

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: ~~Deborah Jo Hathaway; Marc L. Hathaway;~~
~~Hathaway Work Creek Family Partnership~~

CASE 43QJ-0182-R-2025
43QJ 30138873
43QJ 30138874
43QJ 30144176

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

These claims appeared in the Second Preliminary Decree with the various remarks. On November 3, 2025 Deborah Jo Hathaway, Marc Hathaway, and Hathaway Work Creek Family Partnership filed the Affidavit of Marc L. Hathaway and Deborah Jo Hathaway concerning the claims in this Case and Case 43QJ-0183-R-2025. The Affidavit is 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 85-2-222, 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. Claim 43QJ 30138873 appeared in the Second Preliminary Decree with the following remarks:

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

THE CLAIMED FLOW RATE APPEARS TO BE INADEQUATE FOR THE CLAIMED PURPOSE.

THE CLAIMED VOLUME EXCEEDS THE MAXIMUM FEASIBLE VOLUME. BASED ON THE FLOW RATE AND PERIOD OF USE, THE MAXIMUM VOLUME POSSIBLE IS 1.53 ACRE-FEET PER YEAR.

Paragraph 5 of the Affidavit states that the well is no longer used for domestic supply and is withdrawn. Claim 43QJ 30138873 should be dismissed as withdrawn.

2. Claim 43QJ 30138874 appeared in the Second Preliminary Decree with the following remarks:

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

THE CLAIMED FLOW RATE APPEARS TO BE INADEQUATE FOR THE CLAIMED PURPOSE.

The first remark provides notice that the claim was not in the first Preliminary Decree. It

should be removed as having served its notice purpose.

The Second Preliminary Decree states that the flow rate is 0.95 GPM. The flow rate should be 21.00 GPM. The flow rate issue remark should be removed as addressed and resolved.

Paragraph 4 of the Affidavit states that the claimants included themselves individually and their partnership because they were unsure which they should identify on the Statement of Claim, and that the owner of this water right is just Hathaway Work Creek Family Partnership. Marc L. Hathaway and Deborah Jo Hathaway should be removed as owners on this claim.

3. Claim 43QJ 30144176 appeared in the Second Preliminary Decree with the following remarks:

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

THE CLAIMED FLOW RATE APPEARS TO BE INADEQUATE FOR THE CLAIMED PURPOSE.

ACCORDING TO CADASTRAL PROPERTY OWNERSHIP RECORDS, AS OF 07/28/2023 , THE PROPERTY ON WHICH THIS WATER RIGHT IS USED APPEARS TO BE OWNED BY HATHAWAY WORK CREEK FAMILY LTD PARTNERSHIP , PO BOX 1606 , BIG TIMBER, MT , 59011-1606.

The first remark provides notice that the claim was not in the first Preliminary Decree. It should be removed as having served its notice purpose.

The Second Preliminary Decree states that the flow rate is 0.95 GPM. The flow rate should be 26.00 GPM. The flow rate issue remark should be removed as addressed and resolved.

Paragraph 4 of the Affidavit states that the claimants included themselves individually and their partnership because they were unsure which they should identify on the Statement of Claim, and that the owner of this water right is just Hathaway Work Creek Family Partnership. Marc L. Hathaway and Deborah Jo Hathaway should be removed as owners on this claim.

CONCLUSION OF LAW

The information provided by the claimants is sufficient to contradict and overcome the *prima facie* claims and sufficient to resolve the issue remarks without evidentiary hearing. Section 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 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:

Page C. Dringman
DRINGMAN LAW FIRM, PLLC
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drlawfirm@itstriangle.com
(Atty for: *Deborah Jo Hathaway; Marc L. Hathaway; Hathaway Work Creek Family Partnership*)

Note: Caption Updated 12/24/2025

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

Water Right Number: **43QJ 30138873 STATEMENT OF CLAIM**

Version: **2 -- POST DECREE**

Status: **DISMISSED**

Owners: HATHAWAY WORK CREEK FAMILY PARTNERSHIP
50 WORK CREEK ROAD
REED POINT, MT 59069

Priority Date:

Type of Historical Right:

Purpose (Use): DOMESTIC

Flow Rate:

Volume:

Source Name: GROUNDWATER

Source Type: GROUNDWATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

Remarks:

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.

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

Water Right Number: **43QJ 30138874 STATEMENT OF CLAIM**

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: HATHAWAY WORK CREEK FAMILY PARTNERSHIP
50 WORK CREEK ROAD
REED POINT, MT 59069

Priority Date: JANUARY 1, 1930

Type of Historical Right: DECREED

Purpose (Use): STOCK

Flow Rate: 21.00 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		NENWNE	33	1S	17E	SWEET GRASS

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			NENWNE	33	1S	17E	SWEET GRASS

Remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

30138874

30144185

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

Water Right Number: **43QJ 30144176 STATEMENT OF CLAIM**

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: HATHAWAY WORK CREEK FAMILY PARTNERSHIP
50 WORK CREEK ROAD
REED POINT, MT 59069

Priority Date: JANUARY 1, 1890

Type of Historical Right: USE

Purpose (Use): STOCK

Flow Rate: 26.00 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		SENWSW	28	1S	17E	SWEET GRASS

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			SENWSW	28	1S	17E	SWEET GRASS

Remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

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