

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: 43B 162377-00 STATEMENT OF CLAIM
Version: 1 -- ORIGINAL RIGHT

Version Status: ACTIVE

Owners: USA (DEPT OF INTERIOR NATIONAL PARK SERVICE)
1201 OAKRIDGE DRIVE, SUITE 250
FORT COLLINS, CO 80525

Priority Date: JUNE 1, 1883

Enforceable Priority Date: JUNE 1, 1883

Type of Historical Right: DECREED

Purpose (use): FISH AND WILDLIFE
INSTREAM FLOWS FOR THE MAINTENANCE OF ECOSYSTEMS AND ALL OTHER USES CONSISTENT WITH PARK PURPOSES AS SET FORTH IN, 16 U.S.C. 1, THE ACT OF MAY 26, 1926, AND THE PRESIDENTIAL PROCLAMATION OF OCTOBER 20, 1932.

Maximum Flow Rate: 1.37 CFS
THE ACTUAL FLOW RATE FOR THIS WATER RIGHT IS 1.375 CFS. COMPUTER LIMITATIONS DO NOT ALLOW THE CORRECT FLOW RATE TO BE PRINTED ABOVE.

FLOW RATE LIMITED TO 1.25 CFS FROM APRIL 15 TO OCTOBER 15.

Maximum Volume:
THE VOLUME IS LIMITED TO THE MINIMUM AMOUNT NECESSARY TO SUSTAIN THIS PURPOSE. THIS RIGHT SHALL CONTINUE TO BE UTILIZED IN ACCORDANCE WITH HISTORICAL PRACTICES.

Source Name: REESE 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		E2SE	7	9S	8E	PARK (YELLOWSTONE NATIONAL PARK)

Period of Diversion: JANUARY 1 TO DECEMBER 31
Diversion Means: INSTREAM

2		NWSW	8	9S	8E	PARK (YELLOWSTONE NATIONAL PARK)
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Period of Diversion: JANUARY 1 TO DECEMBER 31
Diversion Means: INSTREAM

3		SENW	8	9S	8E	PARK (YELLOWSTONE NATIONAL PARK)
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Period of Diversion: JANUARY 1 TO DECEMBER 31
Diversion Means: INSTREAM

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			NWSW	8	9S	8E	PARK (YELLOWSTONE NATIONAL PARK)
2			E2SE	7	9S	8E	PARK (YELLOWSTONE NATIONAL PARK)
3			SENW	8	9S	8E	PARK (YELLOWSTONE NATIONAL PARK)

Remarks:

THE FOLLOWING ELEMENTS WERE AMENDED BY THE CLAIMANT ON 07/28/97: PLACE OF USE AND POINT OF DIVERSION.

THE FOLLOWING ELEMENTS WERE AMENDED BY THE CLAIMANT ON 07/13/90: PURPOSE, PRIORITY DATE, TYPE OF HISTORICAL RIGHT, FLOW RATE, VOLUME.

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

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 OF THE VOLUME OF THESE WATER RIGHTS SHALL NOT

Remarks:

EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE. W162377-00, W216281-00, W216282-00.

CLAIM WAS NOT INCLUDED IN THE BASIN 43B TEMPORARY PRELIMINARY DECREE ISSUED 01/16/85.

THE PRIORITY DATE MAY BE QUESTIONABLE. ACCORDING TO INFORMATION IN THE CLAIM FILE, THIS RIGHT IS THE RESULT OF A SETTLEMENT AGREEMENT WITH OTHER REESE CREEK WATER RIGHT CLAIMANTS AND REPRESENTS COMBINED HISTORIC WATER RIGHTS.

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."

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THIS CLAIMED PURPOSE (USE) CANNOT BE CONFIRMED. THERE APPEARS TO BE NO APPROPRIATION OF WATER AS THE METHOD OF DIVERSION IS INSTREAM USE.

THE USE OF THIS WATER APPEARS TO BE LARGELY NON-CONSUMPTIVE.