

Montana Water Court
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FILED
06/10/2025
Sara Calkins
CLERK
Montana Water Court
STATE OF MONTANA
By: Rebecca Rodgers
41S-0426-R-2024
Block, Nathaniel
5.00

IN THE WATER COURT OF THE STATE OF MONTANA
LOWER MISSOURI DIVISION
JUDITH RIVER BASIN (41S)
PRELIMINARY DECREE

* * * * *

CLAIMANTS: Charles A. Volf; Joan B. Volf

CASE 41S-0426-R-2024

41S 110100-00
41S 110102-00
41S 110103-00
41S 110105-00
41S 110107-00
41S 110109-00

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

The above captioned claims appeared in the Preliminary Decree for the Judith River (Basin 41S). The claims did not receive objections, but did receive issue remarks. Issue remarks result from pre-decree examination by the DNRC.

FINDINGS OF FACT

41S 110100-00

1. Claim 41S 110100-00 was decreed as a sprinkler/flood irrigation claim for use on 30 acres in the E2SW of Section 8, Township 11N, Range 17E, Fergus County.
2. The claim received the following issue remarks:

FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE. THE FERGUS COUNTY WATER RESOURCES SURVEY (1970) APPEARS TO INDICATE 17.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

USDA AERIAL PHOTOGRAPH NO(S). 30027-278-4 , DATED 09/25/1979 , APPEARS TO INDICATE 17.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

THE MAXIMUM COMBINED ACRES FOR THIS GROUP OF SUPPLEMENTAL CLAIMS MAY REQUIRE MODIFICATION PENDING RESOLUTION OF MAXIMUM IRRIGATED ACRES ISSUE.

3. On September 13, 2024, the Court ordered Claimants to work with the DNRC to resolve the issue remarks. (Doc.¹ 1.00).
4. On January 6, 2025, DNRC Water Resources Specialist Brandon Ahlgren filed a memorandum in this matter. (Doc. 3.00).
5. Joan and Charles Volf are deceased. Christine and Jeffrey Volf of Volf Landholdings LLC met with Mr. Ahlgren as ordered. Volf Landholdings LLC is the current owner of the underlying place of use. According to the memorandum Christine and Jeffrey are working to update the ownership of the claims.
6. Using Fergus County WRS aerial photograph MY-2CC-274, Mr. Ahlgren identified all 30.00 claimed acres for claim 41S 110100-00.

41S 110103-00

7. Claim 41S 110103-00 was decreed as a sprinkler/flood irrigation claim for use on 90.00 acres in S2 of Section 8, Township 11N, Range 17E, Fergus County.
8. The claim received the following acres irrigated issue remarks:

¹ "Doc." numerical references correlate to case file docket numbers in the Water Court's Full Court case management system.

FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.

THE FERGUS COUNTY WATER RESOURCES SURVEY (1970) APPEARS TO INDICATE 63.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

THE MAXIMUM COMBINED ACRES FOR THIS GROUP OF SUPPLEMENTAL CLAIMS MAY REQUIRE MODIFICATION PENDING RESOLUTION OF MAXIMUM IRRIGATED ACRES ISSUE.

9. Using Fergus County WRS aerial photograph MY-2CC-274, Mr. Ahlgren identified all 90.00 acres for claim 41S 110103-00.

10. Claim 41S 110103-00 also received the following volume issue remark:

THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. THE CLAIMED VOLUME EQUALS 15.68 TIMES THE CAPACITY OF THE RESERVOIR.

11. The claim was decreed with a reservoir in the W2SE of Section 8, Township 11N, Range 17E, Fergus County with the following dimensions:

| | |
|--------------------------------|------------------------|
| Diversion to Reservoir: | DIVERSION # 1 |
| Dam Height: | 14.00 FEET |
| Depth: | 11.00 FEET |
| Surface Area: | 3.58 ACRES |
| Capacity: | 15.75 ACRE-FEET |

12. Although the decreed capacity of the reservoir was 15.75 acre feet (AC-FT), the volume was decreed as 217.00 AC-FT.

13. Mr. Ahlgren found:

The claimed volume is excessive for the size of the reservoir involved. Using the calculated size of the reservoir and the DNRCs guidelines of 2.5 fills per year, the volume would be 39.38 Acre-Feet.

