

Montana Water Court
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FILED

JUN 07 2012

Montana Water Court

IN THE WATER COURT OF THE STATE OF MONTANA
YELLOWSTONE DIVISION
YELLOWSTONE RIVER BETWEEN THE CLARKS FORK YELLOWSTONE
AND BIGHORN RIVERS BASIN (43Q)

CLAIMANT: City of Billings

OBJECTORS: United States of America (Bureau of Indian Affairs);
United States of America (Bureau of Reclamation);
Crow Tribe of Indians

CASE 43Q-16

43Q 208213-00

43Q 208214-00

43Q 208215-00

Implied claims

43Q 30010066

43Q 30010067

NOTICE OF FILING OF MASTER'S REPORT

This Master's Report was filed with the Clerk of the Montana Water Court on the above stamped date. Please read this Report carefully.

If you disagree with the Master's Findings of Fact, Conclusions of Law, or Recommendations, or if there are errors in the Report, you may file a written objection to the Report within **10 days** from the above stamped date. (Rule 23, W.R.Adj.R.) If you file an objection, you must also mail 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 of America (Bureau of Reclamation), the United States of America (Bureau of Indian Affairs), and the Crow Tribe of Indians objected to City of Billings municipal claims 43Q 208213-00, 43Q 208214-00, and 43Q 208215-00. On April 12, 2012 the City of Billings, United States of America (Bureau of Reclamation),

and United States of America (Bureau of Indian Affairs) filed a Stipulation resolving the United States objections and the various issue remarks. The Stipulation specifies the withdrawal of one of the claims, modifications to the second claim, and division of the third claim into three separate rights. On May 25, 2012 the Conditional Withdrawal of Objections by The Apsaalooke (Crow) Tribe was filed. The conditions specified are making the changes detailed in the April 12, 2012 Stipulation.

FINDINGS OF FACT and CONCLUSIONS OF LAW

CONCLUSION OF LAW 1) The Montana Water Court has jurisdiction over all matters relating to the determination of existing water rights. Section 3-7-224, MCA. Existing water rights include those begun prior to July 1, 1973 and continuing after July 1, 1973. Section 85-2-227(2), MCA and *Montana Department of Natural Resources and Conservation v. Intake* (1976), 171 Mont. 416.

CONCLUSION OF LAW 2) 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.

CONCLUSION OF LAW 3) The settlement documentation filed by the parties constitutes a voluntary reduction in the elements of these claims. These reductions are within the parameters of the statements of claim and supported by the record as well as statutory and Montana Supreme Court case law concerning existing water rights.

CONCLUSION OF LAW 4) "'Implied Claim' means a claim authorized by the water court to be separated and individually identified when a statement of claim includes multiple rights." Rule 2(a)(33), W.R.C.E.R. When it is determined that a statement of claim does actually contain multiple water rights, the corpus of the water claimed is divided into the constituent rights - the claimed volume or the claimed volume and flow

rate are apportioned for each right. One of the rights remains on the statement of claim and implied claims are generated for each of the other rights.

CONCLUSION OF LAW 5) If a specific date on which an appropriation occurred is unclear, a priority date which preserves its relative priority amongst the other appropriations from the same source is sufficient. In *Vidal v. Kensler* (1935), 100 Mont. 592, 594, the Montana Supreme Court stated:

The date of an appropriation appearing in a water right decree is material only in its relation to the question of priority. (*St. Onge v. Blakely*, 76 Mont. 1, 245 Pac. 532.) There is, therefore, no valid objection to the fixing of an arbitrary date of appropriation, and, if an incorrect date is given, the error is harmless unless the objecting claimant can show that his right antedates the date fixed for another instead of being subsequent thereto, as appears from the decree. (*Geary v. Harper*, 92 Mont. 242, 12 Pac. (2d) 276; *McDonald v. Lannen*, 19 Mont. 78, 47 Pac.648.)

CONCLUSION OF LAW 6) Rule 29(b)(4), W.R.C.E.R., concerning the flow rate and volume quantifications for municipal claims, states:

(4) Municipal

(i) The flow rate guideline will be the capacity of the diversion and conveyance system using information in the claim and other data gathered by the department.

(ii) The volume guideline will be 250 gallons per capita per day.

FINDING OF FACT 1) Statement of Claim 43Q 208215-00 claimed 648.00 cfs and 469,152.00 acre feet from the Yellowstone River, priority date June 2, 1885, based on a use right appropriation of that same date. The parties determined that instead of a single appropriation, the municipal water use between 1887 and the 1906 Notice of Appropriation should be described as three separate use rights appropriated in 1887, 1895, and 1905. The total flow rate for these three rights is 7.70 cfs, and the total volume for these three rights is 2046.42 acre feet, well within the quantities specified for this claim. The historical record accompanying the Statements of Claim supports this determination.

First, although the City of Billings was founded in the spring of 1882, there was no

public water supply service. Multiple individual private suppliers hauled water in barrels from the Yellowstone River and sold the water, by barrel, to households and businesses. In 1883, a well company was formed but the effort was abandoned when the wells drilled as much as 900 feet deep did not hit water.

In 1885, the Billings Water Power Company, a corporation, was formed for the purpose of generating power and supplying municipal water. The first pump was installed in 1886 and by 1887 the distribution system for delivery within the City, including hydrants for emergency use, was completed. The water was diverted from the Yellowstone River by canal and put to two uses: a portion was run through a water wheel to generate electricity, then returned to the River, and another portion was taken by pump from the canal for municipal supply. The capacity of the pump by the end of January 1, 1887 was 1.93 cfs. Hence, the parties' determination that the first use right should be for 1.93 cfs, priority date January 19, 1887. As no population figure for the City was available for January 19, 1887, the parties agreed to use the 1890 census population of 836 people. Using the volume guideline of 250 gallons per capita per day, the parties determined that the volume for this right should be 234.00 acre feet.

