

Montana Water Court
PO Box 1389
Bozeman, MT 59771-1389
(406) 586-4364
1-800-624-3270
watercourt@mt.gov

MONTANA WATER COURT
UPPER MISSOURI DIVISION
BOULDER RIVER, TRIBUTARY OF THE JEFFERSON RIVER
BASIN 41E
PRELIMINARY DECREE

CLAIMANTS: Floyd Saylor; Patricia Saylor

OBJECTORS: Floyd Saylor; Patricia Saylor

CASE 41E-0135-R-2024

41E 102982-00

41E 102983-00

41E 102984-00

41E 30174037

41E 30174038

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

The United States, DOI Bureau of Reclamation objected to each of these claims. Floyd Saylor and Patricia Saylor objected to claim 41E 102983-00. On July 14, 2025, the United States' Notice Of Withdrawal Of Objections was filed. [Doc. 20] No conditions are specified.

On August 29, 2025, the claimants filed their Notice Of Filing Information Resolving Issue Remarks And Objections which includes a request to generate two implied claims. [Doc. 24] On January 8, 2026, the claimants filed their Response To Court Order. [Doc. 28] These documents are viewable in the Court's FullCourt Enterprise case management system.

APPLICABLE LAW

"All issue remarks to claims that are not resolved through the filing of an objection as provided in 85-2-233 must be resolved as provided in this section." Section 85-2-248(2), MCA.

"'Implied Claim' means a claim authorized by the water court to be separated and individually identified when a statement of claim includes multiple rights." Rule 2(a)(33), W.R.C.E.R.

From 41P-108 "Circle S Ranch, Inc." Order On Motion To Modify Claims 5-16-19, at 2019 Mont. Water LEXIS 8, page 5:

The Water Court recognizes implied claims in certain circumstances *In re Musselshell River below Roundup*, Case 40C-47, 1994 Mont. Water LEXIS 18, *78 (July 14, 1994). However, before the Court will recognize an implied claim, the claimant must prove that several factors exist. These include: (1) proof of two or more water rights in the original claim form or the material submitted with the claim form; (2) proof of historic use corroborating the implied claim; and (3) proof that recognizing the implied claim(s) will avoid causing a change to historic water use or increase the historic burden to other water users. *In re Foss*, Case 76HF-580, 2013 Mont. Water LEXIS 17, *32 (Jan. 31, 2013); *In re Martinell*, Case 41A-148, 2018 Mont. Water LEXIS 3, *6 (June 14, 2018). These standards assure that implied claims are not used to revive a claim that was forfeited as a matter of law by missing the filing deadline. Mont. Code Ann. § 85-2-226 (establishing conclusive presumption of abandonment of for claims not timely filed); *In re Climbing Arrow Ranch*, Case 41F-A19, 2019 Mont. Water LEXIS 1 (Mar. 6, 2019). The implied claim process also cannot be used to expand the elements of a statement of claim. *In re Eliasson Ranch Company*, Order Amending and Adopting Master's Report, Case 40A-115, 2004 Mont. Water LEXIS 2, *6 (Jun. 28, 2004) ("*Eliasson*").

The Statement of Claim attachments alone may be sufficient proof that two or more rights were claimed on a single Statement of Claim. *In re Foss*, Case 76HF-580, 2013 Mont. Water LEXIS 17, and *Orders* entered May 1, 2013 in Montana Water Court Case WC-2012-02.

When generating an implied claim for stockwater use from an irrigation claim, evidence regarding the number and type of stock run on the place of use is needed to complete the

record concerning the historical stockwater use. *Orders* entered May 1, 2013 in Montana Water Court Case WC-2012-02, pages 15 and 16.

For stock drinking direct from a source or a ditch system, the claim does not need a quantified flow rate or volume. Instead, standard remarks limiting the flow rate and volume to the historical amounts used are added to the abstract of claim. Rules 24(b)(2) and 24(c), W.R.C.E.R.

“Multiple Use’ means the same appropriation used for more than one purpose by a single owner.” Rule 2(a)(42), W.R.C.E.R. A multiple use remark should be added to the abstracts of multiple use claims. Rule 41, W.R.C.E.R. and *Order Addressing ReExamination*, entered December 14, 2012.

A properly filed Statement of Claim for Existing Water Right is prima facie proof of its content pursuant to section 85-2-227, MCA. This prima facie proof may be contradicted and overcome by other evidence that proves, by a preponderance of the evidence, that the elements of the claim do not accurately reflect the beneficial use of the water right as it existed prior to July 1, 1973. This is the burden of proof for every assertion that a claim is incorrect, including for claimants objecting to their own claims. Rule 19, W.R.Adj.R.

