

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

CLAIMANTS: Harriette Brandon; Henrietta E. Chiappone;
Henrietta J. Chiappone Revocable Trust; Nada
Bakos; Whisenhunt Grandchildrens Trust

CASE 41S-0649-R-2024

- 41S 140393-00
- 41S 140394-00
- 41S 140395-00
- 41S 140396-00
- 41S 140397-00
- 41S 140398-00
- 41S 140399-00
- 41S 140400-00
- 41S 140401-00

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. Nada Bakos, Harriette Brandon, the Whisenhunt Grandchildrens Trust, and the Henrietta J. Chiappone Revocable Trust are the record co-owners of claims 41S 140393-00, 41S 140394-00, 41S 140396-00, 41S 140397-00; Nada Bakos, Harriette Brandon, the Whisenhunt Grandchildrens Trust, and Henrietta E. Chiappone are the record co-owners of claims 41S 140395-00, 41S 140398-00, 41S 140399-00, 41S 140400-00, and 41S 140401-00.

2. The co-owners (hereinafter "Claimants") were ordered to meet with a DNRC employee to address the following unresolved issue remarks decreed on the claims:

41S 140393-00:

- FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.
- THE FERGUS COUNTY WATER RESOURCES SURVEY(1970)APPEARS TO INDICATE 5.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.
- USDA AERIAL PHOTOGRAPH NO(S). 30027-278-26 , DATED 09/25/1979 , APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. THE CLAIMED VOLUME EQUALS 3.5 TIMES THE CAPACITY OF THE RESERVOIR.

41S 140394-00:

- 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). 30027-178-65 , DATED 09/18/1979 , APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- THE POINT OF DIVERSION MAY BE INCORRECT. THE LOCATION OF THE HEADGATE CANNOT BE IDENTIFIED FROM AVAILABLE DATA.
- EXISTENCE OF THE CLAIMED RESERVOIR CANNOT BE CONFIRMED WITH AVAILABLE DATA

41S 140395-00:

- 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. 30027-278-26 , DATED 09/25/1979 APPEARS TO INDICATE 4.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

41S 140396-00:

- 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). 30027-278-26 , DATED 09/25/1979 , APPEARS TO INDICATE 0.00 ACRES IRRIGATED.

41S 140397-00:

- 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). 30027-278-26 , DATED 09/25/1979 , APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. THE CLAIMED VOLUME EQUALS 51.43 TIMES THE CAPACITY OF THE RESERVOIR.

41S 140398-00:

- 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). 30027-178-65 , DATED 09/18/1979 , APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. THE CLAIMED VOLUME EQUALS 21 TIMES THE CAPACITY OF THE RESERVOIR.

41S 140399-00:

- THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. THE CLAIMED VOLUME EQUALS 786 TIMES THE CAPACITY OF THE RESERVOIR.

41S 140400-00:

- THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. THE CLAIMED VOLUME EQUALS 902 TIMES THE CAPACITY OF THE RESERVOIR.

41S 140401-00:

- FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.
- THE FERGUS COUNTY WATER RESOURCES SURVEY(1970)APPEARS TO INDICATE 3.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.
- USDA AERIAL PHOTOGRAPH NO. 30027-278-26 , DATED 09/25/1979 APPEARS TO INDICATE 3.80 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.
- THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. THE CLAIMED VOLUME EQUALS 212 TIMES THE CAPACITY OF THE RESERVOIR.

3. On June 25, 2024 DNRC Water Resource Specialist Brandon Ahlgren filed a Memorandum stating he met with Harriette Brandon and Henrietta Chiappone to discuss the claims. (Doc.* 2.00). Mr. Ahlgren stated that he reviewed the scanned claim files, the Fergus County Water Resources Survey, and aerial photographs to prepare the Memorandum. Maps and proposed abstracts were attached to the Memorandum.

