

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

CLAIMANTS: Amy A. Hughes; Lance V. Hughes; Donald E.
Otis; ~~James M. Mikkelsen~~; Rachel M.
Mikkelsen; Donald L. Derks; Marilyn E. Derks

CASE 41S-0527-R-2024

41S 13435-00
41S 134380-00
41S 135538-00
41S 162217-00

NOTICE OF INTENT TO APPEAR: Montana Dept. of Fish
Wildlife & Parks

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. Amy A. Hughes and Lance V. Hughes ("the Hughes") are the record owners of claim 41S 13435-00. Donald E. Otis ("Otis") is the record owner of claim 41S

134380-00. Rachel M. Mikkelsen (“Mikkelsen”) is the record owner of claim 41S 135538-00. Donald L. Derks and Marilyn E. Derks (“the Derks”) are the record owners of claim 41S 162217-00.

2. Claims 41S 13435-00, 41S 134380-00, 41S 135538-00, and 41S 162217-00 were decreed with Montana Department of Natural Resources and Conservation (“DNRC”) issue remarks:

Claim 41S 13435-00:

- 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 530 MINER'S INCHES DECREED IN CASE NO. 982 FERGUS COUNTY. 41S 13435-00, 41S 134380-00, 41S 135538-00, 41S 162217-00.
- FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.
- THE CLAIMED POINT OF DIVERSION IS IN QUESTION. THE LOCATION OF THE HEADGATE CANNOT BE IDENTIFIED FROM AVAILABLE DATA.
- THE JUDITH BASIN COUNTY WATER RESOURCES SURVEY (1963) APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- USDA AERIAL PHOTOGRAPH NO(S). 30045-279-15 , DATED 09/18/1979 , APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- THE MAXIMUM COMBINED ACRES FOR THIS GROUP OF SUPPLEMENTAL CLAIMS MAY REQUIRE MODIFICATION PENDING RESOLUTION OF MAXIMUM IRRIGATED ACRES ISSUE.

Claim 41S 134380-00:

- 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 530 MINER'S INCHES DECREED IN CASE NO. 982 FERGUS COUNTY. 41S 13435-00, 41S 134380-00, 41S 135538-00, 41S 162217-00.
- FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.
- SOURCE NAME AND POINT OF DIVERSION WERE 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 JUDITH BASIN COUNTY WATER RESOURCES SURVEY (1963) APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- USDA AERIAL PHOTOGRAPH NO(S). 30045-179-110 , DATED 09/17/1979 , APPEARS TO INDICATE 3.60 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

Claim 41S 135538-00:

- 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 530 MINER'S INCHES DECREED IN CASE NO. 982 FERGUS COUNTY. 41S 13435-00, 41S 134380-00, 41S 135538-00, 41S 162217-00.
- FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.

- POINT OF DIVERSION 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 JUDITH BASIN COUNTY WATER RESOURCES SURVEY (1963) APPEARS TO INDICATE 343.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.
- USDA AERIAL PHOTOGRAPH NO(S). 30045-179-108 , DATED 09/17/1979 , APPEARS TO INDICATE 383.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.
- THE MAXIMUM COMBINED ACRES FOR THIS GROUP OF SUPPLEMENTAL CLAIMS MAY REQUIRE MODIFICATION PENDING RESOLUTION OF MAXIMUM IRRIGATED ACRES ISSUE.

Claim 41S 162217-00:

- 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 530 MINER'S INCHES DECREED IN CASE NO. 982 FERGUS COUNTY. 41S 13435-00, 41S 134380-00, 41S 135538-00, 41S 162217-00.
- THE CLAIMED FLOW RATE EXCEEDS THE 17 GPM PER ACRE GUIDELINE AND CANNOT BE CONFIRMED DUE TO LACK OF DATA. THE FLOW RATE EQUALS 62.00 GPM PER ACRE.
- DONALD L. DERK FILED A LATE OBJECTION TO CHANGE THE PLACE OF USE AND MAXIMUM ACRES IRRIGATED. THIS WILL BE HEARD AFTER PROPER NOTICE ON THE NEXT OBJECTION LIST.
- POINT OF DIVERSION 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.

