Montana Water Court PO Box 1389 Bozeman, MT 59771-1389 1-800-624-3270 (406) 586-4364 watercourt@mt.gov FILED
05/08/2025
Sara Calkins
CLERK
Montana Water Court
STATE OF MONTANA
By: Regina Certalic
41S-1056-R-2025
Stern, Anika
6.00

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

CLAIMANTS: Donald F Jenni; Nancy L. Jenni; Scott W.	CASE 41S-1056-R-2025			
Jenni; Thaddeus F. Jenni; Gary D. Jenni; Kathryn K. Jenni; Jamie L. Longtine; Ray M. Longtine	41S 105519-00 41S 119074-00 41S 105520-00 41S 119075-00 41S 105533-00 41S 119076-00			
NOTICE OF INTENT TO APPEAR: Crowley Ditch Co.	41S 115261-00 41S 115263-00 41S 119080-00			
	41S 119072-00 41S 119081-00 41S 119073-00 41S 119082-00			

# NOTICE OF FILING OF MASTER'S REPORT

This Master's Report was filed with the Montana Water Court on the above-stamped date. <u>Please review this report carefully.</u>

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

# FINDINGS OF FACT

- 1. Claims 41S 105519-00, 41S 105520-00, 41S 105533-00, 41S 115261-00, 41S 115263-00, 41S 119072-00, 41S 119073-00, 41S 119074-00, 41S 119075-00, 41S 119076-00, 41S 119077-00, 41S 119080-00, 41S 119081-00, and 41S 119082-00 are owned by variations of the following claimants: Donald F. Jenni, Nancy L. Jenni, Scott W. Jenni, Thaddeus F. Jenni, Gary D. Jenni, Kathryn K. Jenni, Jamie L. Longtine, and Ray M. Longtine (hereinafter "claimants").
- 2. Claims 41S 105519-00, 41S 105520-00, 41S 105533-00, 41S 115261-00, 41S 115263-00, 41S 119072-00, 41S 119073-00, 41S 119074-00, 41S 119075-00, 41S 119076-00, 41S 119077-00, 41S 119080-00, 41S 119081-00, and 41S 119082-00 were decreed with remarks placed on the claims by the Montana Department of Natural Resources (DNRC) noting potential factual or legal issues ("issue remarks"). All issue remarks must be addressed.
- 3. Crowley Ditch Co. filed a Notice of Intent to Appear ("NOIA") as to claim 41S 105520-00. The Notice of Intent to Appear was withdrawn on May 2, 2025. (Doc. 15.00).
- 4. The Claimants were ordered to meet with a DNRC employee to address the unresolved issue remarks. (Doc.1.00).
- 5. DNRC Water Resources Specialist Brandon Ahlgren filed a Memorandum on March 26, 2025. (Doc. 3.00). Mr. Ahlgren reported that Claimant Gary Jenni contacted him and discussed the Case. Mr. Ahlgren stated he reviewed the Fergus County Water Resource Survey and aerial photos to prepare the Memorandum.
- 6. Claims 41S 105519-00 and 41S 105520-00 (Claimants Donald F. Jenni, Nancy L. Jenni, Scott W. Jenni, and Thaddeus F. Jenni; Notice of Intent to Appear Party claim 41S 105520-00, Crowley Ditch Co.): Claims 41S 105519-00 and 41S 105520-00 were decreed with the following issue remarks:

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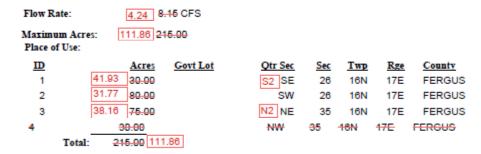
<sup>&</sup>lt;sup>1</sup> "Doc." numerical references correlate to case file docket numbers in the Water Court's Full Court case management system.

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

THE FERGUS COUNTY WATER RESOURCES SURVEY ( 1970 ) APPEARS TO INDICATE 0.00 ACRES IRRIGATED USDA AERIAL PHOTOGRAPH NO(S). 30027-278-18, DATED 09/25/1979, APPEARS TO INDICATE 0.00 ACRES IRRIGATED.

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

Mr. Ahlgren explained that he identified 111.86 acres of irrigation in a 1975 aerial photograph for claims 41S 105519-00 and 41S 105520-00. The proposed abstracts Mr. Ahlgren attached to the Memorandum for claims 41S 105519-00 and 41S 105520-00 varied slightly – he did not include legal land description modifications for claim 41S 105520-00 – but it seems that was oversight. Based upon available information, it appears Mr. Ahlgren recommended the following modifications to claims 41S 105519-00 and 41S 105520-00 to address the issue remarks:



7. **Claim 41S 105533-00** (Claimants Donald F. Jenni, Scott W. Jenni, and Thaddeus F. Jenni): Claim 41S 105533-00 was decreed with an issue remark:

THE TYPE OF HISTORICAL RIGHT AND PRIORITY DATE MAY BE QUESTIONABLE. DOCUMENTATION TO SUPPORT THE TYPE OF HISTORICAL RIGHT AND PRIORITY DATE WAS NOT SUBMITTED WITH THIS CLAIM.

