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:					
Water Right Rumber.	40F 40949-00 STATEMENT OF CLAIM Version: 4 ORIGINAL RIGHT				
	Version Status: ACTIVE				
Owners:	USA (DEPT OF INTERIOR BUREAU OF RECLAMATION)				
	PO BOX 30137				
	BILLINGS, MT 59107-0137				
Priority Date:	NOVEMBER 7, 1939				
Enforceable Priori Type of Historical Right:	ity Date: NOVEMBER 7, 1939				
Purpose (use): Maximum Flow Rate:	FISH AND WILDLIFE A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS				
Maximum Flow Kate:	ONSTREAM RESERVOIR.				
Maximum Volume:	129,062.00 AC-FT				
	THE USE OF THIS WATER APPEARS TO BE LARGELY NONCONSUMPTIVE.				
Source Name:	MILK RIVER				
Source Type:	SURFACE WATER				
Point of Diversion and M					
<u>ID</u> 1	<u>Govt Lot</u> <u>Qtr Sec</u> <u>Sec</u> <u>Twp</u> <u>Rge</u> <u>County</u> SENESE 19 33N 14E HILL				
Period of Diversion					
Diversion Means:	n: DAM				
	WATER STORED IN FRESNO RESERVOIR IS RELEASED INTO THE MILK RIVER				
	WATER STORED IN FRESNO RESERVOIR IS RELEASED INTO THE MILK RIVER WHICH IS USED AS A NATURAL CARRIER TO A DIVERSION DAM IN THE NWSW	VSE			
	WHICH IS USED AS A NATURAL CARRIER TO A DIVERSION DAM IN THE NWSW SEC 26 TWP 31N RGE 26E PHILLIPS COUNTY WHERE IT ENTERS THE DODSOI	VSE N			
	WHICH IS USED AS A NATURAL CARRIER TO A DIVERSION DAM IN THE NWSW	VSE N			
Reservoir:	WHICH IS USED AS A NATURAL CARRIER TO A DIVERSION DAM IN THE NWSW SEC 26 TWP 31N RGE 26E PHILLIPS COUNTY WHERE IT ENTERS THE DODSON SOUTH CANAL WHICH TRANSPORTS THE WATER TO THE PLACE OF USE IN T	VSE N			
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4		5	30N	31E	PHILLIPS
5		29	30N	31E	PHILLIPS
6		26	31N	31E	PHILLIPS
7		27	31N	31E	PHILLIPS
8		28	31N	31E	PHILLIPS
9		32	31N	31E	PHILLIPS
10		33	31N	31E	PHILLIPS
11		34	31N	31E	PHILLIPS
12		35	31N	31E	PHILLIPS
13		36	31N	31E	PHILLIPS
14	E2	1	33N	13E	HILL
15	W2	1	33N	13E	HILL
16	NENENE	2	33N	13E	HILL
17	E2	11	33N	13E	HILL

