

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

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CLAIMANTS: Eunice E. Raffety; William H. Raffety

CASE 41G-0630-R-2024  
41G 22568-00

**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. Claim 41G 22568-00 appeared in the Basin 41G Preliminary Decree issued February 15, 2018 with DNRC issue remarks.

2. The issue remarks state:

THE MAXIMUM ACRES CLAIMED MAY BE QUESTIONABLE. THE SUM OF THE PARCEL ACRES IS 11.50.

DITCH NAME WAS MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

3. Claim 41G 22568-00 is an irrigation water right from Willow Creek. It was subject to previous proceedings during the Basin 41G Temporary Preliminary Decree adjudication. During those proceedings in 1992, the place of use for claim 41G 22568-00 was reduced from 45.00 acres to 11.50 acres. The Master's Report recommended the reduction based on an affidavit filed by William H. Raffety. The Master's Report was adopted by the Court. Due to a clerical error, the place of use was modified to 11.50 acres, but the element of "maximum acres" was left unchanged at 45.00 acres.

The maximum acres element is meant to reflect the total number of acres irrigated by the claim, which is determined by adding the acres irrigated in each place of use description. In this case the only place of use identified is 11.5 acres in the E2NENE of Sec. 25, T1N, R1W. The maximum acres for claim 41G 22568-00 should be changed to reflect the total amount of acres irrigated under the claim, which is 11.5 acres. The correction resolves the maximum acres issue remark and the issue remark should be removed from the claim abstract.

4. The other issue remark appearing on claim 41G 22568-00 is a notice issue remark stating:

DITCH NAME WAS MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

No Objections were filed to claim 41G 22568-00. The notice remark has served its purpose of providing notice and should be removed from the claim abstract.

## CONCLUSIONS OF LAW

1. A properly filed claim of an existing right or an amended claim of existing right is prima facie proof of its content. § 85-2-227, MCA.

2. All issue remarks to claims that are not resolved through the filing of an objection must be resolved pursuant to § 85-2-248, MCA. § 85-2-248(2), MCA. The issue remarks appearing on the claims in this case have been addressed and should be removed from claim 41G 22568-00.

3. The Water Court may correct a clerical mistake or a mistake arising from oversight or omission where one is found in a part of the record. Rule 60(a), M.R.Civ.P. During previous proceedings, the maximum acre element remained unmodified, despite a Master's Report recommending a reduction to the place of use. The maximum acre element should be corrected to match the information in the place of use description.

## RECOMMENDATIONS

1. The issue remarks should be removed from claim 41G 22568-00.
2. The maximum acres for claim 41G 22568-00 should be corrected to 11.5 acres.

A Post Decree Abstract of Water Right Claim is served with the Report to confirm that the modifications have been made in the state's centralized database.

## **ELECTRONICALLY SIGNED AND DATED BELOW.**

### **Service via USPS Mail:**

Eunice E. Raffety  
William H. Raffety  
PO Box 226  
Willow Creek, MT 59760

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
JEFFERSON RIVER  
BASIN 41G**

**Water Right Number:** 41G 22568-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** EUNICE E RAFFETY  
PO BOX 226  
WILLOW CREEK, MT 59760

WILLIAM H RAFFETY  
PO BOX 226  
WILLOW CREEK, MT 59760

**Priority Date:** DECEMBER 31, 1865

**Type of Historical Right:** DECREED

**Purpose (Use):** IRRIGATION

**Irrigation Type:** SPRINKLER/FLOOD

**Flow Rate:** 282.74 GPM

**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:** 11.50

**Source Name:** WILLOW CREEK

**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		SESENW	30	1N	1E	GALLATIN

**Period of Diversion:** APRIL 1 TO NOVEMBER 4

**Diversion Means:** HEADGATE

**Ditch Name:** KREMER 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	11.50		E2NENE	25	1N	1W	GALLATIN

**Total:** 11.50