

Montana Water Court
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MONTANA WATER COURT
LOWER MISSOURI DIVISION
JUDITH RIVER BASIN
BASIN 41S
PRELIMINARY DECREE

CLAIMANTS: Kevin Fiechtner; Tammy Fiechnter;
Layton R. Perry

CASE 41S-0857-R-2024

41S 138179-00

41S 138180-00

NOTICE OF INTENT TO APPEAR: Montana Department
of Fish Wildlife &
Parks

41S 138181-00

41S 138182-00

41S 138183-00

41S 30043195

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 have **13 days** from the service date of the notice of filing of this report to file a written objection or request an extension of the objection period. Rule 23, Water Right Adjudication Rules; Rule 6, Montana Rules of Civil Procedure. 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. Layton R. Perry is a record owner of claims 41S 138179-00, 41S 138180-00, 41S 138181-00, 41S 138183-00, and Kevin Feichtner and Tammy Feichtner are co-owners of claims 41S 138180-00, 41S 138181-00, 41S 1381812-00, 41S 138183-00, and 41S 30043195 and the Montana Department of Fish, Wildlife & Parks (“MDFWP”) filed a Notice of Intent to Appear as to 41S 138179-00, 41S 138180-00, 41S 138181-00, 41S 1381812-00, 41S 138183-00, and 41S 30043195.

2. Claims 41S 138179-00, 41S 138180-00, 41S 138181-00, 41S 138182-00, 41S 138183-00, and 41S 30043195 were decreed with DNRC issue remarks:

41S 138179-00:

- THE JUDITH BASIN COUNTY WATER RESOURCES SURVEY (1963) APPEARS TO INDICATE 51.90 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.
- USDA AERIAL PHOTOGRAPH NO. 30045-179-106 , DATED 09/17/1979 APPEARS TO INDICATE 132.50 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.
- POINTS OF DIVERSION NO. 1 AND 2 MAY BE INCORRECT. THE LOCATIONS OF THE HEADGATES CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

41S 138180-00:

- THE JUDITH BASIN COUNTY WATER RESOURCES SURVEY(1963)APPEARS TO INDICATE 83.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.
- POINT OF DIVERSION 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.
- POINT OF DIVERSION NO. 1 , 2 AND 3 MAY BE INCORRECT. THE LOCATION OF THE HEADGATES CANNOT BE IDENTIFIED FROM AVAILABLE DATA.
- THIS CLAIM APPEARS TO DIVERT WATER FROM TWO SEPARATE SOURCES. MORE THAN ONE WATER RIGHT MAY BE INVOLVED.
- THE MAXIMUM COMBINED ACRES FOR THIS GROUP OF SUPPLEMENTAL CLAIMS MAY REQUIRE MODIFICATION PENDING RESOLUTION OF MAXIMUM IRRIGATED ACRES ISSUE.

41S 138181-00:

- FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.
- THE JUDITH BASIN COUNTY WATER RESOURCES SURVEY (1963) 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.

41S 138182-00:

- FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.
- THE JUDITH BASIN COUNTY WATER RESOURCES SURVEY(1963)APPEARS TO

INDICATE 29.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

- POINT OF DIVERSION 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.
- THE MAXIMUM COMBINED ACRES FOR THIS GROUP OF SUPPLEMENTAL CLAIMS MAY REQUIRE MODIFICATION PENDING RESOLUTION OF MAXIMUM IRRIGATED ACRES ISSUE.
- IT APPEARS THIS CLAIM SHOULD BE ADDED TO THE SUPPLEMENTAL RIGHTS REMARK GROUP: 41S 138179-00, 41S 138180-00, 41S 138181-00, 41S 138183-00.

41S 138183-00

- FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.
- THE JUDITH BASIN COUNTY WATER RESOURCES SURVEY(1963)APPEARS TO INDICATE 83.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.
- POINTS OF DIVERSION NO. 1, 2 AND 3 MAY BE INCORRECT. THE LOCATION OF THE HEADGATE CANNOT BE IDENTIFIED FROM AVAILABLE DATA.
- POINT OF DIVERSION 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.
- THIS CLAIM APPEARS TO DIVERT WATER FROM TWO SEPARATE SOURCES. MORE THAN ONE WATER RIGHT MAY BE INVOLVED.
- THE MAXIMUM COMBINED ACRES FOR THIS GROUP OF SUPPLEMENTAL CLAIMS MAY REQUIRE MODIFICATION PENDING RESOLUTION OF MAXIMUM IRRIGATED ACRES ISSUE.