In 1894, two new pumps were added to the system. In 1895, Superintendent H. W. Rowley reported that the capacity was then 5.40 cfs. Subtracting the first right flow rate of 1.93 cfs from 5.40 cfs, the increased capacity is 3.47 cfs. The parties determined that the second use right appropriation should be fixed at January 1, 1895 with a flow rate of 3.47 cfs. The 1890 census population of 836 grew to 3,221 by the 1900 census. Figuring a population of 2,030 in 1895 and, again using the 250 gallons per capita per day, the parties determined that the volume for this appropriation should be 336.00 acre feet.

From 1895 to 1906 the City continued to grow and the Billings Water Power Company kept pace with the municipal demand for water. There was no single event that triggered an increase -just the ongoing appropriation year by year as the City grew. Building a replacement power plant and a separate new water plant was begun in 1906. When completed in 1907, there were three new pumps with a combined capacity of 7.70

cfs. So as to preserve its seniority over Huntley Project's senior Yellowstone River right, priority date October 26, 1905, the parties determined that last use right appropriation covering the years 1895 through installation of the new pumps in 1907, should be fixed at October 25, 1905. The parties agreed that pump capacity by 1907 was 7.70 cfs and determined that the flow rate for the 1905 appropriation would therefore be 2.30 cfs (7.70 - 1.93 - 3.47). The 1900 census population of 3,221 grew to 10,031 by the 1910 census. Splitting the difference between using the 1905 population (correlated to the agreed upon priority date) or the 1907 population (correlated with the date the new pumps were up and running), the parties agreed to use the calculated 1906 population. Figuring a population of 7307 and using the 250 gallons per capita per day guideline, the parties determined the volume for the 1905 right should be 1476.20 acre feet.

Claim 43Q 208215-00 should be modified so it reflects only the 1887 right, implied claim 43Q 30010066 should be generated for the 1895 right, and implied claim 43Q 30010067 should be generated for the 1905 right.

FINDING OF FACT 2) For claim 43Q 208215-00, the Temporary Preliminary Decree states that the priority date is June 2, 1885. The priority date should be January 19, 1887.

The Temporary Preliminary Decree states that the flow rate is 648.00 cfs. The flow rate should be 1.93 cfs.

The Temporary Preliminary Decree states that the volume is 469,152.00 acre feet. The volume should be 234.00 acre feet.

The various issue remarks concerning flow rate, volume, and priority date should all be stricken as addressed and resolved by the agreed upon quantification of the flow rate and volume, and the agreed upon priority date change with generation of two implied claims for the later use right appropriations.

FINDING OF FACT 3) Implied claim 43Q 30010066 should be generated from claim 43Q 208215-00 for the 1895 appropriation. All elements should be the same as 43Q 208215-00 except the priority date should be January 1, 1895, the flow rate should be 3.47 cfs, and the volume should be 336.00 acre feet.

FINDING OF FACT 4) Implied claim 43Q 30010067 should be generated from claim 43Q 208215-00 for the 1905 appropriation. All elements should be the same as 43Q 208215-00 except the priority date should be October 25, 1905, the flow rate should be 2.30 cfs, and the volume should be 1476.20 acre feet.

CONCLUSION OF LAW 7) Sections 89-810 through 89-812, R.C.M., which were in effect from 1885 until repealed in 1973, govern whether a filed notice of appropriation is the valid basis for claiming an appropriation based on that filing.

CONCLUSION OF LAW 8) The Montana Supreme Court decision in *Bailey v. Tintinger* (1912), 45 Mont. 154, involves a filed notice of appropriation for water by a public service corporation and illustrates how the time line may be longer for such appropriations which are dependant on additional subscribers over time until the appropriation is finished.

We are satisfied that the statutory method of making an appropriation is entirely distinct from the method which may be pursued under the rules and customs of the early settlers; and, furthermore, that the statute provides for all the steps necessary to be taken by one who follows them, to secure a completed appropriation. Those steps are: (1) Posting notice. (2) Filing notice with the county clerk and recorder. (3) Commencing work within forty days after posting notice. (4) Prosecuting such work with reasonable diligence. And (5) actual completion of the work.

Id. at 172-173 (section citations omitted). Completion of the work - not diversion and application of the water to beneficial use - is the final step. The decision continues:

These are all the requirements of the Code, and by what authority shall any additional exaction be made? "The Code establishes the law of this state respecting the subjects to which it relates." Our conclusion is in entire harmony with the theory of appropriation as shown by the history of its origin, growth, and purpose; and if our conclusion is not correct, then there is not any such thing as an appropriation of water, under or by virtue of the statute. Either the statute provides a complete mode of acquiring the right to use water by appropriation, or it does not prescribe any at all.

■ ■ ■ ■

[T]he claimant who proceeds under the statute, and performs the acts required as set forth above, has a completed appropriation of water upon the

completion of the work on his ditch, canal, or other means of diversion, even before the water is actually applied to a beneficial use.

Id. at 173 and 174.

The *Bailey v. Tintinger* decision next addresses the fact that the appropriation was not just for the irrigation of the appropriators' land but for sale or distribution to others. Article III, section 15 of the Constitution of the State of Montana is quoted: "The use of all water now appropriated, or that may hereafter be appropriated for sale, rental, distribution or other beneficial use * * * shall be held to be a public use." *Id.* at 175. As to an appropriator which is a "public service corporation", the Supreme Court held:

its appropriation is complete when it has fully complied with the statute and has its distributing system completed and is ready and willing to deliver water to users upon demand, and offers to do so. The right thus obtained may be lost by abandonment or nonuser for an unreasonable time (1 Wiel, sec. 569), but cannot be made to depend for its existence in the first instance upon the voluntary acts of third parties - strangers to its undertaking.