3. Claims 41S 13435-00, 41S 134380-00, 41S 135538-00, and 41S 162217-00 all claim the same August 1, 1881 right decreed to C.M. Goodell for 13.25 cubic feet per second (cfs) of Judith River Water in Case 982, Fergus County. As claimed, the claims overclaim the August 1, 1881 C.M. Goodell right by 17.13 cfs.

4. On March 20, 2003, Donald L. Derks filed an Objection to the place of use and maximum acres for claim 41S 162217-00; the Objection stated, in part:

The second objection involves two parcels of acreage that, for whatever reason, were omitted from claim 41S-W-162217-00. The first parcel is in: NWSE of Sec. 8, Twp. 14N, Rge. 14E, County of Judith Basin. Please see exhibit #2 for exact location. This involves approximately 3 acres. The second parcel is in: W2NESW of Sec. 9, Twp. 14N, Rge. 14E, County of Judith Basin. Please see exhibit #3 for exact location. This involves approximately 11 acres.

Donald L. Derks attached a marked abstract to the late Objection, indicating the following modifications should be made to claim 41S 162217-00:

WATER RIGHT NUMBER 41S -W-162217-00

OWNERS: MIKKELSON JAMES
HUBSON MT 59452
OJA CHARLES R
HOBSON MT 59452

PRIORITY DATE: AUG 1, 1881
FLOW RATE: 13.25 CFS
VOLUME: 388.80 ACRE FEET PER YEAR
SOURCE: JUDITH RIVER
MAXIMUM ACRES: ~~96.00~~ 110.0 *Correct to
PURPOSE (USE): IRRIGATION
PERIOD OF USE: APR 15 TO OCT 19
POINTS OF DIVERSION AND MEANS OF DIVERSION:

LOT	BLK	QTR	SEC	SEC	TWP	RGE	COUNTY
SWSWSW 08 14N 14E JUDITH BASIN							HEADGATE

PLACE OF USE FOR IRRIGATION

	ACRES	LOT	BLK	QTR	SEC	SEC	TWP	RGE	COUNTY
001	16.00 19.0				NWSE	08	14N	14E	JUDITH BASIN
002	40.00				NESE	08	14N	14E	JUDITH BASIN
003	40.00				NWSW	09	14N	14E	JUDITH BASIN
004 TOTAL	96.00 110.0				W2.NE SW	09	14N	14E	JUDITH BASIN
TOTAL	110.0								

The Basin 41S Temporary Preliminary Decree objection period passed on October 4, 1984, and Derks' Objection was docketed as a "late Objection." An issue remark was placed on claim 41S 162217-00 ensuring the late Objection could be addressed during the Preliminary Decree.

5. The State of Montana Department of Fish, Wildlife and Parks (hereinafter "FWP") filed a Notice of Intent to Appear ("NOIA") for claim 41S 135538-00:

Montana Fish, Wildlife and Parks seeks the resolution of DNRC's issue remarks, as listed on the decree, in accordance with historic evidence.

6. On November 4, 2024, Donald E. Otis withdrew claim 41S 134380-00. (Doc.¹ 14.00).

7. On January 24, 2025, the Hughes' withdrew claim 41S 13435-00. (Doc. 15.00).

8. On August 23, 2024, counsel for the Derks' filed a Status Report and attachments to address the late Objection issue remark decreed on claim 41S 162217-00; the attachments included the Affidavit of consultant Scott Irvin. (Doc. 9.00).

Mr. Irvin explained that he reviewed the water right file, aerial imagery, the Judith Basin County Water Resources Survey, conducted a site inspection, and consulted with Keith and Roger Derks (operators of the Derks' ranch and children of Donald and Marilyn Derks) regarding water use practices. (Doc. 9, Affidavit of Scott Irvin).

