

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

CLAIMANTS: Linda J. Eklund; Floyd T. Forbes; Linda J.
Forbes

CASE 41S-2373-R-2025

41S 139283-00

41S 216142-00

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. Linda J. Eklund is the record owner of irrigation claim 41S 139283-00. Floyd T. Forbes and Linda J. Forbes are the record owners of stock water claim 41S 216142-00.

2. Claims 41S 139283-00 and 41S 216142-00 were decreed with Montana Department of Natural Resources and Conservation ("DNRC") issue remarks:

41S 139283-00:

- THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE FILED ON THE SAME FORMERLY DECREED WATER RIGHT. THE SUM OF THE CLAIMED FLOW RATES EXCEEDS THE 90 MINER'S INCHES DECREED IN CASE NO. 982 , FERGUS COUNTY. 41S 139283-00, 41S 216142-00.
- THE JUDITH BASIN COUNTY WATER RESOURCES SURVEY (1963) APPEARS TO INDICATE 24.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.
- FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.
- DITCH 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.
- THE MAXIMUM COMBINED ACRES FOR THIS GROUP OF SUPPLEMENTAL CLAIMS MAY REQUIRE MODIFICATION PENDING RESOLUTION OF MAXIMUM IRRIGATED ACRES ISSUE.

41S 216142-00:

- THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE FILED ON THE SAME FORMERLY DECREED WATER RIGHT. THE SUM OF THE CLAIMED FLOW RATES EXCEEDS THE 90 MINER'S INCHES DECREED IN CASE NO. 982 , FERGUS COUNTY. 41S 139283-00, 41S 216142-00.
- CLAIM FILED LATE 06/28/1996 . IN ADDITION TO BEING SUBORDINATE TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW, THIS RIGHT MAY ALSO BE SUBORDINATE TO CERTAIN PERMITS AND RESERVATIONS OF WATER. SEE SECTION 85-2-221 MCA.

3. A Status Conference was conducted on October 23, 2025 to address the issue remarks decreed on claims 41S 139283-00 and 41S 216142-00. Water Master Anika M. Stern was present. Linda J. Eklund was present along with James Noel and Floyd D. Forbes and Linda J. Forbes were present.

The parties discussed the issue remarks and agreed the following modifications should be made to the claims, resolving the decree exceeded (claims 41S 139283-00 and 41S 216142-00) and place of use/maximum acres and associated flow rate issue remarks (41S 139283-00):

41S 139283-00:

Flow Rate: 2.25 CFS CMFI: CLAIMS 41S 139283-00 AND 41S 216142-00 ARE LIMITED TO 2.25 CFS, COMBINED.

Maximum Acres: 35.00 24.00

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	8.00 24.00		NESE	18	13N	12E	JUDITH BASIN
2	8.00 5.00		SESE	18	13N	12E	JUDITH BASIN
3	8.00 0.00		NWSW	17	13N	12E	JUDITH BASIN
Total:	35.00 24.00						

41S 216142-00:

***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.

CMFI: CLAIMS 41S 139283-00 AND 41S 216142-00 ARE LIMITED TO 2.25 CFS, COMBINED.

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.
2. Section 85-2-248(2), MCA requires the Water Court to resolve all issue remarks that are not resolved through the objection process. The Montana Water Court has the authority to resolve issue remarks when the claim file and information available to the Court provide a sufficient basis to do so. § 85-2-248(3), MCA.

CONCLUSIONS OF LAW

1. Claims 41S 139283-00 and 41S 216142-00 are both based on the March 1, 1882 J.C. Huntoon right for 90.00 miner's inches (2.25 cubic feet per second (cfs)) from the Judith River. The addition of flow rate information remark to claims 41S 139283-00 and 41S 216142-00, limiting the claims to 2.25 cfs (90.00 miner's inches) combined, addresses the decree exceeded issue remarks decreed on both claims in this Case.

2. The proposed maximum acres/place of use modifications to claim 41S 139283-00, consistent with the 1963 Judith Basin County Water Resources Survey, resolves the place of use issue remark decreed on the claim.

