

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 40O)
INTERLOCUTORY DECREE

* * * * *

CLAIMANTS: Carroll MT Properties LLC; Carroll Family Ltd Partnership

CASE 40O-0075-I-2024

OBJECTORS: Carroll MT Properties LLC; United States of America
(Bureau of Land Management)

40O 30125042

40O 30125247

40O 30125249

40O 30125250

40O 30127222

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

Carroll MT Properties LLC and the United States of America (Bureau of Land Management) objected to each of these claims. Claims 400 30125042, 400 30125247, and 400 30125250 each appeared in the Interlocutory Decree with the following issue remark:

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

Claim 400 30125249 appeared in the Interlocutory Decree with the following issue remark:

THE CLAIMED PRIORITY DATE MAY BE QUESTIONABLE. THE PRIORITY DATE ON THE SUBMITTED PATENT DEED IS MAY 10, 1919.

On April 17, 2025 the parties filed a Stipulation To Resolve Objections. On June 20, 2025 Claimants Carroll MT Properties LLC And Carroll Family LTD Partnership's Filing Of Information To Resolve Issue Remark On Claim 400 30125249 was 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. For claims 400 30125042, 400 30125247, 400 30125249, and 400 30125250, the following clarification remark should be added:

ALL OR PART OF THE PLACE OF USE CONSISTS OF FEDERAL PUBLIC LANDS. THE WATER RIGHT USED ON THE PUBLIC LANDS IS APPURTENANT TO THE FOLLOWING PRIVATE LANDS. SW AND SE SECTION 23, S2 SECTION 24, N2 SECTION 25, E2NE AND W2 SECTION 26, ALL IN TOWNSHIP 32N, RANGE 37E, VALLEY COUNTY. NE, E2NW, NESW, AND NWSE SECTION 30, TOWNSHIP 32N, RANGE 38E, VALLEY COUNTY.

The ownership remark should be removed as addressed and resolved.

2. For claim 400 30125249, the Interlocutory Decree states that the priority date is

JUNE 10, 1912. The priority date should be OCTOBER 25, 1915. The priority date issue remark should be removed as addressed and resolved.

3. For claim 400 30127222, the following clarification remark should be added:

THE POINT OF DIVERSION AND PLACE OF USE ARE LIMITED TO PRIVATE LAND.

4. The Interlocutory Decree also includes the following notice remark, or a variation of it, on each of these claims:

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

The remarks provide notice that these claims were not in the Preliminary Decree and do not raise unresolved issues which need to be addressed. The remarks should be removed as having served their notice purposes.

CONCLUSION OF LAW

The settlements filed by the parties is 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 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:

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

Water Right Number: 400 30125042 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: CARROLL MT PROPERTIES LLC
C/O JO EVELYN MILLER
1640 OLD 421 S
BOONE, NC 28607-6291

Priority Date: JULY 6, 1921

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: ALKALI 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		W2SW	26	32N	37E	VALLEY

Period of Diversion: MAY 1 TO OCTOBER 1

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

2		E2NESE	27	32N	37E	VALLEY
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Period of Diversion: MAY 1 TO OCTOBER 1

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

3		E2SW	35	32N	37E	VALLEY
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Period of Diversion: MAY 1 TO OCTOBER 1

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

4		W2W2	35	32N	37E	VALLEY
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Period of Diversion: MAY 1 TO OCTOBER 1

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Period of Use: MAY 1 TO OCTOBER 1

***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			W2SW	26	32N	37E	VALLEY
2			E2NESE	27	32N	37E	VALLEY
3			E2SW	35	32N	37E	VALLEY

4	W2W2	35	32N	37E	VALLEY
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Remarks:

ALL OR PART OF THE PLACE OF USE CONSISTS OF FEDERAL PUBLIC LANDS. THE WATER RIGHT USED ON THE PUBLIC LANDS IS APPURTENANT TO THE FOLLOWING PRIVATE LANDS. SW AND SE SECTION 23, S2 SECTION 24, N2 SECTION 25, E2NE AND W2 SECTION 26, ALL IN TOWNSHIP 32N, RANGE 37E, VALLEY COUNTY. NE, E2NW, NESW, AND NWSE SECTION 30, TOWNSHIP 32N, RANGE 38E, VALLEY COUNTY.

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

Water Right Number: 400 30125247 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: CARROLL MT PROPERTIES LLC
C/O JO EVELYN MILLER
1640 OLD 421 S
BOONE, NC 28607-6291

Priority Date: APRIL 4, 1921

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:** BLACKTAIL COULEE

Source Type: SURFACE WATER

***Source Name:** UNNAMED TRIBUTARY OF BLACKTAIL COULEE

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		S2SESE	22	32N	37E	VALLEY

***Source Name:** UNNAMED TRIBUTARY OF BLACKTAIL COULEE

Period of Diversion: MAY 1 TO OCTOBER 1

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

2		W2NW	26	32N	37E	VALLEY
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***Source Name:** UNNAMED TRIBUTARY OF BLACKTAIL COULEE

Period of Diversion: MAY 1 TO OCTOBER 1

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

3		SWNW	26	32N	37E	VALLEY
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Source Name: BLACKTAIL COULEE

Period of Diversion: MAY 1 TO OCTOBER 1

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

4		NWNWSW	26	32N	37E	VALLEY
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***Source Name:** UNNAMED TRIBUTARY OF BLACKTAIL COULEE

