

Montana Water Court
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43B-0004-R-2020

September 13, 2021

Montana Water Court

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

CLAIMANT: Livingston Ditch Water Users Association

OBJECTOR: United States of America (Bureau of Reclamation)

NOTICE OF INTENT TO APPEAR: Park Branch Water Users
Association

CASE 43B-0004-R-2020

43B 119322-00

43B 119323-00

43B 119324-00

43B 119325-00

43B 119327-00

43B 119328-00

43B 119329-00

43B 119330-00

NOTICE OF FILING OF MASTER'S REPORT

This Master's Report was filed with the Clerk of the Montana Water Court. Please review this Report carefully.

You may file a written objection to this Master's Report if you disagree or find errors with the Master's Findings of Fact, Conclusions of Law, or Recommendations. The above stamped date indicates the date this Master's Report was filed and mailed. Rule 23 of the Water Right Adjudication Rules requires written objections to a Master's Report be filed within 10 days of the date of the Master's Report. Because this Master's Report was mailed to you, Rule 6(d) of the Montana Rules of Civil Procedure provides an additional 3 days to the 10-day objection period.

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 this 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

Claims 43B 119322-00, 43B 119323-00, 43B 119324-00, and 43B 119327-00 each appeared in the Preliminary Decree with the following remarks:

STARTING IN 2008, PERIOD OF DIVERSION WAS ADDED TO MOST CLAIM ABSTRACTS, INCLUDING THIS ONE.

POINT OF DIVERSION WAS MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

Claim 43B 119325-00 appeared in the Preliminary Decree with the following remarks:

STARTING IN 2008, PERIOD OF DIVERSION WAS ADDED TO MOST CLAIM ABSTRACTS, INCLUDING THIS ONE.

POINT OF DIVERSION WAS MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

THE TYPE OF HISTORICAL RIGHT AND PRIORITY DATE MAY BE QUESTIONABLE. DOCUMENTATION TO SUPPORT THE TYPE OF HISTORICAL RIGHT AND PRIORITY DATE WAS NOT SUBMITTED WITH THIS CLAIM.

Claims 43B 119328-00, 43B 119329-00, and 43B 119330-00 each appeared in the Preliminary Decree with the following remark:

STARTING IN 2008, PERIOD OF DIVERSION WAS ADDED TO MOST CLAIM ABSTRACTS, INCLUDING THIS ONE.

The United States of America (Bureau of Reclamation) objected to each of these claims. Park Branch Water Users Association filed a notice of intent to appear for claims 43B 119322-00, 43B 119323-00, 43B 119324-00, and 43B 119325-00.

On April 13, 2021 Livingston Ditch Water Users Association and United States of America (Bureau of Reclamation) filed a Stipulation resolving the objections. The requested changes to the point of diversion legal description for claim 43B 119322-00 and to the period of diversion for claim 43B 119327-00 are deemed the claimant's motion to amend pursuant to section 85-2-233(6), MCA. On April 13, 2021 Park Branch Water Users Association filed a Withdrawal Of Notices Of Intent To Appear. On June 10, 2021 the United States' Response To Order Setting

Filing Deadline was filed providing the acreage quantity for each parcel in the requested place of use for the irrigation claims. The settlement documents are viewable in the Court's FullCourt Enterprise case management system.

APPLICABLE LAW

The Montana Water Court has jurisdiction to review a motion to amend pursuant to section 85-2-233(6), MCA.

Rule 15 M.R.Civ.P. restricts the scope of the amendments to the conduct, transaction, or occurrence set forth in the original pleading or, in other words, the "same set of operative facts as contained in the original pleading." *Sooy v. Petrolane Steel Gas, Inc.*, 218 Mont. 418, 422-423 (1985). The requested amendment "merely makes more specific that which has already been alleged." *Prentice Lumber Company v. Hukill*, 161 Mont. 8, 15 (1972).

Notice must be published by newspaper if the requested amendments "may adversely affect other water rights." Section 85-2-233(6)(a)(i), MCA.

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. Claims 43B 119324-00, 43B 119325-00, 43B 119329-00, and 43B 119330-00 should be dismissed as withdrawn.

2. The changes requested in the motion to amend claims 43B 119322-00 and 43B 119327-00 arise out of the same conduct, transaction, or occurrence specified on the original Statements of Claim, are based on the same operative facts specified in the Statements of Claim, and merely make more specific that which was already claimed on the original Statements of Claim.

