

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

CLAIMANTS: Judith River Farms Partnership; PK Circle
406, LLC

OBJECTORS: Frank R. Thompson; PK Circle 406, LLC

CASE 41S-2015-R-2025

41S 170981-00

41S 170982-00

41S 170983-00

41S 170984-00

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 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. Judith River Farms Partnership (hereinafter "Judith River Farms") is the record owner of claim 41S 170981-00. Judith River Farms and PK Circle 406 LLC (hereinafter "PK Circle") are the record co-owners of claims 41S 170982-00 and 41S 170983-00. PK Circle is the record owner of claim 41S 170984-00.

2. Claims 41S 170981-00, 41S 170982-00, and 41S 170983-00, were decreed with Montana Department of Natural Resources and Conservation ("DNRC") issue remarks:

41S 170981-00:

- FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.
- THE POINTS OF DIVERSION MAY BE INCORRECT. THE CLAIMED DITCHES APPEAR TO ORIGINATE IN THE NESE SEC 26 AND THE SWSNW SEC 36 IN TWP 17N RGE 16E FERGUS CO. DNRC IS UNABLE TO REFINE FURTHER WITH AVAILABLE RESOURCES.
- THE FERGUS COUNTY WATER RESOURCES SURVEY (1970) APPEARS TO INDICATE 27.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.
- USDA AERIAL PHOTOGRAPH NO(S). 30027-278-60 , DATED 09/25/1979 , APPEARS TO INDICATE 8.00 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.

41S 170982-00:

- FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.
- THE FERGUS COUNTY WATER RESOURCES SURVEY (1970) APPEARS TO INDICATE 18.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.
- USDA AERIAL PHOTOGRAPH NO(S). 30027-278-60 , DATED 09/25/1979 , APPEARS TO INDICATE 33.00 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.

41S 170983-00:

- USDA AERIAL PHOTOGRAPH NO(S). 30027-278-60 , DATED 09/25/1979 , APPEARS TO INDICATE 76.50 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. Frank R. Thompson objected to claim 41S 170981-00. PK Circle objected to claims 41S 170982-00, 41S 170983-00, and 41S 170984-00.

4. A Status Conference was conducted in this Case on October 9, 2025. During the Conference, Peter Nisbet appeared on behalf of PK Circle and moved to assume the Objections to claims 41S 170982-00, 41S 170983-00, and 41S 170984-00 that Circle Ranches LLC had previously moved to withdraw; the motions were granted.

5. Various deadlines were set for the parties to file settlement documents regarding the status of Objection resolution and issue remark resolution. The responsive filings were unclear. (Docs.¹ 5.00, 6.00, 7.00, and 10.00).

6. An Order on Status of Case and Order Setting Filing Deadlines to Address Objections and Order to Address Issue Remarks Pursuant to Section 85-2-248(5), MCA was issued. (Doc. 11.00). The Order set deadlines for the parties to meet with the DNRC to address issue remarks decreed on the claims in the Case; and for the Objectors to state if the Objections to the claims in this Case are 1) already resolved; 2) will be resolved through issue remark resolution as recommended by the DNRC; 3) if the Objectors propose a different manner of resolving the Objections to their claims; 4) or if they withdraw the Objections. The Order indicated that if nothing were filed by the Objectors by the deadline, it would be determined the Objectors decided not to pursue the Objections and a Master's Report would be issued recommending the Objections be dismissed. Nothing addressing the Objections was filed by the deadline.

7. The parties were ordered to meet with a DNRC employee to address the unresolved DNRC issue remarks decreed on the claims in the Case.

8. On May 22, 2026, Water Resource Specialist Brandon Ahlgren filed a Memorandum indicating he met with all the parties in the Case. (Doc. 12.00). Mr. Ahlgren stated:

The claimants agree with the recommendations below. Additionally, the claimants informed DNRC that with the acceptance of these recommendations, the objections should be considered resolved.

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

9. **Claim 41S 170981-00:** Mr. Ahlgren confirmed 27.00 acres of historical irrigation at the claimed place of use, and he recommended the flow rate be reduced consistent with the 17.00 gallon per minute (gpm)/per acre standard set in Rule 14(b), W.R.C.E.R.

Additionally, he indicated the point of diversion issue remark appeared to be accurate and recommended the point of diversion be modified consistent with the issue remarks.²

Mr. Ahlgren stated:

If the above recommendations are accepted, DNRC recommends the supplemental remark [sic] information remark be modified to remove 41S 170982-00 as they are no longer supplemental.

