

Montana Water Court
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FILED
06/23/2026
Melissa Lockman
CLERK
Montana Water Court
STATE OF MONTANA
By: D'Ann CIGLER
41S-2366-R-2026
Stern, Anika
9.00

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

CLAIMANTS: E. Marlene Haack; Amy Hughes; Lance V. Hughes

CASE 41S-2366-R-2026
41S 135190-00
41S 135197-00
41S 135199-00

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. E. Marlene Haack, Amy A. Hughes, and Lance V. Hughes are the record co-owners of claim 41S 135190-00 (hereinafter "Claimants"); E. Marlene Haack is the record owner of claims 41S 135197-00 and 41S 135199-00.

2. Claims 41S 135190-00, 41S 135197-00, and 41S 135199-00 were decreed with Montana Department of Natural Resources and Conservation (“DNRC”) issue remarks:

41S 135190-00:

- FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.
- THE JUDITH BASIN COUNTY WATER RESOURCES SURVEY(1963)APPEARS TO INDICATE 358.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.
- USDA AERIAL PHOTOGRAPH NO(S). 30045-279-15 , DATED 09/18/1979 , APPEARS TO INDICATE 64.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.
- THE SUPPLEMENTAL RIGHTS REMARK MAY NOT BE NECESSARY, IT APPEARS THIS CLAIM IS NO LONGER IN A SUPPLEMENTAL RELATIONSHIP WITH CLAIMS 41S 135194-00, 41S 135196-00, 41S 135197-00, 41S 135199-00.
- THE MAXIMUM NUMBER OF ACRES CLAIMED ON THE ORIGINAL STATEMENT OF CLAIM IS 390.00 ACRES. THE DNRC'S RE-EXAMINATION WAS OF THESE ORIGINAL CLAIMED ACRES.
- 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 PRIORITY DATE MAY BE QUESTIONABLE. THIS CLAIM IS FOR A FILED APPROPRIATION ON THE JUDITH RIVER WITH A PRIORITY DATE PREDATING CASE NO 982, FERGUS COUNTY. IF NO OBJECTIONS ARE FILED TO PRIORITY DATE OR TYPE OF HISTORICAL RIGHT, THESE ELEMENTS WILL BE DECREED AS SHOWN ON THIS ABSTRACT AND THIS REMARK WILL BE REMOVED.
- THE MAXIMUM COMBINED ACRES FOR THIS GROUP OF SUPPLEMENTAL CLAIMS MAY REQUIRE MODIFICATION PENDING RESOLUTION OF MAXIMUM IRRIGATED ACRES ISSUE.

41S 135197-00:

- FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.
- THE JUDITH BASIN COUNTY WATER RESOURCES SURVEY(1963)APPEARS TO INDICATE 5.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.
- USDA AERIAL PHOTOGRAPH NO(S). 30045-279-15 , DATED 09/18/1979 , APPEARS TO INDICATE 3.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.
- THE POINT OF DIVERSION MAY BE INCORRECT. THE LOCATION OF THE HEADGATE CANNOT BE IDENTIFIED FROM AVAILABLE DATA.
- CLAIMS 41S 135194-00, 41S 135197-00, AND 41S 135199-00 ARE SUPPLEMENTAL TO EACH OTHER, BUT NO LONGER APPEAR TO BE SUPPLEMENTAL TO CLAIMS 41S 135190-00 AND 41S 135196-00.
- THE MAXIMUM COMBINED ACRES FOR THIS GROUP OF SUPPLEMENTAL CLAIMS MAY REQUIRE MODIFICATION PENDING RESOLUTION OF MAXIMUM IRRIGATED ACRES ISSUE.

41S 135199-00:

- FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.
- 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 POINT OF DIVERSION MAY BE INCORRECT. THE LOCATION OF THE HEADGATE CANNOT BE IDENTIFIED FROM AVAILABLE DATA.
- CLAIMS 41S 135194-00, 41S 135197-00, AND 41S 135199-00 ARE SUPPLEMENTAL TO EACH OTHER, BUT NO LONGER APPEAR TO BE SUPPLEMENTAL TO CLAIMS 41S 135190-00 AND 41S 135196-00.
- THE MAXIMUM COMBINED ACRES FOR THIS GROUP OF SUPPLEMENTAL CLAIMS MAY REQUIRE MODIFICATION PENDING RESOLUTION OF MAXIMUM IRRIGATED ACRES ISSUE.