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

4. **Claim 41S 140393-00:** Based on the information available, Mr. Ahlgren recommended the following modifications be made to claim 41S 140393-00, resolving the flow rate, volume, and place of use issue remarks:

Volume: 34.00 AC-FT 48.80-AC-FT
 Climatic Area: 3 - MODERATE
 Maximum Acres: 5.94 15.00
 Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	5.94 15.00		N2SE	4	18N	17E	FERGUS
Total	5.94 15.00						

Mr. Ahlgren reports Claimants Harriette Brandon and Henrietta Chiappone agree with the volume reduction.

5. **Claim 41S 140394-00:** Based on the information available, Mr. Ahlgren recommended the following modifications be made to claim 41S 140394-00, resolving the point of diversion, reservoir, and place of use issue remarks:

Maximum Acres: 48.63 66.00
 Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	SEWNNE	SWNENE	11	18N	17E	FERGUS
Period of Diversion:		APRIL 15 TO OCTOBER 15				
Diversion Means:		HEADGATE				
Reservoir:		ONSTREAM				
ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
	SEWNNE	SWNENE	11	18N	17E	FERGUS
Diversion to Reservoir: DIVERSION # 1						

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	11.53 20.00		SESW	2	18N	17E	FERGUS
2	21.45 15.00		E2NW	11	18N	17E	FERGUS
3	15.65 20.00		N2NE	11	18N	17E	FERGUS
Total	48.63 66.00						

Mr. Ahlgren reports Claimants Harriette Brandon and Henrietta Chiappone may not agree with the recommended place of use modifications.

6. **Claim 41S 140395-00:** Based on the information available, Mr. Ahlgren recommended the following modifications be made to claim 41S 140395-00, resolving the place of use and flow rate issue remarks:

Flow Rate: 1.15 CFS ~~3.75 CFS~~

Maximum Acres: 30.43 ~~116.00~~

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	40.00		SENE	10	18N	17E	FERGUS
2	30.43 35.00		NWNE	10	18N	17E	FERGUS
3	40.00		NENW	10	18N	17E	FERGUS
Total	30.43 116.00						

Mr. Ahlgren reports Claimants Harriette Brandon and Henrietta Chiappone may not agree with the recommended place of use modifications.

7. **Claim 41S 140396-00:** Based on the information available, Mr. Ahlgren recommended the following modifications be made to claim 41S 140396-00, resolving the place of use issue remarks.

Maximum Acres: 66.88 ~~70.00~~

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	1.95 25.00		NESW	34	19N	17E	FERGUS
2	48.02 40.00		W2SE	34	19N	17E	FERGUS
3	16.91 5.00		SESE	34	19N	17E	FERGUS
Total	66.88 70.00						

Mr. Ahlgren reports Claimants Harriette Brandon and Henrietta Chiappone may not agree with the recommended place of use modifications.

8. **Claim 41S 140397-00:** Mr. Ahlgren was unable to substantiate any historic irrigation at the claimed place of use using the available resources and he recommended claim 41S 140397-00 be dismissed. Mr. Ahlgren reports Claimants Harriette Brandon and Henrietta Chiappone “wish to retain their claimed acreage....”

9. **Claim 41S 140398-00:** Based on the information available, Mr. Ahlgren recommended the following modifications be made to claim 41S 140398-00, addressing the flow rate, volume, and place of use issue remarks:

Flow Rate: ~~170.00 GPM~~

Volume: 3.85 AC-FT ~~32.40 AC-FT~~

FF007 A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR.

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	5.61 5.00		NWNWNW	11	18N	17E	FERGUS
2	4.39 5.00		SWSWSW	2	18N	17E	FERGUS
Total:	10.00						

Mr. Ahlgren reports Claimants Harriette Brandon and Henrietta Chiappone agree with the recommended volume reduction.

10. **Claims 41S 140399-00:** Based on the information available, Mr. Ahlgren recommended the following modification be made to claim 41S 140399-00, addressing the volume issue remark:

Volume: 1.53 AC-FT ~~470.52 AC-FT~~

Mr. Ahlgren reports Claimants Harriette Brandon and Henrietta Chiappone agree with the recommended volume reduction.

