

Montana Water Court
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FILED
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CLERK
Montana Water Court
STATE OF MONTANA
By: D'Ann CIGLER
41S-0031-R-2024
Block, Nathaniel
6.00

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

* * * * *

CLAIMANTS: June Feenan; Robert G. Feenan

OBJECTOR: United States of America Bureau of Land
Management

CASE 41S-0031-R-2024
41S 216196-00

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 216196-00 appeared in the Preliminary Decree for the Judith River (Basin 41S) and the United States of America Bureau of Land Management (“BLM”) filed objections to the claim.

The claim was consolidated into case 41S-0031-R-2024 on August 1, 2024, and a status conference was set for and held on September 10, 2024. The claimants failed to appear at the conference.

On October 25, 2024, the BLM filed a Response to Court Order and Motion for a Show Cause Order (Doc. ¹ 4.00) moving the Court issue an Order requiring the claimant to show cause why the claim should not be terminated. The motion included evidence supporting the dismissal of the claim.

On November 1, 2024, this Court issued an Order Setting Show Cause Filing Deadline, requiring any party claiming an interest in the claim to file documentation showing why the claim should not be dismissed. The Order stated that “[i]f nothing is filed, it will be viewed as agreement that the claim should be dismissed”. Nothing was filed in response to the Order.

FINDING OF FACT

1. Pursuant to the evidence before the Court, the claim should be dismissed.

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(13), MCA.

2. 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, upon motion, or its own initiative, may issue such orders of sanction with regard thereto as are just. Rule 22, W.R.Adj.R. Sanctions applied against claimants may include termination of the water right claim. Rule 22, W.R.Adj.R.

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

3. Active participation by water users, especially claimants, is imperative for the accuracy of the statewide adjudication effort. *In re Korman*, 2014 Mont. Water LEXIS 17, *6. Further, “[t]he time required to process these cases is extended substantially when litigants do not comply with deadlines imposed by the Court.” *Huntsman v. Huntsman Ranch Co.*, 2015 Mont. Water LEXIS 2, *6. It is within the power of this Court to terminate a water rights claim if a claimant fails to participate. Rule 22. W.R.Adj.R.

CONCLUSIONS OF LAW

1. Claimants June and Robert Feenan have failed to participate, despite being given the opportunity to do so. *See* Order Consolidating Case and Setting Status Conference, August 1, 2024 (Doc 1.00), Order Setting Show Cause Filing Deadline, November 1, 2024 (Doc. 5.00).

2. Pursuant to the evidence provided to the Court, and the claimants’ failure to respond, the claim should be dismissed.

RECOMMENDATIONS

1. Claim 41S 216196-00 should be dismissed.
2. The BLM objection should be resolved upon dismissal of the claim.

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

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

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

Water Right Number: **41S 216196-00** STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: **DISMISSED**

Owners: JUNE FEENAN
 241 W 3RD ST
 WHITEFISH, MT 59937

 ROBERT G FEENAN
 241 W 3RD ST
 WHITEFISH, MT 59937

Priority Date:

Type of Historical Right:

Purpose (Use): DOMESTIC

Flow Rate:

Volume:

Source Name: SPRING, UNNAMED TRIBUTARY OF ALPINE GULCH

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.