

43B-0374-R-2021

September 16, 2021

Montana Water Court

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

* * * * *

CLAIMANTS: Sitka Ranch LLC; Warfield Ranch; Carol Nickelson
Trust

CASE 43B-0374-R-2021

43B 100936-00
43B 101072-00
43B 193696-00
43B 194623-00
43B 194624-00

Implied Claim:
43B 30151600

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

Warfield Ranch claim 43B 193696-00, Carol Nickelson Trust claim 43B 194623-00, and Sitka Ranch LLC claim 43B 100936-00 are based on the Decree entered April 15, 1891 in Cause Number 34, *Davis v. Hone and Saddler*, which awarded each party a 100.00 miner's inch right from Davis Creek with sequential priority dates April 11, 1892, April 12, 1892, and April 13, 1892.

The requested implied claim for Warfield Ranch is based on the May 4, 1965 Notice Of Appropriation of 600.00 miner's inches (200.00 miner's inches each), filed by the current owners' predecessors James D. Warfield, Harold Nickelson & Albert F. Nickelson (jointly), and David G. Rigler & Frank J. Rigler (jointly). The Notice states that the appropriation was made on April 27, 1965.

In 1986, the then-owners of these claims filed late objections with an attached recitation of corrections for various claims and a request to generate an implied claim for Warfield Ranch. All of the claims in this Case are included in this recitation of corrections. On May 29, 2018 the current owners of these claims filed a Stipulation generally confirming the changes specified in the 1986 late objections and request to generate an implied claim for Warfield Ranch, plus a correction to the point of diversion legal description for each claim. On May 29, 2018 Warfield Ranch filed a Verified Motion To Amend Water Right Claim 43B 193696 00 And Generate An Implied Claim with the Affidavit of Laurie Redfield attached in support. On April 14, 2021 Warfield Ranch filed its Response To Request For Supplemental Information concerning its requested amendments. On June 18, 2021 Sitka Ranch LLC filed a Motion To Amend Claim 43B 100936-00. On June 18, 2021 the claimants filed a second Stipulation which notes that the 1986 recitation of corrections includes volume quantifications but the current claimants confirm they want to keep the current standard direct flow irrigation volume remark.

The late objections with recitation of corrections and the 2018 Stipulation are in the claim files and are viewable as scanned documents through the Montana Department of Natural Resources and Conservation water rights query system. The documents filed in 2021 are viewable in the Court's FullCourt Enterprise case management system.

APPLICABLE LAW

From Case 41P-108 "Circle S Ranch, Inc." ORDER ON MOTION TO MODIFY CLAIMS 5-16-19, at 2019 Mont. Water LEXIS 8, page 5.

The Water Court recognizes implied claims in certain circumstances *In re Musselshell River below Roundup*, Case 40C-47, 1994 Mont. Water LEXIS 18, *78 (July 14, 1994). However, before the Court will recognize an implied claim, the claimant must prove that several factors exist. These include: (1) proof of two or more water rights in the original claim form or the material submitted with the claim form; (2) proof of historic use corroborating the implied claim; and (3) proof that recognizing the implied claim(s) will avoid causing a change to historic water use or increase the historic burden to other water users. *In re Foss*, Case 76HF-580, 2013 Mont. Water LEXIS 17, *32 (Jan. 31, 2013); *In re Martinell*, Case 41A-148, 2018 Mont. Water LEXIS 3, *6 (June 14, 2018). These standards assure that implied claims are not used to revive a claim that was forfeited as a matter of law by missing the filing deadline. Mont. Code Ann. § 85-2-226 (establishing conclusive presumption of abandonment of for claims not timely filed); *In re Climbing Arrow Ranch*, Case 41F-A19, 2019 Mont. Water LEXIS 1 (Mar. 6, 2019). The implied claim process also cannot be used to expand the elements of a statement of claim. *In re Eliasson Ranch Company*, Order Amending and Adopting Master's Report, Case 40A-115, 2004 Mont. Water LEXIS 2, *6 (Jun. 28, 2004) ("Eliasson").

