

Montana Water Court
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IN THE WATER COURT OF THE STATE OF MONTANA
YELLOWSTONE DIVISION
YELLOWSTONE RIVER ABOVE AND INCLUDING BRIDGER CREEK BASIN
BASIN 43B

* * * * *

CLAIMANTS: Ann Vollum; Dan J. Vollum; Craig A. Johnson;
Joshua J. Johnson; Ryland Z. Johnson; Sharon V.
Johnson; Talia Munn; Nolan Zimmerman; Vicki C.
Zimmerman; Kevin C. Knighton Revocable Inter-Vivos
Trust; Malanczuk Trust; Janet M. Bernthal; Peter A.
Bernthal; Genevieve K. Reid; Mark Schulein; Lorelei E.
Steen; Nicholas J. Steen; Connie A. Coale; Stephen L.
Coale; McKee Living Trust; Angela M. Walker; Richard
B. Walker

CASE 43B-0302-R-2024

43B 6287-00
43B 7053-00
43B 29061-00
43B 143290-00
43B 143293-00
43B 195253-00
43B 30172118

OBJECTORS: Talia Munn; Robert S. Pappert; Nolan
Zimmerman; Vicki Zimmerman; Vicki C. Zimmerman;
United States of America (Bureau of Land Management)

ORDER ON PENDING MOTION AND CLOSING CASE

This case addresses issue remarks and objections for six claims that describe rights to use water from Suce Creek in Park County. Suce Creek is a tributary of the Yellowstone River in Basin 43B that flows out of the Absaroka Mountains south of Livingston. The claimed water rights are appurtenant to property owned by several parties. These parties filed a joint motion to resolve the issue remarks and objections. For the reasons stated in this Order, the Court grants the motion, reconsolidates one of the claims into a new case, authorizes an implied claim, and closes the remainder of the claims, as modified.

BACKGROUND

The Water Court issued the Preliminary Decree for the Yellowstone River Basin, above and including Bridger Creek (Basin 43B) on May 9, 2019. The Preliminary Decree included abstracts for the following six claims, with the following pertinent elements and current owners:

Claim no.	Current owner	Priority	Flow rate
43B 6287-00	Vollum	4/6/1882	224.00 gpm ¹
43B 7053-00	Munn/Zimmerman	4/6/1882	1.50 cfs ²
43B 29061-00	Malanczuk/Knighton Trust	4/6/1882	224.00 gpm
43B 143290-00	Bernthal and others	8/30/1902	2.28 cfs
43B 143293-00	Bernthal and others	4/6/1882	Stock ³
43B 195253-00	Walker	4/6/1882	224.00 gpm

The places of use for these claims describe several subdivided parcels of property along Suce Creek. The claims identify a headgate and the Skillman-Carter Ditch as the means to convey Suce Creek water to the various parcels. Stock claim 43B 143293-00 also identifies livestock direct from source as a point and means of diversion.

The claims received one or more issue remarks and objections, which include:

- All of the claims with an April 6, 1882 priority date received decree exceeded issue remark stating:

THE WATER RIGHTS LISTED FOLLOWING THIS
STATEMENT ARE FILED ON THE SAME FORMERLY
DECREED WATER RIGHT. THE SUM OF THE CLAIMED
FLOW RATES EXCEEDS THE 120 MINER'S INCHES
DECREED IN CASE NO. 6130, PARK COUNTY.

¹ “gpm” is the abbreviation for gallons per minute. 224.00 gpm is equivalent to 0.50 cfs and 20 miner’s inches.

² “cfs” is the abbreviation for cubic feet per second. One cfs is equivalent to 448.8 gpm and 40 miner’s inches.

³ Stock water rights typically are not decreed with a numerical flow rate. Rule 24(b), W.R.C.E.R.

- Claims 43B 143290-00, 43B 29061-00, 43B 6287-00 each received the following overlapping place of use remark:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT WERE FILED BY DIFFERENT PARTIES WHO CLAIM OVERLAPPING PLACES OF USE.

- Claim 43B 7053-00 received the following prior objection resolution remark:

THE TIMELY FILED OBJECTION OF DONALD FRANK WAS AMENDED BY THE CLAIMANT TO INCLUDE POINT OF DIVERSION 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.

- Claims 43B 143290-00 and 43B 143293-00 received remarks regarding ownership. The claims also received P88 point of diversion or means of diversion notice-only remarks.

