

Montana Water Court
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FILED
07/01/2026
Melissa Lockman
CLERK
Montana Water Court
STATE OF MONTANA
By: D'Ann CIGLER
43QJ-0133-R-2025
Lambert, Kathryn
14.00

MONTANA WATER COURT
YELLOWSTONE DIVISION
YELLOWSTONE RIVER, FROM BRIDGER CREEK TO CLARKS FORK YELLOWSTONE
BASIN 43QJ
SECOND PRELIMINARY DECREE

* * * * *

CLAIMANT: Billings Bench Water Association
OBJECTOR: United States, DOI Bureau of Reclamation
COUNTEROBJECTOR: Billings Bench Water Association
NOTICE OF INTENT TO APPEAR: Gary M. Davis

CASE 43QJ-0133-R-2025
43QJ 208216-00
43QJ 208217-00
43QJ 208219-00

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 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 Reclamation objected to claim 43QJ 208219-00. Gary M. Davis filed a notice of intent to appear. The claim appeared in the Second Preliminary Decree with the following issue remarks:

THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. THE CLAIMED VOLUME EQUALS 95.24 TIMES THE CAPACITY OF THE RESERVOIR.

THE CLAIMED VOLUME EXCEEDS THE MAXIMUM FEASIBLE VOLUME. BASED ON THE FLOW RATE AND PERIOD OF USE, THE MAXIMUM VOLUME POSSIBLE IS 236810 ACRE-FEET PER YEAR.

On February 10, 2026 the parties filed a Stipulation To Resolve Objections [FCE Doc. 7]. The Stipulation includes changes to two other Billings Bench Water Association claims for the same right, but different purposes. On March 13, 2026 the Order Reconsolidating Case was issued adding claims 43QJ 208216-00 and 43QJ 208217-00 to this Case [FCE Doc. 10]. On March 20, 2026 the Order Setting Filing Deadline was issued noting various concerns the Court had about the Stipulation [FCE Doc. 11]. On April 14, 2026, the parties filed their second Stipulation To Resolve Objections stating that it “replaces the 1st Stipulation in full” [FCE Doc. 13]. As there are no objections to or issue remarks on claims 43QJ 208216-00 and 43QJ 208217-00, the second Stipulation is deemed the claimant’s motion to amend claims pursuant to section 85-2-233(6), MCA. 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.

The Montana Water Court has jurisdiction to review a motion to amend pursuant to section 85-2-233(6), MCA.

Rule 15 M.R.Civ.P. restricts the scope of the amendments to the conduct, transaction, or occurrence set forth in the original pleading or, in other words, the “same set of operative facts as contained in the original pleading.” *Sooy v. Petrolane Steel Gas, Inc.*, 218 Mont. 418, 422-23, 708 P.2d 1014, 1017 (1985). The requested amendment “merely makes more specific that which has already been alleged.” *Prentice Lumber Company v. Hukill*, 161 Mont. 8, 15, 504 P.2d 277, 281 (1972).

Notice must be published by newspaper if the requested amendments “may adversely

affect other water rights.” Section 85-2-233(6)(a)(i), 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 changes to claims 43QJ 208216-00 and 43QJ 208217-00 requested in the motion to amend arise out of the same conduct, transaction, or occurrence specified on the original Statements of Claim, are based on the same operative facts specified on the original Statements of Claim, and merely make more specific that which was already claimed on the original Statements of Claim.

2. For fish and wildlife claim 43QJ 208216-00 and recreation claim 43QJ 208217-00, the Second Preliminary Decree includes the following flow rate remark rather than a quantified flow rate:

A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR.

The flow rate should be 600.00 CFS, and the flow rate remark should be removed.

For both claims, the Second Preliminary Decree states that the volume is 6,577.00 AC-FT and includes the following clarification remark:

THE USE OF THIS WATER APPEARS TO BE LARGELY NONCONSUMPTIVE.

The volume quantification should be removed, the nonconsumptive use remark should be modified as requested, and a clarification remark should be added as requested. The volume entry on each abstract should be:

PRIMARILY A DIRECT FLOW SYSTEM; VOLUME NOT DECREED.

THE USE OF THIS WATER IS LARGELY NONCONSUMPTIVE.

