

DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION
GLASGOW WATER RESOURCES REGIONAL OFFICE



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STATE OF MONTANA

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GLASGOW, MONTANA 59230-1269

REQUEST FOR AUTHORIZATION TO CREATE AN IMPLIED CLAIM

TO: Anna Stradley-Rodman
Montana Water Court

FROM: Craig Karge
Glasgow Water Resources Regional Office

DATE: March 28, 2008

SUBJECT: Claim No.: 166448-00 Basin: 40 M

CLAIMANT: Hugh Brookie

DISCUSSION:

This claim appears to be claiming two separate sources of water. The Dam in sec 14 39N 35E is on Antelope Creek, South Fork and is in basin 400. The Dam in sec 26 29N 35E is on unnamed tributary of Square Creek basin 40M.

If the implied claims are authorized supplemental right and interbasin transfer remark will need to be added to the claim.

Please review the enclosed water right filings and determine whether this implied claim should be authorized. Thank you for your consideration in this matter.

MONTANA WATER COURT



STATE OF MONTANA

(406) 586-4364
1-800-624-3270 (In-State only)
FAX: (406) 522-4131

PO BOX 1389
Bozeman, MT 59771-1389

TO: Craig Karge, Water Resources Specialist
DNRC - Glasgow Water Resources Regional Office

RECEIVED

FROM: Dan T. Cole, Water Master
Montana Water Court

A handwritten signature in black ink, appearing to read "DTC", written over the name Dan T. Cole.

APR 10 2008

Montana DNRC
Glasgow Field Office

DATE: April 9, 2008

RE: REQUEST FOR AUTHORIZATION TO CREATE AN IMPLIED CLAIM

Water Right Claim: (400/40M)166448-00

The Request for Authorization to Create an Implied Claim is GRANTED.

The appropriate claim filing fee must be collected if any implied claim is generated.

The fact that the Water Court has authorized the generation of an implied claim does not mean the implied claim or the claim from which it was implied is immune from the objection process. These claims will be subject to objection by any party and may also be subject to a motion of the Water Court. The Water Court has made no determination respecting these claims other than authorizing the generation of the implied claim.

The claim file transmitted to the Water Court with the Request for Authorization to Create an Implied Claim accompanies this Memorandum and is returned to the DNRC.

Because a Water Court Decree has been issued for Basin 400, please send the Basin 400 Water Right claim file to the Water Court for review after the Implied Claim has been created for the Basin 40M Water Right.

DTC:dl

Enclosure: Claim File 400/40M 166448-00

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
BEAVER CREEK, TRIBUTARY TO MILK RIVER
BASIN 40M
IMPORTANT NOTICE**

AN ASTERISK (*) HAS BEEN PLACED NEXT TO EACH ITEM CHANGED BY ORDER OF THE MONTANA WATER COURT AFTER ISSUANCE OF THE PREVIOUS DECREE.

Water Right Number: 40M 30041754 STATEMENT OF CLAIM

Version: 1 -- ORIGINAL RIGHT

Status: ACTIVE

Owners: HUGH BROOKIE
139 EAST BEAVERTON RD
SACO, MT 59261

Priority Date: JULY 24, 1904

Type of Historical Right: USE

Purpose (use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR.

Volume: 4.00 AC-FT

Climatic Area: 3 - MODERATE

Maximum Acres: 73.00

Source Name: UNNAMED TRIBUTARY OF SQUARE 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		N2NENE	26	29N	35E	VALLEY

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DAM

Reservoir: ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	N2NENE	26	29N	35E	VALLEY

Diversion to Reservoir: DIVERSION # 1

Dam Height: 12.00 FEET

Depth: 10.00 FEET

Surface Area: 0.50 ACRES

Capacity: 2.00 ACRE-FEET

SEE THE RESERVOIR WORKSHEET IN THE CLAIM FILE FOR ADDITIONAL RESERVOIR DATA.

Period of Use: MARCH 1 TO OCTOBER 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	39.00		E2SE	23	29N	35E	VALLEY
2	25.20		W2SW	24	29N	35E	VALLEY
3	8.80		NENE	26	29N	35E	VALLEY
Total:	73.00						

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

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THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

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

THIS CLAIM NUMBER WAS NOT INCLUDED IN THE BASIN 400 PRELIMINARY DECREE ISSUED 05/24/1995.

THIS IMPLIED CLAIM WAS AUTHORIZED BY THE WATER COURT BASED ON INFORMATION IN CLAIM NO. 166448-00.

THIS APPROPRIATION OF WATER TAKES WATER FROM THE BEAVER CREEK, TRIBUTARY TO MILK RIVER DRAINAGE (BASIN 40M) AND USES IT IN THE MILK RIVER, BELOW WHITEWATER INCLUDING PORCUPINE CREEK DRAINAGE (BASIN 400) AND THE BEAVER CREEK, TRIBUTARY TO MILK RIVER DRAINAGE (BASIN 40M). ANY OBJECTION TO THIS RIGHT MAY BE FILED DURING THE OBJECTION PERIODS FOR EITHER THE POINT OF DIVERSION OR PLACE OF USE BASIN.

THE DNRC EXAMINATION OF THIS CLAIM FOUND NO SIGNIFICANT FACTS, DATA, OR ISSUES TO REPORT TO THE WATER COURT.