A filed Declaration of Vested Groundwater Rights form was attached to the Statement of Claim for claim 41S 105533-00. The form indicated the priority date for claim 41S 105533-00 was "about 1884." Mr. Ahlgren recommended the priority date for claim 41S 105533-00 be modified to December 31, 1884 and the issue remark be removed.

8. **Claim 41S 115261-00** (Claimants Gary D. Jenni and Kathryn K. Jenni): Claim 41S 115261-00 was decreed with the following issue remarks:

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

THE POINT OF DIVERSION MAY BE INCORRECT. THE LOCATION OF THE HEADGATE CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

THE FERGUS COUNTY WATER RESOURCES SURVEY ( 1970 ) APPEARS TO INDICATE 0.00 ACRES IRRIGATED USDA AERIAL PHOTOGRAPH NO(S). 30027-278-16, DATED 09/25/1979, APPEARS TO INDICATE 0.00 ACRES IRRIGATED.

Mr. Ahlgren identified the 68.00 acres of historical irrigation at the claimed place of use for claim 41S 115261-00, and recommended the following modifications be made, addressing the issue remarks:

Flow Rate:	2.58 3 <del>.5</del>	2 CFS					
Maximum Acres: Place of Use:	68.00 93	00					
<u>ID</u>	Acres	Govt Lot	Otr Sec	Sec	Twp	Rge	County
1	68.00		SW	22	15N	17E	FERGUS
2	25.00		NE	21	45N	17E	FERGUS
Total:	93.00 68	.00					

9. **Claim 41S 115263-00** (Claimants Gary D. Jenni, Kathryn K. Jenni, Jamie Longtine, and Ray M. Longtine): Claim 41S 115263-00 was decreed with the following issue remarks:

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

THE POINT OF DIVERSION MAY BE INCORRECT. THE LOCATION OF THE HEADGATE CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

THE FERGUS COUNTY WATER RESOURCES SURVEY ( 1970 ) APPEARS TO INDICATE 0.00 ACRES IRRIGATED USDA AERIAL PHOTOGRAPH NO(S). 30027-278-16, DATED 09/25/1979, APPEARS TO INDICATE 0.00 ACRES IRRIGATED.

Mr. Ahlgren did not identify any historical irrigation at the claimed place of use and he recommended claim 41S 115263-00 be dismissed.

10. **Claim 41S 119072-00** (Claimants Gary D. Jenni and Kathryn K. Jenni): Claim 41S 119072-00 was decreed with an issue remark:

THIS CLAIM AND WATER RIGHT NO. 41S 39172-00 APPEAR TO BE DUPLICATE FILINGS. IT APPEARS ONLY ONE WATER RIGHT IS INVOLVED.

Regarding claim 41S 119072-00, Mr. Ahlgren explained:

This claim appears to duplicate Groundwater Certificate (GWC) 41S 39172-00 which was filed by Floyd Jenni on December 16, 1981. On both the claim form and GWC form, the date of first use is written as "Sept. 1970". Statements of Claim that include a groundwater development with first use between 1962 and 1973, must adhere to the 1961 Groundwater Code. The claim would need a Groundwater (GW) Form associated with it, in accordance with the 1961 Groundwater Code, to keep the claimed September 1970 priority date. Without this GW Form, the priority date would be made the date of filing. The DNRC could not find and the claimant did not supply a GW Form for this development. The DNRC will recommend the claim be dismissed. The reason for dismissal is that the groundwater development already has a water right in the form of the GWC with a priority date of December 16, 1981, and without a GW form, the priority date on this claim would be changed to February 19, 1982, a more inferior priority date to the GWC.

Mr. Ahlgren recommended claim 41S 119072-00 be dismissed because it duplicates groundwater certificate 41S 39172-00.

11. **Claim 41S 119073-00** (Claimants Gary D. Jenni and Kathryn K. Jenni): Claim 41S 119073-00 was decreed with an issue remark:

# Regarding claim 41S 119073-00, Mr. Ahlgren explained:

This claim appears to duplicate Groundwater Certificate (GWC) 41S 39171-00 which was filed by Floyd Jenni on December 16, 1981. On both the claim form and GWC form, the date of first use is written as "Aug 30, 1968". Statements of Claim that include a groundwater development with first use between 1962 and 1973 must adhere to the 1961 Groundwater Code. This claim would need a Groundwater (GW) Form associated with it, in accordance with the 1961 Groundwater Code, to keep the claimed August 30, 1968, priority date. Without this GW Form, the priority date would be made the date of filing. The DNRC could not find, and the claimant did not supply a GW Form for this development. The DNRC will recommend the claim be dismissed. The reason for dismissal is that the groundwater development already has a water right in the form of the GWC with a priority date of December 16, 1981, and without a GW form, the priority date on this claim would be changed to February 18, 1982, a more inferior priority date to the GWC.