11. **Claim 41S 140400-00:** Based on the information available, Mr. Ahlgren recommended the following modification be made to claim 41S 140400-00, addressing the volume issue remark:

Volume: 1.53 AC-FT ~~560.80 AC-FT~~

Mr. Ahlgren reports Claimants Harriette Brandon and Henrietta Chiappone agree with the recommended volume reduction.

12. **Claim 41S 140401-00:** Based on the information available, Mr. Ahlgren recommended the following modification be made to claim 41S 140401-00, addressing the flow rate, volume, and place of use issue remarks:

Flow Rate: 4.52 CFS
 Volume: 1.53 AC-FT ~~120.80 AC-FT~~ FF007 A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR.
 Climatic Area: 3 - MODERATE
 Maximum Acres: 9.26 40.00
 Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	9.26 40.00		NWSW	3	18N	17E	FERGUS
Total:	9.26 40.00						

Mr. Ahlgren reports Claimants Harriette Brandon and Henrietta Chiappone agree with the recommended volume reduction.

13. An Order was issued setting a deadline for the Claimants to agree or disagree with the recommended modifications to the claims. (Doc. 3.00). The Order indicated that if nothing were filed by the deadline, this Master would conclude the Claimants agree with the recommended modifications. The Order included the following language:

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 by the deadline.

PRINCIPLES AND CONCLUSIONS OF LAW

1. The Water Court is required to address all issue remarks decreed on a claim as well as any objections the claim receives. Sections 85-2-233, 85-2-247, and 85-2-248, MCA.

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.

4. Notice type issue remarks were decreed on claims 41S 140393-00, 41S 140394-00, 41S 140396-00, 41S 140398-00, 41S 140399-00, 41S 140400-00, and 41S 140401-00. The notice-type remarks have served their purpose, as no objections were filed, no further proceedings are required.

RECOMMENDATIONS

1. Claims 41S 140393-00, 41S 140394-00, 41S 140395-00, 41S 140396-00, 41S 140398-00, 41S 140399-0, 41S 140400-00, and 41S 140401-00 should be modified as follows:

Claim 41S 140393-00:

- The following modifications should be made

Volume: 34.00 AC-FT ~~48.80-AC-FT~~

Climatic Area: 3 - MODERATE

Maximum Acres: 5.94 ~~15.00~~

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	5.94	46.00	N2SE	4	18N	17E	FERGUS
Total:	5.94	46.00					

Claim 41S 140394-00:

- The following modifications should be made

Maximum Acres: 48.63 66.00

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	SENWNE	SWNENE	11	18N	17E	FERGUS
Period of Diversion:		APRIL 15 TO OCTOBER 15				
Diversion Means:		HEADGATE				
Reservoir:		ONSTREAM				

Govt Lot	Qtr Sec	Sec	Twp	Rge	County
SENWNE	SWNENE	11	18N	17E	FERGUS

Diversion to Reservoir: DIVERSION # 1

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	11.53	20.00	SESW	2	18N	17E	FERGUS
2	21.45	46.00	E2NW	11	18N	17E	FERGUS
3	15.65	20.00	N2NE	11	18N	17E	FERGUS
Total:	48.63	66.00					

Claim 41S 140395-00:

- The following modifications should be made

Flow Rate: 1.15 CFS 2.76 CFS

Maximum Acres: 30.43 116.00

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	40.00		SENE	10	18N	17E	FERGUS
2	30.43	35.00	NWNE	10	18N	17E	FERGUS
3	40.00		NENW	10	18N	17E	FERGUS
Total:	30.43	116.00					

Claim 41S 140396-00:

- The following modifications should be made

Maximum Acres: 66.88 70.00

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	1.95	26.00	NESW	34	19N	17E	FERGUS
2	48.02	40.00	W2SE	34	19N	17E	FERGUS
3	16.91	5.00	SESE	34	19N	17E	FERGUS
Total:	66.88	70.00					

Claim 41S 140398-00:

- The following modifications should be made

Flow Rate: 170.00 GPM

Volume: 3.85 AC-FT 32.40 AC-FT

FF007 A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR.

