

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

* * * * *

CLAIMANT: Herbert Christopher Bue

CASE 43QJ-0211-R-2026

43QJ 30138624

43QJ 30162789

43QJ 30162791

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

Herbert Christopher Bue claims 43QJ 30138624, 43QJ 30162789, and 43QJ 30162791 each appeared in the Second Preliminary Decree with an issue remark. The issue remarks were not addressed through the objection process. The Water Court is required to resolve the issues

raised by each issue remark. Section 85-2-248, MCA.

Under Section 85-2-248(3), MCA, information in the claim file or other information obtained by the Court can be reviewed to determine if it provides a sufficient basis to resolve the issue raised by a remark, and the Court can provide the claimant an opportunity to file additional information or evidence. On February 17, 2026, the Order Consolidating Case and Order Setting Deadlines Pursuant To Section 85-2-248(5), MCA was issued setting various filing deadlines for the claimant and the DNRC. On April 21, 2026, the DNRC Memorandum was filed making recommendations to resolve the issue remarks on all three claims based on information provided by the claimant.

The February 17, 2026 Order Consolidating Case and Order Setting Deadlines Pursuant To Section 85-2-248(5), MCA, includes the following:

ORDERED that the deadline is **June 25, 2026** for the claimant to file a written response to the memorandum *if it disagrees with any recommendation in the memorandum*. If no written response is filed by this deadline, the Court will conclude that the claimant agrees with the memorandum recommendations.

(**Emphasis** in original.) Nothing was filed. 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.

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 30138624 appeared in the Second Preliminary Decree with the following issue remark:

THE CLAIMED VOLUME EXCEEDS THE 2.25 ACRE-FEET GUIDELINE FOR THIS PURPOSE. ITS ACCURACY CANNOT BE CONFIRMED DUE TO LACK OF DATA.

The Second Preliminary Decree includes the standard volume remark for stockwater well claims rather than a quantification. The issue remark is erroneous and should be removed.

2. Claims 43QJ 30162789 and 43QJ 30162791 each appeared in the Second Preliminary Decree with the following issue remark:

THE CLAIMED VOLUME EXCEEDS THE MAXIMUM FEASIBLE VOLUME. BASED ON THE FLOW RATE AND PERIOD OF USE, THE MAXIMUM VOLUME POSSIBLE IS 1.58 ACRE-FEET PER YEAR.

The Second Preliminary Decree states that the volume for each claim is 4.20 AC-FT. The volume for each claim should be 1.58 AC-FT. The issue remarks should be removed as addressed and resolved.

3. The Second Preliminary Decree includes the following notice remark on the abstract of each claim:

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

The remarks should be removed as having served their notice purpose.

CONCLUSION OF LAW

The information provided by the DNRC Memorandum is sufficient to resolve the issue remarks without evidentiary hearing. Sections 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 USPS Mail:

Herbert Christopher Bue
257 Work Creek Rd
Reed Point, MT 59069

\\JUDHLNSRV-DATA\Share\JUDGALH2OSRV (Datavol)\Share\WC-BASIN FOLDERS\43QJ\43QJ PD2\43QJ CASES\211R\211R mr 7-7-26.docx

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM**

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

Water Right Number: 43QJ 30138624 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: HERBERT CHRISTOPHER BUE
257 WORK CREEK RD
REED POINT, MT 59069

Priority Date: AUGUST 24, 1961

***Type of Historical Right:** FILED

Purpose (Use): STOCK

Flow Rate: 4.20 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		SESENW	9	2S	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	0.30		SESENW	9	2S	17E	SWEET GRASS

Total: 0.30

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

Water Right Number: 43QJ 30162789 STATEMENT OF CLAIM
Version: 2 -- POST DECREE
Status: ACTIVE

Owners: HERBERT CHRISTOPHER BUE
257 WORK CREEK RD
REED POINT, MT 59069

Priority Date: AUGUST 4, 1961

Type of Historical Right: USE

Purpose (Use): DOMESTIC

Flow Rate: 8.00 GPM

Volume: 1.58 AC-FT

Households: 1

*Maximum Acres: 0.03

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		NESENW	9	2S	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	0.03		SENW	9	2S	17E	SWEET GRASS
Total:		0.03					

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

Water Right Number: 43QJ 30162791 STATEMENT OF CLAIM
Version: 2 -- POST DECREE
Status: ACTIVE

Owners: HERBERT CHRISTOPHER BUE
257 WORK CREEK RD
REED POINT, MT 59069

*Priority Date: DECEMBER 31, 1927

Type of Historical Right: USE

Purpose (Use): DOMESTIC

Flow Rate: 4.00 GPM

Volume: 1.58 AC-FT

Households: 1

Maximum Acres: 0.03

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		NESENW	9	2S	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	0.03		SENW	9	2S	17E	SWEET GRASS
Total:	0.03						