

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 150394-00 STATEMENT OF CLAIM
Version: 1 -- ORIGINAL RIGHT

Version Status: ACTIVE

Owners: US BANK NATIONAL ASSOCIATION
3476 STATEVIEW BLVD
FORT MILL, SC 29715-7203

Priority Date: JUNE 30, 1973

Enforceable Priority Date: JUNE 30, 1973

Type of Historical Right: USE

Purpose (use): FISH AND WILDLIFE

Maximum Flow Rate: 10.00 GPM

Maximum Volume: 16.00 AC-FT

Source Name: BITTERROOT RIVER, EAST 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		NENESW	27	2N	20W	RAVALLI

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: HEADGATE

Reservoir: OFF STREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NENESW	27	2N	20W	RAVALLI

Diversion to Reservoir: DIVERSION # 1

Dam Height: 5.00 FEET

Surface Area: 0.43 ACRES

Current Capacity: 0.90 ACRE-FEET

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			NENESW	27	2N	20W	RAVALLI

Geocodes/Valid: 13-1074-27-2-01-06-0000 - Y

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.

150392-00 150394-00

THE FOLLOWING ELEMENTS WERE AMENDED BY THE CLAIMANT ON 02/20/90: FLOW RATE, VOLUME.

THE FOLLOWING ELEMENTS WERE AMENDED BY THE CLAIMANT ON 01/17/90: PURPOSE, POINT OF DIVERSION, MEANS OF DIVERSION, PLACE OF USE, FLOW RATE, PERIOD OF USE.

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

NOTICE OF WATER RIGHT TRANSFER RECEIVED 03/04/86.

NOTICE OF WATER RIGHT TRANSFER RECEIVED 06/21/88.

NOTICE OF WATER RIGHT TRANSFER RECEIVED 09/04/91.

NOTICE OF WATER RIGHT TRANSFER RECEIVED 04/17/97.

OWNERSHIP UPDATE RECEIVED

OWNERSHIP UPDATE TYPE 608 # 1311 RECEIVED 02/25/2002.

OWNERSHIP UPDATE TYPE 608 # 25309 RECEIVED 10/06/2005.

OWNERSHIP UPDATE TYPE DOR # 119478 RECEIVED 03/06/2014.

Remarks:

THE PRIORITY DATE MAY BE QUESTIONABLE. THIS CLAIM IS FOR A USE RIGHT ON BITTERROOT RIVER, EAST FORK, WITH A PRIORITY DATE POSTDATING CASE NO. 1287, RAVALLI COUNTY.

WHEN THIS CLAIM WAS ORIGINALLY DECREED, THE PERIOD OF DIVERSION WAS NOT INCLUDED AS AN ELEMENT OF THE CLAIM. IN 2008, THE PERIOD OF DIVERSION ELEMENT WAS ADDED TO ALL CLAIM ABSTRACTS. IT IS NOT CERTAIN IF THE PERIOD OF DIVERSION DATES ADDED TO THIS CLAIM ACCURATELY REFLECT THE HISTORICAL PERIOD OF DIVERSION. MORE INFORMATION IS REQUIRED.

THERE IS A QUESTION AS TO THE VALIDITY OF THIS CLAIMED RIGHT. IN THE MATTER OF THE DEARBORN DRAINAGE AREA, 234 MONT. 343 (1988) (THE BEAN LAKE CASE) THE MONTANA SUPREME COURT STATED: "IT IS CLEAR THEREFORE THAT UNDER MONTANA LAW BEFORE 1973, NO APPROPRIATION RIGHT WAS RECOGNIZED FOR RECREATION, FISH AND WILDLIFE, EXCEPT THROUGH A MURPHY RIGHT STATUTE."

THERE IS A QUESTION AS TO THE VALIDITY OF THIS CLAIMED RIGHT. IN THE MATTER OF THE DEARBORN DRAINAGE AREA, 234 MONT. 343 (1988) (THE BEAN LAKE CASE) THE MONTANA SUPREME COURT STATED: "IT IS CLEAR THEREFORE THAT UNDER MONTANA LAW BEFORE 1973, NO APPROPRIATION RIGHT WAS RECOGNIZED FOR RECREATION, FISH AND WILDLIFE, EXCEPT THROUGH A MURPHY RIGHT STATUTE."

ACCORDING TO INFORMATION IN THE CLAIM FILE, THE RESERVOIR WAS ENLARGED IN 1986. THIS MAY INDICATE AN EXPANSION OF THE RIGHT. SEE CLAIM FILE FOR FURTHER INFORMATION.

THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. THE CLAIMED VOLUME EQUALS 18.6 TIMES THE CAPACITY OF THE RESERVOIR.

THE USE OF THIS WATER APPEARS TO BE LARGELY NONCONSUMPTIVE.

VOLUME MAY BE EXCESSIVE. BASED ON THE FLOW RATE AND PERIOD OF USE, THE SYSTEM WOULD HAVE TO RUN 23.74 HOURS PER DAY TO DELIVER THE CLAIMED VOLUME. NO INFORMATION EXISTS IN THE CLAIM FILE TO CONFIRM THIS FIGURE.