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

Ultimately, Mr. Irvin indicated the evidence supports the following as historically irrigated by claim 41S 162217-00:

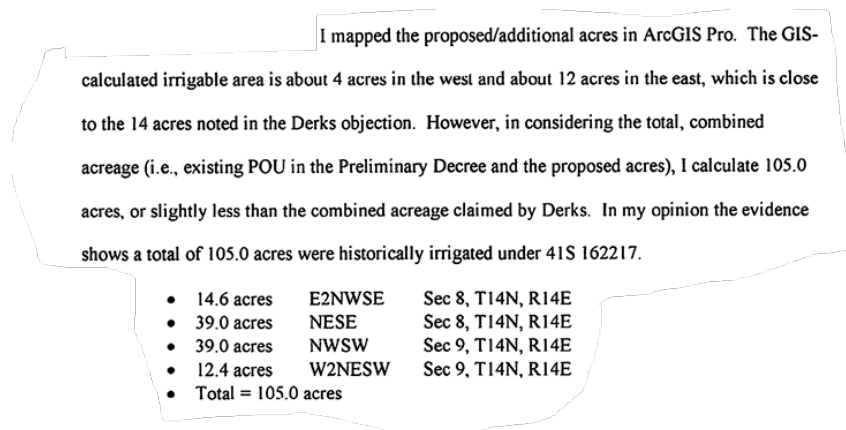
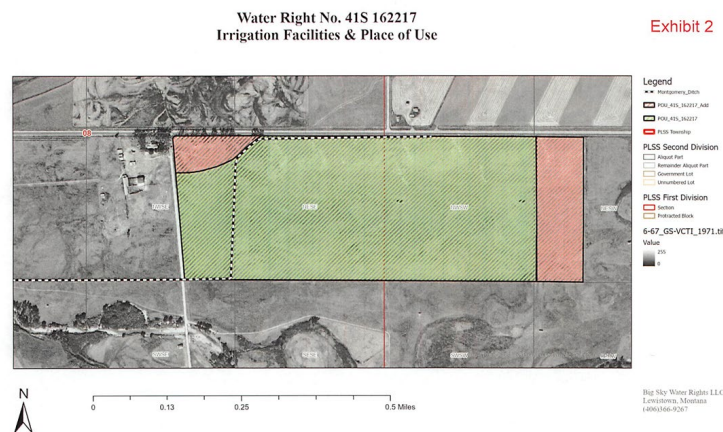


Exhibit 2 was attached to the August 23, 2024 filing, showing the historical place of use as determined by Mr. Irvin:



(Doc. 9.00, Exhibit 2).

The Derks' request the maximum acres and place of use be modified to 105.00 acres and the late Objection issue remark be removed from claim 41S 162217-00.

9. On October 10, 2025, the Derks' filed a Stipulation and Agreement addressing the decree exceeded issue remaining between claims 41S 135538-00 and 41S 162217-00. (Doc. 24.00).

Pursuant to the Stipulation, Mikkelsen agrees to reduce the flow rate for claim 41S 135538-00 to 3.75 cfs, and the Derks' agree to reduce the flow rate for claim 41S 162217-00 to 9.50 cfs.

10. On October 14, 2025, counsel for Mikkelsen filed a Memorandum to

Resolve Issue Remarks and a Motion to Amend Claim. (Docs. 25.00 and 26.00). The filings indicate FWP was contacted and “approves of the resolutions proposed herein.” *Id.*

The Affidavit of Rod Mikkelsen was attached to the Motion to Amend as “Exhibit A.” The Motion proposes the following point of diversion amendment to claim 41S 135538-00:

***Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	NENENW	SWSWSE	18	12	14N	14E	JUDITH

BASIN Period of Diversion: APRIL 1 TO OCTOBER 31
Diversion Means: HEADGATE

The Statement of Claim for claim 41S 135538-00 lists the point of diversion (“POD”) as a headgate and ditch in the SWSWSE, Sec. 14, Twp. 14N, Rge. 13E. The Judith Basin County Water Resources Survey identifies the claimed point of diversion and conveyance ditch as the Goodell Ditch. The Motion to Amend maintains:

...the Goodell Ditch was incorrectly claimed as the POD and means of conveyance, likely because of flumes conveying water over or under the adjacent Porter Ditch. *Exhibit “A”, Memo. of Teresa E. Olson, p. 4.*

As depicted in the WRS and historical aerial imagery, The Goodell Ditch conveys water southeast of the POU and would be unable irrigate the claimed acreage. However, two flumes originate from the Goodell Ditch to convey water across the Porter Ditch. The Porter Ditch is identified in historical aerial imagery as originating in Sec. 18, Twp. 14N, Rge. 14E, where it travels northwest to cross the Utica Highway. *Id.*

...
Rod Mikkelsen, son of Claimant Rachel M. Mikkelsen, attests that the Goodell Ditch has remained unused for decades and that the correct conveyance is the Porter Ditch. Exhibit “B”, Aff. of Rod Mikkelsen, ¶¶5-8. Rod Mikkelsen further attests that his father James Mikkelsen irrigated out of the Porter Ditch. *Id.* at ¶10.