Id. at 177. As to the appropriation at issue, the Supreme Court reiterated that all the statutory requirements were met,

that the appropriation was actually completed upon the completion of the canal; that the right related back to the date when the notice was posted; that a valid appropriation of 2,200 inches, or such less amount as the flume would carry, was made; and that this appellant is entitled to a decree for that amount, unless the whole or a portion of the original appropriation has been lost by abandonment or nonuser for an unreasonable length of time.

Id. at 179.

Clearly both a private corporation supplying municipal water as well as a municipality which may be the supplier of the water would qualify as what *Bailey v. Tintinger* describes as a "public service corporation." If such entity appropriated a water right in compliance with the sections 89-810 and 89-811, R.C.M., then its appropriation would relate back to the date of the posting of the notice of appropriation, and under such protocol, the municipality may have actually appropriated a water right limited by the capacity of the diversion system completed as part of the method of appropriation - a

capacity which might not be immediately exercised - rather than the amount of water actually diverted and put to beneficial use on the date of first use. But even under this method, the amount of water taken - whether flow rate or volume - is not open ended. The appropriation is limited by the capacity of the diversion system completed for the appropriation and the amount may be reduced over time due to abandonment or nonuse of the full capacity.

FINDING OF FACT 5) Statement of Claim 43Q 208214-00 claimed 2000.00 cfs and 1,448,000.00 acre feet from the Yellowstone River, priority date August 27, 1906, based on Billings Water Power Company Notice of Appropriation of Water Right filed on September 11, 1906. This Notice meets the requirements of sections 89-810 *et seq.* as to posting, content, timeliness of filing, and immediate as well as ongoing diligence to complete the appropriation. The Notice states that the purpose of this appropriation is:

That Billings Water Power Supply Company, a corporation organized, existing and doing business in the State of Montana, under and by virtue of the laws of the State of New Jersey, hereby appropriates and claims Two Thousand (2000) cubic feet per second, legal measurement, of the waters of the Yellowstone River for the purpose of developing electric power to be used in furnishing electric lights and power to the City of Billings, its inhabitants and the inhabitants of the immediate vicinity, and for other useful and beneficial purposes.

The extensive historical record accompanying the City of Billings claims clearly documents the immediate initial appropriation and use of this water right, the dual purposes of municipal use and power generation use, the sale of the portion used for power generation to Henry F. Kroyer in 1908, the sale of the municipal use to the City of Billings in 1915, and the continuing and increasing diversion and use by the Billings Water Power Company and its successors from 1906 to today.

The extensive historical record accompanying the City of Billings claims also clearly documents that the Billings Water Power Company and the successive owners of the portion of this appropriation used for municipal purpose - the Montana Water Company (1908 to 1915) and the City of Billings (since 1915) - are public service corporations as described by the Montana Supreme Court in *Bailey v. Tintinger*.

FINDING OF FACT 6) By Stipulation, the City of Billings has agreed that the completed diversion system for this appropriation is its current pumping capacity which is 172.00 cfs. By Stipulation, the City of Billings has agreed that this continuing appropriation begun in 1906 will be completed at some date in the future when the current pumping capacity of 172.00 cfs is fully utilized and an annual volume of 68,388.80 acre feet is withdrawn from the Yellowstone River for municipal use.

FINDING OF FACT 7) For claim 43Q 208214-00, the Temporary Preliminary Decree states that the flow rate is 2000.00 cfs. The flow rate should be 164.30 cfs (172.00 - 7.7 cfs (the flow rate total of the 1887, 1895, and 1905 rights)). The Temporary Preliminary Decree states that the volume is 1,448,000.00 acre feet. The volume should be 68,388.80 acre feet. The various issue remarks concerning the flow rate and volume should all be stricken as addressed and resolved by the agreed upon quantification of the flow rate and volume.

FINDING OF FACT 8) Claim 43Q 208213-00 has been withdrawn by the claimant and should be dismissed as withdrawn.

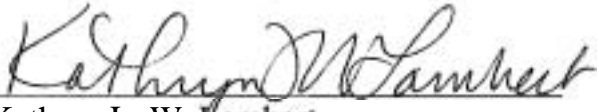
FINDING OF FACT 9) The supplemental rights remark which appears on claims 43Q 208214-00 and 43Q 208215-00 should be modified by removing claim 43Q 208213-00 and by adding claims 43Q 30010066 and 43Q 30010067. This revised supplemental rights remark should be added to the abstract of claims 43Q 30010066 and 43Q 30010067. This notation that all four rights are utilized system wide rather than each limited to a discreet portion of the city's service area resolves the place of use issue remark which appeared on the abstracts of claims 43Q 208214-00 and 43Q 208215-00. The place of use issue remarks should be stricken from the abstracts of claims 43Q 208214-00 and 43Q 208215-00 as addressed and resolved.

RECOMMENDATIONS

Based upon the above Findings of Fact and Conclusions of Law, this Master recommends that the Court accept the settlement filed in this matter and make the changes specified in the Findings of Fact to correct the Temporary Preliminary Decree for

this Basin including the dismissal of one claim and generation of two implied claims. 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 water right record system.

DATED this 7 day of June, 2012.


Kathryn L. W. Lambert
Senior Water Master

CERTIFICATE OF SERVICE

I, Jamie Pope, Deputy Clerk of Court of the Montana Water Court, hereby certify that a true and correct copy of the above **NOTICE OF FILING OF MASTER'S REPORT** and **MASTER'S REPORT** was duly served upon the persons listed below by depositing the same, postage prepaid, in the United States mail.

City of Billings
PO Box 30958
Billings, MT 59111

Bureau of Indian Affairs
Water Resources Office
316 North 26th Street
Billings, MT 59101

Rodd A. Hamman, Attorney
Carlton, Hamman, and Wolff
2075 Central Avenue
Billings, MT 59102

Bureau of Reclamation
PO Box 30137
Billings, MT 59107

Crow Tribe of Indians
PO Box 159
Crow Agency, MT 59022

Roselyn Rennie, Attorney
Office of the Billings Field Solicitor
316 North 26th Street
Billings, MT 59101

Nathan A. Espeland, Esq.
Espeland Law Office, PLLC
PO Box 1470
Columbus, MT 59019

DATED this 17th day of June, 2012.