3. DNRC Water Resource Specialist Brandon Ahlgren filed a Memorandum on April 28, 2026. (Doc.¹ 6.00). Mr. Ahlgren reported he spoke with Peter Taylor of Lund Law, PLLC, representing Lance and Amy Hughes, on February 4, 2026, to discuss the claims; additionally, Mr. Ahlgren met with George Killham, on behalf of E. Marlene Haack, in early February to discuss the claims. Mr. Ahlgren indicated he reviewed the Judith Basin County Water Resources Survey and an aerial photo to prepare the Memorandum.

4. **Claim 41S 135190-00:** Mr. Ahlgren confirmed 358.00 acres of historical irrigation at the claimed place of use for claim 41S 135190-00. Mr. Ahlgren recommended the following modifications be made to claim 41S 135190-00 and the place of use, flow rate, and one of the supplemental rights remarks be removed from the claim:

Flow Rate:	13.58	13.87 -CFS					
Maximum Acres:	358.00	366.00					
Place of Use:							
ID	Acres	Govt Lot	Qtr	Sec	Twp	Rge	County
1	132.42	120.00	S2N2	35	15N	14E	JUDITH BASIN
2	153.38	160.00	N2S2	35	15N	14E	JUDITH BASIN
3	28.08	36.00	SESW	35	15N	14E	JUDITH BASIN
4	32.92	36.00	SWSE	35	15N	14E	JUDITH BASIN
5	11.20	12.00	N2SESE	35	15N	14E	JUDITH BASIN
Total:	358.00	366.00					

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

5. **Claim 41S 135197-00:** Mr. Ahlgren confirmed 20.49 acres of historical irrigation at the claimed place of use for claim 41S 135197-00.

Additionally, Mr. Ahlgren confirmed the point of diversion at the NWNWNW, L4, Section 2, T14N, R14E, Judith Basin County.

Mr. Ahlgren noted that claim 41S 135197-00 is no longer supplemental with other claims and the remark should be removed.

Mr. Ahlgren recommended the following modifications be made to claim 41S 135197-00:

Flow Rate: 1.50 CFS 348.33 GPM

Maximum Acres: 20.49 80.00

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	4 NWNWNW	NWNENW	2	14N	14E	JUDITH BASIN

Period of Diversion: APRIL 1 TO OCTOBER 1

Diversion Means: HEADGATE

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County	
1	15.49	40.00	SESE	35	15N	14E	JUDITH BASIN	
2	5.00	20.00	S2SWSE	E2SWSE	35	15N	14E	JUDITH BASIN
Total:	20.49	60.00						

6. **Claim 41S 135199-00:** Mr. Ahlgren confirmed 28.08 acres of historical irrigation at the claimed place of use for claim 41S 135199-00.

Additionally, Mr. Ahlgren confirmed the point of diversion at the SWNWNE, Section 7, T14N, R14E, Judith Basin County.

Mr. Ahlgren recommended the following modifications be made to claim 41S 136199-00:

Flow Rate: 1.62 CFS 1.06 CFS

Maximum Acres: 40.00 28.08

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	SWNWNE	SEENW	7	14N	14E	JUDITH BASIN

C120: "WATER DIVERTED FROM POD #1 IS CONVEYED TO SPRING BRANCH WHICH IS USED AS A NATURAL CARRIER TO A SECONDARY POINT OF DIVERSION IN THE SWNENE SEC 04 TWP 14N RGE 14E JUDITH BASIN COUNTY".

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	28.08	40.00	SESW	35	15N	14E	JUDITH BASIN
Total:	28.08	40.00					

7. An Order was issued to determine if the Claimants agreed or disagreed with Mr. Ahlgren's recommendations regarding the claims. (Doc. 7.00) The Order indicated that if nothing were filed by the deadline, this Water Master would conclude that the Claimants agreed with Mr. Ahlgren's recommendations regarding the claims. The following language 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.

8. On May 22, 2026, counsel for the Claimants filed a Statement agreeing with Mr. Ahlgren's recommendations.

PRINCIPLES AND CONCLUSIONS OF LAW

1. The Water Court must address all issue remarks decreed on a claim. Mont. Code Ann. § 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.

3. The point of diversion and priority date issue remarks decreed on claim 41S 135190-00 is a notice-type remarks. No objections were filed, and no further proceedings are required.

4. The issue remarks decreed on claims 41S 135190-00, 41S 135197-00, and 41S 135199-00 indicating the "maximum combined acres for this group of supplemental claims may require modification..." is not relevant because supplemental rights remarks no longer include a quantified acreage figure. Furthermore, supplemental rights remarks will be removed at the final decree stage.

