

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: 41K 30049120 PROVISIONAL PERMIT
Version: 1 -- ORIGINAL RIGHT

Version Status: ACTIVE

Owners: POWER - TETON COUNTY WATER & SEWER DISTRICT
PO BOX 176
POWER, MT 59468

Priority Date: AUGUST 25, 2010 at 10:35 A.M.

Enforceable Priority Date: AUGUST 25, 2010 at 10:35 A.M.

Purpose (use): MUNICIPAL

Maximum Flow Rate: 70.00 GPM

Maximum Volume: 40.00 AC-FT

Source Name: MUDDY 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>Twp</u>	<u>Rge</u>	<u>County</u>
1		SE	27	23N	1W	TETON

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: PUMP

Period of Diversion: PERIOD OF DIVERSION /MUDDY CREEK TRIGGER FLOWS
THE APPROPRIATOR MAY ONLY DIVERT WATER DURING THE PERIOD OF
APRIL 6 - JUNE 21 AND AUGUST 1 - NOVEMBER 15 WHEN EITHER: (1) FLOWS AT
THE APPROPRIATOR'S POINT OF DIVERSION EXCEED THE FOLLOWING MINIMUM
FLOWS:

- 47.55 CFS APRIL 6 - MAY 15;
- 48.84 CFS MAY 15 - JUNE 21;
- 48.84 CFS AUGUST 1 - SEPTEMBER 30;
- 47.55 CFS OCTOBER 1 - OCTOBER 15;
- 40.65 CFS OCTOBER 16 - OCTOBER 31;

OR, (2) THE APPROPRIATOR OBTAINS CONFIRMATION FROM USFWS THAT IT IS NOT DIVERTING WATER FROM MUDDY CREEK PURSUANT TO STATEMENT OF CLAIM NO. 41K 188174 00. THE APPROPRIATOR SHALL MEASURE FLOWS IN MUDDY CREEK AT THE APPROPRIATORS POINT OF DIVERSION USING A MEASUREMENT DEVICE APPROVED BY THE DEPARTMENT. THE APPROPRIATOR MAY USE THE CURRENT AQUAROD STREAM FLOW RECORDER LOCATED ON MUDDY CREEK NEAR POWER (MCP) UPON CONFIRMATION BY THE DEPARTMENT IT IS CAPABLE OF MEASURING FLOWS IN EXCESS OF 49 CFS. IF THE DEPARTMENT DETERMINES THE MCP MEASUREMENT DEVICE IS INADEQUATE, THE APPROPRIATOR SHALL INSTALL A MEASUREMENT DEVICE APPROVED BY THE DEPARTMENT. THE APPROPRIATOR SHALL NOT DIVERT WATER PURSUANT TO SUBPART (1) OF THIS CONDITION UNTIL A MEASURING DEVICE HAS BEEN APPROVED BY THE DEPARTMENT. THE APPROPRIATOR SHALL KEEP A DAILY RECORD OF FLOWS AT THE POINT OF DIVERSION AND DIVERTED FLOW RATE WHEN DIVERTING WATER PURSUANT TO SUBPART (1) OF THIS CONDITION. APPROPRIATOR SHALL KEEP A RECORD OF THE NAME OF THE INDIVIDUAL AT THE USFWS CONTACTED AND DATES FOR WHICH CONFIRMATION WAS OBTAINED THAT THE USFWS WOULD NOT BE DIVERTING WATER FROM MUDDY CREEK PURSUANT TO STATEMENT OF CLAIM NO. 41K 188174 00 WHEN THE APPROPRIATOR IS DIVERTING WATER PURSUANT TO SUBPART (2) OF THIS CONDITION. RECORDS SHALL BE SUBMITTED BY NOVEMBER 30 OF EACH YEAR AND UPON REQUEST AT OTHER TIMES DURING THE YEAR. FAILURE TO SUBMIT RECORDS MAY BE CAUSE FOR REVOCATION OF THE AUTHORIZATION. THE RECORDS MUST BE SENT TO THE HAVRE WATER RESOURCES REGIONAL OFFICE.

