

IN THE WATER COURT OF THE STATE OF MONTANA  
UPPER MISSOURI DIVISION  
JEFFERSON RIVER BASIN (41G)  
PRELIMINARY DECREE

\*\*\*\*\*

CLAIMANT: Cajun Outback Montana LLC

OBJECTORS: Cajun Outback Montana LLC; Dixie  
Deeter

**CASE 41G-0494-R-2022**  
41G 204186-00

**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 may file a written objection to this Master's Report within **10 days** of the stamped date if you disagree or find errors with the Master's findings of fact, conclusion of law, or recommendations. Rule 23, W.R.Adj.R. If the Master's Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. 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

Claim 41G 204186-00 is an irrigation water right owned by Cajun Outback Montana LLC ("Cajun Outback") that appeared in the Preliminary Decree for the Jefferson River Basin (Basin 41G). The claim did not receive issue remarks or notices of intent to appear, but received objections filed by Claimant Cajun Outback and Dixie Deeter. To address the objections, the Water Court consolidated the claims into case 41G-0494-R-2022.

### FINDINGS OF FACT

1. Claim 41G 204186-00 appeared in the Basin 41G Preliminary Decree with the following places of use:

**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	34.00		SE	34	1N	1W	GALLATIN
2	55.00		SW	35	1N	1W	GALLATIN
3	15.00		S2S2S2NE	34	1N	1W	GALLATIN
4	20.00		S2S2S2NW	35	1N	1W	GALLATIN
<b>Total:</b>	<b>124.00</b>						

2. On May 22, 2018, Dixie Deeter filed an Objection to claim 41G 204186-00, which indicates that place of use no. 3 is located entirely on her property.
3. On October 9, 2018, Claimant Cajun Outback objected to the place of use of the claim, on the basis that the Department of Natural Resources and Conservation ("DNRC") incorrectly added the third place of use. Cajun Outback stated that the third place of use was never owned by Richard L. Kuehner, the original claimant to claim 41G 204186-00, and should therefore be removed.
4. On June 22, 2022, Claimant Cajun Outback filed an Unopposed Motion to Amend Claim to remove the third place of use from the claim and reduce the maximum acres to 109.00 acres.
5. On June 23, 2022, Dixie Deeter filed a Withdrawal of Objection, conditioned upon the Water Court removing the third place of use from claim 41G 204186-00.

6. The third place of use should be removed from claim 41G 204186-00, and the maximum acres should be reduced to 109.00 acres.

### CONCLUSIONS OF LAW

1. The Water Court has exclusive jurisdiction to determine the extent of all water rights in Montana as they existed prior to July 1, 1973. *In re Deadman's Basin Water Users Ass'n*, 2002 MT 15, ¶ 15; Section 3-7-501, MCA.
2. A properly filed Statement of Claim for Existing Water Right is prima facie proof of its content. Section 85-2-227, MCA. This prima facie status may be overcome by other evidence that provides, by a preponderance of the evidence, that the elements of the claim do not accurately reflect the beneficial use of the water right as it existed prior to July 1, 1973. Rule 19, W.R.Adj.R. A preponderance of the evidence is evidence that shows a fact is "more probable than not." *Hohenlohe v. State*, 2010 MT 203, ¶ 33.
3. Pursuant to § 85-2-233(6), MCA, claimants may file motions to amend their own claims. A motion to amend must specify the requested amendment and the grounds for the amendment. Upon review, the Water Court will determine the notice required pursuant to § 85-2-233(6), MCA, and issue an appropriate order. Rule 10, W.R.Adj.R.
4. If a claimant agrees to reduce or limit an element of a claim, the Water Court does not need to determine whether the burden of proof has been met and may accept the request without further presentation of evidence, unless there is an unresolved issue remark on the claim. Rule 17(c), W.R.Adj.R.
5. Claimant Cajun Outback agrees to remove the third place of use from claim 41G 204186-00 and reduce the maximum acres to 109.00 acres. The Water Court may accept the reduction without presentation of further evidence.
6. The objections filed by Cajun Outback and Dixie Deeter are resolved. No further proceedings are required.

### RECOMMENDATIONS

1. The third place of use of claim 41G 204186-00 should be removed.
2. The maximum acres of claim 41G 204186-00 should be reduced to 109.00 acres.

A post-decree abstract of the claim is served with this Report to ensure that the recommended changes have been made in the State's centralized water right record system.

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Madeleine Weisz  
Senior Water Master

**Service via Electronic Mail:**

**Last Order:**

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**Note: Service List Updated 7-21-2022**

**WATER COURT**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**JEFFERSON RIVER**  
**BASIN 41G**

**Water Right Number:** 41G 204186-00 STATEMENT OF CLAIM

**Version:** 4 -- POST DECREE

**Status:** ACTIVE

**Owners:** CAJUN OUTBACK MONTANA LLC  
C/O DEBBIE CARLSTROM  
PO BOX 137  
WILLOW CREEK, MT 59760 0137

**Priority Date:** MARCH 16, 1908

**Type of Historical Right:** FILED

**Purpose (use):** IRRIGATION

**Irrigation Type:** SPRINKLER/FLOOD

**Flow Rate:** 4.70 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:** 109.00

**Source Name** SAPPINGTON 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		W2NESE	33	1N	1W	GALLATIN

**Period of Diversion:** APRIL 1 TO NOVEMBER 1

**Diversion Means:** DITCH

**Period of Use:** APRIL 1 TO NOVEMBER 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	34.00		SE	34	1N	1W	GALLATIN
2	20.00		S2S2S2NW	35	1N	1W	GALLATIN
3	55.00		SW	35	1N	1W	GALLATIN

**Total:** 109.00

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**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.

204185-00

204186-00

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.

204186-00

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