

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: Debra J. McDonnell; Leo McDonnell Jr; Stevan
S. Williams

CASE 43QJ-0131-R-2025
43QJ 28749-00
43QJ 28750-00

OBJECTOR: United States, DOI Bureau of Land Management

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

United States, DOI Bureau of Land Management objected to Debra J. McDonnell, Leo McDonnell Jr, and Stevan S. Williams claims 43QJ 28749-00 and 43QJ 28750-00. On December 3, 2025, the parties filed a Stipulation To Resolve Objections. On February 9, 2026, the

claimants' filed their Response To Court Order January 7, 2026, providing information addressing the issue remark on claim 43QJ 28750-00. The 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. For claim 43QJ 28749-00, the following remark should be added to the place of use:
THE PLACE OF USE IS LIMITED TO PRIVATE LAND.

This claim appeared in the Second Preliminary Decree with the following remark:

DITCH NAME 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.

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

2. For claim 43QJ 28750-00, the Second Preliminary Decree includes the following issue remark:

THE CLAIMED POINT OF DIVERSION IS IN QUESTION. THE LOCATION OF THE DITCH (POD NO'S. 1 AND 2) CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

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

<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
NEESE	5	3S	21E	STILLWATER
Means of Diversion: DITCH				
Ditch Name: COVE DITCH				
SESWNE	5	3S	21E	STILLWATER
Means of Diversion: DITCH				
NWSENW	9	3S	21E	STILLWATER

Means of Diversion: DITCH

As the claimants' Response To Court Order January 7, 2026 states that Cove Ditch is the primary diversion, the points of diversion should be reorganized so the primary diversion is first. The point of diversion and means of diversion should be:

<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
SESWNE	5	3S	21E	STILLWATER

Means of Diversion: DITCH
Ditch Name: COVE DITCH

NESESW	4	3S	21E	STILLWATER
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Means of Diversion: DITCH

NENWNE	9	3S	21E	STILLWATER
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Means of Diversion: DITCH

The issue remark should be removed as addressed and resolved.

The following remark should be added as a general remark: THE PLACE OF USE AND POINT OF DIVERSION ARE LIMITED TO PRIVATE LAND.

This claim appeared in the Second Preliminary Decree with the following remark:

DITCH NAME 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.

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

CONCLUSION OF LAW

The settlement documents filed by the parties 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 change 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:

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**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM**

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

Water Right Number: 43QJ 28749-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: DEBRA J MCDONNELL
13 BULL DR
COLUMBUS, MT 59019

LEO MCDONNELL JR
13 BULL DR
COLUMBUS, MT 59019

STEVAN S WILLIAMS
5 BULL DR
COLUMBUS, MT 59019-7293

Priority Date: MAY 12, 1890

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 6.48 CFS

***Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 2 - MODERATELY HIGH

Maximum Acres: 171.00

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		SESWNE	5	3S	21E	STILLWATER

Period of Diversion: MAY 1 TO OCTOBER 15

Diversion Means: HEADGATE

Ditch Name: COVE DITCH

Period of Use: MAY 1 TO OCTOBER 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	41.00		SW	4	3S	21E	STILLWATER
2	20.00		NW	9	3S	21E	STILLWATER
3	110.00		NE	9	3S	21E	STILLWATER

Total: 171.00

THE PLACE OF USE IS LIMITED TO PRIVATE LAND.

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.

28749-00

28750-00

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM**

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

Water Right Number: 43QJ 28750-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: DEBRA J MCDONNELL
13 BULL DR
COLUMBUS, MT 59019

LEO MCDONNELL JR
13 BULL DR
COLUMBUS, MT 59019

STEVAN S WILLIAMS
5 BULL DR
COLUMBUS, MT 59019-7293

Priority Date: MAY 12, 1890

Type of Historical Right: FILED

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: 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		SESWNE	5	3S	21E	STILLWATER

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DITCH

Ditch Name: COVE DITCH

2		NESESW	4	3S	21E	STILLWATER
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Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DITCH

3		NENWNE	9	3S	21E	STILLWATER
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Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DITCH

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				4	3S	21E	STILLWATER
2				9	3S	21E	STILLWATER

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.

28749-00 28750-00

THE PLACE OF USE AND POINT OF DIVERSION ARE LIMITED TO PRIVATE LAND