

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: Faith M. Bevis, William G. Bevis, and Jean G.  
Keyser

CASE 41S-0685-R-2024  
41S 138278-00

**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, conclusions 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. Faith M. Bevis, William G. Bevis, and Jean G. Keyser are the record co-owners of claim 41S 138278-00.

2. Claim 41S 138278-00 was decreed with DNRC issue remarks:

THE MAXIMUM NUMBER OF ACRES CLAIMED ON THE ORIGINAL STATEMENT OF CLAIM IS 5.00 ACRES. THE DNRC'S RE-EXAMINATION WAS OF THESE ORIGINAL CLAIMED ACRES.

FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.

THE FERGUS COUNTY WATER RESOURCES SURVEY ( 1970 ) APPEARS TO INDICATE 0.00 ACRES IRRIGATED.

USDA AERIAL PHOTOGRAPH NO(S). 30027-278-194 , DATED 09/25/1979 , APPEARS TO INDICATE 0.00 ACRES IRRIGATED.

THE POINT OF DIVERSION MAY BE INCORRECT. THE LOCATION OF THE HEADGATE CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

An additional notice-type issue remark was also decreed on the claim.

3. Claimants Faith M. Bevis, William G. Bevis, and Jean G. Keyser were ordered to meet with a DNRC employee to address the unresolved issue remarks decreed on claim 41S 138278-00

4. On June 24, 2024, DNRC Water Resource Specialist Carli Bluhm filed a Memorandum indicating she met with Claimant William G. Bevis on May 16, 2024 and she and Mr. Bevis discussed claim 41S 138278-00. (Doc.\* 2.00).

Ms. Bluhm reported that she reviewed the claim abstract, the scanned claim file, an aerial photograph, and the 1970 Fergus County Water Resources Survey to prepare the Memorandum.

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

Ms. Bluhm stated that the DNRC examination found 0.00 acres of irrigation present on the property. Ms. Bluhm's own research confirmed the earlier examination, and she was unable to find evidence of flood irrigation at the claimed place of use and she recommended claim 41S 138278-00 be dismissed.

5. An Order was issued to determine if the Claimants agreed or disagreed with Ms. Bluhm's recommendations. (Doc. 3.00). The Order set a deadline for Claimants Faith M. Bevis, William G. Bevis, and Jean G. Keyser to file statements agreeing or disagreeing that claim 42M 138278-00 be dismissed. The Order indicated that if nothing were filed by the deadline, this Master would conclude Claimants Faith M. Bevis, William G. Bevis, and Jean G. Keyser agree claim 42M 138278-00 should be dismissed and a Master's Report would be issued. The following language was included in the Order:

Failure to comply with the terms of this Order may result in sanctions, up to and including entry of default and termination of a water right claim or dismissal of objections. Rule 22, W.R.Adj.R.

Nothing was filed by the deadline.

#### PRINCIPLES AND CONCLUSIONS OF LAW

1. The issue remarks were not addressed through the objection process. The Water Court is required to resolve the issues raised by each issue remark. Section 85-2-248, MCA.

2. A properly filed Statement of Claim for an existing water right is prima facie proof of its content. Section 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; 375 Mont.86, 95; 329 P.3d 558, 564.

3. Pursuant to Rule 22, W.R.Adj.R., if a claimant, objector, or intervenor fails to appear at a scheduled conference or hearing or 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.

RECOMMENDATION

1. Claim 41S 138278-00 should be dismissed.

A Post Decree Abstract of Water Right Claim is served with the Report for review.

**ELECTRONICALLY SIGNED AND DATED BELOW.**

**Service via USPS Mail:**

Faith M. Bevis  
William G. Bevis  
614 W Washington St  
Lewistown, MT 59457-2544

Jean G. Keyser  
502 E Evelyn St  
Lewistown, MT 59457

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

**Water Right Number:** 41S 138278-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** **DISMISSED**

**Owners:** JEAN KEYSER  
502 E EVELYN ST  
LEWISTOWN, MT 59457

**Priority Date:**

**Type of Historical Right:**

**Purpose (Use):** IRRIGATION

**Flow Rate:**

**Volume:**

**Source Name:** UNNAMED TRIBUTARY OF BIG SPRING 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.