

Montana Water Court
PO Box 1389
Bozeman, MT 59771-1389
(406) 586-4364
1-800-624-3270
watercourt@mt.gov

MONTANA WATER COURT
UPPER MISSOURI DIVISION
BOULDER RIVER, TRIBUTARY OF THE JEFFERSON RIVER
BASIN 41E
PRELIMINARY DECREE

* * * * *

CLAIMANT: Compton Ranch LLC

CASE 41E-0151-R-2024

41E 117801-00

41E 117802-00

41E 117803-00

41E 117804-00

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

The United States, DOI Bureau of Land Management objected to each of these claims.

Claim 41E 117804-00 appeared in the Preliminary Decree with the following issue remark:

THE CLAIMED POINT OF DIVERSION IS IN QUESTION. THE LOCATION OF THE DITCH CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

On May 21, 2025 Compton Ranch LLC filed a Verified Motion To Amend [“Motion”] [Doc. 20 and 21]. On June 4, 2025 the United States’ Notice Of Resolution Of Objections was filed [Doc. 22]. On July 14, 2025 Compton Ranch LLC filed a Notice Of Resolution Of Issue Remark For Claim 41E 117804-00 [Doc.24]. 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 85-2-227, 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 41E 117801-00, the Preliminary Decree states that the maximum acres is 77.00 and the place of use is:

<u>ACRES</u>	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
26.00	E2SE	10	5N	3W	JEFFERSON
<u>51.00</u>	E2E2	15	5N	3W	JEFFERSON
77.00					

The maximum acres should be 90.00 and the place of use should be:

<u>ACRES</u>	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
90.00	E2	15	5N	3W	JEFFERSON
90.00					

As requested in the Motion, the following remark should be added:

PLEASE SEE THE MAPS FROM CASE NO 41E-0152-R-2024 FOR IRRIGATED ACREAGE WITHIN THE POU.

Claim 41E 117083-00 should be added to the supplemental rights remark.

As requested in the Motion, the following remark should be added:

ALL SUPPLEMENTAL CLAIMS ARE TO BE USED IN THE E2 OF SECTION 15. EACH WATER RIGHT CLAIM IS NOT TO EXCEED ITS MAXIMUM ACREAGE BUT CAN BE USED WITHIN THE 162 ACRE PLACE OF USE IN THE E2 SECTION 15, T5N, R3W.

2. For claim 41E 117802-00, the Preliminary Decree states that the maximum acres is 77.00 and the place of use is:

<u>ACRES</u>	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
26.00	E2SE	10	5N	3W	JEFFERSON
<u>51.00</u>	E2N2	15	5N	3W	JEFFERSON
77.00					

The maximum acres should be 90.00 and the place of use should be:

<u>ACRES</u>	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
90.00	E2	15	5N	3W	JEFFERSON
90.00					

As requested in the Motion, the following remark should be added:

PLEASE SEE THE MAPS FROM CASE NO 41E-0152-R-2024 FOR IRRIGATED ACREAGE WITHIN THE POU.

Claim 41E 117083-00 should be added to the supplemental rights remark.

As requested in the Motion, the following remark should be added:

ALL SUPPLEMENTAL CLAIMS ARE TO BE USED IN THE E2 OF SECTION 15. EACH WATER RIGHT CLAIM IS NOT TO EXCEED ITS MAXIMUM ACREAGE BUT CAN BE USED WITHIN THE 162 ACRE PLACE OF USE IN THE E2 SECTION 15, T5N, R3W.

The Preliminary Decree also includes the following notice remark:

DITCH NAME AND POINT OF DIVERSION WERE 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 provides notice of these changes made prior to issuance of the Preliminary Decree and does not raise unresolved issues which need to be addressed. The remark should be removed as having served its notice purpose.

