

Montana Water Court
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MONTANA WATER COURT, YELLOWSTONE DIVISION
YELLOWSTONE RIVER ABOVE AND INCLUDING BRIDGER CREEK BASIN
BASIN 43B
PRELIMINARY DECREE

CLAIMANTS: Coates Family Montana Home LLC; Tally Ho North
LLC

OBJECTORS: United States of America (Bureau of Land
Management); United States of America (USDA
Forest Service)

NOTICE OF INTENT TO APPEAR: United States of America (USDA
Forest Service)

CASE 43B-0435-R-2020
43B 193741-00
43B 193744-00

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, conclusion 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 mail 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

The United States of America (DOI Bureau of Land Management) objected to claim 43B 193741-00. The United States of America (USDA Forest Service) filed a notice of intent to appear.

The United States of America (DOI Bureau of Land Management) and the United States of America (USDA Forest Service) objected to claim 43B 193744-00. On February 12, 2020, the claimants filed a response to the objections which includes an amendment form for each claim.

On November 1, 2021 the parties filed a Stipulation To Resolve Objections. The changes recommended in this Report are based on the Stipulation rather than the previously filed amendments attached to the claimants' response. The Stipulation is viewable in the Court's FullCourt Enterprise case management system.

APPLICABLE LAW

A properly filed Statement of Claim for Existing Water Right is prima facie proof of its content pursuant to 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 the elements of the claim do not accurately reflect the beneficial use of the water right as it existed prior to July 1, 1973. This is the burden of proof for every assertion that a claim is incorrect including for claimants objecting to their own claims. Rule 19, W.R.Adj.R.

FINDINGS OF FACT

1. For both claims, the period of diversion remark provides notice of this change made prior to issuance of the Preliminary Decree and does not raise an unresolved issue which needs to be addressed. There are no proceedings required for this remark. The remark should be removed from each abstract as having served its notice purpose.

2. For claim 43B 193741-00, the Preliminary Decree states that the point of diversion legal description is S2NENW section 12, T6S, R8E, PARK. The legal description should be

S2N2NW section 12, T6S, R8E, PARK. The following clarification remark should be added to the point of diversion: THE POINT OF DIVERSION IS LOCATED ENTIRELY ON PRIVATE LAND IDENTIFIED AS CERTIFICATE OF SURVEY NO. 48.

The following clarification remark should be added to the place of use: THE PLACE OF USE IS LOCATED ENTIRELY ON PRIVATE LAND IDENTIFIED AS CERTIFICATE OF SURVEY NO. 48.

3. For claim 43B 193744-00, the following clarification remark should be added to the place of use: THE PLACE OF USE IS LOCATED ENTIRELY ON PRIVATE LAND IDENTIFIED AS CERTIFICATE OF SURVEY NO. 48.

CONCLUSION OF LAW

The settlement document filed by the parties is sufficient to contradict and overcome the prima facie claims.

RECOMMENDATIONS

Based upon the above Findings of Fact and Conclusion of Law, this Master recommends that the Court make the changes specified in the Findings of Fact to correct the Preliminary Decree for this Basin. A Post Decree Abstract of Water Right Claim for each claim is served with this Report to confirm the recommended changes have been made in the state's centralized record system.

Kathryn L. W. Lambert
Senior Water Master

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**WATER COURT
ABSTRACT OF WATER RIGHT CLAIM
YELLOWSTONE RIVER, ABOVE & INCLUDING BRIDGER CREEK
BASIN 43B**

Water Right Number: 43B 193741-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: COATES FAMILY MONTANA HOME LLC
333 LEE DR APT 23
BATON ROUGE, LA 70808

TALLY HO NORTH LLC
9018 JEFFERSON HWY STE A
BATON ROUGE, LA 70809

Priority Date: DECEMBER 31, 1880

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 35.90 GPM

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT
PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 2.10

Source Name: SPRING, UNNAMED TRIBUTARY OF YELLOWSTONE 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		S2N2NW	12	6S	8E	PARK

Period of Diversion: MARCH 15 TO NOVEMBER 15

Diversion Means: SPRING BOX

THE POINT OF DIVERSION IS LOCATED ENTIRELY ON PRIVATE LAND
IDENTIFIED AS CERTIFICATE OF SURVEY NO. 48.

Period of Use: MARCH 15 TO NOVEMBER 15

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	2.10		S2N2NW	12	6S	8E	PARK

Total: 2.10

THE PLACE OF USE IS LOCATED ENTIRELY ON PRIVATE LAND
IDENTIFIED AS CERTIFICATE OF SURVEY NO. 48.

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.

193741-00

193742-00

193745-00

**WATER COURT
ABSTRACT OF WATER RIGHT CLAIM
YELLOWSTONE RIVER, ABOVE & INCLUDING BRIDGER CREEK
BASIN 43B**

Water Right Number: 43B 193744-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: COATES FAMILY MONTANA HOME LLC
333 LEE DR APT 23
BATON ROUGE, LA 70808

TALLY HO NORTH LLC
9018 JEFFERSON HWY STE A
BATON ROUGE, LA 70809

Priority Date: OCTOBER 27, 1883

Type of Historical Right: USE

Purpose (Use): DOMESTIC

Flow Rate: 22.44 GPM

Volume: 5.20 AC-FT

Households: 1

Maximum Acres: 2.10

Source Name: CHICO HOT SPRINGS

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		SWSESW	1	6S	8E	PARK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: PUMP

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	2.10		S2N2NW	12	6S	8E	PARK

Total: 2.10

THE PLACE OF USE IS LOCATED ENTIRELY ON PRIVATE LAND IDENTIFIED AS CERTIFICATE OF SURVEY NO. 48.