

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

* * * * *

CLAIMANTS: Madylon Cornwell; Miles Lee Cornwell

CASE 400-0107-I-2024

400 30136136

400 30136138

400 30136143

400 30136144

400 30136145

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

Madylon Cornwell and Miles Lee Cornwell claims 400 30136136, 400 30136138, 400 30136143, 400 30136144, and 400 30136145 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 claimants an opportunity to file additional information or evidence.

The January 6, 2025 Order Consolidating Case and Order Setting Deadlines Pursuant To Section 85-2-248(5), MCA set filing deadlines for the Montana Department of Natural Resources and Conservation [“DNRC”] and the claimants. On May 9, 2025 the DNRC Memorandum was filed making recommendations based on meeting with the claimants’ counsel. On May 13, 2025 Miles Lee And Madylon Cornwell’s Response To DNRC’s Memorandum was filed stating they are in agreement with the DNRC recommendations. 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. Claim 400 30136136 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 PLACE OF USE LEGAL LAND DESCRIPTION COULD NOT BE REFINED FROM INFORMATION IN THE CLAIM FILE. 30136136

THE POINT OF DIVERSION LEGAL LAND DESCRIPTION COULD NOT BE REFINED FROM

INFORMATION IN THE CLAIM FILE. 30136136

NO QUANTIFIED VOLUME WAS CLAIMED. THE VOLUME GUIDELINE FOR THIS PURPOSE IS 14 ACRE-FEET PER YEAR.

2. Claim 400 30136138 appeared in the Interlocutory Decree with the following issue remarks:

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

THE PLACE OF USE LEGAL LAND DESCRIPTION COULD NOT BE REFINED FROM INFORMATION IN THE CLAIM FILE.

THE POINT OF DIVERSION LEGAL LAND DESCRIPTION COULD NOT BE REFINED FROM INFORMATION IN THE CLAIM FILE.

NO QUANTIFIED VOLUME WAS CLAIMED. THE VOLUME GUIDELINE FOR THIS PURPOSE IS 14.00 ACRE-FEET PER YEAR.

3. Claim 400 30136143 appeared in the Interlocutory Decree with the following issue remarks:

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

THE PLACE OF USE LEGAL LAND DESCRIPTION COULD NOT BE REFINED FROM INFORMATION IN THE CLAIM FILE.

THE POINT OF DIVERSION LEGAL LAND DESCRIPTION COULD NOT BE REFINED FROM INFORMATION IN THE CLAIM FILE.

4. Claim 400 30136144 appeared in the Interlocutory Decree with the following issue remarks:

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

THE PLACE OF USE LEGAL LAND DESCRIPTION COULD NOT BE REFINED FROM INFORMATION IN THE CLAIM FILE.

THE POINT OF DIVERSION LEGAL LAND DESCRIPTION COULD NOT BE REFINED FROM INFORMATION IN THE CLAIM FILE. 30136144

5. Claim 400 30136145 appeared in the Interlocutory Decree with the following issue remarks:

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

THE PLACE OF USE LEGAL LAND DESCRIPTION COULD NOT BE REFINED FROM INFORMATION IN THE CLAIM FILE.

THE POINT OF DIVERSION LEGAL LAND DESCRIPTION COULD NOT BE REFINED FROM INFORMATION IN THE CLAIM FILE.

6. The first remark on each of the claims provides notice that the claim was not in the prior Decree. The remark should be removed from each claim as it has served its notice purpose.

7. These five claims are for water diverted from three different wells located in close proximity to the house, bar, and shop. For each of these claims, the Interlocutory Decree states that the point of diversion and place of use legal description is the S2SW section 29, T30N, R38E, VALLEY. The legal description for the point of diversion and place of use for each claim should be the S2S2SW section 29, T30N, R38E, VALLEY. The issue remarks concerning point of diversion and place of use legal descriptions should be removed as addressed and resolved.

8. For claims 400 30136136 and 400 30136138, no volume was claimed. The volume for each should be 14.00 AC-FT. The volume issue remarks should be removed as addressed and resolved.

CONCLUSION OF LAW

The information provided by the DNRC Memorandum and the claimants 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 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 30136136 STATEMENT OF CLAIM
Version: 2 -- POST DECREE
Status: ACTIVE

Owners: MADYLON CORNWELL
PO BOX 1031
GLASGOW, MT 59230

MILES LEE CORNWELL
PO BOX 1031
GLASGOW, MT 59230

Priority Date: NOVEMBER 26, 1957

Type of Historical Right: FILED

Purpose (Use): DOMESTIC

Flow Rate: 35.00 GPM

Volume: 14.00 AC-FT

Households: 1

Maximum Acres: 5.00

Source Name: GROUNDWATER

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		S2S2SW	29	30N	38E	VALLEY

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: PUMP

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	5.00		S2S2SW	29	30N	38E	VALLEY
Total:	5.00						

Remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

30136136 30136144

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

Water Right Number: 400 30136138 STATEMENT OF CLAIM
Version: 2 -- POST DECREE
Status: ACTIVE

Owners: MADYLON CORNWELL
PO BOX 1031
GLASGOW, MT 59230

MILES LEE CORNWELL
PO BOX 1031
GLASGOW, MT 59230

Priority Date: JUNE 1, 1944

Type of Historical Right: FILED

Purpose (Use): DOMESTIC

Flow Rate: 35.00 GPM

Volume: 14.00 AC-FT

Households: 1

Maximum Acres: 14.00

Source Name: GROUNDWATER

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		S2S2SW	29	30N	38E	VALLEY

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: PUMP

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	5.00		S2S2SW	29	30N	38E	VALLEY
Total:	5.00						

Remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

30136138 30136143

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

Water Right Number: 400 30136143 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: MADYLON CORNWELL
PO BOX 1031
GLASGOW, MT 59230

MILES LEE CORNWELL
PO BOX 1031
GLASGOW, MT 59230

Priority Date: JUNE 1, 1944

Type of Historical Right: FILED

Purpose (Use): STOCK

Flow Rate: 35.00 GPM

***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: GROUNDWATER

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		S2S2SW	29	30N	38E	VALLEY

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: WELL

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			S2S2SW	29	30N	38E	VALLEY

Remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

30136138 30136143

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

Water Right Number: 400 30136144 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: MADYLON CORNWELL
PO BOX 1031
GLASGOW, MT 59230

MILES LEE CORNWELL
PO BOX 1031
GLASGOW, MT 59230

Priority Date: NOVEMBER 12, 1957

Type of Historical Right: FILED

Purpose (Use): STOCK

Flow Rate: 35.00 GPM

***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:** GROUNDWATER

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		S2S2SW	29	30N	38E	VALLEY

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: WELL

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			S2S2SW	29	30N	38E	VALLEY

Remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

30136136 30136144

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

Water Right Number: 400 30136145 STATEMENT OF CLAIM
Version: 2 -- POST DECREE
Status: ACTIVE

Owners: MADYLON CORNWELL
PO BOX 1031
GLASGOW, MT 59230

MILES LEE CORNWELL
PO BOX 1031
GLASGOW, MT 59230

Priority Date: JANUARY 31, 1964

Type of Historical Right: FILED

Purpose (Use): STOCK

Flow Rate: 35.00 GPM

***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:** GROUNDWATER

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		S2S2SW	29	30N	38E	VALLEY

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: WELL

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			S2S2SW	29	30N	38E	VALLEY