

Montana Water Court  
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43B-0435-R-2020

December 15, 2021

Montana Water Court

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

**CASE 43B-0435-R-2020**

43B 193741-00

43B 193744-00

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)

**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.

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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          |
| <b>Total:</b> | 2.10         |                 |                |            |            |            |               |

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

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**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>Otr 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>Otr Sec</u> | <u>Sec</u> | <u>Twp</u> | <u>Rge</u> | <u>County</u> |
|---------------|--------------|-----------------|----------------|------------|------------|------------|---------------|
| 1             | 2.10         |                 | S2N2NW         | 12         | 6S         | 8E         | PARK          |
| <b>Total:</b> | <b>2.10</b>  |                 |                |            |            |            |               |

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