

Montana Water Court
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FILED
03/20/2025
Sara Calkins
CLERK
Montana Water Court
STATE OF MONTANA
By: D'Ann CIGLER
41S-0231-R-2024
Block, Nathaniel
4.00

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

CLAIMANT: T Lazy T Ranch Inc.

CASE 41S-0231-R-2024
41S 113186-00

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 claim appeared in the Preliminary Decree for the Judith River (Basin 41S) 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 0.00 ACRES IRRIGATED.

USDA AERIAL PHOTOGRAPH NO(S). 30045-179-104 , DATED 09/17/1979 , APPEARS TO INDICATE 0.00 ACRES IRRIGATED.

The claim was consolidated into Case 41S-0231-R-2024 on October 17, 2024 and on December 11, 2024 a Motion to Resolve Case ("Motion") was filed (Doc.¹ 2.00). Attached to the Motion was the Expert Report of Kyle Mace ("Report").

FINDINGS OF FACT

1. The 1983 Department of Natural Resources and Conservation ("DNRC") Verification worksheet verified 3.5 acres irrigated.
2. The Report states that multiple historical aerial photos support the historical irrigation of the 3.5 acres as described on the abstract.

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.

¹ "Doc." numerical references correlate to case file docket numbers in the Water Court's Full Court case management system.

3. The Water Court may use information submitted by the DNRC, the Statement of Claim, and any other data obtained by the Court to evaluate a water right. §§ 85-2-227, -231(2), MCA.

CONCLUSION OF LAW

1. The evidence presented resolves the 'acres irrigated' issue remarks which should be removed from the claim. The remark questioning flow rate should be removed from the claim as there were no changes made to the maximum acres.

RECOMMENDATION

1. Upon review of the record in this case, the claim should be modified as discussed above.

A Post Decree Abstract of Water Right Claim is attached to this Master's Report for review.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via Electronic Mail:

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\\JUDHLNSRV-DATA\Share\JUDGALH2OSRV (Datavol)\Share\WC-BASIN FOLDERS\41S PD\Cases\231\NB 41S-0231-R-2024 MR - Resolution of IRs 248 (NEW, single claim, filing, remove issue remarks) 3-12-2025 rr.docx

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

Water Right Number: 41S 113186-00 STATEMENT OF CLAIM
Version: 4 -- POST DECREE
Status: ACTIVE

Owners: T LAZY T RANCH INC
4606 ACKLEY LAKE RD
HOBSON, MT 59452-8668

Priority Date: JUNE 18, 1938

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 58.34 GPM

***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: 3.50

Source Name: SAGE CREEK

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		SWSWSW	2	14N	12E	JUDITH BASIN

Period of Diversion: MAY 1 TO OCTOBER 15

Diversion Means: HEADGATE

Period of Use: MAY 1 TO OCTOBER 15

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	3.50		E2NESW	2	14N	12E	JUDITH BASIN
Total:	3.50						