- Claim 43B 195253-00 received the following two additional remarks:

THE TIMELY FILED OBJECTION OF BRIAN PRIEST WAS AMENDED BY BRIAN PRIEST TO INCLUDE POINT OF DIVERSION . 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.

THE POINT OF DIVERSION APPEARS TO BE INCORRECT.
THE POINT OF DIVERSION APPEARS TO BE IN THE
SENE SW SEC 17 TWP 3S RGE 10E PARK COUNTY.

- Talia Munn, Nolan Zimmerman, and Vicki Zimmerman self-objected to claim 43B 7053-00.

- The United States of America, Department of Interior, Bureau of Land Management (“United States”) objected to claim 43B 143293-00. The United States based its objection on the legal description for portions of the place of use and points of diversion including federal land. The United States also generally referenced and incorporated the issue remarks into its objection.

PROCEDURAL BACKGROUND

The Court initially consolidated the claims in this case on August 13, 2024. The Court then put the case on a hearing track. Following various filings to update ownership and other matters, the parties filed a Joint Unopposed Motion to Modify Claims and Reconsolidate Claim 43B 7053-00 on August 8, 2025. (Doc. 37.00).

In addition to its other terms, the motion states the United States had informed the other parties that the proposed modifications to claim 43B 143293-00 would resolve the United States’ objection. Although the United States did not formally join the motion, it likewise did not file a response objecting to the motion.⁴ At the request of the Court, the parties filed supplemental information clarifying several items. (Docs. 42.00 and 43.00).

DISCUSSION

A. Motion Terms.

The primary issue in this case is resolution of the decree exceeded issue remark. All of the claims with April 6, 1882 priority dates received the remark because they all cite as their evidentiary basis a 120 miner’s inch (3.00 cfs) right decreed to T.O. and Eugene Carter in the district court case *Chris Jensen and Otto Truener v. Jerome Cobb, et al.*, Case 6130, Mont. Sixth Jud. Dist., Park County (Mar. 1, 1928). The irrigation claims based on the Carter decreed right total 2.5 cfs, which does not exceed the decreed right. However, the Department of Natural Resources and Conservation (“DNRC”) evidently assumed the unquantified stock water claim caused the decree exceeded issue because the claim does not have a multiple use remark, references multiple landowners,

⁴ On October 7, 2025, the Court issued a Statewide Order Continuing with Federal Parties, SWO-0001-WC-2025. The Court extended deadlines in cases with the United States as a party. As there are no pending deadlines in this case, the Statewide Order does not preclude the Court from issuing this Order.

and also is partially owned by Janet Bernthal and several other co-owners. Some of these parties also co-own irrigation claim 43B 143290-00, which has a more junior priority date of August 30, 1902.

Under the terms of the motion, the parties jointly propose to resolve the decree exceeded issue by asking the Court to modify the claims as follows:

- Add a multiple use remark to each of the irrigation claims with April 6, 1882 priority dates to reflect that stock use is not in addition to the decreed irrigation use, but instead is a multiple use of the same right;
- Add a multiple use remark to stock claim 43B 143293-00 indicating the claim is a multiple use of three irrigation claims with April 6, 1882 priority dates (claims 43B 6287-00, 43B 29061-00, and 43B 195253-00);
- Create an implied stock claim with an August 30, 1902 priority date based on claim 43B 143293-00, the irrigation claim with the same priority date. This stock claim would be limited to the same place of use (Lots 5, 6, 7, 8, 10, 11, 12, 13 and 14) as claim 43B 143293-00;
- Limit the point of diversion and means of diversion for claim 43B 143293-00 to only the Skillman-Carter Ditch, to mirror the other claims;
- Add a remark to claim 43B 143293-00 to indicate it only is used on private land;
- Reduce the places of use for the various abstracts so the place of use is limited to the parcels of property actually owned by the claim owners;
- Correct ownership to match place of use land descriptions;
- Correct claim 43B 195253-00 point of diversion land description to match that specified in the issue remark;
- Remove claim 43B 7053-00 from this case and reconsolidate it in a new case to resolve the objections of Robert S. Pappert.

B. Analysis and Conclusions.

The modifications set out in the motion address the decree exceeded issue by the combination of adding multiple use remarks and creating an implied stock water claim

with a more junior August 30, 1902 priority date, which mirrors the priority date for irrigation claim 43B 143290-00. As modified, the combined flow rate of the April 6, 1882 decreed rights (including the Munn/Zimmerman claim 43B 7053-00) is 2.5 cfs, which resolves the issue remark.

