOTO \_\_\_\_\_ PHOTO DATE \_\_\_\_\_

TELEPHONE CONTACT:  YES  NO DATE COMPLETED   /  /   BY \_\_\_\_\_ COMMENTS \_\_\_\_\_

LETTER CONTACT:  YES  NO DATE COMPLETED   /  /   BY \_\_\_\_\_ COMMENTS \_\_\_\_\_

OWNERSHIP:  YES  NO DATE COMPLETED   /  /   BY \_\_\_\_\_ COMMENTS \_\_\_\_\_

INTERVIEW:  YES  NO DATE COMPLETED   /  /   BY \_\_\_\_\_ COMMENTS \_\_\_\_\_

FIELD INVESTIGATION:  YES  NO APPROVED BY \_\_\_\_\_ DATE CHECKED   /  /   BY \_\_\_\_\_ COMMENTS \_\_\_\_\_

GENERAL REMARKS:

INVESTIGATED BY Linda Harris DATE 01/30/1983

REVIEWED BY \_\_\_\_\_ DATE   /  /