

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:** 43P 114743-00 STATEMENT OF CLAIM  
**Version:** 1 -- ORIGINAL RIGHT  
**Version Status:** ACTIVE

**Owners:** STEVEN W KERN  
PO BOX 421  
HARDIN, MT 59034  
  
SHERI L DORN  
3426 CASTLE PINES DR  
BILLINGS, MT 59101  
  
JAMES H CASSELMAN  
5404 BILLY CASPER DR  
BILLINGS, MT 59106  
  
JUSTIN A CASSELMAN  
5404 BILLY CASPER DR  
BILLINGS, MT 59106  
  
LARRY A CASSELMAN  
5404 BILLY CASPER DR  
BILLINGS, MT 59106  
  
GEORGE R DORN JR  
3426 CASTLE PINES DR  
BILLINGS, MT 59101

OWNERSHIP UPDATE PROCESSED TO ADD NEW OWNERS. THE WATER RIGHT MAY BE SPLIT INTO SEPARATE WATER RIGHTS UPON REQUEST OF THE OWNERS.

**Priority Date:** MAY 7, 1868  
**Enforceable Priority Date:** MAY 7, 1868

**Type of Historical Right:** USE

**Purpose (use):** IRRIGATION  
**Irrigation Type:** FLOOD

**Maximum Flow Rate:** 22.85 CFS

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

**Climatic Area:** 1 - HIGH

**Maximum Acres:** 609.33

**Source Name:** BIGHORN RIVER  
**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		NESWSE	20	2S	33E	BIG HORN

**Period of Diversion:** APRIL 15 TO NOVEMBER 15

**Diversion Means:** HEADGATE

**Ditch Name:** TWO LEGGINS CANAL

**Period of Use:** APRIL 15 to NOVEMBER 15

**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	48.49	4	SWNE	27	1N	33E	BIG HORN
2	70.00		S2NW	27	1N	33E	BIG HORN
3	49.74	7	NWSE	27	1N	33E	BIG HORN
4	41.71	8	SWSE	27	1N	33E	BIG HORN
5	160.00		SW	27	1N	33E	BIG HORN
6	39.39		SENE	28	1N	33E	BIG HORN
7	80.00		W2NE	28	1N	33E	BIG HORN
8	80.00		E2SE	28	1N	33E	BIG HORN
9	40.00		N2N2NE	33	1N	33E	BIG HORN
<b>Total:</b>	609.33						

<b>Geocodes/Valid:</b>	22-1040-27-2-03-03-0000 - Y	22-1040-27-3-01-01-0000 - Y
	22-1040-27-3-02-02-0000 - Y	22-1040-27-3-03-03-0000 - Y
	22-1040-28-1-04-04-0000 - Y	22-1040-28-4-01-01-0000 - Y
	22-1040-33-1-01-01-0000 - Y	22-1040-33-1-02-01-0000 - Y

**Remarks:**

THE FOLLOWING ELEMENTS WERE AMENDED BY THE CLAIMANT ON 06/28/1996: FLOW RATE, VOLUME. STARTING IN 2008, PERIOD OF DIVERSION WAS ADDED TO MOST CLAIM ABSTRACTS, INCLUDING THIS ONE.

THIS WATER RIGHT IS LOCATED, IN WHOLE OR IN PART, WITHIN THE BOUNDARY OF THE CROW INDIAN RESERVATION.

NOTICE OF WATER RIGHT TRANSFER RECEIVED 05/28/1996.

**OWNERSHIP UPDATE RECEIVED**

OWNERSHIP UPDATE TYPE 608 # 15655 RECEIVED 03/18/2004.

OWNERSHIP UPDATE TYPE 608 # 63634 RECEIVED 03/17/2008.

OWNERSHIP UPDATE TYPE 608 # 68554 RECEIVED 10/02/2009.

THIS CLAIM APPEARS TO BE FOR WATER PROVIDED BY THE TWO LEGGINS WATER USERS ASSOCIATION UNDER CLAIM NO. 185058-00 . THIS CLAIM APPEARS TO BE REDUNDANT.

FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.

THE TYPE OF HISTORICAL RIGHT, PRIORITY DATE, AND FLOW RATE MAY BE QUESTIONABLE. THERE ARE 263 WATER RIGHT CLAIMS FOR THE WATER FROM THE TWO LEGGINS CANAL THAT CLAIM A TOTAL COMBINED FLOW RATE OF 1362.404 CUBIC FEET PER SECOND. THE TOTAL COMBINED CLAIMED FLOW RATES EXCEED THE 600 CUBIC FEET PER SECOND OF THE SHEPARD, BAIR, EDWARDS, 5/21/1909 FILED APPROPRIATION FOR THE TWO LEGGINS CANAL. A LIST OF THE WATER RIGHTS CLAIMS INVOLVED HAS BEEN ADDED TO THE CLAIM FILE.

THE BIG HORN COUNTY WATER RESOURCES SURVEY ( 1947 ) APPEARS TO INDICATE 360.0 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

THE BIG HORN COUNTY WATER RESOURCES SURVEY 1947 APPEARS TO INDICATE 360.0 ACRES IRRIGATED BY WATER DIVERTED FROM TWO LEGGINS CANAL.

USDA AERIAL PHOTOGRAPH NO. 179-114 , DATED 09/26/1980 APPEARS TO INDICATE 317.2 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

A REQUEST TO WITHDRAW SUBMITTED 04/23/2014 WAS NOT SIGNED BY ALL OWNERS OF RECORD. DNRC REQUESTED THE OTHER OWNERS SUBMIT A SIGNED AND NOTARIZED WITHDRAWAL FORM. AS OF 02/23/2015 , A WITHDRAWAL FORM HAS NOT BEEN SUBMITTED BY ALL OWNERS OF RECORD, THEREFORE, THIS REQUEST TO WITHDRAW HAS NOT BEEN PROCESSED.

IT IS NOT CLEAR WHETHER THIS CLAIM IS PART OF THE CROW TRIBE-MONTANA COMPACT. SECTION 85-20-901, MCA.

IT IS NOT CLEAR WHETHER THIS CLAIM IS A STATE-BASED WATER RIGHT OR PART OF THE TRIBAL WATER RIGHT AS DEFINED IN THE CROW TRIBE - MONTANA COMPACT. ADDITIONAL EVIDENCE MAY BE REQUIRED BEFORE THIS CLAIM CAN BE DECREED.