

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

* * * * *

CLAIMANT: Julie M. Hansemann

CASE 41S-2032-R-2025
41S 126194-00

OBJECTORS: Julie M. Hansemann; Robert K. Phillips

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. Julie M. Hansemann (Hansemann) is the record owner of irrigation claim 41S 126194-00.

2. Claim 41S 126194-00 was decreed with the following Montana Department of Natural Resources and Conservation (“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). 30027-178-61 , DATED 09/18/1979 , APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- THE POINT OF DIVERSION LEGAL LAND DESCRIPTION COULD NOT BE REFINED FROM INFORMATION IN THE CLAIM FILE.
- ON 07/02/1985 ROBERT K. PHILLIPS FILED A SUPPLEMENTAL MEMORANDUM STATING THAT THE POINT OF DIVERSION LEGAL DESCRIPTION SHOULD BE CORRECTED TO THE W2SW OF SEC 18, TWP 17N, RGE 18E FERGUS CO. THIS IS DEEMED A LATE OBJECTION AND WILL BE HEARD AFTER PROPER NOTICE ON THE NEXT OBJECTION LIST. UPON REVIEW OF THE MARKED AERIAL PHOTOGRAPH ATTACHED TO THE SUPPLEMENTAL MEMORANDUM, IT APPEARS A MORE SPECIFIC DESCRIPTION WOULD BE THE SENWSW OF SEC 18, TWP 17N, RGE 18E FERGUS CO

All issue remarks must be addressed.

3. In 1985, counsel for former-owner Robert K. Phillips filed a supplemental Memorandum regarding claim 41S 126194-00 indicating, in part:

That the Phillips believe that the current point of diversion is in the W $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 18, Township 17 North, Range 18 East, M.P.M., rather than the SE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ as set forth on the Preliminary Decree or the NW $\frac{1}{4}$ NW $\frac{1}{4}$ as set forth on the original claim form. The map and original appropriation would then coincide with the correction requested by Phillips.

An aerial photograph attached to the Memorandum identified the same place of use and spring location shown on the marked aerial photograph attached to the Statement of Claim. The October 15, 2007 Master’s Report in Case 41S-19 explained:

Although the Supplemental Memorandum suggests a legal description of the W2SW of section 18 T17N, R18E, a more specific description for the point of diversion marked on both aerial photograph copies is the SENWSW of section 18 T17N, R18E.

As point of diversion was not included on the Basin 41S Temporary Preliminary Decree Objection List, no changes were made, and the Supplemental Memorandum was deemed a “late Objection” to point of diversion. An issue remark was added to claim 41S 126194-00 ensuring the Objection would be addressed during the Preliminary Decree in Basin 41S. The Preliminary Decree was issued on August 18, 2022.

An Order was issued on August 27, 2025 to determine if Robert K. Phillips would pursue the late Objection to claim 41S 126194-00. (Doc.¹ 1.00). On September 9, 2025, the Montana Water Court received return mail and research indicates Robert K. Phillips is deceased. No forwarding address is available.

4. Hansemann objected to claim 41S 126194-00 during the Preliminary Decree, stating:

Claimant objects to All Elements of Water Right Claim 41S 126194-00 in order to address and resolve all issue remarks appearing on the claim, which call into question all elements of this claim.

5. An Order on Status of Case and Order Setting Deadlines Pursuant to Section 85-2-248(5), MCA was issued on October 8, 2025. (Doc. 2.00). The Order explained that with Objections such as Hansemann's, it is often most expedient to address the Objection *in conjunction* with the issue remarks decreed on the claim. Deadlines were set for Hansemann to meet with a DNRC employee to address the DNRC issue remarks.

6. DNRC Water Resource Specialist Brandon Ahlgren filed a Memorandum on December 2, 2025. (Doc. 4.00). Mr. Ahlgren indicated he was contacted by attorney Betsy Story, on behalf of Hansemann. Mr. Ahlgren indicated he reviewed the Fergus County Water Resources Survey and an aerial photograph to prepare the Memorandum.

Mr. Ahlgren explained that Ms. Story provided information regarding the location of the point of diversion, and he indicated he agreed with that information. However, Mr. Ahlgren was unable to substantiate historical irrigation at the claimed place of use. Mr. Ahlgren recommended claim 41S 126194-00 be dismissed.

7. An Order was issued to determine if Hansemann agreed or disagreed with Mr. Ahlgren's recommendation to dismiss claim 41S 126194-00. The Order indicated that if nothing were filed by the deadline, it would be determined that Julie M. Hansemann agrees claim 41S 126194-00 should be dismissed. The following language was included in the Order:

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

Failure to comply with the terms of this Order may result in sanctions, up to and including entry of default and termination of a water right claim or dismissal of objections. Rule 22, W.R.Adj.R.

Nothing was filed.

PRINCIPLES AND CONCLUSIONS OF LAW

1. The Water Court must address all issue remarks decreed on a claim. Mont. Code Ann. § 85-2-248 (2025).
2. A properly filed Statement of Claim for an existing water right is *prima facie* proof of its content. § 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, ¶ 34, 375 Mont. 86, 329 P.3d 558.
3. Claimant Julie M. Hansemann has not shown that the claimed place of use described by claim 41S 126194-00 has been historically irrigated.

RECOMMENDATIONS

1. Claim 41S 126194-00 should be dismissed as abandoned or not perfected.
2. The objections to claim 41S 126194-00 should be dismissed as they are moot.

An abstract is enclosed.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service Via USPS Mail:

Robert K. Phillips
~~616 7th Avenue North~~
~~Lewistown, MT 59457~~
(No forwarding address is available)

Service Via Electronic Mail:

Betsy R Story
Parsons Behle & Latimer
ecf@parsonsbehle.com
bstory@parsonsbehle.com
(Atty for: Julie M. Hansemann)

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

Water Right Number: **41S 126194-00 STATEMENT OF CLAIM**

Version: 4 -- POST DECREE

Status: **DISMISSED**

Owners: JULIE M HANSEMANN
351 NORTHGATE LOOP
HELENA, MT 59602-7765

Priority Date:

Type of Historical Right:

Purpose (Use): IRRIGATION

Flow Rate:

Volume:

Source Name: SPRING, UNNAMED TRIBUTARY OF WARM SPRING CREEK

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.