

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

CLAIMANTS: Debra J. Hill; Richard L. Hill; Kandi J. Vanek

CASE 41S-1014-R-2024
41S 101770-00

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. Debra J. Hill, Richard L. Hill, and Kandi J. Vanek (the Claimants) are the record owners of irrigation claim 41S 101770-00.

2. The Claimants were ordered to meet with a DNRC employee to address the following unresolved issue remarks decreed on claim 41S 101770-00:

- FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.
- THE FERGUS COUNTY WATER RESOURCES SURVEY(1970)APPEARS TO INDICATE 33.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.
- USDA AERIAL PHOTOGRAPH NO(S). 30027-278-194 , DATED 09/25/1979 , APPEARS TO INDICATE 29.50 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

3. DNRC Water Resource Specialist Brandon Ahlgren filed a Memorandum on March 13, 2025. (Doc.¹ 4.00). Mr. Ahlgren reported that another DNRC employee discussed the Case with Debra J. Hill on February 6, 2025. Mr. Ahlgren indicated he reviewed the Fergus County Water Resources Survey and an aerial photo to prepare the Memorandum. Mr. Ahlgren indicated that DNRC was able to substantiate 33.50 acres of historical irrigation using the resources available, and he recommended the following modifications be made to claim 41S 101770-00, addressing the issue remarks:

Flow Rate:		2.50 CFS	1.27 CFS
Maximum Acres:		66.00	33.50
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>
4	6.00		SENE 22 15N 18E FERGUS
2	13.00	6.00	S2SWNE 22 15N 18E FERGUS
3	47.00	26.50	N2SE 22 15N 18E FERGUS
Total:	66.00	33.50	

4. An Order was issued for the Claimants to agree or disagree with the modifications proposed by Mr. Ahlgren. The Order indicated that if nothing were filed by the deadline, the conclusion would be made that the Claimants agreed with the proposed modifications. Nothing was filed.

5. Upon review of the record, this Water Master identified an inconsistency as to the place of use legal land description (and potentially the flow rate). The place of use maximum acreage recommended by Mr. Ahlgren added to 32.50 acres – *not* 33.50 acres. It was unclear if an error existed with the acreage recommendation with an individual place of use, the total, or both; additionally, it is unclear how an adjustment would impact the flow rate recommendation. An Order was issued setting a deadline for Mr. Ahlgren to

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

file a Memorandum indicating any adjustments needed to the place of use legal land description and flow rate recommendation as to claim 41S 101770-00. Additionally, a map should be included with Mr. Ahlgren's filing. A deadline was also set for Claimants Debra J. Hill, Richard L. Hill, and Kandi J. Vanek to file statements agreeing or disagreeing with any recommendation filed by Mr. Ahlgren by June 6, 2025. The Order indicated that if nothing were filed by the June 6, 2025 deadline, the Water Master would conclude Claimants Debra J. Hill, Richard L. Hill, and Kandi J. Vanek agree with Mr. Ahlgren's recommendations as to claim 41S 101770-00. Nothing was filed.

6. On May 6, 2025, Mr. Ahlgren filed another Memorandum correcting his previous recommendation for the acreage for place of use ID #2. Mr. Ahlgren state the acreage for place of use ID #2 should be 7.00 acres, not 6.00 acres:

Flow Rate:	2.60 CFS	1.27 CFS					
Maximum Acres:	66.00	33.50					
Place of Use:							
ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
4	6.00		SENE	22	16N	18E	FERGUS
2	13.00	7.00	S2SWNE	22	15N	18E	FERGUS
3	47.00	26.50	N2SE	22	15N	18E	FERGUS
Total:	66.00	33.50					

PRINCIPLES AND CONCLUSIONS OF LAW

1. The Water Court must address all issue remarks decreed 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. Claim 41S 101770-00 should be modified as follows:

Flow Rate: 2.50 CFS 1.27 CFS

Maximum Acres: 66.00 33.50

Place of Use:

ID	Acres	Cont Lot	Qtr Sec	Sec	Twp	Rge	County
1	6.00		SENE	22	16N	18E	FERGUS
2	13.00 7.00		S2SWNE	22	15N	18E	FERGUS
3	47.00 26.50		N2SE	22	15N	18E	FERGUS
Total:	66.00 33.50						

2. The issue remarks should be removed from claim 41S 101770-00.

An abstract is attached for review.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

Debra J. Hill
Richard L. Hill
231 W Cottonwood St
Lewistown, MT 59457

Kandi J. Vanek
54 Paper Trail
Lewistown, MT 59457-7673

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

Water Right Number: 41S 101770-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: DEBRA J HILL
231 W COTTONWOOD ST
LEWISTOWN, MT 59457-3278

RICHARD L HILL
231 W COTTONWOOD ST
LEWISTOWN, MT 59457-3278

KANDI J VANEK
54 PAPER TRAIL
LEWISTOWN, MT 59457-7673

Priority Date: AUGUST 14, 1919

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 1.27 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: 33.50

Source Name: BIG 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	22	15N	18E	FERGUS

Period of Diversion: APRIL 10 TO OCTOBER 31

Diversion Means: HEADGATE

2		NESENW	27	15N	18E	FERGUS
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Period of Diversion: APRIL 10 TO OCTOBER 31

Diversion Means: HEADGATE

Period of Use: APRIL 10 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	7.00		S2SWNE	22	15N	18E	FERGUS
2	26.50		N2SE	22	15N	18E	FERGUS

Total: 33.50