

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

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

* * * * *

CLAIMANT: State of Montana Department of Transportation

CASE 43QJ-0146-R-2025

43QJ 6911-00

OBJECTOR: State of Montana Department of Transportation

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

State of Montana Department of Transportation ["State"] claim 43QJ 6911-00 appeared in the Second Preliminary Decree with the following issue remark:

THE CLAIMED VOLUME EXCEEDS THE MAXIMUM FEASIBLE VOLUME. BASED ON THE FLOW RATE AND PERIOD OF USE, THE MAXIMUM VOLUME POSSIBLE IS .61 ACRE-FEET PER YEAR.

The State objected to the claim noting the obvious mathematical calculation error that led to a determination that the maximum feasible volume is .61 AC-FT. A review of the ReExamination worksheets includes no rationale for the addition of the issue remark. It appears it was erroneously added to this claim and should be removed without additional proceedings. On October 1, 2025 the State filed a Withdrawal Of Objection conditioned upon removal of the erroneous issue remark. 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 ReExamination worksheets include no rationale for the addition of the issue remark. It appears it was erroneously added to this claim and should be removed without additional proceedings.

CONCLUSION OF LAW

The claim file, objection, and withdrawal of objection are sufficient 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

the Court make the change specified in the Findings 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 change has been made in the state's centralized record system.

ELECTRONICALLY SIGNED AND DATED BELOW

Service Via Electronic Mail:

Liz Franklin
Tyler G. Moss
Amie Zendron
Montana Department of Transportation
efranklin@mt.gov
astrong@mt.gov
tmoss@mt.gov
vtorgerson@mt.gov
azendron@mt.gov
(attys for: State of Montana Department of Transportation)

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
YELLOWSTONE RIVER, FROM BRIDGER CREEK TO CLARKS FORK YELLOWSTONE
BASIN 43QJ

Water Right Number: 43QJ 6911-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: MONTANA, STATE OF DEPT OF TRANSPORTATION
REAL ESTATE SERVICES SECTION
PO BOX 201001
HELENA, MT 59620-1001

Priority Date: DECEMBER 31, 1938

Type of Historical Right: USE

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER

Flow Rate: 1.11 CFS

Volume: 17.00 AC-FT

Climatic Area: 2 - MODERATELY HIGH

Maximum Acres: 6.00

Source Name: YELLOWSTONE 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		SWNESW	6	2S	19E	STILLWATER

Period of Diversion: MAY 15 TO SEPTEMBER 15

Diversion Means: PUMP

Period of Use: MAY 15 TO SEPTEMBER 15

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	6.00		NESWSE	6	2S	19E	STILLWATER
Total:	6.00						