

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

CLAIMANT: Abbie Skelton

OBJECTOR: XZ Ranch, LLC

CASE 41S-2067-R-2025
41S 14587-00

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. The record owner of stock claim 41S 14587-00 is Abbie Skelton (Claimant).

2. The deadline to file Objections during the Basin 41S Temporary Preliminary Decree was October 4, 1984. On May 17, 1985, Minnesota-Montana Cattlemen's Association filed a late Objection to claim 41S 14587-00 indicating an Objection to the ownership, priority date, place of use, acres irrigated, and point of diversion.

On June 26, 1991, Minnesota-Montana Cattle Corporation, Hughes Newford Company, Bill Skelton, Barbara Skelton, and Skelton Ranch Company filed a Stipulation in Cases 41S-1 and 41S-5, although claim 41S 14587-00 was not included in either Case, the Stipulation addressed the claim:

22. Skeltons' Claim No. 41S-W-014587 should be modified in accordance with the above findings. Accordingly, Skeltons have a valid and existing right to the waters of Wolf Creek defined as follows:

Water Right No. 41S-W-014587

Owner: Bill Skelton
Stanford, Montana 59479

Priority Date: January 14, 1880

Flow Rate: 6.25 CFS

Volume: 2685.90 acre feet per year

Source: Wolf Creek

Number of Livestock: 1,000 cattle

Purpose: Stockwater

Period of Use: January 1 to December 31

Points of Diversion:

<u>Qtr</u>	<u>Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SESWSW	24	16N	11E	Judith Basin

Means of Diversion: Direct -- 15,000 gallons per day

Place of Use for Stockwater:

	<u>Qtr</u>	<u>Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
001		SESWSW	24	16N	11E	Judith Basin
002		E2SW	24	16N	11E	Judith Basin
003		NWNWSE	24	16N	11E	Judith Basin
004		NE	24	16N	11E	Judith Basin

On July 31, 1991, Water Master Patti Rowland sent a letter to counsel for the parties explaining that there were portions of the Stipulation requiring "clarification" regarding claim 41S 14587-00. Water Master Rowland explained that a copy of the July 31, 1991 Stipulation would be placed into the file for claim 41S 14587-00 and although it

would not be addressed until the Basin 41S Preliminary Decree, the parties had the opportunity to address the deficiencies at that time.

On February 24, 1992, the parties filed another Stipulation which appears to supersede the June 26, 1991 Stipulation. The February 24, 1992 Stipulation addressed claim 41S 14587-00:

2. Skeltons' have a valid and existing right to the waters of Wolf Creek defined as follows:

Water Right No. 41S-W-014587

Owner: Bill Skelton
Stanford, Montana 59479

Priority Date: January 14, 1880

Flow Rate: 6.25 CFS

Volume: 30 gal. per day per animal unit

Source: Wolf Creek

Number of Livestock: 1,000 cattle

Purpose: Stock water

Multiple Use Remark: This stock water claim and Skeltons' irrigation claim (014557) are the same water.

Period of Use: January 1 to December 31

Points of Diversion:

	<u>Qtr</u>	<u>Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>	<u>Means</u>
(1)	NE	24	16N	11E	Judith Basin	Direct	
(2)	NENW	24	16N	11E	Judith Basin	Direct	
(3)	SWNESW	24	16N	11E	Judith Basin	Headgate	
(4)	SWNWNW	25	16N	11E	Judith Basin	Headgate	

Means of Diversion: Direct -- 15,000 gallons per day

Place of Use for Stock water:

	<u>Qtr</u>	<u>Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>	<u>Where</u>
001	SESW	18	16N	12E	Judith Basin	Ditch	
002	NW	19	16N	12E	Judith Basin	Ditch	
003	NE	24	16N	11E	Judith Basin	Ditch and stream	
004	NENW	24	16N	11E	Judith Basin	Ditch and stream	

