

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: 40A 205264-00 STATEMENT OF CLAIM
Version: 2 -- POST DECREE
Version Status: ACTIVE

Owners: M&W RANCH LLC
PO BOX 235
TWO DOT, MT 59085-0235

Priority Date: JUNE 15, 1903
Enforceable Priority Date: JUNE 15, 1903

Type of Historical Right: DECREED

Purpose (use): IRRIGATION
Irrigation Type: FLOOD

Maximum Flow Rate: 3.48 CFS

Maximum Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 232.00

Source Name: CROOKED 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>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	10	NESENE	4	6N	13E	WHEATLAND

Period of Diversion: MAY 10 TO SEPTEMBER 19

Diversion Means: HEADGATE

Ditch Name: BRYAN DITCH

Period of Use: MAY 10 to SEPTEMBER 19

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u> <u>Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	32.00		NWNW	2	6N	13E	WHEATLAND
2	200.00		N2N2	3	6N	13E	WHEATLAND
Total:	232.00						

Geocodes/Valid: 44-1507-02-2-01-01-0000 - Y 44-1507-03-1-01-01-0000 - Y

Remarks:

THE STIPULATION FILED ON FEBRUARY 14, 1997 IN CASE 40A-264 INCLUDES THE FOLLOWING PROVISION: THE OWNER OF RIGHT 40A 205260-00 MAY DIVERT ADDITIONAL WATER AT THE POINTS OF DIVERSION SHOWN FOR RIGHTS 40A 205262-00, 40A 205263-00, 40A 205264-00, AND 40A 205265-00, IN WHICH EVENT THE OWNER SHALL RELEASE AN EQUIVALENT FLOW OF WATER FORM THE RESERVOIR ASSOCIATED WITH RIGHT 40A 205260-00. THIS RELEASED WATER MAY NOT BE DIVERTED THROUGH ANY DIVERSION BETWEEN THE RESERVOIR AND THE CONFLUENCE OF CROOKED CREEK WITH BIG ELK CREEK.

THE STIPULATION FILED ON FEBRUARY 11, 2002 IN CASE 40A-264 INCLUDES THE FOLLOWING PROVISION: "FOR PURPOSES OF ENFORCING THE BIG ELK DECREE, THE MEANS OF DIVERSION OF ALL PARTIES SHALL BE LIMITED TO THE CARRYING CAPACITY OF THE DITCHES AT THE POINT OF DIVERSION EXISTING AS OF THE DATE OF THIS STIPULATION." A COPY OF EACH PARTY'S STATEMENT HAS BEEN ADDED TO THAT PARTY'S CLAIM FILES.

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS OF THE CLAIMANT'S TOTAL 273.00 ACRES. EACH RIGHT IS LIMITED TO THE 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. 205260-00 205262-00 205263-00 205264-00 205265-00

THE STIPULATIONS FILED ON FEBRUARY 14, 1997 AND FEBRUARY 11, 2002 IN CASE 40A-264 INCLUDE THE FOLLOWING PROVISION: THE DIVERTED FLOW OF THE WATER RIGHTS LISTED BELOW MAY BE MARSHALED BETWEEN AND AMONG THE VARIOUS PLACES OF USE AND POINTS OF DIVERSION OF ANY OF THESE RIGHTS SO LONG AS SUCH MARSHALING DOES NOT ADVERSELY AFFECT ANY OTHER WATER RIGHT AND SO LONG AS THESE RIGHTS ARE HELD BY A COMMON OWNER: 40A 205262-00, 40A

Remarks:

205263-00, AND 40A 206264-00. IN THE EVENT THAT THE FLOW IN BIG ELK CREEK AND ITS TRIBUTARIES IS INSUFFICIENT TO SATISFY THE WATER RIGHTS HAVING A PRIORITY DATE PRIOR TO JULY 1, 1921, ALL RIGHTS TO MARSHAL WATER RIGHTS SHALL IMMEDIATELY CEASE.

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

OWNERSHIP UPDATE RECEIVED

OWNERSHIP UPDATE TYPE 608 # 9629 RECEIVED 07/16/2003.

OWNERSHIP UPDATE TYPE DOR # 89649 RECEIVED 03/26/2010.

OWNERSHIP UPDATE TYPE DOR # 90109 RECEIVED 09/01/2011.

THIS CLAIM PRESENTS ISSUES OF FACT AND LAW THAT MAY BE ADDRESSED AT THE OBJECTION STAGE. IT APPEARS THAT 211 ACRES ARE ACTUALLY IRRIGATED AND PROBLEMS COULD EXIST WITH FLOW RATE AND VOLUME.

ON MARCH 26, 2008 THE CLAIMANTS FILED A REQUEST TO CHANGE THE PERIOD OF USE. THIS WAS DEEMED AND DOCKETED AS A LATE OBJECTION. THIS WILL BE HEARD AFTER PROPER NOTICE ON THE NEXT OBJECTION LIST.