Mr. Ahlgren recommended claim 41S 199073-00 be dismissed because it duplicates groundwater certificate 41S 39171-00.

12. **Claim 41S 119074-00** (Claimants Gary D. Jenni and Kathryn K. Jenni): Claim 41S 119074-00 was decreed with an issue remark:

THIS CLAIM AND WATER RIGHT NO. 41S 39169-00 APPEAR TO BE DUPLICATE FILINGS. IT APPEARS ONLY ONE WATER RIGHT IS INVOLVED.

Regarding claim 41S 119074-00, Mr. Ahlgren explained:

This claim appears to duplicate Groundwater Certificate (GWC) 41S 39169-00 whitewass files by at 1 Floyd Jenni on December 16, 1981. The GWC form has no information on date of first use. The claim form listed "Oct 1, 1973" and DNRC edited to "Spring of 1973". Statements of Claim that include a groundwater development with first use between 1962 and 1973 must adhere to the 1961 Groundwater Code. This claim would need a Groundwater (GW) Form associated with it, in accordance with the 1961 Groundwater Code, to keep the claimed 1973 priority date. Without this GW Form, the priority date would be made the date of filing. The DNRC could not find, and the claimant did not supply a GW Form for this development. The DNRC will recommend the claim be dismissed. The reason for dismissal is that the groundwater development already has a water right in the form of the GWC with a priority date of December 16, 1981, and without a GW form, the priority date on this claim would be changed to February 18, 1982, a more inferior priority date to the GWC.

Mr. Ahlgren recommended claim 41S 199074-00 be dismissed because it duplicates groundwater certificate 41S 39169-00.

13. **Claim 41S 119075-00** (Claimants Gary D. Jenni and Kathryn K. Jenni): Claim 41S 119075-00 was decreed with an issue remark:

THIS CLAIM AND WATER RIGHT NO. 41S 39170-00 APPEAR TO BE DUPLICATE FILINGS. IT APPEARS ONLY ONE WATER RIGHT IS INVOLVED.

Regarding claim 41S 119075-00, Mr. Ahlgren explained:

This claim appears to duplicate Groundwater Certificate (GWC) 41S 39170-00 which was filed by Floyd Jenni on December 16, 1981. On both the claim form and GWC form, the date of first use is written as "Oct. 1, 1972". Statements of Claim that include a groundwater development with first use between 1962 and 1973 must adhere to the 1961 Groundwater Code. This claim would need a Groundwater (GW) Form associated with it, in accordance with the 1961 Groundwater Code, to keep the claimed October 1, 1972, priority date. Without this GW Form, the priority date would be made the date of filing. The DNRC could not find, and the claimant did not supply a GW Form for this development. The DNRC will recommend the claim be dismissed. The reason for dismissal is that the groundwater development already has a water right in the form of the GWC with a priority date of December 16, 1981, and without a GW form, the priority date on this claim would be changed to February 18, 1982, a more inferior priority date to the GWC.

Mr. Ahlgren recommended claim 41S 199075-00 be dismissed because it duplicates groundwater certificate 41S 39170-00.

14. **Claim 41S 119076-00** (Claimants Gary D. Jenni and Kathryn K. Jenni): Claim 41S 119076-00 was decreed with an issue remark:

THIS CLAIM AND WATER RIGHT NO. 41S 39173-00 APPEAR TO BE DUPLICATE FILINGS. IT APPEARS ONLY ONE WATER RIGHT IS INVOLVED.

Regarding claim 41S 119076-00, Mr. Ahlgren explained:

This claim appears to duplicate Groundwater Certificate (GWC) 41S 39173-00 which was filed by Floyd Jenni on December 16, 1981. On both the claim form and GWC form, the date of first use is written as "Sept. 30, 1971". Statements of Claim that include a groundwater development with first use between 1962 and 1973 must adhere to the 1961 Groundwater Code. This claim would need a Groundwater (GW) Form associated with it, in accordance with the 1961 Groundwater Code, to keep the claimed September 30, 1971, priority date. Without this GW Form, the priority date would be made the date of filing. The DNRC could not find, and the claimant did not supply a GW Form for this development. The DNRC will recommend the claim be dismissed. The reason for dismissal is that the groundwater development already has a water right in the form of the GWC with a priority date of December 16, 1981, and without a GW form, the priority date on this claim would be changed to February 18, 1982, a more inferior priority date to the GWC.

