

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: MT Marian Enterprises

OBJECTOR: MT Marian Enterprises

**CASE 43QJ-0147-R-2025**

43QJ 30138473

43QJ 30138477

43QJ 30138481

**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**

MT Marian Enterprises objected to its claims 43QJ 30138473 and 43QJ 30138481. Each of the claims appeared in the Second Preliminary Decree with a remark stating that it appears

the Gerald R. Fradet Trust has an ownership interest in each claim. On January 15, 2026 MT Marian Enterprises filed its Response To Order Setting Filing Deadline [“Response”] addressing its objections and the various remarks. The Response is 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 85-2-222, MCA, or 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. For claim 43QJ 30138473, GERALD R. FRADET TRUST should be added as a co-owner as requested in the Response. The following remark should be added: OWNER GERALD R. FRADET TRUST RETAINED. CONTRACT FOR DEED INTEREST. The ownership remark which appeared in the Second Preliminary Decree should be removed as having served its notice purpose.

The Second Preliminary Decree includes the following issue remark:

NO QUANTIFIED FLOW RATE HAS BEEN CLAIMED.

The flow rate should be 35.00 GPM. The issue remark should be removed as addressed and resolved.

The Second Preliminary Decree states that the point of diversion and place of use are each Govt Lot 2, NENWNE section 5, T3S, R21E, STILLWATER. The point of diversion and place of use should each be Govt Lot 2, section 5, T3S, R21E, STILLWATER.

The Second Preliminary Decree also includes the following notice remark on the abstract for this claim:

THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 43QJ DECREE ISSUED 07/23/1985.

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

2. For claim 43QJ 30138477, GERALD R. FRADET TRUST should be added as a co-owner as requested in the Response. The following remark should be added: OWNER GERALD R. FRADET TRUST RETAINED. CONTRACT FOR DEED INTEREST. The ownership remark which appeared in the Second Preliminary Decree should be removed as having served its notice purpose.

The Second Preliminary Decree also includes the following notice remark on the abstract for this claim:

THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 43QJ DECREE ISSUED 07/23/1985.

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

3. For claim 43QJ 30138481, GERALD R. FRADET TRUST should be added as a co-owner as requested in the Response. The following remark should be added: OWNER GERALD R. FRADET TRUST RETAINED. CONTRACT FOR DEED INTEREST. The ownership remark which appeared in the Second Preliminary Decree should be removed as having served its notice purpose.

The Second Preliminary Decree states that the point of diversion and place of use are:

<u>GOVT LOT</u>	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
	SWNWNE	28	2S	21E	STILLWATER
	NWSENW	28	2S	21E	STILLWATER
	SESENW	28	2S	21E	STILLWATER
	NENESW	28	2S	21E	STILLWATER
	SWNWSE	28	2S	21E	STILLWATER
	NWSWSE	28	2S	21E	STILLWATER
	SESW	28	2S	21E	STILLWATER
	NENENW	33	2S	21E	STILLWATER
	SWNWSE	33	2S	21E	STILLWATER
	SESENW	33	2S	21E	STILLWATER
	SWNESW	33	2S	21E	STILLWATER
	N2SESW	33	2S	21E	STILLWATER
	NESWSW	33	2S	21E	STILLWATER
	SWSWSW	33	2S	21E	STILLWATER
4	NWNWNW	4	3S	21E	STILLWATER
1	SWNE	5	3S	21E	STILLWATER
7	NWSESE	5	3S	21E	STILLWATER
7	SWSWNE	5	3S	21E	STILLWATER

The point of diversion and place of use should be:

<u>GOVT LOT</u>	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
	W2NWNE	28	2S	21E	STILLWATER
	N2SENW	28	2S	21E	STILLWATER
	SESENW	28	2S	21E	STILLWATER
	NENESW	28	2S	21E	STILLWATER
	W2NWSE	28	2S	21E	STILLWATER
	NWSWSE	28	2S	21E	STILLWATER
	SESW	28	2S	21E	STILLWATER
	NENENW	33	2S	21E	STILLWATER
	W2NWNE	33	2S	21E	STILLWATER
	SESENW	33	2S	21E	STILLWATER
	SWNESW	33	2S	21E	STILLWATER
	N2SESW	33	2S	21E	STILLWATER
	E2SWSW	33	2S	21E	STILLWATER
	SWSWSW	33	2S	21E	STILLWATER
4		4	3S	21E	STILLWATER
1		5	3S	21E	STILLWATER
7		5	3S	21E	STILLWATER
	N2SWNE	28	2S	21E	STILLWATER
	SWNE	33	2S	21E	STILLWATER
	E2NESW	33	2S	21E	STILLWATER
8		5	3S	21E	STILLWATER

The Second Preliminary Decree also includes the following notice remark on the abstract for this claim:

THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 43QJ DECREE ISSUED 07/23/1985.

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

**CONCLUSION OF LAW**

The Response is sufficient to contradict and overcome the prima facie claims.

**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 Second Preliminary Decree for this Basin. A Post Decree Abstract of Water Right Claim for each 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 Electronic Mail:**

Christopher T. Scoones  
Scoones Law PLLC  
chris@scooneslaw.com

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

**Water Right Number:** 43QJ 30138473 STATEMENT OF CLAIM

**Version:** 2 -- POST DECREE

**Status:** ACTIVE

**Owners:** FRADET, GERALD R TRUST  
PO BOX 785  
COLUMBUS, MT 59019-0785

MT MARIAN ENTERPRISES  
PO BOX 785  
COLUMBUS, MT 59019

OWNER GERALD R. FRADET TRUST RETAINED. CONTRACT FOR DEED INTEREST.

