

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

CLAIMANT: Machler Ranch, LLC

OBJECTORS: Sheila J. Machler; Joel F. Machler & Lisa L.
Werner Living Trust; David (Mark) Machler

CASE 41S-2043-R-2025

41S 101817-00

41S 101833-00

41S 134411-00

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. Machler Ranch, LLC is the record owner of claims 41S 101817-00, 41S 101833-00, and 41S 134411-00.

2. Claim 41S 101817-00 was decreed with Montana Department of Natural Resources and Conservation (“DNRC”) issue remarks:

- FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.
- POINT OF DIVERSION NOS. 2 AND 3 MAY BE INCORRECT. THE LOCATION OF THE HEADGATES CANNOT BE IDENTIFIED FROM AVAILABLE DATA.
- THE FERGUS COUNTY WATER RESOURCES SURVEY (1970) APPEARS TO INDICATE 43.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.
- USDA AERIAL PHOTOGRAPH NO(S). 30027-278-14 , DATED 09/25/1979 , APPEARS TO INDICATE 46.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

No issue remarks were decreed on claims 41S 101833-00 and 41S 134411-00.

3. David (Mark) Machler, Sheila J Machler, and the Joel F. & Lisa L. Machler Living Trust (“the Objectors”) objected to claim 41S 101817-00, indicating in part:

Explanation of Changes – The changes that should be made are proposed to address the issue remarks noted in the decree abstract.

Point of Diversion – The changes that should be made are to eliminate Point of Diversion Nos. 2 and 3 (Preliminary Decree abstract). Point of Diversion No. 1, as noted in the Preliminary Decree, is accurate (NESWSE Section 4, T14N, R17E). That diversion was the only one claimed in the original Statement of Claim. However, in 1986 the water right was authorized to be changed by adding two diversion points (see Change Authorization No. 41S 10181799). Those two additional diversion points seem to have been incorrectly applied to the Statement of Claim for adjudication purposes. Keeping only Point of Diversion No. 1, and removing Point of Diversion Nos. 2 and 3, should resolve the issue remark, provided it does not impact the ability to exercise the two additional diversions as authorized by DNRC in 1986.

Place of Use – The place of use should be reduced to 46 acres. The place of use issue remarks indicate DNRC’s interpretation of the 1970 Fergus Co. Water Resources Survey (43 acres irrigated) and a 1979 aerial photo (46 acres irrigated). DNRC’s examination only supported irrigation on the west side of Beaver Creek, not the east side. DNRC’s examination is generally accurate. First, the interpretation of irrigation only on the west side of Beaver Creek is correct (no acreage was historically irrigated under 41S 101817 on the east side of Beaver Creek). Second, the irrigated acreage on the west side is 46 acres (22 acres in the N2NE Section 4, T14N, R17E; and 24 acres in the S2SE Section 33, T15N, R17E). Attached is a map that shows the historical irrigation system and irrigated acreage.

The Objectors objected to claim 41S 101833-00, indicating:

Question #9 (Changes to be made and grounds and evidence on which objection is based):

Means of Diversion – The Means of Diversion should be changed to a “Dam.” When the Statement of Claim was initially filed in 1981 a reservoir was identified as part of the Source of Water element, and the file record includes a map and other documentation that clearly designate the development as a reservoir. Additionally, the Preliminary Decree abstract notes the reservoir record. However, the abstract incorrectly states the diversion means as Livestock Direct from Source.

The Objectors objected to claim 41S 134411-00, indicating:

Question #9 (Changes to be made and grounds and evidence on which objection is based):

Means of Diversion – The diversion means should be changed to a developed spring. The spring was developed with a collection box and pipeline that conveys water to a stock tank. Water then overflows the tank and supplies stock water through the property we own in this drainage.

Point of Diversion – The point of diversion legal land description should be changed to the NENENE Section 23, T14N, R17E.

Place of Use – The place of use should be changed to the N2N2NE Section 23, T14N, R17E; and the S2S2SW Section 14, T14N, R17E.

Explanation of Changes – This property has been owned by our family for many decades and we are familiar with all of its water developments. We believe the spring associated with this water right was mis-claimed by John Machler when he filed the Statement of Claim in 1982. We believe the actual location of the development is in the same drainage, but about one mile to the west of where the Preliminary Decree shows. The basis of our opinion is that there is no spring development in the location identified in the Preliminary Decree, but an existing spring development is, in fact, located a mile to the west. That spring was constructed in the 1960s by the individual (Leighton Stoker) who provided an affidavit contained in the existing water right file records. Attached is a map that shows the actual location of the spring development, and the places of use.

