

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

\*\*\*\*\*

CLAIMANTS: Nancy A. Ward; Kerry A. Gunther; Bonnie Lynn;  
Gerald A. Snyder; Susan P. Snyder; Yellowstone Park  
Riverfront Condominiums Inc.

**CASE 43B-0630-R-2022**

43B 3995-00

43B 3996-00

43B 196086-00

OBJECTORS: Church Universal & Triumphant Inc.

NOTICE OF INTENT TO APPEAR: Trout Unlimited; Nancy A. Ward

**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 findings of fact, conclusions 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**

The Church Universal & Triumphant Inc. objected to each of these claims. Trout Unlimited filed a notice of intent to appear for each claim. On February 9, 2024 the parties

filed a Stipulation Settling Claims [“2024 Stipulation”]. This Stipulation is viewable in the Court’s FullCourt Enterprise case management system.

#### APPLICABLE LAW

“‘Existing right’ or ‘existing water right’ means a right to the use of water that would be protected under the law as it existed prior to July 1, 1973.” Section 85-2-102(13), MCA. The Montana Water Court has jurisdiction over all matters relating to the determination of existing water rights. Section 3-7-224, MCA. As this proceeding is conducted as part of the adjudication of the claims for existing water rights contained in the Preliminary Decree of the Yellowstone River Above and Including Bridger Creek, the scope of this proceeding is to determine the elements of these water rights as they existed prior to July 1, 1973.

Changing a point of diversion on or after July 1, 1973 is governed by the Montana Department of Natural Resources and Conservation [“DNRC”] change authorization procedures as directed in section 85-2-302 *et seq.*, MCA.

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 43B 3995-00, the Preliminary Decree includes the following information remark at the flow rate: THE STIPULATION FILED ON JULY 13, 1990 SPECIFIES THAT THE TOTAL COMBINED APPROPRIATION OF 43B 3995-00 AND 43B 196080-00 SHALL NOT EXCEED 0.50 CFS. This remark was added during the Temporary Preliminary Decree proceedings. Paragraph 1.b. of the Agreement portion of the 2024 Stipulation states that the “information remark regarding flow rate should be removed.” The 2024 Stipulation also states in this same Paragraph 1 that “**Exhibit M** is the proposed revised abstract for this claim.” Exhibit M retains the flow rate information remark but corrects an error in one of the referenced claim numbers, changing claim number 43B 196080-00 to 43B 196086-00. The flow rate information remark should be

retained and revised as shown on Exhibit M as follows: THE STIPULATION FILED ON JULY 13, 1990 SPECIFIES THAT THE TOTAL COMBINED APPROPRIATION OF 43B 3995-00 AND 43B 196086-00 SHALL NOT EXCEED 0.50 CFS.

2. For claim 43B 3995-00, the Preliminary Decree states that the maximum acres irrigated is 17.00 acres and the place of use is:

<u>ACRES</u>	<u>GOVT LOT</u>	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
<u>17.00</u>			8	9S	8E	PARK
17.00						

THE PLACE OF USE IS LOCATED IN LOTS 12-20 BLK 5; LOTS 1-30 BLK 4; LOTS 1-12 AND 15 BLK 3 TOWNSITE OF EVANDALE.

The maximum acres irrigated should be 13.00 and the place of use should be:

<u>ACRES</u>	<u>GOVT LOT</u>	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
4.00		SENWNW	8	9S	8E	PARK
<u>9.00</u>	2		8	9S	8E	PARK
13.00						

THE PLACE OF USE LIES WITHIN THE NORTHERN PORTION OF OUT LOT B, AS DEPICTED ON AMENDED SUBDIVISION PLAT NO. 122. THIS RIGHT IS NOT USED ON THE PORTION OF OUT LOT B THAT BISECTS GOVERNMENT LOT 3.

