

Montana Water Court
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Bozeman, MT 59771-1389
1-800-624-3270
(406) 586-4364
watercourt@mt.gov

43B-0385-R-2021

September 17, 2021

Montana Water Court

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

CLAIMANT: Carbella Ditch Co

CASE 43B-0385-R-2021
43B 16821-00
43B 25634-00
43B 25636-00
43B 193795-00
43B 193798-00
43B 194658-00

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, Conclusion 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

Claim 43B 16821-00 appeared in the Preliminary Decree with the following remarks:

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

THE TIMELY FILED OBJECTION OF MARYANN MOTT WAS AMENDED BY AGREEMENT OF THE PARTIES TO INCLUDE ACRES IRRIGATED AND POINT OF DIVERSION BECAUSE THESE ELEMENTS WERE NOT INCLUDED ON THE OBJECTION LIST, ANY WATER USER WHOSE RIGHTS MAY BE ADVERSELY AFFECTED BY ENFORCEMENT OF THESE CHANGES MAY PETITION THE APPROPRIATE COURT FOR RELIEF OR MAY FILE AN OBJECTION AT 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.

THE TYPE OF HISTORICAL RIGHT MAY BE QUESTIONABLE. DOCUMENTATION SUBMITTED WITH THE CLAIM INDICATES A USE RIGHT.

Claim 43B 25634-00 appeared in the Preliminary Decree with the following remarks:

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

THE TIMELY FILED OBJECTION OF MARYANN MOTT WAS AMENDED BY AGREEMENT OF THE PARTIES TO INCLUDE POINT OF DIVERSION AND MEANS OF DIVERSION BECAUSE THESE ELEMENTS WERE NOT INCLUDED ON THE OBJECTION LIST, ANY WATER USER WHOSE RIGHTS MAY BE ADVERSELY AFFECTED BY ENFORCEMENT OF THESE CHANGES MAY PETITION THE APPROPRIATE COURT FOR RELIEF OR MAY FILE AN OBJECTION AT 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.

THE TYPE OF HISTORICAL RIGHT MAY BE QUESTIONABLE. DOCUMENTATION SUBMITTED WITH THE CLAIM INDICATES A USE RIGHT.

Claim 43B 25636-00 appeared in the Preliminary Decree with the following remarks:

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

THE TIMELY FILED OBJECTION OF MARYANN MOTT WAS AMENDED BY AGREEMENT OF THE PARTIES TO INCLUDE ACRES IRRIGATED AND POINT OF DIVERSION BECAUSE THESE ELEMENTS WERE NOT INCLUDED ON THE OBJECTION LIST, ANY WATER USER WHOSE RIGHTS MAY BE ADVERSELY AFFECTED BY ENFORCEMENT OF THESE CHANGES MAY PETITION THE

APPROPRIATE COURT FOR RELIEF OR MAY FILE AN OBJECTION AT 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.

THE TYPE OF HISTORICAL RIGHT MAY BE QUESTIONABLE. DOCUMENTATION SUBMITTED WITH THE CLAIM INDICATES A USE RIGHT.

Claim 43B 193795-00 appeared in the Preliminary Decree with the following remarks:

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

THE TIMELY FILED OBJECTION OF MARYANN MOTT WAS AMENDED BY AGREEMENT OF THE PARTIES TO INCLUDE ACRES IRRIGATED AND POINT OF DIVERSION BECAUSE THESE ELEMENTS WERE NOT INCLUDED ON THE OBJECTION LIST, ANY WATER USER WHOSE RIGHTS MAY BE ADVERSELY AFFECTED BY ENFORCEMENT OF THESE CHANGES MAY PETITION THE APPROPRIATE COURT FOR RELIEF OR MAY FILE AN OBJECTION AT 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.

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.

Claim 43B 193798-00 appeared in the Preliminary Decree with the following remarks:

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

THE TIMELY FILED OBJECTION OF MARYANN MOTT WAS AMENDED BY AGREEMENT OF THE PARTIES TO INCLUDE POINT OF DIVERSION AND MEANS OF DIVERSION BECAUSE THESE ELEMENTS WERE NOT INCLUDED ON THE OBJECTION LIST, ANY WATER USER WHOSE RIGHTS MAY BE ADVERSELY AFFECTED BY ENFORCEMENT OF THESE CHANGES MAY PETITION THE APPROPRIATE COURT FOR RELIEF OR MAY FILE AN OBJECTION AT 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.

