

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: ACTIVE

Owners: 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.

THE CONFEDERATED SALISH AND KOOTENAI TRIBES BECOME COOWNERS OF THIS WATER RIGHT ON THE EFFECTIVE DATE OF THE COMPACT, WHICH IS THE DATE ON WHICH THE COMPACT IS FINALLY APPROVED BY THE TRIBES, BY THE STATE, AND BY THE UNITED STATES, AND ON WHICH THE LAW OF ADMINISTRATION (APPENDIX 4 OF THE COMPACT) HAS BEEN ENACTED AND TAKEN EFFECT AS THE LAW OF THE STATE AND THE TRIBES, WHICHEVER DATE IS LATEST.

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 2,000 CFS AS MEASURED BELOW THE CONFLUENCE OF THE CLARK FORK AND BLACKFOOT RIVERS AT THE LOCATION OF USGS GAGE #12340500 ABOVE MISSOULA (46 52 38.06 N, 113 55 54.99 W, NAD83) (NWNWNW SEC19 T13N R18W).

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 57.88 N, 113 45 22.75 W, NAD83) (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.

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.

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

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

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

Diversion Means: INSTREAM

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

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>
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 (APRIL 24, 2015), 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 (APRIL 24, 2015), 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 (APRIL 24, 2015), THE STATE OF MONTANA, AND THE UNITED STATES OF AMERICA TAKES EFFECT UNDER STATE LAW.

THE ABILITY TO ENFORCE THIS RIGHT SHALL BE SUSPENDED UNTIL APRIL 24, 2025, WHICH IS 10 YEARS FROM THE DATE THE RATIFICATION OF THIS COMPACT BY THE MONTANA LEGISLATURE BECAME EFFECTIVE UNDER STATE LAW (APRIL 24, 2015).

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 W, 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 W, 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.