4. An Order Consolidating, Order on Status of Case, and Order Setting Filing Deadline was issued on October 20, 2025. (Doc.¹1.00). The Order set a deadline for the Objectors to agree or disagree that the following proposed modifications resolve the Objections to claims 41S 101817-00 and 41S 101833-00:

Claim 41S 101817-00:

Flow Rate:	2.66 CFS	1.74 CFS						
Maximum Acres:	70.00	46.00						
Point of Diversion and Means of Diversion:								
ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County		
1		NESWSE	4	14N	17E	FERGUS		
Period of Diversion:	MAY 1 TO OCTOBER 1							
Diversion Means:	HEADGATE							
2		S2SE	33	15N	17E	FERGUS		
Period of Diversion:	MAY 1 TO OCTOBER 1							
Diversion Means:	HEADGATE							
3		W2NENE	4	14N	17E	FERGUS		
Period of Diversion:	MAY 1 TO OCTOBER 1							
Diversion Means:	HEADGATE							
Place of Use:								
ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County	
1	22.00	30.00		N2NE	4	14N	17E	FERGUS
2	24.00	40.00		S2SE	33	15N	17E	FERGUS
Total:	70.00	46.00						

Claim 41S 101833-00:

Diversion Means: LIVESTOCK DIRECT FROM SOURCE DAM

¹ “Doc.” numerical references correlate to case file docket numbers in the Water Court’s Full Court case management system.

A deadline was also set for the Objectors to file evidence indicating how the Objection to claim 41S 134411-00 should be resolved. The Order indicated that another deadline would be set for Claimant Machler Ranch, LLC to indicate whether it agrees or disagrees with proposed resolutions after all deadlines passed.

7. On November 24, 2025, counsel for the Objectors confirmed the Objectors agree that the following modifications to claims 41S 101817-00 and 41S 101833-00 resolve the Objections to the claims:

Claim 41S 101817-00:

Flow Rate:	2.66 CFS	1.74 CFS					
Maximum Acres:	70.00	46.00					
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		NESWSE	4	14N	17E	FERGUS	
Period of Diversion:	MAY 1 TO OCTOBER 1						
Diversion Means:	HEADGATE						
2		S2SE	33	15N	17E	FERGUS	
Period of Diversion:	MAY 1 TO OCTOBER 1						
Diversion Means:	HEADGATE						
3		W2NENE	4	14N	17E	FERGUS	
Period of Diversion:	MAY 1 TO OCTOBER 1						
Diversion Means:	HEADGATE						
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	22.00	30.00	N2NE	4	14N	17E	FERGUS
2	24.00	40.00	S2SE	33	15N	17E	FERGUS
Total:	70.00	46.00					

Claim 41S 101833-00:

Diversion Means: LIVESTOCK DIRECT FROM SOURCE DAM

(Doc. 3.00).

8. On November 24, 2025, the Objectors filed additional evidence supporting the modifications proposed in the Objection to claim 41S 134411-00, including the Affidavits of David (Mark) Machler and Michael Smith, aerial photos, a photo log, and a marked/proposed abstract. (Docs. 4.00 through 6.00).

David (Mark) Machler states that he is 72 years old and grew up on the Machler Ranch property, which has been in his family’s ownership since 1927. David (Mark) Machler states that he assisted Leighton Stoker in constructing the developed spring described by claim 41S 134411-00 in 1968. He explains the location of the developed spring:

5. The actual, historical spring development constructed by Mr. Stoker is in the NENENE Section 23, T14N, R17E, about one mile west of the claimed development. Groundwater upwells in a pipe at an estimated 10 gallons per minute and fills a collection tank constructed around the pipe. It then spills over the tank and flows down the drainage to the west for stock use. The place of use includes the N2N2NE Section 23; and S2S2SW Section 14, all in T14N, R17E. This is the primary source of stock water for this part of Machler Ranch.

David (Mark) Machler states that his father filed the Statement of Claim for 41S 134411-00 in 1982 and claimed it at the wrong legal land description, likewise, an Affidavit of Leighton Stoker references the wrong legal land description:

6. It is evident my father and Leighton Stoker erred in drafting their claim and affidavit. I lived on the ranch in 1968 and personally helped Mr. Stoker construct the subject spring development. That development is in the NENENE Section 23, T14N, R17E. Mr. Stoker did not construct a spring development in the location described in his affidavit.

The Objectors indicate the following modifications will resolve the Objection to claim 41S 134411-00

*Flow Rate: **10.00 GPM** ~~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.~~

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	NENENE	SWNE	23 24	14N	17E	FERGUS

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: ~~LIVESTOCK DIRECT FROM SOURCE~~ **DEVELOPED SPRING**

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		N2N2NE	S2NW	23 24	14N	17E	FERGUS
2		S2S2SW	SWNE	14 24	14N	17E	FERGUS

9. An Order was issued setting a deadline for Machler Ranch to agree or disagree with the proposed modifications to the claims. (Doc. 7.00). On January 14, 2026, Machler Ranch filed a Notice notifying the Water Master of typographical errors in the December 1, 2025 Order. (Doc. 8.00).

