

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: 40F 40949-00 STATEMENT OF CLAIM
Version: 4 -- ORIGINAL RIGHT

Version Status: ACTIVE

Owners: USA (DEPT OF INTERIOR BUREAU OF RECLAMATION)
PO BOX 30137
BILLINGS, MT 59107-0137

Priority Date: NOVEMBER 7, 1939

Enforceable Priority Date: NOVEMBER 7, 1939

Type of Historical Right: USE

Purpose (use): FISH AND WILDLIFE

Maximum Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR.

Maximum Volume: 129,062.00 AC-FT
THE USE OF THIS WATER APPEARS TO BE LARGELY NONCONSUMPTIVE.

Source Name: MILK RIVER

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		SENESE	19	33N	14E	HILL

Period of Diversion:

Diversion Means: DAM

WATER STORED IN FRESNO RESERVOIR IS RELEASED INTO THE MILK RIVER, WHICH IS USED AS A NATURAL CARRIER TO A DIVERSION DAM IN THE NWSWSE SEC 26 TWP 31N RGE 26E PHILLIPS COUNTY WHERE IT ENTERS THE DODSON SOUTH CANAL WHICH TRANSPORTS THE WATER TO THE PLACE OF USE IN THE BOWDOIN NATIONAL WILDLIFE REFUGE.

Reservoir: ON STREAM **Reservoir Name** FRESNO RESERVOIR

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	E2SE	19	33N	14E	HILL

Diversion to Reservoir: DIVERSION # 1

Dam Height: 110.00 FEET

Depth: 78.00 FEET

Surface Area: 5,760.00 ACRES

Current Capacity: 129,062.00 ACRE-FEET

SEE THE RESERVOIR WORKSHEET IN THE CLAIM FILE FOR ADDITIONAL RESERVOIR DATA.

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				1	30N	31E	PHILLIPS
2				2	30N	31E	PHILLIPS
3				4	30N	31E	PHILLIPS
4				5	30N	31E	PHILLIPS
5				29	30N	31E	PHILLIPS
6				26	31N	31E	PHILLIPS
7				27	31N	31E	PHILLIPS
8				28	31N	31E	PHILLIPS
9				32	31N	31E	PHILLIPS
10				33	31N	31E	PHILLIPS
11				34	31N	31E	PHILLIPS
12				35	31N	31E	PHILLIPS
13				36	31N	31E	PHILLIPS
14			E2	1	33N	13E	HILL
15			W2	1	33N	13E	HILL
16			NENENE	2	33N	13E	HILL
17			E2	11	33N	13E	HILL

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>
18			W2	11	33N	13E	HILL
19			E2	12	33N	13E	HILL
20			W2	12	33N	13E	HILL
21			E2	13	33N	13E	HILL
22			W2	13	33N	13E	HILL
23			NENE	14	33N	13E	HILL
24			E2	24	33N	13E	HILL
25			NW	24	33N	13E	HILL
26			NENE	25	33N	13E	HILL
27			N2N2	6	33N	14E	HILL
28			W2W2	7	33N	14E	HILL
29			S2SESW	8	33N	14E	HILL
30			W2	17	33N	14E	HILL
31			E2	18	33N	14E	HILL
32			W2	18	33N	14E	HILL
33				19	33N	14E	HILL
34			E2	1	34N	12E	HILL
35			W2	1	34N	12E	HILL
36			N2	2	34N	12E	HILL
37			SW	2	34N	12E	HILL
38			E2E2	3	34N	12E	HILL
39			NW	11	34N	12E	HILL
40			E2	12	34N	12E	HILL
41			E2NW	12	34N	12E	HILL
42			W2	6	34N	13E	HILL
43			W2	6	34N	13E	HILL
44			W2SE	7	34N	13E	HILL
45			W2	7	34N	13E	HILL
46			E2	8	34N	13E	HILL
47			W2	8	34N	13E	HILL
48			SW	9	34N	13E	HILL
49			W2SW	14	34N	13E	HILL
50			E2	15	34N	13E	HILL
51			W2	15	34N	13E	HILL
52			E2	16	34N	13E	HILL
53			W2	16	34N	13E	HILL
54			N2	17	34N	13E	HILL
55			N2S2	17	34N	13E	HILL
56			N2	18	34N	13E	HILL
57			N2S2	18	34N	13E	HILL
58			NENENE	21	34N	13E	HILL
59			E2	22	34N	13E	HILL
60			W2	22	34N	13E	HILL
61			SE	23	34N	13E	HILL
62			W2	23	34N	13E	HILL
63			W2	25	34N	13E	HILL
64			E2	26	34N	13E	HILL
65			NW	26	34N	13E	HILL
66			NENENE	27	34N	13E	HILL
67			E2	35	34N	13E	HILL
68			E2	36	34N	13E	HILL
69			W2	36	34N	13E	HILL
70			S2	31	34N	14E	HILL
71			W2SW	2	35N	12E	HILL
72			E2	3	35N	12E	HILL
73			W2	3	35N	12E	HILL
74			E2	10	35N	12E	HILL
75			W2	11	35N	12E	HILL
76			W2	14	35N	12E	HILL
77			E2	15	35N	12E	HILL
78			W2	15	35N	12E	HILL
79			NESE	16	35N	12E	HILL
80			E2	22	35N	12E	HILL
81			W2	22	35N	12E	HILL
82			W2	23	35N	12E	HILL
83			W2	26	35N	12E	HILL
84			E2	27	35N	12E	HILL
85			E2W2	27	35N	12E	HILL

