

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

CLAIMANT: D & M Ranch, Inc.

CASE 41S-0784-R-2024

41S 10539-00

41S 171012-00

41S 171014-00

41S 171017-00

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. D & M Ranch, Inc. is the record owner of claims 41S 10539-00, 41S 171012-00, 41S 171014-00, and 41S 171017-00.

1. Claims 41S 10539-00, 41S 171012-00, 41S 171014-00, and 41S 171017-00 were decreed with DNRC issue remarks:

Claim 41S 10539-00:

- THE MAXIMUM NUMBER OF ACRES CLAIMED ON THE ORIGINAL STATEMENT OF CLAIM IS 80.00 ACRES. THE DNRC'S RE-EXAMINATION WAS OF THESE ORIGINAL CLAIMED ACRES.
- FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.
- THE JUDITH BASIN COUNTY WATER RESOURCES SURVEY (1963) APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- USDA AERIAL PHOTOGRAPH NO(S). 30045-279-35, DATED 09/18/1979, APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- THE CLAIMED POINT OF DIVERSION IS IN QUESTION. THE LOCATION OF THE HEADGATE CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

Claim 41S 171012-00:

- THE MAXIMUM NUMBER OF ACRES CLAIMED ON THE ORIGINAL STATEMENT OF CLAIM IS 60.00 ACRES. THE DNRC'S RE-EXAMINATION WAS OF THESE ORIGINAL CLAIMED ACRES.
- FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE. THE JUDITH BASIN COUNTY WATER RESOURCES SURVEY (1963) APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- USDA AERIAL PHOTOGRAPH NO(S). 30045-279-31, 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.

Claim 41S 171014-00:

- FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.
- THE JUDITH BASIN COUNTY WATER RESOURCES SURVEY (1963) APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- USDA AERIAL PHOTOGRAPH NO(S). 30045-279-29, DATED 09/18/1979, APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- THE POINTS OF DIVERSION MAY BE INCORRECT. THE LOCATIONS OF THE HEADGATES CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

Claim 41S 171017-00:

- FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.
- THE JUDITH BASIN COUNTY WATER RESOURCES SURVEY (1963) APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- USDA AERIAL PHOTOGRAPH NO(S). 30045-279-29, 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.

3. The Claimant was ordered to meet with a DNRC employee to address the unresolved issue remarks.

4. DNRC Water Resource Specialist Carli Bluhm filed a Memorandum stating the DNRC spoke to “the claimant” on the phone on October 7, 2024; Ms. Bluhm did not indicate *who* she spoke with on behalf of Claimant D & M Ranch, Inc. (Doc.¹ 3.00). Ms. Bluhm indicated she reviewed the Judith Basin County Water Resource Survey and an aerial photo to prepare the Memorandum.

Ms. Bluhm explained that the DNRC found 0.00 acres of irrigation during its initial examination of claims 41S 10539-00, 41S 171012-00, 41S 171014-00, and 41S 171017-00. Additionally, Ms. Bluhm stated that the representative of D & M Ranch, Inc. agreed with the DNRC finding of 0.00 acres of irrigation for the claims. Ms. Bluhm did not obtain written confirmation from the Claimant.

5. An Order was issued to confirm if Claimant D & M Ranch, Inc. agreed or disagreed with the proposed dismissal of claims 41S 10539-00, 41S 171012-00, 41S 171014-00, and 41S 171017-00. (Doc. 4.00). The Order indicated that if nothing were filed by the deadline, this Water Master would conclude Claimant D & M Ranch, Inc. agreed with the recommended dismissal of the claims. The following language was included in the Order:

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.

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

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

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.

RECOMMENDATION

1. Claims 41S 10539-00, 41S 171012-00, 41S 171014-00, and 41S 171017-00 should be dismissed.

Abstracts are attached for review.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

D & M Ranch Inc.
PO Box 149
Stanford, MT 59479-0149

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

Water Right Number: 41S 10539-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: **DISMISSED**

Owners: D & M RANCH INC
PO BOX 149
STANFORD, MT 59479-0149

Priority Date:

Type of Historical Right:

Purpose (Use): IRRIGATION

Flow Rate:

Volume:

Source Name: WOLF 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 171012-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: **DISMISSED**

Owners: D & M RANCH INC
PO BOX 149
STANFORD, MT 59479-0149

Priority Date:

Type of Historical Right:

Purpose (Use): IRRIGATION

Flow Rate:

Volume:

Source Name: UNNAMED TRIBUTARY OF WILLOW 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 171014-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: **DISMISSED**

Owners: D & M RANCH INC
PO BOX 149
STANFORD, MT 59479-0149

Priority Date:

Type of Historical Right:

Purpose (Use): IRRIGATION

Flow Rate:

Volume:

Source Name: WILLOW 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 171017-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: **DISMISSED**

Owners: D & M RANCH INC
PO BOX 149
STANFORD, MT 59479-0149

Priority Date:

Type of Historical Right:

Purpose (Use): IRRIGATION

Flow Rate:

Volume:

Source Name: SPRING, UNNAMED TRIBUTARY OF WILLOW CREEK

Source Type: GROUNDWATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

Remarks:

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.