15.75 Acre-Feet x 2.5 Fills/Year = **39.38 Acre-Feet**

14. Christine and Jeffrey Volf agreed with Mr. Ahlgren's recommendation to reduce the volume to 39.38 AC-FT. (Doc. 3.00). Additionally, the Court set a deadline for Claimants to comment on the memorandum. (Doc. 4.00). The order stated that if nothing was filed by the deadline Mr. Ahlgren's recommendations would be implemented. Nothing was filed by the deadline.

41S 110105-00

15. Claim 41S 110105-00 was decreed as a flood irrigation claim on 115.00 acres in E2, Section 8, Township 11N, Range 17E, Fergus County.

16. The claim received the following issue remarks:

FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.
THE FERGUS COUNTY WATER RESOURCES SURVEY (1970) APPEARS TO INDICATE 97.00
ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

THE MAXIMUM COMBINED ACRES FOR THIS GROUP OF SUPPLEMENTAL CLAIMS MAY REQUIRE
MODIFICATION PENDING RESOLUTION OF MAXIMUM IRRIGATED ACRES ISSUE.

17. Mr. Ahlgren found:

During examination, the DNRC identified 97.00 acres of irrigation in the Fergus Co. WRS and 102.00 using USDA aerial photograph 30027-278-4 taken 09/25/1979. During this investigation, the DNRC was unable to substantiate any more acreage than what was located during examination using the USDA 1979 aerial photograph. The claimant was unable to supply any evidence that can substantiate more acreage than what was identified during examination.

The claimed flow rate is within the DNRCs guidelines and does not require adjustment.

18. Christine and Jeffrey Volf agreed with Mr. Ahlgren's recommendation to reduce the place of use and maximum acres to 102.00 acres. (Doc. 3.00). Additionally, the Court set a deadline for Claimants to comment on the memorandum. (Doc. 4.00). The order stated that if nothing was filed by the deadline Mr. Ahlgren's recommendations would be implemented. Nothing was filed by the deadline.

41S 110107-00

19. Claim 41S 110107-00 was decreed as a sprinkler/flood irrigation claim that diverts 8.75 CFS for use on 260.00 acres as follows:

Place of Use:

| <u>ID</u> | <u>Acres</u> | <u>Govt Lot</u> | <u>Qtr</u> | <u>Sec</u> | <u>Twp</u> | <u>Rge</u> | <u>County</u> |
|---------------|---------------|-----------------|------------|------------|------------|------------|---------------|
| 1 | 130.00 | | N2 | 8 | 11N | 17E | FERGUS |
| 2 | 120.00 | | SW | 8 | 11N | 17E | FERGUS |
| 3 | 10.00 | | NENWSE | 8 | 11N | 17E | FERGUS |
| Total: | 260.00 | | | | | | |

20. The claim received the following issue remarks:

FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.

THE FERGUS COUNTY WATER RESOURCES SURVEY (1970) APPEARS TO INDICATE 204.00
ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

USDA AERIAL PHOTOGRAPH NO(S). 30027-278-4 , DATED 09/25/1979 , APPEARS TO INDICATE
212.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

THE MAXIMUM COMBINED ACRES FOR THIS GROUP OF SUPPLEMENTAL CLAIMS MAY REQUIRE
MODIFICATION PENDING RESOLUTION OF MAXIMUM IRRIGATED ACRES ISSUE.

21. Mr. Ahlgren found:

During examination, the DNRC identified 204.00 acres of irrigation in the Fergus Co. WRS and 212.00 using USDA aerial photograph 30027-278-4 taken 09/25/1979. During this investigation, the DNRC was unable to substantiate any more acreage than what was located during examination using the USDA 1979 aerial photograph. The claimant was unable to supply any evidence that can substantiate more acreage than what was identified during examination.