Because the May 17, 1985, Minnesota-Montana Cattlemen's Association Objection was overdue, an issue remark was added to claim 41S 14587-00 to ensure the Objection would be addressed during the Preliminary Decree in Basin 41S. Additionally, the information regarding the June 26, 1991 Stipulation was included in the issue remark; unfortunately, information regarding the February 24, 1992 Stipulation was not included in the issue remark:

- ON 05/17/1985 MINNESOTA-MONTANA CATTLEMAN'S ASSOCIATION FILED A LATE OBJECTION TO THE OWNERSHIP, PRIORITY DATE, PLACE OF USE, ACRES IRRIGATED, POINT OF DIVERSION, VOLUME, AND FLOW RATE. ON 06/26/1991 MINNESOTA-MONTANA CATTLE CORPORATION, HUGHES NEWFORD COMPANY, BILL SKELTON, BARBARA SKELTON, AND SKELTON RANCH COMPANY FILED A STIPULATION SPECIFYING CHANGES TO BE MADE TO THE OWNERSHIP, PRIORITY DATE, FLOW RATE, VOLUME, PURPOSE, POINT OF DIVERSION, MEANS OF DIVERSION, AND PLACE OF USE. THIS WILL BE HEARD AFTER PROPER NOTICE ON THE NEXT OBJECTION LIST.

All issue remarks must be addressed.

3. Based on the information provided in the February 24, 1992 Stipulation, it appears the stipulating parties agreed the following modifications should be made to the flow rate and volume for claim 41S 14587-00:

***Flow Rate:** 6.25 CFS ~~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.

CMVI: 1,000 ANIMAL UNITS.

4. Claim 41S 14587-00 was decreed with the points of diversion and places of use as:

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SW	24	16N	11E	JUDITH BASIN
Period of Diversion:		JANUARY 1 TO DECEMBER 31				
Diversion Means:		LIVESTOCK DIRECT FROM SOURCE				
2		NWNWSE	24	16N	11E	JUDITH BASIN
Period of Diversion:		JANUARY 1 TO DECEMBER 31				
Diversion Means:		LIVESTOCK DIRECT FROM SOURCE				
3		NE	24	16N	11E	JUDITH BASIN
Period of Diversion:		JANUARY 1 TO DECEMBER 31				
Diversion Means:		LIVESTOCK DIRECT FROM SOURCE				

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1			SW	24	16N	11E	JUDITH BASIN
2			NWNWSE	24	16N	11E	JUDITH BASIN
3			NE	24	16N	11E	JUDITH BASIN

The February 24, 1992 Stipulation indicated the points of diversion and places of use for claim 41S 14587-00 should be:

Points of Diversion:

	<u>Qtr</u>	<u>Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>	<u>Means</u>
(1)	NE		24	16N	11E	Judith Basin	Direct
(2)	NENW		24	16N	11E	Judith Basin	Direct
(3)	SWNESW		24	16N	11E	Judith Basin	Headgate
(4)	SWNWNW		25	16N	11E	Judith Basin	Headgate

Place of Use for Stock water:

	<u>Qtr</u>	<u>Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>	<u>Where</u>
001	SESW		18	16N	12E	Judith Basin	Ditch
002	NW		19	16N	12E	Judith Basin	Ditch
003	NE		24	16N	11E	Judith Basin	Ditch and stream
004	NENW		24	16N	11E	Judith Basin	Ditch and stream

5. Additional information was needed to substantiate the historical beneficial use of the stipulated points of diversion and places of use for claim 41S 14587-00 and further proceedings were set for the parties to file information and a map. (Docs.¹ 1.00 – 11.00). All stipulating parties were added to the service list and served at the best available address.

6. On September 4, 2026, counsel for Claimant Abbie Skelton, and stipulating parties Barbara Skelton and Skelton Ranch Co. filed their Filing Addressing Issue Remark. (Doc. 11.00). The filing explained claim 41S 14587-00 is a multiple use of claim 41S 14577-00. Claim 41S 14557-00 was addressed in Case 41S-2065-R-2025 where a Master's Report was adopted July 16, 2026.

