

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: Gary Stephen Hall; Luetta M. Hall

CASE 41S-0954-R-2024

41S 30131596

41S 30131598

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. Gary Stephen Hall and Luetta M. Hall are the record owners of multiple domestic claim 41S 30131596 and stock claim 41S 30131598.

2. Claims 41S 30131596 and 41S 30131598 were decreed with DNRC issue remarks:

41S 30131596:

- THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 41S DECREE ISSUED 05/17/1984 .
- THE CLAIMED PLACE OF USE DOES NOT APPEAR TO BE USED FOR DOMESTIC IRRIGATION PURPOSES.

41S 30131598:

- THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 41S DECREE ISSUED 05/17/1984.
- NO TYPE OF HISTORICAL RIGHT WAS CLAIMED. DOCUMENTATION TO SUPPORT THE TYPE OF HISTORICAL RIGHT WAS NOT SUBMITTED WITH THIS CLAIM.

The Water Court is required to address each issue remark.

3. An Order was issued setting a deadline for Claimants Gary Stephen Hall and Luetta M. Hall to provide evidence of historical domestic use as to claim 41S 30131596 and to claim a type of historical right (decreed, filed, use) for claim 41S 30131598. (Doc.¹1.00). On June 26, 2024, Lisa Hall Williams filed a statement on behalf of her parents Steve and Luetta Hall:

Hello,

I am emailing you on behalf of my parents, Steve and Luetta Hall.

I have attached documentation to this email as evidence of historic domestic use of the water right **41S-30131596**. There is a signed affidavit from my Father (one copy in his own handwriting and then another on the official affidavit sheet re-written by my mom to make it more legible) who remembers his Granddad living and maintaining his homestead at this site, as well as a scanned picture of my Great Granddad (far left) in front of a homestead building. This site has also been used for livestock and occasional domestic use since then.

Concerning water right **41S 30131598** I simply missed checking the "use right" box. My family has used this water for livestock since 1908.

If we need to provide you with anything further, please let us know.

Thank you. Please see attached documents for the evidence requested.

Lisa Hall Williams
From A to E Wellness Coaching
406-366-6996
aclisahallwilliams@gmail.com
Lewistown, MT 59457

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

(Doc. 2.00). A handwritten statement by Steve Hall was attached:

*To address at Moz concern:
This property was acquired by my
grandfather Henry Hall in 1907.
The residence was maintained there
until the mid 1950s
Since then the water has ~~been~~
used for livestock and occasional
domestic use.*

*Steve Hall
June 24/2024*

An Affidavit, signed by Steve Hall, reiterating the above statement, in Luetta Hall's handwriting, was also attached.

4. Additional information was needed to substantiate the use of claim 41S 30131596 after the 1950s and another deadline was set. (Doc. 3.00).

5. On August 7, 2024, Lisa Hall Williams filed another statement on behalf of her parents Steve and Luetta Hall. (Doc. 5.00). The August 7, 2024 Statement was signed by Steve and Luetta Hall on August 6, 2024 and states:

Gary Stephen Hall and Luetta Hall

Evidence supporting the domestic use of claim 41S-30131596 has been requested.

As stated before, the buildings of the old homestead were removed in the 1950s. However, the site had been developed and maintained a garden before then AND for years after the buildings were removed, when needed. This spring is excellent water and in dry years has been used to supplement the home use at the current home site via filling water tanks, bottles etc. So in addition to the livestock use, there has been fairly consistent domestic lawn and garden use at this site since its initial use in 1904.

Signed: *Steve Hall Luetta Hall 8-6-2024*

Date: *aug 6, 2024*

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. The remarks indicating claims 41S 30131596 and 41S 30131598 were not included in the 1984 decree are notice-type remarks. As no objections were filed, no further proceedings are required.

RECOMMENDATIONS

1. The type of historical right for claim 41S 30131598 should be “use.”
2. The issue remarks should be removed from claims 41S 30131596 and 41S 30131598.

Post Decree Abstracts of Water Right Claims are attached for review.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

Gary Stephen Hall
Luetta M. Hall
PO Box 1032
Lewistown, MT 59457

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

Water Right Number: 41S 30131596 STATEMENT OF CLAIM
Version: 2 -- POST DECREE
Status: ACTIVE

Owners: GARY STEPHEN HALL
PO BOX 1032
LEWISTOWN, MT 59457

LUETTA M HALL
PO BOX 1032
LEWISTOWN, MT 59457

***Priority Date:** DECEMBER 31, 1904

Type of Historical Right: USE

***Purpose (Use):** MULTIPLE DOMESTIC

Flow Rate: 12.00 GPM

Volume: 2.43 AC-FT

Households: 2

***Source Name:** SPRING, UNNAMED TRIBUTARY OF MARCOTT CREEK

Source Type: GROUNDWATER
ALSO KNOWN AS SPRING #23

***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	8	13N	19E	FERGUS

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: PIPELINE

Period of Use: JANUARY 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			NWNW	8	13N	19E	FERGUS

Remarks:

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.

30131596 30131621

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

Water Right Number: 41S 30131598 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: GARY STEPHEN HALL
PO BOX 1032
LEWISTOWN, MT 59457

LUETTA M HALL
PO BOX 1032
LEWISTOWN, MT 59457

***Priority Date:** DECEMBER 31, 1908

Type of Historical Right: USE

Purpose (Use): STOCK

***Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. 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 MARCOTT 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		SE	6	13N	19E	FERGUS
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
2		SESW	6	13N	19E	FERGUS
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
3		N2	7	13N	19E	FERGUS
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
4		SW	7	13N	19E	FERGUS
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					

Period of Use: JANUARY 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			SE	6	13N	19E	FERGUS
2			SESW	6	13N	19E	FERGUS
3			N2	7	13N	19E	FERGUS
4			SW	7	13N	19E	FERGUS