

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

CLAIMANTS: Clinton E. Carr; Nathan W. Carr; Valerie S. Carr

CASE 41S-2372-R-2025

41S 150636-00

41S 150637-00

41S 150638-00

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. Clinton E. Carr, Nathan W. Carr, and Valerie S. Carr (hereinafter referred to as “the Carrs” and “the Claimants”) are the record owners of claims 41S 150636-00, 41S 150637-00, and 41S 150638-00.

2. The Carrs were ordered to meet with the DNRC to address unresolved issue remarks decreed on claims 41S 150636-00, 41S 150637-00, and 41S 150638-00:

Claim 41S 150636-00:

- FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.
- 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 150636-00, 41S 150637-00, 41S 150638-00 .
- THE JUDITH BASIN COUNTY WATER RESOURCES SURVEY (1963) APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- USDA AERIAL PHOTOGRAPH NO(S). 30045-179-112 , DATED 09/17/1979 , APPEARS TO INDICATE 0.00 ACRES IRRIGATED.

Claim 41S 150637-00:

- FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.
- 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 150636-00, 41S 150637-00, 41S 150638-00 .
- THE JUDITH BASIN COUNTY WATER RESOURCES SURVEY (1963) APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- USDA AERIAL PHOTOGRAPH NO(S). 30045-179-112 , DATED 09/17/1979 , APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- THE POINT OF DIVERSION MAY BE INCORRECT. THE LOCATION OF THE HEADGATE CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

Claim 41S 150638-00

- FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.
- 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 150636-00, 41S 150637-00, 41S 150638-00 .
- THE JUDITH BASIN COUNTY WATER RESOURCES SURVEY (1963) APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- USDA AERIAL PHOTOGRAPH NO(S). 30045-179-112 , DATED 09/17/1979 , APPEARS TO INDICATE 0.00 ACRES IRRIGATED.

(Doc. ¹2.00). Additional notice-type issue remarks were also decreed on the claims.

3. DNRC Water Resource Specialist Brandon Ahlgren filed a Memorandum on December 29, 2025. (Doc. 3.00). Mr. Ahlgren indicated he received an email from attorney Oliver Urick on behalf of the Carrs on December 5, 2025, with information and suggestions regarding the disposition of the issue remarks of the claims. According to Mr. Ahlgren:

This includes analysis done by Scott Irvin, affidavits written by current and former owners of the property and suggested abstracts. The DNRC was directed to prior cases/claims which ruled on the same acreage in question, specifically 41S-0625-R-2024 containing 41S 150644-00. The 44.10 acres requested in 41S-2372-R-2025 is the same which was ruled on and approved in an Order Adopting Masters Report filed in 41S-0625-R-2024 on September 20, 2024. The DNRC is not basing its findings on this alone, but considering all the evidence presented, the DNRC is satisfied that the identified 44.10 acres has been historically irrigated. Additionally, the DNRC agrees with the suggestion regarding the point of diversion of 41S 150637-00.

Mr. Urick's Memorandum to resolve the issue remarks decreed on the claims in this Case was attached to Mr. Ahlgren's Memorandum as Attachment 1; consultant Scott Irvin's Affidavit was attached to the Memorandum as Exhibit B of Attachment 1.

Mr. Ahlgren indicated that in addition to the suggestions made by Mr. Irvin and in accordance with Rule 14(d)(2), W.R.C.E.R. the following associated claims remark should be added to claims 41S 150636-00, 41S 150637-00, and 41S 150638-00:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE ASSOCIATED. THEY ARE BASED ON THE SAME FILED NOTICE OF WATER RIGHT. WHEN USED IN COMBINATION, THE SUM TOTAL FLOW RATE OF THE WATER RIGHTS SHALL NOT EXCEED 1.67 CFS. 41S 150636-00, 41S 150637-00, 41S 150638-00

4. On January 7, 2026, the Carrs filed their Amended Notice of Agreement and indicated "Claimants have reviewed the proposed abstracts attached to the memorandum as Attachment 1, Attachment 2 and Attachment 3, and accept the proposed abstracts." (Doc. 5.00).

5. A deadline was set for the parties to agree or disagree with a proposed modification to the flow rate information remark. (Doc. 6.00). The March 3, 2026 Order indicated that if nothing were filed by the April 3, 2026 deadline, it would be determined

¹ "Doc." numerical references correlate to case file docket numbers in the Water Court's Full Court case management system.

the parties agree the flow rate information remark should be as recommended in the Order. The following was included in the Order:

Failure to comply with the terms of this Order may result in sanctions, up to and including entry of default and termination of a water right claim or dismissal of objections. Rule 22, W.R.Adj.R.

Nothing was filed by the deadline

6. Based on the record, the following modifications should be made to claims 41S 150636-00, 41S 150637-00, and 41S 150638-00:

Flow Rate:	1.67	1.75 CFS					
CMFI: CLAIMS 41S 150636-00, 41S 150637-00, AND 41S150638-00 ARE BASED ON THE SAME FILED NOTICE OF APPROPRIATION. THE TOTAL FLOW RATE OF THE CLAIMS IN ANY COMBINATION SHALL NOT EXCEED 1.67 CFS.							
Maximum Acres:	44.10	70.00					
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	37.60 35.00		S2NW SWNW	6	14N	15E	JUDITH BASIN
2	6.50 35.00		S2N2NW SENW	6	14N	15E	JUDITH BASIN
Total:	70.00 44.10						

PRINCIPLES AND CONCLUSIONS OF LAW

1. The Water Court must address all issue remarks decreed on a claim. Mont. Code Ann. § 85-2-248 (2025).
2. A properly filed Statement of Claim for an existing water right is prima facie proof of its content. § 85-2-227, MCA. This prima facie validity may be overcome by evidence showing that one or more elements of the claim are incorrect. This standard of proof applies to objectors or claimants objecting to their own water right claims. Rule 19, W.R.Adj.R.; *Nelson v. Brooks*, 2014 MT 120, ¶ 34, 375 Mont. 86, 329 P.3d 558.