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.

Claim 43B 194658-00 appeared in the Preliminary Decree with the following remarks:

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

THE TIMELY FILED OBJECTION OF MARYANN MOTT WAS AMENDED BY AGREEMENT OF THE PARTIES TO INCLUDE ACRES IRRIGATED AND POINT OF DIVERSION BECAUSE THESE ELEMENTS WERE NOT INCLUDED ON THE OBJECTION LIST, ANY WATER USER WHOSE RIGHTS MAY BE ADVERSELY AFFECTED BY ENFORCEMENT OF THESE CHANGES MAY PETITION THE APPROPRIATE COURT FOR RELIEF OR MAY FILE AN OBJECTION AT 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.

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.

The type of historical right and priority date issue remarks were not addressed through the objection process. The Water Court is required to resolve the issues raised by each issue remark. Section 85-2-248, MCA.

Under Section 85-2-248(3), MCA, information in the claim file or other information obtained by the Court can be reviewed to determine if it provides a sufficient basis to resolve the issue raised by a remark and the Court can provide the claimant an opportunity to file additional information or evidence. On August 18, 2021 Mary E. Hagemeyer, Secretary/Treasurer of Carbella Ditch Company, filed a response recounting the adjudication history of these claims with various attachments. This information addresses and resolves the issue remarks on all of the claims. The response is viewable in the Court's FullCourt Enterprise case management system.

Each of these claims originally claimed a decreed right based on the Decree issued on June 1, 1938, in Cause Number 7515, *Scott et al. v. Merrell et al.* Each of these claims appeared in the 1985 Temporary Preliminary Decree with an issue remark stating that the decreed rights were over-claimed. The claims were then consolidated into different cases with the claims filed by others for the same decreed right. In each instance, the decree exceeded issue was resolved by Stipulation which states that the priority date should be changed to June 1, 1970. The Stipulations did not identify a different June 1, 1970 decreed right or June 1, 1970 filed right. It appears each of these claimed rights was changed from a decreed right to a June 1, 1970 use right. When the Temporary Preliminary Decree proceedings were underway, the abstracts of claim included the priority date but did not include the type of historical right. Each priority date was changed, but the type of historical

right change was not included. The consequence: the type of historical right and priority date issue remarks that appeared on these abstracts in the 2019 Preliminary Decree.

APPLICABLE LAW

“All issue remarks to claims that are not resolved through the filing of an objection as provided in 85-2-233 must be resolved as provided in this section.” Section 85-2-248(2), 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. For all of these claims, the type of historical right should be changed from DECREED to USE. The priority date and type of historical right issue remark should be removed from all of these claims as addressed and resolved.

2. The other remarks on each abstract provide notice of actions taken during the Temporary Preliminary Decree proceedings or changes made prior to issuance of the Preliminary Decree and do not raise unresolved issues which need to be addressed. These remarks should be removed as having served their notice purposes.

CONCLUSION OF LAW

The information provided by the claimant and in the Temporary Preliminary Decree proceedings' documents is sufficient to resolve the issue remarks without evidentiary hearing. Sections 85-2-248(3) and (11), MCA.

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

Service via USPS Mail:

Carbella Ditch Co
% Mary Hagemeyer
PO Box 93
Emigrant, MT 59027

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

Water Right Number: 43B 16821-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: CARBELLA DITCH CO
% MARY HAGEMeyer
PO BOX 93
EMIGRANT, MT 59027

***Priority Date:** JUNE 1, 1970

Type of Historical Right: USE

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 202.00 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:** 123.24