The motion also meets the standard to authorize an implied stock water claim with an August 30, 1902 priority date. The implied claim essentially is a split of claim 43B 143293-00, with the split portion allocated to the parties owning land within the place of use of irrigation claim 43B 143290-00, which also has an August 30, 1902 priority date. The implied claim is based on the same decreed right as forms the basis for claim 43B 143290-00, and more accurately reflects the two sets of multiple use rights without increasing the burden on the source.⁵ As such, it satisfies the Court's implied claim test. *In re Foss*, Case 76HF-580, 2013 Mont. Water LEXIS 17 (Jan. 31, 2023).

The remaining issue remarks also are resolved. No party asserts any unresolved objections to the claims remaining in this case. Likewise the modifications also respond to the legal land description concerns raised by the issue remark for claim 43B 195253-00 and the United States' objection to claim 43B 143293-00.

Finally, while sometimes claim reconsolidation results in piecemeal litigation, reconsolidating claims also can promote efficiency by avoiding having resolved claims languish while remaining issues for a single claim remain unresolved. Reconsolidating claim 43B 7053-00 into a new case to resolve the objection of Robert S. Pappert promotes such efficiency. Other than the flow rate, the issues raised by the Pappert objection do not overlap with the issues being resolved by the motion. The flow rate overlap can be resolved by limiting the flow rate to not more than 1.5 cfs, which no one seems to dispute.

ORDER

Therefore, it is ORDERED:

⁵ Because each irrigation right is owned separately, three separate multiple use remarks are included on claim 43B 143293-00, each specific to a specific irrigation right and the more extensive stock water right.

1. The Joint Unopposed Motion to Modify Claims and Reconsolidate Claim 43B 7053-00, as clarified, is GRANTED.

2. Claims are modified as provided in this Order, with all issue remarks removed and all objections resolved.

3. Implied claim 43B 30172118 is authorized based on claim 43B 143293-00, split as proposed, with an August 30, 1902 priority date.

4. Claim 43B 7053-00 is reconsolidated into case 43B-1294-R-2025, with the decree exceeded remark resolved; provided that no increase to the flow rate will be authorized.

Post-decree abstracts of the claims are included with this Order to confirm the modifications to the claims have been made in the State's centralized water rights record system.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service Via USPS Mail:

Potential Owner:

Dan J. Vollum
118 Suce Creek Rd
Livingston, MT 59047

Service Via Electronic Mail:

Christopher T. Scoones
Scoones Law PLLC
chris@scooneslaw.com
(Atty for Robert S. Pappert)

William C. Fanning
FANNING LAW PLLC
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becki@fanninglawpllc.com
(Atty for Nolan Zimmerman, Vicki
Zimmerman, Vicki C. Zimmerman, Talia
Munn)

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(Atty for Dorene Malanczuk, William
Malanczuk)

Breeann M. Johnson
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(Atty for Vollums, Kevin C. Knighton
Revocable Inter-Vivos Trust, Bernthals,
Reid,Schulein Coales, McKee Living Trust,
and Walkers)

Benjamin Sudduth
Sudduth Law, PLLC
benjamin@sudduthlaw.com
(Atty for Steens)

****Caption and Service List updated 10/29/25****

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

Water Right Number: 43B 6287-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners:

ANN VOLLUM
118 SUCE CREEK RD
LIVINGSTON, MT 59047

DAN J VOLLUM
118 SUCE CREEK RD
LIVINGSTON, MT 59047

THE MCKEE LIVING TRUST
PO BOX 180792
CORONADO, CA 92178-0792

Priority Date: APRIL 6, 1882

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 224.00 GPM

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: 21.50

Source Name: SUCE CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SE	17	3S	10E	PARK

Period of Diversion: APRIL 15 TO OCTOBER 1

Diversion Means: HEADGATE

Ditch Name: SKILLMAN-CARTER DITCH

Period of Use: APRIL 15 TO OCTOBER 1

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	21.50		NE	19	3S	10E	PARK
Total:	21.50						

THE PLACE OF USE FOR THIS RIGHT IS LIMITED TO LOT 9-A AND LOT 9-B, MINOR SUBDIVISION PLAT NO. 156, AS RECORDED WITH THE CLERK AND RECORDER OF PARK COUNTY, MONTANA.

Remarks:

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.

