

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 194641-00 STATEMENT OF CLAIM
Version: 1 -- ORIGINAL RIGHT
Version Status: ACTIVE

Owners: TVX MINERAL HILL INC
% WILLIAM B HOFER
PO BOX 92
GARDINER, MT 59030

Priority Date: DECEMBER 31, 1876
Enforceable Priority Date: DECEMBER 31, 1876

Type of Historical Right: DECREED

Purpose (use): MINING
Maximum Flow Rate: 22.50 CFS
Maximum Volume: 8,165.00 AC-FT

Source Name: BEAR CREEK
Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SE	SW	4	9S	9E PARK

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

2		SW	NE	8	9S	9E PARK
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Period of Diversion: JANUARY 1 TO DECEMBER 31
Diversion Means: HEADGATE

Ditch Name: BIGLOW-CHAPMAN DITCH

3		S	W	SW	8	9S	9E PARK
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Period of Diversion: JANUARY 1 TO DECEMBER 31
Diversion Means: PUMP

4		N	EN	WN	9	9S	9E PARK
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Period of Diversion: JANUARY 1 TO DECEMBER 31
Diversion Means: PUMP

DITCH NAME FOR DIVERSION NO. 2 IS: BIGLOW-CHAPMAN DITCH

Period of Use: JANUARY 1 to DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			SW	NW	19	9S	9E PARK
2			NW	NE	19	9S	9E PARK

Geocodes/Valid: -- NO VALID GEOCODES --

Remarks:

THE STIPULATION FILED BY THE PARTIES ON OCTOBER 25, 1989 SPECIFIES THE FOLLOWING: (I) MINERAL HILL AGREES TO USE ITS PINE CREEK RIGHTS TO THE MAXIMUM EXTENT PRACTICABLE IN CONDUCTING ITS MINING OPERATIONS BEFORE USING BEAR CREEK CLAIM 43B-W-194641. (II) MINERAL HILL AGREES THAT ITS USE OF BEAR CREEK CLAIM 43B-W-194641 SHALL NOT EXCEED 0.65 CFS BETWEEN DECEMBER 1 THROUGH MARCH 31 OF EACH CALENDAR YEAR. (III) BETWEEN APRIL 1 THROUGH NOVEMBER 30 OF EACH CALENDAR YEAR, MINERAL HILL MAY USE BEAR CREEK CLAIM 43B-W-194641 AS FOLLOWS: (A) MINERAL HILL SHALL HAVE UNRESTRICTED USE, NOT TO EXCEED A TOTAL OF 4.0 CFS FROM ITS BEAR CREEK CLAIM 43B-W-194641, FOR MINING PURPOSES. THE TERM 'MINING PURPOSES' AS USED IN THIS STIPULATION MEANS ANY USE OF WATER NECESSARY TO CONDUCT MINING OPERATIONS AT THE JARDINE SITE, INCLUDING EXPLORATION, MILLING, DUST SUPPRESSION, AND OTHER MINING RELATED USES OF WATER DESCRIBED IN THE FINAL ENVIRONMENTAL IMPACT STATEMENT FOR THE JARDINE JOINT VENTURE PROJECT PREPARED BY THE MONTANA DEPARTMENT OF STATE LANDS AND USDA FOREST SERVICE. (B) IT IS HEREBY AGREED AND UNDERSTOOD THAT MINERAL HILL HAS THE FIRST RIGHT TO THE USE OF WATER ON BEAR CREEK IN AN AMOUNT NOT TO

Remarks:

EXCEED 22.50 CFS WITH A PRIORITY DATE OF DECEMBER 31, 1876. IT IS FURTHER AGREED THAT WHEN MINERAL HILL'S USE OF BEAR CREEK WATERS REACHES 4.0 CFS, MINERAL HILL WILL DIVERT ONLY 50 PERCENT OF THE REMAINING FLOW IN BEAR CREEK UNTIL THEIR TOTAL ENTITLEMENT OF 22.50 CFS IS SATISFIED. THE REMAINING 50 PERCENT OF THE FLOW WILL REMAIN INSTREAM FOR THE PROTECTION OF THE BEAR CREEK FISHERY. IT IS ALSO UNDERSTOOD AND AGREED THAT THIS REQUIREMENT APPLIES TO ALL DIVERSIONS AND USES OF WATER BY MINERAL HILL, INCLUDING THE JARDINE MINING COMPANY DIVERSION AND DITCH, (FORMERLY BEAR GULCH PLACER MINING CO. DITCH) WHICH CURRENTLY TRANSPORTS WATER THAT IS LEASED FOR AGRICULTURAL USE. (C) MINERAL HILL AGREES TO NOTIFY DFWP IF WATER USE FOR MINING PURPOSES WILL EXCEED 4.0 CFS FOR MORE THAN 4 HOURS OUT OF BEAR CREEK. MINERAL HILL AGREES TO GIVE DFWP AT LEAST 12 HOURS NOTICE BEFORE ANY INTENDED USE OF MORE THAN 4.0 CFS FOR MINING PURPOSES. NOTICE SHALL BE GIVEN TO DFWP AT ITS BOZEMAN OFFICE. DFWP AGREES THAT IT IS RESPONSIBLE FOR NOTIFYING THE USA OF ANY INTENDED WATER USE BY MINERAL HILL AS DESCRIBED IN THIS SUBPARAGRAPH.

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

NOTICE OF WATER RIGHT TRANSFER RECEIVED 12/08/89.

NOTICE OF WATER RIGHT TRANSFER RECEIVED 03/09/87.

NOTICE OF WATER RIGHT TRANSFER RECEIVED 09/29/94.

THE JUNE 27, 1986 DNRC RE-EXAMINATION REPORT STATES THAT THIS CLAIMED RIGHT WAS INCLUDED IN THE DECREE ENTERED IN CAUSE 4795, DISTRICT COURT IN AND FOR PARK COUNTY, AND THAT THE PRIORITY DATE WAS DECREED AS 1882 NOT 1876 AS SPECIFIED ABOVE.

THE TIMELY FILED OBJECTION OF THE MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS WAS AMENDED BY AGREEMENT OF THE PARTIES TO INCLUDE POINT OF DIVERSION AND MEANS OF DIVERSION. BECAUSE THESE ELEMENTS WERE NOT INCLUDED ON THE OBJECTION LIST, ANY WATER USER WHOSE RIGHTS MAYBE ADVERSELY AFFECTED BY ENFORCEMENT OF THESE CHANGES MAY PETITION THE APPROPRIATE COURT FOR RELIEF OR MAY FILE AN OBJECTION AT THE PRELIMINARY DECREE.