

Montana Water Court
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MONTANA WATER COURT
LOWER MISSOURI DIVISION
JUDITH RIVER
BASIN 41S
PRELIMINARY DECREE

CLAIMANT: Machler Ranch Cottonwood Creek LLC

OBJECTORS: Samuel Machler; Taylor Machler;
Cody Machler

CASE 41S-2040-R-2025

41S 109118-00

41S 109119-00

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 have **13 days** from the service date of the notice of filing of this report to file a written objection or request an extension of the objection period. Rule 23, Water Right Adjudication Rules; Rule 6, Montana Rules of Civil Procedure. 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. The record owner of stock water claims 41S 109118-00 and 41S 109119-00 is Machler Ranch Cottonwood Creek, LLC (Machler Ranch).

2. Claims 41S 109118-00 and 41S 109119-00 reference reservoirs on the Statements of Claim. Additionally, Affidavits from William J. Machler were attached to both Statements of claim describing the use of Machler Dam #1 (claim 41S 109119-00) and Machler Dam #2 (claim 41S 109118-00).

2. Cody Machler, Samuel Machler, and Taylor Machler (the Machlers) objected to claims 41S 109118-00 and 41S 109119-00. The Objections indicated:

The Diversion Means of "LIVESTOCK DIRECT FROM SOURCE" is incorrect and should instead be a "DAM" since a reservoir is the development that supplies water for stock use as indicated in the Statement of Claim with its supporting material filed in 1982 describing the intent of the appropriation.

3. It appeared the Objections would be resolved if the following modifications were made to claims 41S 109118-00 and 41S 109119-00:

Diversion Means: ~~LIVESTOCK DIRECT FROM SOURCE~~ DAM

An Order was issued to determine if Machler Ranch and the Machlers agree that modifying the means of diversion to “dam” resolves the Objections to claims 41S 109118-00 and 41S 109119-00 and is agreeable to all parties. (Doc.¹1.00).

4. On November 7, 2025, all parties responded:

To Whom It May Concern,

Regarding the Case 41S-2040-R-2025 notification we received by mail for proposed modifications to Claims 41S 109118-00 and 41S 109119-00, we agree that the modifications proposed therein would resolve all noted Objections.

Thank you,
Samuel Machler
Taylor Machler
Cody Machler
Machler Ranch - Cottonwood Creek, LLC

(Doc. 2.00).

¹“Doc.” numerical references correlate to case file docket numbers in the Water Court’s Full Court case management system. The “Doc.” references in this Report will refer to Case 43A-0011-R-2020, unless otherwise noted.

PRINCIPLES AND CONCLUSIONS OF LAW

1. A properly filed Statement of Claim for an existing water right is prima facie proof of its content. Mont. Code Ann. § 85-2-227 (2025); Rule 10, W.R.Adj.R. Prima facie proof may be contradicted and overcome by a preponderance of the evidence. Rule 19, W.R.Adj.R. A preponderance of the evidence is evidence that shows a fact is “more probable than not.” *Hohenlohe v. State*, 2010 MT 203, ¶ 33, 357 Mont. 438, 240 P.3d 628.

2. The available information indicates the means of diversion for claims 41S 109118-00 and 41S 109119-00 is “dam.”

RECOMMENDATION

1. The following modification should be made to claims 41S 109118-00 and 41S 109119-00, resolving the Objections:

Diversion Means: ~~LIVESTOCK DIRECT FROM SOURCE~~ DAM

Abstracts are enclosed.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service Via USPS Mail:

Machler Ranch Cottonwood Creek LLC
Samuel Machler
Taylor Machler
Cody Machler
811 Caroline St.
Billings, MT 59105-4114

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

Water Right Number: 41S 109118-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: MACHLER RANCH COTTONWOOD CREEK LLC
811 CAROLINE ST
BILLINGS, MT 59105-4114

Priority Date: OCTOBER 1, 1948

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 COTTONWOOD 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		SWNWNW	10	15N	17E	FERGUS

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

Diversion Means: DAM

Reservoir: ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SWNWNW	10	15N	17E	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			NWNW	10	15N	17E	FERGUS

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

Water Right Number: 41S 109119-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: MACHLER RANCH COTTONWOOD CREEK LLC
811 CAROLINE ST
BILLINGS, MT 59105-4114

Priority Date: JUNE 1, 1944

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 COTTONWOOD 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		NESESW	10	15N	17E	FERGUS

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

Diversion Means: DAM

Reservoir: ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NESESW	10	15N	17E	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			SESW	10	15N	17E	FERGUS