

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

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

CLAIMANTS: Abbie Skelton; Lillian Joy Badertscher;
Marilyn Brown; Jerry Brown; Joseph N. Baker

CASE 41S-2118-R-2025
41S 14570-00

OBJECTOR: United States, DOA Forest Service

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. The record owners of stock claim 41S 14570-00 are Abbie Skelton, Lillian Joy Badertscher, Marilynn Brown, Jerry Brown, and Joseph N. Baker (hereinafter “Claimants”).

2. The United States (Forest Service) objected to claim 41S 14570-00 based on place of use/maximum acres and point of diversion/means of diversion, stating:

Point of Diversion ID No. 5 and Place of Use ID No. 5 as described include federal land managed by the Forest Service. Point of Diversion ID No. 5 and Place of Use ID No. 5 should be refined to NWNENE Section 13, Township 14N, Range 9E, Judith Basin County and a remark should be added clarifying that the point of diversion and place of use are limited to private land.

The United States also references and incorporates the DNRC issue remarks, claim file and examination, and all other relevant DNRC materials, although it may not fully agree with them. The United States reserves the right to identify additional bases for its objections and to object to all other elements of this claim to ensure that additional issues that arise during field investigations, discovery, negotiations, or otherwise can be addressed by the Water Court during adjudication.

3. A first Status Conference for Case 41S-2118-R-2025 took place on January 8, 2026, by telephone conference call. Anika M. Stern presided. Lillian Joy Badertscher and Joseph N. Baker were present; Madeleine Weisz and Renee Coppock were present on behalf of Abbie Skelton; Daniel Lueke was present for the United States (Forest Service).

Mr. Luecke indicated that the Forest Service objection to claim 41S 14570-00 will be resolved if the following modification is made to point of diversion and place of use ID No. 5:

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NWNENE NENE 13 14N 9E JUDITH BASIN

And the addition of the following remark: “THE POINT OF DIVERSION AND PLACE OF USE ARE LIMITED TO PRIVATE LAND.”

4. A February 13, 2026, deadline was set for the Claimants to file a statement agreeing or disagreeing that the above-listed modifications should be made to claim 41S 14570-00. (Doc. 6.00). The Order indicated that if nothing were filed by the deadline, it would be determined that the Claimants agree with the proposed modifications and a Master’s Report may be issued.

On February 10, 2026, Joseph N. Baker, Lillian Joy Badertscher, Marilyn Brown¹, and Jerry Brown filed a statement agreeing with the proposed modification. (Docs. 7.00

¹ It has been noted in the record that the correct spelling of Ms. Brown’s name is “Marilyn” not “Marilynn”. Marilyn Brown should contact the DNRC to request her name be corrected in DNRC’s records (water right abstracts). Ms. Brown’s name has been corrected in this Case.

and 8.00). On February 12, 2026, counsel for Abbie Skelton filed their agreement with the proposed resolution. (Doc. 9.00).

PRINCIPLES 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.
3. The Water Court may use information submitted by the DNRC, the Statement of Claim, and any other data obtained by the Court to evaluate a water right. §§ 85-2-227, -231(2), MCA.

CONCLUSION OF LAW

The information in the record overcomes the prima facie status of claim 41S 14570-00 and it is appropriate to modify the point of diversion and place of use.

RECOMMENDATIONS

1. The point of diversion and place of use legal land description for claim 41S 14570-00 should be modified as follows:

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NWNE NE 13 14N 9E JUDITH BASIN

And the following information remark should be added to claim 41S 14570-00:

THE POINT OF DIVERSION AND PLACE OF USE ARE LIMITED TO PRIVATE LAND.

2. The Objection should be dismissed.

An abstract is enclosed.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service Via USPS Mail:

Lillian Joy Badertscher
Marilyn Brown
Jerry Brown
P.O. Box 399
Stanford, MT 59479-0399

Joseph N. Baker
P.O. Box 111
Stanford, MT 59479-0111

Service Via Electronic Mail:

Jennifer A. Najjar
Alexa Penalosa, Trial Attorney
Daniel Luecke
US Dept of Justice, ENRD-NRS
Jennifer.Najjar@usdoj.gov
Alexa.penalosa@usdoj.gov;
MontanaBasins.ENRD@USDOJ.GOV
daniel.luecke@usdoj.gov
(Atty for: United States, DOA Forest Service)

Renee L. Coppock
Madeleine Weisz
Crowley Fleck PLLP
jbonvillain@crowleyfleck.com
rcoppock@crowleyfleck.com
mweisz@crowleyfleck.com
cspinelli@crowleyfleck.com
(Attys for: Abbie Skelton)

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

Water Right Number: 41S 14570-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners:

LILLIAN JOY BADERTSCHER
PO BOX 399
STANFORD, MT 59479-0399

JOSEPH N BAKER
PO BOX 111
STANFORD, MT 59479-0111

JERRY BROWN
PO BOX 399
STANFORD, MT 59479-0399

MARILYNN BROWN
PO BOX 399
STANFORD, MT 59479-0399

ABBIE SKELTON
PO BOX 529
STANFORD, MT 59479-0529

Priority Date: APRIL 20, 1891

Type of Historical Right: FILED

Purpose (Use): STOCK

***Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. 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: DRY WOLF 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 | | E2NE | 1 | 14N | 9E | JUDITH BASIN |

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

| | | | | | | |
|---|--|------|----|-----|----|--------------|
| 2 | | SWNE | 12 | 14N | 9E | JUDITH BASIN |
|---|--|------|----|-----|----|--------------|

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

