

Montana Water Court
P.O. Box 1389
Bozeman, MT 59771-1389
1-800-624-3270
(406) 586-4364
watercourt@mt.gov

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: Cornwell Ranch

CASE 400-0105-I-2024

400 30137038

400 30137768

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

Cornwell Ranch claims 400 30137038 and 400 30137768 each appeared in the Interlocutory Decree with issue remarks. The issue remarks were not addressed through the objection process. The Water Court is required to resolve the issues raised by each issue

remark. Section 85-2-248, MCA.

Under Section 85-2-248(3), MCA, information in the claim file or other information obtained by the Court can be reviewed to determine if it provides a sufficient basis to resolve the issue raised by a remark and the Court can provide the claimant an opportunity to file additional information or evidence. On May 13, 2025 Cornwell Ranch filed a Statement To Resolve Issue Remarks [“Statement”]. The Statement is 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. Claim 400 30137038 appeared in the Interlocutory Decree with the following issue remark:

THE TYPE OF HISTORICAL RIGHT AND PRIORITY DATE MAY BE QUESTIONABLE. DOCUMENTATION TO SUPPORT THE TYPE OF HISTORICAL RIGHT AND PRIORITY DATE WAS NOT SUBMITTED WITH THIS CLAIM.

The Statement requests dismissal of the claim as the described well was never completed. This claim should be dismissed as requested.

2. Claim 400 30137768 appeared in the Interlocutory Decree with the following issue remark:

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

This remark provided notice to the potential owner – the State of Montana – that it may have an ownership interest in this claim. Water users, including the State of Montana, were given the

opportunity to review the claims and file an objection. The State of Montana did not object to this claim to pursue a possible ownership interest in this claim. It is noted that State of Montana, Trust Lands Management Division has other water right claims in this Interlocutory Decree, including a claim on a different portion of the same source, Cherry Creek. The remark should be removed as having served its notice purpose.

The Interlocutory Decree also includes the following notice remark on the abstract of claim:

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

This remark provides notice that the claim was not included in the Preliminary Decree. The remark should be removed as having served its notice purpose.

CONCLUSION OF LAW

The information provided by the claimant 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 Preliminary 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

Service Via Electronic Mail:

John E. Bloomquist
Betsy R. Story
PARSONS BEHLE & LATIMER
jbloomquist@parsonsbehle.com
bstory@parsonsbehle.com
ecf@parsonsbehle.com

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

Water Right Number: **400 30137038** STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: **DISMISSED**

Owners: CORNWELL RANCH
 PO BOX 1031
 GLASGOW, MT 59230-1031

Priority Date:

Type of Historical Right:

Purpose (Use): STOCK

Flow Rate:

Volume:

Source Name: GROUNDWATER

Source Type: GROUNDWATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

Remarks:

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.

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

Water Right Number: 400 30137768 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: CORNWELL RANCH
PO BOX 1031
GLASGOW, MT 59230-1031

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:** CHERRY CREEK

Source Type: SURFACE WATER

***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</u> | <u>Sec</u> | <u>Twp</u> | <u>Rge</u> | <u>County</u> |
|-----------|-----------------|------------|------------|------------|------------|---------------|
| 1 | | S2SW | 14 | 32N | 39E | VALLEY |

***Source Name:** UNNAMED TRIBUTARY OF CHERRY CREEK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

| | | | | | | |
|---|--|------|----|-----|-----|--------|
| 2 | | W2SW | 14 | 32N | 39E | VALLEY |
|---|--|------|----|-----|-----|--------|

Source Name: CHERRY CREEK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

| | | | | | | |
|---|--|------|----|-----|-----|--------|
| 3 | | E2NE | 22 | 32N | 39E | VALLEY |
|---|--|------|----|-----|-----|--------|

Source Name: CHERRY CREEK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

| | | | | | | |
|---|--|------|----|-----|-----|--------|
| 4 | | W2W2 | 23 | 32N | 39E | VALLEY |
|---|--|------|----|-----|-----|--------|

***Source Name:** UNNAMED TRIBUTARY OF CHERRY CREEK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

5 W2NW 23 32N 39E VALLEY

Source Name: CHERRY CREEK

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 | | | S2SW | 14 | 32N | 39E | VALLEY |
| 2 | | | W2SW | 14 | 32N | 39E | VALLEY |
| 3 | | | E2NE | 22 | 32N | 39E | VALLEY |
| 4 | | | W2W2 | 23 | 32N | 39E | VALLEY |
| 5 | | | W2NW | 23 | 32N | 39E | VALLEY |