

Montana Water Court
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FILED
11/03/2025
Sara Calkins
CLERK
Montana Water Court
STATE OF MONTANA
By: D'Ann CIGLER
41S-2124-R-2025
Stern, Anika
3.00

MONTANA WATER COURT
LOWER MISSOURI DIVISION
JUDITH RIVER
BASIN 41S
PRELIMINARY DECREE

CLAIMANT: Sparks Brothers, LLC

CASE 41S-2124-R-2025
41S 30105999

OBJECTOR: Sparks Brothers, LLC

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 have 13 days from the service date of the notice of filing of this report to file a written objection or request an extension of the objection period. Rule 23, Water Right Adjudication Rules; Rule 6, Montana Rules of Civil Procedure. 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

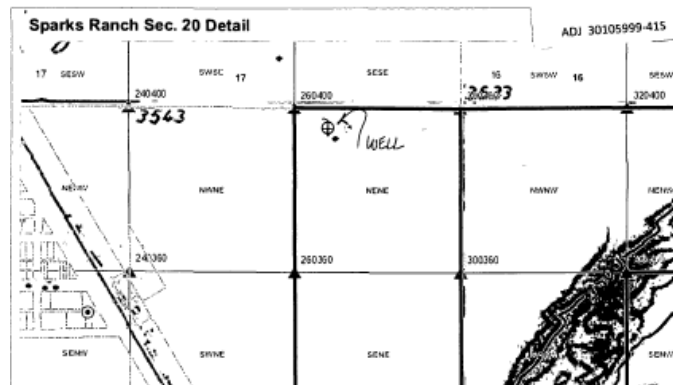
FINDINGS OF FACT

1. The record owner of domestic claim 41S 30105999 is Sparks Brothers, LLC (Claimant).
2. Claim 41S 30105999 was decreed with a Montana Department of Natural Resources and Conservation ("DNRC") issue remark:

- THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 41S DECREE ISSUED 05/17/1984.

The remark provided notice that claim 41S 30105999 was not included the previous decree in the Basin.

3. Claim 41S 30105999 was claimed and decreed with the point of diversion and place of use listed as NWNWNE of Section 20, Township 17 North, Range 16 East, Fergus County. However, a map attached to the Statement of Claim suggested the point of diversion was in the NWNENE of Section 20, Township 17 North, Range 16 East, Fergus County:



(A portion of the map attached to the 41S 30105999 Statement of Claim)

4. Sparks Brothers objected to the place of use/maximum acres and point of diversion/means of diversion for claim 41S 30105999, indicating:

The Place of Use and Point of Diversion legal descriptions are incorrect. They lie on the neighbor's property.

The correct legal description for the Well should be the NW1/4NE1/4NE1/4 of section 20, T17N, R16E.

The legal description was incorrectly listed in the Statement of Claim for Exempt Domestic Use filed March 19th, 2016.

5. Presently, the point of diversion and place of use for claim 41S 30105999 is situated on property neighboring the Sparks Brothers property and is not consistent with

the map attached to the Statement of Claim. As noted in the Objection, it appears a clerical error may have been made when the claim was filed.

6. An Order was issued to verify that the Objection will be resolved if the point of diversion and place of use are modified to reflect the legal land description on the Sparks Brothers property in the NWNE of Section 20, Township 17 North, Range 16 East, Fergus County. (Doc.¹1.00).

7. On October 24, 2025, counsel for Spark Brothers, LLC confirmed the proposed modification resolves the Objection to claim 41S 30105999. (Doc. 2.00).

PRINCIPLES OF LAW

1. 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.

2. A properly filed Statement of Claim for an existing water right is prima facie proof of its content. Mont. Code Ann. § 85-2-227 (2025); Rule 10, W.R.Adj.R.

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

4. 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. §§ 85-2-227, -231(2), MCA.

CONCLUSION OF LAW

1. The information in the record overcomes the prima facie status of claim 41S 30105999 and it is appropriate to modify the point of diversion and place of use reflect the legal land description on the Sparks Brothers property.

2. The issue remark decreed on claim 41S 30105999 is a notice-type issue remarks. As no objections were filed, no further proceedings are required.

¹ “Doc.” numerical references correlate to case file docket numbers in the Water Court’s Full Court case management system. The “Doc.” references in this Report will refer to Case 43A-0011-R-2020, unless otherwise noted.

RECOMMENDATIONS

1. The point of diversion and place of use legal land description for claim 41S 30105999 should be modified as follows:

| <u>Govt Lot</u> | <u>Qtr Sec</u> | <u>Sec</u> | <u>Twp</u> | <u>Rge</u> | <u>County</u> |
|-----------------|-------------------|------------|------------|------------|---------------|
| NWNENE | NWNWNE | 20 | 17N | 16E | FERGUS |

2. The issue remark should be removed from the claim abstract.

A post decree abstract is enclosed.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service Via Electronic Mail:

Oliver J. Urick
Urlick Law Firm PLLC
ourick@uricklawfirm.com
(Atty for: Sparks Brothers, LLC)

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

Water Right Number: 41S 30105999 STATEMENT OF CLAIM
Version: 2 -- POST DECREE
Status: ACTIVE

Owners: SPARKS BROTHERS LLC
% CRAIG SPARKS
5705 S TELLURIDE CT
AURORA, CO 80015-3098

*Priority Date: DECEMBER 31, 1930

Type of Historical Right: USE

Purpose (Use): DOMESTIC

Flow Rate: 30.00 GPM

Volume: 4.25 AC-FT

Households: 1

Maximum Acres: 0.50

Source Name: GROUNDWATER

Source Type: GROUNDWATER

Point of Diversion and Means of Diversion:

| <u>ID</u> | <u>Govt Lot</u> | <u>Qtr Sec</u> | <u>Sec</u> | <u>Twp</u> | <u>Rge</u> | <u>County</u> |
|---|-----------------|----------------|------------|------------|------------|---------------|
| 1 | | NWNENE | 20 | 17N | 16E | FERGUS |
| Period of Diversion: JANUARY 1 TO DECEMBER 31 | | | | | | |
| Diversion Means: WELL | | | | | | |

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

| <u>ID</u> | <u>Acres</u> | <u>Govt Lot</u> | <u>Qtr Sec</u> | <u>Sec</u> | <u>Twp</u> | <u>Rge</u> | <u>County</u> |
|-----------|--------------|-----------------|----------------|------------|------------|------------|---------------|
| 1 | 0.50 | | NWNENE | 20 | 17N | 16E | FERGUS |
| Total: | | 0.50 | | | | | |