

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: 76K 30063809 COMPACT
Version: 1 -- ORIGINAL RIGHT
Version Status:

Owners: USA (DEPT OF INTERIOR BUREAU OF INDIAN AFF)
 IN TRUST FOR CONFEDERATED SALISH & KOOTENAI TRIBES
 OF THE FLATHEAD INDIAN RESERVATION, MONTANA
 911 NE 11TH AVENUE
 PORTLAND, OR 97232-4169

ALL COMMUNICATION SHALL BE COPIED TO THE CSKT TRIBAL CHAIRMAN AS THE BENEFICIAL OWNER AT PO BOX 278, PABLO, MT 59855-0278.

Priority Date: TIME IMMEMORIAL

Purpose (use): INSTREAM FISHERY

Maximum Flow Rate: 2,716.00 CFS

THE ENFORCEABLE LEVELS OF THIS WATER RIGHT ARE INDIVIDUAL FOR EACH CALENDAR DAY OF THE YEAR AND ARE IDENTIFIED IN THE TECHNICAL REPORT FILED WITH THIS WATER RIGHT (SEE APPENDIX 26 OF SCANNED FILING).

CALL MAY BE INITIATED ON THE DAY FOLLOWING A 24-HOUR PERIOD WHERE AVERAGE DAILY RIVER FLOWS FALL BELOW THEIR RESPECTIVE DAILY ENFORCEABLE VALUE.

ENFORCEABLE LEVELS OF THIS WATER RIGHT SHALL BE MEASURED AT THE USGS GAGE #12370000 LOCATION ON THE SWAN RIVER NEAR BIG FORK, MONTANA (48°01'27.23"N, 113°58'43.75"W, NAD83) (NWSESW SEC 11 T26N R19W). IF USGS GAGE #12370000 IS DISCONTINUED OR OTHERWISE RENDERED NONFUNCTIONAL, MEASUREMENTS SHALL BE TAKEN EITHER AT THIS SAME LOCATION OR AS NEAR TO THAT POINT AS IS REASONABLY PRACTICABLE.

Maximum Volume:

Source Name: SWAN RIVER
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 | | | 2 | 26N | 19W | LAKE |

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: INSTREAM

Diversion Type: PRIMARY

| | | | | | | |
|---|--|--|----|-----|-----|------|
| 2 | | | 11 | 26N | 19W | LAKE |
|---|--|--|----|-----|-----|------|

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: INSTREAM

Diversion Type: PRIMARY

| | | | | | | |
|---|--|--|----|-----|-----|------|
| 3 | | | 14 | 26N | 19W | LAKE |
|---|--|--|----|-----|-----|------|

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: INSTREAM

Diversion Type: PRIMARY

| | | | | | | |
|---|--|--|----|-----|-----|------|
| 4 | | | 35 | 26N | 19W | LAKE |
|---|--|--|----|-----|-----|------|

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: INSTREAM

Diversion Type: PRIMARY

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 | | | | 2 | 26N | 19W | LAKE |
| 2 | | | | 11 | 26N | 19W | LAKE |
| 3 | | | | 14 | 26N | 19W | LAKE |
| 4 | | | | 35 | 26N | 19W | LAKE |

Place of Use:

ID Acres Govt Lot Qtr Sec Sec Twp Rge County

Remarks:

THE DESIGNATION OF A PLACE OF USE OF THIS WATER RIGHT IS A DESIGNATION FOR PURPOSES OF MEASUREMENT OF THE ENFORCEABLE LEVELS AND IS NOT A GEOGRAPHIC LIMITATION ON THE LOCATION OF JUNIOR WATER RIGHTS AGAINST WHOM THIS RIGHT MAY BE ENFORCED.

THE PLACE OF USE OF THIS WATER RIGHT INCLUDES THE REACH OF THE SWAN RIVER STARTING JUST ABOVE THE CONFLUENCE OF THE SWAN RIVER AND PETERSON CREEK (48°03'53"N, 113°58'29"W, NAD83) (NENENW SEC 35 T27N R19W) AND EXTENDING UPSTREAM TO THE CONFLUENCE OF THE SWAN RIVER AND JOHNSON CREEK (48°01'17"N, 113°58'46"W, NAD83) (NWNENW SEC 14 T26N R19W).

THIS WATER RIGHT SHALL NOT BE EXERCISED IN CONJUNCTION WITH ANY ARTIFICIAL DIVERSION.

THE OWNER OF THIS WATER RIGHT SHALL BE ENTITLED TO MAKE A CALL, IN ACCORDANCE WITH STATE LAW, TO ENFORCE THIS WATER RIGHT ONLY AGAINST JUNIOR WATER RIGHTS IN BASIN 76K (SWAN DRAINAGE) THE PURPOSE OF WHOSE RIGHTS IS IRRIGATION AND WHOSE SOURCE OF SUPPLY IS SURFACE WATER, OR AGAINST JUNIOR USERS THE PURPOSE OF WHOSE RIGHTS IS IRRIGATION, WHOSE SOURCE OF SUPPLY IS GROUNDWATER CONNECTED TO THE SURFACE SOURCES IN BASIN 76K (SWAN DRAINAGE) AND WHOSE FLOW RATE IS GREATER THAN 100 GALLONS PER MINUTE.

THE EXERCISE OF THIS WATER RIGHT IS SUBJECT TO THE TERMS AND CONDITIONS OF THE WATER RIGHTS COMPACT ENTERED INTO BY THE CONFEDERATED SALISH & KOOTENAI TRIBES, THE STATE OF MONTANA, AND THE UNITED STATES OF AMERICA.

