

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

CLAIMANT: Compton Ranch LLC

CASE 41E-0170-R-2024

41E 19269-00

41E 19283-00

41E 19285-00

NOTICE OF FILING OF MASTER'S REPORT

This Master’s Report was filed with the Montana Water Court on the above-stamped date.
Please review this report carefully.

You 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

Claim 41E 19269-00 appeared in the Preliminary Decree with the following issue remarks:

POINT OF DIVERSION NO. 1 APPEARS TO BE THE N2SW SEC 36 TWP 5N RGE 4W AND
POINT OF DIVERSION NO 2. APPEARS TO BE BETTER DESCRIBED BY THE N2SE SEC 36
TWP 5N RGE 4W JEFFERSON COUNTY.

THE CLAIMED SOURCE MAY BE QUESTIONABLE. BASED ON AVAILABLE DATA, THE SOURCE MAY BE SURFACE WATER FROM LOG GULCH.

Edward K. McCauley filed a notice of intent to appear for claim 41E 19269-00 and objected to claims 41E 19283-00 and 41E 19285-00. Donna J. Gilmer filed a notice of intent to appear for claim 41E 19285-00.

On October 8, 2025 Edward K. McCauley filed unconditional withdrawals of his objections and his notice of intent to appear [FCE Doc. 24]. On November 6, 2025 Compton Ranch LLC filed a Verified Motion To Amend ["Motion To Amend"] claims 41E 19283-00 and 41E 19285-00 pursuant to section 85-2-233(6), MCA [FCE Doc. 26]. Page 4 of the Motion To Amend states that Donna Gilmer opposes the Motion To Amend. The December 18, 2025 Order Setting Filing Deadline And Scheduling Conference set a filing deadline for the unaddressed issue remarks on claim 41E 19269-00, and set a scheduling conference to set the hearing of the Motion To Amend concerning claim 41E 19285-00 [FCE Doc. 27]. On December 31, 2025 Compton Ranch LLC filed its Statement Of No Issue With Issue Remarks ["Statement"] stating it agrees with the modifications detailed in the issue remarks on claim 41E 19269-00 [FCE Doc. 28]. The January 9, 2026 Court Minutes, Order Entering Default, and Order Granting Motion To Dismiss Notice Of Intent To Appear dismissed the Donna J. Gilmer notice of intent to appear for 41E 19285-00 due to her failure to appear at the scheduling conference to set the hearing of the Motion To Amend concerning claim 41E 19285-00 [FCE Doc. 30]. These documents are viewable in the Court's FullCourt Enterprise case management system.

APPLICABLE LAW

The Montana Water Court has jurisdiction to review a motion to amend pursuant to section 85-2-233(6), MCA.

Rule 15 M.R.Civ.P. restricts the scope of the amendments to the conduct, transaction, or occurrence set forth in the original pleading or, in other words, the "same set of operative facts as contained in the original pleading." *Sooy v. Petrolane Steel Gas, Inc.*, 218 Mont. 418, 422-423 (1985). The requested amendment "merely makes more specific that which has already been alleged." *Prentice Lumber Company v. Hukill*, 161 Mont. 8, 15, 504 P.2d 277, 281 (1972).

Notice must be published by newspaper if the requested amendments "may adversely affect other water rights." Section 85-2-233(6)(a)(i), MCA.

“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 amending their own claims. Rule 19, W.R.Adj.R.

FINDINGS OF FACT

1. Stock claim 41E 19269-00 appeared in the Preliminary Decree with the following issue remarks:

POINT OF DIVERSION NO. 1 APPEARS TO BE THE N2SW SEC 36 TWP 5N RGE 4W AND POINT OF DIVERSION NO 2. APPEARS TO BE BETTER DESCRIBED BY THE N2SE SEC 36 TWP 5N RGE 4W JEFFERSON COUNTY.

THE CLAIMED SOURCE MAY BE QUESTIONABLE. BASED ON AVAILABLE DATA, THE SOURCE MAY BE SURFACE WATER FROM LOG GULCH.

