

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: Jason L. Deffinbaugh; Rebecca J. Deffinbaugh

CASE 41S-0797-R-2024
41S 4430-00

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, 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 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. Jason L. Deffinbaugh and Rebecca J. Deffinbaugh (the Deffinbaughs) are the record owners of irrigation claim 41S 4430-00.

2. The Deffinbaughs were ordered to meet with a DNRC employee to address the following unresolved issue remark decreed on claim 41S 4430-00:

USDA AERIAL PHOTOGRAPH NO(S). 30027-278-200 , DATED 09/25/1979 , APPEARS TO INDICATE 0.00 ACRES IRRIGATED.

3. DNRC Water Resource Specialist Carli Bluhm filed a Memorandum on October 8, 2024. (Doc.¹ 2.00). The Memorandum reported Ms. Bluhm located evidence verifying the claimed irrigation and the issue remark can be removed from the claim.

PRINCIPLES AND CONCLUSIONS OF LAW

1. The Water Court must address all issue remarks that appear 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. No changes should be made to claim 41S 4430-00.

RECOMMENDATION

1. The issue remarks should be removed from claim 41S 4430-00.

An abstract is attached for review.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

Jason L. Deffinbaugh
Rebecca J. Deffinbaugh
12045 Cottonwood Creek Rd
Lewistown, MT 59457

\\JUDHLNSRV-DATA\Share\JUDGALH2OSRV (Datavol)\Share\WC-BASIN FOLDERS\41S PD\Cases\797\41S-0797-R-2024 MR 10.8.24 rc.docx

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

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

Water Right Number: 41S 4430-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: JASON L DEFFINBAUGH
12045 COTTONWOOD CREEK RD
LEWISTOWN, MT 59457

REBECCA J DEFFINBAUGH
12045 COTTONWOOD CREEK RD
LEWISTOWN, MT 59457

Priority Date: MARCH 7, 1943

Type of Historical Right: USE

Purpose (Use): IRRIGATION

Irrigation Type: NATURAL SUBIRRIGATION

***Flow Rate:** NO FLOW RATE HAS BEEN DECREED FOR THIS USE OF NATURAL SUBIRRIGATION.

***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: 30.00

Source Name: SUBIRRIGATION, UNNAMED TRIBUTARY OF COTTONWOOD 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		NWNW	11	13N	18E	FERGUS
Period of Diversion:		APRIL 15 TO SEPTEMBER 15				
Diversion Means:		FLOWING				
2		SESE	3	13N	18E	FERGUS
Period of Diversion:		APRIL 15 TO SEPTEMBER 15				
Diversion Means:		FLOWING				
3		SWSW	2	13N	18E	FERGUS
Period of Diversion:		APRIL 15 TO SEPTEMBER 15				
Diversion Means:		FLOWING				

Period of Use: APRIL 15 TO SEPTEMBER 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	5.00		SESE	3	13N	18E	FERGUS
2	12.00		SWSW	2	13N	18E	FERGUS
3	13.00		NWNW	11	13N	18E	FERGUS
Total:	30.00						