FINDINGS OF FACT

1. For irrigation claims 41E 102982-00 and 41E 102983-00, a review of the Statements of Claim and their attachments show that these two wells have historically been used for irrigation and stockwatering. An implied claim for the stockwater use should be generated from each claim.

2. Claim number 41E 102982-00 should continue to be used for the irrigation use. Implied claim 41E 30174037 should be generated for stockwater use from the same well.

3. For claim 41E 102982-00, the Preliminary Decree includes a place of use parcel in the N2NE section 3, T3N, R7W, JEFFERSON. The legal description should be the NENE section 3, T3N, R7W, JEFFERSON.

The Preliminary Decree includes the following notice remark:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT WERE FILED BY
DIFFERENT PARTIES WHO CLAIM OVERLAPPING PLACES OF USE. 41E 127895-00.

This notice remark should be removed as having served its notice purpose.

The standard multiple use remark should be added for this claim and implied claim 41E 30174037.

4. The elements of implied claim 41E 30174037 should be the same as 41E 102982-00, except the purpose should be STOCK and the volume remark should be replaced with

THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCKWATERING 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.

The irrigation type, climatic area, maximum acres, and acreage figures in the place of use should be removed.

5. Claim number 41E 102983-00 should continue to be used for the irrigation use. Implied claim 41E 30174038 should be generated for stockwater use from the same well.

6. For claim 41E 102983-00, the Preliminary Decree includes a place of use parcel in the E2SESESE section 35, T4N, R7W, JEFFERSON. The legal description should be the E2SESESE section 34, T4N, R7W, JEFFERSON.

The standard multiple use remark should be added for this claim and implied claim 41E 30174038.

7. The elements of implied claim 41E 30174038 should be the same as 41E 102983-00, except the purpose should be STOCK and the volume remark should be replaced with

THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCKWATERING 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.

The irrigation type, climatic area, maximum acres, and acreage figures in the place of use should be removed.

8. Claim 41E 102984-00 appeared in the Preliminary Decree with the following remarks:

THE CLAIMED FLOW RATE MAY BE QUESTIONABLE. DOCUMENTATION SUBMITTED WITH THIS CLAIM INDICATES A FLOW RATE OF 1.5 CFS.

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 flow rate issue remark was added in 2021, during ReExamination of this claim prior to issuance of the Preliminary Decree. A review of the Statement of Claim provides no basis for the addition of the issue remark.

The point of diversion remark is a notice remark, and should be removed as having served its notice purpose.

CONCLUSION OF LAW

The settlement filed by the claimants is sufficient to generate implied claims, to contradict and overcome the prima facie claims, and to resolve the issue remark without evidentiary hearing. Section 85-2-248(3), (11), MCA.

RECOMMENDATIONS

Based upon the above Findings of Fact and Conclusion of Law, this Master recommends that the Court generate implied claims 41E 30174037 and 41E 30174038, and make the changes specified in the Findings of Fact to correct the Preliminary Decree for this Basin. A Post Decree Abstract of Water Right Claim for each claim is served with this Report to confirm the recommended changes have been made in the state's centralized record system.

ELECTRONICALLY SIGNED AND DATED BELOW

Service Via Electronic Mail:

Benjamin S. Sudduth
Sudduth Law, PLLC
benjamin@sudduthlaw.com

Jennifer A. Najjar
Alexa Penalosa
US Dept of Justice, ENRD-NRS
Jennifer.Najjar@usdoj.gov
Alexa.penalosa@usdoj.gov
MontanaBasins.ENRD@USDOJ.GOV

****Note: Caption Updated 2/24/2026****

\\JUDHLNSRV-DATA\Share\JUDGALH2OSRV (Datavol)\Share\WC-BASIN FOLDERS\41E\41E PD\41E CASES\135R\135R mr 2-9-26 cdc.docx

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
BOULDER RIVER, TRIBUTARY TO JEFFERSON RIVER
BASIN 41E

Water Right Number: 41E 102982-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: FLOYD SAYLER
17 TREASURE STATE RD
BUTTE, MT 59701-9502

PATRICIA SAYLER
17 TREASURE STATE RD
BUTTE, MT 59701-9502

Priority Date: DECEMBER 31, 1922

Type of Historical Right: USE

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER

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: 5 - LOW

***Maximum Acres:** 136.56

***Source Name:** GROUNDWATER

Source Type: GROUNDWATER

ALSO KNOWN AS WELL NO. 1

***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		W2SWSWSW	35	4N	7W	JEFFERSON

Period of Diversion: JUNE 1 TO SEPTEMBER 1

Diversion Means: WELL

Period of Use: JUNE 1 TO SEPTEMBER 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	2.67		E2SESESE	34	4N	7W	JEFFERSON
2	30.37		S2S2SW	35	4N	7W	JEFFERSON
3	77.00		N2NW	2	3N	7W	JEFFERSON
4	26.52		NENE	3	3N	7W	JEFFERSON

Total: 136.56

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.