For the point of diversion modifications proposed for claim 41S 14587-00, Skelton explained:

The post decree abstract for claim 41S 14557-00 identifies the points of diversion as being located in the SWNESW of Section 24, T16N, R11E and the SWNWNW of Section 25, T16N, R11E. The means of diversion for both points of diversion is identified as "Headgate." These two headgates align with the requested points of diversion IDs 3 and 4 for claim 41S 14587-00 in the 1992 Stipulation.

(Doc. 11.00, at 3).

For the place of use modifications proposed for claim 41S 14587-00, Skelton explained:

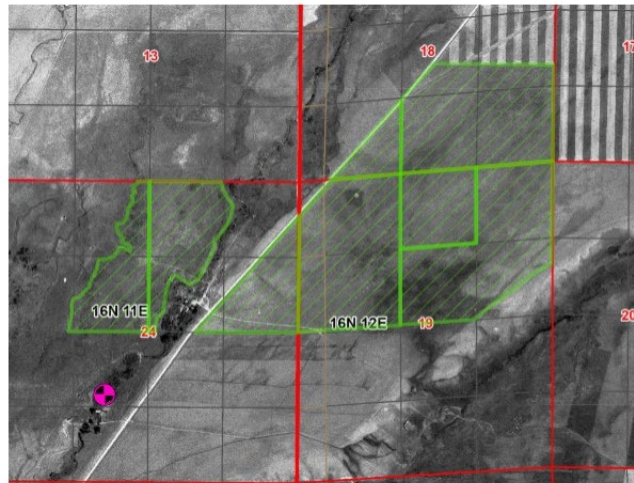
¹ "Doc." numerical references correlate to case file docket numbers in the Water Court's Full Court case management system.

The place of use for multiple use irrigation claim 41S 14557-00 is identified on the post decree abstract as:

*Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	105.00		SE	18	16N	12E	JUDITH BASIN
2	18.50		SESW	18	16N	12E	JUDITH BASIN
3	104.00		NW	19	16N	12E	JUDITH BASIN
4	40.00		NWNE	19	16N	12E	JUDITH BASIN
5	47.62		NW	24	16N	11E	JUDITH BASIN
6	96.23		NE	24	16N	11E	JUDITH BASIN
Total:		411.35					

The map prepared by the DNRC in Case 41S-2065-R-2025 depicts the place of use:



(Attached as Exhibit B)(41S-2065-R-2025, ROA 8.00, at 11).

The place of use requested in the 1992 Stipulation reflects the locations where stock drink directly from Wolf Creek and where stock drink from the irrigation ditch identified in claim 41S 14557-00.

Because Claims 41S 14557-00 and 41S 14587-00 are multiple uses of the same appropriation, evidence of flood irrigation via ditch in the SESW of Section 18, 16N, 12E, the NW of Section 19, 16N, 12E, and the NENW of Section 24, 16N, 11E is sufficient to corroborate livestock use of the water in the same locations.

(Doc. 11.00, at 4).

7. Additionally, Skelton notes that an information remark should be added to claim 41S 14587-00 stating: THIS CLAIM IS SUBJECT TO A STIPULATION DATED FEBRUARY 24, 1992 ON FILE WITH THE MONTANA WATER COURT.

PRINCIPLES OF LAW

1. The Water Court must address all issue remarks decreed on a claim as well as any objections a claim receives. Sections 85-2-233, 85-2-247, and 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 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

1. The point of diversion and place of use information in the record overcomes the prima facie status of claim 41S 14587-00 and it is appropriate to modify the point of diversion and place of use.