PRINCIPLES OF LAW

1. The Water Court is required to address all issue remarks decreed on a claim as well as any objections the claim receives. §§ 85-2-233, 85-2-247, and 85-2-248, MCA.
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.

CONCLUSION OF LAW

The evidence in the record is sufficient to resolve the issues decreed on claim 41S 101817-00, 41S 101833-00, and 41S 134411-00.

RECOMMENDATIONS

- Claim 41S 101817-00 should be modified as follows:

Flow Rate: 2.85 CFS 1.74 CFS

Maximum Acres: 70.00 46.00

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		NESWSE	4	14N	17E	FERGUS
Period of Diversion: MAY 1 TO OCTOBER 1						
Diversion Means: HEADGATE						
2		S2SE	33	15N	17E	FERGUS
Period of Diversion: MAY 1 TO OCTOBER 1						
Diversion Means: HEADGATE						
3		W2NENE	4	14N	17E	FERGUS
Period of Diversion: MAY 1 TO OCTOBER 1						
Diversion Means: HEADGATE						

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	22.00 30.00		N2NE	4	14N	17E	FERGUS
2	24.00 40.00		S2SE	33	15N	17E	FERGUS
Total:							
	70.00 46.00						

- Claim 41S 101833-00 should be modified as follows:

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		SESENW	4	14N	17E	FERGUS
*Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE DAM						
THE PERIOD OF DIVERSION HAS BEEN STANDARDIZED BY DNR FOR THIS CLAIM.						

- Claim 41S 134411-00 should be modified as follows:

***Flow Rate:** 10.00 GPM ~~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.~~

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	NENENE	SWNENE	23 24	14N	17E	FERGUS

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	NENENE	SWNENE	23 24	14N	17E	FERGUS

Diversion Means: LIVESTOCK DIRECT FROM SOURCE DEVELOPED SPRING

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		N2N2NE	S2NWNE	23 24	14N	17E	FERGUS
2		S2S2SW	SWNENE	14 24	14N	17E	FERGUS

4. The Objections to the claims in this Case should be dismissed.

Post decree abstracts are enclosed.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service Via USPS Mail:

Machler Ranch, LLC
772 Beaver Creek Rd.
Lewistown, MT 59457-3954
(Last Order)

Service Via Electronic Mail:

Kris A Birdwell
Stogsdill & Birdwell, P.C.
krista@lewistownlaw.com
kris@lewistownlaw.com
*(Atty for: Machler Ranch, LLC; Sheila J. Machler; Joel F. Machler & Lisa L. Werner Living Trust;
David (Mark) Machler)*

Note: Service List Updated: 01-22-2026*

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

Water Right Number: 41S 101817-00 STATEMENT OF CLAIM
Version: 5 -- POST DECREE
Status: ACTIVE

Owners: MACHLER RANCH LLC
772 BEAVER CREEK RD
LEWISTOWN, MT 59457-3954

Priority Date: APRIL 22, 1882

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 1.74 CFS

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

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 46.00

Source Name: BEAVER 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		NESWSE	4	14N	17E	FERGUS

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	22.00		N2NE	4	14N	17E	FERGUS
2	24.00		S2SE	33	15N	17E	FERGUS
Total:	46.00						

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE ASSOCIATED WHICH MEANS THE RIGHTS SHARE THE SAME PLACE OF USE.

58787-00 101817-00

WATER RIGHT NOS. 41S 58787-00 AND 41S 101817-00 ARE ASSOCIATED. THEY HAVE OVERLAPPING PLACES OF USE AND POINTS OF DIVERSION.

FILE REFLECTS AUTHORIZATION TO CHANGE THE POINT OF DIVERSION BY ADDING ADDITIONAL POINTS OF DIVERSION. COMPLETED 09/26/1986.

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

Water Right Number: 41S 101833-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: MACHLER RANCH LLC
772 BEAVER CREEK RD
LEWISTOWN, MT 59457-3954

Priority Date: MARCH 14, 1947

Type of Historical Right: USE

Purpose (Use): STOCK

***Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

***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: UNNAMED TRIBUTARY OF BEAVER 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		SESENW	4	14N	17E	FERGUS

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

Diversion Means: DAM

Reservoir: ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SESENW	4	14N	17E	FERGUS

Diversion to Reservoir: DIVERSION # 1

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			SESENW	4	14N	17E	FERGUS

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

Water Right Number: 41S 134411-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: MACHLER RANCH LLC
772 BEAVER CREEK RD
LEWISTOWN, MT 59457-3954

Priority Date: AUGUST 31, 1968

Type of Historical Right: USE

Purpose (Use): STOCK

Flow Rate: 10.00 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 SLOAN 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		NENENE	23	14N	17E	FERGUS

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DEVELOPED SPRING

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			N2N2NE	23	14N	17E	FERGUS
2			S2S2SW	14	14N	17E	FERGUS