

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: Daniel J. Dirkson; Lacie Dirkson

CASE 41S-0814-R-2024
41S 115297-00

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, conclusion 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. Daniel J. Dirkson and Lacie Dirkson (the Dirksons) are the record owners of irrigation claim 41S 115297-00.
2. Claim 41S 115297-00 was decreed with DNRC 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 0.00 ACRES IRRIGATED.
 - USDA AERIAL PHOTOGRAPH NO(S). 30045-179-108, DATED 09/17/1979, APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
 - THE RESERVOIR APPEARS TO BE LOCATED AT SESWSE SEC. 2 TWP 14N RGE 13E JUDITH BASIN COUNTY
 - THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. THE CLAIMED VOLUME EQUALS 6.77 TIMES THE CAPACITY OF THE RESERVOIR.
 - THE CLAIMANT DID NOT IDENTIFY THE PERIOD OF DIVERSION FOR THIS RIGHT. A PERIOD OF DIVERSION HAS BEEN ADDED TO MATCH THE PERIOD OF USE. IF NO OBJECTIONS ARE RECEIVED TO THE PERIOD OF DIVERSION OR PERIOD OF USE, THOSE ELEMENTS WILL BE DECREED AS SHOWN ON THIS ABSTRACT AND THIS ISSUE REMARK WILL BE REMOVED FROM THIS CLAIM.
 - RESERVOIR RECORD 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.
3. The Frasers were ordered to meet with a DNRC employee to address the unresolved issue remarks decreed on claim 41S 115297-00:
4. DNRC Water Resource Specialist Carli Bluhm filed a Memorandum on December 16, 2024. (Doc.¹ 3.00). The Memorandum reports the Claimants failed to contact the DNRC. Ms. Bluhm indicated she reviewed the Fergus County Water Resources Survey and an aerial photograph to prepare the Memorandum. Ms. Bluhm stated she found no irrigation at the claimed place of use, she recommended claim 41S 115297-00 be dismissed.
5. An Order was issued to determine if Claimants Daniel J. Dirkson and Lacie Dirkson agreed or disagreed with Ms. Bluhm’s recommendation to dismiss claim 41S 115797-00. (Doc. 5.00). The Order indicated that if nothing were filed by the deadline,

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

this Water Master would conclude Claimants Daniel J. Dirkson and Lacie Dirkson agree with the recommended dismissal of claim 41S 115297-00, and a Master's Report would be issued recommending the claim be dismissed. 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 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. Claim 41S 115297-00 should be dismissed.
An abstract is attached for review.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

Daniel J. Dirkson
4386 S. Fisherman Rd
Hobson, MT 59452-8617

Lacie Dirkson
10672 Hwy 541
Hobson, MT 59452

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

Water Right Number: 41S 115297-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: **DISMISSED**

Owners: DANIEL J DIRKSON
4386 S. FISHERMAN RD
HOBSON, MT 59452-8617

LACIE DIRKSON
10672 HWY 541
HOBSON, MT 59452

Priority Date:

Type of Historical Right:

Purpose (Use): IRRIGATION

Flow Rate:

Volume:

Source Name: UNNAMED TRIBUTARY OF JUDITH RIVER

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.