

Montana Water Court  
PO Box 1389  
Bozeman, MT 59771-1389  
1-800-624-3270  
(406) 586-4364  
watercourt@mt.gov

IN THE WATER COURT OF THE STATE OF MONTANA  
LOWER MISSOURI DIVISION  
JUDITH RIVER BASIN (41S)  
PRELIMINARY DECREE

\*\*\*\*\*

CLAIMANT: Falls Coulee, LLC

CASE 41S-0845-R-2024

41S 12487-00

41S 12503-00

**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, conclusions 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**  
**FINDINGS OF FACT**

1. Falls Coulee, LLC is the record owner of claims 41S 12487-00 and 41S 12503-00.

2. Claims 41S 12487-00 and 41S 12503-00 were decreed with DNRC issue remarks:

**41S 12487-00:**

THE CLAIMED FLOW RATE MAY BE QUESTIONABLE. DOCUMENTATION SUBMITTED WITH THIS CLAIM INDICATES A FLOW RATE OF 0.5 GPM.

**41S 12503-00:**

THE CLAIMED VOLUME EXCEEDS THE MAXIMUM FEASIBLE VOLUME. BASED ON THE FLOW RATE AND PERIOD OF USE, THE MAXIMUM VOLUME POSSIBLE IS 4.85 ACRE-FEET PER YEAR.

All issue remarks must be addressed.

3. The issue remark decreed on claim 41S 12487-00 appears to be based on a Notice of Completion of Groundwater Appropriation Without Well (G3) that was attached to the Statement of Claim. The GW3 states that the spring described by claim 41S 12487-00 provides ½ a gallon of water per minute:

Quantity of water developed and used with explanation of method used to measure or estimate such amount. If use is intermittent estimate approximate lengths of periods of use ...*about 1/2 gallon per minute and can be measured in stock tanks and is used thru year around.*

4. The issue remark decreed on claim 41S 12503-00 is based on the 3.00 gallon per minute flow rate and the year-round period of use.

5. An Order was issued to determine if Claimant Falls Coulee, LLC agreed or disagreed with the following proposed modifications to resolve the issue remarks:

**41S 12487-00:**

Flow Rate: .50 GPM 3.00-GPM

**41S 12503-00:**

Volume: 4.85 AC-FT 5.00-AC-FT

The Order indicated that if nothing were filed by the deadline, this Water Master would conclude that Falls Coulee, LLC agrees with the proposed changes and a Master's Report would be issued recommending the changes be made to both claims. 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 by the deadline.

### PRINCIPLES AND CONCLUSIONS OF LAW

1. The Water Court is required to resolve the issues raised by each issue remark. Section 85-2-248, MCA. Under Section 85-2-248(3), MCA, information in the claim file or other information obtained by the Court can be reviewed to determine if it provides a sufficient basis to resolve the issue raised by a remark and the Court can provide the claimant an opportunity to file additional information or evidence.

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. According to Rule 22, W.R.Adj.R., if a claimant, objector, or intervenor fails to appear at a scheduled conference or hearing or fails to comply with an order issued by the Water Court, the Water Court may issue such orders of sanction with regard thereto as are just.

### RECOMMENDATIONS

1. Claims 41S 12487-00 and 41S 12503-00 should be modified as shown in Finding of Fact No. 5.

2. The issue remarks should be removed from claims 41S 12487-00 and 41S 12503-00.

Post Decree Abstracts of Water Right Claims are served with the Report for review.

**ELECTRONICALLY SIGNED AND DATED BELOW.**

**Service via USPS Mail:**

Falls Coulee, LLC  
1206 Lexington Way East  
Seattle, WA 98112

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

**Water Right Number:** 41S 12487-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** FALLS COULEE LLC  
1206 LEXINGTON WAY EAST  
SEATTLE, WA 98112

**Priority Date:** DECEMBER 31, 1930

**Type of Historical Right:** FILED

**Purpose (Use):** STOCK

**Flow Rate:** 0.50 GPM

**\*Volume:** THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

**Source Name:** SPRING, UNNAMED TRIBUTARY OF COYOTE COULEE

**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		NWNWNW	31	21N	16E	FERGUS

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** FLOWING

**Period of Use:** JANUARY 1 TO DECEMBER 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			N2NWNW	31	21N	16E	FERGUS

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

**Water Right Number:** 41S 12503-00 STATEMENT OF CLAIM  
**Version:** 3 -- POST DECREE  
**Status:** ACTIVE

**Owners:** FALLS COULEE LLC  
1206 LEXINGTON WAY EAST  
SEATTLE, WA 98112

**Priority Date:** DECEMBER 31, 1935

**Type of Historical Right:** FILED

**Purpose (Use):** DOMESTIC

**Flow Rate:** 3.00 GPM

**Volume:** 4.85 AC-FT

**Households:** 1

**Maximum Acres:** 2.00

**Source Name:** GROUNDWATER

**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		SWSWNE	35	21N	15E	FERGUS

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** WELL

**Period of Use:** JANUARY 1 TO DECEMBER 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	2.00		SWSWNE	35	21N	15E	FERGUS

**Total:** 2.00