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	5.61	6.00	NWNWNW	11	18N	17E	FERGUS
2	4.39	6.00	SWSWSW	2	18N	17E	FERGUS
Total:	10.00						

Claim 41S 140399-00:

- The following modification should be made

Volume: 1.53 AC-FT ~~470.52 AC-FT~~

Claim 41S 140400-00:

- The following modification should be made

Volume: 1.53 AC-FT ~~550.80 AC-FT~~

Claim 41S 140401-00:

- The following modifications should be made

Flow Rate: ~~4.52 CFS~~

Volume: 1.53 AC-FT ~~120.80 AC-FT~~

FF007 A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR.

Climatic Area: 3 - MODERATE

Maximum Acres: 9.26 ~~40.00~~

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	9.26 40.00		NWSW	3	18N	17E	FERGUS
Total:	9.26 40.00						

2. Claim 41S 140397-00 should be dismissed.

Abstracts of claims are attached for review.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

Whisenhunt Grandchildrens Trust
c/o Nada Bakos
Nada Bakos
PO Box 441
Langley, WA 98260

Harriette Brandon
2004 Lake Elmo Dr
Billings, MT 59105

Henrietta E Chiappone
241 Ave D
Billings, MT 59101

Henrietta J. Chiappone Revocable Trust
Henrietta J Chiappone Trustee
241 Ave D
Billings, MT 59101

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

Water Right Number: 41S 140393-00 STATEMENT OF CLAIM
Version: 4 -- POST DECREE
Status: ACTIVE

Owners: NADA BAKOS
PO BOX 441
LANGLEY, WA 98260

HARRIETTE BRANDON
2004 LAKE ELMO DR
BILLINGS, MT 59105

CHIAPPONE, HENRIETTA J REVOCABLE TRUST
HENRIETTA J CHIAPPONE TRUSTEE
241 AVENUE D
BILLINGS, MT 59101-0646

WHISENHUNT GRANDCHILDRENS TRUST
%NADA BAKOS
PO BOX 441
LANGLEY, WA 98260

Priority Date: DECEMBER 31, 1962

Type of Historical Right: USE

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER

***Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR.

Volume: 34.00 AC-FT

Climatic Area: 3 - MODERATE

Maximum Acres: 5.94

Source Name: WILLOW SPRINGS

Source Type: GROUNDWATER

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		NENWSE	4	18N	17E	FERGUS

***Period of Diversion:** APRIL 1 TO OCTOBER 31

Diversion Means: PUMP

***Reservoir:** ONSTREAM **Reservoir Name:** LANGFORD

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NENWSE	4	18N	17E	FERGUS

Diversion to Reservoir: DIVERSION # 1

Dam Height: 13.00 FEET

Depth: 10.00 FEET

Surface Area: 3.40 ACRES

Capacity: 13.60 ACRE-FEET

Period of Use: APRIL 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	5.94		N2SE	4	18N	17E	FERGUS
Total:	5.94						

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

Water Right Number: 41S 140394-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners:

NADA BAKOS
PO BOX 441
LANGLEY, WA 98260

HARRIETTE BRANDON
2004 LAKE ELMO DR
BILLINGS, MT 59105

CHIAPPONE, HENRIETTA J REVOCABLE TRUST
HENRIETTA J CHIAPPONE TRUSTEE
241 AVENUE D
BILLINGS, MT 59101-0646

WHISENHUNT GRANDCHILDRENS TRUST
%NADA BAKOS
PO BOX 441
LANGLEY, WA 98260

Priority Date: APRIL 10, 1902

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FURROW/FLOOD

***Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR.

Volume: 275.00 AC-FT

Climatic Area: 3 - MODERATE

Maximum Acres: 48.63

***Source Name:** UNNAMED TRIBUTARY OF PLUM 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		SEWNW	11	18N	17E	FERGUS