(Doc. 26.00, at 3).

Rod Mikkelsen is Claimant Rachel M. Mikkelsen’s son. He was born in 1957 and has been involved in ranching his entire life. He states he has lived at or near Hobson Montana his entire life.

According to Rod Mikkelsen, his parents purchased the farm/ranch from Albert Porter, and the place of use described by claim 41S 135537-00 was then irrigated by flood. Mr. Mikkelsen stated that water was diverted into “what is called the Porter Ditch

in the NENW of section 18, T14N, R14E, the water then traveled north to the place of use.” Mr. Mikkelsen stated that the Mikkelsen property was serviced by the Porter Ditch before his family purchased the property and it continues to provide water to the property today. Mr. Mikkelsen stated that he is familiar with the Goodell Ditch and neither he nor his family has ever used the Goodell Ditch to irrigate the places of use described by claim 41S 135538-00.

11. On October 14, 2025, Mickelsen filed a Memorandum to Resolve Issue Remarks decreed on claim 41S 135538-00. (Doc. 25.00). Mikkelsen agreed to reduce the place of use for claim 41S 135538-00 to 345.20 acres, consistent with the 1971 aerial photograph analyzed and interpreted by consultant Teresa E. Olson:

Analysis of a 1971 aerial photo reveals the existence of an irrigation system by identification of field boundaries, conveyance, and some shade contrasts within the claimed place of use. Some areas appear naturally sub-irrigated. Spreader ditches can be seen along with distinct field boundaries. The area within the irrigation system measures 345.2 acres which suggests this was the maximum number of irrigated acres in 1971.

(Document 25.00, Exhibit B). Consistent with Ms. Olson’s analysis, Mikkelsen proposes the place of use for claim 41S 135538-00 be reduced to:

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	155.00 310.00		NW N2	8	14N	14E	JUDITH BASIN
2	147.00 408.00		NE	8 7	14N	14E	JUDITH BASIN
3	43.20 45.00		S2SE SE	5	14N	14E	JUDITH BASIN
Total:	481.00 345.20						

PRINCIPLES 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. The Montana Water Court has jurisdiction over all matters relating to the determination of existing water rights. This jurisdiction includes not only reviewing all objections to preliminary decrees pursuant to section 85-2-233, MCA, but also can include a review of claims that have not appeared on the objection list for a Basin. The Water Court can order changes to a claim without further notice requirements, if the Court determines that the proposed change does not adversely affect other water rights, section 85-2-233 (6), MCA.

CONCLUSIONS OF LAW

1. Claimant Rachel M. Mikkelsen has provided evidence showing the point of diversion amendment overcomes the prima facie Statement of Claim.

2. The proposed point of diversion amendment to claim 41S 135538-00, as found in the Findings of Fact, is appropriate based on the evidence before the Master. Implementing the amendment will have no adverse effect on other water rights. It is therefore appropriate to make the change without the requirement of additional notice to other water users. The amendment reflects the ongoing use of water on the ground and, therefore, does not require further notice as provided for in section 85-2-233(6), MCA. The point of diversion change does not constitute an expansion to the element of the claim; it merely corrects the paper water right. The use of the water right on the ground has not changed.

3. Claims 41S 135538-00 and 41S 162217-00 were decreed with a point of diversion issue remark indicating that the DNRC modified the element under court reexamination orders. The remark is a notice-type remark and states that if no objections are filed, the element will remain as decreed and the remark will be removed. No objections were filed, and the remark should be removed from the claims.

4. Claim 41S 135538-00 was 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 figure; the remark is obsolete and can be removed.

