

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

CLAIMANTS: James A. Letexier; Jerry P. Letexier; Monty L. Letexier;
Spring Gulch Enterprises LLC

CASE 41E-0148-R-2024

41E 94003-00

41E 94004-00

OBJECTOR: United States of America (Bureau of Land Management)

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, conclusion 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 to be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must mail 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

The United States of America (Bureau of Land Management) objected to each of these claims. On July 17, 2024 the parties filed a Stipulation To Resolve Objections. This settlement documentation is viewable in the Court’s FullCourt Enterprise case management system.

APPLICABLE LAW

A properly filed Statement of Claim for Existing Water Right is prima facie proof of its content pursuant to section 85-2-227, MCA. This prima facie proof may be contradicted and overcome by other evidence that proves, by a preponderance of the evidence, that the elements of the claim do not accurately reflect the beneficial use of the water right as it existed prior to July 1, 1973. This is the burden of proof for every assertion that a claim is incorrect including for claimants objecting to their own claims. Rule 19, W.R.Adj.R.

FINDINGS OF FACT

1. The Preliminary Decree states that the place of use for each claim is:

<u>ACRES</u>	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
9.00	SWSWNW	16	6N	5W	JEFFERSON
10.00	NWNWSW	16	6N	5W	JEFFERSON
6.00	NENWSW	16	6N	5W	JEFFERSON
4.00	SWNWSW	16	6N	5W	JEFFERSON
5.00	NWSENE	16	6N	5W	JEFFERSON
7.00	NESENE	16	6N	5W	JEFFERSON
10.00	SWSENE	16	6N	5W	JEFFERSON
10.00	SESENE	16	6N	5W	JEFFERSON
9.00	NWNESE	16	6N	5W	JEFFERSON
10.00	NENESE	16	6N	5W	JEFFERSON
5.00	SWNESE	16	6N	5W	JEFFERSON
4.00	SENESE	16	6N	5W	JEFFERSON
4.00	SWSWNE	16	6N	5W	JEFFERSON
<u>6.00</u>	SESWNE	16	6N	5W	JEFFERSON
99.00					

The place of use should be:

<u>ACRES</u>	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
9.00	SWSWNW	16	6N	5W	JEFFERSON
10.00	NWNWSW	16	6N	5W	JEFFERSON
6.00	NENWSW	16	6N	5W	JEFFERSON
4.00	SWNWSW	16	6N	5W	JEFFERSON
5.00	NWSENE	17	6N	5W	JEFFERSON
7.00	NESENE	17	6N	5W	JEFFERSON
10.00	SWSENE	17	6N	5W	JEFFERSON
10.00	SESENE	17	6N	5W	JEFFERSON
9.00	NWNESE	17	6N	5W	JEFFERSON
10.00	NENESE	17	6N	5W	JEFFERSON
5.00	SWNESE	17	6N	5W	JEFFERSON

4.00	SENESE	17	6N	5W	JEFFERSON
4.00	SWSWNE	17	6N	5W	JEFFERSON
<u>6.00</u>	SESWNE	17	6N	5W	JEFFERSON
99.00					

As requested, the following clarification remark should be added: THE PLACE OF USE IS LIMITED TO PRIVATE LAND.

2. For both claims, the Preliminary Decree includes the following notice remark:

POINT OF DIVERSION 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.

The remark provides notice of this change made prior to issuance of the Preliminary Decree. The remark does not raise an unresolved issue which needs to be addressed. There are no proceedings required for this remark. The remark should be removed as having served its notice purpose.

CONCLUSION OF LAW

The settlement filed by the parties is sufficient to contradict and overcome the prima facie claim.

RECOMMENDATIONS

Based upon the above Findings of Fact and Conclusion of Law, this Master recommends that the Court make the changes specified in the Findings of Fact to correct the Preliminary Decree for this Basin. A Post Decree Abstract of Water Right Claim for each claim is served with this Report to confirm the recommended changes have been made in the state's centralized record system.

ELECTRONICALLY SIGNED AND DATED BELOW

Service Via Electronic Mail:

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POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
BOULDER RIVER, TRIBUTARY TO JEFFERSON RIVER
BASIN 41E

Water Right Number: 41E 94003-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: JAMES A LETEXIER
2367 HAVEN BLUFF CT
NEW BRAUNFELS, TX 78132-4349

JERRY P LETEXIER
5682 ISKRA BLVD
BREMERTON, WA 98312-6102

MONTY L LETEXIER
5682 ISKRA BLVD
BREMERTON, WA 98312

SPRING GULCH ENTERPRISES LLC
5682 ISKRA BLVD
BREMERTON, WA 98312-6102

Priority Date: AUGUST 26, 1893

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 4.59 CFS

***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:** 99.00

Source Name: BOULDER RIVER

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		NWSESW	17	6N	5W	JEFFERSON

Period of Diversion: MAY 1 TO SEPTEMBER 30

Diversion Means: HEADGATE

Period of Use: MAY 1 TO SEPTEMBER 30

***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	9.00		SWSWNW	16	6N	5W	JEFFERSON
2	10.00		NWNWSW	16	6N	5W	JEFFERSON
3	6.00		NENWSW	16	6N	5W	JEFFERSON
4	4.00		SWNWSW	16	6N	5W	JEFFERSON

5	5.00	NWSENE	17	6N	5W	JEFFERSON
6	7.00	NESENE	17	6N	5W	JEFFERSON
7	10.00	SWSENE	17	6N	5W	JEFFERSON
8	10.00	SESENE	17	6N	5W	JEFFERSON
9	9.00	NWNESE	17	6N	5W	JEFFERSON
10	10.00	NENESE	17	6N	5W	JEFFERSON
11	5.00	SWNESE	17	6N	5W	JEFFERSON
12	4.00	SENESE	17	6N	5W	JEFFERSON
13	4.00	SWSWNE	17	6N	5W	JEFFERSON
14	6.00	SESWNE	17	6N	5W	JEFFERSON
Total:	<u>99.00</u>					

THE PLACE OF USE IS LIMITED TO PRIVATE LAND.

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
BOULDER RIVER, TRIBUTARY TO JEFFERSON RIVER
BASIN 41E

Water Right Number: 41E 94004-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

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Priority Date: AUGUST 26, 1893

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 4.59 CFS

***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:** 99.00

Source Name: BASIN 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		NWSESW	17	6N	5W	JEFFERSON

Period of Diversion: MAY 1 TO SEPTEMBER 30

Diversion Means: HEADGATE

Period of Use: MAY 1 TO SEPTEMBER 30

***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	9.00		SWSWNW	16	6N	5W	JEFFERSON
2	10.00		NWNWSW	16	6N	5W	JEFFERSON
3	6.00		NENWSW	16	6N	5W	JEFFERSON
4	4.00		SWNWSW	16	6N	5W	JEFFERSON

5	5.00	NWSENE	17	6N	5W	JEFFERSON
6	7.00	NESENE	17	6N	5W	JEFFERSON
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8	10.00	SESENE	17	6N	5W	JEFFERSON
9	9.00	NWNESE	17	6N	5W	JEFFERSON
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11	5.00	SWNESE	17	6N	5W	JEFFERSON
12	4.00	SENESE	17	6N	5W	JEFFERSON
13	4.00	SWSWNE	17	6N	5W	JEFFERSON
14	6.00	SESWNE	17	6N	5W	JEFFERSON
Total:	<u>99.00</u>					

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