

Montana Water Court  
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**FILED**  
05/27/2025  
Sara Calkins  
CLERK  
Montana Water Court  
STATE OF MONTANA  
By: D'Ann CIGLER  
43B-0423-R-2021  
Brown, Stephen R  
43.00

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

\*\*\*\*\*

CLAIMANT: Paradise Valley Ranch LLC

OBJECTOR: Paradise Valley Ranch LLC; Robert P. Anderson;  
Robert L. Weber; Eightmile Creek PV Ranch, LLC

**CASE 43B-0423-R-2021**

43B 211147-00

43B 211152-00

43B 211153-00

43B 211154-00

43B 211374-00

**CLOSING ORDER**

**BACKGROUND**

Paradise Valley Ranch LLC (“PVR”) asks the Court to reinstate several water right claims the Court dismissed in 1990. The claims describe rights to use water from Trail Creek in Park County. Trail Creek drains a portion of the east slope of the Gallatin Range before its confluence with the Yellowstone River in the Paradise Valley south of Livingston. PVR owns the claims.

The Court described the history of the claims in prior orders. To summarize, in 1984 a predecessor to PVR filed the ten claims now in this case. The filings missed the April 30, 1982 claim filing deadline in place at that time so the Water Court dismissed the claims on December 17, 1990. When the Water Court issued the Basin 43B Preliminary Decree on May 9, 2019, it described the claims as “dismissed” based upon the Court’s prior order. Element Land Co. LLC (“ELC”) filed objections seeking

reinstatement. Paradise Valley Ranch LLC (“PVR”) is the successor owner of the claims and the successor to ELC’s objections.

On May 3, 2022, the Court issued an order concluding the Montana Legislature’s conditional remission of terminated claims under Senate Bill 310 (1993) covers these ten claims. The Court’s order set requirements for PVR to follow before the Court would consider reinstatement. The Court asked PVR for draft abstracts, which PVR provided. (Doc. 9.00). The Court then asked the Department of Natural Resources and Conservation (“DNRC”) to examine the claims. DNRC did so and provided a memorandum (the “DNRC memorandum”) with proposed issue remarks and recommended modifications. (Doc. 13.00).

Next, the Court required PVR to publish notice and provide an opportunity for objections. After publication, objections were filed by Robert P. Anderson (“Anderson”) (Doc. 15.00), Hubert Weber (“Weber”) (Doc. 16.00), and Eightmile Creek PV Ranch, LLC (“Eightmile”) (Doc. 31.00). PVR also filed self-objections as to claims 43B 211374-00 (Doc. 26.00), 43B 211152-00 (Doc. 27.00), 43B 211147-00 (Doc. 28.00), 43B 211154-00 (Doc. 29.00), and 43B 211153-00 (Doc. 30.00).

On November 14, 2023, PVR filed a settlement stipulation it had entered into with Eightmile (the “Eightmile Stipulation”). (Doc. 36.00). As part of the Eightmile Stipulation, PVR withdrew its request to reinstate the following five of the original ten claims: 43B 211145-00, 43B 211148-00, 43B 211149-00, 43B 211150-00, and 43B 211151-00. The Court accepted the withdrawal request in an order dated December 6, 2023. (Doc. 38.00).

PVR later filed a second stipulation to resolve the objections filed by Anderson and Weber (the “Anderson-Weber Stipulation”). (Doc. 39.00). The Anderson-Weber Stipulation contains private agreements between PVR, Anderson and Weber. The Court issued an order accepting the Anderson-Weber Stipulation. (Doc. 40.00). The Order also set a deadline for PVR to address the issue remarks on the claims.

On October 2, 2024, PVR filed additional evidence to address the issue remarks and the Court’s most recent Order. (Doc. 41.00). The additional evidence consists of a

foundational affidavit that incorporates a detailed report prepared by DMS Natural Resources, LLC (the “DMS Report”). The DMS Report includes a narrative description of information and proposed modifications to address each claim’s issue remarks and PVR’s self-objections. The report also includes maps and proposed abstracts. PVR served the filing on the other parties and no one objected.

## **DISCUSSION**

### **A. Stipulations.**

The Court now has sufficient information to resolve this case. The two stipulations resolve the Eightmile, Anderson and Weber objections to the remaining claims. Under the terms of the stipulations, PVR agreed to not exercise the elements of its Trail Creek Claims (claims 43B 211147-00, 43B 211152-00, and 43B 211374-00) in a manner that is superior in any way to the rights of the other parties to the Stipulation. The private agreements are reasonable and are approved by the Court. The remainder of this Order addresses PVR’s self-objections and responses, as applied to the issue remarks identified in the DNRC memorandum.

