

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: 76M 94404-01 STATEMENT OF CLAIM
Version: 1 -- ORIGINAL RIGHT

Version Status:

Owners: CONFEDERATED SALISH & KOOTENAI TRIBES
C/O TRIBAL CHAIRMAN
PO BOX 278
PABLO, MT 59855

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

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

Priority Date: DECEMBER 11, 1904

Enforceable Priority Date: DECEMBER 11, 1904

Purpose (use): INSTREAM FISHERY

Maximum Flow Rate: 833.00 CFS

FOR ANY ANALYSIS OF THE LEGAL AVAILABILITY OF WATER IN BASINS 76F (BLACKFOOT RIVER), 76G (CLARK FORK RIVER ABOVE BLACKFOOT RIVER), 76E (ROCK CREEK, TRIBUTARY OF THE CLARK FORK RIVER). AND 76GJ (FLINT CREEK), THIS RIGHT SHALL BE CONSIDERED CONJOINED TO WATER RIGHT 76M 94404-02, TO HAVE A CUMULATIVE YEAR-ROUND FLOW RATE OF 2000 CFS AS MEASURED BELOW THE CONFLUENCE OF THE CLARK FORK AND BLACKFOOT RIVERS AT THE LOCATION OF USGS GAGE #12340500 ABOVE MISSOULA (46°52'38"N, 113°55'53"W, NAD27) (NWNWNW SEC19 T13N R18W).

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 30). THE MINIMUM ENFORCEABLE LEVEL OF THIS RIGHT IS 500 CFS AND THE MAXIMUM ENFORCEABLE LEVEL OF THIS WATER RIGHT IS 833 CFS.

CALL MAY BE INITIATED ON THE DAY FOLLOWING A FIVE-CONSECUTIVE-DAY PERIOD WHERE FOUR OUT OF FIVE AVERAGE DAILY RIVER FLOWS FALL BELOW THEIR RESPECTIVE DAILY ENFORCEABLE VALUES; CALL MAY PERSIST UNTIL SUCH TIME AS TWO AVERAGE DAILY FLOWS OF THE PREVIOUS FIVE-CONSECUTIVE-DAY-PERIOD ARE IN EXCESS OF THEIR RESPECTIVE DAILY ENFORCEABLE VALUES.

ENFORCEABLE LEVELS OF THIS WATER RIGHT SHALL BE MEASURED AT THE USGS GAGE #12334550 LOCATION ON THE MAINSTEM OF THE CLARK FORK RIVER @ TURAH BRIDGE, MONTANA (46°49'34"N, 113°48'48",NAD27) (NWNWSW SEC 1 T12N R18W). IF USGS GAGE #12334550 IS DISCONTINUED OR OTHERWISE RENDERED NONFUNCTIONAL, MEASUREMENTS SHALL BE TAKEN EITHER AT THIS SAME LOCATION OR AT A POINT DOWNSTREAM AS NEAR AS REASONABLY PRACTICABLE TO THE CONFLUENCE OF THE CLARK FORK AND BLACKFOOT RIVERS.

Maximum Volume:

Source Name: CLARK FORK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			1	12N	18W	MISSOULA

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: INSTREAM

Diversion Type: PRIMARY

2			2	12N	18W	MISSOULA
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Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: INSTREAM

Diversion Type: PRIMARY

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
3			3	12N	18W	MISSOULA
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: INSTREAM						
Diversion Type: PRIMARY						
4			7	12N	18W	MISSOULA
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: INSTREAM						
Diversion Type: PRIMARY						
5			12	12N	18W	MISSOULA
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: INSTREAM						
Diversion Type: PRIMARY						
6			18	12N	18W	MISSOULA
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: INSTREAM						
Diversion Type: PRIMARY						
7			21	13N	18W	MISSOULA
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: INSTREAM						
Diversion Type: PRIMARY						
8			27	13N	18W	MISSOULA
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: INSTREAM						
Diversion Type: PRIMARY						
9			28	13N	18W	MISSOULA
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: INSTREAM						
Diversion Type: PRIMARY						
10			34	13N	18W	MISSOULA
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: INSTREAM						
Diversion Type: PRIMARY						
11			35	13N	18W	MISSOULA
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				1	12N	18W	MISSOULA
2				2	12N	18W	MISSOULA
3				3	12N	18W	MISSOULA
4				7	12N	18W	MISSOULA
5				12	12N	18W	MISSOULA
6				18	12N	18W	MISSOULA
7				21	13N	18W	MISSOULA
8				27	13N	18W	MISSOULA
9				28	13N	18W	MISSOULA
10				34	13N	18W	MISSOULA
11				35	13N	18W	MISSOULA

