

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

CLAIMANT: Weibert Ranch LLC

CASE 41S-0411-R-2024
41S 132901-00

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. Weibert Ranch LLC (“Claimant”) is the record holder of claim 41S 132901-00.

2. Claim 41S 132901-00 received issue remarks. All claims included in the Decree were subject to pre-decree examination by the Montana Department of Natural Resources and Conservation (“DNRC”). If during claims examination the DNRC cannot confirm some aspect of a claim, an issue remark is added to the claim for review by the Water Court.

3. On August 22, 2024, Claimant was ordered to meet with the DNRC to address the unresolved issue remarks on claim 41S 132901-00. (Doc.¹ 1.00)

4. DNRC Water Resource Specialist Brandon Ahlgren filed a Memorandum on October 30, 2025. (Doc. 3.00). Mr. Ahlgren reported that Claimant did not contact the DNRC as ordered.

5. 41S 132901-00 received the following issue remarks:

THE MEANS OF DIVERSION DOES NOT APPEAR TO BE STANDARDIZED. THE MEANS OF DIVERSION MAY BE A PUMP.

FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.

THE FERGUS COUNTY WATER RESOURCES SURVEY (1970) APPEARS TO INDICATE 0.00 ACRES IRRIGATED.

USDA AERIAL PHOTOGRAPH NO(S). 30027-278-214 , DATED 09/25/1979 , APPEARS TO INDICATE 0.00 ACRES IRRIGATED.

6. During initial examination, the DNRC was unable to identify any irrigation using the Fergus County Water Resource Survey or a 1979 USDA aerial photograph. After a second review, Mr. Ahlgren was also unable to substantiate any historical irrigation using the same sources as the initial examination. Mr. Ahlgren reviewed two additional aerial photographs and was still unable to confirm historical irrigation on the claimed place of use.

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

7. Because Mr. Ahlgren was unable to confirm historical irrigation of the claimed place of use, he recommended claim 41S 132901-00 be dismissed.

8. On December 4, 2024, an Order Setting Filing Deadline was issued stating :

ORDERED that the claimants shall file documentation regarding their position on the recommendation in the Memo by **January 9, 2025**. If nothing is filed, it will be viewed as agreement that the claim should be dismissed.

(Doc.4.00). Nothing was filed.

PRINCIPLES OF LAW

1. A properly filed Statement of Claim for Existing Water Right is prima facie proof of its content. Section 85-2-227, MCA. Prima facie proof may be overcome by other evidence that proves, by a preponderance of the evidence, that an element of the prima facie claim is incorrect. This is the burden of proof for every assertion that a claim is incorrect. Rule 19, W.R.Adj.R. A preponderance of the evidence is a “modest standard” and is evidence that demonstrates the fact to be proved is “more probable than not.” *Hohenlohe v. State*, 2010 MT 203, ¶ 33, 357 Mont. 348, 240 P.3d 628.

2. The Montana Water Court is permitted to use information submitted by the Department of Natural Resources and Conservation, the statement of claim, information from approved compacts, and any other data obtained by the Court to evaluate water right claims. Section 85-2-231(2), MCA.

3. When resolving issue remarks, the Montana Water Court must weigh the information resulting in the issue remark and the issue remark against the claimed water right. Section 85-2-247(2), MCA.

4. If the Montana Water Court cannot resolve issue remarks based upon information in the claim file or information available to the Court, claimants shall be required to confer with the DNRC to attempt resolution of the issue remarks. Claimants shall file documentation to resolve the issue remarks, and the DNRC shall submit recommendations regarding disposition of the issue remarks. Section 85-2-248(5), MCA.

5. If a claimant fails to comply with an order issued by the Water Court, the Court may issue orders of sanction that are just. Rule 22, W.R.Adj.R.

6. Sanctions applied against a claimant may include modification of a claim to conform with data provided by the DNRC, information obtained by the Court, or information included in an objection, or the entry of default and termination of a water right claim. Rule 11, W.R.Adj.R.

CONCLUSION OF LAW

1. The acres irrigated issue remarks overcome the prima facie status of claim 41S 132901-00. The aerial photographs reviewed by DNRC show no historical irrigation of the place of use. Claimant failed to provide evidence showing historical irrigation of the place of use. Pursuant to Rules 11 and 22, W.R.Adj.R., claim 41S 132901-00 should be dismissed.

RECOMMENDATION

1. Claim 41S 132901-00 should be dismissed.

A post decree abstract of the water right claim reflecting the recommended dismissal is attached to this Report.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via Electronic Mail:

Weibert Ranch LLC
9350 Haggarty Lane #A
Bozeman, MT 59715
qualityappraisal@yahoo.com

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

Water Right Number: 41S 132901-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: **DISMISSED**

Owners: WEIBERT RANCH LLC
9350 HAGGARTY LN #A
BOZEMAN, MT 59715

Priority Date:

Type of Historical Right:

Purpose (Use): IRRIGATION

Flow Rate:

Volume:

Source Name: BOYD CREEK

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.