

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: 76H 215894-00 STATEMENT OF CLAIM
Version: 1 -- ORIGINAL RIGHT
Version Status: ACTIVE
Late Claim: B

Owners:
KATRIN SPINETTA
9203 W FORK RD
DARBY, MT 59829

PETER SPINETTA
9203 W FORK RD
DARBY, MT 59829

Priority Date: AUGUST 18, 1970
Enforceable Priority Date: JUNE 30, 1973

CLAIM FILED LATE 07/01/96 . AS MANDATED BY SECTION 85-2-221(3), MCA, THIS CLAIM IS SUBORDINATE, AND THEREFORE JUNIOR, TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW.

Type of Historical Right: USE

Purpose (use): FISH AND WILDLIFE

Maximum Flow Rate: 9.30 CFS

Maximum Volume: 6,721.11 AC-FT

Source Name: BITTERROOT RIVER, WEST FORK

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		NENENW	22	2S	22W	RAVALLI

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: HEADGATE

Reservoir: OFF STREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NENENW	22	2S	22W	RAVALLI

Diversion to Reservoir: DIVERSION # 1

Surface Area: 1.75 ACRES

Current Capacity: 6.30 ACRE-FEET

THE SURFACE AREA AND CAPACITY HAVE BEEN ESTIMATED BY DNRC.

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			NENENW	22	2S	22W	RAVALLI
2			NWNENW	22	2S	22W	RAVALLI
3			SESESW	15	2S	22W	RAVALLI
4			NESESW	15	2S	22W	RAVALLI

Geocodes/Valid: 13-0766-15-2-01-01-0000 - Y

13-0766-22-2-01-09-0000 - Y

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.

215893-00 215894-00

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

OWNERSHIP UPDATE RECEIVED

OWNERSHIP UPDATE TYPE 608 # 13149 RECEIVED 03/17/2004.

Remarks:

CLAIM WAS NOT INCLUDED IN THE BASIN 76HE TEMPORARY PRELIMINARY DECREE ISSUED 05/25/94.

CLAIM FILED LATE 07/01/96 . IN ADDITION TO BEING SUBORDINATE TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW, THIS RIGHT MAY ALSO BE SUBORDINATE TO CERTAIN PERMITS AND RESERVATIONS OF WATER. SEE SECTION 85-2-221 MCA.

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."

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