Interaction Acres Govt Lot Qtr See See Typ Res County 18 12 33N 135 HILL 19 E2 12 33N 135 HILL 20 W2 13 33N 135 HILL 21 W2 13 33N 135 HILL 22 W2 33 33N 135 HILL 23 W2 13 33N 135 HILL 24 W2 13 33N 145 HILL 25 W2 7 33N 146 HILL 26 W2 17 33N 146 HILL 33 M4 H2 HIL 141 141 142 HILL 33 M4 H2 HIL 141 141 141 141 141 141 34 M2 M2 M3N M3E HILL	Place of Use:						
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56 N2 18 34N 13E HILL 57 N2S2 18 34N 13E HILL 58 NENENE 21 34N 13E HILL 59 E2 22 34N 13E HILL 60 W2 22 34N 13E HILL 61 SE 23 34N 13E HILL 62 W2 23 34N 13E HILL 63 W2 25 34N 13E HILL 64 E2 26 34N 13E HILL 65 NW 26 34N 13E HILL 66 NENENE 27 34N 13E HILL 67 E2 36 34N 13E HILL 68 E2 36 34N 13E HILL 70 S2 31 34N 14E HILL 71 W2SW 2 35N 12E HILL 73 W2 3 </td <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td>							
57 N2S2 18 34N 13E HILL 58 NENENE 21 34N 13E HILL 59 E2 22 34N 13E HILL 60 W2 22 34N 13E HILL 61 SE 23 34N 13E HILL 62 W2 23 34N 13E HILL 63 W2 25 34N 13E HILL 64 E2 26 34N 13E HILL 65 NW 26 34N 13E HILL 66 NENENE 27 34N 13E HILL 67 E2 36 34N 13E HILL 68 E2 36 34N 13E HILL 70 S2 31 34N 14E HILL 71 W2SW 2 35N 12E HILL 73 W2 3 35N 12E HILL 74 E2 10 </td <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td>							
58 NENENE 21 34N 13E HILL 59 E2 22 34N 13E HILL 60 W2 22 34N 13E HILL 61 SE 23 34N 13E HILL 62 W2 23 34N 13E HILL 63 W2 25 34N 13E HILL 64 E2 26 34N 13E HILL 65 NW 26 34N 13E HILL 66 NENENE 27 34N 13E HILL 67 E2 35 34N 13E HILL 68 E2 36 34N 13E HILL 69 W2 36 34N 13E HILL 71 W2SW 2 35N 12E HILL 72 E2 31 34N 14E HILL 73 W2 11 35N 12E HILL 74 E2 10 <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td>							
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67E23534N13EHILL68E23634N13EHILL69W23634N13EHILL70S23134N14EHILL71W2SW235N12EHILL72E2335N12EHILL73W2335N12EHILL74E21035N12EHILL75W21135N12EHILL76W21435N12EHILL77E21535N12EHILL78W21535N12EHILL79NESE1635N12EHILL80E22235N12EHILL81W22335N12EHILL83W22335N12EHILL84E22735N12EHILL							
68 E2 36 34N 13E HILL 69 W2 36 34N 13E HILL 70 S2 31 34N 14E HILL 71 W2SW 2 35N 12E HILL 72 E2 3 35N 12E HILL 73 W2 3 35N 12E HILL 74 E2 10 35N 12E HILL 75 W2 11 35N 12E HILL 76 W2 14 35N 12E HILL 77 E2 15 35N 12E HILL 78 W2 14 35N 12E HILL 79 NESE 16 35N 12E HILL 80 E2 22 35N 12E HILL 81 W2 23 35N 12E HILL 83 W2 26 35N 12E HILL 84 E2 27							
70 S2 31 34N 14E HILL 71 W2SW 2 35N 12E HILL 72 E2 3 35N 12E HILL 73 W2 3 35N 12E HILL 74 E2 10 35N 12E HILL 75 W2 11 35N 12E HILL 76 W2 14 35N 12E HILL 77 E2 15 35N 12E HILL 78 W2 14 35N 12E HILL 79 NESE 16 35N 12E HILL 80 E2 22 35N 12E HILL 81 W2 22 35N 12E HILL 83 W2 26 35N 12E HILL 84 E2 27 35N 12E HILL							
71W2SW235N12EHILL72E2335N12EHILL73W2335N12EHILL74E21035N12EHILL75W21135N12EHILL76W21435N12EHILL77E21535N12EHILL78W21535N12EHILL80E22235N12EHILL81W22235N12EHILL83W22635N12EHILL84E22735N12EHILL							
72E2335N12EHILL73W2335N12EHILL74E21035N12EHILL75W21135N12EHILL76W21435N12EHILL77E21535N12EHILL78W21535N12EHILL79NESE1635N12EHILL80E22235N12EHILL81W22335N12EHILL83W22635N12EHILL84E22735N12EHILL							
73 W2 3 35N 12E HILL 74 E2 10 35N 12E HILL 75 W2 11 35N 12E HILL 76 W2 14 35N 12E HILL 77 E2 15 35N 12E HILL 78 W2 15 35N 12E HILL 79 NESE 16 35N 12E HILL 80 E2 22 35N 12E HILL 81 W2 22 35N 12E HILL 83 W2 23 35N 12E HILL 84 E2 27 35N 12E HILL							
74E21035N12EHILL75W21135N12EHILL76W21435N12EHILL77E21535N12EHILL78W21535N12EHILL79NESE1635N12EHILL80E22235N12EHILL81W22235N12EHILL83W22635N12EHILL84E22735N12EHILL							
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79NESE1635N12EHILL80E22235N12EHILL81W22235N12EHILL82W22335N12EHILL83W22635N12EHILL84E22735N12EHILL							
81W22235N12EHILL82W22335N12EHILL83W22635N12EHILL84E22735N12EHILL							
82 W2 23 35N 12E HILL 83 W2 26 35N 12E HILL 84 E2 27 35N 12E HILL							
83W22635N12EHILL84E22735N12EHILL							
84 E2 27 35N 12E HILL							
	85			27	35N	12E	HILL