41S 30043195:

- THE JUDITH BASIN COUNTY WATER RESOURCES SURVEY(1963)APPEARS TO INDICATE 31.10 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.
- POINT OF DIVERSION NO. 1 MAY BE INCORRECT. THE LOCATION OF THE HEADGATE CANNOT BE IDENTIFIED FROM AVAILABLE DATA.
- POINT OF DIVERSION NO. 2 APPEARS TO BE INCORRECT. THE ORIGINAL POINT OF DIVERSION, ACCORDING TO REVIEW OF WATER RESOURCE SURVEY MATERIALS, APPEARS TO BE IN THE NENENW SEC 36 TWP 14N RGE 12E JUDITH BASIN COUNTY.
- THIS CLAIM APPEARS TO DIVERT WATER FROM TWO SEPARATE SOURCES. MORE THAN ONE WATER RIGHT MAY BE INVOLVED.

An Order was issued requiring the parties to meet with the DNRC to address the issue remarks. (Doc. 1.00).

3. DNRC Water Resource Specialist Carli Bluhm filed a Memorandum stating she met with all Claimants. (Doc.¹ 2.00). Ms. Bluhm indicated she reviewed the Judith Basin County Water Resource Survey field notes and aerial photos aerial photos to

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

prepare the Memorandum. Maps and proposed abstracts were attached to the Memorandum.

41S 138179-00 (Layton R. Perry):

Ms. Bluhm confirmed the claimed irrigated acres and place of use.

Ms. Bluhm indicated that after her investigation and speaking with Layton R. Perry, the following modification is needed to address the point of diversion issue remarks:

***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	NWNWSW	NENWSW	15	14N	13E	JUDITH BASIN
Period of Diversion:	MAY 1 TO OCTOBER 1					
Diversion Means:	HEADGATE					
2		NESWSE	16	14N	13E	JUDITH BASIN
Period of Diversion:	MAY 1 TO OCTOBER 1					
Diversion Means:	HEADGATE					

41S 138180-00 (Layton R. Perry, Tammy Fiechtner, and Kevin Fiechnter):

Ms. Bluhm confirmed the claimed irrigated acres and place of use.

Ms. Bluhm recommended the following modifications be made to address the point of diversion and source issue remarks:

Source Name:	JUDITH RIVER	Source Name: WAITE CREEK
Source Type:	SURFACE WATER	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	SWNWNE	SWNWNE	21	14N	13E	JUDITH BASIN
Period of Diversion:	MAY 1 TO OCTOBER 1		SOURCE: WAITE CREEK			
Diversion Means:	HEADGATE					
2		NESWSE	16	14N	13E	JUDITH BASIN
Period of Diversion:	MAY 1 TO OCTOBER 1					
Diversion Means:	HEADGATE					
3	NWNWSW	NENWSW	15	14N	13E	JUDITH BASIN
Period of Diversion:	MAY 1 TO OCTOBER 1					
Diversion Means:	HEADGATE					
4		NENENW	36	14N	12E	JUDITH BASIN
Period of Diversion:	MAY 1 TO OCTOBER 1					
Diversion Means:	HEADGATE					

41S 138181-00 (Layton R. Perry, Tammy Fiechtner, and Kevin Fiechnter):

Ms. Bluhm confirmed the claimed irrigated acres and place of use. Ms.

Bluhm recommended the issue remarks be removed with no changes to the elements of claim 41S 138181-00.

41S 138182-00 (Tammy Fiechtner and Kevin Fiechtner):

Ms. Bluhm confirmed the claimed irrigated acres and place of use. Ms. Bluhm recommended the issue remarks be removed with no changes to the elements of claim 41S 138182-00.

41S 138183-00 (Layton R. Perry, Tammy Fiechtner, and Kevin Fiechtner):

Ms. Bluhm confirmed the claimed irrigated acres and place of use.

Ms. Bluhm recommended the following modifications be made to address the point of diversion and source issue remarks:

Source Name:	JUDITH RIVER	Source Name: WAITE CREEK				
Source Type:	SURFACE WATER	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	NWNWNE	SWNWNE	21	14N	13E	JUDITH BASIN
Period of Diversion:	MAY 1 TO OCTOBER 1		SOURCE: WAITE CREEK			
Diversion Means:	HEADGATE					
2		NESWSE	16	14N	13E	JUDITH BASIN
Period of Diversion:	MAY 1 TO OCTOBER 1					
Diversion Means:	HEADGATE					
3	NWNWSW	NENWSW	15	14N	13E	JUDITH BASIN
Period of Diversion:	MAY 1 TO OCTOBER 1					
Diversion Means:	HEADGATE					
4		NENENW	36	14N	12E	JUDITH BASIN
Period of Diversion:	MAY 1 TO OCTOBER 1					

41S 30043195 (Tammy Fiechtner and Kevin Fiechtner):

Ms. Bluhm confirmed the claimed irrigated acres and place of use.