The Preliminary Decree states that the source is MULVEY GULCH. The source should be LOG GULCH. The source issue remark should be removed as addressed and resolved.

The Preliminary Decree includes points of diversion in the SENE section 36, T5N, R3W, JEFFERSON and in the NESE section 36, T5N, R4W, JEFFERSON. The Preliminary Decree includes places of use in the SENE section 31, T5N, R3W, JEFFERSON and in the NESE section 36, T5N, R4W, JEFFERSON. These legal descriptions should be changed to the N2SW section 36, T5N, R4W, JEFFERSON and the N2SE section 36, T5N, R4W, JEFFERSON. The point of diversion issue remark should be removed as addressed and resolved.

2. For claims 41E 19283-00 and 41E 19285-00, the changes requested in the Motion to Amend arise out of the same conduct, transaction, or occurrence specified on the original Statements of Claim, are based on the same operative facts specified in the Statements of Claim, and merely make more specific that which was already claimed on the original Statements of Claim.

3. For irrigation claim 41E 19283-00, the Preliminary Decree states that the maximum acres irrigated is 18.00 and the place of use is the NESE section 32, T5N, R3W, JEFFERSON.

The maximum acres irrigated should be 40.80 acres 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>
20.30	NESW	33	5N	3W	JEFFERSON
9.40	SWSE	33	5N	3W	JEFFERSON
7.70	NWSE	33	5N	3W	JEFFERSON
<u>3.40</u>	NENWSW	33	5N	3W	JEFFERSON
40.80					

The following remark should be added to the abstract of this claim noting the amendment:

THE MAXIMUM ACRES AND PLACE OF USE LEGAL DESCRIPTIONS WERE AMENDED BY THE WATER COURT PURSUANT TO SECTION 85-2-233(6), MCA.

4. For irrigation claim 41E 19285-00, the Preliminary Decree states that the maximum acres irrigated is 54.00 and the place of use is:

<u>ACRES</u>	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
28.00	NWSE	21	5N	3W	JEFFERSON
23.00	NESW	21	5N	3W	JEFFERSON
<u>3.00</u>	S2S2N2	21	5N	3W	JEFFERSON
54.00					

The maximum acres irrigated should be 70.00 acres 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>
35.00	NWSE	21	5N	3W	JEFFERSON
32.00	NESW	21	5N	3W	JEFFERSON
<u>3.00</u>	S2S2N2	21	5N	3W	JEFFERSON
70.00					

The following remark should be added to the abstract of this claim noting the amendment:

THE MAXIMUM ACRES AND PLACE OF USE LEGAL DESCRIPTIONS WERE AMENDED BY THE WATER COURT PURSUANT TO SECTION 85-2-233(6), MCA.

The Preliminary Decree also includes the following notice remark:

POINT OF DIVERSION AND DITCH NAME 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.

CONCLUSIONS OF LAW

1. For claims 41E 19283-00 and 41E 19285-00, the Edward K. McCauley objections to maximum acres and place of use are included on the October 16, 2023 Objection List for the Preliminary Decree.

The objection to 41E 19283-00 asserts that the maximum acres irrigated and place of use should be increased from 18.00 to 70.00 acres and includes a copy of a map from the 1956 Jefferson County Water Resource Survey [“WRS”] marked to locate the 70.00 acres. The Motion To Amend requests 40.80 acres irrigated and closely matches the place of use as marked on the WRS map attached to the objection. The Motion to Amend requested changes are similar to and less than what was already noticed via the Objection List.

The objection to 41E 19285-00 asserts that the maximum acres irrigated and place of use should be increased from 54.00 to 188.00 acres and includes a copy of a WRS map marked to locate the 188.00 acres. The Motion To Amend requests 70.00 acres irrigated and closely matches the place of use as marked on the WRS map attached to the objection. The Motion To Amend requested changes are similar to and are less than what was already noticed via the Objection List.

In this unique situation where detailed objections asserting increases in the maximum acres irrigated and place of use appeared on the Objection List and are the genesis for the proceedings on these two claims, additional notice for the maximum acres and place of use changes requested in the Motion To Amend is not needed. The notice requirements for a motion to amend claim specified in section 85-2-233(6), MCA, have been met.

2. Each of the requested amendment “merely makes more specific that which has already been alleged.” *Prentice Lumber Company v. Hukill*, 161 Mont. 8, 15, 504 P.2d 277, 281 (1972).

3. The Statement and the Motion To Amend are sufficient to contradict and overcome the prima facie claims as they appeared in the Preliminary Decree and to resolve the issue remarks without evidentiary hearing. Sections 85-2-248(3) and (11), MCA.

RECOMMENDATIONS

Based upon the above Findings of Fact and Conclusions of Law, this Master recommends that the Court grant the Motion To Amend and 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 Whyte
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POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
BOULDER RIVER, TRIBUTARY TO JEFFERSON RIVER
BASIN 41E

Water Right Number: 41E 19269-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

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

Priority Date: MAY 1, 1942

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 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: LOG GULCH

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		N2SW	36	5N	4W	JEFFERSON
Period of Diversion:	MAY 1 TO JULY 1					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
2		N2SE	36	5N	4W	JEFFERSON
Period of Diversion:	MAY 1 TO JULY 1					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
3		NESW	31	5N	3W	JEFFERSON
Period of Diversion:	MAY 1 TO JULY 1					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
4		NWSE	31	5N	3W	JEFFERSON
Period of Diversion:	MAY 1 TO JULY 1					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
5		SWNW	32	5N	3W	JEFFERSON
Period of Diversion:	MAY 1 TO JULY 1					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
6		NWNW	32	5N	3W	JEFFERSON
Period of Diversion:	MAY 1 TO JULY 1					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					

7 NWSW 31 5N 3W JEFFERSON

Period of Diversion: MAY 1 TO JULY 1

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Period of Use: MAY 1 TO JULY 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			N2SW	36	5N	4W	JEFFERSON
2			N2SE	36	5N	4W	JEFFERSON
3			NESW	31	5N	3W	JEFFERSON
4			NWSE	31	5N	3W	JEFFERSON
5			SWNW	32	5N	3W	JEFFERSON
6			NWNW	32	5N	3W	JEFFERSON
7			NWSW	31	5N	3W	JEFFERSON

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

Water Right Number: 41E 19283-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

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

Priority Date: OCTOBER 13, 1878

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 1.52 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: 40.80

Source Name: CLARK 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		SESWNE	32	5N	3W	JEFFERSON

Period of Diversion: MAY 1 TO SEPTEMBER 1

Diversion Means: DIKE

Period of Use: MAY 1 TO SEPTEMBER 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	20.30		NESW	33	5N	3W	JEFFERSON
2	9.40		SWSE	33	5N	3W	JEFFERSON
3	7.70		NWSE	33	5N	3W	JEFFERSON
4	3.40		NENWSW	33	5N	3W	JEFFERSON
Total:	40.80						

Remarks:

THE MAXIMUM ACRES AND PLACE OF USE WERE AMENDED BY THE WATER COURT PURSUANT TO SECTION 85-2-233(6), MCA.

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

Water Right Number: 41E 19285-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

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

Priority Date: APRIL 12, 1879

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 2.50 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: 70.00

Source Name: ELKHORN 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		SESWNW	22	5N	3W	JEFFERSON

Period of Diversion: MAY 15 TO OCTOBER 1

Diversion Means: HEADGATE

Ditch Name: EDWARD RYAN DITCH

Period of Use: MAY 15 TO OCTOBER 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	35.00		NWSE	21	5N	3W	JEFFERSON
2	32.00		NESW	21	5N	3W	JEFFERSON
3	3.00		S2S2N2	21	5N	3W	JEFFERSON

Total: 70.00

Remarks:

THE MAXIMUM ACRES AND PLACE OF USE WERE AMENDED BY THE WATER COURT PURSUANT TO SECTION 85-2-233(6), MCA.