

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: Rock B. Helmer

CASE 41S-0993-R-2024
41S 104386-00

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

FINDINGS OF FACT

1. Rock B. Helmer (Helmer) is the record owner of irrigation claim 41S 104386-00.
2. Claim 41S 104386-00 was decreed with DNRC issue remarks:
 - FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.
 - THE CLAIMED FLOW RATE EXCEEDS THE 17 GPM PER ACRE GUIDELINE AND CANNOT BE CONFIRMED DUE TO LACK OF DATA. THE FLOW RATE EQUALS 50.00 GPM PER ACRE.
 - THE FERGUS COUNTY WATER RESOURCES SURVEY (1970) APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
 - USDA AERIAL PHOTOGRAPH NO(S). 30027-278-60 , DATED 09/25/1979 , APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
 - THE TYPE OF HISTORICAL RIGHT MAY BE QUESTIONABLE. DOCUMENTATION SUBMITTED WITH THE CLAIM INDICATES A FILED RIGHT.

The DNRC added the remarks to the claim during claim examination and noted potential legal or factual issues.

3. Helmer was ordered to meet with a DNRC employee to address the unresolved issue remarks decreed on claim 41S 104386-00. (Doc.¹1.00).

4. DNRC Water Resource Specialist Carli Bluhm filed a Memorandum on February 24, 2025. (Doc. 3.00). Ms. Bluhm reported she reviewed the Judith Basin County Water Resources Survey field notes and aerial photos to prepare the Memorandum, she also indicated that the Claimant failed to contact the DNRC. Ms. Bluhm indicated that she found no irrigation and recommended claim 41S 104386-00 be dismissed.

5. An Order was issued to determine if Claimant Rock B. Helmer agreed or disagreed with Ms. Bluhm's recommendation to dismiss claim 41S 104386-00. (Doc. 4.00). The Order indicated that if nothing were filed by the deadline, this Water Master would conclude Claimant Rock B. Helmer agreed with the recommended dismissal of claim 41S 104386-00 and a Master's Report would be issued recommending the claim be dismissed. Nothing was filed.

¹ "Doc." numerical references correlate to case file docket numbers in the Water Court's Full Court case management system.

PRINCIPLES AND CONCLUSIONS OF LAW

1. The Water Court must address all issue remarks decreed on a claim.
Section 85-2-248, MCA.
2. 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.
3. All parties subject to the jurisdiction of the Montana Water Court in this adjudication have the obligation to comply with Orders of this Court, including Orders issued by a Master appointed by the Court. If a claimant fails to comply with an Order issued by the Court in its review of issue remarks, the Court may amend the claim to conform with information found in the claim file and information before the Court.
Section 85-2-248(9)(a), (b), MCA.

RECOMMENDATION

1. Claim 41S 104386-00 should be dismissed.
An abstract is attached for review.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

Rock B. Helmer
4196 Danvers Rd
Lewistown, MT 59457-3921

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

Water Right Number: 41S 104386-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: DISMISSED

Owners: ROCK B HELMER
4196 DANVERS RD
LEWISTOWN, MT 59457-3921

Priority Date:

Type of Historical Right:

Purpose (Use): IRRIGATION

Flow Rate:

Volume:

Source Name: JUDITH RIVER

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.