Ms. Bluhm recommended the following modifications be made to address the point of diversion and source issue remarks:

Source Name:	JUDITH RIVER	Source Name: WAITE CREEK				
Source Type:	SURFACE WATER	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	NWNWNE	SWNWNE	21	14N	13E	JUDITH BASIN
Period of Diversion:	MAY 1 TO OCTOBER 1		SOURCE: WAITE CREEK			
Diversion Means:	HEADGATE					
2		SESWSE	25	14N	13E 12E	JUDITH BASIN
Period of Diversion:	MAY 1 TO OCTOBER 1					
Diversion Means:	HEADGATE					

(Doc. 2.00).

4. An Order was issued for the parties to indicate whether they agreed or disagreed with Ms. Bluhm's recommendations by February 7, 2025 (Doc. 3.00)

5. A deadline was set for the parties in this Case to file settlement documents of a status report by May 9, 2025. (Doc. 11.00).

6. Multiple stipulations were filed in Case 41S-0857-R-2024. The first Stipulation was filed on September 24, 2025. Doc.² 20.00). Upon reviewing the proposed supplemental rights remarks, this Water Master wrote:

The parties have agreed to the addition, deletion, or modification of supplemental rights remarks for the claims. It appears this is an attempt to make the supplemental rights remarks more accurate. Supplemental rights remarks do not necessarily make administration of water rights more efficient; the administration of water rights will not be enhanced by the presence or absence of the remarks. Cases 41A-144 and 41A-145, December 7, 2015, at 4. Rather than consume resources determining whether the proposed modified supplemental rights remarks are correct, this Water Master suggests removing the remarks from the claims in this Case altogether.

A deadline was set for the parties to file a statement agreeing or disagreeing that the supplemental rights remarks proposed in the September 24, 2025 Stipulation be removed. (Doc. 22.00).

On October 6, 2025, Claimant Layton R. Perry filed a Notice of Position and indicated:

Perry agrees with the removal of the supplemental issue remarks from all the claims in the Case. However, Perry signed a Stipulation that included the remarks which was filed with the Court. Therefore, Perry is indifferent on the issue. If the remarks remain on the claims, Perry is in agreement with that too.

(Doc. 23.00). On October 7, 2025, the Montana Department of Fish, Wildlife and Parks filed its Statement Regarding September 25, 2025 Order stating:

Considering this Court's orders, FWP would advocate that the supplemental rights remarks remain on the claims as per the Stipulation and Agreement (Doc. 21). FWP believes that the supplemental rights remarks are important and should remain. However, in the event this Court finds that the supplemental rights remarks are not needed, FWP would agree with their removal.

² "Doc." numerical references correlate to case file docket numbers in the Water Court's Full Court case management system.

(Doc. 25.00). On October 30, 2025, Kevin Fiechtner and Tammy Fiechtner filed their Statement to Water Master Anika Stern stating:

In agreeance with Montana Department of Fish, Wildlife & Parks (“FWP”), Fiechtners believe that the supplemental rights remarks are important and should remain on the claims as per the Stipulation and Agreement (Doc. 21). In the event this Court finds that the supplemental rights remarks are not needed, Fiechtners would agree with their removal.

(Doc. 26.00).

As of October 30, 2025, the parties appeared to agree that supplemental rights remarks are important to them, however, inconsistencies and errors were noted in the proposed supplemental rights remarks. As of October 30, 2025, the parties attempted to leave it to the Water Master’s discretion as to whether the remarks needed to be included with their claims.

7. On February 4, 2026, the parties filed another Stipulation. (Doc. 29.00). Again, the February 4, 2026 Stipulation proposed the addition of erroneous supplemental rights remarks to claims in the Case.

8. Another deadline was set, this time for the parties to clarify whether the parties agree a Master’s Report should be written based on the February 4, 2026 Stipulation, excluding all references to supplemental rights remarks. (Doc. 30.00).