### **B. Description of Claims.**

The five claims that PVR did not withdraw were published with the following elements:

<b>Claim no.</b>	<b>Type</b>	<b>Purpose</b>	<b>Ditches</b>	<b>Flow rate (cfs)</b>	<b>Vol. (ac. feet)</b>	<b>Acres</b>
43B 211147-00	Use	Irrigation	Trail Cr.; Nesbit; Darroch	10.00	1,200.00	2,397.00
43B 211152-00	Use	Irrigation	Three unspecified	7.50	2,700.00	2,397.00
43B 211153-00	Use	Irrigation	Darroch	5.00	1,864.00	3,288.00
43B 211154-00	Use	Irrigation	Darroch (1); Darroch (2)	14.25	5,132.00	3,288.00
43B 211374-00	Use	Stock	Unspecified	N/a	N/a	N/a

### **C. Remarks and Resolution.**

#### *1. Notice-only remarks common to all claims.*

The following three issue remarks are common to all five claims:

CLAIM WAS NOT INCLUDED IN THE BASIN 43B  
TEMPORARY PRELIMINARY DECREE ISSUED 01/16/85.

MOTION TO REINSTATE FILED NOVEMBER 23, 2021  
CLAIM FILED LATE 12/24/84 .

CLAIM FILED LATE 12/24/84. IN ADDITION TO BEING  
SUBORDINATE TO ALL INDIAN AND FEDERAL  
RESERVED WATER RIGHTS AND ALL VALID TIMELY  
FILED CLAIMS BASED ON STATE LAW, THIS RIGHT MAY  
ALSO BE SUBORDINATE TO CERTAIN PERMITS AND  
RESERVATIONS OF WATER. SEE SECTION 85-2-221 MCA.

All three of these remarks arise out of the filing date of the original statements of claim. Because they were filed after the claim filing deadline, they were dismissed and not included in the Basin 43B Temporary Preliminary Decree (“TPD”) issued on January 16, 1985. The first remark gave notice to third parties of the lack of inclusion in the TPD. The second remark provided notice of the reinstatement request. The third remark provided notice of the statutory penalty imposed on the administration of late claims. The issues noted in this remark are reflected in the enforceable priority date and priority date information remark on the updated abstracts.

2. *Notice-only remarks specific to some claims.*

Claims 43B 211147-00, 43B 211152-00, and 43B 211153-00 include the following remark:

DITCH NAMES 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.

This remark is a notice-only remark. As noted below, the points and means of diversion are modified for several claims which resolves PVR’s self-objections. No other objections remain as to ditch names, which resolves the remark.

3. *Place of use and acreage remarks – claims 43B 211147-00 and 43B 211152-00.*

The abstracts for claims 43B 211147-00 and 43B 211152-00 include the following remarks:

AERIAL PHOTOGRAPH NO(S). 179-152 AND 1799-154 ,  
DATED 9/15/1979, APPEARS TO INDICATE 1871.35 ACRES  
IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE  
CLAIM FILE.

AERIAL PHOTOGRAPH NO(S). GSJA AND GSFZ , DATED  
08/16/1949 AND 08/26/1948 , APPEARS TO INDICATE 1662.47  
ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS  
IN THE CLAIM FILE.

These two claims also include the following place of use remark:

MAXIMUM ACREAGE MAY REQUIRE MODIFICATION  
FOLLOWING RESOLUTION OF PLACE OF USE ISSUE  
REMARK.

As the table above indicates, the abstracts for both claims describe a 2,397.00 place of use. PVR proposes to reduce the place of use to 1,298.40 acres as depicted on Exhibit A to the DMS Report. The proposed reduction is based on the report's analysis of historical aerial photographs in relation to PVR's irrigated acreage covered by other water right claims. As this is a reduction in acreage, the reduced evidentiary standard of W.R.Adj.R. 17(c) applies. The acreage reduction and corresponding adjustments to the place of use resolve these issue remarks.

