

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

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CLAIMANTS: Amanda A. Peck; Robert W. Peck;  
Montana State Board of Land Commissioners -  
Forestry and Trust Lands Division

OBJECTORS: Montana State Board of Land Commissioners -  
Forestry and Trust Lands Division

**CASE 41S-2088-R-2025**  
41S 101592-00

**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 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. Amanda A. Peck, Robert W. Peck, and the Montana State Board of Land Commissioners - Forestry and Trust Lands Division ("MBLC") are the record co-owners of claim 41S 101592-00.

2. Claim 41S was decreed with DNRC issue remarks:

- FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.
- ON 01/25/1989 FLOYD R. BLAIR FILED A LATE OBJECTION TO THE PLACE OF USE AND MAXIMUM ACRES. THIS WILL BE HEARD AFTER PROPER NOTICE ON THE NEXT OBJECTION LIST.
- USDA AERIAL PHOTOGRAPH NOS. 30027-278-106 DATED 09/25/1979 AND 30027-178-96 DATED 09/18/1979 APPEAR TO INDICATE 20.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.
- THE MAXIMUM COMBINED ACRES FOR THIS GROUP OF SUPPLEMENTAL CLAIMS MAY REQUIRE MODIFICATION PENDING RESOLUTION OF MAXIMUM IRRIGATED ACRES ISSUE.

(Doc.<sup>1</sup>1.00).

3. On October 17, 2025, a deadline was set for late Objector Floyd R. Blair to indicate whether the January 25, 1989 late Objection to claim 41S 101592-00 would be pursued. (Doc. 3.00). The Order setting filing deadline indicated that if nothing were filed by the deadline, the late Objection would be pursued in the forthcoming Master’s Report. Nothing was filed.

4. The October 17, 2025 Order setting filing deadline also set a deadline for MBLC to indicate how its Objection to claim 41S 101592-00 should be resolved. On February 6, 2026, MBLC filed its Notice of Withdrawal of Objection. (Doc. 5.00).

5. A deadline was set for Claimants Amanda A. Peck, Robert W. Peck, and MBLC to meet with a DNRC employee to address issue remarks decreed on claim 41S 101592-00. (Doc. 6.00).

6. DNRC Water Resource Specialist Brandon Ahlgren filed a Memorandum on April 9, 2026. (Doc. 8.00). Mr. Ahlgren indicated he met with Clare Ols, counsel for MBLC on March 17, 2026. Mr. Ahlgren explained that he reviewed aerial photographs and substantiated the claimed acreage. Mr. Ahlgren proposed slight modifications to how the acres are described “to better reflect historic use.”

**Place of Use:**

<b>ID</b>	<b>Acres</b>	<b>Govt Lot</b>	<b>Qtr Sec</b>	<b>Sec</b>	<b>Trp</b>	<b>Rge</b>	<b>County</b>
1	7.50 <del>40.00</del>		W2SWNW	11	18N	15E	FERGUS
2	12.50 <del>40.00</del>		SENE	10	18N	15E	FERGUS
3	15.00		E2SE	10	18N	15E	FERGUS
4	20.00		NE	18	18N	15E	FERGUS
<b>Total:</b>	<b>55.00</b>						

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

7. A deadline was set to determine if Claimants Amanda A. Peck, Robert W. Peck, and the MBLC agreed or disagreed with the proposed modifications to the place of use legal land description for claim 41S 101592-00. The Order indicated that if nothing were filed by the June 5, 2026 deadline, it would be determined the Claimants agree claim 41S 101592-00 should be modified as proposed by Mr. Ahlgren. The following language was included in the Order:

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.

(Doc. 9.00).

8. On June 5, 2026, MBLC filed its Statements in Response to DNRC Memorandum and Motion to Amend Claim. (Doc. 10.00). MBLC stated:

MBLC agrees with DNRC's recommendation to reduce the acreage claimed under Place of Use ("POU") 1 and POU 2 for Water Right 41S 10159200 (the "Claim"). However, MBLC disagrees with DNRC's recommendation to leave the acreage claimed under POU 3 as it appears in the Basin 41S Preliminary Decree and hereby moves the Court to amend the Claim, set forth below. DNRC's recommended changes to POU 1 and POU 2, together with the amendment requested by MBLC to POU 3, will resolve the issue remarks on the Claim.

(Doc. 10.00, at 1). MBLC explained that its specialist, Letty Miller analyzed aerial imagery from 1971, 1976, and 1979 and determined the "average total irrigated area within POU 3...is 20.00 acres." (Doc. 10.00, at 3). The aerial photographs Ms. Miller analyzed are attached to MBLC's June 5, 2026 filing. (Doc. 10.00).

9. Nothing was filed by the Pecks in response to the Order Setting Filing Deadline.

#### PRINCIPLES 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. § 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. 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.

4. The party seeking to amend a water right claim has the burden to show, by a preponderance of the evidence, that the claim elements they challenge do not accurately reflect the beneficial use of the water rights as they existed prior to July 1, 1973. *Nelson v. Brooks*, 2014 MT 120, ¶ 34, 375 Mont. 86, 329 P.3d 558; Rule 19, W.R.Adj.R.

