

Montana Water Court
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IN THE WATER COURT OF THE STATE OF MONTANA
LOWER MISSOURI DIVISION
JUDITH RIVER BASIN (41S)
PRELIMINARY DECREE

CLAIMANT: BNSF Railway Co.

OBJECTOR: State of Montana Dept. of Fish, Wildlife &
Parks

CASE 41S-0014-R-2024
41S 141209-00

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

Claim 41S 141209-00 appeared in the Preliminary Decree for the Judith River (Basin 41S) and received an objection from the Montana Department of Fish, Wildlife and Parks (FWP). The claim was consolidated into case 41S-0014-R-2024 on February 26, 2024. On April 29, 2024, claimant BNSF Railway Co. (BNSF) filed a Request to Withdraw Claim 41S 141209-00. On May 7, 2024, the Montana Department of Fish, Wildlife and Parks (FWP) filed a Withdrawal of Objection.

FINDINGS OF FACT

1. BNSF is the listed owner of the above-captioned claim. The Request to Withdraw claim 41S 141209-00 is unambiguous.
2. The claim should be withdrawn pursuant to the clear intent of BNSF's filing.

PRINCIPLES OF LAW

1. The Montana Water Court has the authority to determine the extent of all water rights in the state as they existed prior to July 1, 1973. *Fellows v. Saylor*, 2016 MT 45, ¶ 25, 382 Mont. 298, 367 P.3d 732; §§ 85-2-233, -102(12), MCA.

CONCLUSIONS OF LAW

1. Upon review of the case file and the documentation submitted by the claimant, the record is clear that claim 41S 141209-00 should be dismissed. The intent to withdraw the claim was unambiguous and the claimant has filed documentation stating the same.

RECOMMENDATIONS

1. Upon review of the case file, the record in this case, and the evidence presented, claim 41S 141209-00 should be dismissed.

A Post Decree Abstract of Water Right Claim is attached to this Master's Report for review.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via Electronic Mail:

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**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
JUDITH RIVER
BASIN 41S**

Water Right Number: 41S 141209-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: **DISMISSED**

Owners: BNSF RAILWAY CO
% BLAINE BILDERBACK
2650 LOU MENK DR # MOB-2
FORT WORTH, TX 76131-2830

Priority Date:

Type of Historical Right:

Purpose (Use): INDUSTRIAL

Flow Rate:

Volume:

Source Name: WEST BUFFALO CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

Remarks:

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.