

Montana Water Court
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FILED
07/01/2025
Sara Calkins
CLERK
Montana Water Court
STATE OF MONTANA
By: D'Ann CIGLER
41S-0454-R-2024
Block, Nathaniel
6.00

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

* * * * *

CLAIMANT: Town of Stanford

CASE 41S-0454-R-2024
41S 102002-00

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

The above captioned claims appeared in the Preliminary Decree for the Judith River (Basin 41S). The claims did not receive objections, but did receive issue remarks. Issue remarks result from pre-decree examination by the DNRC.

FINDINGS OF FACT

1. Claim 41S 102002-00 was decreed as a sprinkler irrigation claim for use on 20.00 acres in the N2NENE of Section 16, Township 16N, Range 12E, Judith Basin County.

2. The claim received the following issue remarks:

FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.

THE JUDITH BASIN COUNTY WATER RESOURCES SURVEY (1963) APPEARS TO INDICATE 0.00 ACRES IRRIGATED.

USDA AERIAL PHOTOGRAPH NO(S). 30045-279-33 , DATED 09/18/1979 , APPEARS TO INDICATE 3.10 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

3. On October 25, 2024, the Court ordered the Claimant to work with the DNRC to resolve the issue remarks. (Doc.¹ 1.00).

4. Oliver Urick, representing Claimant, contacted the DNRC on October 31, 2024, to discuss the claim. Claimant does not oppose the DNRC's findings.

5. On January 17, 2025, DNRC Water Resources Specialist Brandon Ahlgren filed a memorandum in the matter. (Doc. 4.00).

6. Mr. Ahlgren was able to substantiate all 20.00 claimed acres using a 1957 aerial photograph.

PRINCIPLES 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; Rule 10, W.R.Adj.R.

2. Prima facie proof may be contradicted and overcome by a preponderance of the evidence. Rule 19, W.R.Adj.R.

3. A preponderance of the evidence is evidence that shows a fact is "more probable than not." *Hohenlohe v. State*, 2010 MT 203, ¶ 33, 357 Mont. 438, 240 P.3d 628.

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

4. If prima facie status is overcome, the burden shifts back to the claimant to demonstrate historical use. *79 Ranch v. Pitsch*, 204 Mont. 426, 432-33, 666 P.2d 215, 218 (1983).

5. Section 85-2-248(2), MCA, requires that the Water Court resolve all issue remarks that are not resolved through the objection process. *See also* Rule 7, W.R.Adj.R.

6. The Water Court may use information submitted by the DNRC, the Statement of Claim, and any other data obtained by the Court to evaluate a water right. Sections 85-2-227, -231(2), MCA.

7. 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. The factual evidence on which an issue remark is based must meet the preponderance of evidence standard before the prima facie status of a claim is overcome. 43Q 200996-00 et al., Order Establishing Volume and Order Closing Case, at 18, June 8, 2015.

CONCLUSION OF LAW

1. The issue remarks do not overcome the prima facie status of claim 41S 102002-00. The evidence in the memorandum support the claimed maximum acres and place of use.

RECOMMENDATION

1. The issue remarks should be removed from the claim abstract.

A post decree abstract of the water right claim reflecting these recommendations is attached to this Report.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

Last Order:

**Town of Stanford
PO Box 123
Stanford, MT 59479**

Service via Electronic Mail:

**Oliver J. Urick
Urick Law Firm, PLLC
ourick@uricklawfirm.com**

Note: Service List Updated 6-9-2025

\\JUDHLNSRV-DATA\Share\JUDGALH2OSRV (Datavol)\Share\WC-BASIN FOLDERS\41S\41S PD\Cases\454\NB 41S-0454-R-2024 MASTERS REPORT 6-9-2025 rr.docx

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

Water Right Number:41S 102002-00 STATEMENT OF CLAIM

Version:3 -- POST DECREE

Status:ACTIVE

Owners:STANFORD, TOWN OF
PO BOX 123
STANFORD, MT 59479

Priority Date:MAY 12, 1960

Type of Historical Right:USE

Purpose (Use):IRRIGATION

Irrigation Type:SPRINKLER

Flow Rate:17.50 GPM

*Volume:THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area:3 - MODERATE

Maximum Acres:20.00

Source Name:GROUNDWATER

Source Type:GROUNDWATER

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County	
1		NWNENE	16	16N	12E	JUDITH BASIN	
Period of Diversion:		APRIL 1 TO OCTOBER 1					
Diversion Means:		WELL					
Period of Use:		APRIL 1 TO OCTOBER 1					
Place of Use:							
ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	20.00		N2NENE	16	16N	12E	JUDITH BASIN
Total:		20.00					

Remarks:

THE CLAIMED IRRIGATED ACRES AND PLACE OF USE HAVE BEEN RE-EXAMINED BY THE DNRC UNDER MONTANA WATER COURT ORDER DATED AUGUST 29, 1997. SEE CLAIM FILE FOR ADDITIONAL INFORMATION.