6287-00

143293-00

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

Water Right Number: 43B 29061-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: DORENE MALANCZUK
PO BOX 944
LIVINGSTON, MT 59047

WILLIAM MALANCZUK
PO BOX 944
LIVINGSTON, MT 59047

Priority Date: APRIL 6, 1882

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 224.00 GPM

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: 20.00

Source Name: SUCE 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		SENESEW	17	3S	10E	PARK

Period of Diversion: MAY 1 TO AUGUST 31

Diversion Means: HEADGATE

Ditch Name: SKILLMAN-CARTER DITCH

Period of Use: MAY 1 TO AUGUST 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	4.50		SENESE	19	3S	10E	PARK
2	15.50		NWNW	20	3S	10E	PARK
Total:	20.00						

THE PLACE OF USE FOR THIS RIGHT IS LIMITED TO LOT 4 OF C.O.S. 1590, 1714 AS RECORDED WITH THE CLERK AND RECORDER OF PARK COUNTY, MONTANA.

Remarks:

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.

29061-00

143293-00

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

Water Right Number: 43B 143290-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners:

JANET M BERNTHAL
PO BOX 1338
LIVINGSTON, MT 59047-1338

PETER A BERNTHAL
PO BOX 1338
LIVINGSTON, MT 59047-1338

CONNIE A COALE
34 SUCE CREEK TRAILHEAD
LIVINGSTON, MT 59047

STEPHEN L COALE
34 SUCE CREEK TRAILHEAD
LIVINGSTON, MT 59047

GENEVIEVE K REID
PO BOX 805
LIVINGSTON, MT 59047-0805

MARK SCHULEIN
PO BOX 805
LIVINGSTON, MT 59047-0805

LORELEI E STEEN
33138 SE BLUFF RD
BORING, OR 97009-9758

NICHOLAS J STEEN
216 WOODLAKE DR
GALLATIN, TN 37066

KNIGHTON KEVIN C REVOCABLE INTER-VIVOS TRUST
KEVIN C KNIGHTON TRUSTEE
22 SUCE CREEK TRAILHEAD
LIVINGSTON, MT 59047

Priority Date: AUGUST 30, 1902

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 2.28 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: 134.00
Source Name: SUCE 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		SENESW	17	3S	10E	PARK

Period of Diversion: APRIL 15 TO OCTOBER 15

Diversion Means: HEADGATE

Ditch Name: SKILLMAN-CARTER 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	6.00		NENWNW	20	3S	10E	PARK
2	6.00		SENWNW	20	3S	10E	PARK
3	10.00		SWNWNW	20	3S	10E	PARK
4	5.00		NWSWNW	20	3S	10E	PARK
5	8.00		SENE	19	3S	10E	PARK
6	7.00		SWNE	19	3S	10E	PARK
7	10.00		NESE	19	3S	10E	PARK
8	10.00		NESE	19	3S	10E	PARK
9	10.00		NWSE	19	3S	10E	PARK
10	9.00		SWSE	19	3S	10E	PARK
11	6.00		SESE	19	3S	10E	PARK
12	40.00		SWNE	19	3S	10E	PARK
13	7.00		N2NWSE	19	3S	10E	PARK

Total: 134.00

THE PLACE OF USE FOR THIS RIGHT IS LIMITED TO LOT 5 OF C.O.S. 1590 & 1714, LOT 6 OF C.O.S. 1714, LOT 7 OF C.O.S. 204 & 1540, AND LOTS 8, 11, 12,13 AND 14 OF C.O.S. 204, AS RECORDED WITH THE CLERK AND RECORDER OF PARK COUNTY, MONTANA.

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.

143290-00 143291-00 195253-00

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.

143290-00 30172118

IMPLIED CLAIM NO. 43B 30172118 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM.

THIS WATER RIGHT IS SUBJECT TO A PRIVATE AGREEMENT FILED ON 08/22/1990 AND AN ADDENDUM FILED ON 08/07/1991 LOCATED IN THE MASTER'S REPORT IN THE CLAIM FILE.

