

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: Gilkey Farms, Inc

CASE 41S-0926-R-2024  
41S 134298-00

**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. Gilkey Farms Inc. (Gilkey) is the original claimant and present record owner of domestic claim 41S 134298-00.

2. Claim 41S 134298-00 was decreed with DNRC issue remarks:

- MEANS OF DIVERSION WAS MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.
- THE PURPOSE DOES NOT APPEAR TO BE STANDARDIZED. PER REVIEW OF THE STATEMENT OF CLAIM FORM, THE CLAIMED RESERVIOR IS ONLY USED FOR LAWN AND GARDEN USE. THEREFORE IT APPEARS THE PURPOSE SOULD BE "LAWN & GARDEN."

All DNRC issue remarks must be resolved.

3. No objections were filed to claim 41S 134298-00, therefore, the first issue remark does not require further proceedings.

4. The second issue remark notes that although claim 41S 134298-00 was claimed as a “domestic” claim, no households or people appear to have historically been served by the claim.

5. An Order was issued setting a deadline for Gilkey to file a statement agreeing or disagreeing that the purpose for claim 41S 134298-00 be modified from “domestic” to “lawn and garden.” On May 2, 2024, Mark Gilkey filed a statement indicating concern regarding changing the purpose for claim 41S 134298-00. Water Master Anika M. Stern emailed Gilkey Farms Inc. copies of its abstracts for its various purposes and suggested Mark Gilkey call to discuss any concerns. On May 7, 2024, Water Master Stern and Mark Gilkey telephoned and discussed the unique characteristics of claim 41S 134298-00. Mark Gilkey explained that run-off water is collected, and the pipeline described by the claim brings water to two households for domestic use. Mark Gilkey followed the telephone discussion by filing an additional statement confirming the discussion on May 7, 2024.

PRINCIPLES AND CONCLUSIONS OF LAW

1. The Water Court must address all issue remarks that appear on a claim. Sections 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.
3. The notice-type issue remark decreed on claim 41S 134298-00 has served its purpose. As no objections were filed, no further proceedings are required.

RECOMMENDATIONS

1. Two households should be added to domestic claim 41S 134298-00, eliminating any future confusion as to whether the claim is a domestic claim or a lawn and garden claim.
2. The issue remarks should be removed from the claim.  
A Post Decree Abstract of Water Right Claim is served with the Report for review.

**ELECTRONICALLY SIGNED AND DATED BELOW.**

**Service via USPS Mail:**

Gilkey Farms, Inc.  
455 Gilkey Ln  
Denton MT, 59430

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

**Water Right Number:** 41S 134298-00 STATEMENT OF CLAIM  
**Version:** 3 -- POST DECREE  
**Status:** ACTIVE

**Owners:** GILKEY FARMS INC  
455 GILKEY LN  
DENTON, MT 59430

**Priority Date:** JULY 1, 1940

**Type of Historical Right:** USE

**Purpose (Use):** DOMESTIC

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

**Volume:** 2.00 AC-FT

**Households:** 2

**Maximum Acres:** 1.00

**Source Name:** BEAR SPRINGS COULEE

**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		SWSENW	24	20N	16E	FERGUS

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

**Diversion Means:** DAM

MEANS OF DIVERSION INCLUDES A PIPELINE.

**Reservoir:** ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SWSENW	24	20N	16E	FERGUS

**Diversion to Reservoir:** DIVERSION # 1

**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	1.00		SESENW	24	20N	16E	FERGUS

**Total:** 1.00