

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

CLAIMANTS: Steve Edens; Janet Edens

CASE 41S-0832-R-2024
41S 162190-00

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. Steve Edens and Janet Edens (Claimants) are the record owners of irrigation claim 41S 162190-00.
2. The Claimants were ordered to meet with a DNRC employee to address the following issue remarks decreed on claim 41S 162190-00:
 - 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 the scanned claim file, an aerial photograph, and the Fergus County Water Resources Survey field notes to prepare the Memorandum. (Doc.¹2.00).

Ms. Bluhm indicated that although the Fergus County Water Resources Survey reflected 0.00 acres irrigated, the Fergus County Water Resources Survey Field Notes documented irrigation at the claimed place of use. Additionally, Ms. Bluhm stated, “During examination the DNRC found 24 acres of irrigation being present in the claimed place of use.” Ms. Bluhm recommended the issue remarks be removed.

4. The Memorandum indicated:

The claimant expressed concern that neighbors had recently filled Jenni Ditch at the claimed point of diversion and requested a move in point of diversion to SWSENE of Sec 20, T15N, R17E.

No additional information was provided. If the Claimants wish to pursue a post-1973 change, they should contact the DNRC.

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.

¹ “Doc.” numerical references correlate to case file docket numbers in the Water Court’s Full Court case management system.

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 162190-00 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 162190-00.
A Post Decree Abstract of Water Right Claim is served with the Report for review.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

Steve Edens
Janet Edens
568 Peacock Ln
Lewistown, MT 59457-3987

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

Water Right Number: 41S 162190-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: JANET EDENS
568 PEACOCK LN
LEWISTOWN, MT 59457-3987

STEVE EDENS
568 PEACOCK LN
LEWISTOWN, MT 59457-3987

Priority Date: JUNE 30, 1894

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 408.43 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: 24.00

Source Name: BEAVER 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		NENESE	20	15N	17E	FERGUS

Period of Diversion: APRIL 1 TO NOVEMBER 1

Diversion Means: HEADGATE

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	24.00		NWNE	17	15N	17E	FERGUS

Total: 24.00