

Montana Water Court  
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IN THE WATER COURT OF THE STATE OF MONTANA  
YELLOWSTONE DIVISION  
BIGHORN RIVER, BELOW GREYBULL RIVER (43P)  
INTERLOCUTORY

\*\*\*\*\*

CLAIMANT: Kenneth R. Hannen

**CASE 43P-0306-I-2025**

43P 30120310

**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, conclusion 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 to be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. 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 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**

Kenneth R. Hannen claim 43P 30120310 appeared in the Interlocutory Decree with the following issue remarks:

ONLY 2.25 ACRES OF THE CLAIMED PLACE OF USE APPEAR IRRIGATED FOR DOMESTIC PURPOSES.

VOLUME MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.

The 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 with an opportunity to file additional information or evidence.

The June 3, 2025 Order Consolidating Case and Order Setting Deadlines Pursuant To Section 85-2-248(5), MCA set filing deadlines for the Montana Department of Natural Resources and Conservation [“DNRC”] and the claimant. On July 24, 2025 the DNRC Memorandum was filed stating that the claimant met with the DNRC and recommending changes to be made to resolve the issue remarks. The June 3, 2025 Order set an August 14, 2025 filing deadline for the claimant and states: *“If nothing is filed by the claimant, the Court will conclude he agrees with the DNRC memorandum and its recommendations.”* (Emphasis in original.) Nothing was filed by the claimant.

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.” 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. The Interlocutory Decree states that the volume is 13.50 AC-FT. The volume should be 7.00 AC-FT. The volume issue remark should be removed as addressed and resolved.

2. The Interlocutory Decree states that the maximum acres and the acreage total in the place of use are both 5.00 acres. They should both be 2.25 acres. The acres irrigated issue remark should be removed as addressed and resolved.

3. The following notice remark also appeared on the abstract for this claim:

THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 43P DECREE ISSUED 01/28/2016.

This remark should be removed as having served its notice purpose.

#### CONCLUSION OF LAW

The information provided by the DNRC and the claimant 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 Interlocutory 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:**

Kenneth R. Hannen  
1947 U.S. Hwy 87 E  
Billings, MT 59101-6651

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

**Water Right Number:** 43P 30120310 STATEMENT OF CLAIM

**Version:** 2 -- POST DECREE

**Status:** ACTIVE

**Owners:** KENNETH R HANNEN  
1947 US HWY 87 E  
BILLINGS, MT 59101-6651

**\*Priority Date:** OCTOBER 22, 2018

THIS IS AN EXISTING RIGHT. ITS POST-1973 PRIORITY DATE IS DECREED  
PURSUANT TO SECTION 85-2-306(4) MCA.

**\*Type of Historical Right:** FILED

**Purpose (Use):** DOMESTIC

**Flow Rate:** 30.00 GPM

**Volume:** 7.00 AC-FT

**Maximum Acres:** 2.25

**Source Name:** GROUNDWATER

**Source Type:** GROUNDWATER

**\*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	4	S2SESE	20	2S	33E	BIG HORN

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** WELL

**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	2.25	4	S2SESE	20	2S	33E	BIG HORN

**Total:** 2.25

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**Remarks:**

THIS WATER RIGHT IS LOCATED, IN WHOLE OR IN PART, WITHIN THE BOUNDARY OF THE CROW INDIAN RESERVATION.