

Montana Water Court  
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Bozeman, MT 59771-1389  
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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

\*\*\*\*\*

CLAIMANT: Haight Trust

**CASE 41S-0948-R-2024**

41S 143144-00

41S 143145-00

**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. Haight Trust is the record owner of claims 42M 143144-00 and 41S 143145-00.
2. Haight Trust was ordered to meet with the DNRC to address the following unresolved issue remarks decreed on claims 42M 143144-00 and 41S 143145-00

**Claim 41S 143144-00:**

- EXISTENCE OF THE CLAIMED RESERVOIR CANNOT BE CONFIRMED WITH AVAILABLE DATA.

**Claim 41S 143145-00:**

- THE PLACE OF USE APPEARS TO NEED MODIFICATION BASED ON THE DNRC CORRECTION TO THE POINT OF DIVERSION. THE CORRECT PLACE OF USE LEGAL LAND DESCRIPTION APPEARS TO BE IN THE NWNESE SEC 21 TWP 20N RGE 18E FERGUS CO.

3. On July 31, 2024, DNRC Water Resources Specialist Carli Bluhm filed a Memorandum indicating she reviewed the issue remarks.

Ms. Bluhm stated that using “new technology” not available during previous examinations of the claim, she was able to find the reservoir and dam associated with claim 41S 143144-00. Ms. Bluhm recommended the issue remark decreed on claim 41S 143144-00 be removed from the claim with no changes to the elements of the claim.

Ms. Bluhm reported that her investigation of claim 41S 143145-00 confirmed the place of use should be modified to match the point of diversion legal land description for this livestock direct from source claim, as follows:

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWNESE	SENESE	21	20N	18E	FERGUS

4. An Order was issued setting a deadline for Claimant Haight Trust to agree or disagree with the place of use for claim 41S 143145-00 being modified as recommended by Ms. Bluhm.

5. On August 7, 2024, Russell T. Gowen, trustee of Haight Trust, filed a statement indicating he agrees with Ms. Bluhm’s recommendations.

PRINCIPLES AND CONCLUSIONS 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. 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. The priority date and reservoir record issue remark decreed on claim 41S 143145-00 is a notice-type issue remark. As no objections were filed, no further proceedings are required.

RECOMMENDATIONS

1. Claim 41S 143145-00 should be modified as follows:

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWNESE	SENESE	21	20N	18E	FERGUS

2. The issue remarks should be removed from claims 41S 143144-00 and 41S 143145-00.

Post Decree Abstracts of Water Right Claims are served with the Report for review.

**ELECTRONICALLY SIGNED AND DATED BELOW.**

**Service via USPS Mail:**

Haight Trust  
c/o Russell Gowen, Trustee  
395 Griffen Rd  
Helena, MT 59602

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

**Water Right Number:** 41S 143144-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** HAIGHT TRUST  
% RUSSELL GOWEN, TRUSTEE  
395 GRIFFEN RD  
940 CAP RD  
HELENA, MT 59602-8700

**Priority Date:** JULY 1, 1950

**Type of Historical Right:** USE

**Purpose (Use):** STOCK

**\*Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

**\*Volume:** THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

**Source Name:** UNNAMED TRIBUTARY OF LITTLE SALT 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		SWSWSE	21	20N	18E	FERGUS

**\*Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** DAM

**Reservoir:** ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SWSWSE	21	20N	18E	FERGUS

**Diversion to Reservoir:** DIVERSION # 1

**Period of Use:** MARCH 1 TO DECEMBER 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			SWSWSE	21	20N	18E	FERGUS

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

**Water Right Number:** 41S 143145-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** HAIGHT TRUST  
% RUSSELL GOWEN, TRUSTEE  
395 GRIFFEN RD  
940 CAP RD  
HELENA, MT 59602-8700

**Priority Date:** JULY 1, 1945

**Type of Historical Right:** USE

**Purpose (Use):** STOCK

**\*Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

**\*Volume:** THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

**Source Name:** UNNAMED TRIBUTARY OF LITTLE SALT 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		NWNESE	21	20N	18E	FERGUS

**\*Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** DAM

**\*Reservoir:** ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NWNESE	21	20N	18E	FERGUS

**Diversion to Reservoir:** DIVERSION # 1

**Period of Use:** MARCH 1 TO DECEMBER 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			NWNESE	21	20N	18E	FERGUS