

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: Melville J. Jackson; Rebecca S. Jackson

CASE 41S-1044-R-2024

41S 139597-00

41S 139654-00

ORDER AMENDING AND ADOPTING MASTER’S REPORT

Pursuant to Montana Code Annotated, section 85-2-233(5), Case 41S-1044-R-2024 was assigned to Water Master Anika M. Stern. A Master’s Report was issued on December 30, 2024, recommending the flow rate for claims 41S 139597-00 and 41S 139654-00 be reduced to 2.00 gallons per minute (gpm).

On January 7, 2025, Claimant Melville J. Jackson filed a statement that will be taken as an Objection to the Master’s Report. Based on the information provided by Melville J. Jackson, the 12.00 gpm claimed on Statement of Claim 41S 139654-00 is historically accurate.

ORDERED that Findings of Fact No. 6 and 7 be added to the Master’s Report:

6. A Master’s Report was issued on December 30, 2024. Upon receiving the Master’s Report, Claimant Melville J. Jackson contacted the Water Master and explained the historical beneficial use of domestic claim 41S 139654-00.

7. On January 7, 2025, Melville J. Jackson filed an Objection to the Master’s Report:

Water right 139654 ,however, I would like to change to more accurately reflect the historical use of this "Domestic" water right. It was incorrectly shown as 2 GPM on the 1965 "Declaration of Vested Groundwater Right " form my dad filled out in 1982 when he claimed this water right as a "Filed Appropriation Right". In retrospect it should have been filed in 1982 as a "Use Water Right" with the 12 GPM flow rate as claimed by my dad at that time on his paperwork. This 12 GPM more accurately reflects the Domestic use of this water right from this spring.

(Doc. 3.00).

On January 8, 2025, Melville J. Jackson filed supplemental information. (Doc. 4.00). Melville J. Jackson explained that the conveyance system for domestic claim 41S 139654-00 has not changed since 1965. Additionally, Melville J. Jackson states the flow rate from the spring is 12.00 gpm, as stated on the Statement of Claim; the 2.00 gpm flow rate noted on the 1965 GW4 Form was an error.

ORDERED that Conclusion of Law No. 2, on page 2 and 3, be modified to reflect the following addition:

...
The flow rate evidence provided by Melville J. Jackson on January 7 and 8, 2025, overcomes the prima facie status afforded the 1965 GW4 Form attached to the Statement of Claim. The flow rate listed on the GW4 Form appears to have been an error and the 12.00 gpm flow rate listed on Statement of Claim 41S 139654-00 appears accurate.

ORDERED that Recommendation No. 1, on page 3, should be amended to state:

1. The flow rate for claim 41S 139597-00 be reduced to 2.00 gpm and the flow rate for claim 41S 139654-00 should remain 12.00 gpm as shown on the prima facie Statement of Claim.

The Court has reviewed the Water Master's Findings and Conclusions. Pursuant to Rule 53(e), Montana Rules of Civil Procedure, the Court **ADOPTS** the Master's Report with the above-referenced amendments.

An updated abstract for claim 41S 139654-00 is served with this Order to confirm that the Recommendations set forth in the Master's Report, as amended by this Order, have been adopted for the claims in this Case.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

Rebecca S. Jackson
Melville J. Jackson
89795 US Hwy 87
Lewistown, MT 59457-2095

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

Water Right Number: 41S 139597-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: MELVILLE J JACKSON
89795 US HWY 87
LEWISTOWN, MT 59457-2095

REBECCA S JACKSON
89795 US HWY 87
LEWISTOWN, MT 59457-2095

Priority Date: APRIL 30, 1886

Type of Historical Right: FILED

Purpose (Use): STOCK

Flow Rate: 2.00 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: SPRING, UNNAMED TRIBUTARY OF BOYD CREEK, EAST FORK

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		SWSWNE	11	15N	19E	FERGUS

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: PUMP

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			SWSWNE	11	15N	19E	FERGUS

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

Water Right Number: 41S 139654-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: MELVILLE J JACKSON
89795 US HWY 87
LEWISTOWN, MT 59457-2095

REBECCA S JACKSON
89795 US HWY 87
LEWISTOWN, MT 59457-2095

Priority Date: APRIL 30, 1886

Type of Historical Right: FILED

Purpose (Use): DOMESTIC

Flow Rate: 12.00 GPM

Volume: 3.00 AC-FT

Households: 1

Maximum Acres: 1.00

Source Name: SPRING, UNNAMED TRIBUTARY OF BOYD CREEK, EAST FORK

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		SENWSW	11	15N	19E	FERGUS

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: PUMP

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	1.00		NENWSW	11	15N	19E	FERGUS

Total: 1.00