

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:** 43D 10269-00 STATEMENT OF CLAIM  
**Version:** 1 -- ORIGINAL RIGHT  
**Version Status:** ACTIVE

**Owners:** ANDREW V PORTH  
PO BOX 770  
RED LODGE, MT 59068-0770  
  
KAREN G PORTH  
PO BOX 770  
RED LODGE, MT 59068

**Priority Date:** JUNE 1, 1889  
**Enforceable Priority Date:** JUNE 1, 1889

**Type of Historical Right:** DECREED

**Purpose (use):** FISH AND WILDLIFE

**Maximum Flow Rate:**

**Maximum Volume:** 4.80 AC-FT

**Source Name:** WILLOW 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		SWNENW	33	7S	20E	CARBON

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** DAM

**Reservoir:** ON STREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SWNENW	33	7S	20E	CARBON

**Diversion to Reservoir:** DIVERSION # 1

**Surface Area:** 1.30 ACRES

**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		SWNENW	33	7S	20E	CARBON	

**Geocodes/Valid:** 10-0356-33-2-02-01-0000 - Y 10-0356-33-2-02-16-0000 - Y

**Remarks:**

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

NOTICE OF WATER RIGHT TRANSFER RECEIVED 12/09/91.

**OWNERSHIP UPDATE RECEIVED**

OWNERSHIP UPDATE TYPE 608 # 144654 RECEIVED 09/04/2004.

OWNERSHIP UPDATE TYPE 608 # 39358 RECEIVED 03/28/2006.

THE PRIORITY DATE IS IN QUESTION. THE SOURCE ON THE DECREE, CASE NO. 275, CARBON COUNTY, APPEARS TO BE DIFFERENT FROM THE CLAIMED SOURCE.

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 MATTER OF THE DEARBORN DRAINAGE AREA, 234 MONT. 331, 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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**Remarks:**

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