3. For claim 43B 3995-00, the Preliminary Decree states that the point of diversion, diversion means, and ditch name are:

<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
NENWSW	8	9S	8E	PARK (YELLOWSTONE NATIONAL PARK)

Diversion Means: HEADGATE

Ditch Name: ARMSTRONG-STERMITZ DITCH

A review of the claim file shows that this is the point of diversion specified on the Statement of Claim, although it was identified there as the Armstrong-Stermitz-Rife Ditch. Point of diversion was objected to during the Temporary Preliminary Decree proceedings. This claim and 43B 3996-00 were in Temporary Preliminary Decree Case 43B-11 which was resolved by filing a Stipulation on June 13, 1990 [“1990 Stipulation”]. The 1990 Stipulation does not include a request to change the point of diversion and ditch. The October 10, 1997 Order Adopting Draft Master’s Report makes no change to the point of diversion and ditch.

The 2024 Stipulation requests the point of diversion be changed to a different ditch, the

Middle Ditch, headgate located in the SENESE section 7, T9S, R8E. Paragraph E of the Recitals portion of the 2024 Stipulation concerns claim 43B 3995-00 and states in part:

The 1990 Stipulation provided that the POD for this right could be altered to either the “Middle Ditch” or “Lower Ditch” based upon certain terms and conditions. *Since the 1990 Stipulation, the Middle Ditch has been the conveyance for this water right.*

(*Emphasis added.*) The parties who signed the 1990 Stipulation provided their agreement that the owners of claim 43B 3995-00 could change their point of diversion to the Middle Ditch or Lower Ditch if they chose to do so. However, those signatories and their 1990 Stipulation do not have the authority to waive the statutory requirement to pursue such change through the DNRC change application process.

The record clearly states the point of diversion and ditch used for this claim prior to July 1, 1973 is the Armstrong-Stermitz Dich, headgate located in the NENWSW section 8, T9S, R8E, PARK (YELLOWSTONE NATIONAL PARK). The 2024 Stipulation clearly states the point of diversion and ditch were changed in 1990. Those changes must be sought through the statutory change application and authorization process administered by the DNRC.

The 2024 Stipulation request to change the point of diversion and ditch name should be rejected; they should remain as they appeared in the Preliminary Decree.

4. Claim 43B 3995-00 appeared in the Preliminary Decree with the following remarks:

THE TIMELY FILED OBJECTION OF ROYAL TETON LTD WAS AMENDED BY ROYAL TETON LTD TO INCLUDE PERIOD OF USE . BECAUSE THIS ELEMENT WAS NOT INCLUDED ON THE OBJECTION LIST, ANY WATER USER WHOSE RIGHTS MAY BE ADVERSELY AFFECTED BY ENFORCEMENT OF THIS CHANGE MAY PETITION THE APPROPRIATE COURT FOR RELIEF OR MAY FILE AN OBJECTION AT THE PRELIMINARY DECREE.

AS OF 10/02/2018 , THIS WATER RIGHT APPEARS TO BE OWNED BY NANCY A WARD , PO BOX 152, YELLOWSTONE NTL PARK WY 82190-0152 ,.

ACCORDING TO CADASTRAL PROPERTY OWNERSHIP RECORDS, AS OF 07/13/2018 , THE PROPERTY ON WHICH THIS WATER RIGHT IS USED APPEARS TO BE OWNED BY CHURCH UNIVERSAL & TRIUMPHANT INC.

THE PRIORITY DATE MAY BE QUESTIONABLE. THIS CLAIM IS FOR A FILED RIGHT ON REESE CREEK WITH A PRIORITY DATE PREDATING CASE NO 5356, PARK (YELLOWSTONE NATIONAL PARK) COUNTY. IF NO OBJECTIONS ARE FILED TO PRIORITY DATE OR TYPE OF HISTORICAL RIGHT, THESE ELEMENTS WILL BE DECREED AS SHOWN ON THIS ABSTRACT AND THIS REMARK WILL BE REMOVED.

These remarks provide notice of the Temporary Preliminary Decree proceedings, notice of potential ownership interests, and notice of a possible priority date issue. These remarks do

not raise unresolved issues which need to be addressed. The remarks should be removed as having served their notice purposes.