4. *Place of use and acreage remarks – claims 43B 211153-00 and 43B 211154-00.*

The abstracts for claims 43B 211153-00 and 43B 211154-00 include the following remarks:

AERIAL PHOTOGRAPH NO(S). 179-152, DATED 9/15/1979,  
APPEARS TO INDICATE 1669.50 ACRES IRRIGATED. A  
DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

AERIAL PHOTOGRAPH NO(S). GSJA 1-180, 3-77, & 3-81 ,  
DATED 08/16/1949 AND 08/23/1949, APPEARS TO INDICATE  
1251.88 ACRES IRRIGATED. A DESCRIPTION OF THESE  
ACRES IS IN THE CLAIM FILE.

These two claims also include the following place of use remark:

MAXIMUM ACREAGE MAY REQUIRE MODIFICATION  
FOLLOWING RESOLUTION OF PLACE OF USE ISSUE  
REMARK.

As the table above indicates, the abstracts for both claims describe a 3,288.00 acre place of use. PVR proposes to reduce the place of use to 546.00 acres as depicted on Exhibit G to the DMS Report. The report provides evidentiary support by analyzing historical aerial photographs in relation to PVR's irrigated acreage covered by other water right claims. As this is a reduction in acreage, the reduced evidentiary standard of W.R.Adj.R. 17(c) applies. The acreage reduction and corresponding adjustments to the place of use resolve these issue remarks.

5. *Ownership remarks – claims 43B 211147-00, 43B 211152-00, 43B 211153-00 and 43B 211154-00.*

The four irrigation claims all contain the following two ownership remarks:

ACCORDING TO CADASTRAL PROPERTY OWNERSHIP  
RECORDS, AS OF 09/07/2022, A PORTION OF THE  
PROPERTY ON WHICH THIS WATER RIGHT IS USED  
APPEARS TO BE OWNED BY BRIAN KEMPISTY.

ACCORDING TO CADASTRAL PROPERTY OWNERSHIP  
RECORDS, AS OF 09/07/2022, A PORTION OF THE  
PROPERTY ON WHICH THIS WATER RIGHT IS USED  
APPEARS TO BE OWNED BY EIGHTMILE CREEK PV  
RANCH LLC.

According to the DMS Report, the two ownership remarks were added due to lack of clarity in claim file maps resulting in potential overlap in the place of use. The remarks are resolved because the place of use has been reduced to eliminate discrepancies. Additionally, neither Brian Kempisty nor any successor objected. The second remark pertains to Eightmile, which was an objector with objections withdrawn by settlement. The ownership remarks are resolved.

6. *Point of diversion remarks (claims 43B 211147-00 and 43B 211152-00).*

The abstracts for claims 43B 211147-00 and 43B 211152-00 include the following point of diversion issue remarks.

THE POINT OF DIVERSION 1 APPEARS TO BE INCORRECT.  
THE POINT OF DIVERSION APPEARS TO BE IN THE  
SESESE SEC 23 TWP 4S RGE 8E PARK COUNTY.

THE POINT OF DIVERSION 2 APPEARS TO BE INCORRECT.  
THE POINT OF DIVERSION APPEARS TO BE IN THE  
SESWNE SEC 23 TWP 4S RGE 8E PARK COUNTY.

PVR proposes to resolve its self-objections and the remaining remarks by asking the Court to make the following modifications to the claim:

Consistent with other PVR claims adjudicated in case 43B-1002-R-2021, the points of diversion should be decreed as all locations where water has been historically diverted from North Fork Trail Creek and South Fork Trail Creek. Five primary points of diversion were historically, and are currently, used to irrigate the 1,298.40-acre place of use, including the three locations where Trail Creek intersects the Park Branch Canal and two pump sites directly from Trail Creek. These locations are depicted on Exhibit A to the DMS Report.

7. *Additional remarks – claim 43B 211152-00.*

In addition to the remarks already noted, the abstract for claim 43B 211152-00 includes the following remarks that are not included on other claims:

THE PRIORITY DATE MAY BE QUESTIONABLE. THE  
PRIORITY DATE DESCRIBED ON THE FILED NOTICE OF  
APPROPRIATION IS INCONSISTENT WITH THE CLAIMED.

THE DECLARATION OF WATER RIGHT DOES NOT  
CONTAIN A DAY OR MONTH. THE TYPE OF HISTORICAL  
RIGHT MAY BE QUESTIONABLE. DOCUMENTATION  
SUBMITTED WITH THE CLAIM INDICATES A FILED  
APPROPRIATION RIGHT.

