

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: Gaugler Land LLC

CASE 41S-0911-R-2024

41S 134393-00

41S 135403-00

41S 140058-00

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. Gaugler Land LLC (Claimant) is the record owner of claims 41S 134393-00, 41S 135403-00, and 41S 140058-00.

2. Claims 41S 134393-00, 41S 135403-00, and 41S 140058-00 were decreed with DNRC issue remarks:

Claim 41S 134393-00:

- 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). 30045-179-22 , DATED 09/17/1979 , APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- THE POINT OF DIVERSION MAY BE INCORRECT. THE LOCATION OF THE DIKE CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

Claim 41S 135403-00:

- 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). 30045-179-22 , DATED 09/17/1979 , APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- THE POINT OF DIVERSION MAY BE INCORRECT. THE LOCATION OF THE PUMP CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

Claim 41S 140058-00:

- 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). 30045-179-22 , DATED 09/17/1979 , APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- THE POINTS OF DIVERSION MAY BE INCORRECT. THE LOCATIONS OF THE DIKES 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 on November 18, 2024. (Doc.¹ 3.00). The Memorandum reports Ms. Bluhm “spoke to the claimant over the phone”, it is unclear who contacted the DNRC. Ms. Bluhm indicated nobody ever followed up with the DNRC. Ms. Bluhm reports she reviewed the Judith Basin County Water Resources Survey and aerial photographs to prepare the Memorandum.

Ms. Bluhm stated that she was unable to confirm irrigation for claims 41S 134393-00, 41S 135403-00, and 41S 140058-00 using the Judith Basin County Water Resources Survey or aerial photo number 179-22 (9/17/1979). Ms. Bluhm recommended the dismissal of claims 41S 134393-00, 41S 135403-00, and 41S 140058-00.

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

5. An Order was issued to determine if Claimant Gaugler Land LLC agreed or disagreed with the recommended dismissal of claims 41S 134393-00, 41S 135403-00, and 41S 140058-00. (Doc. 4.00). The Order indicated that if nothing were filed by the deadline, this Water Master would conclude Claimant Gaugler Land LLC agreed with the proposed dismissal of claims 41S 134393-00, 41S 135403-00, and 41S 140058-00. 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 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 134393-00, 41S 135403-00, and 41S 140058-00 should be dismissed.

Abstracts are attached for review.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

Gaugler Land LLC
516 U Bet Rd
Garneill, MT 59453-7014

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

Water Right Number: 41S 134393-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: **DISMISSED**

Owners: GAUGLER LAND LLC
516 U BET RD
GARNEILL, MT 59453-7014

Priority Date:

Type of Historical Right:

Purpose (Use): IRRIGATION

Flow Rate:

Volume:

Source Name: RED BLUFF 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 135403-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: **DISMISSED**

Owners: GAUGLER LAND LLC
516 U BET RD
GARNEILL, MT 59453-7014

Priority Date:

Type of Historical Right:

Purpose (Use): IRRIGATION

Flow Rate:

Volume:

Source Name: ROSS FORK 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 140058-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: **DISMISSED**

Owners: GAUGLER LAND LLC
516 U BET RD
GARNEILL, MT 59453-7014

Priority Date:

Type of Historical Right:

Purpose (Use): IRRIGATION

Flow Rate:

Volume:

Source Name: ROSS FORK 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.