The flow rate should be adjusted to account for the change in maximum acreage. Based on DNRC guidelines of 17 GPM/Ac/Yr and maximum acres of 212.00, the flow rate should be made 8.03 CFS.
 $17 \text{ GPM/Acre/Year} \times 212.00 \text{ Acres} = 3,604.00 \text{ GPM} = 8.03 \text{ CFS}$

22. Christine and Jeffrey Volf agreed with Mr. Ahlgren's recommendation to reduce the place of use and maximum acres to 212.00 and the flow rate to 8.03 CFS. (Doc. 3.00). Additionally, the Court set a deadline for Claimants to comment on the memorandum. (Doc. 4.00). The order stated that if nothing was filed by the deadline Mr. Ahlgren's recommendations would be implemented. Nothing was filed by the deadline.

23. Claim 41S 110107-00 also received the following volume issue remark:

THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. THE CLAIMED VOLUME EQUALS 13.19 TIMES THE CAPACITY OF THE RESERVOIR.

24. Mr. Ahlgren found:

The claimed volume is excessive for the size of the reservoir involved. Using the calculated size of the reservoir and the DNRCs guidelines of 2.5 fills per year, the volume would be 134.95 Acre-Feet.
 $53.98 \text{ Acre-Feet} \times 2.5 \text{ Fills/Year} = 134.95 \text{ Acre-Feet}$

25. Christine and Jeffrey Volf agreed with Mr. Ahlgren's recommendation to reduce the volume to 134.95 AC-FT. (Doc. 3.00). Additionally, the Court set a deadline for Claimants to comment on the memorandum. (Doc. 4.00). The order stated that if nothing was filed by the deadline Mr. Ahlgren's recommendations would be implemented. Nothing was filed by the deadline.

26. Finally, the claim received the following means of diversion issue remark:

THE MEANS OF DIVERSION APPEARS TO BE INCORRECT. THE MEANS OF DIVERSION APPEARS TO BE A.

27. Mr. Ahlgren found:

After investigation of the claim file and discussion with the claimant, the DNRC has determined the means of diversion involves both a headgate and a pump. A headgate is the primary means of diversion and a pump is the secondary means of diversion.

28. Based on his findings, Mr. Ahlgren recommended the following changes to the means of diversion for claim 41S 110107-00:

Regarding the means of diversion issue, the DNRC recommends the means of diversion for POD #2 be made "HEADGATE". It is also recommended a D36 information remark be added to the abstract which states "A PUMP LOCATED IN THE SWNWNE SEC 8 TWP 11N RGE 17E IS A SECONDARY MEANS OF DIVERSION.". If the Court accepts this recommendation, the DNRC recommends the issue remark be removed.

41S 110109-00

29. Claim 41S 110109-00 was decreed as a flood irrigation claim on E2E2, Section 8, Township 11N, Range 17E, Fergus County.

30. The claim received the following issue remarks:

FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE. THE MAXIMUM NUMBER OF ACRES CLAIMED ON THE ORIGINAL STATEMENT OF CLAIM IS 90.00 ACRES. THE DNRC'S RE-EXAMINATION WAS OF THESE ORIGINAL CLAIMED ACRES.

THE FERGUS COUNTY WATER RESOURCES SURVEY (1970) APPEARS TO INDICATE 72.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

USDA AERIAL PHOTOGRAPH NO(S). 30027-278-4 , DATED 09/25/1979 , APPEARS TO INDICATE 55.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

THE MAXIMUM COMBINED ACRES FOR THIS GROUP OF SUPPLEMENTAL CLAIMS MAY REQUIRE MODIFICATION PENDING RESOLUTION OF MAXIMUM IRRIGATED ACRES ISSUE.

31. Mr. Ahlgren found:

During examination, the DNRC identified 72.00 acres of irrigation in the Fergus Co. WRS and 55.00 using USDA aerial photograph 30027-278-4 taken 09/25/1979. During this investigation, the DNRC was unable to substantiate any more acreage than what was located during examination using the Fergus Co. WRS. The claimant was unable to supply any evidence that can substantiate more acreage than what was identified during examination. Although only 71.00 acres appeared on this abstract in the 41S Preliminary Decree, it should have been 90.00 acres as noted in an issue remark above.

