

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: 43D 19237-00 STATEMENT OF CLAIM
Version: 1 -- ORIGINAL RIGHT

Version Status: ACTIVE

Owners: MONTANA, STATE OF DEPT OF FISH WILDLIFE & PARKS
PO BOX 200701
HELENA, MT 59620-0701

Priority Date: JULY 29, 1958

Enforceable Priority Date: JULY 29, 1958

Type of Historical Right: FILED

Purpose (use): FISH AND WILDLIFE

Maximum Flow Rate: 18.00 CFS

THE WATER COURT HAS DETERMINED THAT A FLOW RATE QUANTIFICATION IS REQUIRED TO ADEQUATELY ADMINISTER THIS RIGHT.

Maximum Volume: 2,916.00 AC-FT

THE WATER COURT HAS DETERMINED THAT A VOLUME QUANTIFICATION IS REQUIRED TO ADEQUATELY ADMINISTER THIS RIGHT.

Source Name: BASIN 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		NWNENW	8	8S	19E	CARBON

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: INSTREAM

2		SWNENW	8	8S	19E	CARBON
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Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: INSTREAM

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			NWNENW	8	8S	19E	CARBON
2			SWNENW	8	8S	19E	CARBON

Remarks:

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

THE TIMELY FILED OBJECTION OF MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS WAS AMENDED BY MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS TO INCLUDE FLOW RATE AND VOLUME. BECAUSE THESE ELEMENTS WERE NOT INCLUDED ON THE OBJECTION LIST, ANY WATER USER WHOSE RIGHTS MAY BE ADVERSELY AFFECTED BY ENFORCEMENT OF THESE CHANGES MAY PETITION THE APPROPRIATE COURT FOR RELIEF OR MAY FILE AN OBJECTION AT THE PRELIMINARY DECREE.

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 CLAIMED PURPOSE (USE) CANNOT BE CONFIRMED. THERE APPEARS TO BE NO APPROPRIATION OF WATER AS THE METHOD OF DIVERSION IS INSTREAM USE.

THE USE OF THIS WATER APPEARS TO BE LARGELY NON-CONSUMPTIVE.