

Montana Water Court
P.O. Box 1389
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(406) 586-4364
watercourt@mt.gov

IN THE WATER COURT OF THE STATE OF MONTANA
LOWER MISSOURI DIVISION
JUDITH RIVER BASIN (41S)
PRELIMINARY DECREE

CLAIMANTS: Kristen Ardani; Kenneth E. Bridgeford; Lori Brown-Chauvet; David Butler; Mark Butler; Scott M. Chauvet; Kevin R. Dengel; Andrew J. Eames; Julie K. Eames; Christi M. Henderson; Mark W. Henderson; Charlene R. Huffield; Mitchell J. Huffield; Matt J. Jensen; Tisha M. Jensen; James A. Johnson; Michale Johnson; Jay D. Kinsey; Jessee V. Kinsey; Abby J. Klier; Scott M. Klier; Darrell C. Lemmon; Robin Z. Lemmon; Denise A. Manley; David W. Nearhoof; Regina B. Nearhoof; Conrad Robertson; Nancy Robertson; Scott P. Scheeler; Kerri Smith; Timothy A. Sorensen; John Stanko; Brian J. Suderman; Jonita L. Suderman; Jan R. Tedesco; Matthew J. Tedesco; Donna M. Vantassel; Stephen M. Vantassel; Michelle R. Waltenbaugh; Scott Waltenbaugh; Francis O. Westhoff Jr.; Suzanne E. Westhoff; James J. Wier; Linda C. Wier; Anita L. Wittmier; Blue Dragonfly Holdings, LLC; City of Lewistown

CASE 41S-0631-R-2024
41S 104398-00

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 may file a written objection to this Master’s Report within **10 days** of the stamped date if you disagree or find errors with the Master’s findings of fact, conclusions of law, or recommendations. Rule 23, W.R.Adj.R. If the Master’s Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. 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 co-owners (hereinafter “Claimants”) of irrigation claim 41S 104398-00 are as listed in the caption.

2. In 1994, then-owner Leiningers Inc. filed a late objection to claim 41S 104398-00, indicating the following:

8. State the changes that you think should be made to this claim, and why. State the specific ground and evidence on which the objections are based. (Use additional paper if necessary)


Objection is made because 44 acres of irrigated land was mistakenly omitted from the claim as shown on attached maps.

These 44 acres should now be added.

DATED this 20th day of December, 1994.

Leiningers Inc.

Woodrow Leininger Pres..


Signature of Objector of
Objector’s Attorney

Because the objection was almost a decade overdue, an issue remark was added to claim 41S 104398-00 to make sure the objection could be addressed during the Preliminary Decree in Basin 41S. The Preliminary Decree was issued on August 18, 2022.

3. Claim 41S 104398-00 was decreed in the 41S Preliminary Decree with the following DNRC issue remarks:

ON 12/22/1994 LEININGERS INC. FILED AN OBJECTION TO THE MAXIMUM ACRES AND PLACE OF USE. THIS LATE OBJECTION WILL NOT BE HEARD UNTIL AFTER PROPER NOTICE ON THE NEXT OBJECTION LIST.

FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.

THE FERGUS COUNTY WATER RESOURCES SURVEY(1970)APPEARS TO INDICATE 46.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

THE POINT OF DIVERSION MAY BE INCORRECT. THE INITIAL DIVERSION FROM BIG CASINO CREEK APPEARS TO BE IN THE NWSWNE OR THE NESWNW SEC 27 TWP 15N RGE 18E FERGUS CO. THERE APPEARS TO BE A SECONDARY POINT OF DIVERSION (PUMP IN DITCH) IN THE NENWNE SEC 27 TWP 15N RGE 18E FERGUS CO.

All issue remarks must be addressed.

4. An Order was issued on March 11, 2024, setting a deadline for Leiningers Inc. to indicate whether it would pursue the 1994 late Objection to claim 41S 104398-00. (Doc.¹ 1.00). The Order indicated that if nothing were filed by the April 25, 2024 deadline, this Water Master would conclude Leiningers Inc. does not intend to pursue the late Objection to claim 41S 104398-00. Leiningers Inc. did not file anything indicating an intent to pursue the late Objection by the deadline.