Mr. Ahlgren recommended claim 41S 199076-00 be dismissed because it duplicates groundwater certificate 41S 39173-00.

15. **Claim 41S 119077-00** (Claimants Gary D. Jenni and Kathryn K. Jenni): Claim 41S 119077-00 was decreed with an issue remark:

THIS CLAIM AND WATER RIGHT NO. 41S 39174-00 APPEAR TO BE DUPLICATE FILINGS. IT APPEARS ONLY ONE WATER RIGHT IS INVOLVED.

Regarding claim 41S 119077-00, Mr. Ahlgren explained:

This claim appears to duplicate Groundwater Certificate (GWC) 41S 39174-00 which was filed by Floyd Jenni on December 16, 1981. On both the claim form and GWC form, the date of first use is written as "Oct. 1965". Statements of Claim that include a groundwater development with first use between 1962 and 1973 must adhere to the 1961 Groundwater Code. This claim would need a Groundwater (GW) Form associated with it, in accordance with the 1961 Groundwater Code, to keep the claimed October 1965 priority date. Without this GW Form, the priority date would be made the date of filing. The DNRC could not find, and the claimant did not supply a GW Form for this development. The DNRC will recommend the claim be dismissed. The reason for dismissal is that the groundwater development already has a water right in the form of the GWC with a priority date of December 16, 1981, and without a GW form, the priority date on this claim would be changed to February 18, 1982, a more inferior priority date to the GWC.

Mr. Ahlgren recommended claim 41S 199077-00 be dismissed because it duplicates groundwater certificate 41S 39174-00.

16. **Claim 41S 119080-00** (Claimants Gary D. Jenni and Kathryn K. Jenni): Claim 41S 119080-00 was decreed with the following issue remarks:

THE MAXIMUM NUMBER OF ACRES CLAIMED ON THE ORIGINAL STATEMENT OF CLAIM IS 300.00 ACRES. THE DNRC'S RE-EXAMINATION WAS OF THESE ORIGINAL CLAIMED ACRES. THE FLOW RATE IS MISSING.

THE CLAIMED POINT OF DIVERSION IS IN QUESTION. THE LOCATION OF THE HEADGATE CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

THE FERGUS COUNTY WATER RESOURCES SURVEY ( 1970 ) APPEARS TO INDICATE 0.00 ACRES IRRIGATED.

USDA AERIAL PHOTOGRAPH NO(S). 30027-278-16 , DATED 09/25/1979 , APPEARS TO INDICATE 119.70 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

Mr. Ahlgren referenced Water Court modifications to claim 41S 119080-00 making it a subirrigation claim (an Order in 1983 and an "authorization" in 2001). The record showed no Water Court modifications to the elements of claim 41S 119080-00. However, documentation in the claim indicated the DNRC received authorization to modify the claim to subirrigation in 1983:

And water marker John Cloffin authorizes a change to sub-importan O.K. Sa 9-7-53

and

NOTE: Water Mosters J. Chaffin + S. Arnott authorized changing this right to subirrigation. See GENERA/ REMARKS on verification obstracts.

Mr. Ahlgren recommended claim 41S 119080-00 be further modified based on information available to him, reflecting natural subirrigation:



17. **Claim 41S 119081-00** (Claimants Gary D. Jenni, Kathryn K. Jenni, Jamie Longtine, and Ray M. Longtine): Claim 41S 119081-00 was decreed with DNRC issue remarks:

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

THE FERGUS COUNTY WATER RESOURCES SURVEY ( 1970 ) APPEARS TO INDICATE 101.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

USDA AERIAL PHOTOGRAPH NO(S). 30027-278-16, DATED 09/25/1979, APPEARS TO INDICATE 98.50 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

Mr. Ahlgren identified 101.00 acres of historical irrigation and recommended the following modifications to claim 41S 119081-00, addressing the issue remarks:

Flow Ra Maximu	ım Acres: 101.00	1.55-CFS 120.00					
<u>ID</u>	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
				_			
1	3.00 4.00	INE	ENESE S2SE	20	15N	17E	FERGUS
2	52.00 60.00		NE	20	15N	17E	FERGUS
3	3.00 4.00		SESESW	17	15N	17E	FERGUS
4	7.00 6.00		NESESW	17	15N	17E	FERGUS
5	36.00 <del>40.00</del>		S2SE	17	15N	17E	FERGUS
8	10.00		W2W2NW	21	45N	17E	FERGUS
	Total: 420.00 10	01.00					

18. **Claim 41S 119082-00** (Claimants Donald F. Jenni, Nancy L. Jenni): Claim 41S 119082-00 was decreed with issue remarks:

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

THE FERGUS COUNTY WATER RESOURCES SURVEY ( 1970 ) APPEARS TO INDICATE 101.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

USDA AERIAL PHOTOGRAPH NO(S). 30027-278-16, DATED 09/25/1979, APPEARS TO INDICATE 98.50 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

Mr. Ahlgren did not identify historical irrigation at the claimed place of use for claim 41S 119082-00, and he recommended the claim be dismissed.

