

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

**FILED**  
04/16/2025  
Sara Calkins  
CLERK  
Montana Water Court  
STATE OF MONTANA  
By: D'Ann CIGLER  
41H-0986-R-2024  
Nordlund, Julia  
4.00

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

\* \* \* \* \*

CLAIMANTS: 4350 Spain Bridge LLC; The Ruh Family Trust;  
Edwin Marc Seifert

NOTICE OF INTENT TO APPEAR: Riverside Country Club

**CASE 41H-0986-R-2024**  
41H 140912-00  
41H 140913-00  
41H 140915-00

**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. Claims 41H 140912-00, 41H 140913-00 and 41H 140915-00 appeared in the Preliminary Decree for Basin 41H with Montana Department of Natural Resources and Conservation (DNRC) issue remarks. The claims received a notice of intent to appear from Riverside Country Club (“Riverside”).

2. On February 20, 2025, Claimant 4350 Spain Bridge LLC (“Spain Bridge”) filed a Notice of Filing Information to resolve the issue remarks to the claims.

3. The Order Consolidating this case dated December 23, 2024, stated Riverside would have 14 days to respond to Claimants’ evidence. Riverside did not file a response to the Notice.

4. Claims 41H 140913-00 and 41H 140915-00 each have an issue remark stating they may be multiple uses of the same right.

5. Spain Bridge agrees with the remarks and requests multiple use information remarks be placed on each of the claims as well as changing the type of right on claim 41H 140915-00 to decreed to align with claim 41H 140913-00.

6. Claim 41H 140912-00 also has a notice-type issue remark regarding a modification to the ditch name. Spain Bridge has no objection to this and the remark can be removed.

7. The remaining issue remarks on claims 41H 140913-00 and 41H 140915-00 are regarding modifications made by DNRC or priority date predating the decree. The purpose of these remarks was to serve notice of the change to water users. The remarks have served their purpose and can be removed.

#### CONCLUSIONS OF LAW

1. The Montana Water Court has the authority to resolve issue remarks when the claim file and information available to the Court provide a sufficient basis to do so. Section 85-2-248(3), MCA.

2. A properly filed Statement of Claim for Existing Water Right is prima facie proof of its content. 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 an element of the prima facie claim is incorrect. This is the burden of proof for every assertion that a claim is incorrect. Rule 19, W.R.Adj.R.

3. The degree or weight of evidence needed to contradict or overcome the prima facie proof statute is a preponderance of the evidence. *Burkhartsmeier et al. v. Burkhartsmeier et al.*, Case 40G-2, (MT Water Court Memorandum Opinion and Order Adopting Master’s Report, Mar. 11, 1997). The Montana Supreme Court has defined preponderance as “a relatively modest standard that the statutory criteria are ‘more probable than not’ to have been met.” *Hohenlohe v. State*, 2010 MT 203 ¶ 33, 357 Mont. 438, 240 P.3d 628.

4. The Montana Water Court is permitted to use information submitted by the Department of Natural Resources and Conservation, the statement of claim, information from approved compacts, and any other data obtained by the Court to evaluate water right claims. Section 85-2-231(2), MCA.

5. The issues raised by issue remarks must be resolved as part of the adjudication process pursuant to Section 85-2-248, MCA.

6. When resolving issue remarks, the Montana Water Court must weigh the information resulting in the issue remark and the issue remark against the claimed water right. Section 85-2-247(2), MCA.

7. For the above-mentioned reasons, the claims in this case should be modified as shown on the attached abstracts to resolve all issue remarks and to accurately reflect historical use.

### RECOMMENDATIONS

Based upon the above Findings of Fact and Conclusions of Law, this Master recommends that the Court make the changes specified above to correct the Preliminary Decree for this Basin. Post Decree Abstracts of Water Right Claims are served with this Report to confirm that the recommended changes have been made in the state’s centralized record system.

**ELECTRONICALLY SIGNED AND DATED BELOW.**

**Service via USPS Mail:**

*Last Order*  
*4350 Spain Bridge LLC*  
*PO Box 172750*  
*Bozeman, MT 59715*

The Ruh Family Trust  
2778 Sartain St  
Bozeman, MT 59718

**Service Via Electronic Mail:**

Abigail R. Brown  
Attorney at Law  
Parsons Behle & Latimer  
201. E. Broadway St.  
P.O. Box 104  
Helena, MT 59624  
Telephone: (406) 410-5050  
AbbyBrown@parsonsbehle.com  
ecf@parsonsbehle.com  
(*atty Seifert*)

Benjamin S. Sudduth  
Sudduth Law, PLLC  
1050 East Main Street, Suite 3B  
PO Box 507  
Bozeman, MT 59771-0507  
(406) 272-2390  
benjamin@sudduthlaw.com  
(*atty Riverside Country Club*)

