

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: 76H 104544-00 STATEMENT OF CLAIM
Version: 1 -- ORIGINAL RIGHT
Version Status: ACTIVE

Owners: ROY A CAPP
PO BOX 501
STEVENSVILLE, MT 59870

Priority Date: JULY 1, 1852

Enforceable Priority Date: JULY 1, 1852

THIS CLAIM IS PART OF THE BURNT FORK CREEK AND BITTERROOT RIVER WATER EXCHANGE. WATER FROM BURNT FORK CREEK IS EXCHANGED FOR WATER FROM THE BITTERROOT RIVER THAT IS DIVERTED INTO THE SUPPLY (WOOD-PARKHURST) DITCH (SWSNW SEC 20 T7N R20W). EXCHANGE USERS HOLD SHARES IN SUPPLY DITCH ASSOCIATION TO BE ABLE TO USE THE JULY 1, 1852 "FORT" RIGHT WATER FROM BURNT FORK CREEK.

Type of Historical Right: DECREED

Purpose (use): IRRIGATION

Irrigation Type: FLOOD

Maximum Flow Rate: 12.68 CFS

Maximum Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 734.05

Source Name: BURNT FORK CREEK

Source Type: SURFACE WATER

WATER DIVERTED FROM BURNT FORK CREEK , CASE NO. 556 , RAVALLI COUNTY, IS EXCHANGED FOR WATER DIVERTED FROM BITTERROOT RIVER.

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 | | SENEW | 3 | 8N | 19W | RAVALLI |

Period of Diversion: APRIL 1 TO OCTOBER 1

Diversion Means: HEADGATE

| | | | | | | |
|--------------|--|--------|----|----|-----|---------|
| 2- SECONDARY | | SWSWSE | 23 | 9N | 20W | RAVALLI |
|--------------|--|--------|----|----|-----|---------|

Period of Diversion: APRIL 1 TO OCTOBER 1

Diversion Means: HEADGATE

Ditch Name: FORT OWEN RANCH DITCH

| | | | | | | |
|--------------|--|-------|----|----|-----|---------|
| 3- SECONDARY | | NESEW | 26 | 9N | 20W | RAVALLI |
|--------------|--|-------|----|----|-----|---------|

Period of Diversion: APRIL 1 TO OCTOBER 1

Diversion Means: HEADGATE

Ditch Name: FORT OWEN RANCH DITCH

THIS CLAIM IS PART OF THE BURNT FORK CREEK AND BITTERROOT RIVER WATER EXCHANGE. WATER FROM BURNT FORK CREEK IS EXCHANGED FOR WATER FROM THE BITTERROOT RIVER THAT IS DIVERTED INTO THE SUPPLY (WOOD-PARKHURST) DITCH (SWSNW SEC 20 T7N R20W). WATER FROM BURNT FORK CREEK USES NORTH BURNT FORK CREEK AS A NATURAL CARRIER TO DELIVER WATER TO (POD ID 1) MILL FORK CREEK AND NORTH SWAMP CREEK. THE FORT OWEN RANCH DITCHES DIVERT AND EXCHANGE WATER AT POD ID 2 (SWSWSE SEC 23 T9N R20W) AND POD ID 3 (NESEW SEC 26 T9N R20W), WHERE THE SUPPLY (WOOD-PARKHURST) DITCH INTERCEPTS MILL CREEK AND NORTH SWAMP CREEK.

Period of Use: APRIL 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 | 24.00 | | SESW | 15 | 9N | 20W | RAVALLI |
| 2 | 6.00 | | SESE | 21 | 9N | 20W | RAVALLI |
| 3 | 40.00 | | SENE | 22 | 9N | 20W | RAVALLI |

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> |
|---------------|--------------|-----------------|----------------|------------|------------|------------|---------------|
| 4 | 40.00 | | SWNE | 22 | 9N | 20W | RAVALLI |
| 5 | 33.20 | | NENW | 22 | 9N | 20W | RAVALLI |
| 6 | 40.00 | | SE | 22 | 9N | 20W | RAVALLI |
| 7 | 160.00 | | SE | 22 | 9N | 20W | RAVALLI |
| 8 | 144.30 | | SW | 22 | 9N | 20W | RAVALLI |
| 9 | 9.55 | 4 | | 22 | 9N | 20W | RAVALLI |
| 10 | 35.00 | | NENE | 27 | 9N | 20W | RAVALLI |
| 11 | 35.00 | | NWNE | 27 | 9N | 20W | RAVALLI |
| 12 | 142.00 | | NW | 27 | 9N | 20W | RAVALLI |
| 13 | 25.00 | | NENE | 28 | 9N | 20W | RAVALLI |
| Total: | 734.05 | | | | | | |

Geocodes/Valid: 13-1764-15-1-01-10-0000 - Y 13-1764-22-1-01-03-0000 - Y
 13-1764-22-1-01-04-0000 - Y 13-1764-22-1-01-07-0000 - Y
 13-1764-22-3-01-02-0000 - Y 13-1764-27-1-22-02-0000 - Y
 13-1764-27-2-03-01-0000 - 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.

104541-00 104543-00 104544-00 104545-00

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.

104536-00 104544-00 104546-00

STARTING IN 2008, PERIOD OF DIVERSION WAS ADDED TO MOST CLAIM ABSTRACTS, INCLUDING THIS ONE.

WATER RIGHT OWNERSHIP UPDATE RECEIVED 09/02/1987.

OWNERSHIP UPDATE RECEIVED

OWNERSHIP UPDATE TYPE 608 # 5726 RECEIVED 11/18/2002.

OWNERSHIP UPDATE TYPE DOR # 91405 RECEIVED 08/04/2011.

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE FILED ON THE SAME FORMERLY DECREED WATER RIGHT. THE SUM OF THE CLAIMED FLOW RATES EXCEEDS THE 512 MINER'S INCHES DECREED IN CASE NO. 556, RAVALLI COUNTY. 3250, 25726, 25750, 50560-00, 50570-00, 104536, 104544, 104546, 104959, 104960, 105006, 107664, 107665, 119948, 128517, 128519, 147922, 150065, 150969, 151736, 151740, 214149, 214379.

THE MAXIMUM ACRES CLAIMED MAY BE QUESTIONABLE. THE SUM OF THE PARCEL ACRES IS 724.50.

ACCORDING TO CADASTRAL PROPERTY OWNERSHIP RECORDS, AS OF 06/06/2015, A PORTION OF THE PROPERTY ON WHICH THIS WATER RIGHT IS USED APPEARS TO BE OWNED BY STATE OF MONTANA, HIGHWAY DEPARTMENT.

USDA AERIAL PHOTOGRAPH NO. 179-126 , DATED 08/02/1979 APPEARS TO INDICATE 600.19 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

USDA AERIAL PHOTOGRAPH NO. CNR-2P-77 , DATED 08/01/1955 APPEARS TO INDICATE 600.19 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.