

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

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CLAIMANTS: Infinity Thomson; Quasar Thomson

CASE 41S-0280-R-2024

41S 126239-00

41S 126240-00

41S 126241-00

**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. Infinity Thomson and Quasar Thomson (hereinafter referred to as “Thomsons” and “the Claimants”) are the record owners of claims 41S 126239-00, 41S 126240-00, and 41S 126241-00.

2. Claims 41S 126239-00, 41S 126240-00, and 41S 126241-00 were decreed with Montana Department of Natural Resources and Conservation (“DNRC”) issue remarks:

**Claim 41S 126239-00**

- FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.
- SOURCE NAME 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. 2 MAY BE INCORRECT. THE LOCATION OF THE DIVERSION CANNOT BE IDENTIFIED FROM AVAILABLE DATA. FURTHER, THE CLAIMED MEANS OF DIVERSION DOES NOT APPEAR STANDARDIZED. POINT OF DIVERSION NO. 1 APPEARS TO USE A HEADGATE. THE MEANS OF DIVERSION FOR POINT OF DIVERSION NO. 2 CANNOT BE CLARIFIED FROM AVAILABLE DATA.
- THE FERGUS COUNTY WATER RESOURCES SURVEY ( 1970 ) APPEARS TO INDICATE 13.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.
- USDA AERIAL PHOTOGRAPH NO(S). 30027-278-56 AND 30027-278-58 , DATED 09/25/1979 , APPEARS TO INDICATE 15.00 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.

**Claims 41S 126240-00:**

- FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.
- SOURCE NAME AND POINT OF DIVERSION WERE 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 FERGUS COUNTY WATER RESOURCES SURVEY ( 1970 ) APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- USDA AERIAL PHOTOGRAPH NO(S). 30027-278-56 AND 30027-278-104 , 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.

**Claim 41S 126241-00:**

- FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.
- THE POINT OF DIVERSION LEGAL LAND DESCRIPTION COULD NOT BE REFINED FROM INFORMATION IN THE CLAIM FILE.
- THE FERGUS COUNTY WATER RESOURCES SURVEY ( 1970 ) APPEARS TO INDICATE 0.00 ACRES IRRIGATED.



Place of Use:							
ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	<del>65.00</del> 35.70		SW	32	18N	16E	FERGUS
2	<del>3.00</del> 1.30	3		5	17N	16E	FERGUS
Total:	<del>68.00</del> 37.00						

5. **Claim 41S 126240-00:** Mr. Ahlgren substantiated 69.20 acres of historical irrigation at the claimed place of use for claim 41S 126240-00. Additionally, he recommended the flow rate be modified consistent with the 17.00 gallon per minute (gpm)/per acre standard set in Rule 14(b), W.R.C.E.R.

Additionally, Mr. Ahlgren noted:

The claimants also requested modifications to the source name and means of diversion for the purpose of clarification. These elements are outside the scope of what can be recommended by the DNRC regarding this claim.

Mr. Ahlgren recommended the following regarding claim 41S 126240-00:

Flow Rate: 2.62 ~~3.00~~ CFS  
Maximum Acres: ~~80.00~~ 69.20

The decreed place of use should be replaced with the following place of use:

1	59.30		SW	32	18N	16E	FERGUS
2	2.10		NWSWSE	32	18N	16E	FERGUS
3	6.50		N2SESE	31	18N	16E	FERGUS
4	1.30		NWNENW	5	17N	16E	FERGUS
Total Acres:	69.20						

6. **Claim 41S 126241-00:** Mr. Ahlgren did not substantiate any historical irrigation at the claimed place of use for claim 41S 126241-00 and he recommended the claim be dismissed.

7. An Order was issued to determine if the Thomsons agreed or disagreed with Mr. Ahlgren’s recommendations regarding the claims. (Doc. 8.00).

8. On February 26, 2025, the Thomsons filed a statement indicating agreement with the total place of use acreage recommended for claim 41S 126239-00, but proposing a different place of use acreage breakdown than recommended by Mr. Ahlgren:

ID	Ac	Qtr Sec	Sec	Twp	Rge
1	32.4	E2SW	32	18N	16E
2	1.2	SESWSW	32	18N	16E
3	2.1	NWSWSE	32	18N	16E
4	1.3	NWNENW	5	17N	16E
Total	37.0				

The Claimants agreed with Mr. Ahlgren’s recommendations as to claim 41S 126240-00. However, the Claimants filed a Motion to Amend claim 41S 126240-00, requesting the following modifications be made to the claim in addition to those recommended by Mr. Ahlgren:

