

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:** 41M 131100-00 STATEMENT OF CLAIM  
**Version:** 2 -- ORIGINAL RIGHT  
**Version Status:** ACTIVE

**Owners:** CHERYL S CURRY  
130 CURRY RD  
VALIER, MT 59486  
GENE R CURRY  
130 CURRY RD  
VALIER, MT 59486

**Priority Date:** MARCH 26, 1898  
**Enforceable Priority Date:** MARCH 26, 1898

NOTWITHSTANDING ITS PRIORITY DATE, THIS CLAIM MAY NOT BE USED TO PLACE A CALL ON ANY OTHER WATER RIGHT.

**Type of Historical Right:** FILED

**Purpose (use):** IRRIGATION  
**Irrigation Type:** FLOOD

**Maximum Flow Rate:** 5.00 CFS

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

**Climatic Area:** 4 - MODERATELY LOW

**Maximum Acres:** 397.00

**Source Name:** WASTE & SEEPAGE, UNNAMED TRIBUTARY OF BIRCH CREEK  
**Source Type:** SURFACE WATER

ALSO KNOWN AS FAGERLIE SWAMP

**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		SWNWNW	36	30N	7W	PONDERA

**Period of Diversion:** APRIL 15 TO OCTOBER 15

**Diversion Means:** DRAIN DITCH

**Period of Use:** APRIL 15 to OCTOBER 15

**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	37.00		W2SW	30	30N	6W	PONDERA
2	239.00		S2	25	30N	7W	PONDERA
3	121.00		N2	36	30N	7W	PONDERA
<b>Total:</b>	<b>397.00</b>						

**Geocodes/Valid:** 26-4201-25-1-02-01-0000 - Y      26-4201-36-1-01-01-0000 - Y  
26-4202-30-3-04-04-0000 - 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.

131100-00    131101-00    131102-00

THE FOLLOWING ELEMENTS WERE AMENDED BY THE CLAIMANT ON 04/01/2005: SOURCE, MEANS OF DIVERSION, PLACE OF USE, MAX ACRES, PERIOD OF USE.

ELEMENTS OF THIS CLAIM WERE CHANGED PURSUANT TO THE WATER COURT'S DECISION IN CURRY V. PONDERA (WC-2006-01 (APRIL 25, 2014)). THE CURRY DECISION IS CURRENTLY ON APPEAL BEFORE THE MONTANA SUPREME COURT. SOME OR ALL OF THE ELEMENTS OF THIS CLAIM MAY BE ALTERED AS A RESULT OF THE SUPREME COURT'S DECISION.

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

---

**Remarks:**

ONE.

WATER RIGHT OWNERSHIP UPDATE RECEIVED 07/18/1986.

WATER RIGHT OWNERSHIP UPDATE RECEIVED 11/01/1993.

FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.

THE PONDERA COUNTY WATER RESOURCES SURVEY ( 1964 ) APPEARS TO INDICATE 0.00 ACRES IRRIGATED.

USDA AERIAL PHOTOGRAPH NO(S). 278-167 , DATED 09/22/1979 , APPEARS TO INDICATE 265 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.