THE MAXIMUM YEARLY DIVERTED VOLUME FOR THIS RIGHT IS 222,156.00 ACRE FEET ANNUALLY. THE MAXIMUM COMBINED STORAGE CAPACITIES OF THE FOUR OFFSTREAM RESERVOIRS IS 2,495.00 ACRE FEET ANNUALLY.

NOTE: a computer programming foible forces "222,156.00" to appear as "222, 156.00".

For both claims, the Second Preliminary Decree states that the means of diversion is DAM. The means of diversion should be HEADGATE.

The Second Preliminary Decree states that the four reservoirs are ONSTREAM. They should all be OFFSTREAM.

For both of these claims, the Second Preliminary Decree includes the following notice remarks on the abstracts:

THE CLAIMANT DID NOT IDENTIFY THE PERIOD OF DIVERSION FOR THIS RIGHT. A PERIOD OF DIVERSION HAS BEEN ADDED TO MATCH THE PERIOD OF USE. IF NO OBJECTIONS ARE RECEIVED TO THE PERIOD OF DIVERSION OR PERIOD OF USE, THOSE ELEMENTS WILL BE DECREED AS SHOWN ON THIS ABSTRACT AND THIS ISSUE REMARK WILL BE REMOVED FROM THIS CLAIM.

RESERVOIR RECORD AND MEANS OF DIVERSION WERE MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

Both remarks should be removed from both abstracts as having served their notice purposes.

3. For irrigation claim 43QJ 208219-00, the Second Preliminary Decree states that the volume is 237,600.00 AC-FT. The volume quantification should be removed and a clarification remark should be added as requested. The volume entry on the abstract should be:

PRIMARILY A DIRECT FLOW SYSTEM; VOLUME NOT DECREED.

THE MAXIMUM YEARLY DIVERTED VOLUME FOR THIS RIGHT IS 222,156.00 ACRE FEET ANNUALLY. THE MAXIMUM COMBINED STORAGE CAPACITIES OF THE FOUR OFFSTREAM RESERVOIRS IS 2,495.00 ACRE FEET ANNUALLY.

NOTE: a computer programming foible forces "222,156.00" to appear as "222, 156.00". The volume issue remarks should be removed as addressed and resolved.

The Second Preliminary Decree states that the four reservoirs are ONSTREAM. They should all be OFFSTREAM.

The Second Preliminary Decree includes the following notice remarks on the abstracts:

THE CLAIMANT DID NOT IDENTIFY THE PERIOD OF DIVERSION FOR THIS RIGHT. A PERIOD OF DIVERSION HAS BEEN ADDED TO MATCH THE PERIOD OF USE. IF NO OBJECTIONS ARE RECEIVED TO THE PERIOD OF DIVERSION OR PERIOD OF USE, THOSE ELEMENTS WILL BE DECREED AS SHOWN ON THIS ABSTRACT AND THIS ISSUE REMARK WILL BE REMOVED FROM THIS CLAIM.

RESERVOIR RECORD WAS MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

Both remarks should be removed from the abstract as having served their notice purposes.

CONCLUSIONS OF LAW

1. The requested amendments do not adversely affect other water rights as they are corrections to the abstracts which do not make any changes to the actual historical use of the claimed rights on the ground. Notice by publication of these amendments is not required. Section 85-2-233(6), MCA.

2. Each requested amendment “merely makes more specific that which has already been alleged.” *Prentice Lumber Company v. Hukill*, 161 Mont. 8, 15, 504 P.2d 277, 281 (1972).

3. The second Stipulation To Resolve Objections filed by the parties is sufficient to contradict and overcome the prima facie claims and to resolve the issue remarks without evidentiary hearing. Section 85-2-248(3), (11), MCA.

RECOMMENDATIONS

Based upon the above, this Master recommends that the Court grant the motion to amend claims 43QJ 208216-00 and 43QJ 208217-00, and 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 USPS Mail:

Billings Bench Water Association
PO Box 50150
Billings, MT 59105

Gary M. Davis
2745 Homer Davis Rd
Shepherd, MT 59079

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
Reclamation)

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

Water Right Number: 43QJ 208216-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: BILLINGS BENCH WATER ASSN
PO BOX 50150
BILLINGS, MT 59105

Priority Date: OCTOBER 31, 1903

Type of Historical Right: FILED

Purpose (Use): FISH AND WILDLIFE

Flow Rate: 600.00 CFS

Volume: PRIMARILY A DIRECT FLOW SYSTEM; VOLUME NOT DECREED.