Mr. Ahlgren recommends the following modifications be made to claim 41S 170981-00 and the issue remarks be removed:

Flow Rate:	2.30 CFS	1.02 CFS					
Maximum Acres:	63.00	27.00					
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	NWNESE	NESWNE	26	17N	16E	FERGUS	
Period of Diversion:	MAY 1 TO SEPTEMBER 30						
Diversion Means:	HEADGATE						
2	SWSENE	SWSWNE	36	26	17N	16E	FERGUS
Period of Diversion:	MAY 1 TO SEPTEMBER 30						
Diversion Means:	HEADGATE						
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	20.00	50.00	NW	26	17N	16E	FERGUS
2	1.00		NENSW	26	17N	16E	FERGUS
3	4.00		S2NE	26	17N	16E	FERGUS
4	6.00	8.00	E2SENE	27	17N	16E	FERGUS
Total:	63.00	27.00					

10. **Claim 41S 170982-00:** Mr. Ahlgren substantiated 52.43 acres of historical irrigation at the claimed place of use. Mr. Ahlgren stated:

² Mr. Ahlgren recommended point of diversion ID #1 for claim 41S 170981-00 be modified to the “NWNESE Sec. 26 Twp 17N Rge 16E Fergus Co.” The issue remark indicates point of diversion ID #1 is in the “NESE Sec 26” and the proposed abstract attached to Mr. Ahlgren’s Memorandum indicates point of diversion ID #1 should be modified to the “NWNESE Sec. 26.” This Water Master understands the recommendation in the body of Mr. Ahlgren’s Memorandum is a clerical error.

If the above recommendations are accepted, DNRC recommends the supplemental remark [sic] information remark be modified to remove 41S 170981-00 as they are no longer supplemental.

Mr. Ahlgren recommends the following modifications be made to claim 41S 170981-00 and the issue remarks be removed:

Maximum Acres:		48.00	52.43				
Place of Use:							
ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	22.00		W2W2SW	25	17N	16E	FERGUS
2	1.00		SWSWNW	25	17N	16E	FERGUS
3	13.00		E2NESE	26	17N	16E	FERGUS
4	18.43	42.00	SENE	27	17N	16E	FERGUS
Total:		48.00	52.43				

11. **Claim 41S 170983-00:** Mr. Ahlgren substantiated all claimed acres and recommended the issue remarks be removed.

12. To verify the parties in Case 41S-2015-R-2025 agreed with Mr. Ahlgren's recommendations as to the disposition of the issue remarks, an Order was issued setting a deadline for the parties to agree or disagree with Mr. Ahlgren's recommendations. The Order indicated that if nothing were filed by the deadline, this Water Master would conclude that parties agreed with Mr. Ahlgren's recommendations, and the recommendations resolve the issue remarks and the Objections. The following language was included in the Order:

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

Nothing was filed.

PRINCIPLES AND CONCLUSIONS OF LAW

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

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.

3. The issue remarks decreed on claims 41S 170981-00, 41S 170982-00, and 41S 170983-00 indicating the “maximum combined acres for this group of supplemental claims may require modification...” is not relevant because supplemental rights remarks no longer include a quantified acreage figure. Furthermore, supplemental rights remarks will be removed at the final decree stage.

RECOMMENDATIONS

1. Claims 41S 170981-00 and 41S 170982-00, should be modified as follows:

Claim 41S 170981:

Flow Rate:	2.30 CFS	1.02 CFS					
Maximum Acres:	63.00	27.00					
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	NWNESE	NESWNE	26	17N	16E	FERGUS	
Period of Diversion:	MAY 1 TO SEPTEMBER 30						
Diversion Means:	HEADGATE						
2	SWSWNE	SWSWNE	36	26	17N	16E	FERGUS
Period of Diversion:	MAY 1 TO SEPTEMBER 30						
Diversion Means:	HEADGATE						
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	20.00	50.00	NW	26	17N	16E	FERGUS
2	1.00		NENESW	26	17N	16E	FERGUS
3	4.00		S2NE	26	17N	16E	FERGUS
4	8.00	8.00	E2SENE	27	17N	16E	FERGUS
Total:	63.00	27.00					

The supplemental rights remark should be modified, removing reference to claim 41S 170982-00.

Claim 41S 170982-00:

Maximum Acres:	48.00	52.43					
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	22.00		W2W2SW	25	17N	16E	FERGUS
2	1.00		SWSWNW	25	17N	16E	FERGUS
3	13.00		E2NESE	26	17N	16E	FERGUS
4	16.43	42.00	SENE	27	17N	16E	FERGUS
Total:	48.00	52.43					

The supplemental rights remark should be modified, removing reference to claim 41S 170981-00.

