

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

CLAIMANTS: Julie M. Hansemann; Kendall Ditch Co.;
Laurie Lohrer; Roger Lohrer; Alan Vanek;
Darlene Vanek; David J. Vanek, Jr.;
William Vanek

CASE 41S-2033-R-2025

41S 40141-00

OBJECTOR: Julie M. Hansemann

NOTICE OF INTENT TO APPEAR: Laurie Lohrer; Roger
Lohrer

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. Julie M. Hansemann, Kendall Ditch Co., Laurie Lohrer, Roger Lohrer, Alan Vanek, Darlene Vanek, William Vanek, and David J. Vanek Jr. ("Claimants") are the record owners of claim 41S 40141-00.

2. Claim 41S 40141-00 was decreed with DNRC issue remarks:

- FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.
- THE FERGUS COUNTY WATER RESOURCES SURVEY (1970) APPEARS TO INDICATE 92.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.
- USDA AERIAL PHOTOGRAPH NO(S). 30027-178-61 , DATED 09/18/1979 , APPEARS TO INDICATE 131.90 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.

3. Julie M. Hansemann objected to claim 41S 40141-00, stating:

Claimant Julie Hansemann objects to All Elements of Water Right Claim 41S 40141-00 in order to address and resolve issue remarks appearing on the claim and any other issues identified by the other co-owners, other objecting parties, and upon investigation, research, and discovery pertaining to this claim.

4. Laurie Lohrer and Roger Lohrer filed a Notice of Intent to Appear ("NOIA") for claim 41S 40141-00, stating:

We want to participate in the proceeding regarding Water Right 41S 40141-00. We are not the objector. We are one of the claimants.

5. A March 20, 2026 deadline was set for the parties in Case 41S-2033-R-2025 to file documentation resolving their concerns in the Case and a March 20, 2026 deadline was set for Hansemann to file a statement indicating how the Objection to claim 41S 40141-00 should be resolved. The Order indicated a proposed abstract should be filed and a maps should be submitted with the filing if the Objection resolution proposed legal land description modifications; the Order stated

"If nothing is filed by the March 20, 2026 deadline, it will be determined that Julie Hansemann has decided not to pursue the Objection to claim 41S 40141-00 and dismissal of the Objection will be recommended in the forthcoming Master's Report." (emphasis in original).

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.

(Doc.¹4.00). Hansemann filed nothing by the deadline.

6. The Claimants were ordered to meet with the DNRC to address the unresolved issue remarks decreed on claim 41S 40141-00. (Doc. 6.00).

7. DNRC Water Resource Specialist Brandon Ahlgren filed a Memorandum on June 18, 2026. (Doc. 8.00). Mr. Ahlgren indicated he spoke with Laurie Laurer on April 29, 2026 to discuss the claim and he reviewed the Fergus County Water Resources Survey and an aerial photograph to prepare the Memorandum.

Mr. Ahlgren stated that he substantiated 139.50 acres of historical irrigation at the claimed place of use for claim 41S 40141-00 and he recommended the flow rate be reduced consistent with the 17.00 gallon per minute gpm/per acre standard set in Rule 14(b), W.R.C.E.R. Mr. Ahlgren recommended the following modifications be made to claim 41S 40141-00 and the issue remarks be removed from the claim:

Flow Rate:	8.00 CFS	5.28 CFS					
Maximum Acres:	460.80	139.50					
Place of Use:							
<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	88.00	403-40		24	17N	17E	FERGUS
2	12.00	45-00	S2NW	NW	19	17N	18E FERGUS
3	12.50		NESW	SW	19	17N	18E FERGUS
4	27.00	30-00		SE	19	17N	18E FERGUS
Total:	460.80	139.50					

8. An Order was issued to determine if Claimants Julie M. Hansemann, Kendall Ditch Co., Laurie Lohrer, and Roger Lohrer agreed with the recommended modifications to claim 41S 40141-00 to resolve the issue remarks and to determine if the recommended modifications resolve Laurie Lohrer and Roger Lohrer's NOIA concerns. The following language was included in the Order:

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

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.

(Doc. 9.00). Nothing was filed.

