

Montana Water Court
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FILED
05/18/2026
Melissa Lockman
CLERK
Montana Water Court
STATE OF MONTANA
By: D'Ann CIGLER
43B-1042-R-2021
Stern, Anika
50.00

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

CLAIMANT: Mountain Sky Guest Ranch, LLC

OBJECTOR: United States, DOA Forest Service; Mountain
Sky Guest Ranch, LLC

NOTICE OF INTENT TO APPEAR: United States, DOA
Forest Service

CASE 43B-1042-R-2021

43B 23574-00

43B 194796-00

43B 194797-00

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

FINDINGS OF FACT

1. Mountain Sky Guest Ranch ("Mountain Sky") is the record owner of stock claim 43B 23574-00 and irrigation claims 43B 194796-00 and 43B 194797-00.

2. A Montana Department of Natural Resources and Conservation (“DNRC”) issue remark was decreed on claim 43B 194796-00:

CASE NO. 3028 , PARK COUNTY, DECREES THE FLOW RATE AS MEASURED AT THE PLACE OF USE. THE FLOW RATE AT THE POINT OF DIVERSION IS UNKNOWN.

3. The United States, DOA Forest Service (“Forest Service”) objected to claim 43B 23574-00; Mountain Sky objected to claims 43B 194796-00 and 43B 194797-00. The Forest Service filed Notices of Intent to Appear (“NOIA”) for claims 43B 194796-00 and 43B 194797-00.

4. The parties filed a Stipulation on April 24, 2026. (Doc.¹ 49.00).

5. The parties agree claim 43B 23574-00 should be dismissed.

6. The parties stipulated that the following modifications should be made to claim 43B 194796-00:²

Flow Rate: 1.00 CFS CMFI: THE FLOW RATE IS MEASURED AT A SECONDARY POINT OF DIVERSION LOCATED AT THE PLACE OF USE.

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	NWNE	NWSESW	36	25	5S	6E GALLATIN

Please add secondary POD:

E2SE 9 6S 7E PARK

Period of Diversion: APRIL 15 TO OCTOBER 15

Diversion Means: PIPELINE

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	25.80	2.00	S2SW	NWNWSE	10	6S	7E PARK
2	39.70	10.00	N2SW	SWNWSE	10	6S	7E PARK
3	18.70	1.50	W2S2SE	SENWSE	10	6S	7E PARK
4	1.50			NESWSE	10	6S	7E PARK
5	5.00			NWSWSE	10	6S	7E PARK
6	2.50			NENESW	10	6S	7E PARK
7	4.00			NWNESW	10	6S	7E PARK
8	10.00			SWNESW	10	6S	7E PARK
9	7.00			SENESW	10	6S	7E PARK
10	4.00			NENWSW	10	6S	7E PARK
11	0.00			NWNWSW	10	6S	7E PARK
12	7.00			SWNWSW	10	6S	7E PARK
13	10.00			SENWSW	10	6S	7E PARK

¹ “Doc.” numerical references correlate to case file docket numbers in the Water Court’s Full Court case management system.

² The Stipulation places the secondary point of diversion in Gallatin County. Based on the legal land description, the secondary point of diversion is in Park County. If the parties disagree, they should object to this Master’s Report.

14	3.30	NESWSW	10	6S	7E	PARK
15	0.20	NWSWSW	10	6S	7E	PARK
16	5.00	SWSWSW	10	6S	7E	PARK
17	4.00	SESWSW	10	6S	7E	PARK
18	5.00	NWSESW	10	6S	7E	PARK
19	3.00	NESESE	9	6S	7E	PARK
Total:						87.20

7. The parties stipulated that the following modifications should be made to claim 43B 194797-00:

Flow Rate: 1.00 CFS CMFI: THE FLOW RATE IS MEASURED AT A SECONDARY POINT OF DIVERSION LOCATED AT THE PLACE OF USE.

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County	
1	NWNE	NWSESW	36	25	5S	6E	GALLATIN

Please add secondary POD:
 E2SE 9 6S 7E PARK
 Period of Diversion: APRIL 15 TO OCTOBER 15
 Diversion Means: PIPELINE

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	3.00		NESESE	9	6S	7E	PARK
2	25.80	S2SW	NWNWSE	10	6S	7E	PARK
3	39.70	N2SW	SENWSE	10	6S	7E	PARK
4	18.70	W2S2SE	SWNWSE	10	6S	7E	PARK
5	1.50		NESWSE	10	6S	7E	PARK
6	5.00		NWSWSE	10	6S	7E	PARK
7	2.50		NENESW	10	6S	7E	PARK
8	4.80		NWNESW	10	6S	7E	PARK
9	7.80		SENESW	10	6S	7E	PARK
10	10.00		SWNESW	10	6S	7E	PARK
11	4.00		NENWSW	10	6S	7E	PARK
12	0.80		NWNWSW	10	6S	7E	PARK
13	10.00		SENWSW	10	6S	7E	PARK
14	7.00		SWNWSW	10	6S	7E	PARK
15	5.00		NWSESW	10	6S	7E	PARK
16	3.30		NESWSW	10	6S	7E	PARK
17	0.20		NWSWSW	10	6S	7E	PARK
18	4.00		SESWSW	10	6S	7E	PARK
19	5.00		SWSWSW	10	6S	7E	PARK
Total:							87.20

