

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

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CLAIMANT: McKeith Ranch Partnership

OBJECTOR: United States, DOI Bureau of Reclamation

**CASE 43QJ-0135-R-2025**

43QJ 12141-00

43QJ 12142-00

**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

The United States, DOI Bureau of Reclamation ["BOR"] objected to each of these claims. Each of these claims appeared in the Second Preliminary Decree with the following issue remark:

THE TYPE OF HISTORICAL RIGHT, PRIORITY DATE, AND FLOW RATE MAY BE QUESTIONABLE. THE CLAIMS FOLLOWING THIS STATEMENT USE THE SAME FILED APPROPRIATION TO DOCUMENT THE RIGHT. THE COMBINED FLOW RATE FOR THIS GROUP OF CLAIMS EXCEEDS THE TOTAL OF THE ORIGINAL APPROPRIATION. 43QJ 12141-00 & 43QJ 12142-00.

On October 23, 2025, McKeith Ranch Partnership filed a Status Report And Motion To Amend Addressing Issue Remarks, stating that both irrigation claims are for the same appropriation and requesting addition of a remark to each stating that the combined flow rate cannot exceed the original appropriation. [Doc. 6] On January 30, 2026, the parties filed a Stipulation To Resolve Objections stating that the BOR does not oppose the addition of the flow rate remark and requesting changes to the maximum acres irrigated and place of use for claim 43QJ 12141-00. There are no changes requested for the elements of claim 43QJ 12142-00.

In the course of drafting the Master's Report, the Court realized the claims could be combined into a single claim for the same right. On March 20, 2026 the Order Setting Filing Deadline [Doc. 11] was issued which states:

The Motion clarifies that both of these irrigation claims are for the same Nelson, Hodgkins, and Thompson filed right diverted from the Yellowstone River by the same pump. The only difference between the two claims is the place of use and maximum acres irrigated. Rather than two claims for the same right, for the same purpose, it appears these two claims should be combined into a single claim including the place of use/maximum acres for 43QJ 12141-00 (as modified by the Stipulation) and the place of use/maximum acres for 43QJ 12142-00, for a total of 151 acres irrigated in sections 30 and 31, T1S, R18E, STILLWATER. Therefore, it is

ORDERED that the deadline is **April 15, 2026** for filing a response *opposing* the above suggestion. If no response is filed, the Court will proceed with combining the two claims into a single claim.

No responses were filed. 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 85-2-227, 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 objecting to their own claims. Rule 19, W.R.Adj.R.

FINDINGS OF FACT

1. Claims 43QJ 12141-00 and 43QJ 12142-00 should be combined into a single claim, using claim number 43QJ 12141-00. Claim 43QJ 12142-00 should be dismissed. The issue remark should be removed as addressed and resolved.

2. For claim 43QJ 12141-00, the Second Preliminary Decree states that the maximum acres irrigated is 75.00 acres and the place of use is:

<u>ACRES</u>	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
20.00	NENW	31	1S	18E	STILLWATER
50.00	NWNW	31	1S	18E	STILLWATER
<u>5.00</u>	SESESW	30	1S	18E	STILLWATER
75.00					

The place of use should be:

<u>ACRES</u>	<u>GOVT LOT</u>	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
29.00		NENW	31	1S	18E	STILLWATER
25.00	2	NWNW	31	1S	18E	STILLWATER
2.00	8	SESESW	30	1S	18E	STILLWATER
65.00		SE	30	1S	18E	STILLWATER
<u>30.00</u>		NE	31	1S	18E	STILLWATER
151.00						

CONCLUSION OF LAW

The settlement filed by the parties is sufficient to contradict and overcome the prima facie claim and to resolve the issue remark without evidentiary hearing. Section 85-2-248(3), (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 Electronic Mail:**

Mark J. Widerschein, Trial Attorney  
US Dept of Justice, ENRD-NRS  
mark.widerschein@usdoj.gov  
montanabasins.enrd@usdoj.gov  
*(Atty for: United States, DOI Bureau of Reclamation)*

Renee L. Coppock  
Madeleine C. Weisz  
Crowley Fleck PLLP  
rcoppock@crowleyfleck.com  
jbonvillain@crowleyfleck.com  
mweisz@crowleyfleck.com  
cspinelli@crowleyfleck.com  
*(Atty for: McKeith Ranch Partnership)*

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM**

**YELLOWSTONE RIVER, FROM BRIDGER CREEK TO CLARKS FORK YELLOWSTONE  
BASIN 43QJ**

**Water Right Number:** 43QJ 12141-00 STATEMENT OF CLAIM  
**Version:** 3 -- POST DECREE  
**Status:** ACTIVE

**Owners:** MCKEITH RANCH PRTNRSHIP  
814 SPRINGTIME RD  
REED POINT, MT 59069-7912

**Priority Date:** OCTOBER 23, 1893

**Type of Historical Right:** FILED

**Purpose (Use):** IRRIGATION

**Irrigation Type:** FLOOD

**Flow Rate:** 14.50 CFS

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

**Climatic Area:** 2 - MODERATELY HIGH

**Maximum Acres:** 151.00

**Source Name:** YELLOWSTONE RIVER

**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		SESESW	30	1S	18E	STILLWATER

**Period of Diversion:** MARCH 1 TO NOVEMBER 15

**Diversion Means:** PUMP

**Period of Use:** MARCH 1 TO NOVEMBER 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	29.00		NENW	31	1S	18E	STILLWATER
2	25.00	2	NWNW	31	1S	18E	STILLWATER
3	2.00	8	SESESW	30	1S	18E	STILLWATER
4	65.00		SE	30	1S	18E	STILLWATER
5	30.00		NE	31	1S	18E	STILLWATER

**Total:** 151.00

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

**Water Right Number:** 43QJ 12142-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** **DISMISSED**

**Owners:** MCKEITH RANCH PRTNRSHIP  
814 SPRINGTIME RD  
REED POINT, MT 59069-7912

**Priority Date:**

**Type of Historical Right:**

**Purpose (Use):** IRRIGATION

**Flow Rate:**

**Volume:**

**Source Name:** YELLOWSTONE RIVER

**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.