Jamie Pope
Deputy Clerk of Court

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM**

**YELLOWSTONE RIVER, BETWEEN CLARKS FORK YELLOWSTONE & BIGHORN RIVER
BASIN 43Q**

IMPORTANT NOTICE

*****THIS WATER RIGHT CLAIM HAS BEEN WITHDRAWN*****

**AN ASTERISK (*) HAS BEEN PLACED NEXT TO EACH ITEM CHANGED BY ORDER OF THE
MONTANA WATER COURT AFTER ISSUANCE OF THE PREVIOUS DECREE.**

Water Right Number: 43Q 208213-00 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: WITHDRAWN

Owners: BILLINGS, CITY OF
PO BOX 30958
BILLINGS, MT 59111

Priority Date:

Type of Historical Right:

Purpose (use): MUNICIPAL

Plow Rate:

Volume:

Source Name: YELLOWSTONE RIVER

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

Remarks:

THIS CLAIM WAS WITHDRAWN FROM THE ADJUDICATION PROCESS AT THE REQUEST OF THE CLAIMANT ON 04/12/2012.

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM

YELLOWSTONE RIVER, BETWEEN CLARKS FORK YELLOWSTONE & BIGHORN RIVER
BASIN 43Q
IMPORTANT NOTICE

AN ASTERISK (*) HAS BEEN PLACED NEXT TO EACH ITEM CHANGED BY ORDER OF THE MONTANA WATER COURT AFTER ISSUANCE OF THE PREVIOUS DECREE.

Water Right Number: **43Q 208214-00** STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: BILLINGS, CITY OF
PO BOX 30958
BILLINGS, MT 59111

Priority Date: AUGUST 27,1906

Type of Historical Right: FILED

Purpose (use): MUNICIPAL

"Flow Rate: 164.30 CFS

"Volume: 68,388.80 AC-FT

Source Name: YELLOWSTONE RIVER

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	5	N2SE	2	1 S	26E	YELLOWSTONE	

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: PUMP

2		S2SE	2	1 S	26E	YELLOWSTONE
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Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: PUMP

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1					25	1 N	25E	YELLOWSTONE
2				S2	26	1 N	25E	YELLOWSTONE
3				S2	27	1N	25E	YELLOWSTONE
4				S2	28	1N	25E	YELLOWSTONE
5				S2	29	1 N	25E	YELLOWSTONE
6					30	1 N	25E	YELLOWSTONE
7				N2	31	1 N	25E	YELLOWSTONE
8				N2	32	1N	25E	YELLOWSTONE
9				N2	33	1N	25E	YELLOWSTONE
10				SE	33	1 N	25E	YELLOWSTONE

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
11			N2	34	1N	25E	YELLOWSTONE
12			SE	34	1N	25E	YELLOWSTONE
13				35	1N	25E	YELLOWSTONE
14				36	1N	25E	YELLOWSTONE
15			SE	9	1N	26E	YELLOWSTONE
16			SE	10	1N	26E	YELLOWSTONE
17			W2	11	1N	26E	YELLOWSTONE
18			SW	13	1N	26E	YELLOWSTONE
19			NW	14	1N	26E	YELLOWSTONE
20			S2	14	1N	26E	YELLOWSTONE
21				15	1N	26E	YELLOWSTONE
22			S2	16	1N	26E	YELLOWSTONE
23			S2	19	1N	26E	YELLOWSTONE
24			S2	20	1N	26E	YELLOWSTONE
25				21	1N	26E	YELLOWSTONE
26				22	1N	26E	YELLOWSTONE
27				23	1N	26E	YELLOWSTONE
28			NW	24	1N	26E	YELLOWSTONE
29			NW	26	1N	26E	YELLOWSTONE
30				27	1N	26E	YELLOWSTONE
31				28	1N	26E	YELLOWSTONE
32				29	1N	26E	YELLOWSTONE
33				30	1N	26E	YELLOWSTONE
34				31	1N	26E	YELLOWSTONE
35				32	1N	26E	YELLOWSTONE
36				33	1N	26E	YELLOWSTONE
37			N2	34	1N	26E	YELLOWSTOIVE
38			SW	34	1N	26E	YELLOWSTONE
39				1	1S	25E	YELLOWSTONE
40			S2	2	1s	25E	YELLOWSTONE
41				11	1S	25E	YELLOWSTONE
42				12	1S	25E	YELLOWSTONE
43				13	1S	25E	YELLOWSTONE
44			N2	14	1S	25E	YELLOWSTONE
45			SE	14	1S	25E	YELLOWSTONE
46				2	1S	26E	YELLOWSTONE
47				3	1S	26E	YELLOWSTONE
48				4	1S	26E	YELLOWSTONE
49				5	1S	26E	YELLOWSTONE
50				6	1S	26E	YELLOWSTONE
51				7	1S	26E	YELLOWSTONE
52				8	1S	26E	YELLOWSTONE
53				9	1S	26E	YELLOWSTONE
54				10	1S	26E	YELLOWSTONE
55				11	1S	26E	YELLOWSTONE
56			N2	15	1S	26E	YELLOWSTONE
57			N2	16	1S	26E	YELLOWSTOIVE
58			SE	16	1S	26E	YELLOWSTONE
59			N2	17	1S	26E	YELLOWSTONE

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
60			SW	17		1S	26E	YELLOWSTONE
61				18		1S	26E	YELLOWSTONE

PLACE OF USE IS THE WATER SERVICE AREA FOR THE CITY OF BILLINGS AND THE BILLINGS HEIGHTS.

