

Montana Water Court
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MONTANA WATER COURT
YELLOWSTONE DIVISION
YELLOWSTONE RIVER, FROM BRIDGER CREEK TO CLARKS FORK YELLOWSTONE
BASIN 43QJ
SECOND PRELIMINARY DECREE

* * * * *

CLAIMANT: Jo Be Farms Inc.

OBJECTOR: Montana State Board of Land Commissioners -
Forestry and Trust Lands Division

CASE 43QJ-0122-R-2025
43QJ 189556-00

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 have **13 days** from the service date of the notice of filing of this report to file a written objection or request an extension of the objection period. Rule 23, Water Right Adjudication Rules; Rule 6, Montana Rules of Civil Procedure. 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

Montana State Board of Land Commissioners - Forestry and Trust Lands Division ["Trust Lands"] objected to this claim. This claim appeared in the Second Preliminary Decree with the following issue remark:

THE TOWNSHIP DESIGNATION OF THE CLAIMED PLACE OF USE APPEARS INCORRECT. IT APPEARS THAT THE TOWNSHIP DESIGNATION SHOULD BE IN TWP 02S.

On September 17, 2025 the Court Minutes, Order Entering Default, Order Setting Show Cause Filing Deadline, and Order Setting Filing Deadline To Resolve Issue Remark Pursuant To Section 85-2-248(3), MCA was filed. On September 29, 2025 Jo Be Farms Inc. filed its statement resolving the issue remark. On October 9, 2025 Trust Lands filed a Notice Of Substitution Of Counsel, Declaration Of Brian C. Bramblett, and Objector's Response To Show Cause Order And Request To Set Aside Default which includes its agreement with the legal description correction identified in the issue remark and confirmed in Jo Be Farms Inc.'s statement. On October 29, 2025 the Order Setting Aside Default was entered. These documents are viewable in the Court's FullCourt Enterprise case management system.

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." Mont. Code Ann. § 85-2-248(2) (2025).

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.

FINDING OF FACT

The Second Preliminary Decree states that the place of use legal description is the N2S2 Section 4, T2N, R22E, STILLWATER. The legal description should be the N2S2 Section 4, T2S, R22E, STILLWATER. The issue remark should be removed as addressed and resolved.

CONCLUSION OF LAW

The documents filed by the parties are sufficient to contradict and overcome the prima facie claim and to resolve the issue remark without evidentiary hearing. § 85-2-248(3), (11), MCA.

RECOMMENDATIONS

Based upon the above Finding of Fact and Conclusion of Law, this Master recommends that the Court make the changes specified in the Finding of Fact to correct the Second Preliminary Decree for this Basin. A Post Decree Abstract of Water Right Claim is served with this Report to confirm the recommended changes have been made in the state's centralized record system.

ELECTRONICALLY SIGNED AND DATED BELOW

Service Via USPS Mail:

Jo Be Farms Inc.
160 Cemetery Rd
Park City, MT 59063-9428

Service Via Electronic Mail:

Brian Bramblett
Montana Department of
Natural Resources and Conservation
bbramblett@mt.gov
jean.saye@mt.gov

POST DECREE

ABSTRACT OF WATER RIGHT CLAIM

YELLOWSTONE RIVER, FROM BRIDGER CREEK TO CLARKS FORK YELLOWSTONE

BASIN 43QJ

Water Right Number: 43QJ 189556-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: JO BE FARMS INC
160 CEMETERY RD
PARK CITY, MT 59063-9428

Priority Date: JUNE 28, 1918

Type of Historical Right: USE

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 STOCKWATERING 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: COTTONWOOD CREEK, SOUTH FORK

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		N2S2	4	2S	22E	STILLWATER

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

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			N2S2	4	2S	22E	STILLWATER

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE ASSOCIATED WHICH MEANS THE RIGHTS SHARE THE SAME .

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