

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: Amy A. Hughes; Lance V. Hughes; T Lazy T
Ranch Inc.

CASE 41S-0538-R-2024

41S 113216-00

41S 135196-00

OBJECTOR: T Lazy T Ranch Inc.

NOTICE OF INTENT TO APPEAR: State of Montana
Department of Fish
Wildlife & Parks

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.

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 30.00		SESE	8	14N	14E	JUDITH BASIN
2	8.00 7.00		NESWSE	8	14N	14E	JUDITH BASIN
3	8.00 4.00		NWSWSE	8	14N	14E	JUDITH BASIN
4	8.00 5.00		NESESW	8	14N	14E	JUDITH BASIN
5	70.00 60.00		S2SW	9	14N	14E	JUDITH BASIN
Total:	134.00 106.00						

2. The Agreement proposes modifying claim 41S 135196-00 as follows:

Flow Rate: ~~2.25 CFS~~ 1.12 CFS

3. The ‘supplemental rights’ remarks on the claims do not require additional further proceedings or information to resolve. The supplemental rights information remarks will be removed from all claims as part of final decree preparation and the supplemental rights issue remarks should be removed.

PRINCIPLES OF LAW

1. The Montana Water Court has the authority to determine the extent of all water rights in the state as they existed prior to July 1, 1973. *Fellows v. Saylor*, 2016 MT 45, ¶ 25, 382 Mont. 298, 367 P.3d 732; §§ 85-2-233, -102(13), MCA.

2. A properly filed Statement of Claim for Existing Water Right is prima facie proof of its content. § 85-2-227, MCA. This 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. This is the burden of proof for every assertion that a claim is incorrect. Rule 19, W.R.Adj.R.

4. The Water Court may use information submitted by the DNRC, the Statement of Claim, and any other data obtained by the Court to evaluate a water right. §§ 85-2-227, -231(2), MCA.

5. “The Water Court is not bound by settlement agreements. Any settlement reached by the parties is subject to review and approval by the Water Court.” Rule 17(a), W.R.Adj.R; *In re Argabright*, 2014 Mont. Water LEXIS 9, 41I 265 (December 12, 2014).

CONCLUSION OF LAW

1. The proposed modifications to the flow rate of both claims resolves the decree exceeded and flow rate issue remarks on the claims and the remarks should be removed.

2. The proposed reduction to the maximum acres and place of use for claim 41S 113216-00 as well as the evidence presented resolves the ‘acres irrigated’ remarks on the claim.

3. The single ‘acres irrigated’ remark should be removed from claim 41S 135196-00. The photograph is a single snapshot in time, was taken post July 1, 1973 and at the end of the claimed period of use.

RECOMMENDATION

1. Upon review the record in this case, the issue remarks should be removed from the claims. The claims should otherwise be decreed as they appeared in the Preliminary Decree.

Post Decree Abstracts of Water Right Claims are attached to this Master’s Report for review.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via Electronic Mail:

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Note: Service List Updated 12-2-2024

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

Water Right Number: 41S 113216-00 STATEMENT OF CLAIM
Version: 4 -- POST DECREE
Status: ACTIVE

Owners: T LAZY T RANCH INC
 4606 ACKLEY LAKE RD
 HOBSON, MT 59452-8668

Priority Date: MAY 10, 1885

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 1.12 CFS

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

Climatic Area: 3 - MODERATE

Maximum Acres: 106.00

Source Name: JUDITH RIVER

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		NWSWSW	8	14N	14E	JUDITH BASIN

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	30.00		SESE	8	14N	14E	JUDITH BASIN
2	7.00		NESWSE	8	14N	14E	JUDITH BASIN
3	4.00		NWSWSE	8	14N	14E	JUDITH BASIN
4	5.00		NESESW	8	14N	14E	JUDITH BASIN
5	60.00		S2SW	9	14N	14E	JUDITH BASIN

Total: 106.00

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.

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

Water Right Number: 41S 135196-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: AMY A HUGHES
PO BOX 309
HOBSON, MT 59452-0309

LANCE V HUGHES
PO BOX 309
HOBSON, MT 59452-0309

Priority Date: MAY 10, 1885

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 1.12 CFS

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

Climatic Area: 3 - MODERATE

Maximum Acres: 300.00

Source Name: JUDITH RIVER

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		NWSWSW	8	14N	14E	JUDITH BASIN

Period of Diversion: APRIL 1 TO OCTOBER 1

Diversion Means: HEADGATE

Period of Use: APRIL 1 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	150.00		S2N2	35	15N	14E	JUDITH BASIN
2	150.00		N2S2	35	15N	14E	JUDITH BASIN

Total: 300.00

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.

135190-00 135194-00 135196-00 135197-00 135199-00