**Priority Date:** APRIL 30, 1900

**Type of Historical Right:** USE

**Purpose (Use):** STOCK

**Flow Rate:** 35.00 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:** 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	2		5	3S	21E	STILLWATER

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

**Diversion Means:** SPRING BOX

**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		5	3S	21E	STILLWATER

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

**Water Right Number:** 43QJ 30138477 STATEMENT OF CLAIM

**Version:** 2 -- POST DECREE

**Status:** ACTIVE

**Owners:** FRADET, GERALD R TRUST  
PO BOX 785  
COLUMBUS, MT 59019-0785  
  
MT MARIAN ENTERPRISES  
PO BOX 785  
COLUMBUS, MT 59019  
  
OWNER GERALD R. FRADET TRUST RETAINED. CONTRACT FOR DEED INTEREST.

**Priority Date:** DECEMBER 21, 1917

**Type of Historical Right:** USE

**Purpose (Use):** STOCK

**Flow Rate:** 35.00 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:** 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		NENESE	4	3S	21E	STILLWATER

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

**Diversion Means:** PIPELINE

**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			NENESE	4	3S	21E	STILLWATER
2			SENESE	4	3S	21E	STILLWATER

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM**

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

**Water Right Number:** 43QJ 30138481 STATEMENT OF CLAIM

**Version:** 2 -- POST DECREE

**Status:** ACTIVE

**Owners:** FRADET, GERALD R TRUST  
PO BOX 785  
COLUMBUS, MT 59019-0785

MT MARIAN ENTERPRISES  
PO BOX 785  
COLUMBUS, MT 59019

OWNER GERALD R. FRADET TRUST RETAINED. CONTRACT FOR DEED INTEREST.

**\*Priority Date:** DECEMBER 31, 1960

**\*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:** HENSLEY CREEK

**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		W2NWNE	28	2S	21E	STILLWATER

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

**Diversion Means:** LIVESTOCK DIRECT FROM SOURCE

2		N2SENE	28	2S	21E	STILLWATER
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**\*Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** LIVESTOCK DIRECT FROM SOURCE

3		SESENE	28	2S	21E	STILLWATER
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**\*Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** LIVESTOCK DIRECT FROM SOURCE

4		NENESE	28	2S	21E	STILLWATER
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**\*Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** LIVESTOCK DIRECT FROM SOURCE

5		W2NWSE	28	2S	21E	STILLWATER
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**\*Period of Diversion:** JANUARY 1 TO DECEMBER 31

<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE				
6	NWSWSE	28	2S	21E	STILLWATER
<b>*Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31				
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE				
7	SESW	28	2S	21E	STILLWATER
<b>*Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31				
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE				
8	NENENW	33	2S	21E	STILLWATER
<b>*Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31				
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE				
9	W2NWNW	33	2S	21E	STILLWATER
<b>*Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31				
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE				
10	SESENW	33	2S	21E	STILLWATER
<b>*Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31				
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE				
11	SWNESW	33	2S	21E	STILLWATER
<b>*Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31				
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE				
12	N2SESW	33	2S	21E	STILLWATER
<b>*Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31				
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE				
13	E2SWSW	33	2S	21E	STILLWATER
<b>*Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31				
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE				
14	SWSWSW	33	2S	21E	STILLWATER
<b>*Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31				
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE				
15	4	4	3S	21E	STILLWATER
<b>*Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31				
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE				
16	1	5	3S	21E	STILLWATER
<b>*Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31				
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE				
17	7	5	3S	21E	STILLWATER
<b>*Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31				
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE				
18	N2SWNE	28	2S	21E	STILLWATER
<b>*Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31				
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE				
19	SWNE	33	2S	21E	STILLWATER
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31				

**Diversion Means:** LIVESTOCK DIRECT FROM SOURCE  
 20 E2NESW 33 2S 21E STILLWATER  
**Period of Diversion:** JANUARY 1 TO DECEMBER 31  
**Diversion Means:** LIVESTOCK DIRECT FROM SOURCE  
 21 8 5 3S 21E 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			W2NWNE	28	2S	21E	STILLWATER
2			N2SENE	28	2S	21E	STILLWATER
3			SESENE	28	2S	21E	STILLWATER
4			NENESW	28	2S	21E	STILLWATER
5			W2NWSE	28	2S	21E	STILLWATER
6			NWSWSE	28	2S	21E	STILLWATER
7			SESW	28	2S	21E	STILLWATER
8			NENENW	33	2S	21E	STILLWATER
9			W2NWNE	33	2S	21E	STILLWATER
10			SESENE	33	2S	21E	STILLWATER
11			SWNESW	33	2S	21E	STILLWATER
12			N2SENE	33	2S	21E	STILLWATER
13			E2SWSW	33	2S	21E	STILLWATER
14			SWSWSW	33	2S	21E	STILLWATER
15		4		4	3S	21E	STILLWATER
16		1		5	3S	21E	STILLWATER
17		7		5	3S	21E	STILLWATER
18			N2SWNE	28	2S	21E	STILLWATER
19			SWNE	33	2S	21E	STILLWATER
20			E2NESW	33	2S	21E	STILLWATER
21		8		5	3S	21E	STILLWATER