

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

\*\*\*\*\*

CLAIMANTS: **Vicky L. Ruckman**; ~~Katherine A. Bolme,~~  
Eileen F. Reddish, John R. Walling, Marlyn  
K. Walling, Mark C. Walling, Pamela J.  
Walling, ~~Pearle S. Yaeger, Richard A.~~  
~~Yaeger, Roger W. Yaeger~~

**CASE 41S-0702-R-2024**  
41S 117515-00  
41S 117516-00

**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. Claims 41S 117515-00 and 41S 117516-00 were decreed with DNRC issue remarks:

**Claim 41S 117515-00:**

FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.  
THE POINT OF DIVERSION LEGAL LAND DESCRIPTION COULD NOT BE REFINED FROM INFORMATION IN THE CLAIM FILE.  
THE FERGUS COUNTY WATER RESOURCES SURVEY ( 1970 ) APPEARS TO INDICATE 0.00 ACRES IRRIGATED.  
USDA AERIAL PHOTOGRAPH NO(S). 30027-278-16 , DATED 09/25/1979 , APPEARS TO INDICATE 0.00 ACRES IRRIGATED.  
THE MAXIMUM COMBINED ACRES FOR THIS GROUP OF SUPPLEMENTAL CLAIMS MAY REQUIRE MODIFICATION PENDING RESOLUTION OF MAXIMUM IRRIGATED ACRES ISSUE.

**Claim 41S 117516-00:**

FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.  
THE FERGUS COUNTY WATER RESOURCES SURVEY ( 1970 ) APPEARS TO INDICATE 0.00 ACRES IRRIGATED.  
USDA AERIAL PHOTOGRAPH NO(S). 30027-278-16 , DATED 09/25/1979 , APPEARS TO INDICATE 0.00 ACRES IRRIGATED.  
THE MAXIMUM COMBINED ACRES FOR THIS GROUP OF SUPPLEMENTAL CLAIMS MAY REQUIRE MODIFICATION PENDING RESOLUTION OF MAXIMUM IRRIGATED ACRES ISSUE.

3. The record-owners were ordered to meet with a DNRC employee to address the unresolved issue remarks decreed on claims 41S 117515-00 and 41S 117516-00. (Doc.<sup>1</sup>1.00).

4. DNRC Water Resource Specialist Carli Bluhm filed a Memorandum on July 9, 2024. (Doc. 2.00). Ms. Bluhm indicated she reviewed abstracts, scanned claim files, aerial photographs, and the Fergus County Water Resources Survey to prepare the Memorandum. Ms. Bluhm reported that none of the Claimants contacted her as ordered.

During its original examination, the DNRC found no evidence of irrigation for claims 41S 117515-00 and 41S 117516-00. Ms. Bluhm could not confirm any irrigation at the claimed places of use using the resources available to her and she recommended claims 41S 117515-00 and 41S 117516-00 be dismissed.

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<sup>1</sup> “Doc.” numerical references correlate to case file docket numbers in the Water Court’s Full Court case management system.

5. A deadline was set for the Claimants to file statements agreeing or disagreeing with the recommended dismissal of claims 41S 117515-00 and 41S 117516-00 by August 9, 2024. (Doc. 3.00). The Order stated:

If nothing is filed by the deadline, this Master will conclude the Claimants agree that claims 41S 117515-00 and 41S 117516-00 should be dismissed and a Master's Report will be issued recommending dismissal of both claims. If the Claimants disagree with the proposed dismissal of either claim, the Claimants must file evidence addressing the issue remarks by August 9, 2024.

Failure to comply with the terms of this Order may result in sanctions, up to and including entry of default and termination of a water right claim or dismissal of objections. Rule 22, W.R.Adj.R. (emphasis in original).

6. On July 23, 2024, Vicky Ruckman filed a request for extension of the deadline:

Greetings. My name is Vicky Ruckman and I'm asking for an extension to the August 9, 2024, deadline in order to contact witnesses and gather the affidavits to disagree with the courts on this recommendation do dismiss the above referenced claims.

I'd like to point out that my two brothers and myself are the majority owners on the land in question, yet we did not receive any communication from the courts on this preliminary decree. Our deceased mother, Pearle S. Yaeger, did receive a copy of the letter and I wasn't aware she had any water rights on the property in question.

My brothers are David R. Yaeger and Lowell Kim Yaeger.

I am in the process of gathering witness statement to present to the courts, so the extension deadline will be greatly appreciated.

(Doc. 4.00).

7. An Order Extending Deadline was issued, and Vicky Ruckman, David R. Yaeger, and Lowell Kim Yaeger were added to the service list as potential owners and they were advised to contact the Lewistown DNRC immediately to update ownership, if appropriate. (Doc. 5.00). The Order provided the following:

If nothing is filed by the deadline, this Master will conclude the Claimants agree that claims 41S 117515-00 and 41S 117516-00 should be dismissed and a Master's Report will be issued recommending dismissal of both claims.

If the Claimants disagree with the proposed dismissal of either claim, the Claimants must file evidence addressing the issue remarks by **September 30, 2024.**

Failure to comply with the terms of this Order may result in sanctions, up to and including entry of default and termination of a water right claim or dismissal of objections. Rule 22, W.R.Adj.R. (emphasis in original).