19. An Order was issued to determine if Claimants Donald F. Jenni, Nancy L. Jenni, Scott W. Jenni, Thaddeus F. Jenni, Gary D. Jenni, Kathryn K. Jenni, Jamie L. Longtine, and Ray M. Longtine agreed or disagreed with the recommendations made by Mr. Ahlgren; the Order also set a deadline for Crowley Ditch Co. to indicate whether its NOIA concerns are resolved. (Doc. 4.00). The Order indicated that if nothing were filed by the deadline, this Water Master would conclude the Claimants agreed with the recommended modifications. The following language was included in the Order:

Failure to comply with the terms of this Order may result in sanctions, <u>up to and including entry of default and termination of a water right claim or dismissal of objections</u>. Rule 22, W.R.Adj.R.

Nothing was filed by the Claimants and Crowley Ditch Co. withdrew its NOIA on May 2, 2025.

# PRINCIPLES AND CONCLUSIONS OF LAW

- 1. The Water Court is required to resolve the issues raised by each issue remark. 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.
- 4. The issue remarks decreed on claims 41S 105519-00 and 41S 105520-00 indicating the "maximum combined acres for this group of supplemental claims may

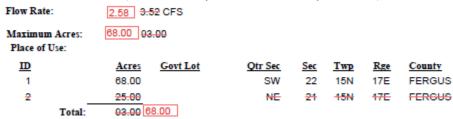
require modification..." is not relevant because supplemental rights remarks on claims no longer include a quantified acreage figure.

# RECOMMENDATIONS

- 1. Claims 41S 105519-00, 41S 105520-00, 41S 105533-00, 41S 115261-00, 41S 119080-00, and 41S 119081-00 should be modified as follows:
  - Claims 41S 105519-00 and 41S 105520-00 (Claimants Donald F. Jenni, Nancy L. Jenni, Scott W. Jenni, and Thaddeus F. Jenni; Notice of Intent to Appear Party claim 41S 105520 00, Crowley Ditch Co.):



- O Claim 41S 105533-00 (Claimants Donald F. Jenni, Scott W. Jenni, and Thaddeus F. Jenni):
  Priority Date: JUNE 10, 1090 DECEMBER 31, 1884
- o Claim 41S 115261-00 (Claimants Gary D. Jenni and Kathryn K. Jenni):



o Claim 41S 119080-00 (Claimants Gary D. Jenni and Kathryn K. Jenni):



O Claim 41S 119081-00 (Claimants Gary D. Jenni, Kathryn K. Jenni, Jamie Longtine, and Ray M. Longtine):

Flow Ra	ite: 3.83 4	.55-CFS					
Maxim	um Acres: 101.00	120.00					
Place of	Use:						
ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	3.00 4.00		NENESE S2SE	20	15N	17E	FERGUS
2	52.00 50.00		NE	20	15N	17E	FERGUS
3	3.00 4.00		SESESW	17	15N	17E	FERGUS
4	7.00 6.00		NESESW	17	15N	17E	FERGUS
5	36.00 <del>40.00</del>		S2SE	17	15N	17E	FERGUS
6	10.00		W2W2NW	21	15N	17E	<b>FERGUS</b>
	Total: 420.00 10	1.00					

The issue remarks should be removed from claims 41S 105519-00, 41S 105520-00, 41S 105533-00, 41S 115261-00, 41S 119080-00, and 41S 119081-00.

2. Claims 41S 115263-00, 41S 119072-00, 41S 119073-00, 41S 119074-00, 41S 119075-00, 41S 119076-00, 41S 119077-00, and 41S 119082-00 should be dismissed.

Abstracts are attached for review.

# ELECTRONICALLY SIGNED AND DATED BELOW.

# **Service via USPS Mail:**

Donald F. Jenni Nancy L. Jenni Scott W. Jenni Thaddeus F. Jenni 568 Ringneck Ln Lewistown, MT 59457-1598

