

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

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CLAIMANTS: ~~Marvin DeBuff; Charlotte DeBuff;~~ **Marvin &  
Charlotte Debuff Living Trust**

**CASE 41S-0795-R-2024**  
41S 34673-00

**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. The Marvin & Charlotte DeBuff Living Trust (the Trust) is the present record owner of irrigation claim 41S 34673-00. The ownership of claim 41S 34673-00 was recently transferred from Marvin and Charlotte DeBuff to the Trust. The caption and service list have been updated to reflect the ownership update.

2. The DeBuffs were ordered to meet with a DNRC employee to address the following unresolved issue remarks decreed on claim 41S 34673-00:

- FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.
- THE CLAIM PRESENTS ISSUES OF FACT AND LAW THAT MAY BE ADDRESSED AT THE OBJECTION STAGE. IT APPEARS THAT 0 ACRES ARE ACTUALLY IRRIGATED AND PROBLEMS COULD EXIST WITH FLOW RATE AND VOLUME.
- THE FERGUS COUNTY WATER RESOURCES SURVEY ( 1970 ) APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- USDA AERIAL PHOTOGRAPH NO(S). 30027-178-55 , DATED 09/18/1979 , APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- THE CLAIMED POINT OF DIVERSION IS IN QUESTION. THE LOCATION OF THE HEADGATE CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

3. DNRC Water Resource Specialist Carli Bluhm filed a Memorandum on November 25, 2024. (Doc.<sup>1</sup> 3.00). The Memorandum reports Ms. Bluhm met with Marvin DeBuff on October 22, 2024. Ms. Bluhm reports she reviewed the Fergus County Water Resources Survey and an aerial photograph to prepare the Memorandum; a map and proposed abstract were attached to the Memorandum. Ms. Bluhm stated:

During initial examination, the DNRC found 0 acres of irrigation. After this investigation, the DNRC found 11 acres of irrigation, the claimant agreed with these findings.

The flow rate is claimed as 1CFS. Following the reduction in acres the DNRC estimated the flow rate to be 187 GPM, as noted in the calculation below.

17GPM/1Acre  
17GPM x 11 Acres= **187 GPM**

Since no volume value was decreed, the volume does not require modification.

The point of diversion is claimed as the NWSE of Sec 21, T15N, R18E. After investigation, the DNRC located the point of diversion in the NWSWSE of Sec. 21, T15N, R18E.

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

Ms. Bluhm made recommendations based on her findings.

The place of use of use of legal land description recommended by Ms. Bluhm is Section 21, Township 15 North. The Statement of Claim claimed the place of use as follows:

9. Place of use and acres irrigated. County Fergus

23 acres, \_\_\_\_\_ Lot, \_\_\_\_\_ Block, 1/4 NW 1/4 SE 1/4, Section 21, T 15N S, R 18E W

7 acres, \_\_\_\_\_ Lot, \_\_\_\_\_ Block, 1/4 SW 1/4 SE 1/4, Section 21, T 15N S, R 18E W

\_\_\_\_\_ acres, \_\_\_\_\_ Lot, \_\_\_\_\_ Block, \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4, Section \_\_\_\_\_, T \_\_\_\_\_ N/S, R \_\_\_\_\_ E/W

\_\_\_\_\_ acres, \_\_\_\_\_ Lot, \_\_\_\_\_ Block, \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4, Section \_\_\_\_\_, T \_\_\_\_\_ N/S, R \_\_\_\_\_ E/W

\_\_\_\_\_ acres, \_\_\_\_\_ Lot, \_\_\_\_\_ Block, \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4, Section \_\_\_\_\_, T \_\_\_\_\_ N/S, R \_\_\_\_\_ E/W

30 Total acres. Subdivision \_\_\_\_\_

Based on the record, it appears the following modifications are appropriate to resolve the issue remarks decreed on claim 41S 34673-00 and represent the historical use of the claim:

Flow Rate: 187.00 GPM 1.00 CFS

Maximum Acres: 11.00 30.00

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	<u>NWSWSE</u>	<u>NWSE</u>	21	15N	18E	FERGUS

Period of Diversion: JUNE 15 TO AUGUST 31

Diversion Means: HEADGATE

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	<u>11.00</u> 23.00		<u>NWSE</u>	21	15N	18E	FERGUS
2	7.00			21	15N	18E	FERGUS
Total:	30.00 <u>11.00</u>						

4. An Order was issued to verify Claimants Charlotte DeBuff and Marvin DeBuff agreed or disagreed with Ms. Bluhm’s recommendations. (Doc. 4.00). The Order indicated that if nothing were filed by the deadline, this Water Master would conclude the Claimants agree with the recommendations and a Master’s Report would be issued recommending the modifications be made. Nothing was filed by the deadline. The Order was sent to the DeBuffs at their address on record; if the Trust disagrees with the Recommendations it should Object to this Master’s Report.

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. 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. Pursuant to Rule 22, W.R.Adj.R., if a claimant, objector, or intervenor fails to appear at a scheduled conference or hearing or fails to comply with an order issued by the Water Court, the Water Court may issue such orders of sanction with regard thereto as are just.

RECOMMENDATIONS

1. The following modifications should be made to claim 41S 34673-00:

Flow Rate: 187.00 GPM ~~1.00 CFS~~

Maximum Acres: 11.00 ~~30.00~~

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>Country</u>
1	<span style="border: 1px solid red; padding: 2px;">NWSWSE</span>	NWSE	21	15N	18E	FERGUS

Period of Diversion: JUNE 15 TO AUGUST 31

Diversion Means: HEADGATE

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>Country</u>
1	<span style="border: 1px solid red; padding: 2px;">11.00</span> 23.00		<span style="border: 1px solid red; padding: 2px;">NWSE</span>	21	15N	18E	FERGUS
2	7.00			24	15N	10E	FERGUS
<b>Total:</b>	<b>30.00</b>	<span style="border: 1px solid red; padding: 2px;">11.00</span>					

2. The issue remarks should be removed from claim 41S 34673-00.

An abstract is attached for review.

**ELECTRONICALLY SIGNED AND DATED BELOW.**

**Service via USPS Mail:**

**Marvin & Charlotte Debuff Living Trust  
c/o Marvin Leo & Charlotte Jo Debuff Trustees  
213 Buffalo Berry Trl  
Lewistown, MT 59457-8009**

Marvin DeBuff  
Charlotte DeBuff  
PO Box 657  
Lewistown, MT 59457-0657  
***(Last Order)***

**Caption and Service List Updated: 1/7/2025**

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

**Water Right Number:** 41S 34673-00 STATEMENT OF CLAIM

**Version:** 4 -- POST DECREE

**Status:** ACTIVE

**Owners:** DEBUFF, MARVIN & CHARLOTTE LIVING TRUST  
% MARVIN LEO & CHARLOTTE JO DEBUFF TRUSTEES  
213 BUFFALO BERRY TRL  
LEWISTOWN, MT 59457-8009

**Priority Date:** APRIL 17, 1956

**Type of Historical Right:** USE

**Purpose (Use):** IRRIGATION

**Irrigation Type:** FLOOD

**Flow Rate:** 187.00 GPM

**\*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:** 11.00

**Source Name:** LITTLE CASINO 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		NWSWSE	21	15N	18E	FERGUS

**Period of Diversion:** JUNE 15 TO AUGUST 31

**Diversion Means:** HEADGATE

**Period of Use:** JUNE 15 TO AUGUST 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	11.00		NWSE	21	15N	18E	FERGUS

**Total:** 11.00

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**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.

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