

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: 40A 30069150 PROVISIONAL PERMIT
Version: 1 -- ORIGINAL RIGHT
Version Status: ACTIVE

Owners: GB ENERGY PARK LLC
PO BOX 309
BOZEMAN, MT 59771

Priority Date: JULY 30, 2014 at 02:15 P.M.
Enforceable Priority Date: JULY 30, 2014 at 02:15 P.M.

Purpose (use): POWER GENERATION
Maximum Flow Rate: 50.00 CFS
Maximum Volume: 3,999.00 AC-FT

Source Name: COTTONWOOD CREEK
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	7	7N	11E	MEAGHER

Period of Diversion: APRIL 15 TO JUNE 30 **Flow Rate:** 50.00 CFS
Diversion Means: HEADGATE

Reservoir: OFF STREAM **Reservoir Name** LOWER
Govt Lot **Qtr Sec** **Sec** **Twp** **Rge** **County**
W2 21 8N 11E MEAGHER

Depth: 50.00 FEET
Surface Area: 80.00 ACRES
Current Capacity: 4,000.00 ACRE-FEET

Reservoir: OFF STREAM **Reservoir Name** UPPER
Govt Lot **Qtr Sec** **Sec** **Twp** **Rge** **County**
N2 28 8N 11E MEAGHER

Depth: 85.00 FEET
Surface Area: 48.00 ACRES
Current Capacity: 4,000.00 ACRE-FEET

THE LOWER RESERVOIR ALSO EXTENDS INTO THE EAST HALF OF SECTION 20 T8N R11E AND THE UPPER RESERVOIR ALSO EXTENDS INTO SOUTH HALF SECTION 21 T8N R11E.

Purpose (Use): POWER GENERATION **Purpose Clarification:** POWER GENERATION AT GORDON BUTTE

Climatic Area: 4 - MODERATELY LOW
Volume: 3,999.00 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				20	8N	11E	MEAGHER
2				21	8N	11E	MEAGHER
3				28	8N	11E	MEAGHER

Geocodes/Valid: -- NO VALID GEOCODES --

Remarks:

Remarks:

IMPORTANT INFORMATION

1. WATER MEASUREMENT RECORDS REQUIRED, WATER MONITORING REQUIRED, AND A WATER MEASURING/MONITORING PLAN REQUIRED.

A. INSTALL A MEASURING/MONITORING DEVICE IN COTTONWOOD CREEK AT OR NEAR WHERE THE HIGHWAY 294 BRIDGE CROSSES THE CREEK IN THE NWSWSW SECTION 19, T8N, R11E, MEAGHER COUNTY. THE APPROPRIATOR SHALL KEEP A DAILY WRITTEN RECORD OF THE FLOW RATE MEASURED IN COTTONWOOD CREEK WHEN APPROPRIATIONS ARE OCCURRING FOR THE GORDON BUTTE ENERGY PARK PROJECT. THE APPROPRIATOR SHALL DIVERT WATER ONLY DURING THE PERIOD OF APPROPRIATION WHEN THE FLOW IN COTTONWOOD CREEK AT THE MEASURING STATION EXCEEDS 16 CUBIC FEET PER SECOND. APPROPRIATOR MUST ADJUST OR CEASE ITS DIVERSION WHEN FLOWS AT THE MEASURING STATION DROP BELOW 16 CFS;

B. INSTALL A MEASURING/MONITORING DEVICE IN THE DIVERSION WORKS (71 RANCH DITCH OR CONVEYANCE FACILITY) AT THE HEADGATE IN ORDER TO MEASURE APPROPRIATIONS FROM COTTONWOOD CREEK. FOR EACH DAY OF DIVERSION UNDER THIS PERMIT, THE APPROPRIATOR SHALL KEEP A WRITTEN RECORD OF THE FLOW RATE AND VOLUME OF WATER DIVERTED AT THE HEADGATE (FOR THE GORDON BUTTE ENERGY PARK), INCLUDING THE PERIOD OF TIME OF DIVERSION. RECORDS MUST ACCOUNT SEPARATELY FOR ANY APPROPRIATIONS UNDER THIS PERMIT FROM APPROPRIATIONS UNDER ANY OTHER WATER RIGHT USING THE SAME DIVERSION WORKS/CONVEYANCE FACILITY; AND