5. For claim 43B 3996-00, the Preliminary Decree states that the maximum acres irrigated is 17.00 acres and the place of use is:

<u>ACRES</u>	<u>GOVT LOT</u>	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
17.00		NW	8	9S	8E	PARK
17.00						

THE PLACE OF USE IS LOCATED IN LOTS 12-20 BLK 5; LOTS 1-30 BLK 4; LOTS 1-12 AND 15 BLK 3 TOWNSITE OF EVANDALE.

Paragraph 2.d. of the Agreement portion of the 2024 Stipulation provides the text for a new place of use information remark. That Paragraph also states that “**Exhibit O** is the proposed revised abstract for this claim.” The flow rate remark text on Exhibit O does not match the flow rate remark text in Paragraph 2.d. The flow rate remark text on Exhibit O should be used. The maximum acres irrigated should be 13.00 and the place of use should be:

<u>ACRES</u>	<u>GOVT LOT</u>	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
4.00		SENWNW	8	9S	8E	PARK
<u>9.00</u>	2		8	9S	8E	PARK
13.00						

THE PLACE OF USE LIES WITHIN THE NORTHERN PORTION OF OUT LOT B, AS DEPICTED ON AMENDED SUBDIVISION PLAT NO. 122. THIS RIGHT IS NOT USED ON THE PORTION OF OUT LOT B THAT BISECTS GOVERNMENT LOT 3.

6. For claim 43B 3996-00, the Preliminary Decree states that the point of diversion, diversion means, and ditch name are:

<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
NENWSW	8	9S	8E	PARK (YELLOWSTONE NATIONAL PARK)

Diversion Means: HEADGATE  
Ditch Name: ARMSTRONG-STERMITZ DITCH

A review of the claim file shows that this is the point of diversion specified on the Statement of Claim, although it was identified there as the Armstrong-Stermitz-Rife Ditch. Point of diversion was not at issue during the Temporary Preliminary Decree proceedings. The 1990 Stipulation does not include a request to change the point of diversion and ditch. The October 10, 1997 Order Adopting Draft Master’s Report makes no change to the point of diversion and

ditch.

The 2024 Stipulation requests the point of diversion be changed to a different ditch, the Middle Ditch, headgate located in the SENESE section 7, T9S, R8E. Paragraph F of the Recitals portion of the 2024 Stipulation concerns claim 43B 3996-00 and states in part:

The 1990 Stipulation provided that the POD for this right could be altered to either the “Middle Ditch” or “Lower Ditch” based upon certain terms and conditions. *Since the 1990 Stipulation, the Middle Ditch has been the conveyance for this water right.*

(*Emphasis added.*) The parties who signed the 1990 Stipulation provided their agreement that the owners of claim 43B 3996-00 could change their point of diversion to the Middle Ditch or Lower Ditch if they chose to do so. However, those signatories and their 1990 Stipulation do not have the authority to waive the statutory requirement to pursue such change through the DNRC change application process.

The record clearly states the point of diversion and ditch used for this claim prior to July 1, 1973 is the Armstrong-Stermitz Dich, headgate located in the NENWSW section 8, T9S, R8E, PARK (YELLOWSTONE NATIONAL PARK). The 2024 Stipulation clearly states the point of diversion and ditch were changed in 1990. Those changes must be sought through the statutory change application and authorization process administered by the DNRC.

The 2024 Stipulation request to change the point of diversion and ditch name should be rejected; they should remain as they appeared in the Preliminary Decree.

7. Claim 43B 3996-00 appeared in the Preliminary Decree with the following remarks:

THE UNITED STATES OF AMERICA FILED A LATE OBJECTION TO THE PRIORITY DATE, PURPOSE OF RIGHT, VOLUME, PLACE OF USE, ACRES IRRIGATED, SOURCE, FLOW RATE, POINT OF DIVERSION, MEANS OF DIVERSION AND PERIOD OF USE. THE STIPULATION FILED BY THE PARTIES ON JULY 13, 1990 SPECIFIES CHANGES TO THE PRIORITY DATE, PERIOD OF USE AND VOLUME. THESE WILL NOT BE HEARD UNTIL AFTER PROPER NOTICE IN THE NEXT OBJECTION LIST.

