

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

CLAIMANT: Aspen Bend Ranch, LLC

CASE 41S-0635-R-2024
41S 30048487

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. Aspen Bend Ranch, LLC (Aspen Bend) is the record owner of irrigation claim 41S 30048487.
2. The Claimant was ordered to meet with a DNRC employee to address the following issue remarks decreed on claim 41S 30048487:
 - 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.
3. On June 10, 2024, DNRC Water Resource Specialist Carli Bluhm filed a Memorandum indicating she met with the “claimant.” Ms. Bluhm reported she reviewed Fergus County Water Resources Survey aerial photo number MY-2CC-26 (8/2/1969) with the claimant who assisted her in identifying the claimed ditch and irrigated acres. Ms. Bluhm recommended the issue remarks be removed from claim 41S 30048487.

PRINCIPLES AND CONCLUSIONS OF LAW

1. The Water Court must address all issue remarks decreed on a claim. Sections 85-2-247 and 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.

The issue remarks decreed on claim 41S 30048487 have not overcome the prima facie Statement of Claim and the claim should remain as decreed.

RECOMMENDATION

1. The issue remarks should be removed from claim 41S 30048487. A Post Decree Abstract of Water Right Claim is served with the Report for review.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

Aspen Bend Ranch, LLC
4295 Leigh Ln
Petaluma, CA 94952-6400

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

Water Right Number: 41S 30048487 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: ASPEN BEND RANCH LLC
4295 LEIGH LN
PETALUMA, CA 94952-6400

Priority Date: AUGUST 22, 1882

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 12.36 CFS

WATER RIGHT NUMBERS 41S 146443-00 AND 41S 30048487 SHARE THE 12.36 CFS FLOW RATE, EACH LIMITED BY THE VOLUME DECREED FOR EACH RIGHT. SEE THE AGREEMENT FILED 07/22/2011 LOCATED IN EACH CLAIM FILE.

Volume: 84.00 AC-FT

THE WATER COURT HAS DETERMINED THAT A VOLUME QUANTIFICATION IS REQUIRED TO ADEQUATELY ADMINISTER THIS RIGHT.

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 28.00

Source Name: BIG SPRING CREEK, EAST FORK

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		SWNE	35	14N	19E	FERGUS

Period of Diversion: MAY 1 TO OCTOBER 31

Diversion Means: HEADGATE

Period of Use: MAY 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	28.00		SWSE	26	14N	19E	FERGUS

Total: 28.00