RECOMMENDATION

1. Claims 41S 13435-00 and 41S 134380-00 should be dismissed.
2. The following modifications should be made to claim 41S 135538-00:

Flow Rate: 43.25 CFS 3.75 CFS

Maximum Acres: 345.20 481.00

*Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	NENENW	SWSWSE	18	14N	14E	JUDITH BASIN

Period of Diversion: APRIL 1 TO OCTOBER 31

Diversion Means: HEADGATE

Maximum Acres: 345.20 481.00

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County	
1	155.00		NW	N2	8	14N	14E	JUDITH BASIN
2	147.00			NE	8	14N	14E	JUDITH BASIN
3	43.20		S2SE	SE	5	14N	14E	JUDITH BASIN
Total:	481.00							345.20

3. The following modifications should be made to claim 41S 162217-00:

Flow Rate: 43.25 CFS 9.50 CFS

Maximum Acres: 98.00 105.00

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	48.00		NWSE	8	14N	14E	JUDITH BASIN
2	40.00		NESE	8	14N	14E	JUDITH BASIN
3	40.00		NWSW	9	14N	14E	JUDITH BASIN
Total:	98.00						

New POU:

14.60	E2NWSE	8	14N	14E	JUDITH BASIN COUNTY
39.00	NESE	8	14N	14E	JUDITH BASIN COUNTY
39.00	NWSW	9	14N	14E	JUDITH BASIN COUNTY
12.40	W2NESW	9	14N	14E	JUDITH BASIN COUNTY

4. State of Montana Department of Fish, Wildlife and Parks' Notice of Intent to Appear should be dismissed.

Abstracts are attached for review.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

Donald E. Otis
PO Box 173
Hobson, MT 59452-0173

James M. Mikkelsen
203 Macaroni Hill Road
Hobson, MT 59452
(deceased)

Service via Electronic Mail:

Alexander R. Scolavino III
Montana Department of Fish, Wildlife & Parks
alexander.scolavino@mt.gov
audrey.kelly@mt.gov
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(Atty for: Rachel M. Mikkelsen)

Ryan K. Mattick
Mattick Law Firm, P.C.
ryan@matticklawfirm.com
(Atty for: Donald and Marilyn Derks)

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

Water Right Number: 41S 13435-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: DISMISSED

Owners: AMY A HUGHES
PO BOX 309
HOBSON, MT 59452-0309

LANCE V HUGHES
PO BOX 309
HOBSON, MT 59452-0309

Priority Date:

Type of Historical Right:

Purpose (Use): IRRIGATION

Flow Rate:

Volume:

Source Name: JUDITH RIVER

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

Remarks:

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.

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

Water Right Number: 41S 134380-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: DISMISSED

Owners: DONALD E OTIS
PO BOX 173
HOBSON, MT 59452-0173

Priority Date:

Type of Historical Right:

Purpose (Use): IRRIGATION

Flow Rate:

Volume:

Source Name: UNNAMED TRIBUTARY OF JUDITH RIVER

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

Remarks:

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.

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

Water Right Number: 41S 135538-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: RACHEL M MIKKELSEN
PO BOX 262
HOBSON, MT 59452-0262

Priority Date: AUGUST 1, 1881

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 3.75 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: 345.20

Source Name: JUDITH RIVER

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		NENENW	18	14N	14E	JUDITH BASIN

Period of Diversion: APRIL 1 TO OCTOBER 31

Diversion Means: HEADGATE

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	155.00		NW	8	14N	14E	JUDITH BASIN
2	147.00		NE	8	14N	14E	JUDITH BASIN
3	43.20		S2SE	5	14N	14E	JUDITH BASIN

Total: 345.20

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.

135536-00

135537-00

135538-00

135539-00

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

Water Right Number: 41S 162217-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: DONALD L DERKS
PO BOX 218
HOBSON, MT 59452-0218

MARILYN E DERKS
PO BOX 218
HOBSON, MT 59452-0218

Priority Date: AUGUST 1, 1881

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 9.50 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: 105.00

Source Name: JUDITH RIVER

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		NWSWSW	8	14N	14E	JUDITH BASIN

Period of Diversion: APRIL 15 TO OCTOBER 15

Diversion Means: HEADGATE

Period of Use: APRIL 15 TO OCTOBER 15

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	14.60		E2NWSE	8	14N	14E	JUDITH BASIN
2	39.00		NESE	8	14N	14E	JUDITH BASIN
3	39.00		NWSW	9	14N	14E	JUDITH BASIN
4	12.40		W2NESW	9	14N	14E	JUDITH BASIN

Total: 105.00