

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 89676-00 STATEMENT OF CLAIM
Version: 1 -- ORIGINAL RIGHT
Version Status: ACTIVE

Owners: WAYNE H MILLER
PO BOX 222
HELENA, MT 59624-0222

ANN E MILLER
PO BOX 222
HELENA, MT 59624-0222

Priority Date: JANUARY 1, 1947
Enforceable Priority Date: JANUARY 1, 1947

Type of Historical Right: USE

Purpose (use): RECREATION
FLOW THROUGH FISH POND

Maximum Flow Rate: 40.00 GPM

Maximum Volume: 29.00 AC-FT
THE USE OF THIS WATER APPEARS TO BE LARGELY NON-CONSUMPTIVE.

Source Name: TENMILE 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		SESWNE	28	10N	4W	LEWIS AND CLARK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: PIPELINE

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NWSENE	28	10N	4W	LEWIS AND CLARK

Diversion to Reservoir: DIVERSION # 1

Dam Height: 7.00 FEET

Surface Area: 0.33 ACRES

Current Capacity: 1.20 ACRE-FEET

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			NWSENE	28	10N	4W	LEWIS AND CLARK

Geocodes/Valid: 05-1887-28-1-02-19-0000 - Y

Remarks:

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

OWNERSHIP UPDATE RECEIVED

OWNERSHIP UPDATE TYPE DOR # 94068 RECEIVED 04/23/2010.

WHEN THIS CLAIM WAS ORIGINALLY DECREED, THE PERIOD OF DIVERSION WAS NOT INCLUDED AS AN ELEMENT OF THE CLAIM. IN 2008, THE PERIOD OF DIVERSION ELEMENT WAS ADDED TO ALL CLAIM ABSTRACTS. IT IS NOT CERTAIN IF THE PERIOD OF DIVERSION DATES ADDED TO THIS CLAIM ACCURATELY REFLECT THE HISTORICAL PERIOD OF DIVERSION. MORE INFORMATION IS REQUIRED.

THE PRIORITY DATE MAY BE QUESTIONABLE. THIS CLAIM IS FOR A USE RIGHT ON TENMILE CREEK WITH A PRIORITY DATE POSTDATING CASE NO. 4989, LEWIS AND CLARK COUNTY.

Remarks:

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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