Period of Diversion: APRIL 15 TO OCTOBER 15

Diversion Means: HEADGATE

Reservoir: ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SEWNW	11	18N	17E	FERGUS

Diversion to Reservoir: DIVERSION # 1

Period of Use: APRIL 15 TO OCTOBER 15

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	11.53		SESW	2	18N	17E	FERGUS
2	21.45		E2NW	11	18N	17E	FERGUS
3	15.65		N2NE	11	18N	17E	FERGUS
Total:	<u>48.63</u>						

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

Water Right Number: 41S 140395-00 STATEMENT OF CLAIM
Version: 4 -- POST DECREE
Status: ACTIVE

Owners: NADA BAKOS
PO BOX 441
LANGLEY, WA 98260

HARRIETTE BRANDON
2004 LAKE ELMO DR
BILLINGS, MT 59105

HENRIETTA E CHIAPPONE
241 AVE. D
BILLINGS, MT 59101

WHISENHUNT GRANDCHILDRENS TRUST
%NADA BAKOS
PO BOX 441
LANGLEY, WA 98260

Priority Date: APRIL 1, 1907
Type of Historical Right: FILED
Purpose (Use): IRRIGATION
Irrigation Type: SPRINKLER/FLOOD/FURROW
Flow Rate: 1.15 CFS
Volume: 372.60 AC-FT
Climatic Area: 3 - MODERATE
Maximum Acres: 30.43
Source Name: PLUM 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		SESWNW	11	18N	17E	FERGUS

Period of Diversion: APRIL 15 TO OCTOBER 31

Diversion Means: HEADGATE

Period of Use: APRIL 15 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	30.43		NWNE	10	18N	17E	FERGUS

Total: 30.43

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.

140395-00

140398-00

140399-00

140400-00

140401-00

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

Water Right Number: 41S 140396-00 STATEMENT OF CLAIM
Version: 4 -- POST DECREE
Status: ACTIVE

Owners: NADA BAKOS
PO BOX 441
LANGLEY, WA 98260

HARRIETTE BRANDON
2004 LAKE ELMO DR
BILLINGS, MT 59105

CHIAPPONE, HENRIETTA J REVOCABLE TRUST
HENRIETTA J CHIAPPONE TRUSTEE
241 AVENUE D
BILLINGS, MT 59101-0646

WHISENHUNT GRANDCHILDRENS TRUST
%NADA BAKOS
PO BOX 441
LANGLEY, WA 98260

Priority Date: MAY 10, 1904

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

***Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR.

Volume: 226.80 AC-FT

Climatic Area: 2 - MODERATELY HIGH

Maximum Acres: 66.88

Source Name: UNNAMED TRIBUTARY OF PLUM 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		NWSWSE	34	19N	17E	FERGUS

***Period of Diversion:** APRIL 1 TO SEPTEMBER 30

Diversion Means: HEADGATE

***Reservoir:** ONSTREAM **Reservoir Name:** #5 "2"

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NWSWSE	34	19N	17E	FERGUS

Diversion to Reservoir: DIVERSION # 1

Dam Height: 12.00 FEET

Depth: 9.00 FEET

Surface Area: 1.67 ACRES

Capacity: 6.01 ACRE-FEET

Period of Use: APRIL 1 TO SEPTEMBER 30

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	1.95		NESW	34	19N	17E	FERGUS
2	48.02		W2SE	34	19N	17E	FERGUS
3	16.91		SESE	34	19N	17E	FERGUS
Total:	<u>66.88</u>						

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

Water Right Number: 41S 140397-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: DISMISSED

Owners:

NADA BAKOS
PO BOX 441
LANGLEY, WA 98260

HARRIETTE BRANDON
2004 LAKE ELMO DR
BILLINGS, MT 59105

CHIAPPONE, HENRIETTA J REVOCABLE TRUST
HENRIETTA J CHIAPPONE TRUSTEE
241 AVENUE D
BILLINGS, MT 59101-0646

WHISENHUNT GRANDCHILDRENS TRUST
%NADA BAKOS
PO BOX 441
LANGLEY, WA 98260

Priority Date:

Type of Historical Right:

Purpose (Use): IRRIGATION

Flow Rate:

Volume:

Source Name: UNNAMED TRIBUTARY OF PLUM 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.

