

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

\*\*\*\*\*

CLAIMANT: Kenneth D. Munski

**CASE 41S-2093-R-2025**  
41S 216230-00

OBJECTOR: United States, DOI Bureau of Land Management

**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 owner of domestic claim 41S 216230-00 is Kenneth D. Munski (Claimant).
2. The United States of America (Bureau of Land Management) objected to “all elements” of claim 41S 216230-00 and indicated the claim appears to have been abandoned or not perfected.

3. The parties filed a Stipulation to Resolve Objections on April 16, 2026. (Doc. 11.00). The parties stipulated that the following information remarks be added to claim 41S 216230-00, resolving the Objection to the claim:

THIS RIGHT WILL BE DEEMED ABANDONED UPON TERMINATION OF KENNETH D. MUNSKI'S LEASE ON THE PLACE OF USE AND IS NOT TRANSFERRABLE.

THIS RIGHT IS SUBJECT TO THE TERMS OF A STIPULATION IN WATER COURT CASE NO. 41S-2093-R-2025.

### PRINCIPLES AND CONCLUSIONS OF LAW

1. The Montana Water Court has exclusive jurisdiction to interpret and determine all existing water rights. *Mildenberger v. Galbraith*, 249 Mont. 161, 166, 815 P.2d 130, 134 (1991). An “existing water right” is defined as: “a right to the use of water that would be protected under the law as it existed prior to July 1, 1973. The term includes federal non-Indian and Indian reserved water rights created under federal law and water rights created under state law.” Mont. Code Ann. § 85-2-102(10), MCA. This includes jurisdiction to review all objections to preliminary decrees. § 85-2-233, 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. In addition to the specific water right elements that must be included in a final decree, the Water Court also may include "any other information necessary to fully define the nature and extent of the right." § 85-2-234(6)(i), MCA. This information typically takes the form of an "information remark." The purpose of an information remark is to "provide facts regarding prior use of a right that are critical to its administration in accord with historical use." *In re Clark Fork Coal.*, Case 76G-A8, 2014 Mont. Water LEXIS 15, \*10 (Oct. 29, 2014).

4. In the present case, the record before the Master is sufficient to add information remarks to this claim. With this addition, the issue remarks can be removed from this claim.

RECOMMENDATION

1. The following information remarks should be added to claim 41S 216230-00, resolving the objection to the claim:

THIS RIGHT WILL BE DEEMED ABANDONED UPON TERMINATION OF KENNETH D. MUNSKI'S LEASE ON THE PLACE OF USE AND IS NOT TRANSFERRABLE.

THIS RIGHT IS SUBJECT TO THE TERMS OF A STIPULATION IN WATER COURT CASE NO. 41S-2093-R-2025.

An abstract is enclosed for review.

**ELECTRONICALLY SIGNED AND DATED BELOW.**

**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  
*(Attys for: United States, DOI Bureau of Land Management)*

Kenneth D. Munski  
kdmunski@gmail.com

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

**Water Right Number:** 41S 216230-00 STATEMENT OF CLAIM  
**Version:** 3 -- POST DECREE  
**Status:** ACTIVE

**Owners:** KENNETH D MUNSKI  
110 HILLCREST DR  
LEWISTOWN, MT 59457-2327

**Priority Date:** JULY 1, 1957

**Type of Historical Right:** USE

**Purpose (Use):** DOMESTIC

**Flow Rate:** 10.00 GPM

**Volume:** 1.00 AC-FT

**Households:** 1

**Source Name:** SPRING, UNNAMED TRIBUTARY OF ALPINE GULCH

**Source Type:** GROUNDWATER

**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		NWNENW	13	16N	19E	FERGUS

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

**Diversion Means:** PIPELINE

**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			W2NENW	13	16N	19E	FERGUS

**Remarks:**

THIS RIGHT IS SUBJECT TO THE TERMS OF A STIPULATION IN WATER COURT CASE NO. 41S-2093-R-2025.

THIS RIGHT WILL BE DEEMED ABANDONED UPON TERMINATION OF KENNETH D. MUNSKI'S LEASE ON THE PLACE OF USE AND IS NOT TRANSFERRABLE.

CLAIM FILED 06/27/1996 . THIS IS AN EXEMPT RIGHT VOLUNTARILY FILED UNDER SECTION 85-2-222, MCA.