The flow rate which appeared in the decree is within the DNRCs guidelines of 17 GPM/Ac/Year. Therefore, the flow rate does not require modification.

32. Based on his findings, Mr. Ahlgren recommended modifying the maximum acres and place of use to 72.00 acres.

33. The claim received the following volume issue remark:

THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. THE CLAIMED VOLUME EQUALS 196 TIMES THE CAPACITY OF THE RESERVOIR.

34. Mr. Ahlgren found:

The claimed volume is excessive for the size of the reservoir involved. Using the calculated size of the reservoir and the DNRCs guidelines of 2.5 fills per year, the volume would be 3.15 Acre-Feet.

1.26 Acre-Feet x 2.5 Fills/Year = **3.15 Acre-Feet**

35. Christine and Jeffrey Volf agreed with Mr. Ahlgren's recommendation to reduce the volume 3.15 AC-FT. (Doc. 3.00). Additionally, the Court set a deadline for Claimants to comment on the memorandum. (Doc. 4.00). The order stated that if nothing was filed by the deadline Mr. Ahlgren's recommendations would be implemented. Nothing was filed by the deadline.

36. Finally, the claim received the following means of diversion issue remark:

THE MEANS OF DIVERSION DOES NOT APPEAR TO BE STANDARDIZED. THE MEANS OF DIVERSION APPEARS TO BE A DAM.

37. Mr. Ahlgren found:

After investigation of the claim file and discussion with the claimant, the means of diversion is indeed a dam.

Notice-Type Issue Remarks

38. The claims received notice-type issue remarks as follows:

41S 110102-00

THE PRIORITY DATE MAY BE QUESTIONABLE. THIS CLAIM IS FOR A FILED APPROPRIATION ON UNNAMED TRIBUTARY OF ROSS' FORK CREEK WITH A PRIORITY DATE PREDATING CASE NO 756, FERGUS COUNTY. IF NO OBJECTIONS ARE FILED TO PRIORITY DATE OR TYPE OF HISTORICAL RIGHT, THESE ELEMENTS WILL BE DECREED AS SHOWN ON THIS ABSTRACT AND THIS REMARK WILL BE REMOVED.

41S 110103-00

THE CLAIMANT DID NOT IDENTIFY THE PERIOD OF DIVERSION FOR THIS RIGHT. A PERIOD OF DIVERSION HAS BEEN ADDED TO MATCH THE PERIOD OF USE. IF NO OBJECTIONS ARE RECEIVED TO THE PERIOD OF DIVERSION OR PERIOD OF USE, THOSE ELEMENTS WILL BE DECREED AS SHOWN ON THIS ABSTRACT AND THIS ISSUE REMARK WILL BE REMOVED FROM THIS CLAIM.

POINT OF DIVERSION, MEANS OF DIVERSION AND RESERVOIR RECORD WERE MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

41S 110105-00

THE PRIORITY DATE MAY BE QUESTIONABLE. THIS CLAIM IS FOR A FILED APPROPRIATION ON UNNAMED TRIBUTARY OF ROSS' FORK CREEK WITH A PRIORITY DATE PREDATING CASE NO 756, FERGUS COUNTY. IF NO OBJECTIONS ARE FILED TO PRIORITY DATE OR TYPE OF HISTORICAL RIGHT, THESE ELEMENTS WILL BE DECREED AS SHOWN ON THIS ABSTRACT AND THIS REMARK WILL BE REMOVED.

41S 110107-00

THE CLAIMANT DID NOT IDENTIFY THE PERIOD OF DIVERSION FOR THIS RIGHT. A PERIOD OF DIVERSION HAS BEEN ADDED TO MATCH THE PERIOD OF USE. IF NO OBJECTIONS ARE RECEIVED TO THE PERIOD OF DIVERSION OR PERIOD OF USE, THOSE ELEMENTS WILL BE DECREED AS SHOWN ON THIS ABSTRACT AND THIS ISSUE REMARK WILL BE REMOVED FROM THIS CLAIM.

