

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

FILED
11/03/2025
Melissa Lockman
CLERK
Montana Water Court
STATE OF MONTANA
By: D'Ann CIGLER
41S-2101-R-2025
Stern, Anika
3.00

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

CLAIMANT: Teresa E. Olson

OBJECTOR: Teresa E. Olson

CASE 41S-2101-R-2025
41S 135399-00
41S 30130631

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. Teresa A. Olson is the record owner of claims 41S 135399-00 and 41S 30130631.

2. Claims 41S 135399-00 and 41S 30130631 were decreed with Montana Department of Natural Resources and Conservation ("DNRC") issue remarks:

41S 135399-00:

- SOURCE NAME WAS MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

41S 30130631:

- THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 41S DECREE ISSUED 05/17/1984.

3. Claim 41S 135399-00 was decreed as a domestic claim. The place of use was claimed and decreed as:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSESW	9	14N	18E	FERGUS

Teresa A. Olson objected to all elements of claim 41S 135399-00, indicating:

① The place of use should be corrected to the W2SESW of Sec 9 14N 18E. See enclosed map, and abstract.

② The purpose should be Lawn & Garden.
 "Zero persons Served"
 per original 1982 filing.

DATED this 13 day of February, 2023.

Nothing in the record indicates any households are served by claim 41S 135399-00. Additionally, based on the information in the record, it appears modifying the place of use legal land description, consistent with the Objection is appropriate:

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	1.50	W2SESW	NWSESW	9	14N	18E	FERGUS
Total:		1.50					

4. A deadline was set for Claimant/Objector Teresa E. Olson to file a statement agreeing or disagreeing that her Objection will be resolved if the following modifications are made to claim 41S 135399-00:

Purpose (Use):		DOMESTIC LAWN AND GARDEN						
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	1.50	W2SESW	NWSESW	9	14N	18E	FERGUS	
Total:		1.50						

(Doc.¹1.00).

5. On October 24, 2025, Theresa E. Olson filed a statement indicating that the proposed modifications resolve the Objection in full.

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.

CONCLUSIONS OF LAW

1. The information in the record overcomes the prima facie status of claim 41S 135399-00 and it is appropriate to modify the purpose and place of use as noted in the Finding of Fact No. 4.

2. The issue remarks decreed on claims 41S 135399-00 and 41S 30130631 are notice-type issue remarks. As no objections were filed, no further proceedings are required.

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.

RECOMMENDATIONS

1. The purpose and place of use for claim 41S 135399-00 should be modified
41S 135399-00 as follows:

Purpose (Use):		DOMESTIC LAWN AND GARDEN						
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	1.50	W2SESW	NWSESW	9	14N	18E	FERGUS	
Total:		1.50						

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

Post decree abstracts are enclosed.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service Via USPS Mail:

Teresa E. Olson
4212 Casino Creek Rd.
Lewistown, MT 59457

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

Water Right Number: 41S 135399-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: TERESA E OLSON
4212 CASINO CREEK RD
LEWISTOWN, MT 59457

Priority Date: MAY 16, 1953

Type of Historical Right: USE

Purpose (Use): LAWN AND GARDEN

Flow Rate: 30.00 GPM

Volume: 3.00 AC-FT

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 1.50

***Source Name:** CASINO CREEK

Source Type: SURFACE WATER
ALSO KNOWN AS BIG CASINO CREEK

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		NWSESW	9	14N	18E	FERGUS

Period of Diversion: APRIL 1 TO OCTOBER 31

Diversion Means: PUMP

Period of Use: APRIL 1 TO OCTOBER 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	1.50		W2SESW	9	14N	18E	FERGUS

Total: 1.50

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

Water Right Number: 41S 30130631 STATEMENT OF CLAIM
Version: 2 -- POST DECREE
Status: ACTIVE

Owners: TERESA E OLSON
4212 CASINO CREEK RD
LEWISTOWN, MT 59457

Priority Date: JANUARY 1, 1948

Type of Historical Right: USE

Purpose (Use): DOMESTIC

Flow Rate: 35.00 GPM

Volume: 3.50 AC-FT

Households: 1

Maximum Acres: 0.80

***Source Name:** SPRING, UNNAMED TRIBUTARY OF CASINO CREEK
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		NWSESW	9	14N	18E	FERGUS

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: PUMP

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	0.80		W2SESW	9	14N	18E	FERGUS

Total: 0.80