PVR proposes to resolve its self-objections and the remaining remarks by asking the Court to make several modifications to the claim. First, claim 43B 211152-00 was claimed with an April 15, 1876 priority date based on a copy of a filed notice of appropriation, filed by A.E. Owin for use of 300 miner's inches (7.5 cfs) beginning in 1876. The notice of appropriation was included in the statement of claim filing. PVR could not locate evidence to support the April 15 date, so the priority date should be

standardized to the last day of the last month of 1876, the year specified in the notice. W.R.C.E.R. Rule 13(f)(3)(ii); *In re Huntsman*, Case 41A-21, 2016 Mont. Water LEXIS 26, Concl. of Law, ¶ 9 (endorsing rule). This modification resolves the issue remarks.

Second, the Court grants PVR's request to modify the type of right for 43B 211152-00. It should be decreed as "filed" based on the filed notice of appropriation, although ultimately this does not matter much because the type of right is an evidentiary matter that will not be included on the final decree abstract. *See* § 85-2-224(6), MCA (setting out required elements for final decrees).

8. *Additional remarks – claim 43B 211153-00.*

The abstract for claim 43B 211153-00 includes the following remarks not included on other claims:

THE PRIORITY DATE MAY BE QUESTIONABLE. IT IS  
UNCLEAR WHETHER THE CLAIMED PRIORITY DATE IS  
1890 OR 1879.

THE TYPE OF HISTORICAL RIGHT MAY BE  
QUESTIONABLE. DOCUMENTATION SUBMITTED WITH  
THE CLAIM INDICATES A DECREED RIGHT.

PVR proposes to resolve its self-objections and the remaining remarks by asking the Court to make the following modifications to the claim: (1) decreeing the claim with an October 1, 1879 priority date; and (2) modifying the type of right to "decreed."

Claim 43B 211153-00 was claimed as a use right for 200 miner's inches (5 cfs) and a priority date of "[p]rior to January 31, 1890." As explained in the DMS Report, some confusion exists about the priority date because several claims were decreed with an October 1, 1879 priority date. The report indicates claims 43B 211153-00 and 43B 190434-02 both are claimed based on, and are multiple uses of, the 285 MI (7.13 cfs) appropriation decreed to John M. Darroch at an October 1, 1879 priority date. This means the modified flow rate for claim 43B 211153-00 is not in addition to the flow rate for claim 43B 190434-02, which the Court addressed in case 43B-1004-R-2021. The report provides a sufficient evidentiary basis for this priority date, especially since it will be administered with a June 30, 1973 priority date based on its late claim status.



9. *Additional remarks – claim 43B 211154-00.*

The abstract for claim 43B 211154-00 includes the following additional issue remark:

THE CLAIMED POINT OF DIVERSION IS IN QUESTION. THE LOCATION OF THE POD 1 CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

PVR proposes to resolve its self-objections and the remaining remarks by asking the Court to correct the point of diversion to the SESESE of Section 33, Township 4 South, Range 8 East, which is the headgate for the Darroch Ditch as described in claim 43B 211153-00. The DMS Report documents that these two claims are based on different rights decreed in district court case *The Eight Mile Ditch and Irrigation Company v. Wills*, Case 3784 (Mont. Sixth Jud. Dist. Park County, July 20, 1914).

10. *Quantified volume – claims 43B 211147-00, 43B 211152-00, 43B 211153-00 and 43B 211154-00.*

The abstracts for each of the four irrigation claims are quantified with both a numeric flow rate and a numeric volume. The volume components seem to be taken from the volume claimed on the original claim forms. DNRC’s memorandum recommends the volume remark be replaced with the narrative VF009 information remark, which states:

THE TOTAL VOLUME OF THE RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

The DMS Report also recommends the numeric volume remark be replaced with a narrative remark “pursuant to DNRC standards.” (E.g. DMS Report, at 5).

Whether a numeric volume is decreed for an irrigation claim is a function of the Water Use Act provisions set forth in § 85-2-234(6)(b)(iii), MCA, which provides that numeric volume is required for direct flow rights such as irrigation claims when the “water judge determines require both volume and flow rate to adequately administer the right.” Based on review of the claim file and DNRC’s recommendation, the Court concludes there is no administration justification for a numeric volume for the irrigation claims, so they are modified to remove the numeric volume limits.

*11. Additional remarks – claim 43B 211374-00.*

In addition to the notice-only remarks already noted, the abstract for stock water claim 43B 211374-00 includes the following additional issue remarks:

ACCORDING TO CADASTRAL PROPERTY OWNERSHIP RECORDS, AS OF 09/07/2022, A PORTION OF THE PROPERTY ON WHICH THIS WATER RIGHT IS USED APPEARS TO BE OWNED BY RICHARD A. CARGILL.

