

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

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CLAIMANTS: Leon E. Olson; Virginia A. Olson

**CASE 41S-2097-R-2025**

41S 100175-00

41S 100181-00

**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 domestic claim 41S 100175-00 and stock claim 41S 100181-00 are Leon E. Olson and Virginia A. Olson ("the Claimants").
2. Claims 41S 100175-00 and 41S 100181-00 are multiple uses of the same historical right. Both claims were decreed with the following DNRC issue remark:

THE TYPE OF HISTORICAL RIGHT, PRIORITY DATE, AND FLOW RATE MAY BE QUESTIONABLE. THE CLAIMS FOLLOWING THIS STATEMENT USE THE SAME FILED APPROPRIATION TO DOCUMENT THE RIGHT. THE COMBINED FLOW RATE FOR THIS GROUP OF CLAIMS EXCEEDS THE TOTAL OF THE ORIGINAL APPROPRIATION. 41S 100175-00, 41S 100181-00.

3. The documentation supporting claims 41S 100175-00 and 41S 100181-00 is a GW3, Notice of Completion of Groundwater Appropriation Without a Well, which was attached to the Statements of Claim. The GW3 states the amount of water claimed is “20 to 30 gals per minute.”

Quantity of water developed and used with explanation of method used to measure or estimate such amount. If use is intermittent estimate approximate lengths of periods of use

Runs about 20 to 30 gals per minute and used yearly and both are boxed up with 1 ft of thick walls concrete 6' deep and 10' square on outside which makes 4' square for water inside.

Signature of Owner *Leon E. Olson*

Date Jan. 29th, 1962.

Conflicting information was provided on the individual Statements of Claim; both claims were claimed and decreed with 40.00 gallon per minute (gpm) flow rates.

4. During examination of the claims, the DNRC examiner added the over-filed notice of appropriation issue remark to the claims because they overclaim the 20.00 to 30.00 gpm indicated on the GW3 form. Based on the information available, it appears the flow rate for both claims should be reduced to 30.00 gpm.

4. An Order was issued setting a deadline to determine if Claimants Leon E. Olson and Virginia A. Olson agree or disagree that the flow rates for claims 41S 100175-00 and 41S 100181-00 should be reduced to 30.00 gpm. (Doc.<sup>1</sup>1.00). The Order indicated that if nothing were filed by the deadline, it would be determined that the Claimants agree with the proposed resolution and a Master's Report was issued. Nothing was filed by the November 7, 2025 deadline.

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<sup>1</sup> “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 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. 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.

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. When resolving issue remarks, the Water Court must weigh the information resulting in the issue remark and the issue remark against the claimed water right. § 85-2-247(2), MCA. The factual evidence on which an issue remark is based must meet the preponderance of evidence standard before the prima facie status of a claim is overcome. 43Q 200996-00 et al., Order Establishing Volume and Order Closing Case, at 18, June 8, 2015.

### CONCLUSION OF LAW

1. The information in the record overcomes the prima facie status of claims 41S 100175-00 and 41S 100181-00 and the flow rates for the claims should be modified to 30.00 gpm, consistent with the GW3 form attached to the Statement of Claim.

### RECOMMENDATIONS

1. The flow rate for claims 41S 100175-00 and 41S 100181-00 should be reduced from 40.00 gpm to 30.00 gpm.

2. The issue remarks should be removed from the claim abstracts.

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

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

Water Right Number: 41S 100175-00 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, 1950

Type of Historical Right: FILED

Purpose (Use): DOMESTIC

Flow Rate: 30.00 GPM

Volume: 4.00 AC-FT

Households: 2

Maximum Acres: 1.00

Source Name: SPRING, UNNAMED TRIBUTARY OF BIG COULEE

Source Type: GROUNDWATER

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		NWSWNW	6	12N	14E	JUDITH BASIN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: FLOWING

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	1.00		NENENW	6	12N	14E	JUDITH BASIN
Total:	1.00						

Remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

100175-00      100181-00

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

**Water Right Number:** 41S 100181-00 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, 1950

**Type of Historical Right:** FILED

**Purpose (Use):** STOCK

**Flow Rate:** 30.00 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:** SPRING, UNNAMED TRIBUTARY OF BIG COULEE

**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	2	NWSWNW	6	12N	14E	JUDITH BASIN

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

**Diversion Means:** FLOWING

**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		2	NWSWNW	6	12N	14E	JUDITH BASIN
2		2	NWNWNE	6	12N	14E	JUDITH BASIN

**Remarks:**

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

100175-00      100181-00