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FILED
04/17/2025
Sara Calkins
CLERK
Montana Water Court
STATE OF MONTANA
By: D'Ann CIGLER
41S-0007-R-2024
Block, Nathaniel
11.00

IN THE WATER COURT OF THE STATE OF MONTANA
LOWER MISSOURI DIVISION
JUDITH RIVER BASIN (41S)
PRELIMINARY DECREE

CLAIMANTS: Susan Lucy Arnott; Margaret (Peggy) A.
Bergsagel; Erik Engebretson; Edward F. Arnott
Testamentary Trust

OBJECTOR: Susan Lucy Arnott

CASE 41S-0007-R-2024

41S 139639-00
41S 139640-00
41S 139649-00
41S 139650-00
41S 139651-00
41S 140334-00

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

The above-captioned claims appeared in the Preliminary Decree for the Judith River (Basin 41S) and received objections from claimant Susan Lucy Arnott.

Claim 139649-00 was decreed with the following issue remarks:

FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE. USDA AERIAL PHOTOGRAPH NO(S). 30045-179-53 , DATED 09/17/1979 , APPEARS TO INDICATE 226.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE. THE MAXIMUM COMBINED ACRES FOR THIS GROUP OF SUPPLEMENTAL CLAIMS MAY REQUIRE MODIFICATION PENDING RESOLUTION OF MAXIMUM IRRIGATED ACRES ISSUE.

Claim 41S 139650-00 was decreed with the following issue remarks:

FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE. THE MAXIMUM NUMBER OF ACRES CLAIMED ON THE ORIGINAL STATEMENT OF CLAIM IS 67.00 ACRES. THE DNRC'S RE-EXAMINATION WAS OF THESE ORIGINAL CLAIMED ACRES. USDA AERIAL PHOTOGRAPH NO(S). 30045-179-53 , DATED 09/17/1979 , APPEARS TO INDICATE 226.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

Claim 41S 139651-00 was decreed with the following issue remarks:

FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE. THE JUDITH BASIN COUNTY WATER RESOURCES SURVEY (1963) APPEARS TO INDICATE 92.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE. USDA AERIAL PHOTOGRAPH NO(S). 30045-179-53 , DATED 09/17/1979 , APPEARS TO INDICATE 92.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE. THE MAXIMUM COMBINED ACRES FOR THIS GROUP OF SUPPLEMENTAL CLAIMS MAY REQUIRE MODIFICATION PENDING RESOLUTION OF MAXIMUM IRRIGATED ACRES ISSUE.

The claims received objections from Susan Lucy Arnott that stated the following:

41S 139639-00:

This objection is to clarify the place of use of Stock drinking directly from the decreed source. The correct POD/POU should be the W2NW Sec 26, T13N R12E rather than the NENWNW, Sec 26, T13N R12E

41S 139640-00:

This objection is to clarify the place of use of Stock drinking directly from the decreed source. The correct POD/POU should be Govt. Lot 2, Sec 5, T12N R12E, Govt. Lot 1, SENE, SWNE, Govt. Lot 3, SENW T12 R12E. Note: Govt. Lot 3 & SENW are UT Pagii Gulch.

41S 139649-00 and 41S 139650-00:

The 255 acre place of use is correct as claimed.

41S 139651-00:

Irrigated max acres should be 96.8

41S 140334-00:

This objection is to clarify the place of use of Stock drinking directly from the decreed source. The correct POD/POU should be the N2NE and the SWNE, Sec. 27, T13N R12E.

The claims were consolidated into Case 41S-0007-R-2024 on February 15, 2024. On October 18, 2024, a Motion to Resolve Objections and Issue Remarks (“Motion”) was filed (Doc.¹ 10.00). Attached to the Motion are maps depicting the places of use, affidavits submitted by the claimants, and proposed abstracts.