**\*Point of Diversion and Means of Diversion:**

<b>ID</b>	<b>Govt Lot</b>	<b>Qtr Sec</b>	<b>Sec</b>	<b>Twp</b>	<b>Rge</b>	<b>County</b>
1	E2SWSW	SWSWSW	32	18N	16E	FERGUS
Source Name: JUDITH RIVER						
Period of Diversion: APRIL 15 TO NOVEMBER 15						
Diversion Means: PUMP/HEADGATE W/DITCH OR PIPELINE						
2	NESWSW	SWSWSW	32	18N	16E	FERGUS
*Source Name: <del>UNNAMED TRIBUTARY OF JUDITH RIVER</del>						
Period of Diversion: APRIL 15 TO NOVEMBER 15						
Diversion Means: PUMP/HEADGATE W/DITCH OR PIPELINE						

As noted by Mr. Irvin in his Affidavit, attached to the Motion to Amend, only the Judith River was claimed on the original Statement of Claim. The points of diversion proposed on the Motion to Amend appear consistent with the points of diversion noted on the map attached to the Statement of Claim. Lyle Grindheim filed the Statement of Claim for 41S 126240-00. Mr. Grindheim’s Affidavit was attached to the Motion to Amend. In his Affidavit, Mr. Grindheim describes the points of diversion in the NESWSW and the E2SWSW of Section 32, he included a map showing the pump sites at those locations; the map is consistent with the map attached to the Motion to Amend.

The Claimants indicated they agree with Mr. Ahlgren’s recommendation to dismiss claim 41S 126241-00.

**PRINCIPLES AND CONCLUSIONS OF LAW**

1. The Water Court must address all issue remarks decreed on a claim. Section 85-2-248, MCA.
2. A properly filed Statement of Claim for an existing water right is prima facie proof of its content. § 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 requested amendment does not adversely affect other water rights as it does not make any change to the actual historical use of the claimed right on the ground. Notice by publication of this amendment is not required. Section 85-2-233(6), MCA.

4. The requested amendment “merely makes more specific that which has already been alleged.” *Prentice Lumber Company v. Hukill*, 161 Mont. 8, 15 (1972).

5. The source name (claim 41S 126239-00) and source name and period of diversion (41S 126240-00) issue remarks are notice-type remarks. No objections were filed, and no further proceedings are required.

6. The issue remarks decreed on claims 41S 126239-00 and 41S 126240-00 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. Claim 41S 126239-00 should be modified as follows:

Flow Rate: 1.40 ~~2.50~~ CFS

Maximum Acres: ~~68.00~~ 37.00

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SESWSE	32	18N	16E	FERGUS
<b>Period of Diversion:</b>		APRIL 15 TO NOVEMBER 15				
<b>Diversion Means:</b>		<del>PUMP/HEADGATE W/DITCH OR PIPELINE</del>				
2	<span style="border: 1px solid red; padding: 2px;">NESWSW</span>	SESWSW	32	18N	16E	FERGUS
<b>Period of Diversion:</b>		APRIL 15 TO NOVEMBER 15				
<b>Diversion Means:</b>		<del>PUMP/HEADGATE W/DITCH OR PIPELINE</del>				

THE JUDITH RIVER IS USED AS A NATURAL CARRIER TO CONVEY WATER FROM DIPPING TANK CREEK TO A SECONDARY POINT OF DIVERSION, DIVERSION NO. 2.

The decreed place of use should be replaced with the following place of use:

ID	Ac	Qtr Sec	Sec	Twp	Rge
1	32.4	E2SW	32	18N	16E
2	1.2	SESWSW	32	18N	16E
3	2.1	NWSWSE	32	18N	16E
4	1.3	NWNENW	5	17N	16E
<b>Total</b>	<b>37.0</b>				

2. The Motion to Amend Claim 41S 126240-00 should be granted and the claim should be modified as follows:

Flow Rate: 2.62 3.69 CFS

Maximum Acres: 80.00 69.20

\*Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	E2SWSW	SWSWSW	32	18N	16E	FERGUS

Source Name: JUDITH RIVER

Period of Diversion: APRIL 15 TO NOVEMBER 15

Diversion Means: PUMP/HEADGATE W/DITCH OR PIPELINE

2	NESWSW	SWSWSW	32	18N	16E	FERGUS
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\*Source Name: UNNAMED TRIBUTARY OF JUDITH RIVER

Period of Diversion: APRIL 15 TO NOVEMBER 15

Diversion Means: PUMP/HEADGATE W/DITCH OR PIPELINE

The decreed place of use should be replaced with the following place of use:

1	59.30	SW	32	18N	16E	FERGUS
2	2.10	NWSWSE	32	18N	16E	FERGUS
3	6.50	N2SESE	31	18N	16E	FERGUS
4	1.30	NWNENW	5	17N	16E	FERGUS
Total Acres: 69.20						

3. Claim 41S 126141-00 should be dismissed.

4. The issue remarks should be removed from claims 41S 126239-00 and 41S 126240-00.

Abstracts are attached for review.