Period of Diversion: MAY 1 TO OCTOBER 1

***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			S2SESE	22	32N	37E	VALLEY
2			W2NW	26	32N	37E	VALLEY
3			SWNW	26	32N	37E	VALLEY
4			NWNWSW	26	32N	37E	VALLEY
5			NE	27	32N	37E	VALLEY
6			N2NE	27	32N	37E	VALLEY
7			NESENE	27	32N	37E	VALLEY

ALL OR PART OF THE PLACE OF USE CONSISTS OF FEDERAL PUBLIC LANDS. THE WATER RIGHT USED ON THE PUBLIC LANDS IS APPURTENANT TO THE FOLLOWING PRIVATE LANDS. SW AND SE SECTION 23, S2 SECTION 24, N2 SECTION 25, E2NE AND W2 SECTION 26, ALL IN TOWNSHIP 32N, RANGE 37E, VALLEY COUNTY. NE, E2NW, NESW, AND NWSE SECTION 30, TOWNSHIP 32N, RANGE 38E, VALLEY COUNTY.

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

Water Right Number: 400 30125249 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: CARROLL MT PROPERTIES LLC
C/O JO EVELYN MILLER
1640 OLD 421 S
BOONE, NC 28607-6291

Priority Date: OCTOBER 25, 1915

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: BRUSH FORK BEAR 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		W2NESE	24	32N	37E	VALLEY

Period of Diversion: MAY 1 TO OCTOBER 1

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

2		E2NWSE	24	32N	37E	VALLEY
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Period of Diversion: MAY 1 TO OCTOBER 1

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

3		SESE	24	32N	37E	VALLEY
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Period of Diversion: MAY 1 TO OCTOBER 1

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

4		E2NE	25	32N	37E	VALLEY
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Period of Diversion: MAY 1 TO OCTOBER 1

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Period of Use: MAY 1 TO OCTOBER 1

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			W2NESE	24	32N	37E	VALLEY
2			E2NWSE	24	32N	37E	VALLEY
3			SESE	24	32N	37E	VALLEY

4	E2NE	25	32N	37E	VALLEY
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Remarks:

ALL OR PART OF THE PLACE OF USE CONSISTS OF FEDERAL PUBLIC LANDS. THE WATER RIGHT USED ON THE PUBLIC LANDS IS APPURTENANT TO THE FOLLOWING PRIVATE LANDS. SW AND SE SECTION 23, S2 SECTION 24, N2 SECTION 25, E2NE AND W2 SECTION 26, ALL IN TOWNSHIP 32N, RANGE 37E, VALLEY COUNTY. NE, E2NW, NESW, AND NWSE SECTION 30, TOWNSHIP 32N, RANGE 38E, VALLEY COUNTY.

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

Water Right Number: 400 30125250 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: CARROLL MT PROPERTIES LLC
C/O JO EVELYN MILLER
1640 OLD 421 S
BOONE, NC 28607-6291

Priority Date: JULY 6, 1921

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: BLACK COULEE

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		NENW	26	32N	37E	VALLEY

Period of Diversion: MAY 1 TO OCTOBER 1

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

2		W2E2	26	32N	37E	VALLEY
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Period of Diversion: MAY 1 TO OCTOBER 1

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

3		E2	35	32N	37E	VALLEY
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Period of Diversion: MAY 1 TO OCTOBER 1

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Period of Use: MAY 1 TO OCTOBER 1

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			NENW	26	32N	37E	VALLEY
2			W2E2	26	32N	37E	VALLEY
3			E2	35	32N	37E	VALLEY

Remarks:

ALL OR PART OF THE PLACE OF USE CONSISTS OF FEDERAL PUBLIC LANDS. THE WATER RIGHT USED ON THE PUBLIC LANDS IS APPURTENANT TO THE FOLLOWING PRIVATE LANDS. SW AND SE SECTION 23, S2 SECTION 24, N2 SECTION 25, E2NE AND W2 SECTION 26, ALL IN TOWNSHIP 32N, RANGE 37E, VALLEY COUNTY. NE, E2NW, NESW, AND NWSE SECTION 30, TOWNSHIP 32N, RANGE 38E, VALLEY COUNTY.

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

Water Right Number: 400 30127222 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: CARROLL FAMILY LTD PARTNERSHIP
PO BOX 1549
BOONE, NC 28607

Priority Date: FEBRUARY 12, 1931

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 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: MILK RIVER

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		N2	8	30N	37E	VALLEY
Period of Diversion: OCTOBER 1 TO JULY 1						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						
2		NENESE	8	30N	37E	VALLEY
Period of Diversion: OCTOBER 1 TO JULY 1						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						
3		NWNWSW	9	30N	37E	VALLEY
Period of Diversion: OCTOBER 1 TO JULY 1						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						
4		NW	9	30N	37E	VALLEY
Period of Diversion: OCTOBER 1 TO JULY 1						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						
5		E2SW	9	30N	37E	VALLEY
Period of Diversion: OCTOBER 1 TO JULY 1						
Diversion Means: LIVESTOCK DIRECT FROM SOURCE						
Period of Use: OCTOBER 1 TO JULY 1						

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			N2	8	30N	37E	VALLEY
2			NENESE	8	30N	37E	VALLEY
3			NWNWSW	9	30N	37E	VALLEY
4			NW	9	30N	37E	VALLEY
5			E2SW	9	30N	37E	VALLEY

Remarks:

SPLIT CLAIM NO. 40O 30161313 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM.
THE POINT OF DIVERSION AND PLACE OF USE ARE LIMITED TO PRIVATE LAND.