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

Warfield Ranch claims

1. Statement of Claim 43B 193696-00, as filed on December 7, 1981, states that the flow rate is 300.00 miner's inches, that the right claimed is a November 25, 1902 filed right, and has copies of two notices of appropriation attached: the Henry Hone Notice Of Water Right for 165.00 miner's inches appropriated in June 1891, filed November 25, 1902, and the James D. Warfield, Harold Nickelson & Albert F. Nickelson (jointly), and David G. Rigler & Frank J. Rigler (jointly) Notice Of Water Right for 600.00 miner's inches appropriated on April 27, 1965, filed

May 4, 1965. The Notice states that the appropriation was made on April 27, 1965. The number of acres irrigated claimed is 130.00. Because the type of historical right claimed is a filed right, the flow rate was reduced from 7.50 cfs (300.00 miner's inches) to 4.93 cfs (197.00 miner's inches) based on the 1.50 miner's inches/acre guideline. It appears the facts that the claimed flow rate exceeded the flow rate stated in the Henry Hone notice, and that two different notices of appropriation for two different water rights were attached to the Statement of Claim did not prompt additional inquiry to the claimant during verification to determine the significance of the 1965 Notice Of Water Right. It is readily apparent that although only one priority date was specified, the claimed flow rate and the two attached notices of appropriation indicate two rights were claimed on this single claim form. The claimed flow rate, 300.00 miner's inches (7.50 cfs), equals the 100 miner's inches (2.50 cfs) for the Henry Hone right and 200.00 miner's inches (5.00 cfs) for the Warfield Ranch portion of the James D. Warfield, Harold Nickelson & Albert F. Nickelson (jointly), and David G. Rigler & Frank J. Rigler right.

2. Statement of Claim 43B 193696-00 itself is proof of historical use corroborating the implied claim. The May 10, 2008 Affidavit of Laurie Redfield provides additional historical information confirming continuous use of the 1965 filed right.

3. The May 10, 2008 Affidavit of Laurie Redfield provides additional historical information confirming use of the 1965 filed right, thereby providing proof that recognizing the implied claim will avoid causing a change to historical water use or increase the historical burden to other water users. This proof is also explicit in the 1986 recitation of changes attached to each of the late objections filed to each of these claims in 1986 by each of the owners at that time, and explicit in the 2018 Stipulation filed by all these current claimants, as each of these documents includes generation of an implied claim for Warfield Ranch for the 1965 filed right.

4. Claim 43B 193696-00 should be used for the Henry Hone filed right, priority date April 11, 1882. Implied claim 43B 30151600 should be generated for the Warfield Ranch portion of the James D. Warfield, Harold Nickelson & Albert F. Nickelson (jointly), and David G. Rigler & Frank J. Rigler filed right, priority date April 27, 1965.

5. Claim 43B 193696-00 appeared in the Preliminary Decree with the following remarks:

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

AN AMENDMENT WAS SUBMITTED ON 05/29/2018 REQUESTING TO AMEND THE TYPE OF HISTORICAL RIGHT, PRIORITY DATE, FLOW RATE, VOLUME, PLACE OF USE, MAXIMUM ACRES, POINT OF DIVERSION, AND TO GENERATE AN IMPLIED CLAIM. THE AMENDMENT WAS NOT PROCESSED. THE AMENDMENT WILL BE REVIEWED AFTER THE ISSUANCE OF THE PRELIMINARY DECREE. MOTION TO AMEND FILED TOO LATE TO PROCESS

A LATE OBJECTION HAS BEEN FILED TO THE PRIORITY DATE, VOLUME, FLOW RATE, POINT OF DIVERSION AND PERIOD OF USE OF THIS WATER RIGHT CLAIM. IT WILL BE RESOLVED DURING THE ADJUDICATION OF OBJECTIONS TO THE PRELIMINARY DECREE.

POINT OF DIVERSION AND DITCH NAME WERE 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.

6. For claim 43B 193696-00, the Preliminary Decree states that the priority date is NOVEMBER 25, 1902. The priority date should be APRIL 11, 1882.

The Preliminary Decree states that the flow rate is 4.93 CFS. The flow rate should be 2.50 CFS.

The Preliminary Decree states that the point of diversion legal description is SENESW section 4, T6S, R9E, PARK. The point of diversion legal description should be SWSWSE section 4, T6S, R9E, PARK.

The Preliminary Decree states that the maximum acres irrigated and place of use are 130.00 acres in the NW section 4, T6S, R9E, PARK. The maximum acres irrigated should be 177.00 and the place of use should be:

ACRES	QTRSEC	SEC	TWP	RGE	COUNTY
18.00	NWNE	4	6S	9E	PARK
2.50	NWSWNE	4	6S	9E	PARK
42.00	NENW	4	6S	9E	PARK
37.00	NWNW	4	6S	9E	PARK
35.00	SENW	4	6S	9E	PARK
34.00	SWNW	4	6S	9E	PARK
<u>8.50</u>	NESW	4	6S	9E	PARK
177.00					

The amendment and late objection remarks should be removed as addressed.

