

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

CLAIMANTS: Gwendolyn V. Cornwell	400 30134575	400 30136086	400 30136633
Living Trust; Antelope	400 30134597	400 30136136	400 30136644
Ranch Inc.; Cornwell	400 30134598	400 30136138	400 30136648
Ranch; Madylon	400 30134600	400 30136143	400 30136650
Cornwell; Miles Lee	400 30134601	400 30136144	400 30136655
Cornwell; Buggy Creek	400 30134602	400 30136145	400 30136656
Livestock LLLP	400 30134608	400 30136576	400 30137029
	400 30134611	400 30136577	400 30137032
	400 30134612	400 30136579	400 30137036
	400 30135281	400 30136580	400 30137038
	400 30135293	400 30136581	400 30137040
	400 30136082	400 30136588	400 30137766
	400 30136083	400 30136592	400 30137770
	400 30136084	400 30136623	400 30137772
	400 30136085	400 30136625	400 30137775

ORDER REJECTING LATE OBJECTIONS

The deadline for filing objections in the 400 Interlocutory Decree for the Milk River Basin, Below Whitewater Creek including Porcupine Creek was July 9, 2024. Objections were filed against the above-captioned claims on July 10, 2024.

Objection deadlines are established by statute:

Objections must be filed with the water judge within 180 days after entry of the temporary preliminary decree, preliminary decree, or supplemental preliminary decree.

Section 85-2-233(2), MCA. The Water Right Claim Adjudication Rules also address objections. Rule 5(c) states:

Rule 5(c). Filing of objection. *Objections must be filed within 180 days after entry of the decree.* The water judge may, for good cause shown, extend this time limit up to two additional 90-day periods if application for an extension is made prior to the expiration of the original 180-day period or any extension of it. Section 85-2-233(2), MCA.

Rule 5(c), W.R.Adj.R. (emphasis added).

Water users in the 400 Basin have had multiple opportunities to participate in the adjudication of their water rights and water rights held by their neighbors. The Water Court has issued two decrees for the 400 Basin, both of which included the opportunity to file objections and notices of intent to appear. The first decree was issued on May 24, 1995. The water rights in the first decree and the objections thereto were addressed by the Water Court. This second decree was issued January 11, 2024. All water users in the basin were given another opportunity to file objections and can still file notices of intent to appear. Water users in the 400 Basin have had multiple chances to participate in adjudication of their water rights for approximately thirty years.

In some cases, the Water Court has heard late-filed objections when those objections have been received after the publication of a first decree in basins where two decrees are contemplated. Here, however, two decrees have been issued. Two objection periods have been provided, and both have passed. The next step in the adjudication of this basin is resolution of timely-filed objections and publication of a Final Decree. Acceptance of late objections would not only run afoul of the clear limits of Section 85-2-233(2), MCA, but would also indefinitely delay issuance of final decrees and work a disservice on claimants who rightly expect a timely end to the adjudication process. It would also send a message to other potential objectors that the timing of their objections is unimportant. Finally, it would deprive claimants of their statutory right to file counterobjections pursuant to Section 85-2-233(3), MCA.

The July 10, 2024 Objections were not timely filed and therefore it is

ORDERED that the July 10, 2024 Objections to the above-captioned claims filed by Gwendolyn V. Cornwell Living Trust, Antelope Ranch, Cornwell Ranch, Miles Lee

Cornwell, Madylon Cornwell, and Buggy Creek Livestock LLLP, will not be considered by the Water Court.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service Via Electronic Mail:

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