5. The Claimants were ordered to meet with a DNRC employee to address the unresolved DNRC issue remarks. (Doc. 2.00).

6. On July 1, 2024, DNRC Water Resource Specialist Brandon Ahlgren filed a Memorandum regarding his review of the issue remarks, a map and proposed abstract were attached. (Doc. 4.00). The Memorandum stated that Mr. Ahlgren discussed the issue remarks with a representative of Blue Dragonfly Holdings, LLC and Stephen Vantassel; none of the other Claimants contacted the DNRC as ordered.

Mr. Ahlgren recommended the following modifications be made to claim 41S 104398-00, addressing the unresolved issue remarks:

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

*Maximum Acres: 79.16 86.31

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	NESENW	SWNWNE	27	15N	18E	FERGUS
Period of Diversion:	MARCH 1 TO OCTOBER 31					
Diversion Means:	PUMP HEADGATE					

PUMP IS SECONDARY MEANS OF DIVERSION

*Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	79.16 86.31		NE	27	15N	18E	FERGUS
Total	79.16 86.31						

THE ACTUAL ACREAGE TOTAL IS 86.308 ACRES. COMPUTER LIMITATIONS DO NOT ALLOW PRINTING THIS TOTAL.

7. An Order was issued setting a deadline for the Claimants to agree or disagree with the recommended modifications to claim 41S 104398-00. (Doc. 5.00). The Order indicated that if nothing were filed by the deadline, this Water Master would conclude the Claimants agree with the recommended modifications.

8. On July 17, 2024, Claimant Blue Dragon Fly Holdings, LLC filed a statement indicating agreement with Mr. Ahlgren's recommendations. (Doc. 6.00). Nothing was filed by the other Claimants.

PRINCIPLES AND CONCLUSIONS OF LAW

1. The issue remarks were not addressed through the objection process. The Water Court is required to resolve the issues raised by each issue remark. Section 85-2-248, MCA. Under Section 85-2-248(3), MCA, information in the claim file or other information obtained by the Court can be reviewed to determine if it provides a sufficient basis to resolve the issue raised by a remark and the Court can provide the claimant an opportunity to file additional information or evidence.

2. A properly filed Statement of Claim for an existing water right is prima facie proof of its content. Section 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; 375 Mont.86, 95; 329 P.3d 558, 564.

3. Pursuant to Rule 22, W.R.Adj.R., if a claimant, objector, or intervenor fails to appear at a scheduled conference or hearing or fails to comply with an order issued by the Water Court, the Water Court may issue such orders of sanction with regard thereto as are just.

RECOMMENDATIONS

1. The late Objection filed by Leiningers Inc. should be dismissed.
 2. Claim 41S 104398-00 should be modified as shown in Finding of Fact No. 6.
 3. The issue remarks should be removed from claim 41S 104398-00.
- An abstract is enclosed for review.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

Late Objector:

Leiningers, Inc.
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Service List Updated: 8/6/2024

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

Water Right Number: 41S 104398-00 STATEMENT OF CLAIM

Version: 5 -- POST DECREE

Status: ACTIVE

Owners:

KRISTEN ARDANI
15329 W 50TH DR
GOLDEN, CO 80403-1557

KENNETH E BRIDGEFORD
PO BOX 36
LEWISTOWN, MT 59457-0036

LORI BROWN-CHAUVET
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BLUE DRAGONFLY HOLDINGS LLC
2118 N 9TH RD
WORDEN, MT 59088-2002

LEWISTOWN, CITY OF
305 W WATSON ST
LEWISTOWN, MT 59457

OWNER LEININGERS INC RETAINED. CONTRACT FOR DEED INTEREST.

Priority Date: JUNE 30, 1891

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 1.34 CFS

***Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 79.16

Source Name: BIG CASINO 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		NESENW	27	15N	18E	FERGUS

Period of Diversion: MARCH 1 TO OCTOBER 31

Diversion Means: HEADGATE

PUMP IS SECONDARY MEANS OF DIVERSION.

Period of Use: MARCH 1 TO OCTOBER 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	79.16		NE	27	15N	18E	FERGUS
Total:	<u>79.16</u>						