

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

**FILED**  
10/29/2024  
Sara Calkins  
CLERK  
Montana Water Court  
STATE OF MONTANA  
By: D'Ann CIGLER  
41S-0723-R-2024  
Stern, Anika  
4.00

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

\*\*\*\*\*

CLAIMANTS: Jennifer L. Bristol; Jeffrey W. Bristol

**CASE 41S-0723-R-2024**

41S 105461-00  
41S 105462-00  
41S 105463-00  
41S 105466-00  
41S 105467-00

**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. Jennifer L. Bristol and Jeffrey W. Bristol (the Bristols) are the record owners of claims 41S 105461-00, 41S 105462-00, 41S 105463-00, 41S 105466-00, and 41S 105467-00.

2. Claims 41S 105461-00, 41S 105462-00, 41S 105463-00, 41S 105466-00, and 41S 105467-00 were decreed with DNRC issue remarks:

**41S 105461-00 and 41S 105462-00:**

- THE TYPE OF HISTORICAL RIGHT, PRIORITY DATE, AND FLOW RATE MAY BE QUESTIONABLE. THE CLAIMS FOLLOWING THIS STATEMENT USE THE SAME FILED APPROPRIATION TO DOCUMENT THE RIGHT. THE COMBINED FLOW RATE FOR THIS GROUP OF CLAIMS EXCEEDS THE TOTAL OF THE ORIGINAL APPROPRIATION. 41S 105461-00, 41S 105462-00 .

**41S 105463-00:**

- SOURCE NAME 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.

**41S 105466-00:**

- FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.
- THE FERGUS COUNTY WATER RESOURCES SURVEY( 1970 )APPEARS TO INDICATE 23.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.
- USDA AERIAL PHOTOGRAPH NO(S). 30027-278-12 , DATED 09/25/1979 , APPEARS TO INDICATE 0.00 ACRES IRRIGATED..

**41S 105467-00:**

- 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.
- USDA AERIAL PHOTOGRAPH NO(S). 30027-278-14 , DATED 09/25/1979 , APPEARS TO INDICATE 0.00 ACRES IRRIGATED.

3. The Bristols were ordered to meet with a DNRC employee to address the unresolved issue remarks.

4. DNRC Water Resource Specialist Carli Bluhm filed a Memorandum stating the Claimants failed to contact the DNRC. (Doc.<sup>1</sup> 2.00). Ms. Bluhm indicated she reviewed the Fergus County Water Resource Survey field notes and aerial photos to

---

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

prepare the Memorandum. Proposed abstracts and a map were attached to the Memorandum.

5. **Claims 41S 105461-00 and 41S 105462-00:** Domestic claim 41S 105461-00 and stock claim 41S 105462-00 are multiple uses of the same historical right. The claims rely on a Declaration of Vested Groundwater Rights form indicating the flow rate is “200 gallons per hour” (3.33 gallons per minute (gpm)). Ms. Bluhm recommended the flow rate for claims 41S 105461-00 and 41S 105462-00 be reduced to 3.33 gpm.

6. **Claim 41S 105463-00:** The DNRC was not asked to address the notice-type remark on claim 41S 105463-00.

7. **Claim 41S 105466-00:** Ms. Bluhm indicated that she confirmed 55.50 acres of irrigation in the 1979 aerial photograph and recommended the maximum acres and place of use be reduced. Additionally, Ms. Bluhm recommended the flow rate be reduced accordingly:

Flow Rate:	<u>2.10</u>	<del>3.45</del> CFS						
Maximum Acres:	<u>55.50</u>	<del>83.00</del>						
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	<u>55.50</u>	<del>75.00</del>		NE	22	14N	FERGUS	
2		<del>8.00</del>		W2W2NW	23	14N	17E	FERGUS
Total:	<u>83.00</u>	<u>55.50</u>						

7. **Claim 41S 105467-00:** Ms. Bluhm reported that she was unable to confirm historical irrigation for claim 41S 105467-00 and recommended the claim be dismissed.

8. An Order was issued to determine if the Bristols agreed or disagreed with the recommendations made by Ms. Bluhm. The Order indicated that if nothing were filed by the deadline, this Water Master would conclude the Claimants agreed with the recommended modifications. The following language was included in the Order:

Failure to comply with the terms of this Order may result in sanctions, up to and including entry of default and termination of a water right claim or dismissal of objections. Rule 22, W.R.Adj.R.

Nothing was filed.

PRINCIPLES AND CONCLUSIONS OF LAW

1. The Water Court must address all issue remarks decreed on a claim.  
Section 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.
3. The source issue remark decreed on claim 41S 105463-00 indicates that if no objections are filed, the remark will be removed with no changes to the claim; no objections were filed.

RECOMMENDATIONS

1. Claim 41S 105461-00 should be modified as follows:

Flow Rate: ~~5.83 GPM~~ 3.33 GPM

Claim 41S 105462-00 should be modified as follows:

Flow Rate: ~~5.83 GPM~~ 3.33 GPM

No changes are required to the elements of claim 41S 105463-00. Claim 41S 105466-00 should be modified as follows:

Flow Rate: 2.10 3-15 CFS

Maximum Acres: 55.50 83-00

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	<span style="border: 1px solid red; padding: 2px;">55.50</span> 75-00		NE	22	14N	17E	FERGUS
2	8-00		W2W2NW	23	14N	17E	FERGUS
<b>Total:</b>	<u>83-00</u> <span style="border: 1px solid red; padding: 2px;">55.50</span>						

Claim 41S 105467-00 should be dismissed.

