

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

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

CLAIMANTS: Patrick R. Fordyce; Neta M. Fordyce

CASE 41S-0892-R-2024
41S 101540-00

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. Patrick R. Fordyce and Neta M. Fordyce (the Fordyces) are the record owners of irrigation claim 41S 101540-00.
2. Claim 41S 101540-00 was decreed with DNRC issue remarks:
 - 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). 30027-178-67 , DATED 09/18/1979 , APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
 - THE CLAIMED POINT OF DIVERSION IS IN QUESTION. THE LOCATION OF THE HEADGATE CANNOT BE IDENTIFIED FROM AVAILABLE DATA.
 - ALTHOUGH NOT OBJECTED TO, THE SOURCE NAME WAS CHANGED TO REFLECT THE CHANGES SUGGESTED BY THE UNITED STATES OF AMERICA, DEPARTMENT OF INTERIOR IN THEIR 1987 DECISIONS ON GEOGRAPHIC NAMES IN THE UNITED STATES. THIS MAY BE HEARD AT THE PRELIMINARY DECREE STAGE.
3. The Fordyces were ordered to meet with a DNRC employee to address unresolved issue remarks decreed on claim 41S 101540-00.
4. DNRC Water Resource Specialist Carli Bluhm filed a Memorandum on January 3, 2025. (Doc.¹ 3.00). The Memorandum reports Ms. Bluhm met with “the claimant” on December 2, 2024 – it is unclear with whom she met. Ms. Bluhm reports she reviewed the Fergus County Water Resources Survey and aerial photographs to prepare the Memorandum. Ms. Bluhm reported she found no irrigation and “The claimant agreed to the DNRC’s findings.”

As Ms. Bluhm did not obtain written documentation from the claimant with whom she met, and it appears she met with only one claimant.
5. An Order was issued to determine if Claimants Patrick R. Fordyce and Neta M. Fordyce agreed or disagreed with Ms. Bluhm’s recommendation to dismiss claim 41S 101540-00. (Doc. 4.00). The Order indicated that if nothing were filed by the deadline, this Water Master would conclude Claimants Patrick R. Fordyce and Neta M. Fordyce

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

agree with the recommended dismissal of claim 41S 101540-00 and a Master's Report would be issued recommending the claim be dismissed. Nothing was filed.

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. Pursuant to Rule 22, W.R.Adj.R., 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 may issue such orders of sanction with regard thereto as are just.

RECOMMENDATION

1. Claim 41S 101540-00 should be dismissed.
An abstract is attached for review.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

Patrick R. Fordyce
Neta M. Fordyce
1170 Salt Creek Rd.
Hilger, MT 59451

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

Water Right Number: 41S 101540-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: **DISMISSED**

Owners: NETA M FORDYCE
1170 SALT CREEK RD
HILGER, MT 59451

PATRICK R FORDYCE
1170 SALT CREEK RD
HILGER, MT 59451

Priority Date:

Type of Historical Right:

Purpose (Use): IRRIGATION

Flow Rate:

Volume:

Source Name: SPRING, UNNAMED TRIBUTARY OF SALT CREEK, WEST FORK

Source Type: GROUNDWATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

Remarks:

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.