POINT OF DIVERSION MAY REQUIRE MODIFICATION UPON RESOLUTION OF MEANS OF DIVERSION [sic] ISSUE. THE CLAIMED PLACE OF USE SUGGESTS MULTIPLE DIVERSIONS AND DITCHES MAY BE INVOLVED.

THE CLAIMED POINT OF DIVERSION MAY BE INCOMPLETE. IT APPEARS THE HIGHLINE DITCH, LOCATED IN THE SWNENW SECTION 25 T4S, R9E, PARK COUNTY, MAY BE USED.

PLACE OF USE SHOULD BE CLARIFIED UPON CLARIFICATION OF POINT OF DIVERSION AND MEANS OF DIVERSION.

THE CLAIMED PRIORITY DATE MAY BE QUESTIONABLE. DOCUMENTATION TO SUPPORT PRIORITY DATE WAS NOT SUBMITTED WITH THIS CLAIM.

PVR proposes to resolve its self-objections and the remaining remarks by asking the Court to make the following modifications to the claim: (a) modifying the points of diversion and places of use to match the direct from source nature of this stock water claim; and (b) to modify the priority date consistent with an affidavit in the claim file that does not support stock water use prior to 1898. These modifications and the supporting information in the DMS Report resolves the issue remarks and objections.

*12. Supplemental rights remarks.*

DNRC's memorandum includes a supplemental rights worksheet addendum and a map explaining the addendum. As PVR did not object to the supplemental rights information, the information is retained on the claims, as modified consistent with this Order.

**ORDER**

Therefore, it is ORDERED that (1) the Eightmile Stipulation and the Anderson-Weber Stipulation are APPROVED; (2) claims 43B 211147-00, 43B 211152-00, 43B

211153-00, and 43B 211374-00 are REINSTATED and modified as provided in this Order, with all issue remarks resolved; (3) claims 43B 211145-00, 43B 211148-00, 43B 211149-00, 43B 211150-00, and 43B 211151-00 remain DISMISSED; (4) all objections are dismissed as resolved; and (5) this case is CLOSED.

**ELECTRONICALLY SIGNED AND DATED BELOW.**

**Service Via Electronic Mail:**

Peter G. Scott  
Peter G. Scott, Law Offices, PLLC  
peter@scott-law.com  
office@scott-law.com

Karl Knuchel  
Karl Knuchel PC  
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Orlina@knuckelpc.com

**Service via USPS Mail:**

Robert P. Anderson  
529 Trail Creek Road  
Livingston, MT 59047

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

**Water Right Number:**       **43B 211145-00**   STATEMENT OF CLAIM

**Version:**     3 -- POST DECREE

**Status:**     **DISMISSED**

**Late Claim:** B

**Owners:**                   PARADISE VALLEY RANCH LLC  
                                  % DMS NATURAL RESOURCES LLC  
                                  602 S FERGUSON AVE STE 2  
                                  BOZEMAN, MT 59718-6483

**Priority Date:**

**Enforceable Priority Date:**

**Type of Historical Right:**

**Purpose (Use):**               IRRIGATION

**Flow Rate:**

**Volume:**

**Source Name:**             TRAIL CREEK

**Source Type:**             SURFACE WATER

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

**Period of Use:**

**Place of Use:**

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**Remarks:**

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.

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

**Water Right Number:** 43B 211147-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Late Claim:** B

**Owners:** PARADISE VALLEY RANCH LLC  
% DMS NATURAL RESOURCES LLC  
602 S FERGUSON AVE STE 2  
BOZEMAN, MT 59718-6483

**Priority Date:** APRIL 15, 1876

**Enforceable Priority Date:** JUNE 30, 1973

CLAIM FILED LATE 12/24/84 . AS MANDATED BY SECTION 85-2-221(3), MCA, THIS CLAIM IS SUBORDINATE, AND THEREFORE JUNIOR, TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW.

