

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

* * * * *

CLAIMANTS: Michelle R. Barber; Robert E. Barber; Andrew
B. Butts; Therese L. Butts

CASE 43QJ-0124-R-2025
43QJ 182437-00

OBJECTOR: United States, DOI Bureau of Land Management

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

The United States, DOI Bureau of Land Management objected to this claim. On December 4, 2025, the United States’ Proposed Resolution [“Proposed Resolution”] was filed. The December 23, 2025 Order Setting Show Cause Filing Deadline states:

Pursuant to Rule 55(a), M.R.Civ.P. and Rule 22, W.R.Adj.R., the defaults of Michelle R. Barber, Robert E. Barber, Andrew B. Butts, and Therese L. Butts were entered for their failures to appear at the September 16, 2025 scheduling conference. The Court will now take action based on their defaults. Therefore, pursuant to Rule 16, M.R.Civ.P., Rules 16 and 18, W.R.Adj.R., it is

ORDERED that the deadline is **January 23, 2026** for the claimants to show cause in writing why the Court should not proceed with modifying their claim as detailed in the United States' Proposed Resolution. If nothing is filed by the claimants, the Court will conclude they agree with the settlement United States' Proposed Resolution.

Nothing was filed. These documents are viewable in the Court's FullCourt Enterprise case management system.

APPLICABLE LAW

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

As requested in the Proposed Resolution, the following remark should be added to the place of use: PLACE OF USE IS LIMITED TO PRIVATE LAND.

CONCLUSION OF LAW

The Proposed Resolution is sufficient to contradict and overcome the prima facie claim.

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:

Michelle R. Barber
Robert E. Barber
1499 Hwy 10 E
Reed Point, MT 59069

Andrew B. Butts
Therese L. Butts
PO Box 417
Reed Point, MT 59069-0417

Service Via Electronic Mail:

Mark J. Widerschein, Trial Attorney
US Dept of Justice, ENRD-NRS
Mark.Widerschein@usdoj.gov
MontanaBasins.ENRD@USDOJ.GOV
(Atty for: United States, DOI Bureau of Land Management)

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM**

**YELLOWSTONE RIVER, FROM BRIDGER CREEK TO CLARKS FORK YELLOWSTONE
BASIN 43QJ**

Water Right Number: 43QJ 182437-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: MICHELLE R BARBER
1499 HWY 10 E
REED POINT, MT 59069

ROBERT E BARBER
1499 HWY 10 E
REED POINT, MT 59069

ANDREW B BUTTS
PO BOX 417
REED POINT, MT 59069-0417

THERESE L BUTTS
PO BOX 417
REED POINT, MT 59069-0417

Priority Date: DECEMBER 31, 1898

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

***Flow Rate:** 2,000.00 GPM

***Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 2 - MODERATELY HIGH

***Maximum Acres:** 276.00

Source Name: SPRING, UNNAMED TRIBUTARY OF YELLOWSTONE RIVER

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		SWNESW	20	1S	17E	SWEET GRASS

Period of Diversion: APRIL 1 TO NOVEMBER 1

Diversion Means: PUMP/FLOOD AND DIKE

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	175.00			20	1S	17E	SWEET GRASS
2	40.00		NE	29	1S	17E	SWEET GRASS
3	61.00		SE	29	1S	17E	SWEET GRASS

Total: 276.00

PLACE OF USE IS LIMITED TO PRIVATE LAND.