2. The issue remarks should be removed from claims 41S 105461-00, 41S 105462-00, 41S 105463-00, 41S 105466-00, and 41S 105467-00.

Abstracts are attached for review.

**ELECTRONICALLY SIGNED AND DATED BELOW.**

**Service via USPS Mail:**

Jennifer L. Bristol  
Jeffrey W. Bristol  
4268 Beaver Creek Rd.  
Lewistown, MT 59457

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

**Water Right Number:** 41S 105461-00 STATEMENT OF CLAIM  
**Version:** 3 -- POST DECREE  
**Status:** ACTIVE

**Owners:** JEFFREY W BRISTOL  
4268 BEAVER CREEK RD.  
LEWISTOWN, MT 59457  
  
JENNIFER L BRISTOL  
4268 BEAVER CREEK RD  
LEWISTOWN, MT 59457

**Priority Date:** SEPTEMBER 19, 1942

**Type of Historical Right:** FILED

**Purpose (Use):** DOMESTIC

**Flow Rate:** 3.33 GPM

**Volume:** 4.80 AC-FT

**Households:** 1

**Maximum Acres:** 2.00

**Source Name:** GROUNDWATER

**Source Type:** GROUNDWATER

**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		NENENE	22	14N	17E	FERGUS

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** WELL

**Period of Use:** JANUARY 1 TO DECEMBER 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		NENENE	22	14N	17E	FERGUS

**Total:** 2.00

---

**Remarks:**

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

105461-00      105462-00

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

**Water Right Number:** 41S 105462-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** DANIEL BRISTOL  
470 SW CARROLL TRL  
LEWISTOWN, MT 59457  
  
JEFFREY W BRISTOL  
4268 BEAVER CREEK RD.  
LEWISTOWN, MT 59457  
  
JENNIFER L BRISTOL  
4268 BEAVER CREEK RD  
LEWISTOWN, MT 59457  
  
JOANN M BRISTOL  
470 SW CARROLL TRL  
LEWISTOWN, MT 59457

**Priority Date:** SEPTEMBER 19, 1942

**Type of Historical Right:** FILED

**Purpose (Use):** STOCK

**Flow Rate:** 3.33 GPM

**\*Volume:** THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

**Source Name:** GROUNDWATER

**Source Type:** GROUNDWATER

**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		NENENE	22	14N	17E	FERGUS

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** WELL

**Period of Use:** JANUARY 1 TO DECEMBER 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			NENENE	22	14N	17E	FERGUS

**Remarks:**

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

105461-00

105462-00



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

**Water Right Number:** 41S 105463-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** DANIEL BRISTOL  
470 SW CARROLL TRL  
LEWISTOWN, MT 59457

JOANN M BRISTOL  
470 SW CARROLL TRL  
LEWISTOWN, MT 59457

**Priority Date:** MAY 1, 1894

**Type of Historical Right:** FILED

**Purpose (Use):** STOCK

**\*Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

**\*Volume:** THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

**\*Source Name:** UNNAMED TRIBUTARY OF BEAVER CREEK

**Source Type:** SURFACE WATER  
ALSO KNOWN AS SLOAN COULEE

**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		SESESE	15	14N	17E	FERGUS

**\*Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** LIVESTOCK DIRECT FROM SOURCE

**Reservoir:** ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SESESE	15	14N	17E	FERGUS

**Diversion to Reservoir:** DIVERSION # 1

**Period of Use:** JANUARY 1 TO DECEMBER 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			SESE	15	14N	17E	FERGUS

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

**Water Right Number:** 41S 105466-00 STATEMENT OF CLAIM

**Version:** 4 -- POST DECREE

**Status:** ACTIVE

**Owners:**

DANIEL BRISTOL  
470 SW CARROLL TRL  
LEWISTOWN, MT 59457

JEFFREY W BRISTOL  
4268 BEAVER CREEK RD.  
LEWISTOWN, MT 59457

JENNIFER L BRISTOL  
4268 BEAVER CREEK RD  
LEWISTOWN, MT 59457

JOANN M BRISTOL  
470 SW CARROLL TRL  
LEWISTOWN, MT 59457

**Priority Date:** MAY 1, 1884

**Type of Historical Right:** FILED

**Purpose (Use):** IRRIGATION

**Irrigation Type:** FLOOD

**Flow Rate:** 2.10 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:** 55.50

**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		SENESE	22	14N	17E	FERGUS

**Period of Diversion:** APRIL 15 TO NOVEMBER 1

**Diversion Means:** HEADGATE

**Period of Use:** APRIL 15 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	55.50		NE	22	14N	17E	FERGUS

**Total:** 55.50

**Remarks:**

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

105465-00

105466-00

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

**Water Right Number:** 41S 105467-00 STATEMENT OF CLAIM

**Version:** 4 -- POST DECREE

**Status:** **DISMISSED**

**Owners:** DANIEL BRISTOL  
470 SW CARROLL TRL  
LEWISTOWN, MT 59457

JOANN M BRISTOL  
470 SW CARROLL TRL  
LEWISTOWN, MT 59457

**Priority Date:**

**Type of Historical Right:**

**Purpose (Use):** IRRIGATION

**Flow Rate:**

**Volume:**

**Source Name:** BEAVER CREEK

**Source Type:** SURFACE WATER

**Point of Diversion and Means of Diversion:**

**Period of Use:**

**Place of Use:**

---

**Remarks:**

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.