

Montana Water Court
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IN THE WATER COURT OF THE STATE OF MONTANA
UPPER MISSOURI DIVISION
BOULDER RIVER—TRIBUTARY OF THE JEFFERSON RIVER (BASIN 41E)
PRELIMINARY DECREE

* * * * *

CLAIMANT: Douglas E. Salsbury

OBJECTOR: United States, DOA Forest Service

CASE 41E-0205-R-2024

41E 30131100

41E 30131108

41E 30131109

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 to be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must mail 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

The United States, DOA Forest Service objected to all elements on each of these Douglas E. Salsbury stock claims. On April 17, 2025 Claimant Douglas E. Salsbury's Motion To Amend Priority Date ["Motion"] was filed. As the priority for each claim is already at issue, this is a

generic motion to amend, not a motion to amend filed pursuant to section 85-2-233(6), MCA. The Motion states; “[T]he Objector, USFS, has reviewed the proposed reduction to priority date for each of these three claims and does not oppose the reduction, resolving its objection to the claims consolidated in this case.” The Motion is viewable in the Court’s FullCourt Enterprise case management system.

APPLICABLE LAW

A properly filed Statement of Claim for Existing Water Right is prima facie proof of its content pursuant to 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 the elements of the claim do not accurately reflect the beneficial use of the water right as it existed prior to July 1, 1973. This is the burden of proof for every assertion that a claim is incorrect including for claimants objecting to their own claims. Rule 19, W.R.Adj.R.

FINDINGS OF FACT

1. For each of these use right claims, the Preliminary Decree states that the priority date is APRIL 1, 1885. The priority date should be JANUARY 11, 1912.

2. The Preliminary Decree also includes the following notice remark on each claim abstract:

THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 41E DECREE ISSUED 06/20/1985. There are no proceedings required for this remark. The remark should be removed from each abstract as having served its notice purpose.

CONCLUSION OF LAW

The unopposed Motion filed by the claimant is sufficient to contradict and overcome the prima facie claims.

RECOMMENDATIONS

Based upon the above Findings of Fact and Conclusion of Law, this Master recommends that the Court make the changes specified in the Findings of Fact to correct the Preliminary Decree for this Basin. A Post Decree Abstract of Water Right Claim for each claim is served with

this Report to confirm the recommended changes have been made in the state's centralized record system.

ELECTRONICALLY SIGNED AND DATED BELOW

Service Via Electronic Mail:

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****Note: Service List Updated 6-11-2025****

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
BOULDER RIVER, TRIBUTARY TO JEFFERSON RIVER
BASIN 41E

Water Right Number: 41E 30131100 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: DOUGLAS E SALSBURY
PO BOX 627
WHITEHALL, MT 59759-0627

Priority Date: JANUARY 11, 1912

Type of Historical Right: USE

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 STOCKWATERING 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: 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		SE	25	5N	5W	JEFFERSON

Period of Diversion: APRIL 1 TO NOVEMBER 30

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Period of Use: APRIL 1 TO NOVEMBER 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			SE	25	5N	5W	JEFFERSON

ALL OR A PART OF THE PLACE OF USE CONSISTS OF FEDERAL PUBLIC LANDS. THE WATER RIGHT USED ON THE PUBLIC LANDS IS APPURTENANT TO THE FOLLOWING PRIVATE LANDS: NE4NW4 SEC 28 TWP 02N RGE 04W. SEE THE CLAIM FILE FOR THE COMPLETE LEGAL LAND DESCRIPTION OF THE PRIVATE LAND TO WHICH THIS WATER RIGHT IS APPURTENANT.

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
BOULDER RIVER, TRIBUTARY TO JEFFERSON RIVER
BASIN 41E

Water Right Number: 41E 30131108 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: DOUGLAS E SALSBURY
PO BOX 627
WHITEHALL, MT 59759-0627

Priority Date: JANUARY 11, 1912

Type of Historical Right: USE

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 STOCKWATERING 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

SOURCE IS COMPOSED OF SEVERAL UNNAMED TRIBUTARIES WITHIN THE POINT OF DIVERSION LEGAL LAND DESCRIPTION.

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		N2	28	5N	4W	JEFFERSON

Period of Diversion: APRIL 1 TO NOVEMBER 30

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

2			21	5N	4W	JEFFERSON
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Period of Diversion: APRIL 1 TO NOVEMBER 30

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

3			16	5N	4W	JEFFERSON
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Period of Diversion: APRIL 1 TO NOVEMBER 30

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Period of Use: APRIL 1 TO NOVEMBER 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			N2	28	5N	4W	JEFFERSON
2				21	5N	4W	JEFFERSON
3				16	5N	4W	JEFFERSON

ALL OR A PART OF THE PLACE OF USE CONSISTS OF FEDERAL PUBLIC LANDS.
THE WATER RIGHT USED ON THE PUBLIC LANDS IS APPURTENANT TO THE
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ABSTRACT OF WATER RIGHT CLAIM
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Water Right Number: 41E 30131109 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: DOUGLAS E SALSBURY
PO BOX 627
WHITEHALL, MT 59759-0627

Priority Date: JANUARY 11, 1912

Type of Historical Right: USE

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: UNNAMED TRIBUTARY OF FARNHAM CREEK

Source Type: SURFACE WATER

SOURCE IS COMPOSED OF SEVERAL UNNAMED TRIBUTARIES WITHIN THE POINT OF DIVERSION LEGAL LAND DESCRIPTION.

***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		NW	26	5N	4W	JEFFERSON

Period of Diversion: APRIL 1 TO NOVEMBER 30

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

2		W2	23	5N	4W	JEFFERSON
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Period of Diversion: APRIL 1 TO NOVEMBER 30

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

3		NE	22	5N	4W	JEFFERSON
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Period of Diversion: APRIL 1 TO NOVEMBER 30

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

4			15	5N	4W	JEFFERSON
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Period of Diversion: APRIL 1 TO NOVEMBER 30

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Period of Use: APRIL 1 TO NOVEMBER 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			NW	26	5N	4W	JEFFERSON
2			W2	23	5N	4W	JEFFERSON

3	NE	22	5N	4W	JEFFERSON
4		15	5N	4W	JEFFERSON

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