Remarks:

STARTIIVG IN 2008, PERIOD OF DIVERSION WAS ADDED TO MOST CLAIM ABSTRACTS, INCLUDING THIS ONE.

WHENEVER THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE COMBINED TO SUPPLY WATER FOR THE CLAIMED PURPOSE, EACH IS LIMITED TO THE HISTORICAL 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. 208214-00,208215-00,30010066,3001 0067.

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM

YELLOWSTONE RIVER, BETWEEN CLARKS FORK YELLOWSTONE & BIGHORN RIVER
BASIN 43Q
IMPORTANT NOTICE

AN ASTERISK (*) HAS BEEN PLACED NEXT TO EACH ITEM CHANGED BY ORDER OF THE MONTANA WATER COURT AFTER ISSUANCE OF THE PREVIOUS DECREE.

Water Right Number: **43Q 208215-00** STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: BILLINGS, CITY OF
PO BOX 30958
BILLINGS, MT 59111

*Priority Date: JANUARY 19, 1887

Type of Historical Right: USE

Purpose (use): MUNICIPAL

*Flow Rate: 1.93 CFS

*Volume: 234.00 AC-FT

Source Name: YELLOWSTONE RIVER

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	5	N2SE	2	1S	26E	YELLOWSTONE

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: PUMP

2	6	S2SE	2	1S	26E	YELLOWSTONE
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Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: PUMP

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1				25	1N	25E	YELLOWSTONE
2			S2	26	1N	25E	YELLOWSTONE
3			S2	27	1N	25E	YELLOWSTONE
4			S2	28	1N	25E	YELLOWSTONE
5			S2	29	1N	25E	YELLOWSTONE
6				30	1N	25E	YELLOWSTONE
7			N2	31	1N	25E	YELLOWSTONE
8			N2	32	1N	25E	YELLOWSTONE
9			N2	33	1N	25E	YELLOWSTONE
10			SE	33	1N	25E	YELLOWSTONE

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
11			N2	34	1N	25E	YELLOWSTONE
12			SE	34	1N	25E	YELLOWSTONE
13				35	1N	25E	YELLOWSTONE
14				36	1N	25E	YELLOWSTONE
15			SE	9	1N	26E	YELLOWSTONE
16			SE	10	1N	26E	YELLOWSTONE
17			W2	11	1N	26E	YELLOWSTONE
18			SW	13	1N	26E	YELLOWSTONE
19			NW	14	1N	26E	YELLOWSTONE
20			S2	14	1N	26E	YELLOWSTONE
21				15	1N	26E	YELLOWSTONE
22				16	1N	26E	YELLOWSTONE
23			S2	19	1N	26E	YELLOWSTONE
24			S2	20	1N	26E	YELLOWSTONE
25				21	1N	26E	YELLOWSTONE
26				22	1N	26E	YELLOWSTONE
27				23	1N	26E	YELLOWSTONE
28			NW	24	1N	26E	YELLOWSTONE
29			NW	26	1N	26E	YELLOWSTONE
30				27	1N	26E	YELLOWSTONE
31				28	1N	26E	YELLOWSTONE
32				29	1N	26E	YELLOWSTONE
33				30	1N	26E	YELLOWSTONE
34				31	1N	26E	YELLOWSTONE
35				32	1N	26E	YELLOWSTONE
36				33	1N	26E	YELLOWSTONE
37			N2	34	1N	26E	YELLOWSTONE
38			SW	34	1N	26E	YELLOWSTONE
39				1	1S	25E	YELLOWSTONE
40			S2	2	1S	25E	YELLOWSTONE
41				11	1S	25E	YELLOWSTONE
42				12	1S	25E	YELLOWSTONE
43				13	1S	25E	YELLOWSTONE
44			N2	14	1S	25E	YELLOWSTONE
45			SE	14	1S	25E	YELLOWSTONE
46				2	1S	26E	YELLOWSTONE
47				3	1S	26E	YELLOWSTONE
48				4	1S	26E	YELLOWSTONE
49				5	1S	26E	YELLOWSTONE
50				6	1S	26E	YELLOWSTONE
51				7	1S	26E	YELLOWSTONE
52				8	1S	26E	YELLOWSTONE
53				9	1S	26E	YELLOWSTONE
54				10	1S	26E	YELLOWSTONE
55				11	1S	26E	YELLOWSTONE
56			N2	15	1S	26E	YELLOWSTONE
57			N2	16	1S	26E	YELLOWSTONE
58			SE	16	1S	26E	YELLOWSTONE
59			N2	17	1S	26E	YELLOWSTONE

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
60			SW	17	1S	26E	YELLOWSTONE
61				18	1S	26E	YELLOWSTONE

PLACE OF USE IS THE WATER SERVICE AREA FOR THE CITY OF BILLINGS AND THE BILLINGS HEIGHTS.

Remarks:

STARTING IN 2008, PERIOD OF DIVERSION WAS ADDED TO MOST CLAIM ABSTRACTS, INCLUDING THIS ONE.

THE IMPLIED CLAIMS LISTED FOLLOWING THIS STATEMENT WERE AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM. 43Q 30010066 AND 43Q 30010067.

WHENEVER THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE COMBINED TO SUPPLY WATER FOR THE CLAIMED PURPOSE, EACH IS LIMITED TO THE HISTORICAL 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. 208214-00,208215-00,30010066,30010067.

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM

YELLOWSTONE RIVER, BETWEEN CLARKS FORK YELLOWSTONE & BIGHORN RIVER
BASIN 43Q
IMPORTANT NOTICE

AN ASTERISK (*) HAS BEEN PLACED NEXT TO EACH ITEM CHANGED BY ORDER OF THE MONTANA WATER COURT AFTER ISSUANCE OF THE PREVIOUS DECREE.