The period of diversion, point of diversion, and ditch name remarks provide notice of these changes made prior to issuance of the Preliminary Decree. The remarks do not raise

unresolved issues which need to be addressed. These remarks should be removed as having served their notice purposes.

7. For implied claim 43B 30151600, the elements should be the same as 43B 193696-00 except the priority date and flow rate. The priority date should be APRIL 27, 1965. The flow rate should be 5.00 CFS.

Sitka Ranch LLC claims

8. Claim 43B 100936-00 appeared in the Preliminary Decree with the following remarks:

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

AN AMENDMENT WAS SUBMITTED ON 5/29/2018 REQUESTING TO AMEND THE PRIORITY DATE AND POINT OF DIVERSION. THE AMENDMENT WAS NOT PROCESSED. THE AMENDMENT WILL BE REVIEWED AFTER THE ISSUANCE OF THE PRELIMINARY DECREE.

A LATE OBJECTION HAS BEEN FILED TO THE VOLUME AND PERIOD OF USE OF THIS WATER RIGHT CLAIM. IT WILL BE RESOLVED DURING THE ADJUDICATION OF OBJECTIONS TO THE PRELIMINARY DECREE.

DITCH NAME 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.

9. For claim 43B 100936-00, the Preliminary Decree states that the priority date is APRIL 11, 1882. The priority date should be APRIL 13, 1882.

The Preliminary Decree states that the point of diversion legal description is SENESW section 4, T6S, R9E, PARK. The point of diversion legal description should be SWSWSE section 4, T6S, R9E, PARK.

The Preliminary Decree states that the period of use and period of diversion are each MAY 1 TO SEPTEMBER 1. The period of use and period of diversion should each be MAY 1 TO OCTOBER 1.

The amendment and late objection remarks should be removed as addressed.

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

10. Claim 43B 101072-00 appeared in the Preliminary Decree with the following

remarks:

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

AN AMENDMENT WAS SUBMITTED ON 5/29/2018 REQUESTING TO AMEND THE PRIORITY DATE AND POINT OF DIVERSION. THE AMENDMENT WAS NOT PROCESSED. THE AMENDMENT WILL BE REVIEWED AFTER THE ISSUANCE OF THE PRELIMINARY DECREE.

A LATE OBJECTION HAS BEEN FILED TO THE PRIORITY DATE, VOLUME, SOURCE, FLOW RATE, AND POINT OF DIVERSION OF THIS WATER RIGHT CLAIM. IT WILL BE RESOLVED DURING THE ADJUDICATION OF OBJECTIONS TO THE PRELIMINARY DECREE.

DITCH NAME 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.

11. For claim 43B 101072-00, the Preliminary Decree states that the point of diversion legal description is SENESW section 4, T6S, R9E, PARK. The point of diversion legal description should be SWSWSE section 4, T6S, R9E, PARK.

The late objection and amendment remarks should be removed as addressed.

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

Carol Nickelson Trust claims

12. Claim 43B 194623-00 appeared in the Preliminary Decree with the following remarks:

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

AN AMENDMENT WAS SUBMITTED ON 05/29/2018 REQUESTING TO AMEND THE POINT OF DIVERSION. THE AMENDMENT WAS NOT PROCESSED. THE AMENDMENT WILL BE REVIEWED AFTER THE ISSUANCE OF THE PRELIMINARY DECREE. MOTION TO AMEND FILED TOO LATE TO PROCESS

DITCH NAME 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.

13. For claim 43B 194623-00, the Preliminary Decree states that the point of diversion legal description is SENESW section 4, T6S, R9E, PARK. The point of diversion legal description

should be SWSWSE section 4, T6S, R9E, PARK. The amendment remark should be removed as addressed.

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

14. Claim 43B 194624-00 appeared in the Preliminary Decree with the following remarks:

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

AN AMENDMENT WAS SUBMITTED ON 05/29/2018 REQUESTING TO AMEND THE POINT OF DIVERSION, TYPE OF HISTORICAL RIGHT, AND FLOW RATE. THE AMENDMENT WAS NOT PROCESSED. THE AMENDMENT WILL BE REVIEWED AFTER THE ISSUANCE OF THE PRELIMINARY DECREE. MOTION TO AMEND FILED TOO LATE TO PROCESS

A LATE OBJECTION HAS BEEN FILED TO THE VOLUME, FLOW RATE AND PERIOD OF USE OF THIS WATER RIGHT CLAIM. IT WILL BE RESOLVED DURING THE ADJUDICATION OF OBJECTIONS TO THE PRELIMINARY DECREE.

DITCH NAME 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.