THE USE OF THIS WATER IS LARGELY NONCONSUMPTIVE.

THE MAXIMUM YEARLY DIVERTED VOLUME FOR THIS RIGHT IS 222,156.00 ACRE FEET ANNUALLY. THE MAXIMUM COMBINED STORAGE CAPACITIES OF THE FOUR OFFSTREAM RESERVOIRS IS 2,495.00 ACRE FEET ANNUALLY.

Source Name: YELLOWSTONE RIVER

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		NWSESW	15	2S	24E	YELLOWSTONE

***Period of Diversion:** APRIL 15 TO OCTOBER 19

Diversion Means: HEADGATE

Reservoir: OFFSTREAM **Reservoir Name:** LAKE ELMO

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SW	10	1N	26E	YELLOWSTONE

Diversion to Reservoir: DIVERSION # 1

Dam Height: 19.00 FEET

Depth: 16.00 FEET

Surface Area: 63.36 ACRES

Capacity: 1,700.00 ACRE-FEET

Reservoir: OFFSTREAM **Reservoir Name:** RATTLESNAKE RESERVOIR

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SESE	24	2N	26E	YELLOWSTONE

Diversion to Reservoir: DIVERSION # 1

Dam Height: 14.00 FEET
Depth: 11.00 FEET
Surface Area: 178.83 ACRES
Capacity: 715.00 ACRE-FEET

Reservoir: OFFSTREAM **Reservoir Name:** AMERICAN LEGION LAKE

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NWSE	6	2N	27E	YELLOWSTONE

Diversion to Reservoir: DIVERSION # 1

Dam Height: 8.00 FEET
Depth: 12.00 FEET
Surface Area: 8.95 ACRES
Capacity: 42.96 ACRE-FEET

Reservoir: OFFSTREAM **Reservoir Name:** BERTHOLD POND

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NESE	32	3N	27E	YELLOWSTONE

Diversion to Reservoir: DIVERSION # 1

Dam Height: 13.00 FEET
Depth: 10.00 FEET
Surface Area: 9.18 ACRES
Capacity: 36.72 ACRE-FEET

SEE THE ENGINEERING REPORT IN THE CLAIM FILE FOR ADDITIONAL RESERVOIR DATA.

Period of Use: APRIL 15 TO OCTOBER 19

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			SW	10	1N	26E	YELLOWSTONE
2			SESE	24	2N	26E	YELLOWSTONE
3			NESE	32	3N	27E	YELLOWSTONE
4			NWSE	6	2N	27E	YELLOWSTONE

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.

208216-00 208217-00 208219-00

THIS WATER RIGHT WAS SUBJECT TO A CHANGE APPLICATION APPROVED BY THE MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION. THE MONTANA WATER COURT DID NOT INCLUDE THE CHANGES APPROVED BY THE DEPARTMENT IN THE DECREE OF THIS WATER RIGHT.

THIS APPROPRIATION OF WATER TAKES WATER FROM THE YELLOWSTONE RIVER, FROM BRIDGER CREEK TO CLARKS FORK YELLOWSTONE DRAINAGE (BASIN 43QJ) AND USES IT IN THE YELLOWSTONE RIVER, BETWEEN CLARKS FORK YELLOWSTONE & BIGHORN RIVER DRAINAGE (BASIN 43Q).

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

Water Right Number: 43QJ 208217-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: BILLINGS BENCH WATER ASSN
PO BOX 50150
BILLINGS, MT 59105

Priority Date: OCTOBER 31, 1903

Type of Historical Right: FILED

Purpose (Use): RECREATION

Flow Rate: 600.00 CFS

Volume: PRIMARILY A DIRECT FLOW SYSTEM; VOLUME NOT DECREED.

THE USE OF THIS WATER IS LARGELY NONCONSUMPTIVE.

THE MAXIMUM YEARLY DIVERTED VOLUME FOR THIS RIGHT IS 222,156.00 ACRE FEET ANNUALLY. THE MAXIMUM COMBINED STORAGE CAPACITIES OF THE FOUR OFFSTREAM RESERVOIRS IS 2,495.00 ACRE FEET ANNUALLY.

