

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

MONTANA WATER COURT  
LOWER MISSOURI DIVISION  
MILK RIVER BELOW WHITEWATER CREEK INCLUDING PORCUPINE CREEK  
BASIN 400  
INTERLOCUTORY DECREE

\*\*\*\*\*

CLAIMANT: Cornwell Ranch

OBJECTOR: United States, DOI Bureau of Indian Affairs

NOTICE OF INTENT TO APPEAR: Assiniboine & Sioux Tribes of Fort  
Peck

**CASE 400-0078-I-2024**

400 30135816

400 30137770

**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 have **13 days** from the service date of the notice of filing of this report to file a written objection or request an extension of the objection period. Rule 23, Water Right Adjudication Rules; Rule 6, Montana Rules of Civil Procedure. If you file an objection, you must serve 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**

The United States of America (Bureau of Indian Affairs) objected to each of these claims. The Assiniboine & Sioux Tribes of Fort Peck filed a notice of intent to appear for each claim. On

March 24, 2025 Trust Lands filed a Sworn Statement Of Non-Interest concerning claim 400 30137770. On September 15, 2025 Cornwell Ranch's Statement And Unopposed Motion To Amend Claims To Resolve Issue Remarks And Objections ["Unopposed Motion"] was filed. As all the requested changes are to elements already at issue by objection or issue remark, this is not a motion to amend filed pursuant to section 85-2-233(6), MCA. 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 85-2-222, 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 30135816 appeared in the Interlocutory Decree with the following remark:

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

This remark provides notice that this exempt claim was not included in the 1995 Preliminary Decree. The remark should be removed as having served its notice purpose.

The Interlocutory Decree states that the priority date for this claimed use right is DECEMBER 31, 1953. As requested in the Unopposed Motion, the priority date should be APRIL 28, 1954.

2. Claim 400 30137770 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 WATER RIGHTS LISTED FOLLOWING THIS STATEMENT WERE FILED BY DIFFERENT PARTIES WHO CLAIM OVERLAPPING PLACES OF USE. 30137770, 137741-00, 137711-00, 137740-00, 137737-00, 137739-00, 137738-00.

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

A PORTION OF THE CLAIMED POINT OF DIVERSION AND PLACE OF USE DOES NOT MEET THE DEFINITION OF AN EXEMPT RIGHT UNDER 85-2-222, MCA, AND INVOLVES AN ON-STREAM RESERVOIR.

The first remark provides notice that this exempt claim was not in the 1995 Preliminary Decree. The second remark provides notice of possible issues to be pursued by objection or notice of intent to appear. They should be removed as having served their notice purposes.

The Interlocutory Decree includes the following point of diversion and place of use:

<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
E2NW	24	33N	39E	VALLEY

The legal description should be changed to the:

<u>LOT</u>	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
6	NENW	24	33N	39E	VALLEY

The following should be added to the point of diversion and place of use:

<u>LOT</u>	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
7	SEnw	24	33N	39E	VALLEY

As requested in the Unopposed Motion, the following remark should be added to the place of use:

THE USE OF THIS WATER RIGHT IS LIMITED TO LANDS LYING OUTSIDE THE EXTERIOR BOUNDARIES OF THE FORT PECK INDIAN RESERVATION.

Trust Lands filed a Sworn Statement Of Non-Interest concerning claim 400 30137770.

The third remark should be removed as addressed and resolved.

There is no reservoir included on this claimed right. The fourth remark concerning a reservoir should be removed as irrelevant.

#### CONCLUSION OF LAW

The settlement filed by the parties is sufficient to contradict and overcome the prima facie claims and to resolve the issue remarks without evidentiary hearing. Section 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

William Crum  
Rebecca M. Ross  
U.S. Dept of Justice  
William.Crum@usdoj.gov  
IRSMontanaWater.enrd@usdoj.gov  
Rebecca.Ross@usdoj.gov

Ryan C. Rusche  
Sonosky, Chambers, Sachse, Enderson & Perry, LLP  
rusche@sonosky.com