3. For claim 41E 117803-00, the Preliminary Decree states that the maximum acres is 35.00 and the place of use is:

<u>ACRES</u>	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
<u>35.00</u>	SE	10	5N	3W	JEFFERSON
35.00					

The maximum acres should be 80.00 and the place of use should be:

<u>ACRES</u>	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
<u>80.00</u>	E2	15	5N	3W	JEFFERSON
80.00					

As requested in the Motion, the following remark should be added:

PLEASE SEE THE MAPS FROM CASE NO 41E-0152-R-2024 FOR IRRIGATED ACREAGE WITHIN THE POU.

The supplemental rights remark which appears on the other claims should be added to this claim, with 41E 117083-00 added.

As requested in the Motion, the following remark should be added:

ALL SUPPLEMENTAL CLAIMS ARE TO BE USED IN THE E2 OF SECTION 15. EACH WATER RIGHT CLAIM IS NOT TO EXCEED ITS MAXIMUM ACREAGE BUT CAN BE USED WITHIN THE 162 ACRE PLACE OF USE IN THE E2 SECTION 15, T5N, R3W.

4. For claim 41E 117804-00, the Preliminary Decree states that the maximum acres is 77.00 and the place of use is:

<u>ACRES</u>	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
<u>26.00</u>	E2SE	10	5N	3W	JEFFERSON
<u>51.00</u>	NE	15	5N	3W	JEFFERSON
77.00					

The maximum acres should be 90.00 and the place of use should be:

<u>ACRES</u>	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
<u>90.00</u>	E2	15	5N	3W	JEFFERSON
90.00					

As requested in the Motion, the following remark should be added:

PLEASE SEE THE MAPS FROM CASE NO 41E-0152-R-2024 FOR IRRIGATED ACREAGE WITHIN THE POU.

The Preliminary Decree erroneously states that the Source Type for Elkhorn Creek is GROUNDWATER. The source type should be SURFACE.

The 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>
NWNE	10	5N	3W	JEFFERSON

Period of Diversion: MAY 1 TO SEPTEMBER 30

Means of Diversion: DITCH

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>
SESENW	10	5N	3W	JEFFERSON

Period of Diversion: MAY 1 TO SEPTEMBER 30

Means of Diversion: DITCH

Ditch Name: DULANEY-SMITH DITCH

<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
NWNWSE	10	5N	3W	JEFFERSON

Period of Diversion: MAY 1 TO SEPTEMBER 30

Means of Diversion: DITCH

Ditch Name: MCGOWAN DITCH

As requested in the Motion, the following remark should be added:

THERE IS NO DIVERSION STRUCTURE OR MEANS OF CONVEYANCE ON THE CLAIMED FOSTER CAMP SPRING. FOSTER CAMP SPRING WATER IS CONVEYED VIA THE NATURAL CHANNEL TO ELKHORN CREEK, TO THE PODS LOCATED IN THE SESENW SECTION 10 TOWNSHIP 5N RANGE 3W, AND NWNWSE SECTION 10 TOWNSHIP 5N RANGE 3W. THE DIVERTED FLOW RATE, FOR WATER RIGHT 41E 117804-00, FROM FOSTER CAMP SPRING, MAY NOT EXCEED THE FLOW RATE OF FOSTER CAMP SPRING OR 5 CFS, WHICHEVER IS LESS, ENTERING ELKHORN CREEK, AS WOULD BE MEASURED AT THAT CONFLUENCE IN THE SENW SECTION 10, T5N, R3W.

The point of diversion issue remark should be removed as addressed and resolved.

Claim 41E 117083-00 should be added to the supplemental rights remark.

As requested in the Motion, the following remark should be added:

ALL SUPPLEMENTAL CLAIMS ARE TO BE USED IN THE E2 OF SECTION 15. EACH WATER RIGHT CLAIM IS NOT TO EXCEED ITS MAXIMUM ACREAGE BUT CAN BE USED WITHIN THE 162 ACRE PLACE OF USE IN THE E2 SECTION 15, T5N, R3W.