CONCLUSIONS OF LAW

1. MBLC’s proposed modifications to the irrigated acres and place of use for claim 41S 101592-00-00 are supported by aerial photographs and overcome, by a preponderance of evidence, the prima facie proof afforded the Statement of Claim, justifying modification to claim 41S 101592-00.

2. Claim 41S 101592-00 was also decreed with a remark indicating “the combined acres” for the group of supplemental claims may need to be adjusted. Supplemental rights remarks no longer included a quantified acreage figure; the remark is obsolete and can be removed.

RECOMMENDATIONS

1. Claim 41S 101592-00 should be modified as follows:

<b>Maximum Acres:</b>	66.00	80.00						
<b>Place of Use:</b>								
<b>ID</b>	<b>Acres</b>	<b>Govt Lot</b>	<b>Qtr Sec</b>	<b>Sec</b>	<b>Twp</b>	<b>Rge</b>	<b>County</b>	
1	7.50	+0.00	W2SWNW	11	18N	15E	FERGUS	
2	12.50	+0.00	SENE	10	18N	15E	FERGUS	
3	20.00	+5.00	E2SE	10	18N	15E	FERGUS	
4		20.00	NE	16	18N	15E	FERGUS	
<b>Total:</b>	66.00	80.00						

2. The issue remarks should be removed from claim 41S 101592-00.

An abstract is attached for review.

**ELECTRONICALLY SIGNED AND DATED BELOW.**

**Service Via USPS Mail:**

Amanda A. Peck  
Robert W. Peck  
3422 Bally Dome Rd.  
Denton, MT 59430

Floyd Blair  
~~404 Summit Ave. #29~~  
~~Denton MT 59430~~  
(Return Mail Received 10-28-2025)

**Service Via Electronic Mail:**

Kelley Lewis  
Clare Ols  
KLH Advisors PLLC  
klh@klhadvisors.com  
clare@klhadvisors.com  
admin@klhadvisors.com  
(Attys for: Montana State Board of Land Commissioners – Forestry and Trust Lands Division)

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

**Water Right Number:** 41S 101592-00 STATEMENT OF CLAIM

**Version:** 5 -- POST DECREE

**Status:** ACTIVE

**Owners:**

AMANDA A PECK  
3422 BALLY DOME RD  
DENTON, MT 59430

ROBERT W PECK  
3422 BALLY DOME RD  
DENTON, MT 59430

MONTANA STATE BOARD OF LAND COMMISSIONERS  
FORESTRY AND TRUST LANDS DIVISION  
PO BOX 201601  
HELENA, MT 59620-1601

**Priority Date:** JUNE 20, 1973

**Type of Historical Right:** FILED

**Purpose (Use):** IRRIGATION

**Irrigation Type:** SPRINKLER/FLOOD

**Flow Rate:** 2.08 CFS

**\*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:** 60.00

**Source Name:** WOLF CREEK

**Source Type:** SURFACE WATER

**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		SWSWNE	16	18N	15E	FERGUS
<b>Period of Diversion:</b>	MARCH 15 TO NOVEMBER 1					
<b>Diversion Means:</b>	PUMP					
2		NENESE	10	18N	15E	FERGUS
<b>Period of Diversion:</b>	MARCH 15 TO NOVEMBER 1					
<b>Diversion Means:</b>	PUMP					
3		NWSESE	10	18N	15E	FERGUS
<b>Period of Diversion:</b>	MARCH 15 TO NOVEMBER 1					
<b>Diversion Means:</b>	PUMP					
<b>Period of Use:</b>	MARCH 15 TO NOVEMBER 1					

**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	7.50		W2SWNW	11	18N	15E	FERGUS
2	12.50		SENE	10	18N	15E	FERGUS
3	20.00		E2SE	10	18N	15E	FERGUS
4	20.00		NE	16	18N	15E	FERGUS
<b>Total:</b>	<u>60.00</u>						

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**Remarks:**

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

101592-00      101595-00      101596-00

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE ASSOCIATED WHICH MEANS THE RIGHTS SHARE THE SAME PLACE OF USE.

68174-00      101592-00

THIS WATER RIGHT AND WATER RIGHT 41S 29940-00, 41S 14516-00, 41S 68174-00, 41S 101593-00, 41S 101594-00, 41S 101595-00, 41S 101596-00 ARE ASSOCIATED. THEY HAVE OVERLAPPING PLACES OF USE.

THIS WATER RIGHT AND WATER RIGHTS 41S 68174-00, 41S 101592-00, 41S 101595-00, 41S 101596-00 ARE ASSOCIATED. THEY SHARE A COMMON POINT OF DIVERSION AND A PORTION OF THE SAME IRRIGATED ACRES.

AUTHORIZATION TO CHANGE ISSUED 05/04/88 FOR CHANGE IN POINT OF DIVERSION COMPLETED 07/01/88. FILE REFLECTS RIGHT AS IT EXISTED PRIOR TO JULY 1973. APPROVED CHANGES WILL BE RECORDED AFTER FINAL DECREE.