

Montana Water Court  
PO Box 1389  
Bozeman, MT 59771-1389  
(406) 586-4364  
1-800-624-3270  
watercourt@mt.gov

**FILED**  
07/08/2024  
Sara Calkins  
CLERK  
Montana Water Court  
STATE OF MONTANA  
By: D'Ann CIGLER  
40D-0022-R-2023  
Nordlund, Julia  
5.00

IN THE WATER COURT OF THE STATE OF MONTANA  
LOWER MISSOURI DIVISION  
BIG DRY CREEK - BASIN (40D)  
PRELIMINARY DECREE

\*\*\*\*\*

CLAIMANTS: Shelley Ryan; Thomas L. Ryan

OBJECTOR: United States of America (Bureau of Land  
Management)

**CASE 40D-0022-R-2023**  
40D 14184-00

**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

### FINDINGS OF FACT

1. The claim in this Case appeared in the Basin 40D Decree with an objection from United States of America (Bureau of Land Management) and was consolidated into case 40D-0022-R-2023.

2. Claimants Shelley Ryan and Thomas Ryan failed to respond to several Water Court deadlines. BLM reported attempts to contact Claimants but received no responses.

3. The Court set a deadline of April 29, 2024 for Claimants to state why they had not participated in this case. The Order stated if no response was filed, the Court would adopt the Objector's request to amend the place of use for this claim.

4. Nothing was filed by Claimants.

5. Objector BLM stated that this claim includes lands belonging to the United States. BLM requests to remove those lands from the claim as follows:

#### 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	S2NESW	S2	13	17N	37E	GARFIELD

#### 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		S2NESW	S2	13	17N	37E	GARFIELD

6. No response was submitted by Claimants as of the date of this Report.

### CONCLUSIONS OF LAW

1. Section 85-2-248(2), MCA requires the Water Court to resolve all issue remarks that are not resolved through the objection process. When resolving issue remarks, the 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.

2. 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.

3. If a claimant, objector, or intervenor fails to appear at a scheduled conference or hearing, or fails to comply with an order issued by the water court, the water court, upon motion, or its own initiative, may issue such orders of sanction with regard thereto as are just. Rule 22, W.R.Adj.R.

4. Pursuant to Section 85-2-248(9), MCA, and Rule 22, W.R.Adj.R., when a claimant fails to comply with an Order issued by the Water Court, including an Order issued by a Water Master appointed by the Court, the Court, upon motion, or its own initiative, can among other actions: 1) amend the elements of the claim to conform with the information in the claim file or information obtained by the Court, or 2) terminate the claim.

5. Claimants failed to provide any evidence to contradict Objector's assertion that the claim should not contain United States' property. The assertion combined with the lack of participation from Claimants are enough to justify the removal of the land from the claim.

#### RECOMMENDATIONS

The changes recommended above should be adopted. Post Decree Abstract of Water Right Claims is served with the Report to confirm that the above-changes have been adopted.

#### **ELECTRONICALLY SIGNED AND DATED BELOW.**

##### **Service via USPS mail:**

Ryan, Shelley  
Ryan, Thomas L.  
PO Box 189  
Jordan, MT 59337

##### **Service via Electronic Mail:**

Mcdonald, Eve W.  
US Dept Of Justice -ENRD  
999 18th St, So Terrace, Ste 370  
Denver, CO 80202  
(303) 844-1381 W  
[Evelyn.Mcdonald@usdoj.gov](mailto:Evelyn.Mcdonald@usdoj.gov)  
[MontanaBasins.ENRD@USDOJ.GOV](mailto:MontanaBasins.ENRD@USDOJ.GOV)

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
BIG DRY CREEK  
BASIN 40D**

**Water Right Number:** 40D 14184-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** SHELLEY RYAN  
PO BOX 189  
JORDAN, MT 59337

THOMAS L RYAN  
PO BOX 189  
JORDAN, MT 59337

**Priority Date:** DECEMBER 31, 1910

**Type of Historical Right:** USE

**Purpose (Use):** STOCK

**Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

**Volume:** THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCKWATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

**Source Name:** SAND 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		S2NESW	13	17N	37E	GARFIELD

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

**Diversion Means:** LIVESTOCK DIRECT FROM SOURCE

**Period of Use:** JANUARY 1 TO DECEMBER 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			S2NESW	13	17N	37E	GARFIELD