Water Right Number: **43Q 30010066** STATEMENT OF CLAIM

Version: **1** -- ORIGINAL RIGHT

Status: ACTIVE

Owners: BILLINGS, CITY OF
PO BOX 30958
BILLINGS, MT 59111

Priority Date: JANUARY 1, 1895

Type of Historical Right: USE

Purpose (use): MUNICIPAL

Flow Rate: 3.47 CFS

Volume: 336.00 AC-FT

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	5	N2SE	2	1S	26E	YELLOWSTONE

Period of Diversion: JANUARY **1** TO DECEMBER 31

Diversion Means: PUMP

2	6	S2SE	2	1S	26E	YELLOWSTONE
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Period of Diversion: JANUARY **1** TO DECEMBER 31

Diversion Means: PUMP

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				25	1N	25E	YELLOWSTONE
2			S2	26	1N	25E	YELLOWSTONE
3			S2	27	1N	25E	YELLOWSTONE
4			S2	28	1N	25E	YELLOWSTONE
5			S2	29	1N	25E	YELLOWSTONE
6				30	1N	25E	YELLOWSTONE
7			N2	31	1N	25E	YELLOWSTONE
8			N2	32	1N	25E	YELLOWSTONE
9			N2	33	1N	25E	YELLOWSTONE
10			SE	33	1N	25E	YELLOWSTONE

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
11			N2	34	1N	25E	YELLOWSTONE
12			SE	34	1N	25E	YELLOWSTONE
13				35	1N	25E	YELLOWSTONE
14				36	1N	25E	YELLOWSTONE
15			SE	9	1N	26E	YELLOWSTONE
16			SE	10	1N	26E	YELLOWSTONE
17			W2	11	1N	26E	YELLOWSTONE
18			SW	13	1N	26E	YELLOWSTONE
19			NW	14	1N	26E	YELLOWSTONE
20			S2	14	1N	26E	YELLOWSTONE
21				15	1N	26E	YELLOWSTONE
22				16	1N	26E	YELLOWSTONE
23			S2	19	1N	26E	YELLOWSTONE
24			S2	20	1N	26E	YELLOWSTONE
25				21	1N	26E	YELLOWSTONE
26				22	1N	26E	YELLOWSTONE
27				23	1N	26E	YELLOWSTONE
28			NW	24	1N	26E	YELLOWSTONE
29			NW	26	1N	26E	YELLOWSTONE
30				27	1N	26E	YELLOWSTONE
31				28	1N	26E	YELLOWSTONE
32				29	1N	26E	YELLOWSTONE
33				30	1N	26E	YELLOWSTONE
34				31	1N	26E	YELLOWSTONE
35				32	1N	26E	YELLOWSTONE
36				33	1N	26E	YELLOWSTONE
37			N2	34	1N	26E	YELLOWSTONE
38			SW	34	1N	26E	YELLOWSTONE
39				1	1S	25E	YELLOWSTONE
40			S2	2	1S	25E	YELLOWSTONE
41				11	1S	25E	YELLOWSTONE
42				12	1S	25E	YELLOWSTONE
43				13	1S	25E	YELLOWSTONE
44			N2	14	1S	25E	YELLOWSTONE
45			SE	14	1S	25E	YELLOWSTONE
46				2	1S	26E	YELLOWSTONE
47				3	1S	26E	YELLOWSTONE
48				4	1S	26E	YELLOWSTONE
49				5	1S	26E	YELLOWSTONE
50				6	1S	26E	YELLOWSTONE
51				7	1S	26E	YELLOWSTONE
52				8	1S	26E	YELLOWSTONE
53				9	1S	26E	YELLOWSTONE
54				10	1S	26E	YELLOWSTONE
55				11	1S	26E	YELLOWSTONE
56			N2	15	1S	26E	YELLOWSTONE
57			N2	16	1S	26E	YELLOWSTONE
58			SE	16	1S	26E	YELLOWSTONE
59			N2	17	1S	26E	YELLOWSTONE

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
60			SW	17	1S	26E	YELLOWSTONE
61				18	1S	26E	YELLOWSTONE

PLACE OF USE IS THE WATER SERVICE AREA FOR THE CITY OF BILLINGS AND THE BILLINGS HEIGHTS.

Remarks:

STARTING IN 2008, PERIOD OF DIVERSION WAS ADDED TO MOST CLAIM ABSTRACTS, INCLUDING THIS ONE.

THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 43Q TEMPORARY PRELIMINARY DECREE ISSUED 12/29/1998.

THIS IMPLIED CLAIM WAS AUTHORIZED BY THE WATER COURT BASED ON INFORMATION IN CLAIM NO. 43Q 208215-00.

WHENEVER THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE COMBINED TO SUPPLY WATER FOR THE CLAIMED PURPOSE, EACH IS LIMITED TO THE HISTORICAL 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. 208214-00,208215-00,30010066,30010067.

THE DNRC EXAMINATION OF THIS CLAIM FOUND NO SIGNIFICANT FACTS, DATA, OR ISSUES TO REPORT TO THE WATER COURT.

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM

YELLOWSTONE RIVER, BETWEEN CLARKS FORK YELLOWSTONE & BIGHORN RIVER
BASIN 43Q

IMPORTANT NOTICE

AN ASTERISK (*) HAS BEEN PLACED NEXT TO EACH ITEM CHANGED BY ORDER OF THE MONTANA WATER COURT AFTER ISSUANCE OF THE PREVIOUS DECREE.