AS OF 10/02/2018 , THIS WATER RIGHT APPEARS TO BE OWNED BY NANCY WARD , PO BOX 152 , YELLOWSTONE NTK PK WY 82190 ,.

ACCORDING TO CADASTRAL PROPERTY OWNERSHIP RECORDS, AS OF 07/13/2018 , A PORTION OF THE PROPERTY ON WHICH THIS WATER RIGHT IS USED APPEARS TO BE OWNED BY CHURCH UNIVERSAL & TRIUMPHANT INC.

These remarks provide notice of the Temporary Preliminary Decree proceedings and notice of potential ownership interests. These remarks do not raise unresolved issues which need to be

addressed. The remarks should be removed as having served their notice purposes.

8. For claim 43B 196086-00, Paragraph 3 of the Agreement portion of the 2024 Stipulation does not mention flow rate and states that “**Exhibit P** is the proposed revised abstract for this claim.” Exhibit P includes the addition of the same revised flow rate information remark for claim 43B 3995-00. The following flow rate information remark should be added: THE STIPULATION FILED ON JULY 13, 1990 SPECIFIES THAT THE TOTAL COMBINED APPROPRIATION OF 43B 3995-00 AND 43B 196086-00 SHALL NOT EXCEED 0.50 CFS.

9. For claim 43B 196086-00, the Preliminary Decree states that the point of diversion, diversion means, and ditch name are:

<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
SENESE	7	9S	8E	PARK (YELLOWSTONE NATIONAL PARK)

Diversion Means: HEADGATE

Ditch Name: ARMSTRONG DITCH

As stated in Paragraph K of the Recitals portion of the 2024 Stipulation, this is the point of diversion legal description for Middle Ditch, not Armstrong Ditch. The ditch name should be Middle Ditch.

10. Claim 43B 196086-00 appeared in the Preliminary Decree with the following remarks:

THE TIMELY FILED OBJECTION OF THE UNITED STATES OF AMERICA WAS AMENDED BY AGREEMENT OF THE PARTIES TO INCLUDE OWNERSHIP, PRIORITY DATE, PURPOSE, PERIOD OF USE AND PLACE OF USE BECAUSE THESE ELEMENTS WERE NOT INCLUDED ON THE OBJECTION LIST, ANY WATER USER WHOSE RIGHTS MAY BE ADVERSELY AFFECTED BY ENFORCEMENT OF THESE CHANGES MAY PETITION THE APPROPRIATE COURT FOR RELIEF OR MAY FILE AN OBJECTION AT THE PRELIMINARY DECREE.

ACCORDING TO CADASTRAL PROPERTY OWNERSHIP RECORDS, AS OF 07/13/2018 , A PORTION OF THE PROPERTY ON WHICH THIS WATER RIGHT IS USED APPEARS TO BE OWNED BY CHURCH UNIVERSAL & TRIUMPHANT INC.

THE PRIORITY DATE MAY BE QUESTIONABLE. THIS CLAIM IS FOR A FILED RIGHT ON REESE CREEK WITH A PRIORITY DATE PREDATING CASE NO 5356, PARK (YELLOWSTONE NATIONAL PARK) COUNTY. IF NO OBJECTIONS ARE FILED TO PRIORITY DATE OR TYPE OF HISTORICAL RIGHT, THESE ELEMENTS WILL BE DECREED AS SHOWN ON THIS ABSTRACT AND THIS REMARK WILL BE REMOVED.

These remarks provide notice of the Temporary Preliminary Decree proceedings, notice of a potential ownership interest, and notice of a possible priority date issue. These remarks do not raise unresolved issues which need to be addressed. The remarks should be removed as

having served their notice purposes.