15. For claim 43B 194624-00, the Preliminary Decree states that the type of historical right is USE. The type of historical right should be FILED.

The Preliminary Decree states that the flow rate is 2.50 CFS. The flow rate should be 5.00 CFS.

The Preliminary Decree states that the point of diversion legal description is SENESW section 4, T6S, R9E, PARK. The point of diversion legal description should be SWSWSE section 4, T6S, R9E, PARK.

The Preliminary Decree states that the period of use and period of diversion are each APRIL 1 TO NOVEMBER 1. The period of use and period of diversion should each be MAY 1 TO OCTOBER 1.

The amendment and late objection remarks should be removed as addressed.

The period of diversion and ditch name remarks provide notice of these changes made

prior to issuance of the Preliminary Decree. The remarks do not raise unresolved issues which need to be addressed. These remarks should be removed as having served their notice purposes.

CONCLUSIONS OF LAW

1. The requirements for generating an implied as specified in Case 41P-108 "Circle S Ranch, Inc." ORDER ON MOTION TO MODIFY CLAIMS 5-16-19, at 2019 Mont. Water LEXIS 8, page 5, have been met.
2. The settlement documentation and supporting evidence entered into the record are sufficient to contradict and overcome the *prima facie* claims.

RECOMMENDATIONS

Based upon the above Findings of Fact and Conclusions 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 and generate the implied claim. 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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Note: Caption Updated 8/26/2021

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

Water Right Number: **43B 100936-00** **STATEMENT OF CLAIM**

Version: 3 -- POST DECREE

Status: ACTIVE

Owners:
SITKA RANCH LLC
%GAYE LYNN HILL
252 PRAY RD
LIVINGSTON, MT 59047

Priority Date: APRIL 13, 1882

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 2.50 CFS

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: 239.50

Source Name: DAVIS CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SWSWSE	4	6S	9E	PARK

Period of Diversion: MAY 1 TO OCTOBER 1

Diversion Means: HEADGATE

Ditch Name: WARFIELD-NICKELSON-RIGLER DITCH

Period of Use: MAY 1 TO OCTOBER 1

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	50.10		NE	5	6S	9E	PARK
2	77.00		W2SE	32	5S	9E	PARK
3	23.40		SENW	32	5S	9E	PARK
4	10.00		W2NE	32	5S	9E	PARK
5	25.00		N2SW	32	5S	9E	PARK
6	54.00		S2SW	32	5S	9E	PARK
Total:	239.50						

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

100936-00

101071-00

101072-00

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

Water Right Number: **43B 101072-00** STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners:
SITKA RANCH LLC
%GAYE LYNN HILL
252 PRAY RD
LIVINGSTON, MT 59047

Priority Date: APRIL 27, 1965

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 5.00 CFS

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: 239.50

Source Name: DAVIS CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SWSWSE	4	6S	9E	PARK

Period of Diversion: MAY 1 TO OCTOBER 1

Diversion Means: HEADGATE

Ditch Name: WARFIELD-NICKELSON-RIGLER DITCH

Period of Use: MAY 1 TO OCTOBER 1

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	50.10		NE	5	6S	9E	PARK
2	77.00		W2SE	32	5S	9E	PARK
3	23.40		SENW	32	5S	9E	PARK
4	10.00		W2NE	32	5S	9E	PARK
5	25.00		N2SW	32	5S	9E	PARK
6	54.00		S2SW	32	5S	9E	PARK
Total:	239.50						

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

100936-00 101071-00 101072-00

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

Water Right Number: **43B 193696-00** STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: WARFIELD RANCH
538 MILL CREEK RD
LIVINGSTON, MT 59047

Priority Date: APRIL 11, 1882

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 2.50 CFS

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: 177.00

Source Name: DAVIS CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SWSWSE	4	6S	9E	PARK

Period of Diversion: MAY 1 TO DECEMBER 1

Diversion Means: HEADGATE

Ditch Name: WARFIELD-NICKELSON-RIGLER DITCH

Period of Use: MAY 1 TO DECEMBER 1

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	18.00		NWNE	4	6S	9E	PARK
2	2.50		NWSWNE	4	6S	9E	PARK
3	42.00		NENW	4	6S	9E	PARK
4	37.00		NWNW	4	6S	9E	PARK
5	35.00		SENW	4	6S	9E	PARK
6	34.00		SWNW	4	6S	9E	PARK
7	8.50		NESW	4	6S	9E	PARK
Total:	177.00						