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

Water Right Number: 41S 140398-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners:

NADA BAKOS
PO BOX 441
LANGLEY, WA 98260

HARRIETTE BRANDON
2004 LAKE ELMO DR
BILLINGS, MT 59105

HENRIETTA E CHIAPPONE
241 AVE. D
BILLINGS, MT 59101

WHISENHUNT GRANDCHILDRENS TRUST
%NADA BAKOS
PO BOX 441
LANGLEY, WA 98260

Priority Date: DECEMBER 31, 1958

Type of Historical Right: USE

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR.

Volume: 3.85 AC-FT

Climatic Area: 3 - MODERATE

Maximum Acres: 10.00

Source Name: PLUM 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		NWNWNW	11	18N	17E	FERGUS

***Period of Diversion:** APRIL 15 TO OCTOBER 1

Diversion Means: PUMP

*Reservoir: ONSTREAM Reservoir Name: # 16 1

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NWNWNW	11	18N	17E	FERGUS

Diversion to Reservoir: DIVERSION # 1

Dam Height: 10.00 FEET
Depth: 7.00 FEET
Surface Area: 0.55 ACRES
Capacity: 1.54 ACRE-FEET

Period of Use: APRIL 15 TO OCTOBER 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	5.61		NWNWNW	11	18N	17E	FERGUS
2	4.39		SWSWSW	2	18N	17E	FERGUS
Total:	10.00						

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.

140395-00 140398-00 140399-00 140400-00 140401-00

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

Water Right Number: 41S 140399-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners:

NADA BAKOS
PO BOX 441
LANGLEY, WA 98260

HARRIETTE BRANDON
2004 LAKE ELMO DR
BILLINGS, MT 59105

HENRIETTA E CHIAPPONE
241 AVE. D
BILLINGS, MT 59101

WHISENHUNT GRANDCHILDRENS TRUST
%NADA BAKOS
PO BOX 441
LANGLEY, WA 98260

Priority Date: DECEMBER 31, 1891

Type of Historical Right: USE

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 3.75 CFS

Volume: 1.53 AC-FT

Climatic Area: 3 - MODERATE

Maximum Acres: 128.00

Source Name: PLUM 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		SESWNW	11	18N	17E	FERGUS

***Period of Diversion:** APRIL 15 TO OCTOBER 31

Diversion Means: HEADGATE

*Reservoir: ONSTREAM Reservoir Name: A1 FLETCHER

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SESWNW	11	18N	17E	FERGUS

Diversion to Reservoir: DIVERSION # 1

Dam Height: 12.00 FEET
 Depth: 9.00 FEET
 Surface Area: 0.17 ACRES
 Capacity: 0.61 ACRE-FEET

Period of Use: APRIL 15 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	35.00		NE	4	18N	17E	FERGUS
2	55.00		SW	3	18N	17E	FERGUS
3	27.00		NE	10	18N	17E	FERGUS
4	11.00		NW	11	18N	17E	FERGUS
Total:	<u>128.00</u>						

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.

140395-00 140398-00 140399-00 140400-00 140401-00

ON OCTOBER 13, 1989 A STIPULATION AND AGREEMENT WAS FILED IN CASE 41S-11 CONCERNING CLAIMS 41S 34697-00, 41S 140399-00, AND 41S 140400-00. THE STIPULATION AND AGREEMENT DETAILS THE CLAIMANTS' RESPONSIBILITIES FOR DAM REPAIRS AND THEIR AGREEMENT CONCERNING WHEN WATER CLAIMED ON 41S 140399-00 AND 41S 140400 MAY BE USED FOR IRRIGATION, AS WELL AS OTHER RELATED AGREEMENTS. A COPY OF THE STIPULATION AND AGREEMENT HAS BEEN ADDED TO EACH CLAIM FILE FOR REFERENCE.

