

IN THE WATER COURT OF THE STATE OF MONTANA  
YELLOWSTONE DIVISION  
BOX ELDER CREEK BASIN (39E)  
PRELIMINARY DECREE

\*\*\*\*\*

CLAIMANT: Keith Ranch Co.

**CASE 39E-0141-R-2022**

39E 172917-00  
39E 172918-00  
39E 172919-00

**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 may file a written objection to this Master's Report within **10 days** of the stamped date if you disagree or find errors with the Master's findings of fact, conclusions of law, or recommendations. Rule 23, W.R.Adj.R. If the Master's Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. 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. The above-captioned claims appeared in the Preliminary Decree for Box Elder Creek (Basin 39E) with issue remarks.

2. On June 6, 2022, the above-captioned claims were consolidated into Water Court Case 39E-0141-R-2022, and an order was issued notifying the Bureau of Land Management of their potential ownership interest in claim 39E 172918-00 and setting a filing deadline if the potential owner wanted to pursue a remedy other than updating ownership. The order stated that “[I]f nothing is filed by the deadline the issue remarks will be removed from the claims”. Nothing was filed in response to the Order.

3. Pursuant to the Order, the issue remark should be removed from the claim.

4. The remaining issue remarks do not raise unresolved issues nor require additional information to be resolved. The remarks have served their purpose and should be removed.

### **PRINCIPLES OF LAW**

1. The Montana Water Court has the authority to determine the extent of all water rights in the state as they existed prior to July 1, 1973. *Fellows v. Saylor*, 2016 MT 45, ¶ 25, 382 Mont. 298, 367 P.3d 732; §§ 85-2-233, -102(12), MCA.

2. If a claimant, objector, or intervenor fails to appear at a scheduled conference or hearing, or fails to comply with an order issued by the water court, the water court, upon motion, or its own initiative, may issue such orders of sanction with regard thereto as are just. Rule 22, W.R.Adj.R. Sanctions applied against claimants may include termination of the water right claim. Rule 22, W.R.Adj.R.

3. Active participation by water users, especially claimants, is imperative for the accuracy of the statewide adjudication effort. *In re Korman*, 2014 Mont. Water LEXIS 17, \*6. Further, “[t]he time required to process these cases is extended substantially when litigants do not comply with deadlines imposed by the Court.” *Huntsman v. Huntsman Ranch Co.*, 2015 Mont. Water LEXIS 2, \*6. It is within the power of this Court to terminate a water right claim if a claimant fails to participate. Rule 22. W.R.Adj.R.

### **CONCLUSION OF LAW**

1. The ownership issue remark has been resolved. The remaining remarks were notice type remarks that have fulfilled their purpose and should be removed.

## RECOMMENDATION

1. The issue remarks should be removed from the claims.

Post Decree Abstracts of Water Right Claims are attached to this Master's Report for review.

---

Nathan Block  
Senior Water Master

### **Service via USPS Mail:**

Keith Ranch Co.  
221 Keith Lane  
Ekalaka, MT 59324

### ***Potential Owner:***

United States of America  
DOI Bureau of Land Management  
5001 Southgate Drive  
Billings, MT 59101-4669

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
BOXELDER CREEK  
BASIN 39E**

**Water Right Number:** 39E 172917-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** KEITH RANCH CO  
221 KEITH LN  
EKALAKA, MT 59324

**Priority Date:** DECEMBER 31, 1908

**Type of Historical Right:** USE

**Purpose (use):** STOCK

**Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. 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:** UNNAMED TRIBUTARY OF CABIN 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		SWNWNE	2	3S	56E	CARTER

**Period of Diversion:** MAY 1 TO OCTOBER 31

**Diversion Means:** DAM

**Reservoir:** ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SWNWNE	2	3S	56E	CARTER

**Diversion to Reservoir:** DIVERSION # 1

**Period of Use:** MAY 1 TO OCTOBER 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			SWNWNE	2	3S	56E	CARTER
2			NESWNE	2	3S	56E	CARTER

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
BOXELDER CREEK  
BASIN 39E**

**Water Right Number:** 39E 172918-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** KEITH RANCH CO  
221 KEITH LN  
EKALAKA, MT 59324

**Priority Date:** DECEMBER 31, 1950

**Type of Historical Right:** USE

**Purpose (use):** STOCK

**Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. 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:** UNNAMED TRIBUTARY OF CABIN 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		SWSWNW	1	3S	56E	CARTER

**Period of Diversion:** MAY 1 TO OCTOBER 15

**Diversion Means:** DAM

**Reservoir:** ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SWSWNW	1	3S	56E	CARTER

**Diversion to Reservoir:** DIVERSION # 1

**Dam Height:** 8.00 FEET

**Depth:** 5.00 FEET

**Surface Area:** 11.30 ACRES

**Capacity:** 22.60 ACRE-FEET

**Period of Use:** MAY 1 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			S2SWNW	1	3S	56E	CARTER
2			NENWSW	1	3S	56E	CARTER

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
BOXELDER CREEK  
BASIN 39E**

**Water Right Number:** 39E 172919-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:** KEITH RANCH CO  
221 KEITH LN  
EKALAKA, MT 59324

**Priority Date:** DECEMBER 31, 1964

**Type of Historical Right:** USE

**Purpose (use):** STOCK

**Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. 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:** UNNAMED TRIBUTARY OF CABIN 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		NESENW	11	3S	56E	CARTER

**Period of Diversion:** MAY 1 TO OCTOBER 31

**Diversion Means:** DAM

**Reservoir:** ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NESENW	11	3S	56E	CARTER

**Diversion to Reservoir:** DIVERSION # 1

**Period of Use:** MAY 1 TO OCTOBER 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			NESWNW	11	3S	56E	CARTER