CONCLUSIONS OF LAW

The requested changes to the point of diversion and ditch name for claims 43B 3995-00 and 43B 3996-00 cannot be made as they are post-July 1, 1973 changes under the purview of the DNRC.

With the exception of the requested changes to the point of diversion and ditch name for claims 43B 3995-00 and 43B 3996-00, the settlement filed by the parties is sufficient to contradict and overcome the prima facie claims.

RECOMMENDATIONS

Based upon the above Findings of Fact and Conclusions of Law, this Master recommends that the Court make the changes specified in the Findings of Fact to correct the Preliminary Decree for this Basin, and reject the requested changes to the point of diversion and ditch name for claims 43B 3995-00 and 43B 3996-00 as those are post-July 1, 1973 changes which are under the purview of the DNRC. 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:**

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(406) 223-0993  
nancywardyell@hotmail.com

Kerry Gunther  
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Gardiner, MT 59030

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

**Water Right Number:** 43B 3995-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:**

KERRY A GUNTHER

PO BOX 956

GARDINER, MT 59030-0956

BONNIE LYNN

505 S YELLOWSTONE AVE

BOZEMAN, MT 59718

GERALD A SNYDER

540 OLD YELLOWSTONE TRAIL S

GARDINER, MT 59030

SUSAN P SNYDER

540 OLD YELLOWSTONE TRAIL S

GARDINER, MT 59030

NANCY A WARD

BOX 152

YELLOWSTONE NATIONAL PARK, WY 82190

YELLOWSTONE PARK RIVERFRONT CONDOMINIUMS INC

PO BOX 381

GARDINER, MT 59030

**\*Priority Date:** MAY 24, 1884

**Type of Historical Right:** FILED

**Purpose (Use):** IRRIGATION

**Irrigation Type:** FLOOD

**\*Flow Rate:** 224.40 GPM

THE STIPULATION FILED ON JULY 13, 1990 SPECIFIES THAT THE TOTAL COMBINED APPROPRIATION OF 43B 3995-00 AND 43B 196086-00 SHALL NOT EXCEED 0.50 CFS.

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

**Climatic Area:** 5 - LOW

**Maximum Acres:** 13.00

**Source Name:** REESE CREEK

**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		NENSW	8	9S	8E	PARK (YELLOWSTONE NATIONAL PARK)

**\*Period of Diversion:** APRIL 15 TO OCTOBER 15  
**Diversion Means:** HEADGATE  
**Ditch Name:** ARMSTRONG-STERMITZ DITCH

**\*Period of Use:** APRIL 15 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	4.00		SENWNW	8	9S	8E	PARK
2	9.00	2		8	9S	8E	PARK
<b>Total:</b>	13.00						

THE PLACE OF USE LIES WITHIN THE NORTHERN PORTION OF OUT LOT B, AS DEPICTED ON AMENDED SUBDIVISION PLAT NO. 122. THIS RIGHT IS NOT USED ON THE PORTION OF OUT LOT B THAT BISECTS GOVERNMENT LOT 3.

---

**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.

3995-00                      3996-00

IT IS NOTED THAT THE STIPULATION FILED ON JULY 13, 1990 INCLUDES AGREEMENTS CONCERNING MATTERS BEYOND THE ADJUDICATION OF THE ELEMENTS OF THIS RIGHT, SUCH AS EASEMENTS, INSTALLATION OF STRUCTURES, MAINTENENCE OF A MINIMUM INSTREAM FLOW, ETC.

