

STATE OF MONTANA
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
1424 9TH AVENUE P.O.BOX 201601 HELENA, MONTANA 59620-1601

GENERAL ABSTRACT

Water Right Number: 41C 100955-00 STATEMENT OF CLAIM
Version: 2 -- CHANGE AUTHORIZATION
Version Status: ACTIVE

THIS AUTHORIZATION IS LIMITED TO THE AMOUNT OF THE HISTORIC USE RECOGNIZED BY THE DEPARTMENT IN THIS PROCEEDING AS SUBJECT TO CHANGE, AND WILL THEREAFTER NOT EXCEED THAT AMOUNT. IF THE HISTORIC USE IS REDUCED UNDER ADJUDICATION PROCEEDINGS PURSUANT TO TITLE 85, CHAPTER 2, PART 2, MCA, THIS AUTHORIZATION WILL BE LIMITED TO A LESSER AMOUNT.

Owners: BOKEN FAMILY TRUST
3463 MT HIGHWAY 287
SHERIDAN, MT 59749-9558

Priority Date: APRIL 30, 1888
Enforceable Priority Date: APRIL 30, 1888

Purpose (use): IRRIGATION
INSTREAM FISHERY

Purpose Clarification: FWP TEMP LEASE

Irrigation Type: FLOOD

Maximum Flow Rate: 3.00 CFS

Historical Flow Rate: 3.00 CFS

Maximum Volume: 720.00 AC-FT

Climatic Area: 5 - LOW

Historical Diverted Volume: 720.00 AC-FT

Maximum Acres: 33.60

Source Name: LAZYMAN 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 | | NESWSW | 34 | 9S | 3W | MADISON |

Period of Diversion: MAY 15 TO SEPTEMBER 19

Diversion Means: DITCH

| | | | | | | |
|---|--|--------|----|----|----|---------|
| 2 | | NESWSW | 34 | 9S | 3W | MADISON |
|---|--|--------|----|----|----|---------|

Period of Diversion: MAY 15 TO SEPTEMBER 19

Diversion Means: INSTREAM

Period of Use: MAY 15 to SEPTEMBER 19

Purpose (Use): IRRIGATION

Period of Use: MAY 15 to SEPTEMBER 19

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 | 2.10 | | SENE | 33 | 9S | 3W | MADISON |
| 2 | 9.80 | | NESE | 33 | 9S | 3W | MADISON |
| 3 | 21.70 | | W2SW | 34 | 9S | 3W | MADISON |
| Total: | 33.60 | | | | | | |

Purpose (Use): INSTREAM FISHERY

Period of Use: MAY 15 to SEPTEMBER 19

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 | | | SESE | 33 | 9S | 3W | MADISON |
| 2 | | | SWSW | 34 | 9S | 3W | MADISON |

Geocodes/Valid: 25-0152-33-1-01-01-0000 - Y

25-0152-34-3-01-02-0000 - Y

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

100953-00 100955-00

THIS RIGHT IS SUBJECT TO THE AUTHORITY OF THE DEPARTMENT TO REVOKE THE RIGHT IN ACCORDANCE WITH 85-2-314 OR 85-2-402(9) , MCA, AND TO ENTER ONTO THE PREMISES FOR INVESTIGATIVE PURPOSES IN ACCORDANCE WITH 85-2-115, MCA.

THE AMOUNT OF WATER TO BE USED INTERMITTENTLY FOR FISHERY DEPENDS ON HYDROLOGIC CONDITIONS IN LAZYMEN CREEK. THE AMOUNT OF WATER USED FOR IRRIGATION SHALL BE REDUCED WHEN NECESSARY TO MAINTAIN 1.0 CFS OF STREAMFLOW BELOW THE POINT OF DIVERSION. THE MAXIMUM AMOUNT OF WATER FOR FISHERY USE WOULD BE 1.0 CFS UP TO 253 ACRE-FEET PER YEAR. THE MAXIMUM AMOUNT OF WATER USED FOR BOTH FISHERY AND IRRIGATION WOULD NOT EXCEED 3.0 CFS UP TO 720 ACRE-FEET PER YEAR.

THIS LEASE IS FOR 10 YEARS AND WILL EXPIRE IN 2021.

THIS WATER RIGHT IS ASSOCIATED WITH 41C 100953-00, A STATEMENT OF CLAIM FOR RUBY RIVER WATER. THIS CHANGE AUTHORIZATION ON 41C 100955-00 IS CONDITIONED SO THAT IF RUBY RIVER WATER IS USED UNDER 41C 100953-00 TO IRRIGATE THE OVERLAPPING ACREAGE, THE APPLICANT WILL SUBMIT A REPORT TO DNRC DETAILING HOW USE UNDER THIS CHANGE AUTHORIZATION WAS CURTAILED. THE CONSUMPTIVE USE ON THE 33.6 ACRES IS NOT TO EXCEED 29.1 AF BETWEEN THE TWO WATER RIGHTS.

WHEN FLOW IN LAZYMEN CREEK DROPS BELOW 4 CFS, THE 3 CFS DIVERSION FOR IRRIGATION WILL BE DECREASED TO ALWAYS MAINTAIN 1 CFS OF INSTREAM FLOW IN LAZYMEN CREEK.

MT DFWP OR ITS DESIGNEE SHALL MEASURE THE PROTECTED REACH OF LAZYMEN CREEK IN MADISON COUNTY IN ACCORDANCE WITH THE SUBMITTED STREAMFLOW MEASURING PLAN USING DEPARTMENT APPROVED MEASURING DEVICES. MEASUREMENTS WILL BE TAKEN MONTHLY DURING THE PERIOD OF USE, WITH INCREASING FREQUENCY AS FLOWS NEAR THE TRIGGER FLOW OF 4 CFS. ANY MEASUREMENT RECORDED ON LAZYMEN CREEK BELOW 4.0 CFS WILL BE COMMUNICATED TO THE WATER RIGHT OWNER AND TRIGGER THE EXECUTION OF THE LEASE AGREEMENT. MEASUREMENT RECORDS SHALL BE MADE AVAILABLE TO THE DEPARTMENT UPON REQUEST.

THIS CHANGE AUTHORIZATION IS SUBJECT TO THE PERMANENT REMOVAL AND NON-IRRIGATION OF 11.4 ACRES FROM IRRIGATION AT A LOCATION IN SECTION 33 AND 34 IN T9S R3W IN MADISON COUNTY (SEE FILE FOR MAP OF SPECIFIC ACREAGE). IRRIGATION OF THESE 11.4 ACRES WITH WATER RIGHT NUMBERS 41C 100953-00 OR 41C 100955-00 AFTER THIS AUTHORIZATION IS ISSUED WILL BE CAUSE FOR REVOCATION OF THIS AUTHORIZATION.

NOTICE OF WATER RIGHT TRANSFER RECEIVED 06/13/91.

NOTICE OF WATER RIGHT TRANSFER RECEIVED 06/01/98.

WATER RIGHT OWNERSHIP UPDATE RECEIVED 07/23/99.

OWNERSHIP UPDATE RECEIVED

OWNERSHIP UPDATE TYPE DOR # 92090 RECEIVED 06/01/2009.

OWNERSHIP UPDATE TYPE DOR # 92091 RECEIVED 03/24/2010.