9. Another Order was issued to determine if newly added Claimants Alan Vanek, Darlene Vanek, William Vanek, and David J. Vanek, Jr. agreed or disagreed with the modifications Mr. Ahlgren recommended to resolve the issue remarks decreed on claim 41S 40141-00. The Order indicated that if nothing were filed by the deadline, it would be determined the newly added Claimants agreed with the recommended modifications. (Doc. 10.00). Nothing was filed.

PRINCIPLES OF LAW

1. The Water Court must address all issue remarks decreed on a claim. Section 85-2-248, MCA.

2. A properly filed Statement of Claim for an existing water right is prima facie proof of its content. Section 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; 375 Mont.86, 95; 329 P.3d 558, 564.

3. Pursuant to Rule 14(b), W.R.C.E.R., the flow rate guideline for irrigation claims is 17.00 gpm/per acre, based on:

- (i) the commonly accepted method of irrigation;
- (ii) the peak consumptive use of alfalfa during a drought year growing season;
- and
- (iii) a reasonable efficiency for the method of irrigating the field.

CONCLUSIONS OF LAW

1. The information in the record overcomes the prima facie status of claim 41S 40141-00 and it is appropriate to modify the place of use, maximum acres, and flow rate as recommended by Mr. Ahlgren.

2. Claim 41S 40141-00 was also decreed with a remark indicating “the combined acres” for the group of supplemental claims may need to be adjusted. Supplemental rights remarks no longer included a quantified acreage figure; the remark is obsolete and can be removed.

RECOMMENDATIONS

1. Julie M. Hanseemann’s Objection to claim 41S 40141-00 should be dismissed.
2. The Lohrer’s Notice of Intent to Appear filed to claim 41S 40141-00 should be dismissed.
3. Claims 41S 40141-00 should be modified as follows:

Flow Rate:		~~6.00 CFS~~	5.28 CFS				
Maximum Acres:		~~160.00~~	139.50				
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	88.00 ~~103.10~~			24	17N	17E	FERGUS
2	12.00 ~~16.00~~		S2NW ~~NW~~	19	17N	18E	FERGUS
3	12.50		NESW ~~SW~~	19	17N	18E	FERGUS
4	27.00 ~~30.00~~		SE	19	17N	18E	FERGUS
Total:		~~160.00~~	139.50				

4. The issue remarks should be removed from claim 41S 40141-00.
An abstract is attached for review.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail

Kendall Ditch Co.
% James E. Phillips
37166 MT Hwy 81
Lewistown, MT 59457

Laurie Lohrer
Roger Lohrer
466 Snowberry Ln
Lewistown, MT 59457

Julie M. Hansemann
351 Northgate Loop
Helena, MT 59602-7765

Alan Vanek
Darlene Vanek
William Vanek
726 Warm Spring Ln
Lewistown, MT 59457-8101

David J. Vanek, Jr.
2734 S 64th St W
Billings, MT 59106-3610

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

Water Right Number: 41S 40141-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners:

JULIE M HANSEMAN
351 NORTHGATE LOOP
HELENA, MT 59602-7765

LAURIE LOHRER
466 SNOWBERRY LN
LEWISTOWN, MT 59457

ROGER LOHRER
466 SNOWBERRY LN
LEWISTOWN, MT 59457

ALAN VANEK
726 WARM SPRING LN
LEWISTOWN, MT 59457-8101

DARLENE VANEK
726 WARM SPRING LN
LEWISTOWN, MT 59457-8101

DAVID J VANEK JR
2734 S 64TH ST W
BILLINGS, MT 59106-3610

WILLIAM VANEK
726 WARM SPRING LN
LEWISTOWN, MT 59457-8101

KENDALL DITCH CO
% JAMES E PHILLIPS
37166 MT HWY 81
LEWISTOWN, MT 59457

Priority Date: JUNE 9, 1906

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Flow Rate: 5.28 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: 139.50

Source Name: GIANT WARM SPRING

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		SENWSE	19	17N	18E	FERGUS

Period of Diversion: APRIL 1 TO OCTOBER 31

Diversion Means: DEVELOPED SPRING

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	88.00			24	17N	17E	FERGUS
2	12.00		S2NW	19	17N	18E	FERGUS
3	12.50		NESW	19	17N	18E	FERGUS
4	27.00		SE	19	17N	18E	FERGUS
Total:	139.50						

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.

40141-00 121215-00 131738-00

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

40139-00 40141-00