SOURCE NAME, POINT OF DIVERSION, MEANS OF DIVERSION, AND RESERVOIR RECORD WERE MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

41S 110109-00

THE CLAIMANT DID NOT IDENTIFY THE PERIOD OF DIVERSION FOR THIS RIGHT. A PERIOD OF DIVERSION HAS BEEN ADDED TO MATCH THE PERIOD OF USE. IF NO OBJECTIONS ARE RECEIVED TO THE PERIOD OF DIVERSION OR PERIOD OF USE, THOSE ELEMENTS WILL BE DECREED AS SHOWN ON THIS ABSTRACT AND THIS ISSUE REMARK WILL BE REMOVED FROM THIS CLAIM.

RESERVOIR RECORD WAS MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

39. The issue remarks identify elements modified as a result of DNRC review pursuant to Montana Water Court reexamination orders. The remarks indicate that if no objections are filed, the elements of the claim will remain as they appear on the abstract and the remarks will be removed. None of the claims received objections.

PRINCIPLES OF LAW

1. A properly filed Statement of Claim for an existing water right is prima facie proof of its content. Section 85-2-227, MCA; Rule 10, W.R.Adj.R.
2. Prima facie proof may be contradicted and overcome by a preponderance of the evidence. Rule 19, W.R.Adj.R.
3. A preponderance of the evidence is evidence that shows a fact is “more probable than not.” *Hohenlohe v. State*, 2010 MT 203, ¶ 33, 357 Mont. 438, 240 P.3d 628.
4. If prima facie status is overcome, the burden shifts back to the claimant to demonstrate historical use. *79 Ranch v. Pitsch*, 204 Mont. 426, 432-33, 666 P.2d 215, 218 (1983).

5. Section 85-2-248(2), MCA, requires that the Water Court resolve all issue remarks that are not resolved through the objection process. *See also* Rule 7, W.R.Adj.R.

6. The Water Court may use information submitted by the DNRC, the Statement of Claim, and any other data obtained by the Court to evaluate a water right. Sections 85-2-227, -231(2), MCA.

7. When resolving issue remarks, the 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. The factual evidence on which an issue remark is based must meet the preponderance of evidence standard before the prima facie status of a claim is overcome. 43Q 200996-00 et al., Order Establishing Volume and Order Closing Case, at 18, June 8, 2015.

CONCLUSIONS OF LAW

41S 110100-00

1. The acres irrigated issue remarks do not overcome the prima facie status of claim 41S 110100-00. The evidence in the memorandum supports the claimed maximum acres and place of use.

41S 110103-00

2. The acres irrigated issue remarks do not overcome prima facie status of claim 41S 110103-00. The evidence in the memorandum supports the claimed maximum acres and place of use.
3. The volume issue remark overcomes the prima facie status of claim 41S 110103-00. The evidence in the memorandum supports the reduction of the volume from 217.00 AC-FT to 39.38 AC-FT.

41S 110105-00

4. The acres irrigated issue remarks overcome the prima facie status of claim 41S 110105-00. The evidence in the memorandum supports the reduction of the claimed maximum acres and place of use from 115.00 acres to 102.00 acres.

41S 110107-00

5. The acres irrigated issue remarks overcome the prima facie status of claim 41S 110107-00. The evidence in the memorandum supports the reduction of the claimed maximum acres and place of use from 260.00 acres to 212.00 acres.
6. The flow rate issue remark does overcome the prima facie status of claim 41S 110107-00. The evidence in the memorandum supports the reduction of the flow rate from 8.75 CFS to 8.03 CFS.
7. The volume issue remark overcomes the prima facie status of claim 41S 110107-00. The evidence in the memorandum supports the reduction in volume from 712.00 AC-FT to 134.95 AC-FT.
8. The means of diversion issue remark overcomes the prima facie status of claim 41S 110107-00. The evidence in the memorandum supports the headgate as a primary means of diversion with a pump located in the SWNWNE of Section 8, Township 11N, Range 17E, as a secondary means of diversion.