3. For claims 43B 119322-00 and 43B 119323-00, the Preliminary Decree states that the point of diversion legal description is SESENE section 11, T3S, R9E, PARK. "Government

Lot 2" should be added to the legal description for both claims.

4. For claims 43B 119322-00 and 43B 119323-00, the Preliminary Decree states that the maximum acres irrigated is 2187.00 and the place of use is:

	<u>ACRES</u>	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
1	30.00	SE	28	1S	10E	PARK
2	45.00	SE	31	1S	10E	PARK
3	50.00	NE	32	1S	10E	PARK
4	105.00	SE	32	1S	10E	PARK
5	115.00	SW	32	1S	10E	PARK
6	30.00	NE	33	1S	10E	PARK
7	85.00	NW	33	1S	10E	PARK
8	10.00	SW	33	1S	10E	PARK
9	27.00	NESE	1	2S	9E	PARK
10	50.00	NE	12	2S	9E	PARK
11	40.00	SE	12	2S	9E	PARK
12	10.00	SE	14	2S	9E	PARK
13	20.00	SW	14	2S	9E	PARK
14	90.00	NE	23	2S	9E	PARK
15	160.00	SE	23	2S	9E	PARK
16	60.00	SW	23	2S	9E	PARK
17	5.00	NW	24	2S	9E	PARK
18	60.00	SW	24	2S	9E	PARK
19	130.00	NE	26	2S	9E	PARK
20	135.00	NW	26	2S	9E	PARK
21	60.00	SE	26	2S	9E	PARK
22	30.00	SW	26	2S	9E	PARK
23	15.00	SE	35	2S	9E	PARK
24	80.00	NW	5	2S	10E	PARK
25	160.00	NE	6	2S	10E	PARK
26	50.00	NW	6	2S	10E	PARK
27	125.00	SE	6	2S	10E	PARK
28	140.00	SW	6	2S	10E	PARK
29	25.00	NE	7	2S	10E	PARK
30	130.00	NW	7	2S	10E	PARK
31	40.00	SW	7	2S	10E	PARK
32	5.00	SW	1	3S	9E	PARK
33	10.00	NE	2	3S	9E	PARK
34	45.00	SE	2	3S	9E	PARK
35	10.00	NE	11	3S	9E	PARK
36	5.00	NW	12	3S	9E	PARK
Total:	<u>2,187.00</u>					

The maximum acres irrigated should be 1496.00 and the place of use should be:

	<u>ACRES</u>	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
1	80.00	S2SE	28	1S	10E	PARK
2	20.00	S2SESW	28	1S	10E	PARK
3	160.00	SE	31	1S	10E	PARK
4	160.00	NE	32	1S	10E	PARK
5	40.00	SENW	32	1S	10E	PARK
6	320.00	S2	32	1S	10E	PARK
7	20.00	N2NENE	33	1S	10E	PARK
8	40.00	NWNE	33	1S	10E	PARK
9	80.00	N2NW	33	1S	10E	PARK
10	20.00	N2SENW	33	1S	10E	PARK
11	40.00	SWNW	33	1S	10E	PARK
12	160.00	NE	1	2S	9E	PARK
13	80.00	E2NW	1	2S	9E	PARK
14	80.00	N2SE	1	2S	9E	PARK
15	40.00	SESE	1	2S	9E	PARK
16	320.00	E2	12	2S	9E	PARK
17	40.00	E2E2NW	12	2S	9E	PARK
18	80.00	N2NE	13	2S	9E	PARK
19	40.00	SWNE	13	2S	9E	PARK
20	160.00	NW	13	2S	9E	PARK
21	20.00	N2NESW	13	2S	9E	PARK
22	40.00	NWSW	13	2S	9E	PARK
23	80.00	E2SE	14	2S	9E	PARK
24	160.00	NE	23	2S	9E	PARK
25	80.00	N2SE	23	2S	9E	PARK
26	20.00	W2SESE	23	2S	9E	PARK
27	40.00	SWSE	23	2S	9E	PARK
28	160.00	SW	23	2S	9E	PARK
29	40.00	W2E2	26	2S	9E	PARK
30	40.00	W2E2NE	26	2S	9E	PARK
31	160.00	W2	26	2S	9E	PARK
32	40.00	SENE	27	2S	9E	PARK
33	160.00	E2SE	27	2S	9E	PARK
34	160.00	W2E2	35	2S	9E	PARK
35	160.00	NW	35	2S	9E	PARK
36	80.00	E2SW	35	2S	9E	PARK
37	160.00	NW	5	2S	10E	PARK
38	640.00		6	2S	10E	PARK
39	40.00	NWNE	7	2S	10E	PARK
40	160.00	NW	7	2S	10E	PARK
41	80.00	N2SW	7	2S	10E	PARK
42	40.00	NWNE	2	3S	9E	PARK
43	20.00	W2SENE	2	3S	9E	PARK
44	20.00	E2SWNE	2	3S	9E	PARK
45	20.00	W2NESE	2	3S	9E	PARK
46	<u>20.00</u>	E2NWSE	2	3S	9E	PARK
	4,620.00					