9. On March 17, 2026, the parties filed a Joint Notice indicating they do not intend to file a new stipulation and agree the Court “may proceed as set forth in Paragraph 3 of its Order by filing a Master’s Report that excludes all references to supplemental rights remarks included in parties February 4, 2026 Stipulation (Doc. 29.00), including those set forth in paragraphs 1(d), 2(d), 3(e), 4(c), 5(d), and 6(d) of the Stipulation. (Doc. 31.00.)

10. Based on the record, the following modifications should be made to claim 41S 138179-00:

*Maximum Acres: 146.00 95.30

*Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	NWNWSW	NENWSW	15	14N	13E	JUDITH BASIN
Period of Diversion: MAY 1 TO OCTOBER 1						
Diversion Means: HEADGATE						
2	SESWSE	NESWSE	16	14N	13E	JUDITH BASIN
Period of Diversion: MAY 1 TO OCTOBER 1						
Diversion Means: HEADGATE						

*Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County	
1	8.50	20.00	NENW	S2N2NW	15	14N	13E	JUDITH BASIN
2	36.10	60.00		S2NW	15	14N	13E	JUDITH BASIN
3	52.70	66.00		N2SW	15	14N	13E	JUDITH BASIN
Total:		145.00	95.30					

All issue remarks should be removed from claim 41S 138179-00.

11. Based on the record, the following modifications should be made to claim 41S 138180-00:

Maximum Acres: 305.00 138.30

*Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	NWNWNE	SWNWNE	21	14N	13E	JUDITH BASIN
Period of Diversion: MAY 1 TO OCTOBER 1						
Diversion Means: HEADGATE						
2	SESWSE	NESWSE	16	14N	13E	JUDITH BASIN
Period of Diversion: MAY 1 TO OCTOBER 1						
Diversion Means: HEADGATE						
3	NWNWSW	NENWSW	15	14N	13E	JUDITH BASIN
Period of Diversion: MAY 1 TO OCTOBER 1						
Diversion Means: HEADGATE						
4		NENENW	36	14N	12E	JUDITH BASIN
Period of Diversion: MAY 1 TO OCTOBER 1						
Diversion Means: HEADGATE						

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County	
1	52.70	66.00		N2SW	15	14N	13E	JUDITH BASIN
2	36.10	60.00		S2NW	15	14N	13E	JUDITH BASIN
3	8.50	20.00	NENW	S2N2NW	15	14N	13E	JUDITH BASIN
4	43.00	66.00		S2SE	16	14N	13E	JUDITH BASIN
5		40.00		N2SE	16	14N	13E	JUDITH BASIN
6		66.00		S2SW	16	14N	13E	JUDITH BASIN
Total:		305.00	138.30					

All issue remarks should be removed from claim 41S 138180-00, including the existing supplemental rights remarks.

Based on the record, the following modifications should be made to claim

41S 138181-00:

KEVIN FIECHTNER
216 RED BARN RD
HOBSON, MT 59452-8618

TAMMY FIECHTNER
216 RED BARN RD
HOBSON, MT 59452-8618

LAYTON R PERRY
6728 ACKLEY LAKE RD
HOBSON, MT 59452-8684

Please remove
Layton R. Perry as an
owner

Flow Rate: 4.38 CFS 3.55 CFS
Maximum Acres: 475.00 93.60

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	80.00		S2NW	16	14N	13E	JUDITH BASIN
2	20.00		S2N2NW	16	14N	13E	JUDITH BASIN
3	13.40 40.00		SENE N2SE	16	14N	13E	JUDITH BASIN
4	80.20 55.00		S2 S2SW	16	14N	13E	JUDITH BASIN
Total:							
	475.00 93.60						

All issue remarks should be removed from claim 41S 138181-00, including the existing supplemental rights remarks.

12. Based on the record, the following modifications should be made to claim 41S 138182-00:

*Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	NENWNE	NWNWNE	21	14N	13E	JUDITH BASIN
Period of Diversion:		MAY 1 TO OCTOBER 1				
Diversion Means:		HEADGATE				

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	43.00		S2SE	16	14N	13E	JUDITH BASIN
Total:							
	43.00						

All issue remarks should be removed from claim 41S 138182-00.