Remarks:

Remarks:

THE OWNERS 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 BASINS 76G (CLARK FORK ABOVE BLACKFOOT RIVER), 76E (ROCK CREEK, TRIBUTARY TO THE CLARK FORK), AND 76GJ (FLINT CREEK), THAT:

1) HAVE A PRIORITY DATE EARLIER THAN THE DATE ON WHICH THE RATIFICATION BY THE MONTANA LEGISLATURE OF THE WATER RIGHTS COMPACT ENTERED INTO BY THE CONFEDERATED SALISH & KOOTENAI TRIBES, THE STATE OF MONTANA, AND THE UNITED STATES OF AMERICA TAKES EFFECT UNDER STATE LAW, HAVE A PURPOSE OF IRRIGATION AND WHOSE SOURCE OF SUPPLY IS SURFACE WATER;

2) HAVE A PRIORITY DATE EARLIER THAN THE DATE ON WHICH THE RATIFICATION BY THE MONTANA LEGISLATURE OF THE WATER RIGHTS COMPACT ENTERED INTO BY THE CONFEDERATED SALISH & KOOTENAI TRIBES, THE STATE OF MONTANA, AND THE UNITED STATES OF AMERICA TAKES EFFECT UNDER STATE LAW, AND HAVE A PURPOSE OF IRRIGATION, WHOSE SOURCE OF SUPPLY IS GROUNDWATER AND WHOSE FLOW RATE IS GREATER THAN 100 GALLONS PER MINUTE; OR

3) HAVE A PRIORITY DATE LATER THAN THE DATE ON WHICH THE RATIFICATION BY THE MONTANA LEGISLATURE OF THE WATER RIGHTS COMPACT ENTERED INTO BY THE CONFEDERATED SALISH & KOOTENAI TRIBES, THE STATE OF MONTANA, AND THE UNITED STATES OF AMERICA TAKES EFFECT UNDER STATE LAW.

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

THE ABILITY TO ENFORCE THIS RIGHT SHALL BE SUSPENDED FOR A PERIOD OF 10 YEARS FROM THE DATE THE RATIFICATION OF THIS COMPACT BY THE MONTANA LEGISLATURE BECOMES EFFECTIVE UNDER STATE LAW.

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 CLARK FORK RIVER STARTING JUST ABOVE THE CONFLUENCE OF THE CLARK FORK AND BLACKFOOT RIVERS (46°52'17"N, 113°53'16",NAD27) (NESWNW SEC 21 T13N R18W) AND EXTENDING UPSTREAM TO THE CONFLUENCE OF THE CLARK FORK RIVER AND ALLEN CREEK (46°47'47"N, 113°47'0",NAD27) (SENWSE SEC 18 T12N R17W).

WATER RIGHT 76M 94404-00 HAS BEEN CHANGED FROM HYDROPOWER GENERATION TO INSTREAM FISHERY AND SPLIT INTO WATER RIGHTS 76M 94404-01 AND 76M 94404-02 BY THE MONTANA LEGISLATURE'S RATIFICATION OF THE WATER RIGHTS COMPACT ENTERED INTO BY THE CONFEDERATED SALISH & KOOTENAI TRIBES, THE STATE OF MONTANA, AND THE UNITED STATES OF AMERICA. 76M 94404-00 CAN NO LONGER BE CHANGED.

76M 94404-01 & 76M 94404-02 ARE NONCONSUMPTIVE INSTREAM WATER RIGHTS AND THE PURPOSES AND INSTREAM PLACES OF USE CANNOT BE CHANGED.

