Montana Water Court PO Box 1389 Bozeman, MT 59771-1389 1-800-624-3270 (406) 586-4364 watercourt@mt.gov FILED

11/14/2025

Melissa Lockman
CLERK

Montana Water Court
STATE OF MONTANA

By: D'Ann CIGLER

41S-2096-R-2025
Stern, Anika
2.00

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

CLAIMANTS: Leon E. Olson; Virginia A. Olson

OBJECTOR: Leon E. Olson

**CASE 41S-2096-R-2025** 41S 100177-00

# 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 owners of stock claim 41S 100177-00 are Leon E. Olson and Virginia A. Olson ("the Claimants").

2. Claim 41S 100177-00 was decreed with the following point of diversion and place of use legal land description:

1 NWSENE 23 12N 13E JUDITH BASIN

3. On February 3, 2023, Leon E. Olson objected to the point of diversion/means of diversion and place of use/maximum acres for claim 41S 100177-00, indicating:

Maps an allached. The spring noted is very close to the Sec 23/26 line.

With butter maps now available, it is clear that this spring is located in the 26 section and not in the 23 section.

Please change this spring Place of the and Point of Diversion/Means to Sec 26 112N P.13E

DATED this 30 day of View and 2023

Aerial photographs were attached to the Objection showing the location of the spring in the NENENW of Section 26, Township 12 North, Range 13 East, Judith Basin County.

4. An Order was issued to Leon E. Olson and Virginia A. Olson to confirm the location of the spring described by claim 41S 100177-00 is as follows:

 ID
 Acres
 Govt Lot
 Qtr Sec
 Sec
 Twp
 Rge
 County

 1
 NENENW
 NWSENE
 26
 23
 12N
 13E
 JUDITH BASIN

A deadline was also set for Leon E. Olson to agree or disagree that modifying the point of diversion and place of use legal land description for claim 41S 100177-00 as proposed would resolve his Objection. The Order indicated that if nothing were filed by the deadline, it would be concluded that the Leon E. Olson and Virginia A. Olson agree with the proposed point of diversion and place of use legal land description modification and that Leon E. Olson agrees his Objection will be resolved. Nothing was filed by the November 7, 2025 deadline.

### PRINCIPLES 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. If prima facie status is overcome, the burden shifts back to the claimant to demonstrate historical use. *79 Ranch v. Pitsch*, 204 Mont. 426, 432-33, 666 P.2d 215, 218 (1983).
- 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 point of diversion and place of use legal land description should be modified.

# RECOMMENDATION

1. The point of diversion and place of use legal land description for claim 41S 100177-00 should be modified, as follows:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		NENENW	NWSENE 26	23	12N	13E	JUDITH BASIN

Abstracts are enclosed.

### ELECTRONICALLY SIGNED AND DATED BELOW.

#### Service Via USPS Mail:

Leon E. Olson Virginia A. Olson 6522 New Liberty Rd. Buffalo, MT 59418

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#### POST DECREE

#### ABSTRACT OF WATER RIGHT CLAIM

#### JUDITH RIVER

#### **BASIN 41S**

**Water Right Number: 41S 100177-00** STATEMENT OF CLAIM

> Version: 3 -- POST DECREE

> > **Status: ACTIVE**

**Owners:** LEON E OLSON

> 6522 NEW LIBERTY RD BUFFALO, MT 59418

> VIRGINIA A OLSON 6522 NEW LIBERTY RD BUFFALO, MT 59418

**Priority Date: DECEMBER 31, 1910** 

USE **Type of Historical Right: STOCK** Purpose (Use):

\*Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS

> OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY

TO SUSTAIN THIS PURPOSE.

THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR \*Volume:

> 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:** SPRING, UNNAMED TRIBUTARY OF COYOTE CREEK

**GROUNDWATER Source Type:** 

Point of Diversion and Means of Diversion:

ID **Govt Lot Qtr Sec** Sec Twp Rge **County** 

1 **NENENW** 26 12N 13E JUDITH BASIN

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

**Diversion Means:** LIVESTOCK DIRECT FROM SOURCE

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

ID **Govt Lot** Acres **Otr Sec Sec** Twp Rge **County** 

**NENENW** 26 12N 13E JUDITH BASIN