C. THE PERMITTEE SHALL SUBMIT A PLAN INDICATING THE PROPOSED DESIGN OF EACH MEASURING OR MONITORING DEVICE AND A MAP OF THE SPECIFIC LOCATION OF EACH DEVICE. THE PLAN AND DEVICE LOCATION MUST BE APPROVED BY THE DEPARTMENT BEFORE WATER IS DIVERTED UNDER THIS PERMIT. WATER MUST NOT BE DIVERTED UNTIL THE REQUIRED MEASURING/MONITORING DEVICES ARE IN PLACE AND OPERATING. RECORDS SHALL BE SUBMITTED BY JULY 30 OF EACH YEAR AND UPON REQUEST AT OTHER TIMES DURING THE YEAR. FAILURE TO SUBMIT REPORTS AS REQUIRED BY THESE CONDITIONS MAY BE CAUSE FOR REVOCATION OF THE PERMIT. THE RECORDS MUST BE SENT TO THE LEWISTOWN WATER RESOURCES REGIONAL OFFICE AT THE ADDRESS BELOW. THE APPROPRIATOR SHALL MAINTAIN THE MEASURING/MONITORING DEVICES SO THEY ALWAYS OPERATE PROPERLY AND MEASURE FLOW RATE AND VOLUME ACCURATELY DURING PERIODS OF APPROPRIATION UNDER THIS PERMIT.

SUBMIT RECORDS TO:

LEWISTOWN WATER RESOURCES REGIONAL OFFICE
613 NE MAIN ST, SUITE E
LEWISTOWN, MT 59457
PH: (406)538-7459
FAX: (406)538-7089

IMPORTANT INFORMATION

2. THE APPROPRIATOR SHALL MONITOR/COORDINATE ITS APPROPRIATIONS WITH THE FOURTEENTH JUDICIAL DISTRICT COURT MUSSELSHELL RIVER DISTRIBUTION PROJECT (MRDP), WHEN THE MRDP IS ADMINISTERING WATER RIGHTS IN THE SOUTH FORK MUSSELSHELL RIVER AND THE MAINSTEM MUSSELSHELL RIVER. DURING THE PERIOD THE MRDP IS IN OPERATION, THE APPROPRIATOR SHALL ONLY DIVERT WATER WHEN ALL PRIOR WATER RIGHTS AND WATER RESERVATIONS ARE IDENTIFIED BY THE MRDP AS ENTITLED TO RECEIVE WATER IN ZONE 6 OF THE MRDP (THE ZONE THAT INCLUDES THE SOUTH FORK MUSSELSHELL RIVER). AT ANY TIME THERE IS CURTAILMENT OF WATER RIGHTS WITH A PRIORITY DATE PRIOR TO THIS PERMIT IN ZONE 6, THE APPROPRIATOR SHALL NOT DIVERT WATER. THE APPROPRIATOR MUST MONITOR AND/OR COMMUNICATE WITH THE MRDP DAILY TO DETERMINE WHEN IT MAY APPROPRIATE WATER. THE CURRENT INTERNET ADDRESS FOR THE MRDP IS: [HTTP://LMCD.MT.NACDNET.ORG/MREP/](http://LMCD.MT.NACDNET.ORG/MREP/)

IMPORTANT INFORMATION

3. AT TIMES WHEN THE DISTRICT COURT/MRDP IS NOT ADMINISTERING WATER IN THE SOUTH FORK MUSSELSHELL RIVER, THE APPROPRIATOR MUST MONITOR STREAM GAUGES AND COMPLY WITH CERTAIN MINIMUM STREAM FLOW CONDITIONS PRIOR TO DIVERTING WATER. ALTHOUGH THE FOLLOWING CONDITIONS SPECIFY CERTAIN STREAM FLOW LEVELS AND/OR WATER RIGHT OWNERS, IT IS THE APPROPRIATOR'S RESPONSIBILITY TO ENSURE THAT ALL SENIOR WATER RIGHTS ARE BEING MET AT ALL TIMES. IT IS ALSO THE RESPONSIBILITY OF THE APPROPRIATOR TO CEASE DIVERSIONS WHEN ITS JUNIOR WATER RIGHT IS "CALLED" BY SENIOR WATER RIGHT HOLDERS. THE APPROPRIATOR SHALL NOT DIVERT WATER UNLESS THE REFERENCED U.S. GEOLOGICAL SURVEY (USGS) STREAM GAGES ARE OPERATING AND REGISTERING STREAM FLOWS.