CONCLUSION OF LAW

The settlement documents by the parties are sufficient to contradict and overcome the *prima facie* claims and to resolve the issue remark without evidentiary hearing. Section 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 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:

Richard C. Tappan Jr.
Connlan W. Whyte
Tappan Law Firm PLLC
rctappan@tappanlawfirm.com
cwhyte@tappanlawfirm.com
jpharmer@tappanlawfirm.com
office@tappanlawfirm.com

Jennifer A. Najjar
Michelle Ramus
US Dept of Justice, ENRD-NRS
Jennifer.Najjar@usdoj.gov
michelle.ramus@usdoj.gov
MontanaBasins.ENRD@USDOJ.GOV

Note: Service List Updated 12/8/2025

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
BOULDER RIVER, TRIBUTARY TO JEFFERSON RIVER
BASIN 41E

Water Right Number: **41E 117801-00 STATEMENT OF CLAIM**

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: COMPTON RANCH LLC
747 LOWER VALLEY RD
BOULDER, MT 59632-9707

Priority Date: DECEMBER 20, 1891

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 1.25 CFS

Volume: 375.00 AC-FT

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 90.00

Source Name: SPRING, UNNAMED TRIBUTARY OF ELKHORN CREEK

Source Type: GROUNDWATER

GROUNDWATER FROM ELKHORN MINE

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County	
1		NENW		14	6N	3W	JEFFERSON

Period of Diversion: MAY 1 TO SEPTEMBER 30

Diversion Means: PUMP

MINE WATER IS PUMPED INTO ELKHORN CREEK THEN DIVERTED BY HEADGATE INTO THE MCGOWAN DITCH.

Period of Use: MAY 1 TO SEPTEMBER 30

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County	
1	90.00			E2	15	5N	3W	JEFFERSON
Total:	90.00							

PLEASE SEE THE MAPS FROM CASE NO 41E-0151-R-2024 FOR IRRIGATED ACREAGE WITHIN THE POU.

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.

ALL SUPPLEMENTAL CLAIMS ARE TO BE USED IN THE E2 OF SECTION 15. EACH WATER RIGHT CLAIM IS NOT TO EXCEED ITS MAXIMUM ACREAGE BUT CAN BE USED WITHIN THE 162 ACRE PLACE OF USE IN THE E2 SECTION 15, T5N, R3W.

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
BOULDER RIVER, TRIBUTARY TO JEFFERSON RIVER
BASIN 41E

Water Right Number: **41E 117802-00 STATEMENT OF CLAIM**

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: COMPTON RANCH LLC
747 LOWER VALLEY RD
BOULDER, MT 59632-9707

Priority Date: JULY 1, 1890

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 1.88 CFS

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

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 90.00

Source Name: ELKHORN CREEK

Source Type: SURFACE WATER

***Point of Diversion and Means of Diversion:**

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SESENW	10	5N	3W	JEFFERSON

Period of Diversion: MAY 1 TO SEPTEMBER 30

Diversion Means: HEADGATE

Ditch Name: DULANEY-SMITH DITCH

Period of Use: MAY 1 TO SEPTEMBER 30

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	90.00		E2	15	5N	3W	JEFFERSON
Total:	90.00						

PLEASE SEE THE MAPS FROM CASE NO 41E-0151-R-2024 FOR IRRIGATED ACREAGE WITHIN THE POU.

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.

117801-00

117802-00

117803-00

117804-00

ALL SUPPLEMENTAL CLAIMS ARE TO BE USED IN THE E2 OF SECTION 15. EACH WATER RIGHT CLAIM IS NOT TO EXCEED ITS MAXIMUM ACREAGE BUT CAN BE USED WITHIN THE 162 ACRE PLACE OF USE IN THE E2 SECTION 15, T5N, R3W.

