

Montana Water Court
PO Box 1389
Bozeman, MT 59771-1389
1-800-624-3270
(406) 586-4364
watercourt@mt.gov

FILED
06/16/2026
Melissa Lockman
CLERK
Montana Water Court
STATE OF MONTANA
By: D'Ann CIGLER
41I-0514-R-2025
Peters, Bina
7.00

MONTANA WATER COURT
UPPER MISSOURI DIVISION
MISSOURI RIVER ABOVE HOLTER DAM
BASIN (41I)
PRELIMINARY DECREE

CLAIMANT: Montana Environmental Trust Group LLC

CASE 41I-0514-R-2025

41I 121032-00
41I 121033-00
41I 121035-00
41I 121039-00
41I 121040-00
41I 121041-00
41I 121042-00
41I 121043-00

CLOSING ORDER

The above captioned claims were included in the Preliminary Decree for the Missouri River above Holter Dam, Basin 41I, on June 23, 2022. The claims, owned by Montana Environmental Trust Group LLC, were subject to issue remarks resulting from examination by the Montana Department of Natural Resources (“DNRC”). The Water Court is required to resolve issue remarks pursuant to Section 85-2-248, MCA.

On February 24, 2026, the DNRC filed a Memorandum with recommendations to resolve the following issue remarks. The Memorandum reported representatives for the Claimant met with DNRC and agreed with the recommendations regarding all claims except the recommendation to reduce the reservoir volume on claims 41I 121039-00, 41I 121040-00, and 41I 121042-00.

41I 121032-00

AN AMENDMENT WAS SUBMITTED ON 08/09/2021 REQUESTING TO AMEND THE PLACE OF USE. THE AMENDMENT WAS NOT

PROCESSED. THE AMENDMENT WILL BE REVIEWED BY THE COURT AFTER THE ISSUANCE OF THE PRELIMINARY DECREE.

FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.

THE LEWIS AND CLARK COUNTY WATER RESOURCES SURVEY (1957) APPEARS TO INDICATE 0.00 ACRES IRRIGATED.

USDA AERIAL PHOTOGRAPH NO(S). 278-15, DATED 09/02/1978, APPEARS TO INDICATE 0.00 ACRES IRRIGATED.

41I 121033-00

AN AMENDMENT WAS SUBMITTED ON 08/09/2021 REQUESTING TO AMEND THE PLACE OF USE. THE AMENDMENT WAS NOT PROCESSED. THE AMENDMENT WILL BE REVIEWED BY THE COURT AFTER THE ISSUANCE OF THE PRELIMINARY DECREE.

FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.

THE LEWIS AND CLARK COUNTY WATER RESOURCES SURVEY (1957) APPEARS TO INDICATE 0.00 ACRES IRRIGATED.

USDA AERIAL PHOTOGRAPH NO(S). 278-15, DATED 09/02/1978, APPEARS TO INDICATE 0.00 ACRES IRRIGATED.

THE LEWIS AND CLARK COUNTY WATER RESOURCES SURVEY FIELD NOTES (1956) APPEAR TO INDICATE 57.00 ACRES WERE IRRIGABLE. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

41I 121035-00

AN AMENDMENT WAS SUBMITTED ON 08/09/2021 REQUESTING TO AMEND THE PLACE OF USE. THE AMENDMENT WAS NOT PROCESSED. THE AMENDMENT WILL BE REVIEWED BY THE COURT AFTER THE ISSUANCE OF THE PRELIMINARY DECREE.

FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.

THE LEWIS AND CLARK COUNTY WATER RESOURCES SURVEY (1957) APPEARS TO INDICATE 0.00 ACRES IRRIGATED.

USDA AERIAL PHOTOGRAPH NO(S). 278-15, DATED 09/02/1978, APPEARS TO INDICATE 0.00 ACRES IRRIGATED.

THE LEWIS AND CLARK COUNTY WATER RESOURCES SURVEY FIELD

NOTES (1956) APPEAR TO INDICATE 57.00 ACRES WERE IRRIGABLE. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

41I 121039-00

THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. THE CLAIMED VOLUME EQUALS 4.18 TIMES THE CAPACITY OF THE RESERVOIR.

41I 121040-00

THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. THE CLAIMED VOLUME EQUALS 10.51 TIMES THE CAPACITY OF THE RESERVOIR.

41I 121041-00

AN AMENDMENT WAS SUBMITTED ON 08/09/2021 REQUESTING TO AMEND THE VOLUME & MEANS OF DIVERSION. THE AMENDMENT WAS NOT PROCESSED AS THIS ELEMENT WAS MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS.

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT WERE FILED BY DIFFERENT PARTIES WHO CLAIM OVERLAPPING PLACES OF USE. 41I 38508-00 & 41I 121041-00.

POINT OF DIVERSION AND RESERVOIR RECORD WERE MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

THE COMBINED CLAIMED VOLUME FOR THIS GROUP OF SUPPLEMENTAL RIGHTS IS 7,324.85 ACREFEET WHICH CANNOT BE CONFIRMED DUE TO LACK OF DATA.

THE CLAIMED VOLUME EXCEEDS THE MAXIMUM FEASIBLE VOLUME. BASED ON THE FLOW RATE AND PERIOD OF USE, THE MAXIMUM VOLUME POSSIBLE IS 1125.22 ACRE-FEET PER YEAR.

41I 121042-00

THE MEANS OF DIVERSION APPEARS TO BE INCORRECT. THE MEANS OF DIVERSION APPEARS TO BE A DAM.

THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. THE CLAIMED VOLUME EQUALS 4.77 TIMES THE CAPACITY OF THE RESERVOIR.

41I 121043-00

THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. THE CLAIMED VOLUME EQUALS 23.89 TIMES THE CAPACITY OF THE RESERVOIR.

Pursuant to Rule 7, W.R.Adj.R., the Water Court is required to resolve all issue remarks based on Sections 85-2-247 through 85-2-250, MCA. The Court may resolve issue remarks based on information submitted by DNRC or any other data and information it obtains. §§ 85-2-248 through 85-2-250, MCA.

On February 24, 2026, the DNRC filed a Memorandum with recommendations to resolve the issue remarks. As explained in the Memorandum, amendments to several of the claims were filed in 2021. The amendments were not processed prior to the issuance of the Preliminary Decree. However, as explained in the Memorandum, the amendments to reduce the acreage of claims 41I 121032-00, 41I 121033-00, and 41I 121035-00 resolve the issue remarks.

For claim 41I 121039-00, the DNRC reviewed a 1966 study by the US Bureau of Mines, which provided information regarding how water was used in relation to the claim. Based on the review of the study, DNRC recommended leaving the volume as claimed and adding an information remark to clarify the use of water is largely nonconsumptive.

Water rights 41I 121039-00, 41I 121040-00, 41I 121041-00, 41I 121042-00 and 41I 121043-00 claim the same reservoir, which was used to cool systems at a lead smelting plant. Although claims 41I 121039-00, 41I 121040-00, 41I 121041-00, 41I 121042-00 and 41I 121043-00 use the same reservoir, claim 41I 121040-00 has a different reservoir record. Thus, DNRC recommended modifying the reservoir record for 41I 121040-00 to match the other claims. An amendment was also submitted in 2021 for claim 41I 121041-00 to modify the means of diversion to a headgate and reduce the volume to 1122.07 acre feet. DNRC recommended accepting the amendment. Finally, concerning claims 41I 121039-00, 41I 121040-00, 41I 121041-00, 41I 121042-00 and 41I 121043-00, DNRC recommended adding an information remark to all five claims to clarify use is primarily nonconsumptive.

On June 8, 2026, claimant Montana Environmental Trust Group, LLC filed a response indicating it did not have any objection to the recommendations in the February 24, 2026 DNRC Memorandum.

Therefore, it is

ORDERED that the recommendations to resolve the issue remarks as set forth in the February 24, 2026 DNRC Memorandum are adopted and the issue remarks in this case are resolved. The modifications recommended in the Memorandum are reflected on the attached abstracts.

ORDERED that proceedings in this case are CLOSED.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service Via Electronic Mail:

Nicholas J. Lofing
Garlington, Lohn, & Robinson, PLLP
njlofing@garlington.com
kjpeterson@garlington.com

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MISSOURI RIVER, ABOVE HOLTER DAM
BASIN 41I**

Water Right Number: 411 121032-00 STATEMENT OF CLAIM

Version: 5 -- POST DECREE

Status: SEVERED

Owners: MONTANA ENVIRONMENTAL TRUST GROUP LLC
TRUSTEE OF THE MT ENVIRONMENTAL CUSTODIAL TRUST
PO BOX 1390
HELENA, MT 59624-1390

Priority Date: MAY 6, 1866

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

CASE NO. 4643, LEWIS AND CLARK COUNTY, DECREES MECHANICAL USE AS A PRIOR RIGHT TO ALL OTHER RIGHTS. SEE CLAIM FILE FOR FURTHER CLARIFICATION OF DECREE.

Flow Rate: 1.25 CFS

CASE NO. 4643, LEWIS AND CLARK COUNTY, DECREES 100 MINERS INCHES TO BE USED IN PRECISE AMOUNTS FOR SPECIFIC PURPOSES. SEE CLAIM FILE FOR FURTHER CLARIFICATION OF DECREE

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

Climatic Area: 3 - MODERATE

Maximum Acres: 82.00

Source Name: PRICKLY PEAR 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		SESENE	1	9N	3W	JEFFERSON

Period of Diversion: APRIL 15 TO OCTOBER 15

Diversion Means: HEADGATE

Period of Use: APRIL 15 TO OCTOBER 15

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	82.00		NW	31	10N	2W	LEWIS AND CLARK

Total: 82.00

THIS WATER RIGHT HAS BEEN SEVERED FROM THE PLACE OF USE. CONTINUED USE OF THIS WATER RIGHT IN ACCORD WITH HISTORICAL PRACTICES IS ALLOWED. YOU MUST CONTACT DNRC AND OBTAIN A CHANGE AUTHORIZATION PRIOR TO CHANGING THE PLACE OF USE OF THIS WATER RIGHT.

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.

121032-00

121043-00

AUTHORIZATION TO CHANGE (SEVER/SELL) POINT OF DIVERSION COMPLETED 05/01/1984 . FILE REFLECTS RIGHT AS IT EXISTED PRIOR TO JULY 1973. APPROVED CHANGES WILL BE RECORDED AFTER FINAL DECREE.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MISSOURI RIVER, ABOVE HOLTER DAM
BASIN 41I**

Water Right Number: 41I 121033-00 STATEMENT OF CLAIM

Version: 5 -- POST DECREE

Status: SEVERED

Owners: MONTANA ENVIRONMENTAL TRUST GROUP LLC
TRUSTEE OF THE MT ENVIRONMENTAL CUSTODIAL TRUST
PO BOX 1390
HELENA, MT 59624-1390

Priority Date: JUNE 1, 1866

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 421.87 GPM

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

Climatic Area: 3 - MODERATE

Maximum Acres: 58.00

Source Name: PRICKLY PEAR 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		SESENE	1	9N	3W	JEFFERSON

Period of Diversion: APRIL 15 TO OCTOBER 15

Diversion Means: HEADGATE

Period of Use: APRIL 15 TO OCTOBER 15

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	27.00		NESW	31	10N	2W	LEWIS AND CLARK
2	31.00	3	NWSW	31	10N	2W	LEWIS AND CLARK

Total: 58.00

THIS WATER RIGHT HAS BEEN SEVERED FROM THE PLACE OF USE. CONTINUED USE OF THIS WATER RIGHT IN ACCORD WITH HISTORICAL PRACTICES IS ALLOWED. YOU MUST CONTACT DNRC AND OBTAIN A CHANGE AUTHORIZATION PRIOR TO CHANGING THE PLACE OF USE OF THIS WATER RIGHT.

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.

AUTHORIZATION TO CHANGE (SEVER/SELL) POINT OF DIVERSION COMPLETED 05/01/1984 . FILE REFLECTS RIGHT AS IT EXISTED PRIOR TO JULY 1973. APPROVED CHANGES WILL BE RECORDED AFTER FINAL DECREE. RIGHT TO BE HELD JOINTLY AND AS TENANTS IN COMMON.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MISSOURI RIVER, ABOVE HOLTER DAM
BASIN 41I**

Water Right Number: 41I 121035-00 STATEMENT OF CLAIM

Version: 5 -- POST DECREE

Status: SEVERED

Owners: MONTANA ENVIRONMENTAL TRUST GROUP LLC
TRUSTEE OF THE MT ENVIRONMENTAL CUSTODIAL TRUST
PO BOX 1390
HELENA, MT 59624-1390

Priority Date: JANUARY 1, 1869

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 394.94 GPM

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

Climatic Area: 3 - MODERATE

Maximum Acres: 58.00

Source Name: PRICKLY PEAR 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		SESENE	1	9N	3W	JEFFERSON

Period of Diversion: APRIL 15 TO OCTOBER 31

Diversion Means: HEADGATE

Period of Use: APRIL 15 TO OCTOBER 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	27.00		NESW	31	10N	2W	LEWIS AND CLARK
2	31.00	3	NWSW	31	10N	2W	LEWIS AND CLARK

Total: 58.00

THIS WATER RIGHT HAS BEEN SEVERED FROM THE PLACE OF USE. CONTINUED USE OF THIS WATER RIGHT IN ACCORD WITH HISTORICAL PRACTICES IS ALLOWED. YOU MUST CONTACT DNRC AND OBTAIN A CHANGE AUTHORIZATION PRIOR TO CHANGING THE PLACE OF USE OF THIS WATER RIGHT.

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.

AUTHORIZATION TO CHANGE (SEVER/SELL) POINT OF DIVERSION COMPLETED 05/01/1984 . FILE REFLECTS RIGHT AS IT EXISTED PRIOR TO JULY 1973. APPROVED CHANGES WILL BE RECORDED AFTER FINAL DECREE.

AN UNDIVIDED ONE HALF OF THIS RIGHT WAS SOLD TO MARY B CHILD BY A F BURNS FOR HIS ENTITLEMENT. CASE NO. 668, LEWIS & CLARK COUNTY, PAGE 495, DECREED 35 MINERS INCHES OF THIS RIGHT TO HARRY C BURGESS, SUCCESSOR TO REYNOLDS PROSSER.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MISSOURI RIVER, ABOVE HOLTER DAM
BASIN 41I**

Water Right Number: 41I 121039-00 STATEMENT OF CLAIM

Version: 6 -- POST DECREE

Status: SEVERED

Owners: MONTANA ENVIRONMENTAL TRUST GROUP LLC
TRUSTEE OF THE MT ENVIRONMENTAL CUSTODIAL TRUST
PO BOX 1390
HELENA, MT 59624-1390

Priority Date: APRIL 1, 1865

Type of Historical Right: DECREED

Purpose (Use): INDUSTRIAL
SMELTING AND REFINING PLANT

Flow Rate: 197.47 GPM

Volume: 316.75 AC-FT
THE USE OF THIS WATER APPEARS TO BE LARGELY NONCONSUMPTIVE.

Source Name: PRICKLY PEAR 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		NESESE	36	10N	3W	LEWIS AND CLARK

***Period of Diversion:** JANUARY 1 TO DECEMBER 31

Diversion Means: HEADGATE

***Reservoir:** OFFSTREAM **Reservoir Name:** LOWER LAKE

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SWSENE	36	10N	3W	LEWIS AND CLARK

Diversion to Reservoir: DIVERSION # 1

Dam Height: 12.00 FEET

Depth: 9.00 FEET

Surface Area: 6.03 ACRES

Capacity: 21.71 ACRE-FEET

***Reservoir:** OFFSTREAM **Reservoir Name:** UPPER LAKE

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NENWSE	36	10N	3W	LEWIS AND CLARK

Diversion to Reservoir: DIVERSION # 1

Dam Height: 12.00 FEET

Depth: 9.00 FEET

Surface Area: 15.02 ACRES

Capacity: 54.07 ACRE-FEET

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			NE	36	10N	3W	LEWIS AND CLARK

THIS WATER RIGHT HAS BEEN SEVERED FROM THE PLACE OF USE. CONTINUED USE OF THIS WATER RIGHT IN ACCORD WITH HISTORICAL PRACTICES IS ALLOWED. YOU MUST CONTACT DNRC AND OBTAIN A CHANGE AUTHORIZATION PRIOR TO CHANGING THE PLACE OF USE OF THIS WATER RIGHT.

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE ASSOCIATED WHICH MEANS THE RIGHTS SHARE THE SAME PLACE OF USE.

9-00	38508-00	59099-00	59100-00	59101-00	59235-00
59236-00	59237-00	68646-00	69113-00	70606-00	92802-00
96283-00	121039-00	121041-00			

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE ASSOCIATED WHICH MEANS THE RIGHTS SHARE THE SAME PLACE OF USE.

9-00	38508-00	59099-00	59100-00	59235-00	59236-00
59237-00	68646-00	69113-00	92802-00	96283-00	121039-00

AUTHORIZATION TO CHANGE POINT OF DIVERSION AND PLACE OF USE OF A PORTION, 2.5 CFS UP TO 1855.25 ACRE-FEET, COMPLETED 07/06/88. FILE REFLECTS RIGHT AS IT EXISTED PRIOR TO JULY 1973. APPROVED CHANGES WILL BE RECORDED AFTER FINAL DECREE. IN CONJUNCTION WITH 41I 121039-00 AND 41I 121040-00. SEE 41I 121037-01.