FINDINGS OF FACT

1. Claims 41S 139639-00, 41S 139640-00, and 41S 140334-00 are claims for livestock drinking directly from the source. Claimant Susan Lucy Arnott filed objections to the claims seeking to clarify the place of use and point of diversion for the claims.
2. The Motion proposes modifying the point of diversion and place of use for claims 41S 139639-00, 41S 139640-00, and 41S 140334-00 to the following:

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

CASE 41S-0007-R-2024
Point of Diversion and Place of Use for Stock Claims

41S 139639-00 Place of Use

ID	Acres	Gov. Lot	Qtr. Sec.	Sec.	Twp.	Rge.	County
1			W2NW	26	13N	12E	Judith Basin

41S 139640-00 Place of Use

ID	Acres	Gov. Lot	Qtr. Sec.	Sec.	Twp.	Rge.	County
		1		5	12N	12E	Judith Basin
		2		5	12N	12E	Judith Basin
		3		5	12N	12E	Judith Basin
		4		5	12N	12E	Judith Basin
		SENE		5	12N	12E	Judith Basin
		SWNE		5	12N	12E	Judith Basin
		SENW		5	12N	12E	Judith Basin
		SWNW		5	12N	12E	Judith Basin

41S 140334-00 Place of Use

ID	Acres	Gov. Lot	Qtr. Sec.	Sec.	Twp.	Rge.	County
			N2NE	27	13N	12E	Judith Basin
			SWNE	27	13N	12E	Judith Basin

3. Claims 41S 139649-00 and 41S 139650-00 are irrigation claims that were both decreed with an issue remark stating that it appeared only 226.00 acres were being irrigated in a September 25, 1979 aerial photograph. The period of use for the claims is May 1 to October 1. The 1963 Water Resource Survey identified 242 acres under irrigation.

4. The Motion proposes modifying the claims as follows:

Maximum Acres: ~~255.00~~ **240.00**

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 25.00		W2NE	30	13N	12E	JUDITH BASIN
2	90.00		NW	30	13N	12E	JUDITH BASIN
3	105.00		SW	30	13N	12E	JUDITH BASIN
4	20.00		NWNW	31	13N	12E	JUDITH BASIN
Total:	255.00 240.00						

5. Claim 41S 139651-00 is an irrigation claim that was originally claimed with a 105 acre place of use as follows:

9. Place of use and acres irrigated. County Judith Basin

40 acres, _____ Lot, _____ Block, SW SW SW SW Section 30, T 13 N, R 12 E

10 acres, _____ Lot, _____ Block, SW NW SW SW Section 30, T 13 N, R 12 E

7 acres, _____ Lot, _____ Block, NW NW SW SW Section 30, T 13 N, R 12 E

5 acres, _____ Lot, _____ Block, WSE NE SW SW Section 30, T 13 N, R 12 E

5 acres, _____ Lot, _____ Block, WNE NE SW SW Section 30, T 13 N, R 12 E

105 Total acres. Subdivision _____

The places of use listed by legal land description total to 67 acres. The examination worksheet in the claim file identifies 92 acres irrigated in the SW of S30 T13N R12E in Judith Basin County. Claimant Susan Lucy Arnott filed an objection to the claim seeking to modify the maximum acres and place of use to 96.8 acres.

6. The Motion proposes modifying the claims as follows:

Maximum Acres: ~~64.00~~ 96.8

Place of use for Claim 41S 139651-00

<u>Parcel ID</u>	<u>Acres</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Range</u>
<u>1</u>	<u>92.8</u>	<u>SW</u>	<u>30</u>	<u>13N</u>	<u>12E</u>
<u>2</u>	<u>4</u>	NWNW	31	13N	12E
Total	96.8				

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.

3. Where a claimant agrees to reduce or limit an element of a claim, “the water court does not need to determine whether the burden of proof has been met.” Rule 17(c), W.R.Adj.R. The Court may accept the requested reduction or limitation “without further presentation of evidence.” Rule 17(c), W.R.Adj.R.

CONCLUSION OF LAW

1. The modifications proposed in the Motion should be accepted and the claims modified accordingly.

2. Modification of the claims pursuant to the Motion resolves both the objections to the claims and the issue remarks on the claims, which should be removed.

RECOMMENDATION

1. Upon review the record in this case, the claims should be modified as described above. The objections to the claims should be resolved and should be dismissed.