13. Based on the record, the following modifications should be made to claim 41S 138183-00:

Maximum Acres: 305.00 138.30

*Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	NWNWNE	SWNWNE	21	14N	13E	JUDITH BASIN
Period of Diversion: MAY 1 TO OCTOBER 1						
Diversion Means: HEADGATE						
2	SESWSE	NESWSE	16	14N	13E	JUDITH BASIN
Period of Diversion: MAY 1 TO OCTOBER 1						
Diversion Means: HEADGATE						
3	NWNWSW	NENWSW	15	14N	13E	JUDITH BASIN
Period of Diversion: MAY 1 TO OCTOBER 1						
Diversion Means: HEADGATE						
4		NENENW	38	14N	12E	JUDITH BASIN
Period of Diversion: MAY 1 TO OCTOBER 1						
Diversion Means: HEADGATE						

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County	
1	52.70	65.00	N2SW	15	14N	13E	JUDITH BASIN	
2	36.10	60.00	S2NW	15	14N	13E	JUDITH BASIN	
3	6.50	20.00	NENW	S2N2NW	15	14N	13E	JUDITH BASIN
4	43.00	65.00	S2SE	16	14N	13E	JUDITH BASIN	
5		40.00	N2SE	48	14N	13E	JUDITH BASIN	
6		55.00	S2SW	48	14N	13E	JUDITH BASIN	
Total:	305.00	138.30						

All issue remarks should be removed from claim 41S 138183-00, including the existing supplemental rights remarks.

14. Based on the record, the following modifications should be made to claim 41S 30043195:

Maximum Acres: 460.00 43.00

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	NWNWNE	SWNWNE	21	14N	13E	JUDITH BASIN
Period of Diversion: MAY 1 TO OCTOBER 1						
Diversion Means: HEADGATE						
2		SESWSE	26	14N	13E	JUDITH BASIN
Period of Diversion: MAY 1 TO OCTOBER 1						
Diversion Means: HEADGATE						

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	43.00	40.00	N2SE	16	14N	13E	JUDITH BASIN
2		65.00	S2SE	46	14N	13E	JUDITH BASIN
3		55.00	S2SW	46	14N	13E	JUDITH BASIN
Total:	460.00	43.00					

All information and issue remarks should be removed from claim 41S 30043195.

PRINCIPLES AND CONCLUSIONS OF LAW

1. The Water Court must address all issue remarks decreed on a claim.
Mont. Code Ann. § 85-2-248 (2025).

2. A properly filed Statement of Claim for an existing water right is prima facie proof of its content. § 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, ¶ 34, 375 Mont. 86, 329 P.3d 558.

RECOMMENDATIONS

1. The claims should be modified as discussed in the Findings of Fact.
2. The issue remarks should be removed from the claims.

Abstracts are attached for review.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via Electronic Mail

Oliver J. Urick
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(Atty for Montana Dept. of Fish Wildlife & Parks)

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

Water Right Number: 41S 138179-00 STATEMENT OF CLAIM
Version: 5 -- POST DECREE
Status: ACTIVE

Owners: LAYTON R PERRY
6726 ACKLEY LAKE RD
HOBSON, MT 59452-8664

Priority Date: MAY 10, 1890

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

***Flow Rate:** 426.00 GPM
FLOW RATE EQUALS .95 CFS

***Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 95.30

Source Name: JUDITH RIVER

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		NWNWSW	15	14N	13E	JUDITH BASIN

Period of Diversion: MAY 1 TO OCTOBER 1

Diversion Means: HEADGATE

2		SESWSE	16	14N	13E	JUDITH BASIN
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Period of Diversion: MAY 1 TO OCTOBER 1

Diversion Means: HEADGATE

Period of Use: MAY 1 TO OCTOBER 1

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	6.50		NENW	15	14N	13E	JUDITH BASIN
2	36.10		S2NW	15	14N	13E	JUDITH BASIN
3	52.70		N2SW	15	14N	13E	JUDITH BASIN

Total: 95.30

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

Water Right Number: 41S 138180-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: KEVIN FIECHTNER
216 RED BARN RD
HOBSON, MT 59452-8618

TAMMY FIECHTNER
216 RED BARN RD
HOBSON, MT 59452-8618

LAYTON R PERRY
6726 ACKLEY LAKE RD
HOBSON, MT 59452-8664

Priority Date: JULY 6, 1896

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 1.00 CFS

***Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 138.30

Source Name: JUDITH RIVER

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		NWNWNE	21	14N	13E	JUDITH BASIN
Period of Diversion:	MAY 1 TO OCTOBER 1					
Diversion Means:	HEADGATE					
2		SESWSE	16	14N	13E	JUDITH BASIN
Period of Diversion:	MAY 1 TO OCTOBER 1					
Diversion Means:	HEADGATE					
3		NWNWSW	15	14N	13E	JUDITH BASIN
Period of Diversion:	MAY 1 TO OCTOBER 1					
Diversion Means:	HEADGATE					
Period of Use:	MAY 1 TO OCTOBER 1					