The Stipulation requests the addition of a remark concerning the number of acres irrigated. As there is a standard information remark which is very similar to the requested remark, the standard clarification remark should be added, as follows:

ONLY 1496.00 ACRES ARE IRRIGATED DURING ANY GIVEN IRRIGATION SEASON WITHIN THE 4620.00 ACRES DESCRIBED UNDER THIS RIGHT. SEE STIPULATION FILED APRIL 13, 2021 IN CASE 43B-0004-R-2020.

For claim 43B 119322-00, a multiple use remark should be added for this claim and 43B 119327-00.

For claim 43B 119323-00, a multiple use remark should be added for this claim and 43B 119328-00.

The period of diversion and point of diversion remarks provide notice of these changes made prior to issuance of the Preliminary Decree and do not raise unresolved issues which need to be addressed. The remarks should be removed as having served their notice purposes.

5. For claims 43B 119327-00 and 43B 119328-00, the Preliminary Decree states that the period of diversion is January 1 to December 31. The period of diversion should be April 1 to October 31.

The Preliminary Decree states that the place of use is:

	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
1	NW	12	3S	9E	PARK
2	SE	28	1S	10E	PARK
3	SE	31	1S	10E	PARK
4	SW	32	1S	10E	PARK
5	SE	32	1S	10E	PARK
6	NE	32	1S	10E	PARK
7	SW	33	1S	10E	PARK
8	NW	33	1S	10E	PARK
9	NE	33	1S	10E	PARK
10	NW	5	2S	10E	PARK
11	NE	6	2S	10E	PARK
12	SE	6	2S	10E	PARK
13	NW	6	2S	10E	PARK
14	SW	6	2S	10E	PARK
15	NW	7	2S	10E	PARK
16	NE	7	2S	10E	PARK
17	SW	7	2S	10E	PARK
18	NE	12	2S	9E	PARK

19	SE	12	2S	9E	PARK
20	SE	14	2S	9E	PARK
21	SW	14	2S	9E	PARK
22	SE	23	2S	9E	PARK
23	SW	23	2S	9E	PARK
24	NE	23	2S	9E	PARK
25	SW	24	2S	9E	PARK
26	NW	24	2S	9E	PARK
27	NW	26	2S	9E	PARK
28	NE	26	2S	9E	PARK
29	SE	26	2S	9E	PARK
30	SW	26	2S	9E	PARK
31	SE	35	2S	9E	PARK
32	SW	1	3S	9E	PARK
33	SE	2	3S	9E	PARK
34	NE	2	3S	9E	PARK
35	NE	11	3S	9E	PARK

The place of use should be:

	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
1	S2SE	28	1S	10E	PARK
2	S2SESW	28	1S	10E	PARK
3	SE	31	1S	10E	PARK
4	NE	32	1S	10E	PARK
5	SENW	32	1S	10E	PARK
6	S2	32	1S	10E	PARK
7	N2NENE	33	1S	10E	PARK
8	NWNE	33	1S	10E	PARK
9	N2NW	33	1S	10E	PARK
10	N2SENW	33	1S	10E	PARK
11	SWNW	33	1S	10E	PARK
12	NE	1	2S	9E	PARK
13	E2NW	1	2S	9E	PARK
14	N2SE	1	2S	9E	PARK
15	SESE	1	2S	9E	PARK
16	E2	12	2S	9E	PARK
17	E2E2NW	12	2S	9E	PARK
18	N2NE	13	2S	9E	PARK
19	SWNE	13	2S	9E	PARK
20	NW	13	2S	9E	PARK
21	N2NESW	13	2S	9E	PARK
22	NWSW	13	2S	9E	PARK
23	E2SE	14	2S	9E	PARK
24	NE	23	2S	9E	PARK
25	N2SE	23	2S	9E	PARK