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

**Water Right Number:** 400 30135816 STATEMENT OF CLAIM

**Version:** 2 -- POST DECREE

**Status:** ACTIVE

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

**Priority Date:** APRIL 28, 1954

**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:** PORCUPINE CREEK, WEST FORK

**Source Type:** SURFACE WATER

**Source Name:** UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK

**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	1	NENW	24	33N	39E	VALLEY

**Source Name:** PORCUPINE CREEK, WEST FORK

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** LIVESTOCK DIRECT FROM SOURCE

2	1	NENW	24	33N	39E	VALLEY
---	---	------	----	-----	-----	--------

**Source Name:** UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK

**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		1	NENW	24	33N	39E	VALLEY
2		1	NENW	24	33N	39E	VALLEY

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

**Water Right Number:** 400 30137770 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:** PORCUPINE CREEK, WEST FORK

**Source Type:** SURFACE WATER

**\*Source Name:** UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK

**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		E2	5	33N	39E	VALLEY

**\*Source Name:** UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** LIVESTOCK DIRECT FROM SOURCE

2			4	33N	39E	VALLEY
---	--	--	---	-----	-----	--------

**\*Source Name:** UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** LIVESTOCK DIRECT FROM SOURCE

3		S2	3	33N	39E	VALLEY
---	--	----	---	-----	-----	--------

**\*Source Name:** UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** LIVESTOCK DIRECT FROM SOURCE

4		W2	2	33N	39E	VALLEY
---	--	----	---	-----	-----	--------

**\*Source Name:** PORCUPINE CREEK, WEST FORK

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** LIVESTOCK DIRECT FROM SOURCE

5	9	33N	39E	VALLEY
<b>*Source Name:</b> UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK				
<b>Period of Diversion:</b> JANUARY 1 TO DECEMBER 31				
<b>Diversion Means:</b> LIVESTOCK DIRECT FROM SOURCE				
6	10	33N	39E	VALLEY
<b>*Source Name:</b> UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK				
<b>Period of Diversion:</b> JANUARY 1 TO DECEMBER 31				
<b>Diversion Means:</b> LIVESTOCK DIRECT FROM SOURCE				
7	N2	11	33N	39E VALLEY
<b>*Source Name:</b> PORCUPINE CREEK, WEST FORK				
<b>Period of Diversion:</b> JANUARY 1 TO DECEMBER 31				
<b>Diversion Means:</b> LIVESTOCK DIRECT FROM SOURCE				
8	W2	11	33N	39E VALLEY
<b>*Source Name:</b> UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK				
<b>Period of Diversion:</b> JANUARY 1 TO DECEMBER 31				
<b>Diversion Means:</b> LIVESTOCK DIRECT FROM SOURCE				
9	SE	11	33N	39E VALLEY
<b>*Source Name:</b> PORCUPINE CREEK, WEST FORK				
<b>Period of Diversion:</b> JANUARY 1 TO DECEMBER 31				
<b>Diversion Means:</b> LIVESTOCK DIRECT FROM SOURCE				
10	SE	11	33N	39E VALLEY
<b>*Source Name:</b> UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK				
<b>Period of Diversion:</b> JANUARY 1 TO DECEMBER 31				
<b>Diversion Means:</b> LIVESTOCK DIRECT FROM SOURCE				
11	NE	16	33N	39E VALLEY
<b>*Source Name:</b> UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK				
<b>Period of Diversion:</b> JANUARY 1 TO DECEMBER 31				
<b>Diversion Means:</b> LIVESTOCK DIRECT FROM SOURCE				
12	NW	15	33N	39E VALLEY
<b>*Source Name:</b> UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK				
<b>Period of Diversion:</b> JANUARY 1 TO DECEMBER 31				
<b>Diversion Means:</b> LIVESTOCK DIRECT FROM SOURCE				
13	N2S2	15	33N	39E VALLEY
<b>*Source Name:</b> UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK				
<b>Period of Diversion:</b> JANUARY 1 TO DECEMBER 31				
<b>Diversion Means:</b> LIVESTOCK DIRECT FROM SOURCE				
14	S2	14	33N	39E VALLEY
<b>*Source Name:</b> UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK				
<b>Period of Diversion:</b> JANUARY 1 TO DECEMBER 31				
<b>Diversion Means:</b> LIVESTOCK DIRECT FROM SOURCE				
15	SESW	13	33N	39E VALLEY
<b>*Source Name:</b> PORCUPINE CREEK, WEST FORK				