**Type of Historical Right:** USE

**Purpose (Use):** IRRIGATION

**Irrigation Type:** FLOOD

**Flow Rate:** 10.00 CFS

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

**Climatic Area:** 3 - MODERATE

**Maximum Acres:** 1,298.40

**Source Name:** TRAIL 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		NENESW	20	4S	9E	PARK
<b>Period of Diversion:</b>	APRIL 15 TO JUNE 15					
<b>Diversion Means:</b>	HEADGATE					
<b>Ditch Name:</b>	PARK BRANCH CANAL					
2		NWSENW	20	4S	9E	PARK
<b>Period of Diversion:</b>	APRIL 15 TO JUNE 15					
<b>Diversion Means:</b>	HEADGATE					
<b>Ditch Name:</b>	PARK BRANCH CANAL					
3		SESESE	18	4S	9E	PARK
<b>Period of Diversion:</b>	APRIL 15 TO JUNE 15					
<b>Diversion Means:</b>	HEADGATE					
<b>Ditch Name:</b>	PARK BRANCH CANAL					

4

SENWSW

17

4S

9E

PARK

Period of Diversion:

APRIL 15 TO JUNE 15

Diversion Means:

PUMP

5

NWSESE

17

4S

9E

PARK

Period of Diversion:

APRIL 15 TO JUNE 15

Diversion Means:

PUMP

Period of Use:

APRIL 15 TO JUNE 15

THIS RIGHT IS LIMITED TO HIGH OR FLOOD WATERS OF TRAIL CREEK.

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	471.10			4	4S	9E	PARK
2	11.10		SESE	5	4S	9E	PARK
3	474.10			17	4S	9E	PARK
4	4.00		SESE	18	4S	9E	PARK
5	30.50		E2NE	19	4S	9E	PARK
6	138.90		W2	20	4S	9E	PARK
7	7.40		NWNE	20	4S	9E	PARK
8	161.30		S2	33	3S	9E	PARK
Total:	1298.40						

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.

190434-00

190488-00

211147-00

211152-00

211153-00

211154-00

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

**Water Right Number:**       **43B 211148-00**   STATEMENT OF CLAIM

**Version:**     3 -- POST DECREE

**Status:**     **DISMISSED**

**Late Claim:** B

**Owners:**                   PARADISE VALLEY RANCH LLC  
                                  % DMS NATURAL RESOURCES LLC  
                                  602 S FERGUSON AVE STE 2  
                                  BOZEMAN, MT 59718-6483

**Priority Date:**

**Enforceable Priority Date:**

**Type of Historical Right:**

**Purpose (Use):**               IRRIGATION

**Flow Rate:**

**Volume:**

**Source Name:**             TRAIL CREEK

**Source Type:**             SURFACE WATER

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

**Period of Use:**

**Place of Use:**

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**Remarks:**

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.

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

**Water Right Number:**       **43B 211149-00**   STATEMENT OF CLAIM

**Version:**     3 -- POST DECREE

**Status:**     **DISMISSED**

**Late Claim:** B

**Owners:**                   PARADISE VALLEY RANCH LLC  
                                  % DMS NATURAL RESOURCES LLC  
                                  602 S FERGUSON AVE STE 2  
                                  BOZEMAN, MT 59718-6483

**Priority Date:**

**Enforceable Priority Date:**

**Type of Historical Right:**

**Purpose (Use):**               IRRIGATION

**Flow Rate:**

**Volume:**

**Source Name:**             TRAIL CREEK

**Source Type:**             SURFACE WATER

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

**Period of Use:**

**Place of Use:**

---

**Remarks:**

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.



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

**Water Right Number:**       **43B 211150-00**   STATEMENT OF CLAIM

**Version:**     3 -- POST DECREE

**Status:**     **DISMISSED**

**Late Claim:** B

**Owners:**                   PARADISE VALLEY RANCH LLC  
                                  % DMS NATURAL RESOURCES LLC  
                                  602 S FERGUSON AVE STE 2  
                                  BOZEMAN, MT 59718-6483

**Priority Date:**

**Enforceable Priority Date:**

**Type of Historical Right:**

**Purpose (Use):**               IRRIGATION

**Flow Rate:**

**Volume:**

**Source Name:**             TRAIL CREEK

**Source Type:**             SURFACE WATER

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

**Period of Use:**

**Place of Use:**

---

**Remarks:**

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.

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

**Water Right Number:**       **43B 211151-00**   STATEMENT OF CLAIM

**Version:**     3 -- POST DECREE

**Status:**     **DISMISSED**

**Late Claim:** B

**Owners:**                   PARADISE VALLEY RANCH LLC  
                                  % DMS NATURAL RESOURCES LLC  
                                  602 S FERGUSON AVE STE 2  
                                  BOZEMAN, MT 59718-6483

**Priority Date:**

**Enforceable Priority Date:**

**Type of Historical Right:**

**Purpose (Use):**               IRRIGATION

**Flow Rate:**

**Volume:**

**Source Name:**             TRAIL CREEK

**Source Type:**             SURFACE WATER

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

**Period of Use:**

**Place of Use:**

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**Remarks:**

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.

