

J. 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

CLAIMANTS: William F. Krings; J. Douglas Krings; Russell
L. Dunnington Sr.

CASE 41S-0823-R-2024
41S 28163-00

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. Russell L. Dunnington Sr., J. Douglas Krings, and William F. Krings are the record owners of irrigation claim 41S 28163-00.

2. Claim 41S was decreed with was decreed with the means of diversion listed as:

Diversion Means: PUMP/FLOOD AND DIKE

And the following DNRC issue remark:

THE MEANS OF DIVERSION APPEARS TO BE INCORRECT. THE MEANS OF DIVERSION APPEARS TO BE A PUMP.

All issue remarks must be resolved. The means of diversion issue remark decreed on claim 41S 28163-00 appears to be based on information the DNRC claims examiner gleaned from the record.

3. An Order was issued to determine if Claimants Russell L. Dunnington Sr., Douglas J. Krings, and William F. Krings agreed with modifying the means of diversion to “pump.” The Order indicated that if nothing were filed by the deadline, this Water Master will conclude Claimants Russell L. Dunnington Sr., Douglas J. Krings, and William F. Krings disagree that the only means of diversion is a pump, and a Master’s Report would be issued recommending the means of diversion remain unchanged. Nothing was filed by the deadline.

PRINCIPLES AND CONCLUSIONS OF LAW

1. 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.

2. The means of diversion issue remark added to claim 41S 28163-00, without additional information, does not overcome the prima facie statement of claim. No change should be made to the means of diversion for claim 41S 28163-00.

RECOMMENDATION

1. The issue remark should be removed from claim 41S 28163-00 without modification of any of the elements.

A Post Decree Abstract of Water Right Claim is served with the Report for review.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

William F. Krings
J. Douglas Krings
PO Box 519
Lewistown, MT 59457

Russell L. Dunnington Sr.
122 C St.
Lewistown, MT 59457

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

Water Right Number: 41S 28163-00 STATEMENT OF CLAIM
Version: 4 -- POST DECREE
Status: ACTIVE

Owners: RUSSELL L DUNNINGTON SR
-
LEWISTOWN, MT 59457
J DOUGLAS KRINGS
PO BOX 519
LEWISTOWN, MT 59457
WILLIAM F KRINGS
PO BOX 519
LEWISTOWN, MT 59457

Priority Date: DECEMBER 31, 1928

Type of Historical Right: USE

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 68.00 GPM

***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: 4.00

Source Name: BIG SPRING 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		NWNWNW	23	15N	18E	FERGUS

Period of Diversion: APRIL 15 TO OCTOBER 31

Diversion Means: PUMP/FLOOD AND DIKE

Period of Use: APRIL 15 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	2.00		NWNWNW	23	15N	18E	FERGUS
2	2.00		SWSWSW	14	15N	18E	FERGUS

Total: 4.00