Source Name: YELLOWSTONE RIVER

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		NWSESW	15	2S	24E	YELLOWSTONE

***Period of Diversion:** APRIL 15 TO OCTOBER 19

Diversion Means: HEADGATE

Reservoir: OFFSTREAM **Reservoir Name:** LAKE ELMO

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SW	10	1N	26E	YELLOWSTONE

Diversion to Reservoir: DIVERSION # 1

Dam Height: 19.00 FEET

Depth: 16.00 FEET

Surface Area: 63.36 ACRES

Capacity: 1,700.00 ACRE-FEET

Reservoir: OFFSTREAM **Reservoir Name:** RATTLESNAKE RESERVOIR

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SESE	24	2N	26E	YELLOWSTONE

Diversion to Reservoir: DIVERSION # 1

Dam Height: 14.00 FEET
Depth: 11.00 FEET
Surface Area: 178.83 ACRES
Capacity: 715.00 ACRE-FEET

Reservoir: OFFSTREAM **Reservoir Name:** AMERICAN LEGION LAKE

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NWSE	6	2N	27E	YELLOWSTONE

Diversion to Reservoir: DIVERSION # 1

Dam Height: 15.00 FEET
Depth: 12.00 FEET
Surface Area: 8.95 ACRES
Capacity: 42.96 ACRE-FEET

Reservoir: OFFSTREAM **Reservoir Name:** BERTHOLD POND

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NESE	32	3N	27E	YELLOWSTONE

Diversion to Reservoir: DIVERSION # 1

Dam Height: 13.00 FEET
Depth: 10.00 FEET
Surface Area: 9.18 ACRES
Capacity: 36.72 ACRE-FEET

SEE THE ENGINEERING REPORT IN THE CLAIM FILE FOR ADDITIONAL RESERVOIR DATA.

Period of Use: APRIL 15 TO OCTOBER 19

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	6	2N	27E	YELLOWSTONE
2			NESE	32	3N	27E	YELLOWSTONE
3			SESE	24	2N	26E	YELLOWSTONE
4			SW	10	1N	26E	YELLOWSTONE

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.

208216-00 208217-00 208219-00

THIS APPROPRIATION OF WATER TAKES WATER FROM THE YELLOWSTONE RIVER, FROM BRIDGER CREEK TO CLARKS FORK YELLOWSTONE DRAINAGE (BASIN 43QJ) AND USES IT IN THE YELLOWSTONE RIVER, BETWEEN CLARKS FORK YELLOWSTONE & BIGHORN RIVER DRAINAGE (BASIN 43Q).

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM**

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

Water Right Number: 43QJ 208219-00 STATEMENT OF CLAIM

Version: 5 -- POST DECREE

Status: ACTIVE

Owners: BILLINGS BENCH WATER ASSN
PO BOX 50150
BILLINGS, MT 59105

Priority Date: OCTOBER 31, 1903

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 600.00 CFS

THE COMBINED FLOW RATE FOR CLAIMS 208218-00, 208219-00, AND 208220-00 IS LIMITED TO THE HISTORIC CAPACITY OF THE DIVERSION STRUCTURES AND CONVEYANCE SYSTEM.

Volume: PRIMARILY A DIRECT FLOW SYSTEM; VOLUME NOT DECREED.

THE MAXIMUM YEARLY DIVERTED VOLUME FOR THIS RIGHT IS 222,156.00 ACRE FEET ANNUALLY. THE MAXIMUM COMBINED STORAGE CAPACITIES OF THE FOUR OFFSTREAM RESERVOIRS IS 2,495.00 ACRE FEET ANNUALLY.

Climatic Area: 2 - MODERATELY HIGH

***Maximum Acres:** 24,710.50

Source Name: YELLOWSTONE RIVER

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		NWSESW	15	2S	24E	YELLOWSTONE

