

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: Karen L. Thomas Living Trust Dated 01-11-2006

**CASE 41S-0039-R-2024**

OBJECTORS: Karen L. Thomas; Charles S. Thomas

41S 135254-00

41S 139605-00

**NOTICE OF FILING OF SECOND 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 have **13 days** from the service date of the notice of filing of this report to file a written objection or request an extension of the objection period. Rule 23, Water Right Adjudication Rules; Rule 6, Montana Rules of Civil Procedure. 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.

## SECOND MASTER'S REPORT

### FINDINGS OF FACT

1. The Karen L. Thomas Living Trust Dated 01-11-2006 ("The Trust" or "Claimant") is the record owner of claims 41S 135254-00 and 41S 139605-00.

2. Claim 41S 135254-00 was decreed with Montana Department of Natural Resources and Conservation ("DNRC") issue remarks:

**41S 135254-00:**

- THE JUDITH BASIN COUNTY WATER RESOURCES SURVEY ( 1963 ) APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- THE POINT OF DIVERSION MAY BE INCORRECT. THE SAME SPRING IS CLAIMED FOR THIS RIGHT AND 41S 135251-00 (FOR STOCK USE). A MASTER'S REPORT, FILED 04/24/2006, INVOLVING 41S 135251-00 CLARIFIES THE DIVERSION IS ACTUALLY IN THE NWSWNW SEC 12 TWP 14N RGE 14E JUDITH BASIN CO. T APPEARS THIS CLAIM'S POINT OF DIVERSION SHOULD MATCH THE CLARIFIED DESCRIPTION.

3. Karen L. Thomas objected to claim 41S 135254-00 stating:

9. State the changes you think should be made to this claim and why. State the specific grounds and evidence on which the Objection is based. (Use additional paper if necessary.)

Point of Diversion - Point of Diversion should be NWSWNW  
Dike Sec. 12 T14N R14E

Charles S. Thomas objected to claim 41S 139605-00 stating:

9. State the changes you think should be made to this claim and why. State the specific grounds and evidence on which the Objection is based. (Use additional paper if necessary.)

Place of Use - The place of use should be changed to NWSENE  
Section 11 T14N R14E

Map Attached  
Ownership: Delete ~~Stewart~~ Thomas, Stewart J. Trust, Doesn't Exist.

4. A Master's Report was issued on June 17, 2025 ("first Master's Report"). The first Master's Report explained the parties failed to participate in proceedings and recommended dismissal of claim 41S 135254-00, and removal of the Stewart Thomas Trust as an owner of claim 41S 139605-00. (Doc.<sup>1</sup> 3.00).

5. On June 26, 2024, Charles S. Thomas objected to the first Master's Report. The matter was recommitted to the Water Master for further proceedings; the Case has now been assigned to Water Master Anika Stern for the second Master's Report.

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

6. On September 22, 2025, Charles S. Thomas filed the Memorandum of consultant Scott Irvin and indicated that he agrees with Mr. Irvin's recommendations.

Mr. Irvin made recommendations as to the issue remarks decreed on claim 41S 135254-00 and the Objections to claims 41S 135254-00 and 41S 139605-00.

7. The point of diversion issue remark decreed on claim 41S 135254-00 needs to be addressed in addition to the point of diversion Objection to claim 41S 135254-00.

Mr. Irvin explained that the point of diversion Objection to claim 41S 135254-00 and the point of diversion issue remark are consistent and appear to be correct:

Point of Diversion. An issue remark indicates the POD may be incorrect. The remark clarifies the POD is in the NWSWNW Section 12, T14N, R14E. Owner Thomas filed objection to the POD, including a map and affirming that the point is in the NWSWNW Section 12.

The source naturally discharges in the NWSWNW Section 12 and historically was immediately captured by dike or ditches and conveyed to the POU.<sup>5</sup> Multiple ditches were involved in distributing water. Exhibit 1 is a 1965 aerial photo showing Twin Springs and pointing out multiple conveyance routes to the POU. The POU is not delineated in this exhibit so that a clear view of the irrigation facilities can be observed.

The POD as suggested or clarified in the issue remark is accurate.

8. The place of use issue remark decreed on claim 41S 135254-00 needs to be addressed in addition to the place of use Objection to claim 41S 135254-00.

