

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 30043202 STATEMENT OF CLAIM

**Version:** 1 -- ORIGINAL RIGHT

**Version Status:** ACTIVE

**Owners:**

CHERYL D ROTH LISBERGER  
PO BOX 2135  
HAMILTON, MT 59840

DANIEL L ROTH LISBERGER  
PO BOX 2135  
HAMILTON, MT 59840

SAM W FOSS  
PO BOX 1975  
HAMILTON, MT 59840-1975

SPENCER, NICHOLAS J & CAROL WHETSTONE TRUST 1995  
805 S 4TH ST  
HAMILTON, MT 59840

JOHN L MAC GILLIVRAY  
305 N GOLD CREEK LOOP  
HAMILTON, MT 59840-9730

CHRISTEN L MAC GILLIVRAY  
305 N GOLD CREEK LOOP  
HAMILTON, MT 59840-9730

KIOWA OLIVER  
231 N GOLD CREEK RD  
HAMILTON, MT 59840

JEFFREY L OLIVER  
231 GOLD CREEK RD  
HAMILTON, MT 59840

AMY Z BROTHERS  
21 LA RANCHERIA  
CARMEL VALLEY, CA 93924

JEFF E BROTHERS  
21 LA RANCHERIA  
CARMEL VALLEY, CA 93924

FOSS, SAM & CAROLE FAMILY REVOCABLE LIVING TRUST  
FOSS SAMUEL W SR TRUSTEE  
PO BOX 1975  
HAMILTON, MT 59840-1975

SAM W FOSS JR  
PO BOX 1975  
HAMILTON, MT 59840-1975

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

OWNER SAM W FOSS RETAINED. CONTRACT FOR DEED INTEREST.

OWNER FOSS, SAM & CAROLE FAMILY REVOCABLE LIVING TRUST RETAINED. CONTRACT FOR DEED INTEREST.

**Priority Date:** DECEMBER 31, 1945

**Enforceable Priority Date:** DECEMBER 31, 1945

**Type of Historical Right:** USE

**Purpose (use):** IRRIGATION

**Irrigation Type:** FLOOD

**Maximum Flow Rate:**

THIS CLAIM HAS HISTORICALLY TAKEN THE ENTIRE FLOW OF THE MIDDLE FORK OF GOLD CREEK, ABOVE FAYE DITCH.

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

**Climatic Area:** 2 - MODERATELY HIGH  
**Maximum Acres:** 226.89  
**Source Name:** GOLD CREEK, MIDDLE 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         |                 | SESESE         | 21         | 5N         | 21W        | RAVALLI       |

**Period of Diversion:** APRIL 1 TO OCTOBER 19

**Diversion Means:** HEADGATE

**Ditch Name:** FAYE DITCH

**Period of Use:** APRIL 1 to OCTOBER 19

**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             | 100.50        |                 | SW             | 23         | 5N         | 21W        | RAVALLI       |
| 2             | 33.00         |                 | W2SE           | 23         | 5N         | 21W        | RAVALLI       |
| 3             | 18.14         |                 | E2SENW         | 23         | 5N         | 21W        | RAVALLI       |
| 4             | 17.14         |                 | E2SWNW         | 23         | 5N         | 21W        | RAVALLI       |
| 5             | 18.50         |                 | W2SENW         | 23         | 5N         | 21W        | RAVALLI       |
| 6             | 18.44         |                 | W2SWNW         | 23         | 5N         | 21W        | RAVALLI       |
| 7             | 21.17         |                 | SWNE           | 23         | 5N         | 21W        | RAVALLI       |
| <b>Total:</b> | <b>226.89</b> |                 |                |            |            |            |               |

| <b>Geocodes/Valid:</b> |                             |                             |
|------------------------|-----------------------------|-----------------------------|
|                        | 13-1366-23-2-01-01-0000 - Y | 13-1366-23-2-01-04-0000 - Y |
|                        | 13-1366-23-2-01-10-0000 - Y | 13-1366-23-2-01-11-0000 - Y |
|                        | 13-1366-23-2-01-12-0000 - Y | 13-1366-23-2-01-13-0000 - Y |
|                        | 13-1366-23-2-01-14-0000 - Y | 13-1366-23-2-01-15-0000 - Y |
|                        | 13-1366-23-2-01-16-0000 - Y | 13-1366-23-2-01-17-0000 - Y |
|                        | 13-1366-23-2-01-18-0000 - Y | 13-1366-23-2-01-19-0000 - Y |
|                        | 13-1366-23-2-01-20-0000 - Y | 13-1366-23-2-01-21-0000 - Y |
|                        | 13-1366-23-2-01-22-0000 - Y | 13-1366-23-2-01-23-0000 - Y |

**Remarks:**

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. 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.

|           |           |           |           |           |           |           |
|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| 105036-00 | 105037-00 | 105038-00 | 105039-00 | 105040-00 | 105041-00 | 105042-00 |
| 105043-00 | 105044-00 | 105045-00 | 105046-00 | 105047-00 | 105048-00 | 105049-00 |
| 105051-00 | 105052-00 | 105053-00 | 105054-00 | 105055-00 | 105056-00 | 105057-00 |
| 125062-00 | 30043197  | 30043198  | 30043202  | 30043203  |           |           |

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

THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN PRELIMINARY DECREE ISSUED 1/14/1998.

THIS IMPLIED CLAIM WAS AUTHORIZED BY THE WATER COURT BASED ON INFORMATION IN CLAIM NO. 105055-00.

**OWNERSHIP UPDATE RECEIVED**

OWNERSHIP UPDATE TYPE DOR # 123411 RECEIVED 05/27/2014.

OWNERSHIP UPDATE TYPE DOR # 132515 RECEIVED 04/08/2015.

OWNERSHIP UPDATE TYPE DOR # 136696 RECEIVED 09/28/2015.