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

**Water Right Number:** 43B 211152-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Late Claim:** B

**Owners:** PARADISE VALLEY RANCH LLC  
% DMS NATURAL RESOURCES LLC  
602 S FERGUSON AVE STE 2  
BOZEMAN, MT 59718-6483

**Priority Date:** DECEMBER 31, 1876

**Enforceable Priority Date:** JUNE 30, 1973

CLAIM FILED LATE 12/24/84 . AS MANDATED BY SECTION 85-2-221(3), MCA, THIS CLAIM IS SUBORDINATE, AND THEREFORE JUNIOR, TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW.

**Type of Historical Right:** FILED

**Purpose (Use):** IRRIGATION

**Irrigation Type:** FLOOD

**Flow Rate:** 7.50 CFS

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

**Climatic Area:** 3 - MODERATE

**Maximum Acres:** 1,298.40

**Source Name:** TRAIL 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		NENESW	20	4S	9E	PARK
<b>Period of Diversion:</b>	APRIL 15 TO OCTOBER 15					
<b>Diversion Means:</b>	HEADGATE					
<b>Ditch Name:</b>	PARK BRANCH CANAL					
2		NWSENW	20	4S	9E	PARK
<b>Period of Diversion:</b>	APRIL 15 TO OCTOBER 15					
<b>Diversion Means:</b>	HEADGATE					
<b>Ditch Name:</b>	PARK BRANCH CANAL					
3		SESESE	18	4S	9E	PARK
<b>Period of Diversion:</b>	APRIL 15 TO OCTOBER 15					
<b>Diversion Means:</b>	HEADGATE					
<b>Ditch Name:</b>	PARK BRANCH CANAL					

4

SENWSW

17

4S

9E

PARK

Period of Diversion:

APRIL 15 TO OCTOBER 15

Diversion Means:

PUMP

5

NWSESE

17

4S

9E

PARK

Period of Diversion:

APRIL 15 TO OCTOBER 15

Diversion Means:

PUMP

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	471.10			4	4S	9E	PARK
2	11.10		SESE	5	4S	9E	PARK
3	474.10			17	4S	9E	PARK
4	4.00		SESE	18	4S	9E	PARK
5	30.50		E2NE	19	4S	9E	PARK
6	138.90		W2	20	4S	9E	PARK
7	7.40		NWNE	20	4S	9E	PARK
8	161.30		S2	33	3S	9E	PARK
Total:	1298.40						

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.

190434-00

190488-00

211147-00

211152-00

211153-00

211154-00

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

**Water Right Number:** 43B 211153-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Late Claim:** B

**Owners:** PARADISE VALLEY RANCH LLC  
% DMS NATURAL RESOURCES LLC  
602 S FERGUSON AVE STE 2  
BOZEMAN, MT 59718-6483

**Priority Date:** OCTOBER 1, 1879

**Enforceable Priority Date:** JUNE 30, 1973

CLAIM FILED LATE 12/24/84 . AS MANDATED BY SECTION 85-2-221(3), MCA, THIS CLAIM IS SUBORDINATE, AND THEREFORE JUNIOR, TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW.

**Type of Historical Right:** DECREED

**Purpose (Use):** IRRIGATION

**Irrigation Type:** FLOOD

**Flow Rate:** 1.13 CFS

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

**Climatic Area:** 3 - MODERATE

**Maximum Acres:** 546.00

**Source Name:** EIGHTMILE 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		SESESE	33	4S	8E	PARK

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

**Diversion Means:** HEADGATE

**Ditch Name:** DARROCH 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	474.10			17	4S	9E	PARK
2	12.80		SESE	18	4S	9E	PARK
3	0.30		NENENE	19	4S	9E	PARK
4	58.80		N2N2	20	4S	9E	PARK

**Total:** 546.00

**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.

190434-00	190488-00	211147-00	211152-00	211153-00	211154-00
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THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

190434-02	211153-00
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**POST DECREE**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**YELLOWSTONE RIVER, ABOVE & INCLUDING BRIDGER CREEK**  
**BASIN 43B**

**Water Right Number:** 43B 211154-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Late Claim:** B

**Owners:** PARADISE VALLEY RANCH LLC  
% DMS NATURAL RESOURCES LLC  
602 S FERGUSON AVE STE 2  
BOZEMAN, MT 59718-6483

**Priority Date:** OCTOBER 1, 1879

**Enforceable Priority Date:** JUNE 30, 1973

CLAIM FILED LATE 12/24/84 . AS MANDATED BY SECTION 85-2-221(3), MCA, THIS CLAIM IS SUBORDINATE, AND THEREFORE JUNIOR, TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW.