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: 76M 94404-02 STATEMENT OF CLAIM
Version: 1 -- ORIGINAL RIGHT

Version Status:

Owners: CONFEDERATED SALISH & KOOTENAI TRIBES
C/O TRIBAL CHAIRMAN
PO BOX 278
PABLO, MT 59855

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

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

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

Priority Date: DECEMBER 11, 1904

Enforceable Priority Date: DECEMBER 11, 1904

Purpose (use): INSTREAM FISHERY

Maximum Flow Rate: 1,167.00 CFS

FOR ANY ANALYSIS OF THE LEGAL AVAILABILITY OF WATER IN BASINS 76F (BLACKFOOT RIVER), 76G (CLARK FORK RIVER ABOVE BLACKFOOT RIVER), 76E (ROCK CREEK, TRIBUTARY OF THE CLARK FORK RIVER). AND 76GJ (FLINT CREEK), THIS RIGHT SHALL BE CONSIDERED CONJOINED TO WATER RIGHT 76M 94404-01, TO HAVE A CUMULATIVE YEAR-ROUND FLOW RATE OF 2000 CFS AS MEASURED BELOW THE CONFLUENCE OF THE CLARK FORK AND BLACKFOOT RIVERS AT THE LOCATION OF USGS GAGE #12340500 ABOVE MISSOULA (46°52'38"N, 113°55'53"W, NAD27) (NWNWNW SEC19 T13N R18W).

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 30). THE MINIMUM ENFORCEABLE LEVEL OF THIS RIGHT IS 700 CFS AND THE MAXIMUM ENFORCEABLE LEVEL OF THIS WATER RIGHT IS 1,167 CFS.

CALL MAY BE INITIATED ON THE DAY FOLLOWING A FIVE-CONSECUTIVE-DAY-PERIOD WHERE FOUR OUT OF FIVE AVERAGE DAILY RIVER FLOWS FALL BELOW THEIR RESPECTIVE DAILY ENFORCEABLE VALUES; CALL MAY PERSIST UNTIL SUCH TIME AS TWO AVERAGE DAILY FLOWS OF THE PREVIOUS FIVE-CONSECUTIVE-DAY-PERIOD ARE IN EXCESS OF THEIR RESPECTIVE DAILY ENFORCEABLE VALUES.

ENFORCEABLE LEVELS OF THIS WATER RIGHT SHALL BE MEASURED AT THE USGS GAGE #12340000 LOCATION ON THE MAINSTEM OF THE BLACKFOOT RIVER @ BONNER, MONTANA (46°53'59"N, 113°45'20",NAD27) (SESENW SEC 9 T13N R17W). IF USGS GAGE #12340000 IS DISCONTINUED OR OTHERWISE RENDERED NONFUNCTIONAL, MEASUREMENTS SHALL BE TAKEN EITHER AT THIS SAME LOCATION OR AT A POINT DOWNSTREAM AS NEAR AS REASONABLY PRACTICABLE TO THE CONFLUENCE OF THE CLARK FORK AND BLACKFOOT RIVERS.

Maximum Volume:

Source Name: BLACKFOOT RIVER

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			2	13N	17W	MISSOULA

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: INSTREAM

Diversion Type: PRIMARY

2			7	13N	17W	MISSOULA
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Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: INSTREAM

Diversion Type: PRIMARY

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
3			8	13N	17W	MISSOULA
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: INSTREAM						
Diversion Type: PRIMARY						
4			9	13N	17W	MISSOULA
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: INSTREAM						
Diversion Type: PRIMARY						
5			10	13N	17W	MISSOULA
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: INSTREAM						
Diversion Type: PRIMARY						
6			11	13N	17W	MISSOULA
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: INSTREAM						
Diversion Type: PRIMARY						
7			17	13N	17W	MISSOULA
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: INSTREAM						
Diversion Type: PRIMARY						
8			18	13N	17W	MISSOULA
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: INSTREAM						
Diversion Type: PRIMARY						
9			12	13N	18W	MISSOULA
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: INSTREAM						
Diversion Type: PRIMARY						
10			13	13N	18W	MISSOULA
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: INSTREAM						
Diversion Type: PRIMARY						
11			14	13N	18W	MISSOULA
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: INSTREAM						
Diversion Type: PRIMARY						
12			15	13N	18W	MISSOULA
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: INSTREAM						
Diversion Type: PRIMARY						
13			16	13N	18W	MISSOULA
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: INSTREAM						
Diversion Type: PRIMARY						
14			21	13N	18W	MISSOULA
Period of Diversion: JANUARY 1 TO DECEMBER 31						
Diversion Means: INSTREAM						
Diversion Type: PRIMARY						
15			22	13N	18W	MISSOULA
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</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1				2	13N	17W	MISSOULA
2				7	13N	17W	MISSOULA
3				8	13N	17W	MISSOULA
4				9	13N	17W	MISSOULA
5				10	13N	17W	MISSOULA
6				11	13N	17W	MISSOULA
7				17	13N	17W	MISSOULA
8				18	13N	17W	MISSOULA
9				12	13N	18W	MISSOULA
10				13	13N	18W	MISSOULA
11				14	13N	18W	MISSOULA
12				15	13N	18W	MISSOULA
13				16	13N	18W	MISSOULA
14				21	13N	18W	MISSOULA
15				22	13N	18W	MISSOULA