Purpose (Use): MUNICIPAL

Volume: 40.00 AC-FT

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			SW	25	23N	1W	TETON

Remarks:

IMPORTANT INFORMATION

PRIOR TO COMMENCING DIVERSIONS UNDER THIS PERMIT THE APPROPRIATOR SHALL MAKE PROVISION TO MITIGATE ADVERSE EFFECT TO SURFACE WATER RIGHTS BY REPLACING THE FULL VOLUME OF NET DEPLETION OF THE APPROPRIATION. THE APPROPRIATOR SHALL REPLACE AN EQUIVALENT AMOUNT OF WATER TO THE MAINSTEM OF THE MISSOURI RIVER ABOVE RAINBOW DAM IN THE FOLLOWING MANNER; THE APPROPRIATOR SHALL MITIGATE DEPLETIONS TO SURFACE WATER AND PROVIDE FOR LEGAL AVAILABILITY OF SURFACE WATER UNDER THIS PERMIT THROUGH THE PURCHASE OF A U.S. BUREAU OF RECLAMATION (BOR) WATER SERVICE CONTRACT FROM CANYON FERRY RESERVOIR. THE VOLUME OF WATER STATED ON THE CONTRACT MUST BE EQUAL TO THE VOLUME THAT POWER - TETON DIVERTS FROM MUDDY CREEK ON AN ANNUAL BASIS. DELIVERIES OF WATER UNDER SUCH CONTRACT MUST BE COMMENCED THE CALENDAR YEAR AFTER DIVERSIONS UNDER THIS PERMIT COMMENCE. APPROPRIATORS CONTRACT WITH THE BOR MAY PROVIDE THAT IN THE CALENDAR YEARS SUBSEQUENT TO THE FIRST CALENDAR YEAR IN WHICH WATER IS TO BE PUT TO BENEFICIAL USE, THE CONTRACT VOLUME DELIVERED MAY BE EQUAL TO BUT NOT LESS THAN THE VOLUME OF WATER ACTUALLY DIVERTED BY THE APPROPRIATOR IN THE PREVIOUS CALENDAR YEAR. A DELIVERY SCHEDULE ALLOWED BY THE BOR AND WHICH RESULTS IN THE FULL REPLACEMENT OF THE PRIOR CALENDAR YEARS DIVERSION VOLUME DURING THE FOLLOWING CALENDAR YEAR SHALL BE DEEMED SUFFICIENT UNDER THIS PERMIT. APPROPRIATOR SHALL SUBMIT TO THE HAVRE REGIONAL OFFICE WITH ITS WATER MEASUREMENT RECORDS ON NOVEMBER 30 OF EACH YEAR PROOF OF THE WATER SERVICE CONTRACT WITH BOR AS DESCRIBED ABOVE. DIVERSION UNDER THIS PERMIT MUST STOP IF ANY PART OF THE REQUIRED MITIGATION CEASES.

WATER MEASUREMENT INFORMATION

THE APPROPRIATOR SHALL INSTALL A DEPARTMENT APPROVED IN-LINE FLOW METER IN THE DELIVERY LINE OF THE DIVERSION ASSOCIATED WITH THIS WATER RIGHT. THE LOCATION OF THE FLOW METER MUST BE APPROVED BY THE DEPARTMENT. WATER MUST NOT BE DIVERTED UNTIL THE REQUIRED MEASURING DEVICE IS IN PLACE AND OPERATING. THE APPROPRIATOR SHALL KEEP A WRITTEN DAILY RECORD OF THE FLOW RATE AND VOLUME OF ALL WATER DIVERTED, INCLUDING THE PERIOD OF TIME. RECORDS SHALL BE SUBMITTED BY NOVEMBER 30 OF EACH YEAR AND UPON REQUEST AT OTHER TIMES DURING THE YEAR. FAILURE TO SUBMIT RECORDS MAY BE CAUSE FOR REVOCATION OF THE AUTHORIZATION. THE RECORDS MUST BE SENT TO THE HAVRE WATER RESOURCES REGIONAL OFFICE. THE APPROPRIATOR SHALL MAINTAIN THE MEASURING DEVICE SO IT ALWAYS OPERATES PROPERLY AND MEASURES THE FLOW RATE AND VOLUME ACCURATELY.