Gary D. Jenni Kathryn K. Jenni 228 Fritz Ln Lewistown, MT 59457-3980

# Service via USPS Mail

Jamie L. Longtine Ray M. Longtine 1618 Jenni Rd Lewistown, MT 59457-3986

# Service via Electronic Mail

Betsy R Story ecf@parsonsbehle.com bstory@parsonsbehle.com 

# ABSTRACT OF WATER RIGHT CLAIM

### JUDITH RIVER

### **BASIN 41S**

**Water Right Number:** 41S 105519-00 STATEMENT OF CLAIM

> Version: 5 -- POST DECREE

> > **ACTIVE Status:**

DONALD F JENNI **Owners:** 

568 RINGNECK LN

LEWISTOWN, MT 59457-1598

NANCY L JENNI 568 RINGNECK LN

LEWISTOWN, MT 59457-1598

SCOTT W JENNI 568 RINGNECK LN LEWISTOWN, MT 59457

THADDEUS F JENNI % 568 RINGNECK LN

LEWISTOWN, MT 59457-1598

**Priority Date:** MAY 31, 1890

**Type of Historical Right: FILED** 

**Purpose (Use):** IRRIGATION

**Irrigation Type: FLOOD** Flow Rate: 4.24 CFS

THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT \*Volume:

TO HISTORICAL AND BENEFICIAL USE.

4 - MODERATELY LOW Climatic Area:

**Maximum Acres:** 111.86

**Source Name: BIG SPRING CREEK Source Type:** SURFACE WATER

Point of Diversion and Means of Diversion:

ID **Govt Lot** Otr Sec **Sec Twp** Rge **County** SESENE 15N 18E **FERGUS** 

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

**Diversion Means: HEADGATE** 

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

Place of Use:

<u>ID</u>		<u>Acres</u>	Govt Lot	Qtr Sec	<u>Sec</u>	$\underline{\mathbf{Twp}}$	<u>Rge</u>	<b>County</b>
1		41.93		S2SE	26	16N	17E	FERGUS
2		31.77		SW	26	16N	17E	FERGUS
3		38.16		N2NE	35	16N	17E	FERGUS
	Total:	111 86						

Total: 111.86

### **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.

105519-00 105520-00

AUTHORIZATION TO CHANGE THE POINT OF DIVERSION ISSUED 04/27/1999. NOTICE OF COMPLETION DUE 12/31/1999. SEE 41S 105519-00.

# ABSTRACT OF WATER RIGHT CLAIM

## JUDITH RIVER

### **BASIN 41S**

**Water Right Number: 41S 105520-00** STATEMENT OF CLAIM

> Version: 5 -- POST DECREE

> > **ACTIVE Status:**

DONALD F JENNI **Owners:** 

568 RINGNECK LN

LEWISTOWN, MT 59457-1598

NANCY L JENNI 568 RINGNECK LN

LEWISTOWN, MT 59457-1598

SCOTT W JENNI 568 RINGNECK LN LEWISTOWN, MT 59457

THADDEUS F JENNI % 568 RINGNECK LN

LEWISTOWN, MT 59457-1598

**Priority Date: DECEMBER 31, 1884** 

**Type of Historical Right: FILED** 

**Purpose (Use):** IRRIGATION

**Irrigation Type: FLOOD** Flow Rate: 4.24 CFS

THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT \*Volume:

TO HISTORICAL AND BENEFICIAL USE.

4 - MODERATELY LOW Climatic Area:

**Maximum Acres:** 111.86

**Source Name: BIG SPRING CREEK Source Type:** SURFACE WATER

Point of Diversion and Means of Diversion:

ID **Govt Lot** Otr Sec **Sec Twp** Rge **County** SESENE 15N 18E **FERGUS** 

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

**Diversion Means: HEADGATE** 

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

Place of Use:

<u>ID</u>		<u>Acres</u>	Govt Lot	Qtr Sec	<u>Sec</u>	$\underline{\mathbf{Twp}}$	<u>Rge</u>	<b>County</b>
1		41.93		S2SE	26	16N	17E	FERGUS
2		31.77		SW	26	16N	17E	FERGUS
3		38.16		N2NE	35	16N	17E	FERGUS
	Total:	111 86						

Total: 111.86

### 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.

105519-00 105520-00

STATEMENTS OF CLAIM 41S 119538-00, 41S 119539-00, 41S 19540-00, 41S 119542-00, 41S 119543-00, 41S 119544-00, 41S 105519-00, 41S 105520-00 SHARE A COMMON POINT OF DIVERSION.

AUTHORIZATION TO CHANGE THE POINT OF DIVERSION ISSUED 04/27/1999. NOTICE OF COMPLETION DUE 12/31/1999. SEE 41S 105519-00.