A. USGS GAUGING STATION NO. 06119500 (SOUTH FORK MUSSELSHELL RIVER NEAR MARTINSDALE, MT). THE APPROPRIATOR SHALL DIVERT WATER ONLY DURING THE PERIOD OF APPROPRIATION AND WHEN:

1. USGS GAUGING STATION NO. 06119500 INDICATES A STREAM FLOW IN EXCESS

Remarks:

OF THE FOLLOWING LEVELS DURING THE SPECIFIED DATE RANGE:

- A. APR 15 - APR 27 602 CFS
- B. APR 28 - APR 30 603 CFS
- C. MAY 1 - MAY 31 660 CFS
- D. JUN 1 - JUN 30 664 CFS

2. ALTERNATIVELY, IF THE APPROPRIATOR OBTAINS CONFIRMATION FROM THE UPPER MUSSELSHELL WATER USERS ASSOCIATION THAT IT IS NOT DIVERTING WATER PURSUANT TO STATEMENT OF CLAIM NO. 40A 119518, APPROPRIATOR MAY DIVERT WHEN USGS GAUGING STATION NO. 06119500 INDICATES A STREAM FLOW IN EXCESS OF THE FOLLOWING LEVELS:

- A. APR 15 - APR 27 194 CFS
- B. APR 28 - APR 30 195 CFS
- C. MAY 1 - MAY 31 252 CFS
- D. JUN 1 - JUNE 30 256 CFS

3. WHEN DIVERTING WATER PURSUANT TO PARTS 3.A.1. OR 3.A.2. OF THIS CONDITION, THE APPROPRIATOR SHALL KEEP A DAILY RECORD OF STREAM FLOWS AT USGS GAUGING STATION NO. 06119500 AND ITS DIVERTED FLOW RATE. WHEN DIVERTING WATER PURSUANT TO PART 3.A.2, APPROPRIATOR SHALL KEEP A RECORD OF THE NAME OF THE INDIVIDUAL AT THE UPPER MUSSELSHELL WATER USERS ASSOCIATION CONTACTED AND DATES FOR WHICH CONFIRMATION WAS OBTAINED THAT THE ASSOCIATION WOULD NOT BE DIVERTING WATER PURSUANT TO STATEMENT OF CLAIM NO. 40A 119518. RECORDS SHALL BE SUBMITTED BY JULY 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 LEWISTOWN WATER RESOURCES REGIONAL OFFICE.

B. THE APPROPRIATOR SHALL DIVERT WATER ONLY DURING THE PERIOD OF APPROPRIATION WHEN THE FLOW RATE AT MUSSELSHELL RIVER USGS GAUGING STATION NOS. 06119600, 06120500 AND 06123030 EACH INDICATE A FLOW OF AT LEAST 80 CUBIC FEET PER SECOND.

IMPORTANT INFORMATION

4. THE APPROPRIATOR SHALL DIVERT WATER ONLY IF STATEMENT OF CLAIM NO. 40A 119686 OWNED BY THE STATE OF MONTANA, DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION, AT ITS DEADMANS BASIN STATE WATER PROJECT IS BEING MET, BASED ON DISCUSSIONS WITH AND AS DETERMINED BY THE DEADMANS BASIN WATER USERS ASSOCIATION. IT IS THE RESPONSIBILITY OF THE APPROPRIATOR TO CONTACT THE DEADMANS BASIN WATER USERS ASSOCIATION PRIOR TO DIVERTING AND AT LEAST WEEKLY THEREAFTER TO ENSURE THAT SUFFICIENT WATER IS FLOWING IN THE MUSSELSHELL RIVER TO MEET THE DEMANDS OF THE ASSOCIATION. IF THE STATE OF MONTANA'S WATER RIGHT, AS ADMINISTERED BY THE ASSOCIATION, IS NOT BEING MET, THE APPROPRIATOR SHALL CEASE DIVERSIONS. THE APPROPRIATOR SHALL KEEP A RECORD OF THE NAME OF THE INDIVIDUAL CONTACTED AT THE ASSOCIATION AND SUBMIT RECORDS UPON REQUEST OF THE DEPARTMENT.