2. The issue remarks should be removed from claims 41S 170981-00, 41S 170982-00, and 41S 170983-00.

3. The Objections to claims 41S 170981-00, 41S 170982-00, 41S 170983-00, and 41S 170984-00 should be dismissed.

Abstracts are attached for review.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail

Judith River Farms Partnership
2534 Timberline Rd.
Lewistown, MT 59457

PK Circle 406 LLC
9503 E. Montgomery Ave.
Floor #1
Spokane, WA 99206-4115

Frank R. Thompson
2044 Timberline Rd.
Lewistown, MT 59457-8676

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

Water Right Number: 41S 170981-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: JUDITH RIVER FARMS PARTNERSHIP
2534 TIMBERLINE RD
LEWISTOWN, MT 59457

Priority Date: JUNE 13, 1888

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 1.02 CFS

Volume: 315.00 AC-FT

Climatic Area: 3 - MODERATE

Maximum Acres: 27.00

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		NWNESE	26	17N	16E	FERGUS

Period of Diversion: MAY 1 TO SEPTEMBER 30

Diversion Means: HEADGATE

2		SWSENW	36	17N	16E	FERGUS
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Period of Diversion: MAY 1 TO SEPTEMBER 30

Diversion Means: HEADGATE

Period of Use: MAY 1 TO SEPTEMBER 30

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	20.00		NW	26	17N	16E	FERGUS
2	1.00		NENESW	26	17N	16E	FERGUS
3	6.00		E2SENE	27	17N	16E	FERGUS

Total: 27.00

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

Water Right Number: 41S 170982-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: JUDITH RIVER FARMS PARTNERSHIP
2534 TIMBERLINE RD
LEWISTOWN, MT 59457

PK CIRCLE 406 LLC
9503 E MONTGOMERY AVE
FLOOR 1
SPOKANE, WA 99206-4115

Priority Date: JULY 1, 1899

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 1.25 CFS

Volume: 240.00 AC-FT

Climatic Area: 3 - MODERATE

Maximum Acres: 52.43

Source Name: BIG SPRING 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		SWSNW	36	17N	16E	FERGUS

Period of Diversion: MAY 1 TO SEPTEMBER 30

Diversion Means: HEADGATE

Period of Use: MAY 1 TO SEPTEMBER 30

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	22.00		W2W2SW	25	17N	16E	FERGUS
2	1.00		SWSWNW	25	17N	16E	FERGUS
3	13.00		E2NESE	26	17N	16E	FERGUS
4	16.43		SENE	27	17N	16E	FERGUS

Total: 52.43

Remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

170982-00

170985-00

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

Water Right Number: 41S 170983-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: JUDITH RIVER FARMS PARTNERSHIP
2534 TIMBERLINE RD
LEWISTOWN, MT 59457

PK CIRCLE 406 LLC
9503 E MONTGOMERY AVE
FLOOR 1
SPOKANE, WA 99206-4115

Priority Date: JUNE 13, 1890

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 2.50 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: 104.70

Source Name: BIG SPRING 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		SWSNW	36	17N	16E	FERGUS

Period of Diversion: MAY 1 TO SEPTEMBER 30

Diversion Means: HEADGATE

Period of Use: MAY 1 TO SEPTEMBER 30

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	49.70		NW	26	17N	16E	FERGUS
2	1.00		NENSW	26	17N	16E	FERGUS
3	20.00		S2NE	26	17N	16E	FERGUS
4	5.00		E2SENE	27	17N	16E	FERGUS
5	19.00		N2SE	26	17N	16E	FERGUS
6	1.00		SWSWNW	25	17N	16E	FERGUS
7	9.00		W2W2SW	25	17N	16E	FERGUS

Total: 104.70

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

Water Right Number: 41S 170984-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: PK CIRCLE 406 LLC
9503 E MONTGOMERY AVE
FLOOR 1
SPOKANE, WA 99206-4115

Priority Date: JANUARY 1, 1940

Type of Historical Right: USE

Purpose (Use): STOCK

***Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

***Volume:** THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name: UNNAMED TRIBUTARY OF BIG SPRING 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		NWNWSW	30	17N	17E	FERGUS

***Period of Diversion:** JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Reservoir: ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
N2NWSW		30	17N	17E	FERGUS

Diversion to Reservoir: DIVERSION # 1

Period of Use: JANUARY 1 TO DECEMBER 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			N2NWSW	30	17N	17E	FERGUS