3. Claims 41S 150636-00, 41S 150637-00, and 41S 150638-00 were decreed with a remark indicating “the combined acres” for the group of supplemental claims may need to be adjusted. Supplemental rights remarks no longer include a quantified acreage

RECOMMENDATIONS

1. Claims 41S 150636-00, 41S 150637-00, and 41S 150638-00 should be modified as follows:

Flow Rate: 1.67 1.75 CFS

1
CMFI: CLAIMS 41S 150636-00, 41S 150637-00, AND 41S150638-00 ARE BASED ON THE SAME FILED NOTICE OF APPROPRIATION. THE TOTAL FLOW RATE OF THE CLAIMS IN ANY COMBINATION SHALL NOT EXCEED 1.67 CFS.

Maximum Acres: 44.10 70.00

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	37.60 35.00		S2NW SWNW	6	14N	15E	JUDITH BASIN
2	6.50 35.00		S2N2NW SENW	6	14N	15E	JUDITH BASIN
Total:	70.00 44.10						

2. The issue remarks should be removed from claims 41S 150636-00, 41S 150637-00, and 41S 150638-00.

Abstracts are attached for review.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service Via Electronic Mail:

Oliver J. Urick
Clare N. Ols
Urick Law Firm PLLC
cols@uricklawfirm.com
ourick@uricklawfirm.com
(Attys for: Clinton E., Nathan W. and Valerie S. Carr)

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

Water Right Number: 41S 150636-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: CLINTON E CARR
PO BOX 184
HOBSON, MT 59452-0184

NATHAN W CARR
PO BOX 206
HOBSON, MT 59452-0206

VALERIE S CARR
PO BOX 184
HOBSON, MT 59452-0184

Priority Date: MAY 1, 1891

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 1.67 CFS

CLAIMS 41S 150636-00, 41S 150637-00, AND 41S 150638-00 ARE BASED ON THE SAME FILED NOTICE OF APPROPRIATION. THE TOTAL FLOW RATE OF THE CLAIMS IN ANY COMBINATION SHALL NOT EXCEED 1.67 CFS.

***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: 44.10

Source Name: SPRING, UNNAMED TRIBUTARY OF JUDITH RIVER

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		NESWNE	11	14N	14E	JUDITH BASIN

Period of Diversion: MAY 1 TO OCTOBER 1

Diversion Means: HEADGATE

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	37.60		S2NW	6	14N	15E	JUDITH BASIN
2	6.50		S2N2NW	6	14N	15E	JUDITH BASIN

Total: 44.10

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.

150629-00	150630-00	150631-00	150636-00	150637-00	150638-00
150644-00	150650-00				

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

Water Right Number: 41S 150637-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: CLINTON E CARR
PO BOX 184
HOBSON, MT 59452-0184

NATHAN W CARR
PO BOX 206
HOBSON, MT 59452-0206

VALERIE S CARR
PO BOX 184
HOBSON, MT 59452-0184

Priority Date: MAY 1, 1891

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 1.67 CFS

CLAIMS 41S 150636-00, 41S 150637-00, AND 41S 150638-00 ARE BASED ON THE SAME FILED NOTICE OF APPROPRIATION. THE TOTAL FLOW RATE OF THE CLAIMS IN ANY COMBINATION SHALL NOT EXCEED 1.67 CFS.

***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: 44.10

Source Name: SPRING, UNNAMED TRIBUTARY OF JUDITH RIVER

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		NENWNE	12	14N	14E	JUDITH BASIN

Period of Diversion: MAY 1 TO OCTOBER 1

Diversion Means: HEADGATE

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	37.60		S2NW	6	14N	15E	JUDITH BASIN
2	6.50		S2N2NW	6	14N	15E	JUDITH BASIN

Total: 44.10

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.

150629-00	150630-00	150631-00	150636-00	150637-00	150638-00
150644-00	150650-00				

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

Water Right Number: 41S 150638-00 STATEMENT OF CLAIM
Version: 4 -- POST DECREE
Status: ACTIVE

Owners: CLINTON E CARR
PO BOX 184
HOBSON, MT 59452-0184

NATHAN W CARR
PO BOX 206
HOBSON, MT 59452-0206

VALERIE S CARR
PO BOX 184
HOBSON, MT 59452-0184

Priority Date: MAY 1, 1891

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 1.67 CFS

CLAIMS 41S 150636-00, 41S 150637-00, AND 41S 150638-00 ARE BASED ON THE SAME FILED NOTICE OF APPROPRIATION. THE TOTAL FLOW RATE OF THE CLAIMS IN ANY COMBINATION SHALL NOT EXCEED 1.67 CFS.

***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: 44.10

Source Name: SPRING, UNNAMED TRIBUTARY OF JUDITH RIVER

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		NWSWNW	12	14N	14E	JUDITH BASIN

Period of Diversion: MAY 1 TO OCTOBER 1

Diversion Means: HEADGATE

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	37.60		S2NW	6	14N	15E	JUDITH BASIN
2	6.50		S2N2NW	6	14N	15E	JUDITH BASIN

Total: 44.10

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.

150629-00	150630-00	150631-00	150636-00	150637-00	150638-00
150644-00	150650-00				