

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

CLAIMANTS: Sherry L. Bishop; Timothy B. Bishop

CASE 41S-0692-R-2024
41S 30125095

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. Sherry L. Bishop and Timothy B. Bishop are the record owners of domestic claim 41S 30125095.

2. Claim 41S 30125095 was decreed with DNRC issue remarks:

THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 41S DECREE ISSUED 05/17/1984.
NO VOLUME HAS BEEN CLAIMED.

3. The first issue remark decreed on claim 41S 30125095 is a notice-type remark and does not require further attention.

4. The second issue remark is a result of claim 41S 30125095 being decreed without a volume.

5. An Order was issued explaining that Rule 19(b)(2)(i), W.R.C.E.R. set the volume guideline to 1.50 acre-feet per household for domestic claims and setting a deadline for Claimants Sherry L. Bishop and Timothy B. Bishop to agree or disagree whether the volume for claim 41S 30125095 should be 1.50 acre-feet. The Order indicated that if nothing were filed by the deadline, this Master would conclude the Claimants agree the volume for claim 41S 30125095 is 1.50 acre-feet. 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. 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. Rule 19(b)(2)(i), W.R.C.E.R. set the volume guideline to 1.50 acre-feet per household for domestic claims.

3. The remark noting that claim 41S 30125095 was not included in the 1985 decree for the basin is a notice-type issue remark. As no objection was filed, no further proceedings are required because of the remark.

RECOMMENDATIONS

1. The volume for domestic claim 41S 30125095 should be 1.50 acre-feet.

2. The issue remarks 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:

Timothy B. Bishop
Sherry L. Bishop (FKA Sherry L. Wood)
P.O. Box 126
Moccasin, MT 59462-0126

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

Water Right Number: 41S 30125095 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: SHERRY L BISHOP
/FKA/ WOOD, SHERRY L
PO BOX 126
MOCCASIN, MT 59462-0126

TIMOTHY B BISHOP
PO BOX 126
MOCCASIN, MT 59462-0126

***Priority Date:** DECEMBER 31, 1918

Type of Historical Right: USE

Purpose (Use): DOMESTIC

Flow Rate: 10.00 GPM

Volume: 1.50 AC-FT

Households: 1

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		SEWNNE	23	15N	14E	JUDITH BASIN

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			SEWNNE	23	15N	14E	JUDITH BASIN

Remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE ASSOCIATED. THEY SHARE THE SAME WELL.
41S 30124307, 41S 30125095.