

IN THE WATER COURT OF THE STATE OF MONTANA  
YELLOWSTONE DIVISION  
BIGHORN RIVER, BELOW GREYBULL RIVER (43P)  
PRELIMINARY DECREE

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CLAIMANT: Corbett Ranch LLC

OBJECTORS: United States of America (Bureau of Indian  
Affairs)

**CASE 43P-0128-P-2019**

43P 130105-00

43P 130106-00

**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, conclusions 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 serve 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 FINDINGS OF FACT**

1. Claims 43P 130105-00 and 43P 130106-00 appeared in the Preliminary Decree for the Bighorn River, Below Greybull River (Basin 43P) with issue remarks. The United States of America (Bureau of Indian Affairs) ("BIA") filed Objections to the claims.
2. On November 21, 2019 the above captioned claims were consolidated into Case 43P-0128-P-2019.
3. On June 29, 2022, a Stipulation was filed with the Court. The Stipulation indicated that the Claimant intends to transfer ownership of claims 43P 130105-00 and 43P 130106-00 to Victory Irrigation District and that the contemplated transfer resolves the Objections to the claims.
4. It appears that the ownership issue remark has been resolved and the issue remarks should be removed from the claims.

## **PRINCIPLES OF LAW**

1. The Montana Water Court has the authority to determine the extent of all water rights in the state as they existed prior to July 1, 1973. *Fellows v. Saylor*, 2016 MT 45, ¶ 25, 382 Mont. 298, 367 P.3d 732; §§ 85-2-233, -102(12), MCA. The purpose of the Water Court is to adjudicate rights to the use of water as they existed on July 1, 1973. *In re Clark Fork River*, 254 Mont. 11, 17, 833 P.3d 1120 (Mont. 1992).
2. A properly filed Statement of Claim for Existing Water Right is prima facie proof of its content. § 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. Rule 19, W.R.Adj.R.
3. "The Water Court is not bound by settlement agreements. Any settlement reached by the parties is subject to review and approval by the Water Court." Rule 17(a), W.R.Adj.R; *In re Argabright*, 2014 Mont. Water LEXIS 9, 41I 265 (December 12, 2014).

### **CONCLUSION OF LAW**

1. The Stipulation conforms to applicable law. The Objections should be dismissed pursuant to the Stipulation, and the issue remarks should be removed from the claims.

### **RECOMMENDATION**

1. Upon review of the record in this case, the issue remarks should be removed from the claims. The Objections should be dismissed.

Post Decree Abstracts of Water Right Claims are attached to this Master's Report for review.

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Nathan Block  
Senior Water Master

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**Note: Service List Updated 11-25-2022**

**POST DECREE**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**BIGHORN RIVER, BELOW GREYBULL RIVER**  
**BASIN 43P**

**Water Right Number:** 43P 130105-00 STATEMENT OF CLAIM

**Version:** 2 -- POST DECREE

**Status:** ACTIVE

**Owners:** CORBETT RANCH LLC  
623 KEMPH RD  
CUSTER, MT 59024 9759

**Priority Date:** JULY 20, 1964

**Type of Historical Right:** FILED

**Purpose (use):** IRRIGATION

**Irrigation Type:** SPRINKLER/FLOOD

**Flow Rate:** 3.34 CFS

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

**Climatic Area:** 1 - HIGH

**Maximum Acres:** 795.00

**Source Name:** BIGHORN 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		NENWNE	8	3N	34E	BIG HORN

**Period of Diversion:** APRIL 1 TO NOVEMBER 1

**Diversion Means:** PUMP

**Period of Use:** APRIL 1 TO NOVEMBER 1

**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	30.00		S2N2	1	3N	33E	BIG HORN
2	120.00		S2	1	3N	33E	BIG HORN
3	10.00		E2NENE	12	3N	33E	BIG HORN
4	25.00		NWNE	12	3N	33E	BIG HORN
5	35.00		NENW	12	3N	33E	BIG HORN
6	95.00		NW	5	3N	34E	BIG HORN
7	5.00		NWNESW	5	3N	34E	BIG HORN
8	5.00		NENWSW	5	3N	34E	BIG HORN
9	15.00		E2E2NE	6	3N	34E	BIG HORN
10	85.00		NW	6	3N	34E	BIG HORN
11	85.00		S2S2	6	3N	34E	BIG HORN
12	10.00		N2N2SW	6	3N	34E	BIG HORN
13	185.00		N2	7	3N	34E	BIG HORN
14	5.00		NWNWSE	7	3N	34E	BIG HORN

15	10.00	N2NESW	7	3N	34E	BIG HORN
16	75.00	SW	32	4N	34E	YELLOWSTONE
<b>Total:</b>	<u>795.00</u>					

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**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.

130105-00

130106-00

**POST DECREE**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**BIGHORN RIVER, BELOW GREYBULL RIVER**  
**BASIN 43P**

**Water Right Number:** 43P 130106-00 STATEMENT OF CLAIM

**Version:** 2 -- POST DECREE

**Status:** ACTIVE

**Owners:** CORBETT RANCH LLC  
623 KEMPH RD  
CUSTER, MT 59024 9759

**Priority Date:** JUNE 15, 1959

**Type of Historical Right:** FILED

**Purpose (use):** IRRIGATION

**Irrigation Type:** SPRINKLER/FLOOD

**Flow Rate:** 8.91 CFS

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

**Climatic Area:** 1 - HIGH

**Maximum Acres:** 860.00

**Source Name:** BIGHORN 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		NENWNE	8	3N	34E	BIG HORN

**Period of Diversion:** APRIL 1 TO NOVEMBER 1

**Diversion Means:** PUMP

**Period of Use:** APRIL 1 TO NOVEMBER 1

**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	30.00		S2N2	1	3N	33E	BIG HORN
2	120.00		S2	1	3N	33E	BIG HORN
3	10.00		E2NENE	12	3N	33E	BIG HORN
4	25.00		NWNE	12	3N	33E	BIG HORN
5	35.00		NENW	12	3N	33E	BIG HORN
6	5.00		SWSWNE	5	3N	34E	BIG HORN
7	110.00		NW	5	3N	34E	BIG HORN
8	55.00		N2S2	5	3N	34E	BIG HORN
9	15.00		E2E2NE	6	3N	34E	BIG HORN
10	85.00		NW	6	3N	34E	BIG HORN
11	85.00		S2S2	6	3N	34E	BIG HORN
12	10.00		N2N2SW	6	3N	34E	BIG HORN
13	185.00		N2	7	3N	34E	BIG HORN
14	5.00		NWNWSE	7	3N	34E	BIG HORN

15	10.00	N2NESW	7	3N	34E	BIG HORN
16	75.00	SW	32	4N	34E	YELLOWSTONE
<b>Total:</b>	860.00					

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**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.

130105-00

130106-00