***Period of Diversion:** APRIL 15 TO OCTOBER 31

Diversion Means: HEADGATE

Reservoir: OFFSTREAM **Reservoir Name:** LAKE ELMO

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SW	10	1N	26E	YELLOWSTONE

Diversion to Reservoir: DIVERSION # 1

Dam Height: 19.00 FEET

Depth: 16.00 FEET

Surface Area: 63.36 ACRES

Capacity: 1,700.00 ACRE-FEET

Reservoir: OFFSTREAM **Reservoir Name:** RATTLESNAKE RESERVOIR

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SESE	24	2N	26E	YELLOWSTONE

Diversion to Reservoir: DIVERSION # 1

Dam Height: 14.00 FEET

Depth: 11.00 FEET

Surface Area: 178.83 ACRES

Capacity: 715.00 ACRE-FEET

Reservoir: OFFSTREAM **Reservoir Name:** AMERICAN LEGION LAKE

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NWSE	6	2N	27E	YELLOWSTONE

Diversion to Reservoir: DIVERSION # 1

Dam Height: 8.00 FEET

Depth: 12.00 FEET

Surface Area: 8.95 ACRES

Capacity: 42.96 ACRE-FEET

Reservoir: OFFSTREAM **Reservoir Name:** BERTHOLD POND

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NESE	32	3N	27E	YELLOWSTONE

Diversion to Reservoir: DIVERSION # 1

Dam Height: 13.00 FEET

Depth: 10.00 FEET

Surface Area: 9.18 ACRES

Capacity: 36.72 ACRE-FEET

SEE THE ENGINEERING REPORT IN THE CLAIM FILE FOR ADDITIONAL RESERVOIR DATA.

Period of Use: APRIL 15 TO OCTOBER 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	31.70			12	2S	24E	YELLOWSTONE
2	67.00		NE	6	2S	25E	YELLOWSTONE
3	297.20			7	2S	25E	YELLOWSTONE
4	69.10			1	1S	25E	YELLOWSTONE
5	122.40		E2	12	1S	25E	YELLOWSTONE
6	15.40		SW	13	1S	25E	YELLOWSTONE
7	125.00		S2	14	1S	25E	YELLOWSTONE
8	7.00		SE	21	1S	25E	YELLOWSTONE
9	39.70		SWSW	26	1S	25E	YELLOWSTONE
10	270.40			27	1S	25E	YELLOWSTONE
11	12.00		SW	28	1S	25E	YELLOWSTONE
12	27.00		NE	32	1S	25E	YELLOWSTONE
13	44.00		NE	34	1S	25E	YELLOWSTONE
14	24.20		NW	35	1S	25E	YELLOWSTONE
15	60.00			6	1S	26E	YELLOWSTONE

16	211.40		7	1S	26E	YELLOWSTONE
17	102.00	SE	35	1N	25E	YELLOWSTONE
18	114.40		36	1N	25E	YELLOWSTONE
19	348.80		1	1N	26E	YELLOWSTONE
20	42.00	S2	3	1N	26E	YELLOWSTONE
21	59.30	SE	4	1N	26E	YELLOWSTONE
22	265.30		9	1N	26E	YELLOWSTONE
23	500.00		10	1N	26E	YELLOWSTONE
24	401.20		11	1N	26E	YELLOWSTONE
25	364.30		12	1N	26E	YELLOWSTONE
26	346.00		13	1N	26E	YELLOWSTONE
27	419.50		14	1N	26E	YELLOWSTONE
28	286.50		15	1N	26E	YELLOWSTONE
29	200.00		16	1N	26E	YELLOWSTONE
30	52.00	NW	21	1N	26E	YELLOWSTONE
31	267.50		22	1N	26E	YELLOWSTONE
32	250.90		23	1N	26E	YELLOWSTONE
33	94.50	W2	24	1N	26E	YELLOWSTONE
34	10.00	NW	26	1N	26E	YELLOWSTONE
35	104.00		27	1N	26E	YELLOWSTONE
36	30.00		28	1N	26E	YELLOWSTONE
37	140.00	N2	31	1N	26E	YELLOWSTONE
38	160.00		32	1N	26E	YELLOWSTONE
39	100.00		33	1N	26E	YELLOWSTONE
40	532.20		6	1N	27E	YELLOWSTONE
41	254.40		7	1N	27E	YELLOWSTONE
42	10.00	SE	36	2N	26E	YELLOWSTONE
43	367.00		1	2N	27E	YELLOWSTONE
44	501.00		2	2N	27E	YELLOWSTONE
45	113.40		4	2N	27E	YELLOWSTONE
46	77.00		5	2N	27E	YELLOWSTONE
47	16.20		8	2N	27E	YELLOWSTONE
48	564.00		9	2N	27E	YELLOWSTONE
49	613.00		10	2N	27E	YELLOWSTONE
50	621.00		11	2N	27E	YELLOWSTONE
51	431.00		12	2N	27E	YELLOWSTONE
52	128.70		13	2N	27E	YELLOWSTONE
53	565.00		14	2N	27E	YELLOWSTONE
54	594.40		15	2N	27E	YELLOWSTONE
55	632.50		16	2N	27E	YELLOWSTONE
56	498.10		17	2N	27E	YELLOWSTONE
57	384.80		18	2N	27E	YELLOWSTONE
58	164.00		19	2N	27E	YELLOWSTONE
59	495.00		20	2N	27E	YELLOWSTONE
60	532.00		21	2N	27E	YELLOWSTONE
61	609.30		22	2N	27E	YELLOWSTONE
62	515.00		23	2N	27E	YELLOWSTONE