***Source Name:** TOM MINER CREEK

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		NENESE	25	7S	6E	PARK

Period of Diversion: APRIL 1 TO OCTOBER 15

Diversion Means: HEADGATE

Subdivision: GRIZZLY MEADOWS SUBDIVISION

Ditch Name: BAILEY DITCH

2		NENESE	25	7S	6E	PARK
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Period of Diversion: APRIL 1 TO OCTOBER 15

Diversion Means: HEADGATE

Subdivision: GRIZZLY MEADOWS SUBDIVISION

Ditch Name: BAILEY DITCH

3		NWNWSW	30	7S	7E	PARK
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Period of Diversion: APRIL 1 TO OCTOBER 15

Diversion Means: HEADGATE

Subdivision: GRIZZLY MEADOWS SUBDIVISION

Ditch Name: BAILEY DITCH

THESE MULTIPLE POINT OF DIVERSIONS DO NOT GIVE THE CLAIMANT THE POWER TO USE AT ANY ONE TIME MORE THAN THE FLOW RATE DECREED BY THE USE OF

THIS RIGHT FROM MORE THAN ONE POINT OF DIVERSION. SEE STIPULATION FILED
1-12-1990 IN CASE 43B-175.

Period of Use: APRIL 1 TO OCTOBER 15

***Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	44.39		SE	19	7S	7E	PARK	
Subdivision:		GRIZZLY MEADOWS SUBDIVISION						
2	78.85		NE	30	7S	7E	PARK	
Subdivision:		GRIZZLY MEADOWS SUBDIVISION						
Total:	123.24							

PLACE OF USE IS WITHIN CERTIFICATE OF SURVEY NO. 473 TRACTS 1, 2, 9, 10,
11, 12, 13, 15, 16, 18, 19, 20, 26 AND CERTIFICATE OF SURVEY NO. 866 TRACTS
17A AND 24A, PARK COUNTY.

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

Water Right Number: 43B 25634-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: CARBELLA DITCH CO
% MARY HAGEMEYER
PO BOX 93
EMIGRANT, MT 59027

***Priority Date:** JUNE 1, 1970

Type of Historical Right: USE

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 310.00 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:** 123.24

***Source Name:** TOM MINER CREEK

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		NENESE	25	7S	6E	PARK

Period of Diversion: APRIL 1 TO OCTOBER 15

Diversion Means: HEADGATE

Ditch Name: BAILEY DITCH

2		NENESE	25	7S	6E	PARK
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Period of Diversion: APRIL 1 TO OCTOBER 15

Diversion Means: HEADGATE

Ditch Name: BAILEY DITCH

3		NWNWSW	30	7S	7E	PARK
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Period of Diversion: APRIL 1 TO OCTOBER 15

Diversion Means: HEADGATE

Ditch Name: BAILEY DITCH

THESE MULTIPLE POINTS OF DIVERSION DO NOT GIVE THE CLAIMANT THE POWER TO USE AT ANY TIME MORE THAN THE FLOW RATE DECREED FOR THIS RIGHT BY THE USE OF THIS RIGHT FROM MORE THAN ONE POINT OF DIVERSION. SEE STIPULATION FILED 1-12-1990 IN CASE 43B-121.

Period of Use: APRIL 1 TO OCTOBER 15

***Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	70.85		NE	30	7S	7E	PARK
2	44.39		SE	19	7S	7E	PARK
3	8.00		SE	30	7S	7E	PARK
Total:	<u>123.24</u>						

THE PLACE OF USE IS WITHIN CERTIFICATE OF SURVEY NO. 473, PARK COUNTY,
AND INCLUDES TRACTS 1, 2, 9, 10, 11, 12, 13, 15, 16, 18, 19, 20 AND 26 AND
WITHIN CERTIFICATE OF SURVEY NO. 866 AND INCLUDES TRACTS 17A AND 24A.

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.

25634-00

25636-00

25637-00

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

Water Right Number: 43B 25636-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: CARBELLA DITCH CO
% MARY HAGEMeyer
PO BOX 93
EMIGRANT, MT 59027

***Priority Date:** JUNE 1, 1970

Type of Historical Right: USE

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 386.00 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:** 123.24

***Source Name:** TOM MINER CREEK

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>
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1		NENESE	25	7S	6E	PARK
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Period of Diversion: APRIL 1 TO OCTOBER 15