Water Right Number: **43Q 30010067** STATEMENT OF CLAIM

Version: 1 -- ORIGINAL RIGHT

Status: ACTIVE

Owners: BILLINGS, CITY OF
PO BOX 30958
BILLINGS, MT 59111

Priority Date: OCTOBER 25, 1905

Type of Historical Right: USE

Purpose (use): MUNICIPAL

Flow Rate: 2.30 GPM

Volume: 1,476.20 AC-FT

Source Name: YELLOWSTONE RIVER

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	5	N2SE	2	1S	26E	YELLOWSTONE	

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: PUMP

2	6	S2SE	2	1S	26E	YELLOWSTONE
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Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: PUMP

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1					25	1N	25E	YELLOWSTONE
2				S2	26	1N	25E	YELLOWSTONE
3				S2	27	1N	25E	YELLOWSTONE
4				S2	28	1N	25E	YELLOWSTONE
5				S2	29	1N	25E	YELLOWSTOWE
6					30	1N	25E	YELLOWSTONE
7				N2	31	1N	25E	YELLOWSTONE
8				N2	32	1N	25E	YELLOWSTONE
9				N2	33	1N	25E	YELLOWSTONE
10				SE	33	1N	25E	YELLOWSTONE

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
11			N2	34	1N	25E	YELLOWSTONE
12			SE	34	1N	25E	YELLOWSTONE
13				35	1N	25E	YELLOWSTONE
14				36	1N	25E	YELLOWSTONE
15			SE	9	1N	26E	YELLOWSTONE
16			SE	10	1N	26E	YELLOWSTONE
17			W2	11	1N	26E	YELLOWSTONE
18			SW	13	1N	26E	YELLOWSTONE
19			NW	14	1N	26E	YELLOWSTONE
20			S2	14	1N	26E	YELLOWSTONE
21				15	1N	26E	YELLOWSTONE
22				16	1N	26E	YELLOWSTONE
23			S2	19	1N	26E	YELLOWSTONE
24			S2	20	1N	26E	YELLOWSTONE
25				21	1N	26E	YELLOWSTONE
26				22	1N	26E	YELLOWSTONE
27				23	1N	26E	YELLOWSTONE
28			NW	24	1N	26E	YELLOWSTONE
29			NW	26	1N	26E	YELLOWSTONE
30				27	1N	26E	YELLOWSTONE
31				28	1N	26E	YELLOWSTONE
32				29	1N	26E	YELLOWSTONE
33				30	1N	26E	YELLOWSTONE
34				31	1N	26E	YELLOWSTONE
35				32	1N	26E	YELLOWSTONE
36				33	1N	26E	YELLOWSTONE
37			N2	34	1N	26E	YELLOWSTONE
38			SW	34	1N	26E	YELLOWSTONE
39				1	1S	25E	YELLOWSTONE
40			S2	2	1S	25E	YELLOWSTONE
41				11	1S	25E	YELLOWSTONE
42				12	1S	25E	YELLOWSTONE
43				13	1S	25E	YELLOWSTONE
44			N2	14	1S	25E	YELLOWSTONE
45			SE	14	1S	25E	YELLOWSTONE
46				2	1S	26E	YELLOWSTONE
47				3	1S	26E	YELLOWSTONE
48				4	1S	26E	YELLOWSTONE
49				5	1S	26E	YELLOWSTONE
50				6	1S	26E	YELLOWSTONE
51				7	1S	26E	YELLOWSTONE
52				8	1S	26E	YELLOWSTONE
53				9	1S	26E	YELLOWSTONE
54				10	1S	26E	YELLOWSTONE
55				11	1S	26E	YELLOWSTONE
56			N2	15	1S	26E	YELLOWSTONE
57			N2	16	1S	26E	YELLOWSTONE
58			SE	16	1S	26E	YELLOWSTONE
59			N2	17	1S	26E	YELLOWSTONE

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
60			SW	17	1S	26E	YELLOWSTONE
61				18	1S	26E	YELLOWSTONE

PLACE OF USE IS THE WATER SERVICE AREA FOR THE CITY OF BILLINGS AND THE BILLINGS HEIGHTS.

Remarks:

STARTING IN 2008, PERIOD OF DIVERSION WAS ADDED TO MOST CLAIM ABSTRACTS, INCLUDING THIS ONE.

THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 43Q TEMPORARY PRELIMINARY DECREE ISSUED 12/29/1998.

THIS IMPLIED CLAIM WAS AUTHORIZED BY THE WATER COURT BASED ON INFORMATION IN CLAIM NO. 43Q 208215-00.

WHENEVER THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE COMBINED TO SUPPLY WATER FOR THE CLAIMED PURPOSE, EACH IS LIMITED TO THE HISTORICAL 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. 208214-00,208215-00,30010066,30010067.

THE DNRC EXAMINATION OF THIS CLAIM FOUND NO SIGNIFICANT FACTS, DATA, OR ISSUES TO REPORT TO THE WATER COURT.

Montana Water Court

IN THE WATER COURT OF THE STATE OF MONTANA
YELLOWSTONE DIVISION
YELLOWSTONE RIVER BETWEEN THE CLARKS FORK YELLOWSTONE
AND BIGHORN RIVERS BASIN (434)

CLAIMANT: City of Billings

OBJECTORS: United States of America (Bureau of Indian Affairs);
United States of America (Bureau of Reclamation);
Crow Tribe of Indians

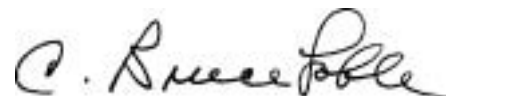
CASE 43Q-16
434 208213-00
434 208214-00
43Q 208215-00
Implied claims
43Q 30010066
43Q 30010067

ORDER ADOPTING MASTER'S REPORT

Pursuant to Montana Code Annotated, § 85-2-233(5), the above entitled case was assigned to Senior Water Master Kathryn L. W. Lambert. The Senior Water Master filed a report containing Findings of Fact and Conclusions of Law with the Clerk of Court. Copies of the report were served upon the parties on June 7, 2012. Over ten (10) days have elapsed since service, and no objections to the Findings and Conclusions have been filed by any party.