# ABSTRACT OF WATER RIGHT CLAIM

### **JUDITH RIVER**

### **BASIN 41S**

Water Right Number: 41S 105533-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: DONALD F JENNI

568 RINGNECK LN

LEWISTOWN, MT 59457-1598

SCOTT W JENNI 568 RINGNECK LN LEWISTOWN, MT 59457

THADDEUS F JENNI % 568 RINGNECK LN

LEWISTOWN, MT 59457-1598

Priority Date: DECEMBER 31, 1884

Type of Historical Right: FILED

Purpose (Use): STOCK

Flow Rate: 40.00 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 BIG SPRING 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 NWSWSE 26 16N 17E FERGUS

Period of Diversion: JANUARY 1 TO DECEMBER 31

**Diversion Means:** FLOWING

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

IDAcresGovt LotQtr SecSecTwpRgeCounty1NWSWSE2616N17EFERGUS

# ABSTRACT OF WATER RIGHT CLAIM

### **JUDITH RIVER**

# **BASIN 41S**

Water Right Number: 41S 115261-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: GARY D JENNI

228 FRITZ LN

LEWISTOWN, MT 59457-3980

KATHRYN K JENNI 228 FRITZ LN

LEWISTOWN, MT 59457-3980

Priority Date: APRIL 30, 1882

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

**Irrigation Type:** FLOOD

Flow Rate: 2.58 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: 68.00

\*Source Name: COTTONWOOD 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 NWSWNE 35 15N 17E FERGUS

Period of Diversion: APRIL 1 TO OCTOBER 31

**Diversion Means:** HEADGATE

Period of Use: APRIL 1 TO OCTOBER 31

Place of Use:

 ID
 Acres
 Govt Lot
 Qtr Sec
 Sec
 Twp
 Rge
 County

 1
 68.00
 SW
 22
 15N
 17E
 FERGUS

**Total:** 68.00

# ABSTRACT OF WATER RIGHT CLAIM

## **JUDITH RIVER**

# **BASIN 41S**

Water Right Number: 41S 115263-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status: DISMISSED** 

Owners: GARY D JENNI

228 FRITZ LN

LEWISTOWN, MT 59457-3980

KATHRYN K JENNI 228 FRITZ LN

LEWISTOWN, MT 59457-3980

JAMIE L LONGTINE 1618 JENNI RD

LEWISTOWN, MT 59457-3986

RAY M LONGTINE 1618 JENNI RD

LEWISTOWN, MT 59457-3986

**Priority Date:** 

**Type of Historical Right:** 

Purpose (Use): IRRIGATION

Flow Rate:

Volume:

**Source Name:** BEAVER CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

Period of Use: Place of Use:

Remarks:

# ABSTRACT OF WATER RIGHT CLAIM

### **JUDITH RIVER**

# **BASIN 41S**

Water Right Number: 41S 119072-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status: DISMISSED** 

Owners: GARY D JENNI

228 FRITZ LN

LEWISTOWN, MT 59457-3980

KATHRYN K JENNI 228 FRITZ LN

LEWISTOWN, MT 59457-3980

**Priority Date:** 

**Type of Historical Right:** 

**Purpose (Use):** STOCK

Flow Rate:

Volume:

Source Name: SPRING, UNNAMED TRIBUTARY OF BEAVER CREEK

Source Type: GROUNDWATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

#### Remarks:

# ABSTRACT OF WATER RIGHT CLAIM

# **JUDITH RIVER**

# **BASIN 41S**

Water Right Number: 41S 119073-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status: DISMISSED** 

Owners: GARY D JENNI

228 FRITZ LN

LEWISTOWN, MT 59457-3980

KATHRYN K JENNI 228 FRITZ LN

LEWISTOWN, MT 59457-3980

**Priority Date:** 

**Type of Historical Right:** 

**Purpose (Use):** STOCK

Flow Rate:

Volume:

Source Name: SPRING, UNNAMED TRIBUTARY OF COTTONWOOD CREEK

Source Type: GROUNDWATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

#### Remarks:

# ABSTRACT OF WATER RIGHT CLAIM

### **JUDITH RIVER**

# **BASIN 41S**

Water Right Number: 41S 119074-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status: DISMISSED** 

Owners: GARY D JENNI

228 FRITZ LN

LEWISTOWN, MT 59457-3980

KATHRYN K JENNI 228 FRITZ LN

LEWISTOWN, MT 59457-3980

**Priority Date:** 

**Type of Historical Right:** 

**Purpose (Use):** STOCK

Flow Rate:

Volume:

Source Name: SPRING, UNNAMED TRIBUTARY OF WARM SPRING CREEK

Source Type: GROUNDWATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

#### Remarks:

# ABSTRACT OF WATER RIGHT CLAIM

# **JUDITH RIVER**

# **BASIN 41S**

Water Right Number: 41S 119075-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status: DISMISSED** 

Owners: GARY D JENNI

228 FRITZ LN

LEWISTOWN, MT 59457-3980

KATHRYN K JENNI 228 FRITZ LN

LEWISTOWN, MT 59457-3980

**Priority Date:** 

**Type of Historical Right:** 

**Purpose (Use):** STOCK

Flow Rate:

Volume:

