

Montana Water Court  
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IN THE WATER COURT OF THE STATE OF MONTANA  
UPPER MISSOURI DIVISION  
JEFFERSON RIVER BASIN (41G)  
PRELIMINARY DECREE

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CLAIMANTS: Judy K. Klaas; Terry D. Kuehl

**CASE 41G-0617-R-2024**  
41G 206726-00

**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 may file a written objection to this Master’s Report within **10 days** of the stamped date if you disagree or find errors with the Master’s findings of fact, conclusion of law, or recommendations. Rule 23, W.R.Adj.R. If the Master’s Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. 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. Claim 41G 206726-00 is an irrigation groundwater claim. It appeared in the 41G Preliminary Decree with Department of Natural Resources and Conservation (DNRC) issue remarks. It did not receive objections during the 41G Preliminary Decree objection period.

2. One of the issue remarks on claim 41G 206726-00 states, “The priority date is in question.” The reason this issue remark was placed on the claim is because the priority date was claimed as June 1, 1978. No evidence was included with the Statement of Claim form to support the historical use of water for irrigation from the Barrow Pit (a Spring tributary to an Unnamed Tributary of Parsons Slough).

In the claim file, there is a letter from the original claimant of claim 41G 206726-00 stating, “the Jefferson Valley Ranch has not used the water in the barrow pit for irrigation.”

3. The current claimants were provided an opportunity to address the priority date issue remark and were asked to provide evidence of pre-July 1, 1973 historical use. The Order setting filing deadline stated that if nothing was filed by the deadline, the claim would be dismissed from the adjudication. Nothing was filed by the deadline.

#### CONCLUSIONS OF LAW

1. A properly filed Statement of Claim for Existing Water Right is prima facie proof of its content. § 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. Rule 19, W.R.Adj.R.

2. Section 85-2-248(2), MCA requires the Water Court to resolve all issue remarks that are not resolved through the objection process. The Montana Water Court has the authority to resolve issue remarks when the claim file and information available to the Court provide a sufficient basis to do so. § 85-2-248(3), MCA.

3. The Water Court has jurisdiction over “existing water rights.” Existing water rights are rights that were put to use prior to July 1, 1973. Water use that began after July 1, 1973, is not considered an existing water right and is not subject to the adjudication process. § 85-2-102 (13), MCA.

4. If a claimant fails to comply with an order issued by the water court, the water court may issue such orders of sanction with regard thereto as are just. Sanctions applied against claimants may include termination of the claim. Rule 22, W.R.Adj.R.

Claimants failed to respond to the court's order setting filing deadline. The information before the court indicates that claim 41G 206726-00 should be dismissed from the adjudication for not being put to use prior to July 1, 1973.

**RECOMMENDATIONS**

1. Claim 41G 206726-00 should be dismissed from the adjudication.

A Post Decree Abstracts of Water Right Claim is served with the Report to confirm that the status of the claim is recorded as "Dismissed."

**ELECTRONICALLY SIGNED AND DATED BELOW.**

**Service via USPS Mail:**

Judy K. Klaas  
Terry D. Kuehl  
148 Carney Lane  
Whitehall, MT 59759

**POST DECREE**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**JEFFERSON RIVER**  
**BASIN 41G**

**Water Right Number:** 41G 206726-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** DISMISSED

**Owners:**

JUDY K KLAAS  
148 CARNEY LN  
WHITEHALL, MT 59759

JUDY KLAAS  
4 WHITE ROCK LN  
WHITEHALL, MT 59759

TERRY D KUEHL  
4 WHITE ROCK LN  
WHITEHALL, MT 59759

KARI L MONTGOMERY  
4 WHITE ROCK LN  
WHITEHALL, MT 59759

MATTHEW R MONTGOMERY  
4 WHITE ROCK LN  
WHITEHALL, MT 59759

**Priority Date:**

**Type of Historical Right:**

**Purpose (Use):** IRRIGATION

**Flow Rate:**

**Volume:**

**Source Name:** SPRING, UNNAMED TRIBUTARY OF PARSONS SLOUGH

**Source Type:** GROUNDWATER

**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.