A. Suzanne Nellen  
Attorney at Law, PLLC  
PO Box 668  
Sheridan, MT  
(406) 587-4427  
nellen@nellenlaw.com  
kthomas@nellenlaw.com  
(*atty Riverside Country Club*)

**Breeann M Johnson Esq**  
**Kirsa A. Shelkey, Esq**  
**Western Roots Law PLLC**  
**PO Box 7004**  
**Bozeman, MT 59771**  
**(406) 600-9389 Breeann**  
**(406) 599-2087 Kirsa**  
**johnson@westrootslaw.com**  
**shelkey@westrootslaw.com**  
(*atty 4350 Spain Bridge*)

**Notice: Service List Updated 4.10.25**

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
GALLATIN RIVER  
BASIN 41H**

**Water Right Number:** 41H 140912-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** EDWIN MARC SEIFERT  
PO BOX 222  
BELGRADE, MT 59714-0222

4350 SPAIN BRIDGE LLC  
PO BOX 172750  
BOZEMAN, MT 59715

RUH FAMILY TRUST, THE  
605 N 7TH AVE APT 304  
BOZEMAN, MT 59715-2878

TRANSFER PROCESSED TO ADD NEW OWNERS. THE WATER RIGHT WILL BE SPLIT  
INTO SEPARATE OWNERSHIPS AFTER FINAL DECREE.

**Priority Date:** JUNE 1, 1868

**Type of Historical Right:** DECREED

**Purpose (Use):** IRRIGATION

**Irrigation Type:** FLOOD

**Flow Rate:** 1.75 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:** 259.00

**Source Name:** EAST GALLATIN 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		NWNENE	15	1S	5E	GALLATIN

**Period of Diversion:** MAY 1 TO SEPTEMBER 30

**Diversion Means:** HEADGATE

**Ditch Name:** ARNOLD DITCH

**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	34.00		NWNE	33	1N	5E	GALLATIN
2	40.00		SWNE	33	1N	5E	GALLATIN
3	40.00		SENE	33	1N	5E	GALLATIN
4	40.00		NENW	33	1N	5E	GALLATIN

5	40.00	SENW	33	1N	5E	GALLATIN
6	40.00	NESE	33	1N	5E	GALLATIN
7	20.00	E2NWSE	33	1N	5E	GALLATIN
8	5.00	S2SESW	28	1N	5E	GALLATIN
Total:						259.00

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.

140912-00            140913-00

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
GALLATIN RIVER  
BASIN 41H**

**Water Right Number:** 41H 140913-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** EDWIN MARC SEIFERT  
PO BOX 222  
BELGRADE, MT 59714-0222

4350 SPAIN BRIDGE LLC  
PO BOX 172750  
BOZEMAN, MT 59715

RUH FAMILY TRUST, THE  
605 N 7TH AVE APT 304  
BOZEMAN, MT 59715-2878

TRANSFER PROCESSED TO ADD NEW OWNERS. THE WATER RIGHT WILL BE SPLIT  
INTO SEPARATE OWNERSHIPS AFTER FINAL DECREE.

**Priority Date:** JUNE 30, 1864

**Type of Historical Right:** DECREED

**Purpose (Use):** IRRIGATION

**Irrigation Type:** FLOOD

**Flow Rate:** 1.48 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:** 259.00

**Source Name:** EAST GALLATIN 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		NWNENE	15	1S	5E	GALLATIN

**Period of Diversion:** MAY 1 TO SEPTEMBER 30

**Diversion Means:** HEADGATE

**Ditch Name:** ARNOLD DITCH

**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	34.00		NWNE	33	1N	5E	GALLATIN
2	40.00		SWNE	33	1N	5E	GALLATIN
3	40.00		SENE	33	1N	5E	GALLATIN
4	40.00		NENW	33	1N	5E	GALLATIN

5	40.00	SENW	33	1N	5E	GALLATIN
6	40.00	NESE	33	1N	5E	GALLATIN
7	20.00	E2NWSE	33	1N	5E	GALLATIN
8	5.00	S2SESW	28	1N	5E	GALLATIN
Total:						259.00

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.

140912-00            140913-00

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.

140913-00            140915-00



**POST DECREE**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**GALLATIN RIVER**  
**BASIN 41H**

**Water Right Number:** 41H 140915-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** 4350 SPAIN BRIDGE LLC  
PO BOX 172750  
BOZEMAN, MT 59715

**Priority Date:** JUNE 30, 1864

**Type of Historical Right:** DECREED

**Purpose (Use):** STOCK

**Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. 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:** EAST GALLATIN 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		NWNENE	15	1S	5E	GALLATIN

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

**Diversion Means:** DITCH

**Ditch Name:** ARNOLD DITCH

**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			SENW	33	1N	5E	GALLATIN
2			NENW	33	1N	5E	GALLATIN

**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.

140913-00      140915-00