

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: 76GJ 210976-00 STATEMENT OF CLAIM
Version: 2 -- REEXAMINED

Version Status: ACTIVE

Owners: PHILIPSBURG TOWN OF
PO BOX 339
PHILIPSBURG, MT 59858

Priority Date: JUNE 4, 1890

Enforceable Priority Date: JUNE 4, 1890

Type of Historical Right: DECREED

Purpose (use): MUNICIPAL

Maximum Flow Rate: 2.50 CFS

Maximum Volume: 1,814.00 AC-FT

Source Name: FRED BURR 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 | | NWSW | 36 | 7N | 13W | GRANITE |

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DAM

Reservoir: ON STREAM **Reservoir Name** UPPER FRED BURR LAKE

| <u>Govt Lot</u> | <u>Qtr Sec</u> | <u>Sec</u> | <u>Twp</u> | <u>Rge</u> | <u>County</u> |
|-----------------|----------------|------------|------------|------------|---------------|
| | SWSESW | 36 | 7N | 13W | GRANITE |

Diversion to Reservoir: DIVERSION # 1

Current Capacity: 1,700.00 ACRE-FEET

Original Capacity: 1,700.00 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 | | | | 23 | 7N | 14W | GRANITE |
| 2 | | | | 24 | 7N | 14W | GRANITE |
| 3 | | | | 25 | 7N | 14W | GRANITE |
| 4 | | | | 26 | 7N | 14W | GRANITE |
| 5 | | | | 36 | 7N | 14W | GRANITE |

Remarks:

WHENEVER WATER RIGHTS 76GJ 148511-00, 76GJ 210974-00, AND 76GJ 210976-00 ARE COMBINED TO SUPPLY WATER FOR MUNICIPAL USE, THE TOTAL COMBINED FLOW RATE FOR THE RIGHTS SHALL NOT EXCEED 5.00 CFS.

WHENEVER WATER RIGHTS 76GJ 148497-00 AND 76GJ 148506-00 ARE COMBINED TO SUPPLY WATER FOR MUNICIPAL USE, THE TOTAL COMBINED FLOW RATE FOR THE RIGHTS SHALL NOT EXCEED 2.00 CFS.

WHENEVER THE FOLLOWING WATER RIGHTS ARE COMBINED TO SUPPLY WATER FOR MUNICIPAL USE THE TOTAL COMBINED FLOW RATE FOR THE FOLLOWING RIGHTS SHALL NOT EXCEED 5.00 CFS FROM OCTOBER 1 THROUGH APRIL 30 AND SHALL NOT EXCEED 7.00 CFS FROM MAY 1 THROUGH SEPTEMBER 30 AND THE SUM TOTAL VOLUME OF THE COMBINED USE SHALL NOT EXCEED 1999.00 ACRE-FEET PER YEAR. 76GJ 148497-00, 76GJ 148506-00, 76GJ 148511-00, 76GJ 210974-00, 76GJ 210976-00.

PURSUANT TO THE JUDGMENT FOR PERMANENT INJUNCTION FILED ON FEBRUARY 22, 1971, IN CAUSE NO. 4365 IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT, GRANITE COUNTY, THE TOWN OF PHILIPSBURG, ITS EMPLOYEES, SERVANTS AND AGENTS ARE PERPETUALLY ENJOINED AND RESTRAINED FROM INTERFERENCE WITH THE WATER RIGHTS OF OLLIE GWYNN, WATER RIGHT NOS. 76GJ-W120550-00 THROUGH 76GJ-W120561-00, INCLUSIVE, AND HER SUCCESSORS, AND THE TOWN OF PHILIPSBURG IS FURTHER DIRECTED THAT DURING THE PERIOD FROM JULY 25 TO SEPTEMBER 30 OF EACH YEAR, THE TOWN OF PHILIPSBURG SHALL RELEASE NOT TO EXCEED 2.325 CFS (93.00 MINERS INCHES) FROM THE SURPLUS IMPOUNDED NATURAL FLOW OF FRED BURR CREEK FROM ITS DAMS.

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

Remarks:

ONE.

THIS IMPLIED CLAIM WAS CREATED BASED ON INFORMATION IN CLAIM NO. 76GJ 148495-00 , PRIOR TO WATER COURT AUTHORIZATION BEING REQUIRED.

THE CLAIMED VOLUME EXCEEDS THE MAXIMUM FEASIBLE VOLUME. BASED ON THE FLOW RATE AND PERIOD OF USE, THE MAXIMUM VOLUME POSSIBLE IS 1809.79 ACRE-FEET PER YEAR.