Place of Use:							
ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
86			E2	34	35N	12E	HILL
87			E2	35	35N	12E	HILL
88			W2	35	35N	12E	HILL
89			S2SW	36	35N	12E	HILL
90			E2	13	36N	11E	HILL
91			W2	13	36N	11E	HILL
92			E2	14	36N	11E	HILL
93			E2	18	36N	12E	HILL
94			W2	18	36N	12E	HILL
95			E2	19	36N	12E	HILL
96			SW	20	36N	12E	HILL
97			E2	29	36N	12E	HILL
98			W2	29	36N	12E	HILL
99			NE	32	36N	12E	HILL
100			E2	33	36N	12E	HILL
101			W2	33	36N	12E	HILL
102			E2	34	36N	12E	HILL
103			W2	34	36N	12E	HILL

THE PLACE OF USE IS FRESNO RESERVOIR AND BOWDOIN NATIONAL WILDLIFE REFUGE.

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.

40949-00 40950-00

THE COMPLETE SET OF DOCUMENTATION, MAPS AND OTHER RELATED MATERIALS CAN BE OBTAINED BY REVIEWING FILE NO. 40943.

THIS APPROPRIATION OF WATER TAKES WATER FROM THE MILK RIVER, ABOVE FRESNO RESERVOIR DRAINAGE (BASIN 40F) AND USES IT IN THE BEAVER CREEK, TRIBUTARY TO MILK RIVER DRAINAGE (BASIN 40M). ANY OBJECTION TO THIS RIGHT MAY BE FILED DURING THE OBJECTION PERIODS FOR EITHER THE POINT OF DIVERSION OR PLACE OF USE BASIN.

WHENEVER THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE COMBINED TO SUPPLY WATER FOR THE CLAIMED PURPOSE, EACH IS LIMITED TO THE HISTORICAL 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. 40937-00, 40949-00.

THIS INTERBASIN TRANSFER CLAIM WAS IMPROPERLY INCLUDED IN THE BASIN 40J PRELIMINARY DECREE ISSUED ON 06/24/2010.

THIS INTERBASIN TRANSFER CLAIM RECEIVED OBJECTIONS IN BASIN 40J. NO ACTION WILL BE TAKEN ON THIS CLAIM UNTIL IT HAS BEEN DECREED IN ALL BASINS YET TO BE DECREED AND IDENTIFIED BY THE INTERBASIN TRANSFER REMARK.

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT WERE FILED BY DIFFERENT PARTIES WHO CLAIM OVERLAPPING PLACES OF USE. 40949-00, 189872-00.

THE PERIOD OF DIVERSION FROM THE SOURCE INTO STORAGE CANNOT BE IDENTIFIED.

THE WATER COURT WILL HOLD A HEARING ON THIS CLAIM TO DETERMINE ITS VALIDITY SUBJECT TO SECTION 85-2-248, MCA, AND MATTER OF THE ADJUDICATION OF EXISTING RIGHTS IN BASIN 411, 2002 MT 216, 311 MONT. 327, 55 P.3D 396. A HEARING MAY ALSO BE HELD ON THIS CLAIM IF A VALID OBJECTION IS FILED UNDER SECTION 85-2-233, MCA, OR THE WATER COURT CALLS THE CLAIM IN ON ITS OWN MOTION UNDER RULE 8, W.R.ADJ.R.

DISCREPANCIES EXIST BETWEEN THE DECREED RESERVOIR INFORMATION INCLUDING CAPACITY AND WORKSHEET INFORMATION RECEIVED 10/23/2008

THE CLAIMED VOLUME WAS NOT EXAMINED AS NO VOLUME GUIDELINES FOR THIS PURPOSE HAVE BEEN ESTABLISHED BY THE CLAIMS EXAMINATION RULES.