

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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CLAIMANT: Evers Ranch Co.

OBJECTOR: Evers Ranch Co.

**CASE 41S-0838-R-2024**  
41S 131997-00

**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. Evers Ranch Co. is the record owner of domestic claim 41S 131997-00.
2. On August 14, 2002, Evers Ranch Co. filed a late objection to claim 41S 131997-00, indicating:

8. State the changes that you think should be made to this claim and why. State the specific ground and evidence on which the objections are based. (Use additional paper if necessary)

Point of diversion is in correct  
 Point of diversion is Fergus County  
 NE 1/4 SW 1/4 NE 1/4 Section 2 T 21N R 15E  
 DATED this 12 day of August, 2002

Because the objection was almost two decades overdue, an issue remark was added to claim 41S 131997-00 ensuring the objection could be addressed during the Preliminary Decree in Basin 41S.

3. The Preliminary Decree in Basin 41S was issued on August 18, 2022. The point of diversion for claim 41S 131997-00 was decreed in the Preliminary Decree as:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSENW	2	21N	15E	FERGUS

Claim 41S 131997-00 was decreed with the following DNRC issue remark noting the late Objection:

THE CLAIMANT FILED A LATE OBJECTION TO CHANGE THE POINT OF DIVERSION TO NESWNE SEC 2 TWP 21N RGE 15E FERGUS COUNTY. THIS WILL BE HEARD AFTER PROPER NOTICE ON THE NEXT OBJECTION LIST.

4. A deadline was set to determine if Evers Ranch Co. still intended to pursue the late Objection. (Doc.<sup>1</sup>1.00).
5. On May 30, 2024, Evers Ranch Manager Gary Carlson filed a response to the filing deadline:

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<sup>1</sup> “Doc.” numerical references correlate to case file docket numbers in the Water Court’s Full Court case management system.

Evers Ranch Water Right 415-0838-R-2024: 41 S131997-00

Please accept the following information for the correction to this water for the Evers Ranch Co.

I submitted a correction to this water right as the location identified appeared incorrect on August 14, 2002. Upon receiving the order for filing deadline I reviewed the location that I said need correcting and found that I incorrectly stated the location. I went to the DNRC office in Lewistown and met with Brandon Ahlgren to get assistance as to correctly identify the location. I have included pictures to help identify the location. The one picture says this location was a spring but it is in the same spot that the hand dug well is at. The current picture was taken in May 2024. There is a house now near the well that was put on the property in the 1040's that does not show on the older pictures.

T21N R16E Section 2 SWNWNE should be the correct location.

If more information is required, please let me know.

Sincerely,



Gary Carlson  
Evers Ranch Manager  
1216 Avenue E  
Billings, MT 59102  
4066986537

(Doc. 2.00). In addition to being the ranch manager, Gary Carlson filed the 2002 late Objection and is the registered agent for Evers Ranch Co. with the Montana Secretary of State.

6. More information was needed to clarify the late Objection and another deadline was set.

7. On June 25, 2024, Gary Carlson filed another response:

Evers Ranch Water Right 41 S131997-00

I received the most recent response from the Montana Water Court to the Water Right for the Evers Ranch. I am trying to correct the location of the well for the listed water right. Due to past errors on my part I believe it is correct now.

My wife's family homesteaded this property starting in the 1890's and this well was filed at the incorrect location, this may have possibly happened due to not having the best information to identify the exact location.

I went to the DNRC in Lewistown last week and met with Brandon again. He pointed out that I put in the incorrect Range which resulted in the Water Court letter asking for better information. I am providing additional information as requested;

1. ABSTRACT
2. Map

T21N R15E Section 2 SWNWNE should be the correct location.

If more information is required, please let me know. I am hopeful I that I have provided required information to complete this process

Sincerely,



Gary Carlson  
Evers Ranch Manager  
1216 Avenue E  
Billings, MT 59102  
406-698-6531

(Doc. 4.00). Carlson’s response confirmed that the point of diversion and place of use for domestic claim 41S 131997-00 is in the SWNWNE of Section 2, Township 21 North, Range 15 East, Fergus County.

PRINCIPLES AND CONCLUSIONS OF LAW

1. 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.

2. Evers’ request to modify the place of use is a motion to amend the claim; place of use was not on the Basin 41S Objection List for claim 41S 131997-00. Evers Ranch Co. owns the entirety of Section 2, Township 21 North, Range 15 East Fergus County. Modifying the place of use (and the point of diversion) legal land descriptions does not have a reasonable potential to adversely affect other water users and therefore does not require further notice as provided for in Section 85-2-233(6), MCA. The change does not constitute an expansion of the elements of the claim, and merely corrects the paper water right; the use of the water right on the ground has not changed.

RECOMMENDATIONS

1. Claim 41S 131997-00 should be modified to reflect the point of diversion and place of use is in the SWNWNE of Section, Township 21 North, Range 15 East, Fergus County.

2. The issue remark should be removed from the claim.

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

**ELECTRONICALLY SIGNED AND DATED BELOW.**

**Service via USPS Mail:**

Evers Ranch Co.  
1216 Ave East.  
Billings, MT 59102

**Caption Updated: 7/3/2024**

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

**Water Right Number:** 41S 131997-00 STATEMENT OF CLAIM  
**Version:** 3 -- POST DECREE  
**Status:** ACTIVE

**Owners:** EVERS RANCH CO  
1216 AVE. E  
BILLINGS, MT 59102

**Priority Date:** DECEMBER 31, 1890

**Type of Historical Right:** USE

**Purpose (Use):** DOMESTIC

**Flow Rate:** 25.00 GPM

**Volume:** 6.00 AC-FT

**Households:** 2

**Maximum Acres:** 2.00

**Source Name:** GROUNDWATER

**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		SWNWNE	2	21N	15E	FERGUS

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

**Diversion Means:** WELL

**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	2.00		SWNWNE	2	21N	15E	FERGUS

**Total:** 2.00

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**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.

131997-00      132022-00