Source Name: SPRING, UNNAMED TRIBUTARY OF WARM SPRING CREEK

Source Type: GROUNDWATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

#### Remarks:

# ABSTRACT OF WATER RIGHT CLAIM

# **JUDITH RIVER**

# **BASIN 41S**

Water Right Number: 41S 119076-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status: DISMISSED** 

Owners: GARY D JENNI

228 FRITZ LN

LEWISTOWN, MT 59457-3980

KATHRYN K JENNI 228 FRITZ LN

LEWISTOWN, MT 59457-3980

**Priority Date:** 

**Type of Historical Right:** 

**Purpose (Use):** STOCK

Flow Rate:

Volume:

Source Name: SPRING, UNNAMED TRIBUTARY OF BEAVER CREEK

Source Type: GROUNDWATER

Point of Diversion and Means of Diversion:

Period of Use: Place of Use:

#### Remarks:

# ABSTRACT OF WATER RIGHT CLAIM

# **JUDITH RIVER**

# **BASIN 41S**

Water Right Number: 41S 119077-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status: DISMISSED** 

Owners: GARY D JENNI

228 FRITZ LN

LEWISTOWN, MT 59457-3980

KATHRYN K JENNI 228 FRITZ LN

LEWISTOWN, MT 59457-3980

**Priority Date:** 

**Type of Historical Right:** 

**Purpose (Use):** STOCK

Flow Rate:

Volume:

Source Name: SPRING, UNNAMED TRIBUTARY OF BEAVER CREEK

Source Type: GROUNDWATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

#### Remarks:

# ABSTRACT OF WATER RIGHT CLAIM

### **JUDITH RIVER**

# **BASIN 41S**

Water Right Number: 41S 119080-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

Status: ACTIVE

Owners: GARY D JENNI

228 FRITZ LN

LEWISTOWN, MT 59457-3980

KATHRYN K JENNI 228 FRITZ LN

LEWISTOWN, MT 59457-3980

Priority Date: JUNE 1, 1893

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

**Irrigation Type:** FLOOD

Flow Rate: NO FLOW RATE HAS BEEN DECREED FOR THIS USE OF NATURAL SUBIRRIGATION.

**Volume:** 294.00 AC-FT

Climatic Area: 3 - MODERATE

Maximum Acres: 119.70

Source Name: SUBIRRIGATION, UNNAMED TRIBUTARY OF BULL CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

Period of Diversion: JANUARY 1 TO DECEMBER 31

**Diversion Means:** SUBIRRIGATION

2 NW 13 17N 18E FERGUS

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: SUBIRRIGATION

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>		<u>Acres</u>	Govt Lot	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<b>County</b>
1		70.70		N2	14	17N	18E	FERGUS
2		49.00		NW	13	17N	18E	FERGUS
	Total:	119.70						

# ABSTRACT OF WATER RIGHT CLAIM

## **JUDITH RIVER**

### **BASIN 41S**

Water Right Number: 41S 119081-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: GARY D JENNI

228 FRITZ LN

LEWISTOWN, MT 59457-3980

KATHRYN K JENNI 228 FRITZ LN

LEWISTOWN, MT 59457-3980

JAMIE L LONGTINE 1618 JENNI RD

LEWISTOWN, MT 59457-3986

RAY M LONGTINE 1618 JENNI RD

LEWISTOWN, MT 59457-3986

**Priority Date:** MAY 31, 1882

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD
Flow Rate: 3.83 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: 101.00

Source Name: BEAVER CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

IDGovt LotQtr SecSecTwpRgeCounty1NENESE2015N17EFERGUS

Period of Diversion: MARCH 1 TO DECEMBER 1

**Diversion Means:** HEADGATE

Period of Use: MARCH 1 TO DECEMBER 1

Place of Use:

<u>ID</u>	<u>Acres</u>	Govt Lot	<b>Qtr Sec</b>	<u>Sec</u>	$\underline{\mathbf{Twp}}$	<u>Rge</u>	<b>County</b>
1	3.00		NENESE	20	15N	17E	FERGUS
2	52.00		NE	20	15N	17E	FERGUS
3	3.00		SESESW	17	15N	17E	FERGUS
4	7.00		NESESW	17	15N	17E	<b>FERGUS</b>

5 36.00 S2SE 17E **FERGUS** 17 15N

**Total:** 101.00

# ABSTRACT OF WATER RIGHT CLAIM

### **JUDITH RIVER**

# **BASIN 41S**

Water Right Number: 41S 119082-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status: DISMISSED** 

Owners: DONALD F JENNI

568 RINGNECK LN

LEWISTOWN, MT 59457-1598

NANCY L JENNI 568 RINGNECK LN

LEWISTOWN, MT 59457-1598

**Priority Date:** 

**Type of Historical Right:** 

Purpose (Use): IRRIGATION

Flow Rate:

Volume:

Source Name: COYOTE CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

#### Remarks: