

IN THE WATER COURT OF THE STATE OF MONTANA
UPPER MISSOURI DIVISION
SUN RIVER BASIN (41K)
PRELIMINARY DECREE

CLAIMANTS: United States of America (Bureau of
Reclamation)

OBJECTOR: Broken O Land & Livestock, LLC

CASE 41K-0073-R-2023

41K 40875-00
41K 40876-00
41K 40895-00
41K 40896-00
41K 40897-00
41K 40898-00

NOTICE OF FILING OF MASTER'S REPORT

This Master's Report was filed with the Montana Water Court on the above stamped date. Please review this report carefully.

You may file a written objection to this Master's Report within **10 days** of the stamped date if you disagree or find errors with the Master's findings of fact, conclusions of law, or recommendations. Rule 23, W.R.Adj.R. If the Master's Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must serve a copy of the objection to all parties on the service list found at the end of the Master's Report. The original objection and a certificate of mailing to all parties on the service list must be filed with the Water Court.

If you do not file a timely objection, the Water Court will conclude that you agree with the content of this Master's Report.

MASTER'S REPORT

All water right claims that appeared in the Preliminary Decree for Sun River (Basin 41K) were subject to "issue remarks" resulting from pre-decree examination by

the DNRC, objections, and counterobjections. Claims 41K 40875-00, 41K 40876-00, 41K 40895-00, 41K 40896-00, 41K 40897-00, and 41K 40898-00 each received objections from Broken O land and Livestock, LLC (“Broken O”) and received issue remarks during the DNRC’s claims reexamination.

The claims were consolidated into Water Court Case 41K-0073-R-2023 to resolve the objections and issue remarks.

FINDINGS OF FACT

1. Each of the claims appeared in the Temporary Preliminary Decree for Basin 41K. The claims were part of a long and complex set of cases referred to as 41K Joint Proceedings “B”¹ and 41K Joint Proceedings “C” (hereinafter “Proceedings”). The Proceedings were the subject of a Master’s Report issued by the Water Court on March 26, 2015, a *Stipulation* entered into by the United States Bureau of Reclamation (“BOR”), Greenfields Irrigation District, Fort Shaw Irrigation District, and Broken O on February 9, 2016, an Amended Master’s Report issued March 18, 2016, and, finally, an Order Adopting Master’s Report issued on April 12, 2016.

2015 Master’s Report

2. The Master’s Report issued March 26, 2015, contained multiple recommendations from the Water Master regarding the above-captioned claims. Consequential to the instant case were determinations regarding the volume and flow rate elements of the claims and the addition of a multiple use remark denoting the relationship between claims 41K 40875-00 and 41K 40876-00. Specifically, the Water Master concluded that information remarks stating that the volume of the right shall not exceed historical and beneficial use were sufficient for the volume element of the claims at issue here.² The following information remark was added to the volume element of the claims in place of a quantification:

¹ Claims 41K 49875-00, 41K 40876-00, 41K 40895-00, 41K 40896-00, 41K 40897-00, and 41K 40898-00 each appeared in 41K Joint Proceedings “B,” however, during the Temporary Preliminary Decree Court filings for 41K Joint Proceedings “B” and “C” were issued together.

² 41K Joint Proceedings “B” and “C” Master’s Report Conclusion of Law No. 10 at 10.

THE TOTAL VOLUME OF THIS WATER
RIGHT SHALL NOT EXCEED THE
AMOUNT PUT TO HISTORICAL AND
BENEFICIAL USE.

3. The March 26, 2015 Master's Report was subsequently objected to by BOR and Broken O and a settlement deadline was set by the Court for the parties to file settlement documents resolving the issues raised in their respective objections. A *Stipulation* resolving those outstanding issues was filed by the parties on February 9, 2016.

2016 Stipulation

4. On February 9, 2016, the parties filed a *Stipulation* with the Water Court. The *Stipulation* contained an agreement by the parties to modify the claims by adding and removing certain information remarks to claims 41K 40875-00, 41K 40876-00, 41K 40895-00, 41K 40896-00, 41K 40897-00, and 41K 40898-00.

2016 Master's Report

5. On March 18, 2016, the Water Court issued an Amended Master's Report for 41K Joint Proceedings "B" and "C." The March 18, 2016 Amended Master's Report superseded the March 26, 2015 Master's Report with respect to claims 41K 40875-00, 41K 40876-00, 41K 40895-00, 41K 40896-00, 41K 40897-00, and 41K 40898-00. In the Amended Master's Report, the Water Master states that, "[t]he March 26, 2015 Master's Report should be amended to incorporate the agreements in the *Stipulation* entered into between the United States, Greenfields, Fort Shaw, and Broken O."³ The modifications to the information remarks requested in the *Stipulation* and subsequently recommended in the 2016 Amended Master's Report are as follows:

41K 40875-00

- The existing multiple use remark on claim 41K 40875-00 will be removed.
- The following information remark should be added to claim 41K 40875-00:

THIS WATER RIGHT IS A MULTIPLE USE OF WATER INCIDENTAL TO THE
WATER RIGHT FOR IRRIGATION UNDER WATER RIGHT CLAIM NO. 41K
40870-00.

³ 41K Joint Proceedings "B" and "C" Amended Master Report Recommendations 3 at 4.

41K 40876-00

- The existing multiple use remark on claim 41K 40876-00 will be removed.
- The following information remark should be added to claim 41K 40876-00:
THIS WATER RIGHT IS A MULTIPLE USE OF WATER INCIDENTAL TO THE WATER RIGHT FOR IRRIGATION UNDER WATER RIGHT CLAIM NO. 41K 40870-00.

41K 40895-00

- The following information remark should be added to claim 41K 40895-00:
THIS WATER RIGHT IS A MULTIPLE USE OF WATER INCIDENTAL TO THE WATER RIGHT FOR IRRIGATION UNDER WATER RIGHT CLAIM NOS. 41K 40892-00, 41K 40893-00 AND 41K 40894-00.

41K 40896-00

- The following information remark should be added to claim 41K 40896-00:
THIS WATER RIGHT IS A MULTIPLE USE OF WATER INCIDENTAL TO THE WATER RIGHT FOR IRRIGATION UNDER WATER RIGHT CLAIM NOS. 41K 40892-00, 41K 40893-00 AND 41K 40894-00.

41K 40897-00

- The following information remark should be added to claim 41K 40897-00:
THIS WATER RIGHT IS A MULTIPLE USE OF WATER INCIDENTAL TO THE WATER RIGHT FOR IRRIGATION UNDER WATER RIGHT CLAIM NO. 41K 40869-00.

41K 40898-00

- The following information remark should be added to claim 41K 40898-00:
THIS WATER RIGHT IS A MULTIPLE USE OF WATER INCIDENTAL TO THE WATER RIGHT FOR IRRIGATION UNDER WATER RIGHT CLAIM NO. 41K 40869-00.
- The Volume Remark should be changed from “the use of this water is largely nonconsumptive” to “the use of this water is nonconsumptive.”

41K Preliminary Decree

6. Each of the above-captioned claims appeared in the 41K Preliminary Decree. Preliminary Decree abstracts for the claims were published on January 28, 2021. Upon review of the Preliminary Decree abstracts, it is apparent that the DNRC made several modifications to the claims prior to issuance of the 41K Preliminary Decree. The DNRC added issue remarks to the claims that conflict with the preceding Master’s Reports of 2015 and 2016, as well as the terms of the 2016 *Stipulation*. The DNRC also

removed information remarks which were key components of the 2016 *Stipulation*. Based on the reexamination information in the claim files, it is unclear why the DNRC added the aforementioned issue remarks, or why it removed the agreed to information remarks. The following issue remarks appeared on the claims during the 41K Preliminary Decree:

Claims 41K 40875-00 and 41K 40876-00 each received the following issue remarks:

PURSUANT TO WATER COURT ORDER, IF NO OBJECTIONS TO THIS CLAIM ARE FILED, THE CLAIMED VOLUME OF 46,670 ACRE FEET WILL BE REINSTATED.

THE CAPACITY OF THE DIVERSION AND CONVEYANCE SYSTEM CANNOT BE DETERMINED AND THE FLOW RATE REMAINS AS ORIGINALLY CLAIMED. THE CLAIMED FLOW RATE CAN BE CONTESTED BY PROPER OBJECTION. IF NO OBJECTIONS ARE FILED TO THIS CLAIM THE FLOW RATE WILL BE DECREED AS CLAIMED, AND THIS REMARK WILL BE REMOVED FROM THE CLAIM.

THE CLAIMANT DID NOT IDENTIFY THE PERIOD OF DIVERSION FOR THIS RIGHT. A PERIOD OF DIVERSION HAS BEEN ADDED TO MATCH THE PERIOD OF USE. IF NO OBJECTIONS ARE RECEIVED TO THE PERIOD OF DIVERSION OR PERIOD OF USE, THOSE ELEMENTS WILL BE DECREED AS SHOWN ON THIS ABSTRACT AND THIS ISSUE REMARK WILL BE REMOVED FROM THIS CLAIM.

Claim 41K 40895-00 received the following issue remarks:

PURSUANT TO WATER COURT ORDER, IF NO OBJECTIONS TO THIS CLAIM ARE FILED, THE CLAIMED VOLUME OF 32,300.00 ACRE FEET WILL BE REINSTATED.

THE CLAIMANT DID NOT IDENTIFY THE PERIOD OF DIVERSION FOR THIS RIGHT. A PERIOD OF DIVERSION HAS BEEN ADDED TO MATCH THE PERIOD OF USE. IF NO OBJECTIONS ARE RECEIVED TO THE PERIOD OF DIVERSION OR PERIOD OF USE, THOSE ELEMENTS WILL BE DECREED AS SHOWN ON THIS ABSTRACT AND THIS ISSUE REMARK WILL BE REMOVED FROM THIS CLAIM.

THE PRIORITY DATE MAY BE QUESTIONABLE. THIS CLAIM IS FOR A USE RIGHT ON WILLOW CREEK WITH A PRIORITY DATE PREDATING CASE NO 4742, CASCADE COUNTY. IF NO OBJECTIONS ARE FILED TO PRIORITY DATE OR TYPE OF HISTORICAL RIGHT, THESE ELEMENTS WILL BE DECREED AS SHOWN ON THIS ABSTRACT AND THIS REMARK WILL BE REMOVED.

Claim 41K 40896-00 each received the following issue remarks:

PURSUANT TO WATER COURT ORDER, IF NO OBJECTIONS TO THIS CLAIM ARE FILED, THE CLAIMED VOLUME OF 32,300.00 ACRE FEET WILL BE REINSTATED.

THE CLAIMANT DID NOT IDENTIFY THE PERIOD OF DIVERSION FOR THIS RIGHT. A PERIOD OF DIVERSION HAS BEEN ADDED TO MATCH THE PERIOD OF USE. IF NO OBJECTIONS ARE RECEIVED TO THE PERIOD OF DIVERSION OR PERIOD OF USE,

THOSE ELEMENTS WILL BE DECREED AS SHOWN ON THIS ABSTRACT AND THIS ISSUE REMARK WILL BE REMOVED FROM THIS CLAIM.

Claims 41K 40897-00 and 41K 40898-00 each received the following issue remark:

PURSUANT TO WATER COURT ORDER, IF NO OBJECTIONS TO THIS CLAIM ARE FILED, THE CLAIMED VOLUME OF 99,058.00 ACRE FEET WILL BE REINSTATED.

7. The above-listed information remarks denoting that the claims are multiple uses of water incidental to the corresponding irrigation rights were removed during the reexamination period by the DNRC along with the information remark stating that the use of the water *is* nonconsumptive rather than *appears* nonconsumptive. Each of these remarks were placed on the claims pursuant to the 2016 *Stipulation*.

8. On September 6, 2023, the Water Court consolidated the claims into Water Court case 41K-0073-R-2023 and set a filing deadline for claimant BOR and claimant/objector Broken O to file settlement documents addressing and resolving the Objections and issue remarks.

9. On February 7, 2024, BOR filed a *Proposed Resolution of Objections and Issue Remarks* (Doc. 9.00).⁴ In the *Proposed Resolution*, BOR recounts the history of the claims regarding adjudication during the 41K Temporary Preliminary Decree. Additionally, the *Proposed Resolution* addresses the issue remarks in turn stating first that the volume issue remarks contradict the determination made in the 2015 Master's Report that a quantified volume was not necessary in light of the standard volume information remark. Second, the *Proposed Resolution* states that the period of diversion remarks were incorrectly added, and should be removed, because the period of diversion already correctly lists January 1 to December 31. Similarly, the *Proposed Resolution* states that because no objections were filed to the flow rate of claims 41K 40875-00 and 41K 40876-00 or the priority date for claim 41K 40895-00, the flow rate and priority date issue remarks appearing on those claims should be removed. Finally, the *Proposed*

⁴ "Doc." Numerical references correlate to case file docket numbers in the Water Court's Full Court case management system.

Resolution addresses the removal of the stipulated information remarks stating that because the court had previously accepted the addition of the multiple use remarks as memorialized in the 2016 *Stipulation* and subsequently the 2016 Master’s Report, the information remarks should be reinstated.

10. To corroborate the proposals that the issue remarks be removed, and the above-listed information remarks be replaced, BOR attached the *Declaration of Rita Frasure*, a Water Rights Specialist employed by the BOR at the Montana Area Office since 2007. In her *Declaration*, Ms. Frasure echoes the statements found in BOR’s *Proposed Resolution* that, based on the acceptance of the 2016 *Stipulation* and the 2016 Master’s Report by the Water Court, the issue remarks placed on the claims by the DNRC during the reexamination of Basin 41K should be removed, and the information remarks that were removed by the DNRC should be added to the claims per the 2016 *Stipulation*.

11. On February 15, 2024, Broken O filed a *Notice of Position* (Doc 10.00).⁵ The *Notice of Position* states that Broken O agrees with the *Proposed Resolution of Objections and Issue Remarks* filed by BOR on February 7, 2024.

PRINCIPLES OF LAW

1. Section 85-2-248(2), MCA, requires that the Water Court resolve all issue remarks that are not resolved through the objection process. *See also* Rule 7, W.R.Adj.R.

2. The Water Court may use information submitted by the DNRC, the Statement of Claim, and any other data obtained by the Court to evaluate a water right. Sections 85-2-227, -231(2), MCA.

3. The Water Rights Claim Examination Rules state at W.R.C.E.R. 3(d)(2) that the department will not change the claimed elements of an existing water right in the computer record system after issuance of a decree except as follows:

- (i) as specifically ordered or directed in writing by the water court;
- (ii) in compliance with § 85-2-402⁶, MCA and §§ 85-2-421 through 85-2-426⁷, MCA;
- (iii) to change an owner address; or

⁵ *Id.*

⁶ Defining changes in appropriation rights via the change application process.

⁷ Describing the purpose, form, filing and fees necessary to facilitate the maintenance of a reliable record of water right ownership.

(iv) to remove asterisks identifying changes to claimed elements.

4. Any element of a claim that appeared on the objection list shall be considered litigated and shall not be subject to modification based on implementation of the DNRC proposal. Order Addressing Reexamination VI. Conclusion and Direction to DNRC *at 8*.

CONCLUSIONS OF LAW

1. The DNRC violated the Water Rights Claim Examination Rules by adding the volume issue remarks listed above and removing the information remarks added to the claims after the Water Court accepted the 2016 *Stipulation* because the DNRC was not ordered or directed in writing by the Water Court to do so, the modifications did not relate to § 85-2-402, MCA or §§ 85-2-421 through 85-2-426, MCA, the modification were not related to a change of owner address, and were not simply removals of asterisks. Instead, the modifications were substantive and threatened to undo decades worth of litigation by the parties during the adjudication of the 41K Temporary Preliminary Decree.

2. The DNRC violated the Water Court's Order Addressing Reexamination when it modified elements of the claims that had previously been litigated during the 41K Temporary Preliminary Decree⁸. These violations undermined the determinations made in the 2016 Master's Report and subsequent 2016 Order Adopting Master's Report and resulted in the unnecessary filing of Objections and eventually settlement documents during the 41K Preliminary Decree.

3. Because the DNRC erred in placing the volume issue remarks on the claims and removing the information remarks added to the claims as a result of the 2016 *Stipulation* during the Temporary Preliminary Decree, the volume issue remarks should be removed, and the abstracts of the claims restored to their form after the issuance of the 2016 Order Adopting Master's Report.

⁸ Order Addressing Reexamination VI. Conclusion and Direction to DNRC *at 8*.

4. The notice-type issue remarks appearing on claims 41K 40875-00, 41K 40876-00, 41K 40895-00, and 41K 40896-00 served their notice purpose and should be removed from the claims.

RECOMMENDATIONS

Based on the foregoing Findings of Fact and Conclusions of Law, this Water Master recommends that the Court remove all issue remarks from the above-captioned claims and restore the information remarks added to the claims per the 2016 *Stipulation*.

Post decree abstracts of the water right claims reflecting the removal of the issue remarks are attached to this Report.

ELECTRONICALLY SIGNED AND DATED BELOW.

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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			W2	1	22N	7W	TETON
2				2	22N	7W	TETON
3				3	22N	7W	TETON
4			E2	9	22N	7W	TETON
5				10	22N	7W	TETON
6				11	22N	7W	TETON
7			W2	12	22N	7W	TETON

Remarks:

THIS WATER RIGHT IS A MULTIPLE USE OF WATER INCIDENTAL TO THE WATER RIGHT FOR IRRIGATION UNDER WATER RIGHT CLAIM NO. 41K 40870-00.

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			W2	1	22N	7W	TETON
2				2	22N	7W	TETON
3				3	22N	7W	TETON
4			E2	9	22N	7W	TETON
5				10	22N	7W	TETON
6				11	22N	7W	TETON
7			W2	12	22N	7W	TETON

Remarks:

THIS WATER RIGHT IS A MULTIPLE USE OF WATER INCIDENTAL TO THE WATER RIGHT FOR IRRIGATION UNDER WATER RIGHT CLAIM NO. 41K 40870-00.

7 NE 26 21N 7W LEWIS AND CLARK

Remarks:

THIS WATER RIGHT IS A MULTIPLE USE OF WATER INCIDENTAL TO THE WATER RIGHT FOR IRRIGATION UNDER WATER RIGHT CLAIM NOS. 41K 40892-00, 41K 40893-00, AND 41K 40894-00.

Remarks:

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.

40894-00

40896-00

THIS WATER RIGHT IS A MULTIPLE USE OF WATER INCIDENTAL TO THE WATER RIGHT FOR IRRIGATION UNDER WATER RIGHT CLAIM NOS. 41K 40892-00, 41K 40893-00, AND 41K 40894-00.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
SUN RIVER
BASIN 41K**

Water Right Number: 41K 40897-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: USA (DEPT OF INTERIOR BUREAU OF RECLAMATION)
PO BOX 30137
BILLINGS, MT 59107-0137

Priority Date: DECEMBER 31, 1929

Type of Historical Right: USE

Purpose (Use): FISH AND WILDLIFE

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

***Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

THE USE OF THIS WATER APPEARS TO BE LARGELY NONCONSUMPTIVE.

Source Name: SUN 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		NENWSE	4	21N	9W	LEWIS AND CLARK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DAM

***Reservoir:** ONSTREAM **Reservoir Name:** GIBSON RESERVOIR

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NENWSE	4	21N	9W	LEWIS AND CLARK

Diversion to Reservoir: DIVERSION # 1

Dam Height: 199.00 FEET

Depth: 196.00 FEET

Surface Area: 14,020.00 ACRES

Capacity: 99,059.00 ACRE-FEET

THE CAPACITY, DAM HEIGHT, DEPTH AND SURFACE AREA DATA FOR GIBSON RESERVOIR ARE FROM THE DNRC/ NATIONAL INVENTORY OF DAMS.

THIS DAM IS LOCATED IN BOTH LEWIS AND CLARK COUNTY AND TETON COUNTY.

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				4	21N	9W	TETON
2				5	21N	9W	TETON
3			SW	32	22N	9W	TETON
4				36	22N	10W	TETON

5	S2	26	22N	10W	TETON
6		6	21N	9W	TETON
7	S2	31	22N	9W	TETON
8	NE	35	22N	10W	TETON
9		4	21N	9W	LEWIS AND CLARK
10		5	21N	9W	LEWIS AND CLARK
11		6	21N	9W	LEWIS AND CLARK
12	N2	9	21N	9W	LEWIS AND CLARK
13	NE	1	21N	10W	LEWIS AND CLARK
14	S2	26	22N	10W	LEWIS AND CLARK
15	NE	35	22N	10W	LEWIS AND CLARK
16		36	22N	10W	LEWIS AND CLARK
17	NE	1	21N	10W	TETON

Remarks:

THIS WATER RIGHT IS A MULTIPLE USE OF WATER INCIDENTAL TO THE WATER RIGHT FOR IRRIGATION UNDER WATER RIGHT CLAIM NO. 41K 40869-00.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
SUN RIVER
BASIN 41K**

Water Right Number: 41K 40898-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: USA (DEPT OF INTERIOR BUREAU OF RECLAMATION)
PO BOX 30137
BILLINGS, MT 59107-0137

Priority Date: DECEMBER 31, 1929

Type of Historical Right: USE

Purpose (Use): RECREATION

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

***Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.
THE USE OF THIS WATER IS NONCONSUMPTIVE.

Source Name: SUN 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		NENWSE	4	21N	9W	LEWIS AND CLARK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DAM

***Reservoir:** ONSTREAM **Reservoir Name:** GIBSON RESERVOIR

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NENWSE	4	21N	9W	LEWIS AND CLARK

Diversion to Reservoir: DIVERSION # 1

Dam Height: 199.00 FEET

Depth: 196.00 FEET

Surface Area: 14,020.00 ACRES

Capacity: 99,059.00 ACRE-FEET

THE CAPACITY, DAM HEIGHT, DEPTH, AND SURFACE AREA DATA FOR GIBSON RESERVOIR, ARE FROM THE DNRC/ NATIONAL INVENTORY OF DAMS.

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				4	21N	9W	TETON
2				5	21N	9W	TETON
3			SW	32	22N	9W	TETON
4				36	22N	10W	TETON
5			S2	26	22N	10W	TETON

6		4	21N	9W	LEWIS AND CLARK
7		5	21N	9W	LEWIS AND CLARK
8		6	21N	9W	LEWIS AND CLARK
9	N2	9	21N	9W	LEWIS AND CLARK
10	NE	1	21N	10W	LEWIS AND CLARK
11	S2	26	22N	10W	LEWIS AND CLARK
12	NE	35	22N	10W	LEWIS AND CLARK
13		36	22N	10W	LEWIS AND CLARK
14		6	21N	9W	TETON
15	S2	31	22N	9W	TETON
16	NE	35	22N	10W	TETON
17	NE	1	21N	10W	TETON

Remarks:

THIS WATER RIGHT IS A MULTIPLE USE OF WATER INCIDENTAL TO THE WATER RIGHT FOR IRRIGATION UNDER WATER RIGHT CLAIM NO. 41K 40869-00.

THIS DAM IS LOCATED IN BOTH LEWIS AND CLARK COUNTY AND TETON COUNTY.