

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

MONTANA WATER COURT
YELLOWSTONE DIVISION
YELLOWSTONE RIVER, FROM BRIDGER CREEK TO CLARKS FORK YELLOWSTONE
BASIN 43QJ
SECOND PRELIMINARY DECREE

* * * * *

CLAIMANT: Upper Keyser Creek Ranch Inc.

CASE 43QJ-0120-R-2025

43QJ 30139000
43QJ 30139002
43QJ 30139008
43QJ 30139009

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

Claims 43QJ 30139000 and 43QJ 30139002 each appeared in the Preliminary Decree with the following issue remark:

THE TYPE OF HISTORICAL RIGHT AND PRIORITY DATE MAY BE QUESTIONABLE. DOCUMENTATION TO SUPPORT THE TYPE OF HISTORICAL RIGHT AND PRIORITY DATE WAS NOT SUBMITTED WITH THIS CLAIM.

Claim 43QJ 30139008 appeared in the Preliminary Decree with the following issue remarks:

THE PRIORITY DATE MAY BE QUESTIONABLE. IT IS UNCLEAR WHETHER THE CLAIMED PRIORITY DATE IS 05/12/1896 OR 06/06/1896.

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

Claim 43QJ 30139009 appeared in the Preliminary Decree with the following issue remarks:

THE PRIORITY DATE MAY BE QUESTIONABLE. IT IS UNCLEAR WHETHER THE CLAIMED PRIORITY DATE IS 06/06/1896 OR 10/17/1916.

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

The issue remarks were not addressed through the objection process. The Water Court is required to resolve the issues raised by each issue remark. Section 85-2-248, MCA.

Under Section 85-2-248(3), MCA, information in the claim file or other information obtained by the Court can be reviewed to determine if it provides a sufficient basis to resolve the issue raised by a remark and the Court can provide the claimant an opportunity to file additional information or evidence.

The August 11, 2025 Order Consolidating Case and Order Setting Deadlines Pursuant To Section 85-2-248(5), MCA set filing deadlines for the Montana Department of Natural Resources and Conservation [“DNRC”] and the claimant. On November 17, 2025 the DNRC Memorandum was filed making recommendations to resolve the issue remarks. On December 9, 2025 the claimant filed a Notice Of Appearance And Statement Of Agreement With DNRC’s Recommendations. 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 85-2-222, 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 43QJ 30139000, the Second Preliminary Decree states that the priority date is JUNE 9, 1896 and the type of historical right is DECREED. The priority date does not require change. The type of historical right should be USE. The issue remark should be removed as addressed and resolved.

The Second Preliminary Decree includes the following notice remark:

THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 43QJ DECREE ISSUED 07/23/1985.

This remark should be removed as having served its notice purpose.

2. For claim 43QJ 30139002, the Second Preliminary Decree states that the priority date is JUNE 9, 1896 and the type of historical right is DECREED. The priority date does not require change. The type of historical right should be USE. The issue remark should be removed as addressed and resolved.

The Second Preliminary Decree includes the following notice remark:

THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 43QJ DECREE ISSUED 07/23/1985.

This remark should be removed as having served its notice purpose.

3. For claim 43QJ 30139008, the Second Preliminary Decree states that the priority date is MAY 21, 1915 and the type of historical right is DECREED. The priority date should be MAY 12, 1896. The type of historical right should be USE. The issue remarks should be removed as addressed and resolved.

The Second Preliminary Decree includes the following notice remark:

THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 43QJ DECREE ISSUED 07/23/1985.

This remark should be removed as having served its notice purpose.

4. For claim 43QJ 30139009, the Second Preliminary Decree states that the priority date is JUNE 9, 1896 and the type of historical right is DECREED. The priority date does not require change. The type of historical right should be USE. The issue remarks should be removed as addressed and resolved.

The Second Preliminary Decree includes the following notice remark:

THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 43QJ DECREE ISSUED 07/23/1985.

This remark should be removed as having served its notice purpose.

CONCLUSION OF LAW

The information provided by the DNRC and the claimant is sufficient to resolve the issue remarks 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 Second 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 USPS Mail:

(Last Order)
Upper Keyser Creek Ranch Inc.
795 Rapelje Rd
Columbus, MT 59019

Service Via Electronic Mail:

Madeleine C. Weisz
CROWLEY FLECK PLLP
mweisz@crowleyfleck.com
cspinelli@crowleyfleck.com
(Atty for: Upper Keyser Creek Ranch Inc.)

Note: Service List Updated 1/9/2026

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
YELLOWSTONE RIVER, FROM BRIDGER CREEK TO CLARKS FORK YELLOWSTONE
BASIN 43QJ

Water Right Number: **43QJ 30139000 STATEMENT OF CLAIM**

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: UPPER KEYSER CREEK RANCH INC
795 RAPELJE RD
COLUMBUS, MT 59019

Priority Date: JUNE 6, 1896

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:** SPRING, UNNAMED TRIBUTARY OF KEYSER CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SWNENW	31	1N	20E	STILLWATER

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:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1			SWNENW	31	1N	20E	STILLWATER

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
YELLOWSTONE RIVER, FROM BRIDGER CREEK TO CLARKS FORK YELLOWSTONE
BASIN 43QJ

Water Right Number: **43QJ 30139002 STATEMENT OF CLAIM**

Version: **2 -- POST DECREE**

Status: **ACTIVE**

Owners: **UPPER KEYSER CREEK RANCH INC
795 RAPELJE RD
COLUMBUS, MT 59019**

Priority Date: **JUNE 6, 1896**

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:** **SPRING, UNNAMED TRIBUTARY OF KEYSER CREEK**

Source Type: **SURFACE WATER**

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

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	3	SWSWNW	31	1N	20E	STILLWATER

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:**

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		3	SWSWNW	31	1N	20E	STILLWATER

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
YELLOWSTONE RIVER, FROM BRIDGER CREEK TO CLARKS FORK YELLOWSTONE
BASIN 43QJ

Water Right Number: **43QJ 30139008** STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: UPPER KEYSER CREEK RANCH INC
795 RAPELJE RD
COLUMBUS, MT 59019

Priority Date: MAY 12, 1896

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:** UNNAMED TRIBUTARY OF BERRY 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			35	1N	19E	STILLWATER

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

2		NW	1	1S	19E	STILLWATER
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Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

3		E2E2	2	1S	19E	STILLWATER
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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</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1				35	1N	19E	STILLWATER
2			NW	1	1S	19E	STILLWATER
3			E2E2	2	1S	19E	STILLWATER

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
YELLOWSTONE RIVER, FROM BRIDGER CREEK TO CLARKS FORK YELLOWSTONE
BASIN 43QJ

Water Right Number: **43QJ 30139009** STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: UPPER KEYSER CREEK RANCH INC
795 RAPELJE RD
COLUMBUS, MT 59019

Priority Date: JUNE 6, 1896

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: KEYSER CREEK

Source Type: SURFACE WATER

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

<u>ID</u>	<u>Govt Lot</u>	<u>Otr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SENE	26	1N	19E	STILLWATER
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
2			25	1N	19E	STILLWATER
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
3			31	1N	19E	STILLWATER
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>Otr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			SENE	26	1N	19E	STILLWATER
2				25	1N	19E	STILLWATER
3				31	1N	19E	STILLWATER