Remarks:

THE OWNERS 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 76F (BLACKFOOT RIVER), THAT:

1) HAVE A PRIORITY DATE EARLIER THAN THE DATE ON WHICH THE RATIFICATION BY THE MONTANA LEGISLATURE OF THE WATER RIGHTS COMPACT ENTERED INTO BY THE CONFEDERATED SALISH & KOOTENAI TRIBES, THE STATE OF MONTANA, AND THE UNITED STATES OF AMERICA TAKES EFFECT UNDER STATE LAW, HAVE A PURPOSE OF IRRIGATION AND WHOSE SOURCE OF SUPPLY IS SURFACE WATER;

2) HAVE A PRIORITY DATE EARLIER THAN THE DATE ON WHICH THE RATIFICATION BY THE MONTANA LEGISLATURE OF THE WATER RIGHTS COMPACT ENTERED INTO BY THE CONFEDERATED SALISH & KOOTENAI TRIBES, THE STATE OF MONTANA, AND THE UNITED STATES OF AMERICA TAKES EFFECT UNDER STATE LAW, AND HAVE A PURPOSE OF IRRIGATION, WHOSE SOURCE OF SUPPLY IS GROUNDWATER AND WHOSE FLOW RATE IS GREATER THAN 100 GALLONS PER MINUTE; OR

3) HAVE A PRIORITY DATE LATER THAN THE DATE ON WHICH THE RATIFICATION BY THE MONTANA LEGISLATURE OF THE WATER RIGHTS COMPACT ENTERED INTO BY THE CONFEDERATED SALISH & KOOTENAI TRIBES, THE STATE OF MONTANA, AND THE UNITED STATES OF AMERICA TAKES EFFECT UNDER STATE LAW.

THE ABILITY TO ENFORCE THIS RIGHT SHALL BE SUSPENDED FOR A PERIOD OF 10 YEARS FROM THE DATE THE RATIFICATION OF THIS COMPACT BY THE MONTANA LEGISLATURE BECOMES EFFECTIVE UNDER STATE LAW.

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

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.

WATER RIGHT 76M 94404-00 HAS BEEN CHANGED FROM HYDROPOWER GENERATION TO INSTREAM FISHERY AND SPLIT INTO WATER RIGHTS 76M 94404-01 AND 76M 94404-02 BY THE MONTANA LEGISLATURE'S RATIFICATION OF THE WATER RIGHTS COMPACT ENTERED INTO BY THE CONFEDERATED SALISH & KOOTENAI TRIBES, THE STATE OF MONTANA, AND THE UNITED STATES OF AMERICA. 76M 94404-00 CAN NO LONGER BE CHANGED.

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 BLACKFOOT RIVER STARTING JUST ABOVE THE CONFLUENCE OF THE CLARK FORK AND BLACKFOOT RIVERS (46°52'17"N, 113°53'16",NAD27) (NESWNW SEC 21 T13N R18W) AND EXTENDING UPSTREAM TO THE CONFLUENCE OF THE BLACKFOOT RIVER AND EAST TWIN CREEK (46°54'49"N, 113°42'35",NAD27) (SWSWNE SEC 2 T12N R17W).

76M 94404-01 & 76M 94404-02 ARE NONCONSUMPTIVE INSTREAM WATER RIGHTS AND THE PURPOSES AND INSTREAM PLACES OF USE CANNOT BE CHANGED.