

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

* * * * *

CLAIMANTS: Kristy A. Bohl; Rosezella L. Bohl; Annette M.
Nelson

CASE 43QJ-0157-R-2025
43QJ 102705-00

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 finding 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

Kristy A. Bohl, Rosezella L. Bohl, and Annette M. Nelson stockwater claim 43QJ 102705-00 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 TWP 01S.

The Montana Department of Natural Resources and Conservation ["DNRC"] reviews water right claims to confirm the historical use of a claim. If the review cannot confirm some aspect of a claim, an issue remark is added to the claim. The issue remark was 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. In this instance, the claim file and issue remark content provide the needed information. The scanned copy of the claim file is viewable on the DNRC Water Right Query System at <http://wrqs.dnrc.mt.gov>.

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.

FINDING OF FACT

The Second Preliminary Decree states that the place of use legal description is the NWSE section 32, T1N, R23E, STILLWATER. The legal description should be NWSE section 32, T1S, R23E, STILLWATER. The issue remark should be removed as addressed and resolved.

CONCLUSION OF LAW

The information in the claim file is sufficient to resolve the issue remark without evidentiary hearing. Sections 85-2-248(3) and (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:

Kristy A. Bohl
Rosezella L. Bohl
Annette M. Nelson
3716 Harry Cooper Place
Billings, MT 59106

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

Water Right Number: 43QJ 102705-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: KRISTY A BOHL
3716 HARRY COOPER PLACE
BILLINGS, MT 59106

ROSEZELLA L BOHL
3716 HARRY COOPER PL
BILLINGS, MT 59106-1025

ANNETTE M NELSON
3716 HARRY COOPER PLACE
BILLINGS, MT 59106

Priority Date: FEBRUARY 15, 1951

Type of Historical Right: USE

Purpose (Use): STOCK

Flow Rate: 4.00 GPM

***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: 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		SEWSE	32	1S	23E	STILLWATER

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			NWSE	32	1S	23E	STILLWATER