

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: 411 89138-00 STATEMENT OF CLAIM
Version: 1 -- ORIGINAL RIGHT
Version Status: ACTIVE

Owners: ARTHUR C KEELER III
35 HILL BROTHERS RD
CLANCY, MT 59634-9726

ELIZABETH A BURNS
35 HILL BROTHERS RD
CLANCY, MT 59634-9726

HENRY G HUDSON
32 HILL BROTHERS RD
CLANCY, MT 59634

KAREN G HUDSON
32 HILL BROTHERS RD
CLANCY, MT 59634

DIEHL CO
PO BOX 453
EAST HELENA, MT 59635-0435

Priority Date: JANUARY 1, 1955
Enforceable Priority Date: JANUARY 1, 1955

Type of Historical Right: USE

Purpose (use): FISH AND WILDLIFE

Maximum Flow Rate: NO FLOW RATE HAS BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVIOR.

Maximum Volume: 144.80 AC-FT

Source Name: UNNAMED TRIBUTARY OF CLARK GULCH
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		SWSESW	16	9N	3W	JEFFERSON

Period of Diversion: JANUARY 1 TO DECEMBER 31
Diversion Means: DAM

Reservoir: ON STREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SWSESW	16	9N	3W	JEFFERSON

Diversion to Reservoir: DIVERSION # 1

Dam Height: 10.00 FEET

Surface Area: 3.00 ACRES

Current Capacity: 12.00 ACRE-FEET

THE CAPACITY, DAM HEIGHT, AND SURFACE AREA HAVE BEEN ESTIMATED BY THE 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			SWSESW	16	9N	3W	JEFFERSON

Geocodes/Valid: 51-1785-16-3-01-10-0000 - Y 51-1785-16-3-01-42-0000 - Y
51-1785-16-3-01-60-0000 - Y

Remarks:

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

Remarks:

OWNERSHIP UPDATE RECEIVED

OWNERSHIP UPDATE TYPE DOR # 98236 RECEIVED 11/21/2011.

OWNERSHIP UPDATE TYPE 608 # 107778 RECEIVED 03/05/2013.

AS OF 3/91, OWNERSHIP OF THIS RIGHT IS QUESTIONABLE. THE PROPERTY HAS BEEN SUBDIVIDED AND SOLD TO VARIOUS NEW OWNERS WITH NO TRANSFER FILED.

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.

THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. THE CLAIMED VOLUME EQUALS 12 TIMES THE CAPACITY OF THE RESERVOIR.