**Type of Historical Right:** DECREED

**Purpose (Use):** IRRIGATION

**Irrigation Type:** FLOOD

**Flow Rate:** 7.75 CFS

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

**Climatic Area:** 3 - MODERATE

**Maximum Acres:** 546.00

**Source Name:** EIGHTMILE 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		SESESE	33	4S	8E	PARK

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

**Diversion Means:** HEADGATE

**Ditch Name:** DARROCH 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	474.10			17	4S	9E	PARK
2	12.80		SESE	18	4S	9E	PARK
3	0.30		NENENE	19	4S	9E	PARK
4	58.80		N2N2	20	4S	9E	PARK

**Total:** 546.00

**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.

190434-00            190488-00            211147-00            211152-00            211153-00            211154-00

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

190488-00            211154-00



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

**Water Right Number:** 43B 211374-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Late Claim:** B

**Owners:** PARADISE VALLEY RANCH LLC  
% DMS NATURAL RESOURCES LLC  
602 S FERGUSON AVE STE 2  
BOZEMAN, MT 59718-6483

**Priority Date:** DECEMBER 31, 1898

**Enforceable Priority Date:** JUNE 30, 1973

CLAIM FILED LATE 07/17/85 . AS MANDATED BY SECTION 85-2-221(3), MCA, THIS CLAIM IS SUBORDINATE, AND THEREFORE JUNIOR, TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW.

**Type of Historical Right:** USE

**Purpose (Use):** STOCK

**Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

**Volume:** THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCKWATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

**Source Name:** TRAIL 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		NENESW	20	4S	9E	PARK
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31					
<b>Diversion Means:</b>	HEADGATE					
<b>Ditch Name:</b>	PARK BRANCH CANAL					
2		NWSENW	20	4S	9E	PARK
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31					
<b>Diversion Means:</b>	HEADGATE					
<b>Ditch Name:</b>	PARK BRANCH CANAL					
3		SESESE	18	4S	9E	PARK
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31					
<b>Diversion Means:</b>	HEADGATE					
<b>Ditch Name:</b>	PARK BRANCH CANAL					

4	SESWNE	23	4S	8E	PARK
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31				
<b>Diversion Means:</b>	HEADGATE				
<b>Ditch Name:</b>	NESBIT DITCHES				
5	SESESE	23	4S	8E	PARK
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31				
<b>Diversion Means:</b>	HEADGATE				
<b>Ditch Name:</b>	NESBIT DITCHES				
6	SENENW	25	4S	8E	PARK
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31				
<b>Diversion Means:</b>	HEADGATE				
<b>Ditch Name:</b>	HIGHLINE DITCH				
7	NENWNE	25	4S	8E	PARK
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31				
<b>Diversion Means:</b>	HEADGATE				
8	N2	25	4S	8E	PARK
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31				
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE				
9	N2N2SE	25	4S	8E	PARK
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31				
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE				
10	S2S2S2	24	4S	8E	PARK
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31				
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE				
11	N2	30	4S	9E	PARK
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31				
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE				
12		19	4S	9E	PARK
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31				
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE				
13	W2	20	4S	9E	PARK
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31				
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE				
14	NWNE	20	4S	9E	PARK
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31				
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE				
15		17	4S	9E	PARK
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31				
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE				
16	SESE	18	4S	9E	PARK
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31				
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE				

17 4 4S 9E PARK

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

**Diversion Means:** LIVESTOCK DIRECT FROM SOURCE

**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			S2	24	4S	8E	PARK
2			N2	25	4S	8E	PARK
3			N2N2SE	25	4S	8E	PARK
4				4	4S	9E	PARK
5			E2	5	4S	9E	PARK
6				17	4S	9E	PARK
7				18	4S	9E	PARK
8				19	4S	9E	PARK
9			W2	20	4S	9E	PARK
10			NWNE	20	4S	9E	PARK
11			N2	30	4S	9E	PARK