26	W2SESE	23	2S	9E	PARK
27	SWSE	23	2S	9E	PARK
28	SW	23	2S	9E	PARK
29	W2E2	26	2S	9E	PARK
30	W2E2NE	26	2S	9E	PARK
31	W2	26	2S	9E	PARK
32	SENE	27	2S	9E	PARK
33	E2SE	27	2S	9E	PARK
34	W2E2	35	2S	9E	PARK
35	NW	35	2S	9E	PARK
36	E2SW	35	2S	9E	PARK
37	NW	5	2S	10E	PARK
38		6	2S	10E	PARK
39	NWNE	7	2S	10E	PARK
40	NW	7	2S	10E	PARK
41	N2SW	7	2S	10E	PARK
42	NWNE	2	3S	9E	PARK
43	W2SENE	2	3S	9E	PARK
44	E2SWNE	2	3S	9E	PARK
45	W2NESE	2	3S	9E	PARK
46	E2NWSE	2	3S	9E	PARK

The period of diversion and point of diversion remarks provide notice of these changes made prior to issuance of the Preliminary Decree and do not raise unresolved issues which need to be addressed. The remarks should be removed as having served their notice purposes.

CONCLUSIONS OF LAW

1. For claim 43B 119322-00, the requested amendment to the point of diversion legal description does not adversely affect other water rights as it is a refinement of the legal description which does not make any change to the actual historical use of the claimed right on the ground. Notice by publication of this amendment is not required. Section 85-2-233(6), MCA.

2. For claim 43B 119327-00, the requested amendment to the period of diversion is a reduction and does not adversely affect other water rights. Notice by publication of this amendment is not required. Section 85-2-233(6), MCA.

3. Each requested amendment “merely makes more specific that which has already been alleged.” *Prentice Lumber Company v. Hukill*, 161 Mont. at 15.

4. The settlement documents filed by the parties are sufficient to contradict and

overcome the prima facie claims and to resolve the issue remarks without evidentiary hearing.
Section 85-2-248(3) and (11), MCA.

RECOMMENDATIONS

Based upon the above, this Master recommends that the Court grant the motions to amend and 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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**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
YELLOWSTONE RIVER, ABOVE & INCLUDING BRIDGER CREEK
BASIN 43B**

Water Right Number: 43B 119322-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: LIVINGSTON DITCH WATER USERS ASSN
%JANET LEE
228 S MAIN #2
LIVINGSTON, MT 59047

Priority Date: AUGUST 28, 1890

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

***Flow Rate:** 104.00 CFS

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

Climatic Area: 3 - MODERATE

***Maximum Acres:** 1,496.00

Source Name: YELLOWSTONE RIVER

Source Type: SURFACE WATER

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	2	SESENE	11	3S	9E	PARK

Period of Diversion: APRIL 1 TO OCTOBER 31

Diversion Means: HEADGATE

Ditch Name: LIVINGSTON DITCH

Period of Use: APRIL 1 TO OCTOBER 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	80.00		S2SE	28	1S	10E	PARK
2	20.00		S2SESW	28	1S	10E	PARK
3	160.00		SE	31	1S	10E	PARK
4	160.00		NE	32	1S	10E	PARK
5	40.00		SENE	32	1S	10E	PARK
6	320.00		S2	32	1S	10E	PARK
7	20.00		N2NENE	33	1S	10E	PARK
8	40.00		NWNE	33	1S	10E	PARK
9	80.00		N2NW	33	1S	10E	PARK
10	20.00		N2SENE	33	1S	10E	PARK
11	40.00		SENE	33	1S	10E	PARK

