

Montana Water Court
PO Box 1389
Bozeman, MT 59771-1389
(406) 586-4364
1-800-624-3270
watercourt@mt.gov

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

CLAIMANT: Tebay Land and Livestock LLC

CASE 41G-0555-R-2022
41G 49981-00

OBJECTORS: ~~Michelle Tebay; Norman E. Tebay~~

NOTICE OF INTENT TO APPEAR: United States of
America (Bureau
of Reclamation)

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 49981-00 appeared in the Basin 41G Preliminary Decree issued February 15, 2018. It is owned by Tebay Land Livestock LLC and received Objections from Norman Tebay and Michelle Tebay. The United States Bureau of Reclamation filed a Notice of Intent to Appear. Claim 41G 49981-00 does not have any DNRC issue remarks.

2. On September 23, 2024, Norman Tebay and Michelle Tebay withdrew their Objection to claim 41G 49981-00. There are no further issues before the Court. There should be no changes made to claim 41G 49981-00 and proceedings should be closed.

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. No evidence was presented to overcome the prima facie status of the claim.

2. As an NOIA party, the United States is limited to participating in resolution of the issues that are before the Court. *In re Erb*, 2016 Mont. Water LEXIS 2, *12. The objection to claim 41G 49981-00 has been withdrawn and there are no issue remarks on the claim. Therefore, there is no issue before the Court that the United States can participate in as an NOIA party.

RECOMMENDATIONS

1. No changes should be made to claim 41G 49981-00.
2. Proceedings should be closed.

A Post Decree Abstract of Water Right Claim is served with the Report to confirm that no modifications have been made to claim 41G 49981-00.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

Tebay Land and Livestock LLC
64 Tebay Lane
Whitehall, MT 59759-9633

Service via Electronic Mail:

Jennifer A. Najjar
US Dept of Justice, ENRD-NRS
PO Box 7611
Washington, DC 20044-7611
(202) 305-0476
Jennifer.Najjar@usdoj.gov
MontanaBasins.ENRD@USDOJ.GOV

William Fanning
Fanning Law PLLC
15 S. Idaho St. Ste. 4
Dillon, MT 59725
(406) 220-2805
william@fanninglawpllc.com
becki@fanninglawpllc.com

Note: Caption Updated 10-10-2024

\\JUDHLNSRV-DATA\Share\JUDGALH2OSRV (Datavol)\Share\WC-BASIN FOLDERS\41G PD\CASES\41G-R555\MW 41G-0555-R-2022 MR 10-10-2024 rr.docx

PRELIMINARY DECREE
JEFFERSON RIVER
BASIN 41G
ABSTRACT OF WATER RIGHT CLAIM
IMPORTANT NOTICE

YOUR WATER RIGHT AS SHOWN ON THIS ABSTRACT MAY HAVE CHANGES FROM YOUR WATER RIGHT AS CLAIMED OR AMENDED. AN ASTERISK (*) HAS BEEN PLACED NEXT TO EACH ITEM CHANGED BY THE MONTANA WATER COURT AFTER ISSUANCE OF THE TEMPORARY PRELIMINARY DECREE OR BY THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION (DNRC) DURING THE PREPARATION OF THIS PRELIMINARY DECREE. THESE CHANGES ARE AUTHORIZED BY THE MONTANA SUPREME COURT WATER RIGHT CLAIMS EXAMINATION RULES OR BY ORDER OF THE WATER COURT.

OBJECTIONS MAY BE FILED ACCORDING TO THE PROCEDURES OUTLINED IN THE DOCUMENT ENTITLED "NOTICE OF ENTRY OF PRELIMINARY DECREE AND NOTICE OF AVAILABILITY."

Water Right Number: 41G 49981-00 STATEMENT OF CLAIM

Version: 2 -- REEXAMINED

Status: ACTIVE

Owners: TEBAY LAND AND LIVESTOCK LLC
64 TEBAY LN
WHITEHALL, MT 59759-9633

Priority Date: MAY 21, 1883

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

***Flow Rate:** 25.00 CFS

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: 303.00

Source Name: JEFFERSON 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		SENESE	10	1N	4W	JEFFERSON

Period of Diversion: APRIL 15 TO OCTOBER 15

Diversion Means: HEADGATE

Period of Use: APRIL 15 TO OCTOBER 15

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	303.00			6	1N	3W	JEFFERSON

Total: 303.00

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

49981-00 49982-00

STARTING IN 2008, PERIOD OF DIVERSION WAS ADDED TO MOST CLAIM ABSTRACTS, INCLUDING THIS ONE.

THE DNRC EXAMINATION OF THIS CLAIM FOUND NO SIGNIFICANT FACTS, DATA, OR ISSUES TO REPORT TO THE WATER COURT.

A BETTER UNDERSTANDING OF YOUR CLAIMED WATER RIGHT CAN BE OBTAINED BY COMPARING YOUR RIGHT WITH OTHER CLAIMS IN THE BASIN. FOR EXAMPLE, COMPARE PRIORITY DATES, FLOW RATES, VOLUMES, OR ACRES IRRIGATED. ALSO, YOUR WATER RIGHT MAY BE SUBJECT TO WATER RIGHTS IN ADJOINING SUBBASINS OR BASINS AS WELL AS BEING SUBJECT TO OTHER RIGHTS ON YOUR SOURCE OF SUPPLY. FINALLY, YOUR WATER RIGHT MAY BE SUBJECT TO INDIAN RESERVED AND FEDERAL RESERVED WATER RIGHTS.

COMPLETE DETAILS REGARDING THE DNRC PREPARATION OF THIS PRELIMINARY DECREE AND RELATED MATERIALS CAN BE REVIEWED AT THE OFFICE LOCATIONS IDENTIFIED IN THE DOCUMENT ENTITLED "NOTICE OF ENTRY OF PRELIMINARY DECREE AND NOTICE OF AVAILABILITY."

SEE GENERAL FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR FURTHER EXPLANATION OF YOUR CLAIMED WATER RIGHT. THESE FINDINGS CAN BE FOUND AS INDICATED IN THE DOCUMENT ENTITLED "NOTICE OF ENTRY OF PRELIMINARY DECREE AND NOTICE OF AVAILABILITY." IF YOU NEED OBJECTION FORMS, OR HAVE QUESTIONS ABOUT WATER COURT PROCEDURES OR CHANGES TO YOUR RIGHT, YOU CAN CONTACT THE WATER COURT BY CALLING 1-800-624-3270 (WITHIN MONTANA ONLY) OR 1-406-586-4364, OR BY WRITING TO P.O. BOX 1389, BOZEMAN, MT 59771-1389.