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

Water Right Number: 41S 140400-00 STATEMENT OF CLAIM
Version: 4 -- POST DECREE
Status: ACTIVE

Owners: NADA BAKOS
PO BOX 441
LANGLEY, WA 98260

HARRIETTE BRANDON
2004 LAKE ELMO DR
BILLINGS, MT 59105

HENRIETTA E CHIAPPONE
241 AVE. D
BILLINGS, MT 59101

WHISENHUNT GRANDCHILDRENS TRUST
%NADA BAKOS
PO BOX 441
LANGLEY, WA 98260

Priority Date: OCTOBER 10, 1891

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 3.75 CFS

Volume: 1.53 AC-FT

Climatic Area: 3 - MODERATE

Maximum Acres: 120.00

Source Name: PLUM 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		SESWNW	11	18N	17E	FERGUS

***Period of Diversion:** APRIL 15 TO OCTOBER 15

Diversion Means: HEADGATE

***Reservoir:** ONSTREAM **Reservoir Name:** A1 FLETCHER

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SESWNW	11	18N	17E	FERGUS

Diversion to Reservoir: DIVERSION # 1

Dam Height: 12.00 FEET
Depth: 9.00 FEET
Surface Area: 0.17 ACRES
Capacity: 0.61 ACRE-FEET

Period of Use: APRIL 15 TO OCTOBER 15

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	45.00		W2NW	11	18N	17E	FERGUS
2	15.00		SWSW	2	18N	17E	FERGUS
3	40.00		NENE	10	18N	17E	FERGUS
4	20.00		SENE	10	18N	17E	FERGUS
Total:	120.00						

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.

140395-00 140398-00 140399-00 140400-00 140401-00

ON OCTOBER 13, 1989 A STIPULATION AND AGREEMENT WAS FILED IN CASE 41S-11 CONCERNING CLAIMS 41S 34697-00, 41S 140399-00, AND 41S 140400-00. THE STIPULATION AND AGREEMENT DETAILS THE CLAIMANTS' RESPONSIBILITIES FOR DAM REPAIRS AND THEIR AGREEMENT CONCERNING WHEN WATER CLAIMED ON 41S 140399-00 AND 41S 140400-00 MAY BE USED FOR IRRIGATION, AS WELL AS OTHER RELATED AGREEMENTS. A COPY OF THE STIPULATION AND AGREEMENT HAS BEEN ADDED TO EACH CLAIM FILE FOR REFERENCE.

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

Water Right Number: 41S 140401-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners:

NADA BAKOS
PO BOX 441
LANGLEY, WA 98260

HARRIETTE BRANDON
2004 LAKE ELMO DR
BILLINGS, MT 59105

HENRIETTA E CHIAPPONE
241 AVE. D
BILLINGS, MT 59101

WHISENHUNT GRANDCHILDRENS TRUST
%NADA BAKOS
PO BOX 441
LANGLEY, WA 98260

Priority Date: JUNE 15, 1910

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FURROW

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR.

Volume: 1.53 AC-FT

Climatic Area: 3 - MODERATE

Maximum Acres: 9.26

Source Name: PLUM 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		SESWNW	11	18N	17E	FERGUS

***Period of Diversion:** MARCH 1 TO NOVEMBER 1

Diversion Means: HEADGATE

*Reservoir: ONSTREAM Reservoir Name: LANGFORD

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SESWNW	11	18N	17E	FERGUS

Diversion to Reservoir: DIVERSION # 1

Dam Height: 12.00 FEET
 Depth: 9.00 FEET
 Surface Area: 0.17 ACRES
 Capacity: 0.61 ACRE-FEET

Period of Use: MARCH 1 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	9.26		NWSW	3	18N	17E	FERGUS
Total:	9.26						

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.

140395-00 140398-00 140399-00 140400-00 140401-00

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

140380-00 140401-00