RECOMMENDATIONS

1. Claim 41S 14587-00 should be modified as follows:

***Flow Rate:** 8.25 CFS ~~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 SERVED BY THIS WATER SOURCE.

CMVI: 1,000 CATTLE

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SW	24	16N	11E	JUDITH BASIN
Period of Diversion:	~~JANUARY 1 TO DECEMBER 31~~					
Diversion Means:	~~LIVESTOCK DIRECT FROM SOURCE~~					
2		NWNWSE	24	16N	11E	JUDITH BASIN
Period of Diversion:	~~JANUARY 1 TO DECEMBER 31~~					
Diversion Means:	~~LIVESTOCK DIRECT FROM SOURCE~~					
3		NE	24	16N	11E	JUDITH BASIN
Period of Diversion:	~~JANUARY 1 TO DECEMBER 31~~					
Diversion Means:	~~LIVESTOCK DIRECT FROM SOURCE~~					

Points of Diversion:

	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>	<u>Means</u>
(1)	NE	24	16N	11E	Judith Basin	Direct
(2)	NENW	24	16N	11E	Judith Basin	Direct
(3)	SWNESW	24	16N	11E	Judith Basin	Headgate
(4)	SWNWNW	25	16N	11E	Judith Basin	Headgate

All periods of diversion are: 1/1 to 12/31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			SW	24	16N	11E	JUDITH BASIN
2			NWNWSE	24	16N	11E	JUDITH BASIN
3			NE	24	16N	11E	JUDITH BASIN

Places of Use:

	<u>Qtr</u> <u>Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>	<u>Where</u>
001	SESW	18	16N	12E	Judith Basin	Ditch
002	NW	19	16N	12E	Judith Basin	Ditch
003	NE	24	16N	11E	Judith Basin	Ditch and stream
004	NENW	24	16N	11E	Judith Basin	Ditch and stream

CMGI: THIS CLAIM IS SUBJECT TO A STIPULATION DATED FEBRUARY 24, 1992 ON FILE WITH THE MONTANA WATER COURT.

2. The issue remark should be removed from claim 41S 14587-00.
3. The late Objection to claim 41S 14587-00 should be dismissed.

An abstract is enclosed.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via Electronic Mail

Calli J. Michaels
Michaels Law, PLLC
cmichaels@mlawmt.com
(Attorney for Hughes Newford Company)

Renee L. Coppock
Madeleine Weisz
Crowley Fleck PLLP
jbonvillain@crowleyfleck.com
rcoppock@crowleyfleck.com
mweisz@crowleyfleck.com
cspinelli@crowleyfleck.com
(Attorneys for Abbie Skelton, Barbara Skelton; Bill Skelton and Skelton Ranch Company)

Nate T. Block
Graham Coppes
Ferguson and Coppes, PLLC
nate@montanawaterlaw.com
graham@montanawaterlaw.com
filings@montanawaterlaw.com
(Attorneys for XZ Ranch, LLC)

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

Water Right Number: 41S 14587-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: ABBIE SKELTON
PO BOX 529
STANFORD, MT 59479-0529

Priority Date: JANUARY 14, 1880

Type of Historical Right: DECREED

Purpose (Use): STOCK

Flow Rate: 6.25 CFS

***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.
1,000 CATTLE

Source Name: 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		NE	24	16N	11E	JUDITH BASIN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

2		NENW	24	16N	11E	JUDITH BASIN
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Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

3		SWNESW	24	16N	11E	JUDITH BASIN
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Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: HEADGATE

4		SWNWNW	25	16N	11E	JUDITH BASIN
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Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: HEADGATE

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			SESW	18	16N	12E	JUDITH BASIN
2			NW	19	16N	12E	JUDITH BASIN
3			NE	24	16N	11E	JUDITH BASIN
4			NENW	24	16N	11E	JUDITH BASIN

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.

14557-00

14587-00

THIS CLAIM IS SUBJECT TO A STIPULATION DATED FEBRUARY 24, 1992 ON FILE WITH THE MONTANA WATER COURT.