41S 110109-00

9. The acres irrigated issue remarks overcome the prima facie status of claim 41S 110109-00. The evidence in the memorandum supports a 72.00 acre-place of use.
10. The volume issue remark overcomes the prima facie status of claim 41S 110109-00. The evidence in the memorandum supports the reduction of volume from 247.00 AC-FT to 3.15 AC-FT.
11. The means of diversion issue remark does overcome the prima facie status of claim 41S 110109-00. The evidence in the memorandum supports a dam as a primary means of diversion.

Notice-Type Issue Remarks

12. The notice-type issue remarks in Findings of Fact No. 38 serve their notice purpose.

RECOMMENDATIONS

1. The volume of claim 41S 110103-00 should be reduced to 39.38 AC-FT.

2. The maximum acres and place of use for claim 41S 110105-00 should be reduced to 102.00 acres.
3. The maximum acres and place of use for claim 41S 110107-00 should be reduced to 212.00 acres.
4. The flow rate for claim 41S 110107-00 should be reduced to 8.03 CFS.
5. The volume for claim 41S 110107-00 should be reduced to 134.95 AC-FT.
6. The means of diversion for claim 41S 110107-00 should be a headgate with a pump as a secondary means of diversion.
7. The maximum acres and place of use for claim 41S 110109-00 should be 72.00 acres.
8. The volume for claim 41S 110109-00 should be reduced to 3.15 AC-FT.
9. The means of diversion for claim 41S 110109-00 should be a dam.
10. The issue remarks should be removed from all claim abstracts

A post decree abstract of each water right claim reflecting these recommendations is attached to this Report.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

Charles A. Volf
Joan B. Volf
PO Box 186
Judith Gap, MT 59453-0186

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

Water Right Number: 41S 110100-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: CHARLES A VOLF
PO BOX 186
JUDITH GAP, MT 59453-0186

JOAN B VOLF
PO BOX 186
JUDITH GAP, MT 59453

Priority Date: JULY 31, 1950

Type of Historical Right: USE

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 1.14 CFS

Volume: 82.00 AC-FT

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 30.00

Source Name: SPRING, UNNAMED TRIBUTARY OF ROSS FORK CREEK

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 | | NWNWSE | 8 | 11N | 17E | FERGUS |

Period of Diversion: APRIL 1 TO OCTOBER 31

Diversion Means: HEADGATE

Period of Use: APRIL 1 TO OCTOBER 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 | 30.00 | | E2SW | 8 | 11N | 17E | FERGUS |

Total: 30.00

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.

110100-00 110102-00 110103-00 110105-00 110107-00 110109-00

THE CLAIMED IRRIGATED ACRES AND PLACE OF USE HAVE BEEN RE-EXAMINED BY THE DNRC UNDER MONTANA WATER COURT ORDER DATED AUGUST 29, 1997. SEE CLAIM FILE FOR ADDITIONAL INFORMATION.

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

Water Right Number: 41S 110102-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: CHARLES A VOLF
PO BOX 186
JUDITH GAP, MT 59453-0186

JOAN B VOLF
PO BOX 186
JUDITH GAP, MT 59453

Priority Date: JUNE 30, 1895
Type of Historical Right: FILED
Purpose (Use): IRRIGATION
Irrigation Type: SPRINKLER
Flow Rate: 1.50 CFS
Volume: 178.00 AC-FT
Climatic Area: 4 - MODERATELY LOW
Maximum Acres: 65.00
Source Name: UNNAMED TRIBUTARY OF ROSS FORK 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 | | SWSWSE | 5 | 11N | 17E | FERGUS | |
| Period of Diversion: APRIL 1 TO OCTOBER 31 | | | | | | | |
| Diversion Means: PUMP | | | | | | | |
| Period of Use: APRIL 1 TO OCTOBER 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 | 65.00 | | N2 | 8 | 11N | 17E | FERGUS |
| Total: | 65.00 | | | | | | |

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.