2. The issue remarks should be considered resolved and removed from the claims.

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

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

Edward F. Arnott Testamentary Trust
Peggy Bergsagel & R.T. Snyder Jr. Trustees
780 20th Road NW
Choteau, MT 59422-9113

Margaret (Peggy) A. Bergsagel
5247 Telegraph Road
Malta, MT 59538

Erik Engebretson
1006 Doubletree Court NE
Cedar Rapids, IA 52402

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300 N. Willson Ave.
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**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
JUDITH RIVER
BASIN 41S**

Water Right Number: 41S 139639-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: SUSAN LUCY ARNOTT
780 20TH RD NW
CHOTEAU, MT 59422

MARGARET (PEGGY) A BERGSAGEL
5247 TELEGRAPH RD
MALTA, MT 59538

ERIK ENGBRETSON
1006 DOUBLETREE COURT NE
CEDAR RAPIDS, IA 52402

Priority Date: DECEMBER 31, 1935

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 ALICE 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		W2NW	26	13N	12E	JUDITH BASIN

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

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

THE PERIOD OF DIVERSION HAS BEEN STANDARDIZED BY DNRC FOR THIS CLAIM.

Reservoir: ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
NENWNW		26	13N	12E	JUDITH BASIN

Diversion to Reservoir: DIVERSION # 1

Period of Use: MAY 1 TO DECEMBER 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			W2NW	26	13N	12E	JUDITH BASIN

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

Water Right Number: 41S 139640-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: SUSAN LUCY ARNOTT
780 20TH RD NW
CHOTEAU, MT 59422

MARGARET (PEGGY) A BERGSAGEL
5247 TELEGRAPH RD
MALTA, MT 59538

ERIK ENGBRETSON
1006 DOUBLETREE COURT NE
CEDAR RAPIDS, IA 52402

Priority Date: JULY 31, 1941

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: PAGIL GULCH

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	1		5	12N	12E	JUDITH BASIN
*Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						
2	2		5	12N	12E	JUDITH BASIN
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						
3	3		5	12N	12E	JUDITH BASIN
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						
4	4		5	12N	12E	JUDITH BASIN
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						
5		SENE	5	12N	12E	JUDITH BASIN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

6 SWNE 5 12N 12E JUDITH BASIN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

7 SENW 5 12N 12E JUDITH BASIN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

8 SWNW 5 12N 12E JUDITH BASIN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

THE PERIOD OF DIVERSION HAS BEEN STANDARDIZED BY DNRC FOR THIS CLAIM.

Reservoir: ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NWNE	5	12N	12E	JUDITH BASIN

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		5	12N	12E	JUDITH BASIN
2		2		5	12N	12E	JUDITH BASIN
3		3		5	12N	12E	JUDITH BASIN
4		4		5	12N	12E	JUDITH BASIN
5			SENE	5	12N	12E	JUDITH BASIN
6			SWNE	5	12N	12E	JUDITH BASIN
7			SENW	5	12N	12E	JUDITH BASIN
8			SWNW	5	12N	12E	JUDITH BASIN

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

Water Right Number: 41S 139649-00 STATEMENT OF CLAIM

Version: 5 -- POST DECREE

Status: ACTIVE

Owners:

SUSAN LUCY ARNOTT

780 20TH RD NW

CHOTEAU, MT 59422

MARGARET (PEGGY) A BERGSAGEL

5247 TELEGRAPH RD

MALTA, MT 59538

ERIK ENGBRETSON

1006 DOUBLETREE COURT NE

CEDAR RAPIDS, IA 52402

ARNOTT, EDWARD F TESTAMENTARY TRUST

BERGSAGEL PEGGY & SNYDER R.T. JR TRUSTEES

780 20TH RD NW

CHOTEAU, MT 59422-9113

Priority Date: JUNE 26, 1891

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

***Flow Rate:** 2.50 CFS

FLOW RATE EQUALS 100.00 MINER'S INCHES.

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

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 240.00

Source Name: JUDITH RIVER, MIDDLE FORK

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		NESWNW	35	13N	11E	JUDITH BASIN

Period of Diversion: MAY 1 TO OCTOBER 1

Diversion Means: HEADGATE

Period of Use: MAY 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	25.00		NE	30	13N	12E	JUDITH BASIN
2	90.00		NW	30	13N	12E	JUDITH BASIN

3	105.00	SW	30	13N	12E	JUDITH BASIN
4	20.00	NWNW	31	13N	12E	JUDITH BASIN
Total:		240.00				

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.