**ELECTRONICALLY SIGNED AND DATED BELOW.**

**Service via Electronic Mail:**

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 (atty for Infinity & Quasar Thomson)

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

**Water Right Number:** 41S 126239-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** INFINITY THOMSON  
PO BOX 7  
DENTON, MT 59430-0007

QUASAR THOMSON  
PO BOX 7  
DENTON, MT 59430-0007

**Priority Date:** OCTOBER 25, 1893

**Type of Historical Right:** FILED

**Purpose (Use):** IRRIGATION

**Irrigation Type:** SPRINKLER/FLOOD

**Flow Rate:** 1.40 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:** 37.00

**\*Source Name:** UNNAMED TRIBUTARY OF JUDITH RIVER

**Source Type:** SURFACE WATER

ALSO KNOWN AS DIPPING TANK CREEK

WATER FROM DIPPING TANK CREEK IS EXCHANGED FOR WATER DIVERTED FROM JUDITH RIVER.

**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		SESWSE	32	18N	16E	FERGUS

**Period of Diversion:** APRIL 15 TO NOVEMBER 15

**Diversion Means:** HEADGATE

2		NESWSW	32	18N	16E	FERGUS
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**Period of Diversion:** APRIL 15 TO NOVEMBER 15

**Diversion Means:** PUMP

JUDITH RIVER IS USED AS A NATURAL CARRIER TO CONVEY WATER FROM DIPPING TANK CREEK TO THE SECONDARY POINT(S) OF DIVERSION, DIVERSION NO(S). 2.

**Period of Use:** APRIL 15 TO NOVEMBER 15

**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	32.40		E2SW	32	18N	16E	FERGUS
2	1.20		SESWSW	32	18N	16E	FERGUS

3	2.10	NWSWSE	32	18N	16E	FERGUS
4	1.30	NWNENW	5	17N	16E	FERGUS
<b>Total:</b>	<u>37.00</u>					

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**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.

126239-00

126240-00

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

**Water Right Number:** 41S 126240-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** INFINITY THOMSON  
PO BOX 7  
DENTON, MT 59430-0007

QUASAR THOMSON  
PO BOX 7  
DENTON, MT 59430-0007

**Priority Date:** MARCH 15, 1900

**Type of Historical Right:** FILED

**Purpose (Use):** IRRIGATION

**Irrigation Type:** SPRINKLER/FLOOD

**Flow Rate:** 2.62 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:** 69.20

**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		E2SWSW	32	18N	16E	FERGUS

**Period of Diversion:** APRIL 15 TO NOVEMBER 15

**Diversion Means:** OTHER

2		NESWSW	32	18N	16E	FERGUS
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**Period of Diversion:** APRIL 15 TO NOVEMBER 15

**Diversion Means:** OTHER

THE MEANS OF DIVERSION FOR BOTH POINTS OF DIVERSION IS: PUMP W/DITCH OR PIPELINE.

**Period of Use:** APRIL 15 TO NOVEMBER 15

**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	59.30		SW	32	18N	16E	FERGUS
2	2.10		NWSWSE	32	18N	16E	FERGUS
3	6.50		N2SESE	31	18N	16E	FERGUS
4	1.30		NWNENW	5	17N	16E	FERGUS

**Total:** 69.20

**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.

126239-00

126240-00

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

**Water Right Number:** 41S 126241-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** **DISMISSED**

**Owners:** INFINITY THOMSON  
PO BOX 7  
DENTON, MT 59430-0007  
  
QUASAR THOMSON  
PO BOX 7  
DENTON, MT 59430-0007

**Priority Date:**

**Type of Historical Right:**

**Purpose (Use):** IRRIGATION

**Flow Rate:**

**Volume:**

**Source Name:** SAGE CREEK

**Source Type:** SURFACE WATER

**Point of Diversion and Means of Diversion:**

**Period of Use:**

**Place of Use:**

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**Remarks:**

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.