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
BOULDER RIVER, TRIBUTARY TO JEFFERSON RIVER
BASIN 41E

Water Right Number: **41E 117803-00** STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: COMPTON RANCH LLC
747 LOWER VALLEY RD
BOULDER, MT 59632-9707

Priority Date: JANUARY 1, 1891

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

***Flow Rate:** 1.64 CFS

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

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 80.00

Source Name: SPRING, UNNAMED TRIBUTARY OF ELKHORN CREEK

Source Type: GROUNDWATER

ALSO KNOWN AS IVEY SPRING

Point of Diversion and Means of Diversion:

ID	Govt Lot	Otr Sec	Sec	Twp	Rge	County
1		SESWNE	9	5N	3W	JEFFERSON

Period of Diversion: MAY 1 TO SEPTEMBER 30

Diversion Means: HEADGATE

Period of Use: MAY 1 TO SEPTEMBER 30

Place of Use:

ID	Acres	Govt Lot	Otr Sec	Sec	Twp	Rge	County
1	80.00		E2	15	5N	3W	JEFFERSON
Total:	80.00						

PLEASE SEE THE MAPS FROM CASE NO 41E-0151-R-2024 FOR IRRIGATED ACREAGE WITHIN THE POU.

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.

117801-00

117802-00

117803-00

117804-00

ALL SUPPLEMENTAL CLAIMS ARE TO BE USED IN THE E2 OF SECTION 15. EACH WATER RIGHT CLAIM IS NOT TO EXCEED ITS MAXIMUM ACREAGE BUT CAN BE USED WITHIN THE 162 ACRE PLACE OF USE IN THE E2 SECTION 15, T5N, R3W.

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
BOULDER RIVER, TRIBUTARY TO JEFFERSON RIVER
BASIN 41E

Water Right Number: **41E 117804-00 STATEMENT OF CLAIM**

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: COMPTON RANCH LLC
747 LOWER VALLEY RD
BOULDER, MT 59632-9707

Priority Date: SEPTEMBER 12, 1895

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 5.00 CFS

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

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 90.00

Source Name: ELKHORN CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County	
1		SESENW		10	5N	3W	JEFFERSON

Period of Diversion: MAY 1 TO SEPTEMBER 30

Diversion Means: DITCH

Ditch Name: DULANEY-SMITH DITCH

2		NWNWSE		10	5N	3W	JEFFERSON
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Period of Diversion: MAY 1 TO SEPTEMBER 30

Diversion Means: DITCH

Ditch Name: MCGOWAN DITCH

THERE IS NO DIVERSION STRUCTURE OR MEANS OF CONVEYANCE ON THE CLAIMED FOSTER CAMP SPRING. FOSTER CAMP SPRING WATER IS CONVEYED VIA THE NATURAL CHANNEL TO ELKHORN CREEK, TO THE PODS LOCATED IN THE SESENW SECTION 10 TOWNSHIP 5N RANGE 3W, AND NWNWSE SECTION 10 TOWNSHIP 5N RANGE 3W. THE DIVERTED FLOW RATE, FOR WATER RIGHT 41E 117804-00, FROM FOSTER CAMP SPRING, MAY NOT EXCEED THE FLOW RATE OF FOSTER CAMP SPRING OR 5 CFS, WHICHEVER IS LESS, ENTERING ELKHORN CREEK, AS WOULD BE MEASURED AT THAT CONFLUENCE IN THE SENW SECTION 10, T5N, R3W.

Period of Use: MAY 1 TO SEPTEMBER 30

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
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1 90.00
Total: 90.00

E2 15 5N 3W JEFFERSON

PLEASE SEE THE MAPS FROM CASE NO 41E-0151-R-2024 FOR IRRIGATED
ACREAGE WITHIN THE POU.

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.

117801-00 117802-00 117803-00 117804-00

ALL SUPPLEMENTAL CLAIMS ARE TO BE USED IN THE E2 OF SECTION 15. EACH WATER RIGHT CLAIM IS NOT TO EXCEED ITS MAXIMUM ACREAGE BUT CAN BE USED WITHIN THE 162 ACRE PLACE OF USE IN THE E2 SECTION 15, T5N, R3W.