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**FILED**  
01/18/2024  
Sara Calkins  
CLERK  
Montana Water Court  
STATE OF MONTANA  
By: D'Ann CIGLER  
41K-0616-R-2023  
White, Eugene  
6.00

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

\*\*\*\*\*

CLAIMANT: Tee Bar Ranch Co.

**CASE 41K-0616-R-2023**  
41K 96553-00

**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, conclusion 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 96553-00 received issue remarks during the DNRC's review of the claims. The claim was consolidated into Case 41K-0616-R-2023 and an Order Setting Filing Deadline was issued by the Water Court to resolve the issue remarks.

## FINDINGS OF FACT

1. Claim 41K 96553-00 received the following substantive issue remarks:  

THIS CLAIM PRESENTS ISSUES OF FACT AND LAW THAT MAY BE ADDRESSED AT THE OBJECTION STAGE. IT APPEARS THAT 285 ACRES ARE ACTUALLY IRRIGATED AND PROBLEMS COULD EXIST WITH FLOW RATE.
2. On June 12, 2023, the Water Court consolidated the claim and issued an Order Setting Filing Deadline for the Claimant to file information regarding the historically accurate acres irrigated for claim 41K 96553-00.
3. On September 26, 2023, claimant Tee Bar Ranch, Co. (“Tee Bar”) filed a *Response*. Tee Bar’s *Response* states that it does not oppose the proposed reduction in total acres from 320, as appeared in the Basin 41K Preliminary Decree, to 285, as listed in the issue remark.
4. Claim 41K 96553-00 also received notice-type issue remarks denoting modifications made by the DNRC during its claims reexamination. No Objections were filed.

## 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.
3. If a claimant agrees to reduce or limit a claim, the Water Court may accept the reduction or limitation without reviewing further evidence, unless an unresolved issue remark remains. Rule 17(c), W.R.Adj.R.

## CONCLUSIONS OF LAW

1. Based on the *Response* filed by claimant Tee Bar, the maximum acres element of claim 41K 96553-00 should be reduced from 320 to 285 acres per Rule 17(c), W.R.Adj.R. and the acres irrigated issue remark should be removed from the claim.

2. The notice type issue remarks appearing on claim 41K 96553-00 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 modify the maximum acres element of claim 41K 96553-00 as described in Conclusion of Law No. 1 and remove the issue remarks from the claim.

Post decree abstracts of the water right claims reflecting the recommended changes are attached to this Report.

**ELECTRONICALLY SIGNED AND DATED BELOW.**

#### **Service Via Electronic Mail:**

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

**Water Right Number:** 41K 96553-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** TEE BAR RANCH CO  
PO BOX 389  
AUGUSTA, MT 59410

**Priority Date:** JANUARY 1, 1960

**Type of Historical Right:** USE

**Purpose (Use):** IRRIGATION

**Irrigation Type:** SPRINKLER

**Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR.

**\*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:** 285.00

**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		NWSESW	24	20N	7W	LEWIS AND CLARK

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** PIT

**Reservoir:** ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NWSESW	24	20N	7W	LEWIS AND CLARK

**Diversion to Reservoir:** DIVERSION # 1

**Period of Use:** APRIL 1 TO OCTOBER 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	285.00		S2	24	20N	7W	LEWIS AND CLARK

**Total:** 285.00

**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.

96519-00  
96589-00

96553-00

96584-00

96585-00

96586-00

96587-00