

Montana Water Court
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IN THE WATER COURT OF THE STATE OF MONTANA
LOWER MISSOURI DIVISION
JUDITH RIVER BASIN (41S)
PRELIMINARY DECREE

CLAIMANT: East Fork Holdings, LLC

CASE 41S-0828-R-2024
41S 123636-00

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. East Fork Holdings LLC (East Fork) is the record owner of stock water claim 41S 123636-00.

2. On January 12, 1988, then-owner Lewis Ranch Inc. filed a late objection to claim 41S 123636-00, indicating the following:

*change POD from NW NW NW Sec. 1, T12N, R19E to Lot 3 Sec. 1, T12N, R19E
change POD from NW NW NW Sec. 1, T12N, R19E to Lot 4 Sec. 1, T12N, R19E.*

3. Because the objection was several years overdue, a DNRC issue remark was added to claim 41S 123636-00 to ensure the late objection could be addressed during the Preliminary Decree in Basin 41S. The Preliminary Decree was issued on August 18, 2022. Claim 41S 123636-00 was decreed with the following DNRC issue remarks:

LEWIS RANCH, INC. FILED A LATE OBJECTION TO THE PLACE OF USE AND POINT OF DIVERSION. THIS WILL BE HEARD AFTER PROPER NOTICE ON THE NEXT OBJECTION LIST.

All issue remarks must be addressed.

4. An Order was issued setting a deadline for an authorized representative of Lewis Ranch Inc. to indicate whether it will pursue the late Objection to claim 41S 123636-00. (Doc.¹ 1.00). The Order indicated that if nothing were filed by the deadline, this Water Master would conclude that Lewis Ranch Inc. does not intend to pursue the late Objection and this Water Master will recommend its dismissal in the Master's Report. The Order also included this language:

Failure to comply with the terms of this Order may result in sanctions, up to and including entry of default and termination of a water right claim or dismissal of objections. Rule 22, W.R.Adj.R.

Nothing was filed by the deadline.

¹ "Doc." numerical references correlate to case file docket numbers in the Water Court's Full Court case management system.

PRINCIPLES AND CONCLUSIONS OF LAW

1. The Water Court must address all issue remarks that appear on a claim as well as any objections the claim receives. Sections 85-2-233, 85-2-247, and 85-2-248, MCA.

2. Late Objector Lewis Ranch Inc. did not respond to the June 10, 2024 Order Consolidating, Order on Status of Case, and Order Setting Filing Deadline. Lewis Ranch Inc.'s late Objection should be dismissed for failure to prosecute.

RECOMMENDATIONS

1. The late Objection filed by Lewis Ranch Inc. should be dismissed.

2. The issue remark should be removed from claim 41S 123636-00.

Post Decree Abstracts of Water Right Claims are served with the Report for review.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

East Fork Holdings, LLC
109 Royal Palm Way
Palm Beach, FL 33480-4249

(Late Objector)
Lewis Ranch, Inc.
PO Box 204
Lavina, MT 59046

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
JUDITH RIVER
BASIN 41S

Water Right Number: 41S 123636-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: EAST FORK HOLDINGS LLC
109 ROYAL PALM WAY
PALM BEACH, FL 33480-4249

Priority Date: DECEMBER 31, 1920

Type of Historical Right: FILED

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: SPRING, UNNAMED TRIBUTARY OF BIG SPRING CREEK, EAST FORK

Source Type: GROUNDWATER

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 | | NWNWNW | 1 | 12N | 19E | FERGUS |

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: FLOWING

Period of Use: JANUARY 1 TO DECEMBER 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 | | | NWNWNW | 1 | 12N | 19E | FERGUS |