3. The information in the record overcomes the prima facie status of claims 41S 121146-00 and 41S 121147, and the claims should be modified to reflect that the legal land description of the point of diversion and place of use for both claims is in the NESESE of Section 35, Township 16 North, Range 19 East, Fergus County.

4. The ditch name issue remark decreed on claim 41S 139283-00 is a notice-type issue remark. As no objections were filed, no further proceedings are required.

5. Claim 41S 139283-00 was also decreed with a remark indicating “the combined acres” for the group of supplemental claims may need to be adjusted. Supplemental rights remarks no longer included a quantified acreage figure; the remark is obsolete and can be removed.

6. Claim 41S 216142-00 is a late claim. The late claim issue remark decreed on the claim gave notice that the claim could be subordinate, and therefore junior, to certain permits and reservations of water. Any party asserting a superior claim to water based on a permit or reservation was required to file an objection to that late claim during the Basin 41S objection period. Because no such objections were filed, the remark can now be removed from the late claim.

RECOMMENDATIONS

1. Claim 41S 139283-00 should be modified as follows:

41S 139283-00:

Flow Rate:	2.25 CFS	CMFI: CLAIMS 41S 139283-00 AND 41S 216142-00 ARE LIMITED TO 2.25 CFS, COMBINED.						
Maximum Acres:	35.00	24.00						
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	8.00	24.00	NESE	18	13N	12E	JUDITH BASIN	
2	8.00	5.00	SESE	18	13N	12E	JUDITH BASIN	
3	8.00	0.00	NWSW	17	13N	12E	JUDITH BASIN	
Total:	35.00	24.00						

2. Claim 41S 216142-00 should be modified as follows:

41S 216142-00:

***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.

CMFI: CLAIMS 41S 139283-00 AND 41S 216142-00 ARE LIMITED TO 2.25 CFS, COMBINED.

3. The issue remarks should be removed from claims 41S 139283-00 and 41S 216142-00, as the remarks are resolved.

Post decree abstracts are attached.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service Via USPS Mail:

Linda J. Eklund
P.O. Box 73
Shawmut, MT 59078-0073

Floyd T. Forbes
Linda J. Forbes
142 Highland Rd.
Hobson, MT 59452-8661

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

Water Right Number: 41S 139283-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: LINDA J EKLUND
PO BOX 73
SHAWMUT, MT 59078-0073

Priority Date: MARCH 1, 1882

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 2.25 CFS

CLAIMS 41S 139283-00 AND 41S 216142-00 ARE LIMITED TO 2.25 CFS, COMBINED.

*Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 24.00

Source Name: SPRING CREEK

Source Type: SURFACE WATER

*Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr	Sec	Sec	Twp	Rge	County
1		NWNENE	19	13N	12E	JUDITH BASIN	

Period of Diversion: APRIL 15 TO OCTOBER 15

Diversion Means: HEADGATE

Ditch Name: J. C. HUNTOON DITCH

Period of Use: APRIL 15 TO OCTOBER 15

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	8.00		NESE	18	13N	12E	JUDITH BASIN
2	8.00		SESE	18	13N	12E	JUDITH BASIN
3	8.00		NWSW	17	13N	12E	JUDITH BASIN
Total:	24.00						

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

139283-00139284-00

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

Water Right Number: 41S 216142-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Late Claim: B

Owners: FLOYD T FORBES
142 HIGHLAND RD
HOBSON, MT 59452-8661

LINDA J FORBES
142 HIGHLAND RD
HOBSON, MT 59452-8661

Priority Date: MARCH 1, 1882

Enforceable Priority Date: JUNE 30, 1973

CLAIM FILED LATE 06/28/1996 . AS MANDATED BY SECTION 85-2-221(3), MCA, THIS CLAIM IS SUBORDINATE, AND THEREFORE JUNIOR, TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW.

Type of Historical Right: DECREED

Purpose (Use): STOCK

***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.

CLAIMS 41S 139283-00 AND 41S 216142-00 ARE LIMITED TO 2.25 CFS, COMBINED.

***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 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		NWNENE	19	13N	12E	JUDITH BASIN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DITCH

Ditch Name: J. C. HUNTOON DITCH

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			W2SESE	18	13N	12E	JUDITH BASIN