

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

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CLAIMANT: Holgate, LLC

OBJECTOR: Michael P. Weinheimer

**CASE 41S-2053-R-2025**  
41S 30131402

**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. Holgate, LLC is the record owner of stock claim 41S 30131402.
2. Claim 41S 30131402 was decreed with a Montana Department of Natural Resources and Conservation ("DNRC") notice-type issue remark indicating the claim was not included in the Basin 41S Temporary Preliminary Decree; the remark does not require further procedure.

3. Claim 41S 30131402 was claimed as a filed right with a January 1, 1929 priority date.

4. Michael P. Weinheimer filed an Objection to the priority date of claim 41S 30131402, indicating:

The well was originally dug in 1929 and put to beneficial use at such time, as evidenced by the attached documentation. Object to the 1963 priority date, and propose a 01/01/1929 priority date (as of the time originally dug and put to use).

5. When the DNRC examined claim 41S 30131402, it modified the priority date to the date of filing of the Declaration of Vested Groundwater Rights Form (Form GW4) – July 5, 1963. The intent of the GW4 was to document and record groundwater appropriated prior to 1962. The priority date for groundwater claims that have a filed Declaration of Vested Groundwater Right (GW4) attached is the date of first use. It appears DNRC modified the priority date incorrectly. The GW4 form lists two dates:

3. Date or approximate date of earliest beneficial use; and how continuous the use has been. Well dug in 1929 and used in summer

“Well dug in 1929 and used in summer”.

“1929 year”. Based on the record, it appears the priority date for claim 41S 30131402 should be September 19, 1929.

5. A deadline was set for Objector Michael P. Weinheimer to file a statement agreeing or disagreeing that the Objection would be resolved if the following modification is made to claim 41S 30131402:

\*Priority Date: ~~JULY 5, 1963~~ **SEPTEMBER 19, 1929**

The Order indicated that if nothing were filed by the deadline, it would be concluded that Michael P. Weinheimer agrees that the Objection will be resolved if the priority date is modified to September 19, 1929.

Another deadline was set for Claimant Holgate, LLC to file a statement indicating agreement or disagreement with modifying the priority date for claim 41S 30131402 to September 19, 1929. The Order indicated that if nothing were filed by the October 24,

2025 deadline, it would be concluded that Claimant Holgate, LLC agrees with the proposed priority date modification.

6. On November 3, 2025, Michael P. Weinheimer filed a statement, as a member of Holgate, LLC. (Doc. 2.00). The statement indicates agreement with the proposed September 19, 1929 priority date for claim 41S 30131402.

#### PRINCIPLES OF LAW

1. Section 85-2-248(2), MCA, requires that the Water Court resolve all issue remarks that are not resolved through the objection process. *See also* Rule 7, W.R.Adj.R.

2. 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.

3. 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.

4. 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.

5. Regarding an incomplete priority date, Rule 13(f)(3)(iii), W.R.C.E.R, indicates that if a general year is claimed, “the date at the end of the period will be used”, and Rule 13(f)(3)(iv), W.R.C.E.R. indicates if a season is claimed, the following dates will be used:

(A) Fall - December 19,

(B) Winter - March 19,

(C) Spring - June 19,

(D) Summer - September 19;

#### CONCLUSIONS OF LAW

1. The information in the record overcomes the prima facie status of claim 41S 30131402 and it is appropriate to modify the priority date.

2. The notice-type issue remark decree on claim 41S 30131402 has served its purpose; as no objections were filed, no further proceedings are required.

### RECOMMENDATIONS

1. The priority date of claim 41S 30131402 should be modified as follows:

\*Priority Date: ~~JULY 5, 1963~~ **SEPTEMBER 19, 1929**

2. The Objection to claim 41S 30131402 should be dismissed as it has been addressed.

3. The issue remark decreed on claim 41S 30131402 should be removed.

An abstract is enclosed.

**ELECTRONICALLY SIGNED AND DATED BELOW.**

### Service Via USPS Mail:

Holgate, LLC  
5219 Evening Shadow Ln  
Billings, MT 59106

Michael P. Weinheimer  
5219 Evening Shadow Ln  
Billings, MT 59106

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

**Water Right Number:** 41S 30131402 STATEMENT OF CLAIM

**Version:** 2 -- POST DECREE

**Status:** ACTIVE

**Owners:** HOLGATE LLC  
5219 EVENING SHADOW LN  
BILLINGS, MT 59106

**Priority Date:** SEPTEMBER 19, 1929

**\*Type of Historical Right:** FILED

**Purpose (Use):** STOCK

**Flow Rate:** 1.00 GPM

**\*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:** GROUNDWATER

**Source Type:** GROUNDWATER

**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		SENESE	19	18N	14E	FERGUS

**Period of Diversion:** MAY 1 TO OCTOBER 1

**Diversion Means:** WELL

**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			SENESE	19	18N	14E	FERGUS