FILED
10/01/2026
Melissa Lockman
CLERK
Montana Water Court
STATE OF MONTANA
By: D'Ann CIGLER
41S-0420-R-2024
Peters, Bina
6.00

Montana Water Court
PO Box 1389
Bozeman, MT 59771-1389
1-800-624-3270
(406) 586-4364
watercourt@mt.gov

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

* *

CLAIMANTS: Ellen L. Walker; Michael E. Walker

CASE 41S-0420-R-2024
41S 126200-00
41S 126201-00
41S 126202-00

ORDER AMENDING AND ADOPTING MASTER'S REPORT

Pursuant to Montana Code Annotated, § 85-2-233(5), the above entitled case was assigned to Water Master Robert J. Hyatt. The Water Master filed a report containing Findings of Fact and Conclusions of Law with the Clerk of Court. Copies of the report were served upon the parties on July 1, 2026. The time frame for filing objections has elapsed. No objections to the Findings and Conclusions have been filed by any party.

Although the ultimate recommendations were correct, the Conclusions of Law were inaccurate. The Conclusions of Law 1 states incorrectly "The acres irrigated issue remark overcomes the prima facie status of claim 41S 126200-00. There is no evidence supporting historical irrigation of its places of use." A properly filed Statement of Claim for Existing Water Right is prima facie proof of its content pursuant to section 85-2-227, MCA. The prima facie proof may be contradicted and overcome by other evidence that proves, by a preponderance of the evidence, that the elements of the claim do not accurately reflect the beneficial use of the water right as it existed prior to July 1, 1973.

The acres irrigated remark does not overcome the prima facie status of the Statement of Claim for 41S 126200-00. However, based on the evidence here, which

includes the issue remark, the inability of DNRC to substantiate any irrigation, and the failure of the Claimants to provide any substantiation of irrigation, the prima facie status of the Statement of Claim is overcome.

Therefore, it is

ORDERED that pursuant to Rule 53(e), Montana Rules of Civil Procedure, the Master's Report and its Recommendations are ADOPTED as AMENDED as stated in this order. The Post Decree Abstracts provided with this order have been amended and are APPROVED by this Court.

Service via USPS Mail:

Ellen L. Walker
Michael E. Walker
31056 MT HWY 81
Lewistown, MT 59457-2233

Electronically Signed By:
Hon. Judge Bina Peters
Thu, Oct 01 2026 11:04:18 AM