102982-00 102983-00 102984-00

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.

102982-00 30174037

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
BOULDER RIVER, TRIBUTARY TO JEFFERSON RIVER
BASIN 41E

Water Right Number: 41E 102983-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: FLOYD SAYLER
17 TREASURE STATE RD
BUTTE, MT 59701-9502

PATRICIA SAYLER
17 TREASURE STATE RD
BUTTE, MT 59701-9502

Priority Date: DECEMBER 31, 1922

Type of Historical Right: USE

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER

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: 5 - LOW

***Maximum Acres:** 136.56

***Source Name:** GROUNDWATER

Source Type: GROUNDWATER

ALSO KNOWN AS WELL NO. 2

***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		W2SWSWSW	35	4N	7W	JEFFERSON

Period of Diversion: JUNE 1 TO SEPTEMBER 1

Diversion Means: WELL

Period of Use: JUNE 1 TO SEPTEMBER 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	2.67		E2SESESE	34	4N	7W	JEFFERSON
2	30.37		S2S2SW	35	4N	7W	JEFFERSON
3	77.00		NW	2	3N	7W	JEFFERSON
4	26.52		NENE	3	3N	7W	JEFFERSON

Total: 136.56

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.

102982-00 102983-00 102984-00

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.

102983-00 30174038

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
BOULDER RIVER, TRIBUTARY TO JEFFERSON RIVER
BASIN 41E**

Water Right Number: 41E 102984-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: FLOYD SAYLER
17 TREASURE STATE RD
BUTTE, MT 59701-9502

PATRICIA SAYLER
17 TREASURE STATE RD
BUTTE, MT 59701-9502

Priority Date: MAY 1, 1880

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 4.55 CFS

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

Climatic Area: 5 - LOW

Maximum Acres: 120.00

Source Name: FOURTH OF JULY GULCH

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		NWNWSE	2	3N	7W	JEFFERSON

Period of Diversion: JUNE 1 TO SEPTEMBER 1

Diversion Means: HEADGATE

Period of Use: JUNE 1 TO SEPTEMBER 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	40.00		E2E2	3	3N	7W	JEFFERSON
2	80.00			2	3N	7W	JEFFERSON

Total: 120.00

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.

102982-00 102983-00 102984-00

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
BOULDER RIVER, TRIBUTARY TO JEFFERSON RIVER
BASIN 41E

Water Right Number: 41E 30174037 STATEMENT OF CLAIM

Version: 1 -- ORIGINAL RIGHT

Status: ACTIVE

Owners: FLOYD SAYLER
17 TREASURE STATE RD
BUTTE, MT 59701-9502

PATRICIA SAYLER
17 TREASURE STATE RD
BUTTE, MT 59701-9502

Priority Date: DECEMBER 31, 1922

Type of Historical Right: USE

Purpose (Use): STOCK

Flow Rate: 2.50 CFS

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCKWATERING 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: GROUNDWATER

Source Type: GROUNDWATER
ALSO KNOWN AS WELL NO. 1

***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		W2SWSWSW	35	4N	7W	JEFFERSON

Period of Diversion: JUNE 1 TO SEPTEMBER 1

Diversion Means: WELL

Period of Use: JUNE 1 TO SEPTEMBER 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			E2SESESE	34	4N	7W	JEFFERSON
2			S2S2SW	35	4N	7W	JEFFERSON
3			N2NW	2	3N	7W	JEFFERSON
4			NENE	3	3N	7W	JEFFERSON

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.

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
BOULDER RIVER, TRIBUTARY TO JEFFERSON RIVER
BASIN 41E

Water Right Number: 41E 30174038 STATEMENT OF CLAIM

Version: 1 -- ORIGINAL RIGHT

Status: ACTIVE

Owners: FLOYD SAYLER
17 TREASURE STATE RD
BUTTE, MT 59701-9502

PATRICIA SAYLER
17 TREASURE STATE RD
BUTTE, MT 59701-9502

Priority Date: DECEMBER 31, 1922

Type of Historical Right: USE

Purpose (Use): STOCK

Flow Rate: 2.50 CFS

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCKWATERING 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: GROUNDWATER

Source Type: GROUNDWATER
ALSO KNOWN AS WELL NO. 2

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		W2SWSWSW	35	4N	7W	JEFFERSON

Period of Diversion: JUNE 1 TO SEPTEMBER 1

Diversion Means: WELL

Period of Use: JUNE 1 TO SEPTEMBER 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			E2SESESE	34	4N	7W	JEFFERSON
2			S2S2SW	35	4N	7W	JEFFERSON
3			NW	2	3N	7W	JEFFERSON
4			NENE	3	3N	7W	JEFFERSON

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.