110100-00 110102-00 110103-00 110105-00 110107-00 110109-00

THE CLAIMED IRRIGATED ACRES AND PLACE OF USE HAVE BEEN RE-EXAMINED BY THE DNRC UNDER MONTANA WATER COURT ORDER DATED AUGUST 29, 1997. SEE CLAIM FILE FOR ADDITIONAL INFORMATION.

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

Water Right Number: 41S 110103-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: CHARLES A VOLF
PO BOX 186
JUDITH GAP, MT 59453-0186

JOAN B VOLF
PO BOX 186
JUDITH GAP, MT 59453

Priority Date: APRIL 30, 1957

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 3.41 CFS

Volume: 39.38 AC-FT

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 90.00

Source Name: UNNAMED TRIBUTARY OF ROSS FORK 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 | | S2NWSE | 8 | 11N | 17E | FERGUS |

***Period of Diversion:** APRIL 1 TO OCTOBER 31

Diversion Means: DAM

***Reservoir:** ONSTREAM **Reservoir Name:** SMALL DAM BY ROCKS

| <u>Govt Lot</u> | <u>Qtr Sec</u> | <u>Sec</u> | <u>Twp</u> | <u>Rge</u> | <u>County</u> |
|-----------------|----------------|------------|------------|------------|---------------|
| | W2SE | 8 | 11N | 17E | FERGUS |

Diversion to Reservoir: DIVERSION # 1

Dam Height: 14.00 FEET

Depth: 11.00 FEET

Surface Area: 3.58 ACRES

Capacity: 15.75 ACRE-FEET

THE DAM EXTENDS INTO THE N2SWSE SEC 8 TWP 11N RGE 17E FERGUS COUNTY.

Period of Use: APRIL 1 TO OCTOBER 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 | 90.00 | S2 | 8 | 11N | 17E | FERGUS |
| Total: | 90.00 | | | | | |

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.

110100-00

110102-00

110103-00

110105-00

110107-00

110109-00

THE CLAIMED IRRIGATED ACRES AND PLACE OF USE HAVE BEEN RE-EXAMINED BY THE DNRC UNDER MONTANA WATER COURT ORDER DATED AUGUST 29, 1997. SEE CLAIM FILE FOR ADDITIONAL INFORMATION.

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

Water Right Number: 41S 110105-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: CHARLES A VOLF
PO BOX 186
JUDITH GAP, MT 59453-0186

JOAN B VOLF
PO BOX 186
JUDITH GAP, MT 59453

Priority Date: JUNE 13, 1894

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 2.50 CFS

Volume: 315.00 AC-FT

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 102.00

Source Name: UNNAMED TRIBUTARY OF ROSS FORK 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 | | NWNWNW | 9 | 11N | 17E | FERGUS |
| Period of Diversion: APRIL 1 TO OCTOBER 31 | | | | | | |
| Diversion Means: HEADGATE | | | | | | |
| Period of Use: APRIL 1 TO OCTOBER 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 | 102.00 | | E2 | 8 | 11N | 17E | FERGUS |
| Total: | 102.00 | | | | | | |

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.

110100-00110102-00110103-00110105-00110107-00110109-00

THE CLAIMED IRRIGATED ACRES AND PLACE OF USE HAVE BEEN RE-EXAMINED BY THE DNRC UNDER MONTANA WATER COURT ORDER DATED AUGUST 29, 1997. SEE CLAIM FILE FOR ADDITIONAL INFORMATION.

