

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: Dianne J. Booth; Joseph J. Booth

OBJECTOR: United States, DOI Bureau of Reclamation

CASE 43QJ-0134-R-2025

43QJ 185573-00

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 ["BOR"] objected to Dianne J. Booth and Joseph J. Booth claim 43QJ 185573-00. The September 23, 2025 Court Minutes, Order Entering Defaults, and Order Setting Filing Deadline entered the defaults of Dianne J. Booth and Joseph

J. Booth pursuant to Rule 55(a), M.R.Civ.P. and Rule 22, W.R.Adj.R., for their failures to appear as directed in the August 26, 2025 Order Consolidating Case And Setting Scheduling Conference [FCE Doc. 2]. On January 21, 2026 the United States' Notice Of Proposed Resolution ["Proposed Resolution"] was filed supported by the Declaration of Kraig Van Voast ["Declaration"] [FCE Doc. 8]. On February 10, 2026 the Court issued an Order Setting Filing Deadline which states:

On January 21, 2026 the United States' Notice Of Proposed Resolution ["Proposed Resolution"] was filed requesting reduction of the flow rate from 37.50 CFS to 8.91 CFS. This is deemed a motion. No response was filed by Dianne J. Booth and Joseph J. Booth. Therefore, it is

ORDERED that the deadline is **March 13, 2026** for Dianne J. Booth and Joseph J. Booth to show cause in writing why the Proposed Resolution should not be granted and the flow rate for claim 43QJ 18553-00 should not be reduced to 8.91 CFS as requested in the Proposed Resolution.

[FCE Doc. 9] Nothing was filed.

In the course of drafting the Master's Report, the Court reviewed the Declaration attached to the Proposed Resolution. Paragraph 17 explains that the flow rate for another claim is a factor in determining the flow rate for this claim. However, the flow rate for the other claim, 43QJ 185574-00, is misstated. On March 18, 2026 an Order Setting Filing Deadline was issued noting the error and setting a deadline for the BOR to review and file a response to the Court's observation [FCE Doc. 10]. On May 20, 2026 the United States' Response To Court Order was filed specifying a revised proposed flow rate [FCE Doc. 13]. Because the proposed flow rate was revised, a second Order Setting Filing Deadline was issued for the Booths to show cause why the flow rate should not be revised as proposed [FCE Doc. 14]. It states:

On May 20, 2026 the United States' Response To Court Order was filed requesting a different flow rate than was identified in the January 21, 2026 Notice Of Proposed Resolution. Although this proposed flow rate is greater than the prior proposed flow rate, the Court determines it is best to give the claimants a deadline to file any response they might have. Therefore, it is

ORDERED that the deadline is **June 16, 2026** for Dianne J. Booth and Joseph J. Booth to show cause in writing why the flow rate for claim 43QJ 185573-00 should not be reduced to 13.54 CFS as stated in the United States' Response To Court Order.

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.

FINDINGS OF FACT

1. The Second Preliminary Decree states that the flow rate is 37.50 CFS. The flow rate should be 13.54 CFS as stated in the May 20, 2026 United States' Response To Court Order.

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

POINT OF DIVERSION 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.

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

CONCLUSION OF LAW

The documentation filed by the objector is sufficient to contradict and overcome the prima facie claim.

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 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:

Dianne J . Booth
1404 Bowman Ave
Sheridan, WY 82801-2315

Joseph J. Booth
105 Frontage Rd E
Reed Point, MT 59069-8054

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 185573-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: DIANNE J BOOTH
1404 BOWMAN AVE
SHERIDAN, WY 82801-2315

JOSEPH J BOOTH
105 FRONTAGE RD E
REED POINT, MT 59069-8054

Priority Date: APRIL 15, 1896

Type of Historical Right: USE

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 13.54 CFS

***Volume:** 250.00 AC-FT

THE WATER COURT HAS DETERMINED THAT A VOLUME QUANTIFICATION IS REQUIRED TO ADEQUATELY ADMINISTER THIS RIGHT.

Climatic Area: 2 - MODERATELY HIGH

***Maximum Acres:** 27.50

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		NESWSW	25	1S	17E	SWEET GRASS

Period of Diversion: APRIL 15 TO SEPTEMBER 15

Diversion Means: HEADGATE

Period of Use: APRIL 15 TO SEPTEMBER 15

***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	27.50		NENE	36	1S	17E	SWEET GRASS

Total: 27.50

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.

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.