Mr. Irvin used various resources and confirmed at least 40.00 acres of historical irrigation at the claimed place of use for claim 41S 135254-00:

*Aerial Photo.* Exhibit 2 is the same 1965 aerial photo referenced above, with ditches and the POU boundary delineated. The entirety of the POU is irrigable from Twin Springs. General slope of the field is north-northeast. Two ditches conveying water from west to east are located at the south end of the parcel, and a ditch generally sloping from south to north is in the west. Some infield ditching is also observable. It appears that in 1965 multiple types of crops were present. A hay crop is visible along the west side, evidenced by bales sitting in the field. The southern portion appears to be used for irrigated pasture. And the northern portion may have been planted in grain. Field boundaries are clear throughout. My calculation of acreage within the POU is 41.4 acres, comparable to the 40 acres identified in the Preliminary Decree abstract.<sup>7</sup>

Exhibit 3 is a 1968 aerial photo showing the POU and system infrastructure. Dark shade contrast consistent with irrigation is visible. The dark contrast is distinct compared to non-irrigated land, particularly the strip-farmed land in the south part of the photo.

In my opinion the 1965 and 1968 aerial photos are evidence of irrigation of the POU.

### PRINCIPLES OF LAW

1. The Water Court must address all issue remarks decreed on a claim.

Mont. Code Ann. § 85-2-248 (2025).

2. A properly filed Statement of Claim for an existing water right is prima facie proof of its content. § 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, ¶ 34, 375 Mont. 86, 329 P.3d 558.

3. Section 85-2-248(2), MCA, requires that the Water Court resolve all issue remarks that are not resolved through the objection process. *See also* Rule 7, W.R.Adj.R.

4. The Water Court may use information submitted by the DNRC, the Statement of Claim, and any other data obtained by the Court to evaluate a water right. §§ 85-2-227, -231(2), MCA.

CONCLUSION OF LAW

The information in the record overcomes the prima facie status of claims 41S 135254-00 and 41S 139605-00, and the claims should be modified to reflect that the legal land description of the point of diversion and place of use for as described in the Findings of Fact.

RECOMMENDATIONS

1. The point of diversion for claim 41S 135254-00 should be modified as follows:

\*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	NWSWNW	SWNWNW	12	14N	14E	JUDITH BASIN

2. The place of use for claim 41S 139605-00 should be modified as follows:

<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	5.00	NWSENE	SESWNE	11	14N	14E	JUDITH BASIN
<b>Total:</b>	<b>5.00</b>						

3. The issue remarks should be removed from claim 41S 135254-00 and 41S 139605-00.

Abstracts are enclosed.

**ELECTRONICALLY SIGNED AND DATED BELOW.**

**Service via USPS Mail:**

Charles S. Thomas  
Karen L. Thomas  
Karen L. Thomas Living Trust Dated 01-11-2006  
% Trustees  
**37508 S Spoon Dr.**  
**Tucson, AZ 85739**  
~~243 Springdale Lane~~  
~~Hobson, MT 59452~~  
*(Requested by Claimant: 9-22-2025)*

***\*Note: Service List Updated 2-05-2026\****

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

**Water Right Number:** 41S 135254-00 STATEMENT OF CLAIM

**Version:** 6 -- POST DECREE

**Status:** **DISMISSED**

**Owners:** THOMAS, KAREN L LIVING TRUST DATED 01-11-2006  
% TRUSTEES  
243 SPRINGDALE LN  
HOBSON, MT 59452

**\*Priority Date:**

**Type of Historical Right:**

**Purpose (Use):** IRRIGATION

**Flow Rate:**

**Volume:**

**Source Name:** SPRING, UNNAMED TRIBUTARY OF JUDITH RIVER

**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.

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

**Water Right Number:** 41S 139605-00 STATEMENT OF CLAIM  
**Version:** 4 -- POST DECREE  
**Status:** ACTIVE

**Owners:** THOMAS, KAREN L LIVING TRUST DATED 01-11-2006  
 % TRUSTEES  
 243 SPRINGDALE LN  
 HOBSON, MT 59452

**\*Priority Date:** APRIL 1, 1882

**Type of Historical Right:** USE

**Purpose (Use):** DOMESTIC

**Flow Rate:** 25.00 GPM

**Volume:** 12.00 AC-FT

**Households:** 2

**Maximum Acres:** 5.00

**Source Name:** SPRING, UNNAMED TRIBUTARY OF JUDITH RIVER

**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		NWSENE	11	14N	14E	JUDITH BASIN

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

**Diversion Means:** FLOWING

**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	5.00		SESWNE	11	14N	14E	JUDITH BASIN
<b>Total:</b>	<b>5.00</b>						

**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.

139604-00      139605-00