

Montana Water Court
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MONTANA WATER COURT
LOWER MISSOURI DIVISION
JUDITH RIVER
BASIN 41S
PRELIMINARY DECREE

CLAIMANT: Stevensons Diamond Dot Inc.; **Montana State Board of Land Commissioners - Forestry and Trust Lands Division**

CASE 41S-2136-R-2025
41S 14310-00

OBJECTOR: Montana State Board of Land Commissioners

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 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.

MASTER’S REPORT

FINDINGS OF FACT

1. Stevensons Diamond Dot Inc. stock claim 41S 14310-00 was decreed without issue remarks.

2. The Montana State Board of Land Commissioners - Forestry and Trust Lands Division (MBLC) objected to claim 41S 14310-00 based on “ownership” and “other: redundant claim”, stating:

Pettibone applies. The POD/POU is on land that was acquired by the State on 11/8/1889 (Patent Book vol. 2, pg. 301). The GLC survey was accepted 10/6/1875. The priority date of this claim is 7/21/1958.

This claim should be withdrawn as it's redundant with MSBLC claim 41S 21553-00.

3. A conference was conducted on October 16, 2025. Counsel for MBCL appeared at the conference and explained, consistent with the Objection, claim 41S 14310-00 is redundant with claim 41S 21553-00, and claim 41S 14310-00 should be dismissed. Additional time was requested to file supporting documentation. The Claimant failed to appear at the conference.

4. On February 6, 2026, MBLC filed a Motion to Amend its Objection to claim 41S 14310-00. The basis of the Motion to Amend Objection is that claim MBLC should be a co-owner of claim 41S 14310-00, rather than claim 41S 14310-00 being dismissed as redundant to MBLC claim 41S 21553-00.

As described by MBLC in the Motion to Amend Objection:

Ownership of a water right diverted or developed for beneficial use on State of Montana school trust land vests in the State. *Dep't of State Lands v. Pettibone*, 216 Mont. 361, 368, 702 P.2d 948, 952 (1985). As depicted on the map attached hereto as Exhibit A, the point of diversion and place of use of the Claim are located entirely within State of Montana trust lands in Section 36, Township 14 North, Range 14 East, Judith Basin County (the “Trust Lands”). The Trust Lands were acquired by the State on November 8, 1889, as stated in the patent attached hereto as Exhibit B. The General Land Office Survey of Township 14 North, Range 14 East, Judith Basin County, attached hereto as Exhibit C, was accepted by the surveyor general on October 6, 1875. The foregoing documentation supports MBLC’s objection that the point of diversion and place of use are located on State of Montana trust lands and, therefore, under *Pettibone*, MBLC is the proper owner of the Claim.

MBLC’s Water Right Claim 41S 21553-00 was filed by MBLC on April 30, 1981, on the same well as the Claim. See the Statement of Claim attached hereto as Exhibit D, and the Well Log attached hereto as Exhibit E. However, evidence available in the claim files indicates that Water Right Claim 41S 21553-00 is not redundant with the Claim, but rather a distinct appropriation from the same groundwater well with the same priority date. The Statement of Claim for 41S 14310-00, attached hereto as Exhibit F, claims stock use for six (600) hundred cattle. The Statement of Claim for 41S 21553-00 claims stock use for one (100) hundred cattle. See Exhibit D. MBLC administers two grazing leases, Lease AG-8267 and Lease AG-8372, on the place of use of both claims, and the multiple uses of the same groundwater well indicate that the well serves both leases.

(Doc.¹5.00). Therefore, MBLC moved to amend its original Objection to remove the portion requesting dismissal of claim 41S 21553-00.

5. Claimant Stevensons Diamond Dot Inc. did not respond to the Motion.

PRINCIPLES OF LAW

1. A properly filed Statement of Claim for Existing Water Right is prima facie proof of its content. Section 85-2-227, MCA. Prima facie proof may be 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. A preponderance of the evidence is a “modest standard” and is evidence that demonstrates the fact to be proved is “more probable than not.” *Hohenlohe v. State*, 2010 MT 203, ¶ 33, 357 Mont. 348, 240 P.3d 628.

2. The Montana Water Court can use information submitted by the Department of Natural Resources and Conservation, the statement of claim, information from approved compacts, and any other data obtained by the Court to evaluate water right claims. Section 85-2-231(2), MCA.

3. Settlement, including the documents filed by a claimant where the claimant is the only party, is subject to review and approval by the Water Court. Rule 17(a), W.R.Adj.R.

4. If, at the time an appropriation is made, the appropriator is a lessee of school trust land and if the lessee makes and uses the appropriation on school trust land, the appropriation is owned by the State of Montana rather than the lessee. *Department of State Lands v. Pettibone*, 216 Mont. 361, 702 P.2d 948 (1985). Implicit in this rule is the determination that the land was indeed fully vested as state school trust land at the time the appropriation was made. See *Shields River Basin*, 2000 Mont. Water LEXIS 1 at **20-26 (Jun. 29, 2000); *In re Adjudication of the Existing Rights to Use of All the Water (Jefferson River Basin)*, 2005 Mont. Water LEXIS 9 at **48-49 (Jul. 19, 2005); and *In re*

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

Adjudication of the Existing Rights to Use of All the Water (Jefferson River Basin), 2005
Mont. Water LEXIS 1 at **12-16 (Aug. 3, 2005).

CONCLUSION OF LAW

1. The co-ownership for claim 41S 14310-00 is supported by evidence in the record, justifying the correction to ownership, and resolves MBLC's Objection to the claim.

RECOMMENDATIONS

1. MBLC should be added as a co-owner of claim 41S 14310-00.
2. The Objection to claim 41S 14310-00 should be dismissed.

An abstract is attached.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service Via USPS Mail:

Stevensons Diamond Dot Inc.
P.O. Box 178
Hobson, MT 59452-0178

Service Via Electronic Mail:

Last Order:

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****Note: Service List Updated 1-23-2026****

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

Water Right Number: 41S 14310-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: MONTANA STATE BOARD OF LAND COMMISSIONERS
FORESTRY AND TRUST LANDS DIVISION
PO BOX 201601
HELENA, MT 59620-1601

STEVENSONS DIAMOND DOT INC
PO BOX 178
HOBSON, MT 59452-0178

Priority Date: JULY 21, 1958

Type of Historical Right: FILED

Purpose (Use): STOCK

Flow Rate: 10.00 GPM

***Volume:** THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

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		SWSWNE	36	14N	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			SWSWNE	36	14N	14E	JUDITH BASIN