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

Water Right Number: 43B 143293-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners:

DORENE MALANCZUK
PO BOX 944
LIVINGSTON, MT 59047

WILLIAM MALANCZUK
PO BOX 944
LIVINGSTON, MT 59047

ANN VOLLUM
118 SUCE CREEK RD
LIVINGSTON, MT 59047

DAN J VOLLUM
118 SUCE CREEK RD
LIVINGSTON, MT 59047

ANGELA M WALKER
122 SUCE CREEK RD
LIVINGSTON, MT 59047

RICHARD B WALKER
122 SUCE CREEK RD
LIVINGSTON, MT 59047

THE MCKEE LIVING TRUST
PO BOX 180792
CORONADO, CA 92178-0792

Priority Date: APRIL 6, 1882

Type of Historical Right: DECREED

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: SUCE 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		SENESW	17	3S	10E	PARK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DITCH

Ditch Name: SKILLMAN-CARTER DITCH

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			E2	19	3S	10E	PARK
2			NWNW	20	3S	10E	PARK

THE PLACE OF USE FOR THIS RIGHT IS ENTIRELY ON PRIVATE LAND.

THE PLACE OF USE FOR THIS RIGHT IS LIMITED TO LOT 4 OF C.O.S. 1590 & 1714 AND LOTS 9-A AND 9-B OF MINOR SUBDIVISION PLAT NO. 156, AND LOT 10 OF C.O.S. 204 AS RECORDED WITH THE CLERK AND RECORDER OF PARK COUNTY, MONTANA.

Remarks:

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.

6287-00 143293-00

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.

29061-00 143293-00

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.

143293-00 195253-00

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

Water Right Number: 43B 195253-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: ANGELA M WALKER
122 SUCE CREEK RD
LIVINGSTON, MT 59047

RICHARD B WALKER
122 SUCE CREEK RD
LIVINGSTON, MT 59047

Priority Date: APRIL 6, 1882

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 224.00 GPM

*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: 20.35

*Source Name: SUCE CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SENESW	17	3S	10E	PARK

Period of Diversion: APRIL 15 TO SEPTEMBER 30

Diversion Means: HEADGATE

Ditch Name: SKILLMAN-CARTER DITCH

Period of Use: APRIL 15 TO SEPTEMBER 30

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	20.35	10	W2SWNE	19	3S	10E	PARK
Total:	20.35						

THE PLACE OF USE FOR THIS RIGHT IS LIMITED TO LOT 10 OF C.O.S. 204 AS RECORDED WITH THE CLERK AND RECORDER OF PARK COUNTY, MONTANA.

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.

143290-00 143291-00 195253-00

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.

143293-00 195253-00

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

Water Right Number: 43B 30172118 STATEMENT OF CLAIM

Version: 1 -- ORIGINAL RIGHT

Status: ACTIVE

Owners:

JANET M BERNTHAL
PO BOX 1338
LIVINGSTON, MT 59047-1338

PETER A BERNTHAL
PO BOX 1338
LIVINGSTON, MT 59047-1338

CONNIE A COALE
34 SUCE CREEK TRAILHEAD
LIVINGSTON, MT 59047

STEPHEN L COALE
34 SUCE CREEK TRAILHEAD
LIVINGSTON, MT 59047

GENEVIEVE K REID
PO BOX 805
LIVINGSTON, MT 59047-0805

MARK SCHULEIN
PO BOX 805
LIVINGSTON, MT 59047-0805

LORELEI E STEEN
33138 SE BLUFF RD
BORING, OR 97009-9758

NICHOLAS J STEEN
216 WOODLAKE DR
GALLATIN, TN 37066

KNIGHTON KEVIN C REVOCABLE INTER-VIVOS TRUST
KEVIN C KNIGHTON TRUSTEE
22 SUCE CREEK TRAILHEAD
LIVINGSTON, MT 59047

Priority Date: AUGUST 30, 1902

Type of Historical Right: DECREED

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: SUCE 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		SENE SW	17	3S	10E	PARK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DITCH

Ditch Name: SKILLMAN-CARTER DITCH

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			E2	19	3S	10E	PARK
2			N2W2W2	20	3S	10E	PARK

THE PLACE OF USE FOR THIS RIGHT IS ENTIRELY ON PRIVATE LAND.

THE PLACE OF USE FOR THIS RIGHT IS LIMITED TO LOT 5 OF C.O.S. 1590 & 1714, LOT 6 OF C.O.S. 1714, LOT 7 OF C.O.S. 204 & 1540, AND LOTS 8, 11, 12, 13 AND 14 OF C.O.S. 204 AS RECORDED WITH THE CLERK AND RECORDER OF MADISON COUNTY, MONTANA.

Remarks:

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.

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THIS IMPLIED CLAIM WAS AUTHORIZED BY THE WATER COURT BASED ON INFORMATION IN CLAIM NO. 43B 143293-00.