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

**Water Right Number:** 43B 3996-00 STATEMENT OF CLAIM  
**Version:** 3 -- POST DECREE  
**Status:** ACTIVE

**Owners:** KERRY A GUNTHER  
PO BOX 956  
GARDINER, MT 59030-0956  
  
BONNIE LYNN  
505 S YELLOWSTONE AVE  
BOZEMAN, MT 59718  
  
GERALD A SNYDER  
540 OLD YELLOWSTONE TRAIL S  
GARDINER, MT 59030  
  
SUSAN P SNYDER  
540 OLD YELLOWSTONE TRAIL S  
GARDINER, MT 59030  
  
NANCY A WARD  
BOX 152  
YELLOWSTONE NATIONAL PARK, WY 82190  
  
YELLOWSTONE PARK RIVERFRONT CONDOMINIUMS INC  
PO BOX 381  
GARDINER, MT 59030

**Priority Date:** JUNE 1, 1887

**Type of Historical Right:** DECREED

**Purpose (Use):** IRRIGATION

**Irrigation Type:** FLOOD

**Flow Rate:** 224.40 GPM

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

**Climatic Area:** 5 - LOW

**Maximum Acres:** 13.00

**Source Name:** REESE CREEK

**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		NENWSW	8	9S	8E	PARK (YELLOWSTONE NATIONAL PARK)

**Period of Diversion:** APRIL 1 TO NOVEMBER 1

**Diversion Means:** HEADGATE

**Ditch Name:** ARMSTRONG-STERMITZ DITCH

**Period of Use:** APRIL 1 TO NOVEMBER 1

**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	4.00		SENWNW	8	9S	8E	PARK
2	9.00	2		8	9S	8E	PARK
<b>Total:</b>	13.00						

THE PLACE OF USE LIES WITHIN THE NORTHERN PORTION OF OUT LOT B, AS DEPICTED ON AMENDED SUBDIVISION PLAT NO. 122. THIS RIGHT IS NOT USED ON THE PORTION OF OUT LOT B THAT BISECTS GOVERNMENT LOT 3.

---

**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.

3995-00                      3996-00

IT IS NOTED THAT THE STIPULATION FILED ON JULY 13, 1990 INCLUDES AGREEMENTS CONCERNING MATTERS BEYOND THE ADJUDICATION OF THE ELEMENTS OF THIS RIGHT, SUCH AS EASEMENTS, INSTALLATION OF STRUCTURES, MAINTENANCE OF A MINIMUM INSTREAM FLOW, ETC.

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

**Water Right Number:** 43B 196086-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:**

KERRY A GUNTHER  
PO BOX 956  
GARDINER, MT 59030-0956

BONNIE LYNN  
505 S YELLOWSTONE AVE  
BOZEMAN, MT 59718

GERALD A SNYDER  
540 OLD YELLOWSTONE TRAIL S  
GARDINER, MT 59030

SUSAN P SNYDER  
540 OLD YELLOWSTONE TRAIL S  
GARDINER, MT 59030

YELLOWSTONE PARK RIVERFRONT CONDOMINIUMS INC  
PO BOX 381  
GARDINER, MT 59030

**\*Priority Date:** MAY 24, 1884

**Type of Historical Right:** FILED

**\*Purpose (Use):** STOCK

**\*Flow Rate:** 224.00 GPM

THE STIPULATION FILED ON JULY 13, 1990 SPECIFIES THAT THE TOTAL COMBINED APPROPRIATION OF 43B 3995-00 AND 43B 196086-00 SHALL NOT EXCEED 0.50 CFS.

**\*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.

**Climatic Area:** 5 - LOW

**Source Name:** REESE CREEK

**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		SENESE	7	9S	8E	PARK (YELLOWSTONE NATIONAL PARK)

**\*Period of Diversion:** APRIL 15 TO OCTOBER 15

**Diversion Means:** HEADGATE

**Ditch Name:** MIDDLE DITCH

**\*Period of Use:** APRIL 15 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			NENW	8	9S	8E	PARK

THE PLACE OF USE IS LIMITED TO THE PRIVATE LAND OF THE OWNER IN  
THE NENW SEC 08 TWP 09S RGE 08E

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**Remarks:**

IT IS NOTED THAT THE STIPULATION FILED ON JULY 12, 1990 INCLUDES AGREEMENTS CONCERNING MATTERS BEYOND THE ADJUDICATION OF THE ELEMENTS OF THIS RIGHT, SUCH AS EASEMENTS, INSTALLATION OF STRUCTURES, MAINTENANCE OF A MINIMUM INSTREAM FLOW, ETC.