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>
86			E2	34	35N	12E	HILL
87			E2	35	35N	12E	HILL
88			W2	35	35N	12E	HILL
89			S2SW	36	35N	12E	HILL
90			E2	13	36N	11E	HILL
91			W2	13	36N	11E	HILL
92			E2	14	36N	11E	HILL
93			E2	18	36N	12E	HILL
94			W2	18	36N	12E	HILL
95			E2	19	36N	12E	HILL
96			SW	20	36N	12E	HILL
97			E2	29	36N	12E	HILL
98			W2	29	36N	12E	HILL
99			NE	32	36N	12E	HILL
100			E2	33	36N	12E	HILL
101			W2	33	36N	12E	HILL
102			E2	34	36N	12E	HILL
103			W2	34	36N	12E	HILL

THE PLACE OF USE IS FRESNO RESERVOIR AND BOWDOIN NATIONAL WILDLIFE REFUGE.

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.

40949-00 40950-00

THE COMPLETE SET OF DOCUMENTATION, MAPS AND OTHER RELATED MATERIALS CAN BE OBTAINED BY REVIEWING FILE NO. 40943.

THIS APPROPRIATION OF WATER TAKES WATER FROM THE MILK RIVER, ABOVE FRESNO RESERVOIR DRAINAGE (BASIN 40F) AND USES IT IN THE BEAVER CREEK, TRIBUTARY TO MILK RIVER DRAINAGE (BASIN 40M). ANY OBJECTION TO THIS RIGHT MAY BE FILED DURING THE OBJECTION PERIODS FOR EITHER THE POINT OF DIVERSION OR PLACE OF USE BASIN.

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 VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE. 40937-00, 40949-00.

THIS INTERBASIN TRANSFER CLAIM WAS IMPROPERLY INCLUDED IN THE BASIN 40J PRELIMINARY DECREE ISSUED ON 06/24/2010.

THIS INTERBASIN TRANSFER CLAIM RECEIVED OBJECTIONS IN BASIN 40J. NO ACTION WILL BE TAKEN ON THIS CLAIM UNTIL IT HAS BEEN DECREED IN ALL BASINS YET TO BE DECREED AND IDENTIFIED BY THE INTERBASIN TRANSFER REMARK.

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT WERE FILED BY DIFFERENT PARTIES WHO CLAIM OVERLAPPING PLACES OF USE. 40949-00, 189872-00.

THE PERIOD OF DIVERSION FROM THE SOURCE INTO STORAGE CANNOT BE IDENTIFIED.

THE WATER COURT WILL HOLD A HEARING ON THIS CLAIM TO DETERMINE ITS VALIDITY SUBJECT TO SECTION 85-2-248, MCA, AND MATTER OF THE ADJUDICATION OF EXISTING RIGHTS IN BASIN 41I, 2002 MT 216, 311 MONT. 327, 55 P.3D 396. A HEARING MAY ALSO BE HELD ON THIS CLAIM IF A VALID OBJECTION IS FILED UNDER SECTION 85-2-233, MCA, OR THE WATER COURT CALLS THE CLAIM IN ON ITS OWN MOTION UNDER RULE 8, W.R.ADJ.R.

DISCREPANCIES EXIST BETWEEN THE DECREED RESERVOIR INFORMATION INCLUDING CAPACITY AND WORKSHEET INFORMATION RECEIVED 10/23/2008

THE CLAIMED VOLUME WAS NOT EXAMINED AS NO VOLUME GUIDELINES FOR THIS PURPOSE HAVE BEEN ESTABLISHED BY THE CLAIMS EXAMINATION RULES.