12	160.00	NE	1	2S	9E	PARK
13	80.00	E2NW	1	2S	9E	PARK
14	80.00	N2SE	1	2S	9E	PARK
15	40.00	SESE	1	2S	9E	PARK
16	320.00	E2	12	2S	9E	PARK
17	40.00	E2E2NW	12	2S	9E	PARK
18	80.00	N2NE	13	2S	9E	PARK
19	40.00	SWNE	13	2S	9E	PARK
20	160.00	NW	13	2S	9E	PARK
21	20.00	N2NESW	13	2S	9E	PARK
22	40.00	NWSW	13	2S	9E	PARK
23	80.00	E2SE	14	2S	9E	PARK
24	160.00	NE	23	2S	9E	PARK
25	80.00	N2SE	23	2S	9E	PARK
26	20.00	W2SESE	23	2S	9E	PARK
27	40.00	SWSE	23	2S	9E	PARK
28	160.00	SW	23	2S	9E	PARK
29	40.00	W2E2	26	2S	9E	PARK
30	40.00	W2E2NE	26	2S	9E	PARK
31	160.00	W2	26	2S	9E	PARK
32	40.00	SENE	27	2S	9E	PARK
33	160.00	E2SE	27	2S	9E	PARK
34	160.00	W2E2	35	2S	9E	PARK
35	160.00	NW	35	2S	9E	PARK
36	80.00	E2SW	35	2S	9E	PARK
37	160.00	NW	5	2S	10E	PARK
38	640.00		6	2S	10E	PARK
39	40.00	NWNE	7	2S	10E	PARK
40	160.00	NW	7	2S	10E	PARK
41	80.00	N2SW	7	2S	10E	PARK
42	40.00	NWNE	2	3S	9E	PARK
43	20.00	W2SENE	2	3S	9E	PARK
44	20.00	E2SWNE	2	3S	9E	PARK
45	20.00	W2NESE	2	3S	9E	PARK
46	20.00	E2NWSE	2	3S	9E	PARK

Total: 4,620.00

ONLY 1496.00 ACRES ARE IRRIGATED DURING ANY GIVEN IRRIGATION SEASON WITHIN THE 4620.00 ACRES DESCRIBED UNDER THIS RIGHT.
SEE STIPULATION FILED APRIL 13, 2021 IN CASE 43B-0004-R-2020.

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.

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

Water Right Number: 43B 119323-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: LIVINGSTON DITCH WATER USERS ASSN
%JANET LEE
228 S MAIN #2
LIVINGSTON, MT 59047

Priority Date: NOVEMBER 21, 1900

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 12.50 CFS

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

Climatic Area: 3 - MODERATE

***Maximum Acres:** 1,496.00

Source Name: YELLOWSTONE RIVER

Source Type: SURFACE WATER

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	2	SESENE	11	3S	9E	PARK

Period of Diversion: APRIL 1 TO OCTOBER 31

Diversion Means: HEADGATE

Ditch Name: LIVINGSTON DITCH

Period of Use: APRIL 1 TO OCTOBER 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	80.00		S2SE	28	1S	10E	PARK
2	20.00		S2SESW	28	1S	10E	PARK
3	160.00		SE	31	1S	10E	PARK
4	160.00		NE	32	1S	10E	PARK
5	40.00		SENE	32	1S	10E	PARK
6	320.00		S2	32	1S	10E	PARK
7	20.00		N2NENE	33	1S	10E	PARK
8	40.00		NWNE	33	1S	10E	PARK
9	80.00		N2NW	33	1S	10E	PARK
10	20.00		N2SENE	33	1S	10E	PARK
11	40.00		SWNE	33	1S	10E	PARK