Diversion Means: HEADGATE

Ditch Name: BAILEY DITCH

2		NENESE	25	7S	6E	PARK
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Period of Diversion: APRIL 1 TO OCTOBER 15

Diversion Means: HEADGATE

Ditch Name: BAILEY DITCH

3		NWNWSW	30	7S	7E	PARK
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Period of Diversion: APRIL 1 TO OCTOBER 15

Diversion Means: HEADGATE

Ditch Name: BAILEY DITCH

THESE MULTIPLE POINT OF DIVERSIONS DO NOT GIVE THE CLAIMANT THE POWER TO USE AT ANY ONE TIME MORE THAN THE FLOW RATE DECREED BY THE USE OF THIS RIGHT FROM MORE THAN ONE POINT OF DIVERSION. SEE STIPULATION FILED 1-12-1990 IN CASE 43B-175.

Period of Use: APRIL 1 TO OCTOBER 15

***Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	44.39		SE	19	7S	7E	PARK
2	78.85		NE	30	7S	7E	PARK
Total:	123.24						

PLACE OF USE IS WITHIN CERTIFICATE OF SURVEY NO. 473 TRACTS 1, 2, 9, 10, 11, 12, 13, 15, 16, 18, 19, 20, 26 AND CERTIFICATE OF SURVEY NO. 866 TRACTS 17A AND 24A, PARK COUNTY.

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.

25634-00 25636-00 25637-00

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

Water Right Number: 43B 193795-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: CARBELLA DITCH CO
% MARY HAGEMeyer
PO BOX 93
EMIGRANT, MT 59027

***Priority Date:** JUNE 1, 1970
Type of Historical Right: USE
Purpose (Use): IRRIGATION
Irrigation Type: FLOOD
Flow Rate: 2.25 CFS
Volume: 230.86 AC-FT
Climatic Area: 4 - MODERATELY LOW
***Maximum Acres:** 123.24
***Source Name:** TOM MINER CREEK
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		NENESE	25	7S	6E	PARK
Period of Diversion:	MAY 1 TO OCTOBER 31					
Diversion Means:	HEADGATE					
Subdivision:	GRIZZLY MEADOWS SUBDIVISION					
Ditch Name:	BAILEY DITCH					
2		NWNWSW	30	7S	7E	PARK
Period of Diversion:	MAY 1 TO OCTOBER 31					
Diversion Means:	HEADGATE					
Subdivision:	GRIZZLY MEADOWS SUBDIVISION					
Ditch Name:	BAILEY DITCH					
3		NENESE	25	7S	6E	PARK
Period of Diversion:	MAY 1 TO OCTOBER 31					
Diversion Means:	HEADGATE					
Subdivision:	GRIZZLY MEADOWS SUBDIVISION					
Ditch Name:	BAILEY DITCH					

THE MULTIPLE DIVERSION POINTS DO NOT GIVE THE CLAIMANT THE POWER TO USE AT ANY TIME MORE THAN THE FLOW RATE DECREED FOR THAT RIGHT BY THE USE OF THE RIGHT FROM MORE THAN ONE POINT OF DIVERSION. SEE STIPULATION

FILED 1-12-1990 IN CASE 43B-83.

Period of Use: MAY 1 TO OCTOBER 31

***Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	44.39		SE	19	7S	7E	PARK
Subdivision:		GRIZZLY MEADOWS SUBDIVISION					
2	78.85		NE	30	7S	7E	PARK
Subdivision:		GRIZZLY MEADOWS SUBDIVISION					
Total:	123.24						

PLACE OF USE IS WITHIN CERTIFICATE OF SURVEY #473, TRACTS 1, 2, 9, 10, 11, 12, 13, 15, 16, 18, 19, 20 AND 26 AND CERTIFICATE OF SURVEY #866, TRACTS 17A & 24A.

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.

