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FILED
03/03/2026
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CLERK
Montana Water Court
STATE OF MONTANA
By: D'Ann CIGLER
41S-2160-R-2025
Stern, Anika
8.00

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

CLAIMANT: Judith River Ranch LLC

OBJECTOR: William C. Hendricks

CASE 41S-2160-R-2025
41S 126215-00

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. Judith River Ranch LLC (hereinafter referred to as "Judith River Ranch" and "the Claimant") is the record owner of claim 41S 126215-00.

2. Judith River Ranch was ordered to meet with the DNRC to address Montana Department of Natural Resources and Conservation (“DNRC”) issue remarks decreed on claim 41S 126215-00:

- 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 FERGUS COUNTY WATER RESOURCES SURVEY (1970) APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- USDA AERIAL PHOTOGRAPH NO(S). 30027-278-34 AND 30027-278-46 , DATED 09/25/1979 , APPEARS TO INDICATE 0.00 ACRES IRRIGATED.

(Doc.¹1.00).

3. DNRC Water Resource Specialist Brandon Ahlgren filed a Memorandum on December 30, 2025. (Doc. 5.00). Mr. Ahlgren indicated he met with attorney Kris Birdwell and consultant Scott Irvin on November 13, 2025, to discuss the claim. Mr. Ahlgren reported he reviewed the Fergus County Water Resources Survey and aerial photographs to prepare the Memorandum.

4. Mr. Ahlgren explained that 34.00 acres were originally claimed for claim 41S 126215-00 and the acreage was reduced to 23.00 acres because of a change authorization; Mr. Ahlgren’s investigation was of the originally claimed 34.00 acres. Mr. Ahlgren substantiated 28.37 historically irrigated acres, and the flow rate should be adjusted to the 17.00 gallon per minute (gpm)/per acre standard = 482.29 gpm = 1.07 cubic feet per second (cfs), per Rule 14(b), W.R.C.E.R.

Regarding the point of diversion, Mr. Ahlgren stated the following:

The POD could not be identified during initial examination. During this investigation, the DNRC was able to identify the location of the claimed POD. However, although this was the POD in 1906, there was a change done prior to 1973 which changed the location of the POD to what is recognized in the WRS as “Wilkerson Ditch”. Using this information, the DNRC believes it appropriate to modify the POD to how it was being used in the early 1960’s. This would be considered a pre-1973 change which didn’t require any paperwork or process to do and explains why the POD needn’t reflect the 1906 location. This same headgate is utilized by 41S 126216-00 which was included in Case 41S-0448-R-2024. In that case, it was recommended the POD be modified to “SESWNE Sec. 12, Twp 21N, Rge 16E” based on the pre-1973 change to the POD location. That case has not had a Masters Report issued. For consistency, DNRC would like the POD to match that of 41S 126216-00, “SESWNE Sec. 12, Twp 21N, Rge 16E”. The claimant in this case requests the POD remain as it was claimed and decreed, in “NESWSE Sec. 12, Twp 21N, Rge 16E” . Either described POD is considered appropriate by DNRC.

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

5. A deadline was set for Judith River Ranch to file a statement indicating agreement or disagreement with the following modifications to claim 41S 126215-00:

Flow Rate: 390.46 GPM 1.07 CFS

Maximum Acres: 23.00 28.37

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	SESWNE	SWNWSE	12 30	21N	16E	FERGUS

Period of Diversion: MAY 1 TO OCTOBER 15

Diversion Means: HEADGATE

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	5.61 17.00		SWSW NE	1 30	21N	16E	FERGUS
2	14.29 3.00		SESE NWNWSE	2 30	21N	16E	FERGUS
3	8.47 2.00		NENE SESENW	11 30	21N	16E	FERGUS
4	1.00		NENENW	30	21N	16E	FERGUS
Total:	23.00 28.37						

The Order indicated that if nothing were filed by the deadline, it would be determined that Claimant Judith River Ranch agrees with the recommended modifications to claim 41S 126215-00 and a Master’s Report may be issued recommending the modifications be made. Additionally, the Order set a deadline for Objector William C. Hendricks to file a statement agreeing or disagreeing with the recommended modifications. The Order indicated that if nothing is filed by the deadline, it would be determined that Objector William C. Hendricks agreed with the recommended modifications to claim 41S 126215-00 resolve the Objections. The Order included the following language:

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.

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.

CONCLUSIONS OF LAW

The prima facie statement of claim have been overcome.

RECOMMENDATIONS

1. Claim 41S 126216-00 should be modified as follows:

Flow Rate:	390.46 GPM	1.07 CFS
Maximum Acres:	23.00	28.37
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	SESWNE	S11WSE 12 30 21N 16E 17E FERGUS
Period of Diversion:	MAY 1 TO OCTOBER 15	
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	5.61	47.00 SWSW NE 1 30 21N 16E FERGUS
2	14.29	3.00 SESE N11WSE 2 30 21N 16E FERGUS
3	8.47	2.00 NENE SESENE 11 30 21N 16E FERGUS
4	1.00	1.00 NENENW 30 24N 16E FERGUS
Total:	28.37	

2. The Objection to claim 41S 126215-00 should be dismissed.
3. The issue remarks should be removed from claims 41S 126215-00.

Abstracts are attached for review.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via Electronic Mail:

Kris A. Birdwell
 Birdwell & Aamold, P.C.
 krista@lewistownlaw.com
 kris@lewistownlaw.com
 (Atty for Judith River Ranch LLC)

Service Via USPS Mail:

William C. Hendricks
 9718 Judith River Rd.
 Winifred, MT 59489

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

Water Right Number: 41S 126215-00 STATEMENT OF CLAIM
Version: 5 -- POST DECREE
Status: ACTIVE

Owners: JUDITH RIVER RANCH LLC
9718 JUDITH RIVER RD
WINIFRED, MT 59489

Priority Date: MAY 5, 1906

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 1.07 CFS

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

Climatic Area: 2 - MODERATELY HIGH

Maximum Acres: 28.37

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		SESWNE	12	21N	16E	FERGUS

Period of Diversion: MAY 1 TO OCTOBER 15

Diversion Means: HEADGATE

Period of Use: MAY 1 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	5.61		SWSW	1	21N	16E	FERGUS
2	14.29		SESE	2	21N	16E	FERGUS
3	8.47		NENE	11	21N	16E	FERGUS

Total: 28.37

Remarks:

AMENDED AUTHORIZATION TO CHANGE POINT OF DIVERSION AND PLACE OF USE ISSUED 06/20/1986. NOTICE OF COMPLETION DUE 11/30/1985.