Nothing was filed by the deadline.

8. DNRC processed an ownership correction on August 8, 2024, adding Vicky L. Ruckman as a co-owner of both claims in this Case, and removing Katherine A. Bolme, Pearle S. Yaeger, Richard A. Yaeger, and Roger W. Yaeger as co-owners of claims 41S 117515-00 and 41S 117516-00. The caption and service list have been updated to reflect the current record ownership of the claims.

PRINCIPLES AND CONCLUSIONS OF LAW

1. A properly filed Statement of Claim for an existing water right is prima facie proof of its content. Section 85-2-227, MCA. This prima facie validity may be overcome by evidence showing that one or more elements of the claim are incorrect. This standard of proof applies to objectors or claimants objecting to their own water right claims. Rule 19, W.R.Adj.R., *Nelson v. Brooks*, 2014 MT 120; 375 Mont.86, 95; 329 P.3d 558, 564.

2. If Claimants fail to comply with an Order issued by the Water Court in its review of issue remarks, including an Order issued by a Water Master appointed by the Court, the Court on its own initiative may amend or dismiss claims to conform with information in the claim file or information obtained as part of the adjudication process. Section 85-2-248(9) MCA. The information before the court, as provided by the DNRC, indicates both claims should be dismissed.

RECOMMENDATION

1. Claims 41S 117515-00 and 41S 117516-00 should be dismissed.  
Post Decree Abstracts are attached.

**ELECTRONICALLY SIGNED AND DATED BELOW.**

**Service via USPS Mail:**

Katherine A. Bolme  
PO Box 236  
Dayton, MT 59914  
**(Last Order)**

Pearle S. Yaeger  
1110 Last Chance Ln  
Hilger, MT 59451  
**(Last Order)**

Richard A. Yaeger  
5716 Tybee Island Dr  
Apollo Beach, FL 33572  
**(Last Order)**

Roger W Yaeger  
17500 N 67th Ave #1073  
Glendale, AZ 85308  
**(Last Order)**

Eileen F. Reddish  
3001 NE 100th St  
Seattle, WA 98125

John R. Walling  
1016 W Evelyn  
Lewistown, MT 59457

**Service via USPS Mail:**

Marilyn K. Walling  
Mark C. Walling  
477 Powerline Rd  
Lewistown, MT 59457-3971

Pamela J. Walling  
1441 Upper Spring Creek Rd  
Lewistown, MT 59457

Vicky Ruckman  
1110 Last Chance Ln.  
Hilger, MT 59451

Vicky Ruckman  
79492 US Hwy 87  
Lewistown, MT 59457  
*(alternate address)*

David R. Yaeger  
4771 Snowline Vista Way  
Laurel, MT 59044

Lowell K. Yaeger  
3522 Roundtable Loop  
Owensboro, KY 42301

**Caption and Service List Updated:**

**10/2/2024**

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

**Water Right Number:** 41S 117515-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** DISMISSED

**Owners:**

EILEEN F REDDISH  
3001 NE 100TH ST  
SEATTLE, WA 98125

VICKY L RUCKMAN  
1110 LAST CHANCE LN  
HILGER, MT 59451-9745

JOHN R WALLING  
1016 W EVELYN  
LEWISTOWN, MT 59457

MARILYN K WALLING  
477 POWERLINE RD  
LEWISTOWN, MT 59457

MARK C WALLING  
477 POWERLINE RD  
LEWISTOWN, MT 59457-3971

PAMELA J WALLING  
1441 UPPER SPRING CREEK RD  
LEWISTOWN, MT 59457

**Priority Date:**

**Type of Historical Right:**

**Purpose (Use):** IRRIGATION

**Flow Rate:**

**Volume:**

**Source Name:** UNNAMED TRIBUTARY OF COTTONWOOD CREEK

**Source Type:** SURFACE WATER

**Point of Diversion and Means of Diversion:**

**Period of Use:**

**Place of Use:**

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**Remarks:**

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.

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

**Water Right Number:** 41S 117516-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** DISMISSED

**Owners:**

EILEEN F REDDISH  
3001 NE 100TH ST  
SEATTLE, WA 98125

VICKY L RUCKMAN  
1110 LAST CHANCE LN  
HILGER, MT 59451-9745

JOHN R WALLING  
1016 W EVELYN  
LEWISTOWN, MT 59457

MARILYN K WALLING  
477 POWERLINE RD  
LEWISTOWN, MT 59457

MARK C WALLING  
477 POWERLINE RD  
LEWISTOWN, MT 59457-3971

PAMELA J WALLING  
1441 UPPER SPRING CREEK RD  
LEWISTOWN, MT 59457

**Priority Date:**

**Type of Historical Right:**

**Purpose (Use):** IRRIGATION

**Flow Rate:**

**Volume:**

**Source Name:** COTTONWOOD CREEK

**Source Type:** SURFACE WATER

**Point of Diversion and Means of Diversion:**

**Period of Use:**

**Place of Use:**

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**Remarks:**

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.