THIS IS A NONCONSUMPTIVE INSTREAM WATER RIGHT; THE PURPOSE AND INSTREAM PLACE OF USE CANNOT BE CHANGED.

76K 30063809 Technical Documentation

By way of the Proposed Compact, 76K 30063809 is hereby issued, creating a new water right, with a place of use along the reach of the Swan River starting just above the confluence of the Swan River and Peterson Creek and extending upstream along the Swan River to the confluence of the Swan River and Johnson Creek. The designation of a place of use of this water right is a designation for purposes of measurement of the enforceable levels and is not a geographic limitation on the location of junior water rights against whom this right may be enforced.

The enforceable levels of this water right take the form of static distributions of unique daily flow values, one each for every day of the year. Call may be initiated on the day following a 24-hour period where average daily river flows fall below their respective daily enforceable value.

| Enforceable Daily Flows (CFS) for 76K 30063809 on the Swan River near Big Fork, Montana | | | | | | | | | | | | |
|--|-------|-----|-----|-------|-------|-------|-------|-----|-----|-----|-----|-----|
| Day | Month | | | | | | | | | | | |
| | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec |
| 1 | 336 | 320 | 319 | 600 | 1,175 | 2,707 | 1,426 | 570 | 357 | 341 | 357 | 362 |
| 2 | 337 | 319 | 321 | 626 | 1,211 | 2,648 | 1,395 | 556 | 355 | 340 | 357 | 360 |
| 3 | 338 | 321 | 322 | 652 | 1,251 | 2,541 | 1,363 | 543 | 352 | 341 | 358 | 360 |
| 4 | 338 | 322 | 324 | 677 | 1,292 | 2,406 | 1,329 | 532 | 350 | 341 | 358 | 359 |
| 5 | 337 | 323 | 326 | 688 | 1,332 | 2,294 | 1,294 | 521 | 348 | 341 | 358 | 357 |
| 6 | 337 | 323 | 327 | 700 | 1,369 | 2,273 | 1,257 | 510 | 345 | 340 | 359 | 356 |
| 7 | 338 | 324 | 329 | 712 | 1,400 | 2,237 | 1,220 | 500 | 347 | 338 | 359 | 356 |
| 8 | 337 | 324 | 331 | 727 | 1,427 | 2,196 | 1,183 | 490 | 347 | 338 | 360 | 357 |
| 9 | 336 | 322 | 332 | 743 | 1,450 | 2,152 | 1,147 | 480 | 347 | 338 | 362 | 358 |
| 10 | 334 | 320 | 334 | 757 | 1,470 | 2,120 | 1,111 | 470 | 347 | 336 | 363 | 357 |
| 11 | 333 | 318 | 337 | 771 | 1,487 | 2,105 | 1,076 | 461 | 347 | 335 | 366 | 356 |
| 12 | 334 | 317 | 341 | 783 | 1,504 | 2,095 | 1,043 | 451 | 347 | 335 | 369 | 357 |
| 13 | 334 | 316 | 345 | 795 | 1,523 | 2,076 | 1,010 | 441 | 346 | 337 | 370 | 357 |
| 14 | 336 | 313 | 348 | 806 | 1,542 | 2,062 | 980 | 433 | 345 | 339 | 371 | 357 |
| 15 | 337 | 312 | 351 | 817 | 1,562 | 2,046 | 949 | 424 | 346 | 341 | 371 | 357 |
| 16 | 339 | 311 | 356 | 827 | 1,604 | 2,021 | 919 | 416 | 347 | 342 | 372 | 358 |
| 17 | 339 | 310 | 361 | 839 | 1,645 | 1,971 | 889 | 409 | 348 | 343 | 372 | 358 |
| 18 | 339 | 310 | 368 | 854 | 1,671 | 1,899 | 861 | 402 | 350 | 344 | 371 | 357 |
| 19 | 337 | 309 | 376 | 873 | 1,691 | 1,819 | 834 | 396 | 352 | 345 | 369 | 356 |
| 20 | 335 | 310 | 384 | 895 | 1,724 | 1,749 | 808 | 391 | 355 | 345 | 366 | 355 |
| 21 | 332 | 312 | 394 | 918 | 1,769 | 1,693 | 783 | 386 | 356 | 345 | 364 | 354 |
| 22 | 330 | 313 | 405 | 944 | 1,821 | 1,662 | 760 | 382 | 357 | 346 | 365 | 352 |
| 23 | 327 | 315 | 416 | 971 | 1,868 | 1,634 | 737 | 379 | 357 | 346 | 365 | 351 |
| 24 | 325 | 316 | 428 | 998 | 1,906 | 1,608 | 716 | 376 | 356 | 347 | 367 | 351 |
| 25 | 325 | 316 | 441 | 1,024 | 1,956 | 1,582 | 695 | 374 | 353 | 349 | 367 | 351 |
| 26 | 325 | 317 | 455 | 1,047 | 2,087 | 1,558 | 675 | 372 | 351 | 350 | 368 | 351 |
| 27 | 325 | 318 | 469 | 1,069 | 2,251 | 1,535 | 656 | 370 | 348 | 351 | 368 | 351 |
| 28 | 324 | 318 | 485 | 1,091 | 2,426 | 1,512 | 636 | 367 | 346 | 353 | 369 | 349 |
| 29 | 322 | 318 | 514 | 1,115 | 2,574 | 1,485 | 618 | 365 | 344 | 354 | 367 | 349 |
| 30 | 321 | | 544 | 1,143 | 2,671 | 1,457 | 601 | 362 | 343 | 355 | 365 | 348 |
| 31 | 320 | | 573 | | 2,716 | | 585 | 359 | | 357 | | 346 |