193794-00 193795-00 193796-00 193798-00 193799-00

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

Water Right Number: 43B 193798-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: CARBELLA DITCH CO
% MARY HAGEMeyer
PO BOX 93
EMIGRANT, MT 59027

***Priority Date:** JUNE 1, 1970

Type of Historical Right: USE

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 1.00 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:** 123.24

***Source Name:** TOM MINER CREEK

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		NENESE	25	7S	6E	PARK

Period of Diversion: MAY 1 TO OCTOBER 31

Diversion Means: HEADGATE

Subdivision: GRIZZLY MEADOWS SUBDIVISION

Ditch Name: BAILEY DITCH

2		NENESE	25	7S	6E	PARK
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Period of Diversion: MAY 1 TO OCTOBER 31

Diversion Means: HEADGATE

Subdivision: GRIZZLY MEADOWS SUBDIVISION

Ditch Name: BAILEY DITCH

3		NWNWSW	30	7S	7E	PARK
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Period of Diversion: MAY 1 TO OCTOBER 31

Diversion Means: HEADGATE

Subdivision: GRIZZLY MEADOWS SUBDIVISION

Ditch Name: BAILEY DITCH

THE MULTIPLE DIVERSION POINTS DO NOT GIVE THE CLAIMANT THE POWER TO USE AT ANY TIME MORE THAN THE FLOW RATE DECREED FOR THAT RIGHT BY THE USE

OF THE RIGHT FROM MORE THAN ONE POINT OF DIVERSION. SEE STIPULATION
FILED 1-12-1990 IN CASE 43B-121.

Period of Use: MAY 1 TO OCTOBER 31

***Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	70.85		NE	30	7S	7E	PARK
Subdivision:		GRIZZLY MEADOWS SUBDIVISION					
2	44.39		SE	19	7S	7E	PARK
Subdivision:		GRIZZLY MEADOWS SUBDIVISION					
3	8.00		SE	30	7S	7E	PARK
Subdivision:		GRIZZLY MEADOWS SUBDIVISION					
Total:	123.24						

THE PLACE OF USE IS WITHIN CERTIFICATE OF SURVEY NO. 473, PARK COUNTY
AND INCLUDES TRACTS 1, 2, 9, 10, 11, 12, 13, 15, 16, 18, 19, 20, AND 26 AND
WITHIN CERTIFICATE OF SURVEY NO. 866 AND INCLUDES TRACTS 17A AND 24A.

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.

193794-00 193795-00 193796-00 193798-00 193799-00

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

Water Right Number: 43B 194658-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: CARBELLA DITCH CO
% MARY HAGEMeyer
PO BOX 93
EMIGRANT, MT 59027

***Priority Date:** JUNE 1, 1970

Type of Historical Right: USE

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 58.00 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:** 123.24

***Source Name:** TOM MINER CREEK

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>
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1		NENESE	25	7S	6E	PARK
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Period of Diversion: MAY 1 TO NOVEMBER 1

Diversion Means: HEADGATE

Subdivision: GRIZZLY MEADOWS SUBDIVISION

Ditch Name: BAILEY DITCH

2		NENESE	25	7S	6E	PARK
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Period of Diversion: MAY 1 TO NOVEMBER 1

Diversion Means: HEADGATE

Subdivision: GRIZZLY MEADOWS SUBDIVISION

Ditch Name: BAILEY DITCH

3		NWNWSW	30	7S	7E	PARK
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Period of Diversion: MAY 1 TO NOVEMBER 1

Diversion Means: HEADGATE

Subdivision: GRIZZLY MEADOWS SUBDIVISION

Ditch Name: BAILEY DITCH

THESE MULTIPLE POINT OF DIVERSIONS DO NOT GIVE THE CLAIMANT THE POWER TO USE AT ANY ONE TIME MORE THAN THE FLOW RATE DECREED BY THE USE OF

THIS RIGHT FROM MORE THAN ONE POINT OF DIVERSION. SEE STIPULATION FILED
1-12-1990 IN CASE 43B-175.

Period of Use: MAY 1 TO NOVEMBER 1

***Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	44.39		SE	19	7S	7E	PARK	
Subdivision:		GRIZZLY MEADOWS SUBDIVISION						
2	78.85		NE	30	7S	7E	PARK	
Subdivision:		GRIZZLY MEADOWS SUBDIVISION						
Total:	123.24							

PLACE OF USE IS WITHIN CERTIFICATE OF SURVEY NO. 473 TRACTS 1, 2, 9, 10,
11, 12, 13, 15, 16, 18, 19, 20, 26 AND CERTIFICATE OF SURVEY NO. 866 TRACTS
17A AND 24A, PARK COUNTY.