12	160.00	NE	1	2S	9E	PARK
13	80.00	E2NW	1	2S	9E	PARK
14	80.00	N2SE	1	2S	9E	PARK
15	40.00	SESE	1	2S	9E	PARK
16	320.00	E2	12	2S	9E	PARK
17	40.00	E2E2NW	12	2S	9E	PARK
18	80.00	N2NE	13	2S	9E	PARK
19	40.00	SWNE	13	2S	9E	PARK
20	160.00	NW	13	2S	9E	PARK
21	20.00	N2NESW	13	2S	9E	PARK
22	40.00	NWSW	13	2S	9E	PARK
23	80.00	E2SE	14	2S	9E	PARK
24	160.00	NE	23	2S	9E	PARK
25	80.00	N2SE	23	2S	9E	PARK
26	20.00	W2SESE	23	2S	9E	PARK
27	40.00	SWSE	23	2S	9E	PARK
28	160.00	SW	23	2S	9E	PARK
29	40.00	W2E2	26	2S	9E	PARK
30	40.00	W2E2NE	26	2S	9E	PARK
31	160.00	W2	26	2S	9E	PARK
32	40.00	SENE	27	2S	9E	PARK
33	160.00	E2SE	27	2S	9E	PARK
34	160.00	W2E2	35	2S	9E	PARK
35	160.00	NW	35	2S	9E	PARK
36	80.00	E2SW	35	2S	9E	PARK
37	160.00	NW	5	2S	10E	PARK
38	640.00		6	2S	10E	PARK
39	40.00	NWNE	7	2S	10E	PARK
40	160.00	NW	7	2S	10E	PARK
41	80.00	N2SW	7	2S	10E	PARK
42	40.00	NWNE	2	3S	9E	PARK
43	20.00	W2SENE	2	3S	9E	PARK
44	20.00	E2SWNE	2	3S	9E	PARK
45	20.00	W2NESE	2	3S	9E	PARK
46	20.00	E2NWSE	2	3S	9E	PARK

Total: 4,620.00

ONLY 1496.00 ACRES ARE IRRIGATED DURING ANY GIVEN IRRIGATION SEASON WITHIN THE 4620.00 ACRES DESCRIBED UNDER THIS RIGHT. SEE STIPULATION FILED APRIL 13, 2021 IN CASE 43B-0004-R-2020.

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.

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

Water Right Number: **43B 119324-00** STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: DISMISSED

Owners: LIVINGSTON DITCH WATER USERS ASSN
 %JANET LEE
 228 S MAIN #2
 LIVINGSTON, MT 59047

Priority Date:

Type of Historical Right:

Purpose (Use): IRRIGATION

Flow Rate:

Volume:

Source Name: YELLOWSTONE RIVER

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

Remarks:

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.

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

Water Right Number: **43B 119325-00** STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: DISMISSED

Owners: LIVINGSTON DITCH WATER USERS ASSN
 %JANET LEE
 228 S MAIN #2
 LIVINGSTON, MT 59047

Priority Date:

Type of Historical Right:

Purpose (Use): IRRIGATION

Flow Rate:

Volume:

Source Name: YELLOWSTONE RIVER

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

Remarks:

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.

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

Water Right Number: 43B 119327-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: LIVINGSTON DITCH WATER USERS ASSN
%JANET LEE
228 S MAIN #2
LIVINGSTON, MT 59047

Priority Date: AUGUST 28, 1890

Type of Historical Right: FILED

Purpose (Use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

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: YELLOWSTONE RIVER

Source Type: SURFACE WATER

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	2	SESENE	11	3S	9E	PARK

Period of Diversion: APRIL 1 TO OCTOBER 31

Diversion Means: HEADGATE

Ditch Name: LIVINGSTON DITCH

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			S2SE	28	1S	10E	PARK
2			S2SESW	28	1S	10E	PARK
3			SE	31	1S	10E	PARK
4			NE	32	1S	10E	PARK
5			SENE	32	1S	10E	PARK
6			S2	32	1S	10E	PARK
7			N2NENE	33	1S	10E	PARK
8			NWNE	33	1S	10E	PARK
9			N2NW	33	1S	10E	PARK
10			N2SENE	33	1S	10E	PARK

11	SWNW	33	1S	10E	PARK
12	NE	1	2S	9E	PARK
13	E2NW	1	2S	9E	PARK
14	N2SE	1	2S	9E	PARK
15	SESE	1	2S	9E	PARK
16	E2	12	2S	9E	PARK
17	E2E2NW	12	2S	9E	PARK
18	N2NE	13	2S	9E	PARK
19	SWNE	13	2S	9E	PARK
20	NW	13	2S	9E	PARK
21	N2NESW	13	2S	9E	PARK
22	NWSW	13	2S	9E	PARK
23	E2SE	14	2S	9E	PARK
24	NE	23	2S	9E	PARK
25	N2SE	23	2S	9E	PARK
26	W2SESE	23	2S	9E	PARK
27	SWSE	23	2S	9E	PARK
28	SW	23	2S	9E	PARK
29	W2E2	26	2S	9E	PARK
30	W2E2NE	26	2S	9E	PARK
31	W2	26	2S	9E	PARK
32	SENE	27	2S	9E	PARK
33	E2SE	27	2S	9E	PARK
34	W2E2	35	2S	9E	PARK
35	NW	35	2S	9E	PARK
36	E2SW	35	2S	9E	PARK
37	NW	5	2S	10E	PARK
38		6	2S	10E	PARK
39	NWNE	7	2S	10E	PARK
40	NW	7	2S	10E	PARK
41	N2SW	7	2S	10E	PARK
42	NWNE	2	3S	9E	PARK
43	W2SENE	2	3S	9E	PARK
44	E2SWNE	2	3S	9E	PARK
45	W2NESE	2	3S	9E	PARK
46	E2NWSE	2	3S	9E	PARK