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	52.70		N2SW	15	14N	13E	JUDITH BASIN
2	36.10		S2NW	15	14N	13E	JUDITH BASIN
3	6.50		NENW	15	14N	13E	JUDITH BASIN
4	43.00		SE	16	14N	13E	JUDITH BASIN
Total:	<u>138.30</u>						

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

Water Right Number: 41S 138181-00 STATEMENT OF CLAIM
Version: 4 -- POST DECREE
Status: ACTIVE

Owners: KEVIN FIECHTNER
216 RED BARN RD
HOBSON, MT 59452-8618

TAMMY FIECHTNER
216 RED BARN RD
HOBSON, MT 59452-8618

Priority Date: JUNE 1, 1938

Type of Historical Right: USE

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 3.55 CFS

***Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 93.60

Source Name: COURTNEYS 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		NESESE	17	14N	13E	JUDITH BASIN

Period of Diversion: MAY 1 TO OCTOBER 1

Diversion Means: HEADGATE

Period of Use: MAY 1 TO OCTOBER 1

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	13.40		SENE	16	14N	13E	JUDITH BASIN
2	80.20		S2	16	14N	13E	JUDITH BASIN

Total: 93.60

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

Water Right Number: 41S 138182-00 STATEMENT OF CLAIM
Version: 4 -- POST DECREE
Status: ACTIVE

Owners: KEVIN FIECHTNER
216 RED BARN RD
HOBSON, MT 59452-8618

TAMMY FIECHTNER
216 RED BARN RD
HOBSON, MT 59452-8618

Priority Date: NOVEMBER 15, 1889

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 1.63 CFS

***Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 43.00

Source Name: UNNAMED TRIBUTARY OF JUDITH RIVER

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		NENWNE	21	14N	13E	JUDITH BASIN

Period of Diversion: MAY 1 TO OCTOBER 1

Diversion Means: HEADGATE

Period of Use: MAY 1 TO OCTOBER 1

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	43.00		S2SE	16	14N	13E	JUDITH BASIN

Total: 43.00

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

Water Right Number: 41S 138183-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: KEVIN FIECHTNER
216 RED BARN RD
HOBSON, MT 59452-8618

TAMMY FIECHTNER
216 RED BARN RD
HOBSON, MT 59452-8618

LAYTON R PERRY
6726 ACKLEY LAKE RD
HOBSON, MT 59452-8664

Priority Date: MARCH 1, 1881

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 1.75 CFS

***Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 138.30

Source Name: JUDITH RIVER

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		NWNWNE	21	14N	13E	JUDITH BASIN
Period of Diversion:	MAY 1 TO OCTOBER 1					
Diversion Means:	HEADGATE					
2		SESWSE	16	14N	13E	JUDITH BASIN
Period of Diversion:	MAY 1 TO OCTOBER 1					
Diversion Means:	HEADGATE					
3		NWNWSW	15	14N	13E	JUDITH BASIN
Period of Diversion:	MAY 1 TO OCTOBER 1					
Diversion Means:	HEADGATE					
Period of Use:	MAY 1 TO OCTOBER 1					

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	52.70		N2SW	15	14N	13E	JUDITH BASIN
2	36.10		S2NW	15	14N	13E	JUDITH BASIN
3	6.50		NENW	15	14N	13E	JUDITH BASIN
4	43.00		SE	16	14N	13E	JUDITH BASIN
Total:	<u>138.30</u>						

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

Water Right Number: 41S 30043195 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: KEVIN FIECHTNER
216 RED BARN RD
HOBSON, MT 59452-8618

TAMMY FIECHTNER
216 RED BARN RD
HOBSON, MT 59452-8618

Priority Date: MAY 10, 1890

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 1.05 CFS

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 43.00

Source Name: JUDITH RIVER

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		NWNWNE	21	14N	13E	JUDITH BASIN

Period of Diversion: MAY 1 TO OCTOBER 1

Diversion Means: HEADGATE

Period of Use: MAY 1 TO OCTOBER 1

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	43.00		SE	16	14N	13E	JUDITH BASIN

Total: 43.00

Remarks:

THIS SPLIT CLAIM WAS AUTHORIZED BY THE WATER COURT BASED ON INFORMATION IN CLAIM NO. 41S 138179-00.