

Montana Water Court
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IN THE WATER COURT OF THE STATE OF MONTANA
YELLOWSTONE DIVISION
SWEET GRASS - BASIN (43BV)

CLAIMANTS: Keith A. Goodhart; Lauren R. McMullen

CASE 43BV-0362-R-2024
43BV 30108458

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.

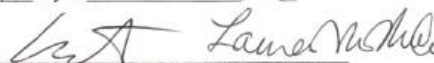
MASTER'S REPORT
FINDINGS OF FACT

1. Keith A. Goodhart and Lauren R. McMullen are the record owners of irrigation claim 43BV 30108458.
2. Claim 43BV 30108458 was decreed with a flow rate issue remark indicating the flow rate on this historically decreed right exceeds the 17.00 gallon per minute guideline for this type of claim. Another issue remark provides notice of an opportunity to object to the ditch name after the DNRC modified the ditch name during reexamination.
3. On December 14, 2021, Keith A. Goodhart self-objected to claim 43BV 30108458, indicating:

8. State the changes you think should be made to this claim and why. State the specific grounds and evidence on which the Objection is based. (Use additional paper if necessary.)

In 1942, the point of diversion was moved from Sec 33 to current point of diversion (Sec 4). The original point of diversion was NWNWNE 33 2N 16E. It is currently NESESW 4 1N 16E. Included is a map showing the current point of diversion (intake) for the Boggs Ditch

DATED this 10 day of December, 2021.


SIGNATURE OF OBJECTOR OR OBJECTOR'S ATTORNEY

4. The modification proposed by Goodhart standardizes the legal land description for the point of diversion on Boggs Ditch No. 2 with other claims using Boggs Ditch No. 2. See Case No. 43BV-0205-R-2022. No counterobjections or notices of intent to appear were filed in response to the Objection to claim 43BV 30108458.
5. An Order was issued to verify the Objection to claim 43BV 30108458 would be resolved if the following modifications are made:

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	NESESW	NWNWNE	4 33	1N 2N	16E	SWEET GRASS
Period of Diversion:	APRIL 1 TO NOVEMBER 1					
Diversion Means:	HEADGATE					
Ditch Name:	BOGGS DITCH NO. 2					

(Doc.¹1.00).

¹ “Doc.” numerical references correlate to case file docket numbers in the Water Court’s Full Court case management system.

6. On October 7, 2024, Lauren R. McMullen and Keith A. Goodhart filed a statement indicating agreement with the point of diversion modification. (Doc. 2.00).

PRINCIPLES AND CONCLUSIONS OF LAW

1. The Water Court must address all issue remarks that appear on a claim as well as any objections the claim receives. Sections 85-2-233, 85-2-247, and 85-2-248, MCA.

2. A properly filed Statement of Claim for an existing water right is prima facie proof of its content. Section 85-2-227, MCA. This prima facie validity may be overcome by evidence showing that one or more elements of the claim are incorrect. This standard of proof applies to objectors or claimants objecting to their own water right claims. Rule 19, W.R.Adj.R.; *Nelson v. Brooks*, 2014 MT 120, 375 Mont.86, 95, 329 P.3d 558, 564.

3. The ditch name issue remark decreed on claim 43BV 30108458 has served its purpose. As the objection to claim 43BV 30108458 has been resolved, no further proceedings are required.

RECOMMENDATIONS

1. Claim 43BV 30108458 should be modified as follows:

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	NESESW	NWNWNE	4	33	1N	2N 16E SWEET GRASS
Period of Diversion:	APRIL 1 TO NOVEMBER 1					
Diversion Means:	HEADGATE					
Ditch Name:	BOGGS DITCH NO. 2					

2. The Objection to claim 43BV 30108458 should be dismissed as resolved.

3. The issue remarks should be removed from claim 43BV 30108458.

An abstract is attached for review.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

Keith A. Goodhart
Lauren R. McMullen
737 Lower Sweet Grass Rd
Big Timber, MT 59011

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**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
SWEET GRASS CREEK
BASIN 43BV**

Water Right Number: 43BV 30108458 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: KEITH A GOODHART
737 LOWER SWEET GRASS RD
BIG TIMBER, MT 59011

LAUREN R MCMULLEN
737 LOWER SWEET GRASS RD
BIG TIMBER, MT 59011

Priority Date: JUNE 29, 1973

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 4.33 CFS

Volume: 127.39 AC-FT

Climatic Area: 2 - MODERATELY HIGH

Maximum Acres: 28.31

Source Name: SWEET GRASS 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		NESEW	4	1N	16E	SWEET GRASS

Period of Diversion: APRIL 1 TO NOVEMBER 1

Diversion Means: HEADGATE

Ditch Name: BOGGS DITCH NO. 2

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	28.31		NESE	8	1N	16E	SWEET GRASS

Total: 28.31

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.

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