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.

119322-00 119327-00

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

Water Right Number: 43B 119328-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: LIVINGSTON DITCH WATER USERS ASSN
%JANET LEE
228 S MAIN #2
LIVINGSTON, MT 59047

Priority Date: NOVEMBER 21, 1900

Type of Historical Right: FILED

Purpose (Use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

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: YELLOWSTONE RIVER

Source Type: SURFACE WATER

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	2	SESENE	11	3S	9E	PARK

Period of Diversion: APRIL 1 TO OCTOBER 31

Diversion Means: HEADGATE

Ditch Name: LIVINGSTON DITCH

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			S2SE	28	1S	10E	PARK
2			S2SESW	28	1S	10E	PARK
3			SE	31	1S	10E	PARK
4			NE	32	1S	10E	PARK
5			SENE	32	1S	10E	PARK
6			S2	32	1S	10E	PARK
7			N2NENE	33	1S	10E	PARK
8			NWNE	33	1S	10E	PARK
9			N2NW	33	1S	10E	PARK
10			N2SENE	33	1S	10E	PARK

11	SWNW	33	1S	10E	PARK
12	NE	1	2S	9E	PARK
13	E2NW	1	2S	9E	PARK
14	N2SE	1	2S	9E	PARK
15	SESE	1	2S	9E	PARK
16	E2	12	2S	9E	PARK
17	E2E2NW	12	2S	9E	PARK
18	N2NE	13	2S	9E	PARK
19	SWNE	13	2S	9E	PARK
20	NW	13	2S	9E	PARK
21	N2NESW	13	2S	9E	PARK
22	NWSW	13	2S	9E	PARK
23	E2SE	14	2S	9E	PARK
24	NE	23	2S	9E	PARK
25	N2SE	23	2S	9E	PARK
26	W2SESE	23	2S	9E	PARK
27	SWSE	23	2S	9E	PARK
28	SW	23	2S	9E	PARK
29	W2E2	26	2S	9E	PARK
30	W2E2NE	26	2S	9E	PARK
31	W2	26	2S	9E	PARK
32	SENE	27	2S	9E	PARK
33	E2SE	27	2S	9E	PARK
34	W2E2	35	2S	9E	PARK
35	NW	35	2S	9E	PARK
36	E2SW	35	2S	9E	PARK
37	NW	5	2S	10E	PARK
38		6	2S	10E	PARK
39	NWNE	7	2S	10E	PARK
40	NW	7	2S	10E	PARK
41	N2SW	7	2S	10E	PARK
42	NWNE	2	3S	9E	PARK
43	W2SENE	2	3S	9E	PARK
44	E2SWNE	2	3S	9E	PARK
45	W2NESE	2	3S	9E	PARK
46	E2NWSE	2	3S	9E	PARK

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.

119323-00 119328-00

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

Water Right Number: **43B 119329-00** STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: DISMISSED

Owners: LIVINGSTON DITCH WATER USERS ASSN
 %JANET LEE
 228 S MAIN #2
 LIVINGSTON, MT 59047

Priority Date:

Type of Historical Right:

Purpose (Use): STOCK

Flow Rate:

Volume:

Source Name: YELLOWSTONE RIVER

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

Remarks:

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.

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

Water Right Number: **43B 119330-00** STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: **DISMISSED**

Owners: LIVINGSTON DITCH WATER USERS ASSN
 %JANET LEE
 228 S MAIN #2
 LIVINGSTON, MT 59047

Priority Date:

Type of Historical Right:

Purpose (Use): STOCK

Flow Rate:

Volume:

Source Name: YELLOWSTONE RIVER

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

Remarks:

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.