63	24.40	SW	24	2N	27E	YELLOWSTONE
64	196.00		27	2N	27E	YELLOWSTONE
65	621.80		28	2N	27E	YELLOWSTONE
66	592.70		29	2N	27E	YELLOWSTONE
67	104.00		30	2N	27E	YELLOWSTONE
68	494.30		31	2N	27E	YELLOWSTONE
69	599.00		32	2N	27E	YELLOWSTONE
70	339.20		33	2N	27E	YELLOWSTONE
71	167.10	W2	6	2N	28E	YELLOWSTONE
72	31.00	NW	7	2N	28E	YELLOWSTONE
73	39.00	S2	15	3N	27E	YELLOWSTONE
74	83.20	S2	19	3N	27E	YELLOWSTONE
75	215.70		20	3N	27E	YELLOWSTONE
76	70.00	NW	22	3N	27E	YELLOWSTONE
77	284.00		26	3N	27E	YELLOWSTONE
78	373.50		27	3N	27E	YELLOWSTONE
79	43.00	S2	28	3N	27E	YELLOWSTONE
80	505.00		29	3N	27E	YELLOWSTONE
81	132.60		30	3N	27E	YELLOWSTONE
82	20.00	NE	31	3N	27E	YELLOWSTONE
83	188.20		32	3N	27E	YELLOWSTONE
84	277.80		33	3N	27E	YELLOWSTONE
85	356.60		34	3N	27E	YELLOWSTONE
86	535.50		35	3N	27E	YELLOWSTONE
87	350.50		36	3N	27E	YELLOWSTONE
88	80.00	NW	28	3N	28E	YELLOWSTONE
89	140.00	S2	28	3N	28E	YELLOWSTONE
90	610.00		29	3N	28E	YELLOWSTONE
91	502.00		30	3N	28E	YELLOWSTONE
92	428.00		31	3N	28E	YELLOWSTONE
93	212.00		32	3N	28E	YELLOWSTONE
94	29.00	NW	33	3N	28E	YELLOWSTONE
95	246.70		22	1S	25E	YELLOWSTONE
96	518.00		3	2N	27E	YELLOWSTONE
Total:						24710.50

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

208219-00 208220-00 211762-00 211763-00

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE ASSOCIATED WHICH MEANS THE RIGHTS SHARE THE SAME .

208218-00 208219-00 208220-00

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.

208216-00 208217-00 208219-00

AUTHORIZATION TO CHANGE (SEVER/SELL) PLACE OF USE, PURPOSE, PLACE OF STORAGE COMPLETED 10/23/1986 . FILE REFLECTS RIGHT AS IT EXISTED PRIOR TO JULY 1973. APPROVED CHANGES WILL BE RECORDED AFTER FINAL DECREE. AUTHORIZATION TO CHANGE PLACE OF STORAGE ISSUED 09/16/1992. SEE 43QJ 208219. NOTICE OF COMPLETION DUE 11/30/1996. SEE 43QJ 208219.

THIS APPROPRIATION OF WATER TAKES WATER FROM THE YELLOWSTONE RIVER, FROM BRIDGER CREEK TO CLARKS FORK YELLOWSTONE DRAINAGE (BASIN 43QJ) AND USES IT IN THE YELLOWSTONE RIVER, BETWEEN CLARKS FORK YELLOWSTONE & BIGHORN RIVER DRAINAGE (BASIN 43Q).