The Court has reviewed the Senior Water Master's Findings, Conclusions, and Recommendations, and each Post Decree Abstract of Water Right Claim served with the report. The abstract for 434 30010067 incorrectly stated that the flow rate was 2.30 GPM rather than 2.30 CFS as stated in the Master's Report. The flow rate has been corrected and a new abstract is attached to this Order. Pursuant to Rule 53(e), Montana Rules of Civil Procedure, the Court **ADOPTS** the Master's Report and its Recommendations, and **APPROVES** the changes to the centralized computer record system that are reflected on each abstract served with the report.

DATED this 27 day of June, 2012.



C. Bruce Loble
Chief Water Judge

CERTIFICATE OF SERVICE

I, Jamie Pope, Deputy Clerk of Court of the Montana Water Court, hereby certify that a true and correct copy of the above **ORDER ADOPTING MASTER'S REPORT** was duly served upon the persons listed below by depositing the same, postage prepaid, in the United States mail.

City of Billings
PO Box 30958
Billings, MT 59111

Bureau of Indian Affairs
Water Resources Office
316 North 26th Street
Billings, MT 59101

Rodd A. Hamman, Attorney
Carlton, Hamman, and Wolff
2075 Central Avenue
Billings, MT 59102


Bureau of Reclamation
PO Box 30137
Billings, MT 59107

Crow Tribe of Indians
PO Box 159
Crow Agency, MT 59022

Roselyn Rennie, Attorney
Office of the Billings Field Solicitor
316 North 26th Street
Billings, MT 59101

Nathan A. Espeland, Esq.
Espeland Law Office, PLLC
PO Box 1470
Columbus, MT 59019

DATED this 27th day of June, 2012.



Jamie Pope
Deputy Clerk of Court

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM

YELLOWSTONE RIVER, BETWEEN CLARKS FORK YELLOWSTONE & BIGHORN RIVER
BASIN 43Q

IMPORTANT NOTICE

AN ASTERISK (*) HAS BEEN PLACED NEXT TO EACH ITEM CHANGED BY ORDER OF THE MONTANA WATER COURT AFTER ISSUANCE OF THE PREVIOUS DECREE.

Water Right Number: **43Q 30010067** STATEMENT OF CLAIM

Version: 1 -- ORIGINAL RIGHT

Status: ACTIVE

Owners: BILLINGS, CITY OF
PO BOX 30958
BILLINGS, MT 59111

Priority Date: OCTOBER 25,1905

Type of Historical Right: USE

Purpose (use): MUNICIPAL

Flow Rate: 2.30 CFS

Volume: 1,476.20 AC-FT

Source Name: YELLOWSTONE RIVER

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr</u> <u>Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	5	N2SE	2	1S	26E	YELLOWSTONE

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: PUMP

2	6	S2SE	2	1S	26E	YELLOWSTONE
---	---	------	---	----	-----	-------------

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: PUMP

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u> <u>Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1				25	1N	25E	YELLOWSTONE
2			S2	26	1N	25E	YELLOWSTONE
3			S2	27	1N	25E	YELLOWSTONE
4			S2	28	1N	25E	YELLOWSTONE
5			S2	29	1N	25E	YELLOWSTONE
6				30	1N	25E	YELLOWSTONE
7			N2	31	1N	25E	YELLOWSTONE
8			N2	32	1N	25E	YELLOWSTONE
9			N2	33	1N	25E	YELLOWSTONE
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Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
11			N2	34	1N	25E	YELLOWSTONE
12			SE	34	1N	25E	YELLOWSTONE
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14				36	1N	25E	YELLOWSTONE
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18			SW	13	1N	26E	YELLOWSTONE
19			NW	14	1N	26E	YELLOWSTONE
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21				15	1N	26E	YELLOWSTONE
22				16	1N	26E	YELLOWSTONE
23			S2	19	1N	26E	YELLOWSTONE
24			S2	20	1N	26E	YELLOWSTONE
25				21	1N	26E	YELLOWSTONE
26				22	1N	26E	YELLOWSTONE
27				23	1N	26E	YELLOWSTONE
28			NW	24	1N	26E	YELLOWSTONE
29			NW	26	1N	26E	YELLOWSTONE
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34				31	1N	26E	YELLOWSTONE
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36				33	1N	26E	YELLOWSTONE
37			N2	34	1N	26E	YELLOWSTONE
38			SW	34	1N	26E	YELLOWSTONE
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48				4	1S	26E	YELLOWSTONE
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50				6	1S	26E	YELLOWSTONE
51				7	1S	26E	YELLOWSTONE
52				8	1S	26E	YELLOWSTONE
53				9	1S	26E	YELLOWSTONE
54				10	1S	26E	YELLOWSTONE
55				11	1S	26E	YELLOWSTONE
56			N2	15	1S	26E	YELLOWSTONE
57			N2	16	1S	26E	YELLOWSTONE
58			SE	16	1S	26E	YELLOWSTONE
59			N2	17	1S	26E	YELLOWSTONE

Place of Use:

<u>ID</u>	<u>Aeres</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
60			SW	17	1S	26E	YELLOWSTONE
61				18	1S	26E	YELLOWSTONE

PLACE OF USE IS THE WATER SERVICE AREA FOR THE CITY OF BILLINGS AND THE BILLINGS HEIGHTS.

Remarks:

STARTING IN 2008, PERIOD OF DIVERSION WAS ADDED TO MOST CLAIM ABSTRACTS, INCLUDING THIS ONE.

THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 43Q TEMPORARY PRELIMINARY DECREE ISSUED 1212911998.

THIS IMPLIED CLAIM WAS AUTHORIZED BY THE WATER COURT BASED ON INFORMATION IN CLAIM NO. 43Q 208215-00.

WHENEVER THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE COMBINED TO SUPPLY WATER FOR THE CLAIMED PLIRPOSE, EACH IS LIMITED TO THE HISTORICAL 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. 208214-00,208215-00,30010066,30010067.

THE DNRC EXAMINATION OF THIS CLAIM FOUND NO SIGNIFICANT FACTS, DATA, OR ISSUES TO REPORT TO THE WATER COURT.