PRINCIPLES OF LAW

1. A properly filed Statement of Claim for an existing water right is prima facie proof of its content. Mont. Code Ann. § 85-2-227 (2025); Rule 10, W.R.Adj.R.
2. Prima facie proof may be contradicted and overcome by a preponderance of the evidence. Rule 19, W.R.Adj.R.
3. A preponderance of the evidence is evidence that shows a fact is “more probable than not.” *Hohenlohe v. State*, 2010 MT 203, ¶ 33, 357 Mont. 438, 240 P.3d 628.

4. Section 85-2-248(2), MCA, requires that the Water Court resolve all issue remarks that are not resolved through the objection process. *See also* Rule 7, W.R.Adj.R.

CONCLUSION OF LAW

The parties agree that if claim 43B 23574-00 is dismissed and if the modifications described in Findings of Fact Nos. 6 and 7 are made to claims 43B 194796-00 and 43B 194797-00 the Objections to the claims in this Case will be resolved and the NOIA concerns will be addressed.

RECOMMENDATIONS

1. Claim 43B 23574-00 should be dismissed.
2. Claims 43B 194796-00 and 43B 194797-00 should be modified as described in Findings of Facts Nos. 6 and 7.

2. The issue remarks should be removed from claim 43B 194796-00.
Post decree abstracts are enclosed.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via Electronic Mail:

Romney S. Philpott, Trial Attorney
US Department of Justice
Romney.philpott@usdoj.gov
Montanabasins.enrd@usdoj.gov
(Atty for: United States, DOA Forest Service))

Peter G. Scott
Peter G. Scott, Law Offices, PLLC
peter@scott-law.com
office@scott-law.com
(Atty for: Mountain Sky Guest Ranch, LLC)

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

Water Right Number: 43B 23574-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: **DISMISSED**

Owners: MOUNTAIN SKY GUEST RANCH LLC
% DMS NATURAL RESOURCES LLC
602 S FERGUSON AVE STE 2
BOZEMAN, MT 59718-6483

Priority Date:

Type of Historical Right:

Purpose (Use): STOCK

Flow Rate:

Volume:

Source Name: HYALITE 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 194796-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: MOUNTAIN SKY GUEST RANCH LLC
% DMS NATURAL RESOURCES LLC
602 S FERGUSON AVE STE 2
BOZEMAN, MT 59718-6483

Priority Date: MAY 6, 1898

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 1.00 CFS

THE FLOW RATE IS MEASURED AT A SECONDARY POINT OF DIVERSION LOCATED AT THE PLACE OF USE.

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: 87.20

Source Name: UNNAMED TRIBUTARY OF HYALITE CREEK

Source Type: GROUNDWATER

Source Name: UNNAMED TRIBUTARY OF HYALITE 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		NWNE	36	5S	6E	GALLATIN

Source Name: UNNAMED TRIBUTARY OF HYALITE CREEK

Period of Diversion: APRIL 15 TO OCTOBER 15

Diversion Means: HEADGATE

2 - SECONDARY		E2SE	9	6S	7E	PARK
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Source Name: UNNAMED TRIBUTARY OF HYALITE CREEK

Period of Diversion: APRIL 15 TO OCTOBER 15

Diversion Means: PIPELINE

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	25.80		S2SW	10	6S	7E	PARK
2	39.70		N2SW	10	6S	7E	PARK
3	18.70		W2S2SE	10	6S	7E	PARK

4	<u>3.00</u>	NESESE	9	6S	7E	PARK
Total:	87.20					

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.

194796-00 194797-00 194798-00 194799-00

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

Water Right Number: 43B 194797-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: MOUNTAIN SKY GUEST RANCH LLC
% DMS NATURAL RESOURCES LLC
602 S FERGUSON AVE STE 2
BOZEMAN, MT 59718-6483

Priority Date: MAY 1, 1900

Type of Historical Right: USE

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 1.00 CFS

THE FLOW RATE IS MEASURED AT A SECONDARY POINT OF DIVERSION LOCATED AT THE PLACE OF USE.

***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: 87.20

Source Name: UNNAMED TRIBUTARY OF HYALITE 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		NWNE	36	5S	6E	GALLATIN

Period of Diversion: MAY 15 TO JULY 15

Diversion Means: HEADGATE

2 - SECONDARY		E2SE	9	6S	7E	PARK
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Period of Diversion: APRIL 15 TO OCTOBER 15

Diversion Means: PIPELINE

Period of Use: MAY 15 TO JULY 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	3.00		NESESE	9	6S	7E	PARK
2	25.80		S2SW	10	6S	7E	PARK
3	39.70		N2SW	10	6S	7E	PARK
4	18.70		W2S2SE	10	6S	7E	PARK

Total: 87.20

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.

194796-00

194797-00

194798-00

194799-00