<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE
16	W2W2 13 33N 39E VALLEY
<b>*Source Name:</b>	PORCUPINE CREEK, WEST FORK
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE
17	NE 22 33N 39E VALLEY
<b>*Source Name:</b>	UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE
18	S2 22 33N 39E VALLEY
<b>*Source Name:</b>	UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE
19	W2W2 23 33N 39E VALLEY
<b>*Source Name:</b>	UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE
20	E2 23 33N 39E VALLEY
<b>*Source Name:</b>	UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE
21	6 NENW 24 33N 39E VALLEY
<b>*Source Name:</b>	PORCUPINE CREEK, WEST FORK
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE
22	W2E2 24 33N 39E VALLEY
<b>*Source Name:</b>	PORCUPINE CREEK, WEST FORK
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE
23	SW 24 33N 39E VALLEY
<b>*Source Name:</b>	UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE
24	NESE 27 33N 39E VALLEY
<b>*Source Name:</b>	UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE
25	N2 27 33N 39E VALLEY
<b>*Source Name:</b>	UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31

<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE
26	26 33N 39E VALLEY
<b>*Source Name:</b>	UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE
27	NE 35 33N 39E VALLEY
<b>*Source Name:</b>	UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE
28	25 33N 39E VALLEY
<b>*Source Name:</b>	UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE
29	E2 25 33N 39E VALLEY
<b>*Source Name:</b>	PORCUPINE CREEK, WEST FORK
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE
30	36 33N 39E VALLEY
<b>*Source Name:</b>	UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE
31	E2 36 33N 39E VALLEY
<b>*Source Name:</b>	PORCUPINE CREEK, WEST FORK
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE
32	N2 5 32N 40E VALLEY
<b>*Source Name:</b>	UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE
33	N2SW 5 32N 40E VALLEY
<b>*Source Name:</b>	UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE
34	NENE 6 32N 40E VALLEY
<b>*Source Name:</b>	UNNAMED TRIBUTARY OF PORCUPINE CREEK, WEST FORK
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31
<b>Diversion Means:</b>	LIVESTOCK DIRECT FROM SOURCE
35	7 SENW 24 33N 39E VALLEY
<b>*Source Name:</b>	PORCUPINE CREEK, WEST FORK
<b>Period of Diversion:</b>	JANUARY 1 TO DECEMBER 31
<b>Diversion Means:</b>	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			E2	5	33N	39E	VALLEY
2				4	33N	39E	VALLEY
3			S2	3	33N	39E	VALLEY
4			W2	2	33N	39E	VALLEY
5				9	33N	39E	VALLEY
6				10	33N	39E	VALLEY
7			N2	11	33N	39E	VALLEY
8			W2	11	33N	39E	VALLEY
9			SE	11	33N	39E	VALLEY
10			SE	11	33N	39E	VALLEY
11			NE	16	33N	39E	VALLEY
12			NW	15	33N	39E	VALLEY
13			N2S2	15	33N	39E	VALLEY
14			S2	14	33N	39E	VALLEY
15			SESW	13	33N	39E	VALLEY
16			W2W2	13	33N	39E	VALLEY
17			NE	22	33N	39E	VALLEY
18			S2	22	33N	39E	VALLEY
19			W2W2	23	33N	39E	VALLEY
20			E2	23	33N	39E	VALLEY
21		6	NENW	24	33N	39E	VALLEY
22			W2E2	24	33N	39E	VALLEY
23			SW	24	33N	39E	VALLEY
24			NESE	27	33N	39E	VALLEY
25			N2	27	33N	39E	VALLEY
26				26	33N	39E	VALLEY
27			NE	35	33N	39E	VALLEY
28				25	33N	39E	VALLEY
29			E2	25	33N	39E	VALLEY
30				36	33N	39E	VALLEY
31			E2	36	33N	39E	VALLEY
32			N2	5	32N	40E	VALLEY
33			N2SW	5	32N	40E	VALLEY
34			NENE	6	32N	40E	VALLEY
35		7	SENW	24	33N	39E	VALLEY

THE USE OF THIS WATER RIGHT IS LIMITED TO LANDS LYING OUTSIDE THE EXTERIOR BOUNDARIES OF THE FORT PECK INDIAN RESERVATION.