139649-00 139650-00 139651-00

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE ASSOCIATED. THEY SHARE AN OVERLAPPING PLACE OF USE. 41S 139649-00, 41S 139650-00, 41S 139651-00, 41S 18476-00.

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

Water Right Number: 41S 139650-00 STATEMENT OF CLAIM

Version: 5 -- POST DECREE

Status: ACTIVE

Owners:

SUSAN LUCY ARNOTT

780 20TH RD NW

CHOTEAU, MT 59422

MARGARET (PEGGY) A BERGSAGEL

5247 TELEGRAPH RD

MALTA, MT 59538

ERIK ENGBRETSON

1006 DOUBLETREE COURT NE

CEDAR RAPIDS, IA 52402

ARNOTT, EDWARD F TESTAMENTARY TRUST

BERGSAGEL PEGGY & SNYDER R.T. JR TRUSTEES

780 20TH RD NW

CHOTEAU, MT 59422-9113

Priority Date: MAY 1, 1887

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 3.00 CFS

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

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 240.00

Source Name: JUDITH RIVER, MIDDLE FORK

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		NESWNW	35	13N	11E	JUDITH BASIN

Period of Diversion: MAY 1 TO OCTOBER 1

Diversion Means: HEADGATE

Period of Use: MAY 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	25.00		W2NE	30	13N	12E	JUDITH BASIN
2	90.00		NW	30	13N	12E	JUDITH BASIN
3	105.00		SW	30	13N	12E	JUDITH BASIN

4	20.00	NWNW	31	13N	12E	JUDITH BASIN
Total:	240.00					

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.

139649-00 139650-00 139651-00

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE ASSOCIATED. THEY SHARE AN OVERLAPPING PLACE OF USE. 41S 139649-00, 41S 139650-00, 41S 139651-00, 41S 18476-00.

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

Water Right Number: 41S 139651-00 STATEMENT OF CLAIM

Version: 5 -- POST DECREE

Status: ACTIVE

Owners:

SUSAN LUCY ARNOTT

780 20TH RD NW

CHOTEAU, MT 59422

MARGARET (PEGGY) A BERGSAGEL

5247 TELEGRAPH RD

MALTA, MT 59538

ERIK ENGBRETSON

1006 DOUBLETREE COURT NE

CEDAR RAPIDS, IA 52402

ARNOTT, EDWARD F TESTAMENTARY TRUST

BERGSAGEL PEGGY & SNYDER R.T. JR TRUSTEES

780 20TH RD NW

CHOTEAU, MT 59422-9113

Priority Date: APRIL 1, 1935

Type of Historical Right: USE

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 2.43 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: 96.80

Source Name: PAGIL GULCH

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		NENWNW	31	13N	12E	JUDITH BASIN

Period of Diversion: APRIL 1 TO OCTOBER 31

Diversion Means: DIKE

Period of Use: APRIL 1 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	92.80		SW	30	13N	12E	JUDITH BASIN
2	4.00		NWNW	31	13N	12E	JUDITH BASIN

Total: 96.80

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.

139649-00 139650-00 139651-00

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE ASSOCIATED. THEY SHARE AN OVERLAPPING PLACE OF USE. 41S 139649-00, 41S 139650-00, 41S 139651-00, 41S 18476-00.

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

Water Right Number: 41S 140334-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: SUSAN LUCY ARNOTT
780 20TH RD NW
CHOTEAU, MT 59422

MARGARET (PEGGY) A BERGSAGEL
5247 TELEGRAPH RD
MALTA, MT 59538

ERIK ENGBRETSON
1006 DOUBLETREE COURT NE
CEDAR RAPIDS, IA 52402

Priority Date: DECEMBER 31, 1935

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: ALICE 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		N2NE	27	13N	12E	JUDITH BASIN

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

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

2		SWNE	27	13N	12E	JUDITH BASIN
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Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

THE PERIOD OF DIVERSION HAS BEEN STANDARDIZED BY DNRC FOR THIS CLAIM.

Reservoir: ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NWNENE	27	13N	12E	JUDITH BASIN

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			N2NE	27	13N	12E	JUDITH BASIN
2			SWNE	27	13N	12E	JUDITH BASIN