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

Water Right Number: 41S 110107-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: CHARLES A VOLF
PO BOX 186
JUDITH GAP, MT 59453-0186

JOAN B VOLF
PO BOX 186
JUDITH GAP, MT 59453

Priority Date: APRIL 19, 1957

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 8.03 CFS

Volume: 134.95 AC-FT

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 212.00

***Source Name:** ROSS FORK CREEK

Source Type: SURFACE WATER

***Source Name:** UNNAMED TRIBUTARY OF ROSS FORK 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 | | N2SWNE | 8 | 11N | 17E | FERGUS |

Source Name: ROSS FORK CREEK

***Period of Diversion:** APRIL 1 TO OCTOBER 31

Diversion Means: DAM

| | | | | | | |
|---|--|-------|---|-----|-----|--------|
| 2 | | SWSNW | 8 | 11N | 17E | FERGUS |
|---|--|-------|---|-----|-----|--------|

***Source Name:** UNNAMED TRIBUTARY OF ROSS FORK CREEK

***Period of Diversion:** APRIL 1 TO OCTOBER 31

Diversion Means: HEADGATE

A PUMP LOCATED IN THE SWNWNE SEC 8 TWP 11N RGE 17E IS A SECONDARY MEANS OF DIVERSION.

*Reservoir: ONSTREAM Reservoir Name: BIG DAM

Govt Lot

Qtr Sec

Sec

Twp

Rge

County

W2NE

8

11N

17E

FERGUS

Diversion to Reservoir: DIVERSION # 1

Dam Height: 17.00 FEET

Depth: 14.00 FEET

Surface Area: 9.64 ACRES

Capacity: 53.98 ACRE-FEET

THE RESERVOIR EXTENDS INTO THE NWNE SEC 8 TWP 11N RGE 17E FERGUS COUNTY.

Period of Use: APRIL 1 TO OCTOBER 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 | 114.00 | | N2 | 8 | 11N | 17E | FERGUS |
| 2 | 90.00 | | SW | 8 | 11N | 17E | FERGUS |
| 3 | 8.00 | | NENWSE | 8 | 11N | 17E | FERGUS |
| Total: | 212.00 | | | | | | |

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.

110100-00 110102-00 110103-00 110105-00 110107-00 110109-00

THE CLAIMED IRRIGATED ACRES AND PLACE OF USE HAVE BEEN RE-EXAMINED BY THE DNRC UNDER MONTANA WATER COURT ORDER DATED AUGUST 29, 1997. SEE CLAIM FILE FOR ADDITIONAL INFORMATION.

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

Water Right Number: 41S 110109-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: CHARLES A VOLF
PO BOX 186
JUDITH GAP, MT 59453-0186

JOAN B VOLF
PO BOX 186
JUDITH GAP, MT 59453

Priority Date: JULY 31, 1950

Type of Historical Right: USE

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 2.69 CFS

Volume: 3.15 AC-FT

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 72.00

Source Name: UNNAMED TRIBUTARY OF ROSS FORK 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 | | NWNWNW | 9 | 11N | 17E | FERGUS |

***Period of Diversion:** APRIL 1 TO OCTOBER 31

Diversion Means: DAM

***Reservoir:** ONSTREAM **Reservoir Name:** THORN CREEK RESERVOIR

| <u>Govt Lot</u> | <u>Qtr Sec</u> | <u>Sec</u> | <u>Twp</u> | <u>Rge</u> | <u>County</u> |
|-----------------|----------------|------------|------------|------------|---------------|
| | NWNWNW | 9 | 11N | 17E | FERGUS |

Diversion to Reservoir: DIVERSION # 1

Dam Height: 12.00 FEET

Depth: 9.00 FEET

Surface Area: 0.35 ACRES

Capacity: 1.26 ACRE-FEET

THE DAM EXTENDS INTO THE SWSWSW , SEC 04 TWP 11N RGE 17E FERGUS COUNTY.

Period of Use: APRIL 1 TO OCTOBER 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 | 72.00 | | E2E2 | 8 | 11N | 17E | FERGUS |
| Total: | 72.00 | | | | | | |

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.

110100-00 110102-00 110103-00 110105-00 110107-00 110109-00

THE CLAIMED IRRIGATED ACRES AND PLACE OF USE HAVE BEEN RE-EXAMINED BY THE DNRC UNDER MONTANA WATER COURT ORDER DATED AUGUST 29, 1997. SEE CLAIM FILE FOR ADDITIONAL INFORMATION.