

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

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CLAIMANTS: Fred W. Colver; Leslie L. Colver

**CASE 41S-2146-R-2025**  
41S 48825-00  
41S 48826-00

**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. Fred W. Colver and Leslie L. Colver (hereinafter referred to as "the Colvers" and "the Claimants") are the record owners of claims 41S 48825-00 and 41S 48826-00.
2. Claims 41S 48825-00 and 41S 48826-00 were decreed with Montana Department of Natural Resources and Conservation ("DNRC") issue remarks:

**41S 48825-00:**

- 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). 30027-278-188 , DATED 09/25/1979 , APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- THE LEGAL LAND DESCRIPTION FOR POINT OF DIVERSION NO. 2 COULD NOT BE REFINED FROM INFORMATION IN THE FILE. THIS CLAIMED POINT OF DIVERSION CANNOT BE CONFIRMED.
- THIS CLAIM WAS INCLUDED IN A WATER COURT CASE INITIATED PRIOR TO THE ISSUANCE OF THE BASIN 41S PRELIMINARY DECREE. THE CASE WAS NOT CLOSED PRIOR TO THE ISSUANCE OF THE DECREE, THEREFORE THE ABSTRACT MAY NOT REFLECT THE CURRENT ELEMENTS OF THIS CLAIM AS ADJUDICATED BY THE WATER COURT.

**41S 48826-00:**

- THE CLAIMED MEANS OF DIVERSION CANNOT BE IDENTIFIED FROM AVAILABLE DATA.
- 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). 30027-278-188 , DATED 09/25/1979 , APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- THE LEGAL LAND DESCRIPTION FOR POINTS OF DIVERSION NO. 1 AND 3 COULD NOT BE REFINED FROM INFORMATION IN THE FILE. THE CLAIMED POINTS OF DIVERSION CANNOT BE CONFIRMED.
- THIS CLAIM WAS INCLUDED IN A WATER COURT CASE INITIATED PRIOR TO THE ISSUANCE OF THE BASIN 41S PRELIMINARY DECREE. THE CASE WAS NOT CLOSED PRIOR TO THE ISSUANCE OF THE DECREE, THEREFORE THE ABSTRACT MAY NOT REFLECT THE CURRENT ELEMENTS OF THIS CLAIM AS ADJUDICATED BY THE WATER COURT.

3. The Colvers were ordered to meet with the DNRC to address the unresolved issue remarks decreed on Claims 41S 48825-00 and 41S 48826-00. (Doc.<sup>1</sup>1.00).

4. On February 5, 2026, a Notice of Appearance and Response to Order Setting Filing Deadline was filed by attorney Christopher T. Scoones on behalf of the Colvers. (Doc. 3.00). A request to Withdraw Statement of Claim or Interest in Statement of Claim was included for each of claims 41S 48825-00 and 41S 48826-00, signed by the Colvers.

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

5. DNRC Water Resource Specialist Brandon Ahlgren filed a Memorandum in Case 41S-2146-R-2025. (Doc. 4.00). Mr. Ahlgren indicated that he was unable to substantiate historical irrigation at the claimed places of use for claims 41S 48825-00 and 41S 48826-00 and recommended both claims be dismissed.

PRINCIPLES 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.

CONCLUSION OF LAW

The requests to withdraw claims 41S 48825-00 and 41S 48826-00, signed by the Colvers, should be granted.

RECOMMENDATIONS

Claims 48825-00 and 41S 48826-00 should be dismissed.

Abstracts are attached for review.

**ELECTRONICALLY SIGNED AND DATED BELOW.**

**Service Via USPS Mail:**

(Last Order)  
Fred W. Colver  
Leslie L. Colver  
42039 MT HWY 81  
Lewistown, MT 59457

**Service via Electronic Mail:**

**Christopher T. Scoones**  
**Scoones Law PLLC**  
**chris@scooneslaw.com**  
**(Atty for: Fred W. Colver and Leslie L. Colver)**

**\*Note: Service List Updated: 02-17-2026\***

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

**Water Right Number:** 41S 48825-00 STATEMENT OF CLAIM

**Version:** 5 -- POST DECREE

**Status:** **DISMISSED**

**Owners:** FRED W COLVER  
42039 MT HWY 81  
LEWISTOWN, MT 59457

LESLIE L COLVER  
42039 MT HWY 81  
LEWISTOWN, MT 59457

**Priority Date:**

**Type of Historical Right:**

**Purpose (Use):** IRRIGATION

**Flow Rate:**

**Volume:**

**Source Name:** WARM SPRING CREEK

**Source Type:** SURFACE WATER

**Point of Diversion and Means of Diversion:**

**Period of Use:**

**Place of Use:**

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**Remarks:**

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.

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

**Water Right Number:** 41S 48826-00 STATEMENT OF CLAIM

**Version:** 4 -- POST DECREE

**Status:** **DISMISSED**

**Owners:** FRED W COLVER  
42039 MT HWY 81  
LEWISTOWN, MT 59457

LESLIE L COLVER  
42039 MT HWY 81  
LEWISTOWN, MT 59457

**Priority Date:**

**Type of Historical Right:**

**Purpose (Use):** IRRIGATION

**Flow Rate:**

**Volume:**

**Source Name:** WARM SPRING CREEK

**Source Type:** SURFACE WATER

**Point of Diversion and Means of Diversion:**

**Period of Use:**

**Place of Use:**

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**Remarks:**

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.