

Montana Water Court
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IN THE WATER COURT OF THE STATE OF MONTANA
LOWER MISSOURI DIVISION
MILK RIVER BELOW WHITEWATER CREEK INCLUDING PORCUPINE CREEK
(BASIN 400)
INTERLOCUTORY DECREE

CLAIMANT: Buggy Creek Livestock LLLP

CASE 400-0003-I-2024

400 30136628

400 30136630

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, conclusion 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 to be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must mail 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

These two claims each appeared in the Interlocutory Decree with the following remarks:

THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 400 DECREE ISSUED 05/24/1995.

THE OWNERSHIP OF THIS RIGHT MAY BE QUESTIONABLE. PART OF THE PLACE OF USE APPEARS TO BE ON STATE LAND.

On March 25, 2024 the State of Montana, State Board of Land Commissioners, Trust Land Management Division filed a Sworn Statement Of Non-Interest for each claim stating that it “claims no interest in this water right claim.” The Sworn Statements are viewable in the scanned documents for each claim in the state's centralized record 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. For both claims, the first remark provides notice that the claim was not included in the Preliminary Decree. The remark does not raise an unresolved issue which needs to be addressed. There are no proceedings required for this remark. The remark should be removed as having served its notice purpose.

2. For both claims, the second remark is addressed and resolved by its Sworn Statement Of Non-Interest. The remark should be removed as addressed and resolved.

CONCLUSION OF LAW

The Sworn Statements of Non-Interest are sufficient to resolve the issue remarks without evidentiary hearing. Sections 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 Interlocutory 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

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POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MILK RIVER, BELOW WHITEWATER INCLUDING PORCUPINE CREEK
BASIN 400

Water Right Number: 400 30136628 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: BUGGY CREEK LIVESTOCK LLLP
PO BOX 1
GLASGOW, MT 59230

Priority Date: DECEMBER 31, 1892

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 PORCUPINE 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		SENE	4	31N	40E	VALLEY
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						
2		W2SE	3	31N	40E	VALLEY
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						
3		SENE	10	31N	40E	VALLEY
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						
4		NESE	10	31N	40E	VALLEY
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			SENE	4	31N	40E	VALLEY
2			W2SE	3	31N	40E	VALLEY
3			SENE	10	31N	40E	VALLEY
4			NESE	10	31N	40E	VALLEY

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MILK RIVER, BELOW WHITEWATER INCLUDING PORCUPINE CREEK
BASIN 400

Water Right Number: 400 30136630 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: BUGGY CREEK LIVESTOCK LLLP
PO BOX 1
GLASGOW, MT 59230

Priority Date: DECEMBER 31, 1892

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 CHERRY 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		W2SE	8	31N	40E	VALLEY

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 Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			W2SE	8	31N	40E	VALLEY