RECOMMENDATIONS

1. Claims 41S 135190-00, 41S 135197-00, and 41S 135199-00 should be modified as follows:

- **Claim 41S 135190-00:**

Flow Rate: 13.56 13.87-CFS

Maximum Acres: 358.00 366.00

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	132.42 120.00		S2N2	35	15N	14E	JUDITH BASIN
2	153.38 160.00		N2S2	35	15N	14E	JUDITH BASIN
3	28.08 36.00		SESW	35	15N	14E	JUDITH BASIN
4	32.92 36.00		SWSE	35	15N	14E	JUDITH BASIN
5	11.20 12.00		N2SESE	35	15N	14E	JUDITH BASIN
Total:	366.00 358.00						

- **Claim 41S 135197-00:**

Flow Rate: 1.50 CFS 348.33 GPM

Maximum Acres: 20.49 60.00

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	4 NWNWNW NWNENW	NWNENW	2	14N	14E	JUDITH BASIN

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

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	15.49 40.00		SESE	35	15N	14E	JUDITH BASIN
2	5.00 20.00	S2SWSE	E2SWSE	35	15N	14E	JUDITH BASIN
Total:	60.00 20.49						

- **Claim 41S 136199-00:**

Flow Rate: 1.52 CFS 1.06 CFS

Maximum Acres: 40.00 28.08

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	S2SWSE SEENENW	SEENENW	7	14N	14E	JUDITH BASIN

C120: "WATER DIVERTED FROM POD #1 IS CONVEYED TO SPRING BRANCH WHICH IS USED AS A NATURAL CARRIER TO A SECONDARY POINT OF DIVERSION IN THE SWNENE SEC 04 TWP 14N RGE 14E JUDITH BASIN COUNTY".

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	28.08 40.00		SESW	35	15N	14E	JUDITH BASIN
Total:	40.00 28.08						

2. The issue remarks should be removed from claims 41S 135190-00, 41S 135197-00, and 41S 135199-00.

Abstracts are attached for review.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service Via USPS Mail:

E. Marlene Haack
PO Box 168
Hobson, MT 59452

Service Via Electronic Mail:

Peter B. Taylor
Ashton A. Wagner
Lund Law PLLC
paralegal@lund-law.com
taylor@lund-law.com
wagner@lund-law.com
(Attys for: Amy Hughes and Lance V. Hughes)

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

Water Right Number: 41S 135190-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: E MARLENE HAACK
PO BOX 168
HOBSON, MT 59452

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

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

Priority Date: MAY 10, 1885

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 13.56 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: 358.00

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 1 TO OCTOBER 1

Diversion Means: HEADGATE

Period of Use: APRIL 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	132.42		S2N2	35	15N	14E	JUDITH BASIN
2	153.38		N2S2	35	15N	14E	JUDITH BASIN
3	28.08		SESW	35	15N	14E	JUDITH BASIN
4	32.92		SWSE	35	15N	14E	JUDITH BASIN
5	11.20		N2SESE	35	15N	14E	JUDITH BASIN

Total: 358.00

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.

135190-00

135194-00

135196-00

135199-00

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

Water Right Number: 41S 135197-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: E MARLENE HAACK
PO BOX 168
HOBSON, MT 59452

Priority Date: MAY 29, 1914

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 348.33 GPM

***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: 20.49

Source Name: SPRING, UNNAMED TRIBUTARY OF SPRING 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	4	NWNWNW	2	14N	14E	JUDITH BASIN

Period of Diversion: APRIL 1 TO OCTOBER 1

Diversion Means: HEADGATE

Period of Use: APRIL 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	15.49		SESE	35	15N	14E	JUDITH BASIN
2	5.00		S2SWSE	35	15N	14E	JUDITH BASIN

Total: 20.49

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

Water Right Number: 41S 135199-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: E MARLENE HAACK
PO BOX 168
HOBSON, MT 59452

Priority Date: JUNE 1, 1893

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 1.06 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: 28.08

Source Name: SPRING, UNNAMED TRIBUTARY OF SPRING BRANCH

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		SWNWNE	7	14N	14E	JUDITH BASIN

Period of Diversion: APRIL 1 TO OCTOBER 1

Diversion Means: HEADGATE

WATER DIVERTED FROM POD #1 IS CONVEYED TO SPRING BRANCH WHICH IS USED AS A NATURAL CARRIER TO A SECONDARY POINT OF DIVERSION IN THE SWNENE SEC 04 TWP 14N RGE 14E JUDITH BASIN COUNTY.

Period of Use: APRIL 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	28.08		SESW	35	15N	14E	JUDITH BASIN

Total: 28.08

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.

135190-00 135194-00 135196-00 135199-00