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

Water Right Number: **43B 30151600** STATEMENT OF CLAIM

Version: 1 -- ORIGINAL RIGHT

Status: ACTIVE

Owners: WARFIELD RANCH
538 MILL CREEK RD
LIVINGSTON, MT 59047

Priority Date: APRIL 27, 1965

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 5.00 CFS

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: 177.00

Source Name: DAVIS CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SWSWSE	4	6S	9E	PARK

Period of Diversion: MAY 1 TO DECEMBER 1

Diversion Means: HEADGATE

Ditch Name: WARFIELD-NICKELSON-RIGLER DITCH

Period of Use: MAY 1 TO DECEMBER 1

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	18.00		NWSE	4	6S	9E	PARK
2	2.50		NWSWNE	4	6S	9E	PARK
3	42.00		NENW	4	6S	9E	PARK
4	37.00		NWNW	4	6S	9E	PARK
5	35.00		SENW	4	6S	9E	PARK
6	34.00		SWNW	4	6S	9E	PARK
7	8.50		NESW	4	6S	9E	PARK
Total:	177.00						

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

Water Right Number: **43B 194623-00** **STATEMENT OF CLAIM**

Version: 4 -- POST DECREE

Status: ACTIVE

Owners:
NICKELSON CAROL TRUST
%TRIPPLETT JENNIFER
PO BOX 414
POWELL, WY 82435 0141

Priority Date: APRIL 12, 1882

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 2.50 CFS

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: 175.40

Source Name: DAVIS CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SWSWSE	4	6S	9E	PARK

Period of Diversion: APRIL 1 TO NOVEMBER 1

Diversion Means: HEADGATE

Ditch Name: WARFIELD-NICKELSON-RIGLER DITCH

Period of Use: APRIL 1 TO NOVEMBER 1

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	40.00		SESE	32	5S	9E	PARK
2	4.70		NENESE	32	5S	9E	PARK
3	6.50		NWNESE	32	5S	9E	PARK
4	10.00		SWNESE	32	5S	9E	PARK
5	10.00		SENESE	32	5S	9E	PARK
6	9.00		NESWSW	33	5S	9E	PARK
7	8.70		NWSWSW	33	5S	9E	PARK
8	9.60		SWSWSW	33	5S	9E	PARK
9	9.60		SESWSW	33	5S	9E	PARK
10	1.00		NESESW	33	5S	9E	PARK
11	10.00		NENESW	33	5S	9E	PARK

12	10.00	NWNESW	33	5S	9E	PARK
13	7.60	SWNESW	33	5S	9E	PARK
14	3.60	SENESW	33	5S	9E	PARK
15	6.20	SWSENW	33	5S	9E	PARK
16	6.30	SESENW	33	5S	9E	PARK
17	5.00	NWSWNW	33	5S	9E	PARK
18	10.00	SWSWNW	33	5S	9E	PARK
19	7.60	SESWNW	33	5S	9E	PARK
Total:	<hr/>					
	175.40					

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

194623-00 194624-00 194625-00

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

Water Right Number: **43B 194624-00** **STATEMENT OF CLAIM**

Version: 4 -- POST DECREE

Status: ACTIVE

Owners:
NICKELSON CAROL TRUST
%TRIPPLETT JENNIFER
PO BOX 414
POWELL, WY 82435 0141

Priority Date: APRIL 27, 1965

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 5.00 CFS

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: 175.40

Source Name: DAVIS CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SWSWSE	4	6S	9E	PARK

Period of Diversion: MAY 1 TO OCTOBER 1

Diversion Means: HEADGATE

Ditch Name: WARFIELD-NICKELSON-RIGLER DITCH

Period of Use: MAY 1 TO OCTOBER 1

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	40.00		SESE	32	5S	9E	PARK
2	4.70		NENESE	32	5S	9E	PARK
3	6.50		NWNESE	32	5S	9E	PARK
4	10.00		SWNESE	32	5S	9E	PARK
5	10.00		SENESE	32	5S	9E	PARK
6	9.00		NESWSW	33	5S	9E	PARK
7	8.70		NWSWSW	33	5S	9E	PARK
8	9.60		SWSWSW	33	5S	9E	PARK
9	9.60		SESWSW	33	5S	9E	PARK
10	1.00		NESESW	33	5S	9E	PARK
11	10.00		NENESW	33	5S	9E	PARK

12	10.00	NWNESW	33	5S	9E	PARK
13	7.60	SWNESW	33	5S	9E	PARK
14	3.60	SENESW	33	5S	9E	PARK
15	6.20	SWSENW	33	5S	9E	PARK
16	6.30	SESENW	33	5S	9E	PARK
17	5.00	NWSWNW	33	5S	9E	PARK
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194623-00 194624-00 194625-00