

Montana Water Court  
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**FILED**  
02/16/2024  
Sara Calkins  
CLERK  
Montana Water Court  
STATE OF MONTANA  
By: D'Ann CIGLER  
41K-0525-R-2023  
White, Eugene  
4.00

IN THE WATER COURT OF THE STATE OF MONTANA  
UPPER MISSOURI DIVISION  
SUN RIVER BASIN (41K)  
PRELIMINARY DECREE

\*\*\*\*\*

CLAIMANTS: Arlene F. Skogen; Orville E. Skogen

**CASE 41K-0525-R-2023**  
41K 215055-00

**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 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**

All water right claims that appeared in the Preliminary Decree for Sun River (Basin 41K) were subject to "issue remarks" resulting from pre-decree examination by the DNRC, objections, and counterobjections. Claim 41K 215055-00 received objections prior to the 41K preliminary decree as well as issue remarks during the DNRC's review of the claims.

## FINDINGS OF FACT

1. Claim 41K 215055-00 received the following substantive issue remark:  
OBJECTIONS HAVE BEEN FILED TO ALL ELEMENTS OF THIS CLAIM. THESE OBJECTIONS WILL BE ADDRESSED DURING THE ADJUDICATION OF OBJECTIONS TO THE PRELIMINARY DECREE FOR THIS BASIN. SEE CLAIM FILE FOR MORE INFORMATION.
  
2. The claim was consolidated into Case 41K-0525-R-2023 and an Order Setting Filing Deadline was issued by the Water Court to determine if the Claimants or Objectors wanted to prosecute the objections. Nothing was filed by the ordered deadline.
  
3. On October 4, 2023, the Water Court issued an Order dismissing the objections and requiring the Claimants to work with the DNRC to resolve the remaining substantive issue remarks appearing on claim 41K 215055-00.
  
4. Claim 41K 215055-00 received the following substantive issue remark:  
THIS CLAIM APPEARS TO BE CLAIMING TWO SEPARATE SOURCES OF WATER. MORE THAN ONE WATER RIGHT MAY BE INVOLVED.
  
5. On November 29, 2023, DNRC Water Resources Specialist Dixie Brough filed a *Memorandum* in this matter. The *Memo* states that the DNRC was never contacted by the Claimants. Ms. Brough's *Memo* states that claim 41K 215055-00 is claiming two diversions which are both tributaries of Sun River. Because diversion from the same drainage is not considered multiple sources, the claim is simply two diversions of the same water right. Therefore, the DNRC recommends the removal of the issue remark.
  
6. Claim 41K 215055-00 also received a notice-type issue remarks from the DNRC during its claims reexamination.

## PRINCIPLES OF LAW

1. Section 85-2-248(2), MCA, requires that the Water Court resolve all issue remarks that are not resolved through the objection process. *See also* Rule 7, W.R.Adj.R.
  
2. The Water Court may use information submitted by the DNRC, the Statement of Claim, and any other data obtained by the Court to evaluate a water right. Sections 85-2-227, -231(2), MCA.

## CONCLUSIONS OF LAW

1. The information in the record is sufficient to resolve the above-listed issue remarks appearing on claim 41K 215055-00. Because the Water Court dismissed the previously filed objections appearing on claim 41K 215055-00, the issue remark noting these objections should be removed. Additionally, based on the information contained Ms. Brough's *Memo*, the multiple source issue remark should be removed from the claim.

2. The notice-type issue remarks appearing on claim 41K 215055-00 served their notice purpose and should be removed from the claim.

## RECOMMENDATIONS

Based on the foregoing Findings of Fact and Conclusions of Law, this Water Master recommends that the Court remove all issue remarks from claim 41K 215055-00.

A post decree abstract of the water right claim reflecting the recommended changes is attached to this Report.

**ELECTRONICALLY SIGNED AND DATED BELOW.**

### **Service via USPS Mail:**

Arlene F. Skogen  
Orville E. Skogen  
P.O. Box 158  
Fort Shaw, MT 59443

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

**Water Right Number:** 41K 215055-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Late Claim:** B

**Owners:** ARLENE F SKOGEN  
PO BOX 158  
FORT SHAW, MT 59443

ORVILLE E SKOGEN  
PO BOX 158  
FORT SHAW, MT 59443

**\*Priority Date:** MAY 31, 1969

**Enforceable Priority Date:** JUNE 30, 1973

CLAIM FILED LATE 05/28/1996 . AS MANDATED BY SECTION 85-2-221(3), MCA, THIS CLAIM IS SUBORDINATE, AND THEREFORE JUNIOR, TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW.

**Type of Historical Right:** USE

**Purpose (Use):** IRRIGATION

**Irrigation Type:** SPRINKLER

**Flow Rate:** 4.23 CFS

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

**Climatic Area:** 2 - MODERATELY HIGH

**Maximum Acres:** 160.00

**Source Name:** UNNAMED TRIBUTARY OF SUN RIVER

**Source Type:** SURFACE WATER

**Source Name:** SPRING, UNNAMED TRIBUTARY OF SUN RIVER

**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		NESWSE	4	20N	2W	CASCADE

**Source Name:** SPRING, UNNAMED TRIBUTARY OF SUN RIVER

**Period of Diversion:** MAY 5 TO OCTOBER 1

**Diversion Means:** PUMP

2		NENWNW	9	20N	2W	CASCADE
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**Source Name:** UNNAMED TRIBUTARY OF SUN RIVER

**Period of Diversion:** MAY 5 TO OCTOBER 1

**Diversion Means:** PUMP

**Period of Use:** MAY 5 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	85.00		SE	4	20N	2W	CASCADE
2	40.00		SW	4	20N	2W	CASCADE
3	35.00		N2NW	9	20N	2W	CASCADE
<b>Total:</b>	<u>160.00</u>						

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