

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

\* \* \* \* \*

CLAIMANTS: Rebecca Kane; Kane Purkett Family  
Revocable Trust

**CASE 41H-1147-R-2024**  
41H 30115356

**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. Claim 41H 30115356 appeared in the Basin 41H Decree with issue remarks from the Montana Department of Natural Resources and Conservation examination. The claim received no objections, counter objections, or notices of intent to appear.

2. The issue remarks state:

NO VOLUME WAS CLAIMED.

THE CLAIMED PRIORITY DATE INDICATES AN APPROPRIATION OF WATER AFTER JUNE 30, 1973.

THIS EXEMPT CLAIM WAS FILED ON 07/27/2017. THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 41H DECREE ISSUED 09/26/1985.

3. The claim was consolidated into case 41H-1147-R-2024 and a filing deadline was initially set for Claimants to file evidence to resolve the issue remarks no later than January 28, 2025. The Order stated that if nothing was filed by the deadline the Master will conclude that claim 41H 30115356 should be dismissed.

4. Nothing was submitted by Claimants as of the date of this Report.

### **CONCLUSIONS OF LAW**

1. Section 85-2-248(2), MCA requires the Water Court to resolve all issue remarks that are not resolved through the objection process. When resolving issue remarks, the Water Court must weigh the information resulting in the issue remark and the issue remark against the claimed water right. Section 85-2-247(2), MCA.

2. A properly filed Statement of Claim for Existing Water Right is prima facie proof of its content. Section 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 an element of the prima facie claim is incorrect. This is the burden of proof for every assertion that a claim is incorrect. Rule 19, W.R.Adj.R.

3. 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, upon motion, or its own initiative, may issue such orders of sanction with regard thereto as are just. Rule 22, W.R.Adj.R.

4. Pursuant to Section 85-2-248(9), MCA, and Rule 22, W.R.Adj.R., when a claimant fails to comply with an Order issued by the Water Court, including an Order issued by a Water Master appointed by the Court, the Court, upon motion, or its own initiative, can among other actions: 1) amend the elements of the claim to conform with the information in the claim file or information obtained by the Court, or 2) terminate the claim.

5. Claimants failed to provide any evidence to that claim 41H 30115356 is a pre-1973 claim with a valid priority date. The issue remarks combined with the lack of participation from Claimants are enough to justify a dismissal of claim 41H 30115356.

#### RECOMMENDATIONS

The changes recommended above should be adopted. A Post Decree Abstract of Water Right Claim is served with the Report to confirm that claim 41H 30115356 has been dismissed.

#### **ELECTRONICALLY SIGNED AND DATED BELOW.**

##### **Service via USPS Mail:**

Rebecca Kane  
Kane Purkett Family Revocable Trust  
40 Gardener Park Dr  
Bozeman, MT 59715

**POST DECREE**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**GALLATIN RIVER**  
**BASIN 41H**

**Water Right Number:** 41H 30115356 STATEMENT OF CLAIM

**Version:** 2 -- POST DECREE

**Status:** **DISMISSED**

**Owners:** REBECCA KANE  
40 GARDNER PARK DR  
BOZEMAN, MT 59715-9229  
  
KANE PURKETT FAMILY REVOCABLE TRUST  
40 GARDENER PARK DR  
BOZEMAN, MT 59715

**Priority Date:**

**Type of Historical Right:**

**Purpose (Use):** DOMESTIC

**Flow Rate:**

**Volume:**

**Source Name:** GROUNDWATER

**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.