

Montana Water Court  
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Bozeman, MT 59771-1389  
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MONTANA WATER COURT, YELLOWSTONE DIVISION  
YELLOWSTONE RIVER ABOVE AND INCLUDING BRIDGER CREEK BASIN  
BASIN 43B  
PRELIMINARY DECREE

\*\*\*\*\*

CLAIMANT: Hunter Hot Springs Canal Co.

OBJECTOR: Hunter Hot Springs Canal Co.

**CASE 43B-0409-R-2023**

43B 186936-00

43B 186937-00

43B 186938-00

43B 186939-00

**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 may file a written objection to this Master's Report within **10 days** of the stamped date if you disagree or find errors with the Master's finding of fact, conclusion of law, or recommendations. Rule 23, W.R.Adj.R. If the Master's Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days to be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must 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**

Hunter Hot Springs Canal Co. objected to each of its stockwater claims. Each objection provides all the information needed to resolve the objection. Each objection is viewable in the scanned copy of the claim file for each claim.

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.

FINDING OF FACT

The place of use for each of these claims include the following parcels numbered 72 through 77 in the Preliminary Decree:

<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
NENW	25	1N	13E	SWEET GRASS
SEnw	25	1N	13E	SWEET GRASS
SWNW	25	1N	13E	SWEET GRASS
NWNE	25	1N	13E	SWEET GRASS
SWNE	25	1N	13E	SWEET GRASS
NWNW	30	1N	13E	SWEET GRASS

For all of these claims, this set of parcel legal descriptions should be changed to:

<u>QTRSEC</u>	<u>GOVT LOT</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
NW		25	1N	13E	SWEET GRASS
NE		25	1N	13E	SWEET GRASS
	1	36	1N	13E	SWEET GRASS
NWNW		36	1N	13E	SWEET GRASS

CONCLUSION OF LAW

The objection to each claim is sufficient to contradict and overcome each prima facie claim.

RECOMMENDATIONS

Based upon the above Finding of Fact and Conclusion of Law, this Master recommends that the Court make the changes specified in the Finding of Fact to correct the 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:**

James E. Brown  
1812 11<sup>th</sup> Ave  
Helena, MT 59601  
(406) 449-7444  
thunderdomelaw@gmail.com

**POST DECREE**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**YELLOWSTONE RIVER, ABOVE & INCLUDING BRIDGER CREEK**  
**BASIN 43B**

**Water Right Number:** 43B 186936-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** HUNTER HOT SPRINGS CANAL CO  
% JAN ENGWIS  
398 YELLOWSTONE TRAIL  
BIG TIMBER, MT 59011

**Priority Date:** JUNE 1, 1899

**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 STOCK WATERING 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		SWSWSE	21	1S	12E	PARK

**Period of Diversion:** APRIL 20 TO OCTOBER 20

**Diversion Means:** HEADGATE

**Ditch Name:** HUNTER HOT SPRINGS CANAL

**Period of Use:** APRIL 20 TO OCTOBER 20

**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			S2SE	10	1S	12E	PARK
2			S2NWSW	11	1S	12E	SWEET GRASS
3			NESW	11	1S	12E	SWEET GRASS
4			SWSW	11	1S	12E	SWEET GRASS
5			SESW	11	1S	12E	SWEET GRASS
6			S2NE	11	1S	12E	SWEET GRASS
7			SE	11	1S	12E	SWEET GRASS
8			NWNW	14	1S	12E	SWEET GRASS
9			N2SWNW	14	1S	12E	SWEET GRASS
10			NENW	14	1S	12E	SWEET GRASS
11			NWNE	14	1S	12E	SWEET GRASS
12			SWNE	14	1S	12E	SWEET GRASS

13		NENE	14	1S	12E	SWEET GRASS
14		SENE	14	1S	12E	SWEET GRASS
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27		NWSWNE	13	1S	12E	SWEET GRASS
28		NENE	13	1S	12E	SWEET GRASS
29		NWSW	7	1S	13E	SWEET GRASS
30		SWSW	7	1S	13E	SWEET GRASS
31		W2NW	7	1S	13E	SWEET GRASS
32		E2W2	7	1S	13E	SWEET GRASS
33		NE	7	1S	13E	SWEET GRASS
34		N2SE	7	1S	13E	SWEET GRASS
35		W2NW	8	1S	13E	SWEET GRASS
36		NENW	8	1S	13E	SWEET GRASS
37		N2SENW	8	1S	13E	SWEET GRASS
38		N2N2NE	8	1S	13E	SWEET GRASS
39		S2S2S2	5	1S	13E	SWEET GRASS
40		SESWNE	4	1S	13E	SWEET GRASS
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54		NENW	3	1S	13E	SWEET GRASS
55	1	N2N2NE	2	1S	13E	SWEET GRASS
56	3	E2NW	2	1S	13E	SWEET GRASS
57	4	NWNW	2	1S	13E	SWEET GRASS
58	5	N2SENW	2	1S	13E	SWEET GRASS
59		SWNW	2	1S	13E	SWEET GRASS

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62		SW	34	1N	13E	SWEET GRASS
63		SW	35	1N	13E	SWEET GRASS
64		NW	35	1N	13E	SWEET GRASS
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68		SWSE	26	1N	13E	SWEET GRASS
69		SESW	26	1N	13E	SWEET GRASS
70		SENE	26	1N	13E	SWEET GRASS
71		SW	25	1N	13E	SWEET GRASS
72		NW	25	1N	13E	SWEET GRASS
73		NE	25	1N	13E	SWEET GRASS
74	1		36	1N	13E	SWEET GRASS
75		NWNW	36	1N	13E	SWEET GRASS

**POST DECREE**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**YELLOWSTONE RIVER, ABOVE & INCLUDING BRIDGER CREEK**  
**BASIN 43B**

**Water Right Number:** 43B 186937-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** HUNTER HOT SPRINGS CANAL CO  
% JAN ENGWIS  
398 YELLOWSTONE TRAIL  
BIG TIMBER, MT 59011

**Priority Date:** MAY 13, 1901

**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 STOCK WATERING 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		SWSWSE	21	1S	12E	PARK

**Period of Diversion:** APRIL 20 TO OCTOBER 20

**Diversion Means:** HEADGATE

**Ditch Name:** HUNTER HOT SPRINGS CANAL

**Period of Use:** APRIL 20 TO OCTOBER 20

**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			S2SE	10	1S	12E	PARK
2			S2NWSW	11	1S	12E	SWEET GRASS
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5			SESW	11	1S	12E	SWEET GRASS
6			S2NE	11	1S	12E	SWEET GRASS
7			SE	11	1S	12E	SWEET GRASS
8			NWNW	14	1S	12E	SWEET GRASS
9			N2SWNW	14	1S	12E	SWEET GRASS
10			NENW	14	1S	12E	SWEET GRASS
11			NWNE	14	1S	12E	SWEET GRASS
12			SWNE	14	1S	12E	SWEET GRASS

13		NENE	14	1S	12E	SWEET GRASS
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37		N2SENE	8	1S	13E	SWEET GRASS
38		N2N2NE	8	1S	13E	SWEET GRASS
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56	3	E2NW	2	1S	13E	SWEET GRASS
57	4	NWNW	2	1S	13E	SWEET GRASS
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74	1		36	1N	13E	SWEET GRASS
75		NWNW	36	1N	13E	SWEET GRASS

**POST DECREE**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**YELLOWSTONE RIVER, ABOVE & INCLUDING BRIDGER CREEK**  
**BASIN 43B**

**Water Right Number:** 43B 186938-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** HUNTER HOT SPRINGS CANAL CO  
% JAN ENGWIS  
398 YELLOWSTONE TRAIL  
BIG TIMBER, MT 59011

**Priority Date:** MAY 15, 1902

**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 STOCK WATERING 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		SWSWSE	21	1S	12E	PARK

**Period of Diversion:** APRIL 20 TO OCTOBER 20

**Diversion Means:** HEADGATE

**Ditch Name:** HUNTER HOT SPRINGS CANAL

**Period of Use:** APRIL 20 TO OCTOBER 20

**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>
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6			S2NE	11	1S	12E	SWEET GRASS
7			SE	11	1S	12E	SWEET GRASS
8			NWNW	14	1S	12E	SWEET GRASS
9			N2SWNW	14	1S	12E	SWEET GRASS
10			NENW	14	1S	12E	SWEET GRASS
11			NWNE	14	1S	12E	SWEET GRASS
12			SWNE	14	1S	12E	SWEET GRASS

13		NENE	14	1S	12E	SWEET GRASS
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55	1	N2N2NE	2	1S	13E	SWEET GRASS
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**POST DECREE**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**YELLOWSTONE RIVER, ABOVE & INCLUDING BRIDGER CREEK**  
**BASIN 43B**

**Water Right Number:** 43B 186939-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** HUNTER HOT SPRINGS CANAL CO  
% JAN ENGWIS  
398 YELLOWSTONE TRAIL  
BIG TIMBER, MT 59011

**Priority Date:** OCTOBER 30, 1897

**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.

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**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		SWSWSE	21	1S	12E	PARK

**Period of Diversion:** APRIL 20 TO OCTOBER 20

**Diversion Means:** HEADGATE

**Ditch Name:** HUNTER HOT SPRINGS CANAL

**Period of Use:** APRIL 20 TO OCTOBER 20

**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			S2SE	10	1S	12E	PARK
2			S2NWSW	11	1S	12E	SWEET GRASS
3			NESW	11	1S	12E	SWEET GRASS
4			SWSW	11	1S	12E	SWEET GRASS
5			SESW	11	1S	12E	SWEET GRASS
6			S2NE	11	1S	12E	SWEET GRASS
7			SE	11	1S	12E	SWEET GRASS
8			NWNW	14	1S	12E	SWEET GRASS
9			N2SWNW	14	1S	12E	SWEET GRASS
10			NENW	14	1S	12E	SWEET GRASS
11			NWNE	14	1S	12E	SWEET GRASS
12			SWNE	14	1S	12E	SWEET GRASS

13		NENE	14	1S	12E	SWEET GRASS
14		SENE	14	1S	12E	SWEET GRASS
15		NWSW	12	1S	12E	SWEET GRASS
16		NESW	12	1S	12E	SWEET GRASS
17		S2SW	12	1S	12E	SWEET GRASS
18		NWSE	12	1S	12E	SWEET GRASS
19		NESE	12	1S	12E	SWEET GRASS
20		SENE	12	1S	12E	SWEET GRASS
21		S2SE	12	1S	12E	SWEET GRASS
22		NWNW	13	1S	12E	SWEET GRASS
23		NENW	13	1S	12E	SWEET GRASS
24		SWNW	13	1S	12E	SWEET GRASS
25		SENW	13	1S	12E	SWEET GRASS
26		NWNE	13	1S	12E	SWEET GRASS
27		NWSWNE	13	1S	12E	SWEET GRASS
28		NENE	13	1S	12E	SWEET GRASS
29		NWSW	7	1S	13E	SWEET GRASS
30		SWSW	7	1S	13E	SWEET GRASS
31		W2NW	7	1S	13E	SWEET GRASS
32		E2W2	7	1S	13E	SWEET GRASS
33		NE	7	1S	13E	SWEET GRASS
34		N2SE	7	1S	13E	SWEET GRASS
35		W2NW	8	1S	13E	SWEET GRASS
36		NENW	8	1S	13E	SWEET GRASS
37		N2SE	8	1S	13E	SWEET GRASS
38		N2N2NE	8	1S	13E	SWEET GRASS
39		S2S2S2	5	1S	13E	SWEET GRASS
40		SESWNE	4	1S	13E	SWEET GRASS
41		SENE	4	1S	13E	SWEET GRASS
42		N2SE	4	1S	13E	SWEET GRASS
43		SWSE	4	1S	13E	SWEET GRASS
44		S2SW	4	1S	13E	SWEET GRASS
45		SENWSW	4	1S	13E	SWEET GRASS
46		NESW	4	1S	13E	SWEET GRASS
47		NE	3	1S	13E	SWEET GRASS
48	5	NWSW	3	1S	13E	SWEET GRASS
49	6	NESW	3	1S	13E	SWEET GRASS
50	7	NWSE	3	1S	13E	SWEET GRASS
51	8	NESE	3	1S	13E	SWEET GRASS
52		SENW	3	1S	13E	SWEET GRASS
53		SWNW	3	1S	13E	SWEET GRASS
54		NENW	3	1S	13E	SWEET GRASS
55	1	N2N2NE	2	1S	13E	SWEET GRASS
56	3	E2NW	2	1S	13E	SWEET GRASS
57	4	NWNW	2	1S	13E	SWEET GRASS
58	5	N2SE	2	1S	13E	SWEET GRASS
59		SWNW	2	1S	13E	SWEET GRASS

60		NE	34	1N	13E	SWEET GRASS
61		SE	34	1N	13E	SWEET GRASS
62		SW	34	1N	13E	SWEET GRASS
63		SW	35	1N	13E	SWEET GRASS
64		NW	35	1N	13E	SWEET GRASS
65		E2	35	1N	13E	SWEET GRASS
66		NESE	26	1N	13E	SWEET GRASS
67		SESE	26	1N	13E	SWEET GRASS
68		SWSE	26	1N	13E	SWEET GRASS
69		SESW	26	1N	13E	SWEET GRASS
70		SENE	26	1N	13E	SWEET GRASS
71		SW	25	1N	13E	SWEET GRASS
72		NW	25	1N	13E	SWEET GRASS
73		NE	25	1N	13E	SWEET GRASS
74	1		36	1N	13E	SWEET GRASS
75		NWNW	36	1N	13E	SWEET GRASS