DECREE EXCEEDED DUE TO FLOW RATE VALUE BEING ROUNDED TO THE HUNDREDTH PLACE VALUE FOLLOWING CONVERSION FROM MINER'S INCHES. NO ACTION REQUIRED.

SUPPLEMENTAL DOCUMENTATION, QUESTIONNAIRES, MAPS, AND ALL CORRESPONDENCE CAN BE OBTAINED BY REVIEWING FILE NO. 41I 121037-00.

WHENEVER THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE COMBINED TO SUPPLY WATER FOR THE CLAIMED PURPOSE, EACH IS LIMITED TO THE HISTORICAL 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. 41I 121039-00, 41I 121040-00, 41I 121041-00.

THE COMBINED CLAIMED VOLUME FOR THIS GROUP OF SUPPLEMENTAL RIGHTS IS 1,855.25 ACRE-FEET.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MISSOURI RIVER, ABOVE HOLTER DAM
BASIN 41I**

Water Right Number: 41I 121040-00 STATEMENT OF CLAIM

Version: 5 -- POST DECREE

Status: ACTIVE

Owners: MONTANA ENVIRONMENTAL TRUST GROUP LLC
TRUSTEE OF THE MT ENVIRONMENTAL CUSTODIAL TRUST
PO BOX 1390
HELENA, MT 59624-1390

Priority Date: APRIL 1, 1865

Type of Historical Right: DECREED

Purpose (Use): INDUSTRIAL
SMELTING AND REFINING PLANT

Flow Rate: 1.13 CFS

Volume: 814.50 AC-FT
THE USE OF THIS WATER APPEARS TO BE LARGELY NONCONSUMPTIVE.

Source Name: PRICKLY PEAR 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		NESESE	36	10N	3W	LEWIS AND CLARK

***Period of Diversion:** JANUARY 1 TO DECEMBER 31

Diversion Means: HEADGATE

***Reservoir:** OFFSTREAM **Reservoir Name:** LOWER LAKE

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SWSENE	36	10N	3W	LEWIS AND CLARK

Diversion to Reservoir: DIVERSION # 1

Dam Height: 12.00 FEET

Depth: 9.00 FEET

Surface Area: 6.03 ACRES

Capacity: 21.71 ACRE-FEET

***Reservoir:** OFFSTREAM **Reservoir Name:** UPPER LAKE

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NENWSE	36	10N	3W	LEWIS AND CLARK

Diversion to Reservoir: DIVERSION # 1

Dam Height: 12.00 FEET

Depth: 9.00 FEET

Surface Area: 15.02 ACRES

Capacity: 54.07 ACRE-FEET

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			NE	36	10N	3W	LEWIS AND CLARK

Remarks:

AUTHORIZATION TO CHANGE POINT OF DIVERSION AND PLACE OF USE OF A PORTION, 2.56 CFS UP TO 1855.25 ACRE-FEET, COMPLETED 07/06/1988. FILE REFLECTS RIGHT AS IT EXISTED PRIOR TO JULY, 1973. APPROVED CHANGES WILL BE RECORDED AFTER FINAL DECREE. IN CONJUNCTION WITH 41I 121039-00 AND 41I 121040-00. SEE 41I 121037-01.

DECREE EXCEEDED DUE TO FLOW RATE VALUE BEING ROUNDED TO THE HUNDREDTH PLACE VALUE FOLLOWING CONVERSION FROM MINER'S INCHES. NO ACTION REQUIRED.

SUPPLEMENTAL DOCUMENTATION, QUESTIONNAIRES, MAPS, AND ALL CORRESPONDENCE CAN BE OBTAINED BY REVIEWING FILE NO. 41I 121037-00.

WHENEVER THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE COMBINED TO SUPPLY WATER FOR THE CLAIMED PURPOSE, EACH IS LIMITED TO THE HISTORICAL 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. 41I 121039-00, 41I 121040-00, 41I 121041-00.

THE COMBINED CLAIMED VOLUME FOR THIS GROUP OF SUPPLEMENTAL RIGHTS IS 1,855.25 ACRE-FEET.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MISSOURI RIVER, ABOVE HOLTER DAM
BASIN 41I**

Water Right Number: 411 121041-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: MONTANA ENVIRONMENTAL TRUST GROUP LLC
TRUSTEE OF THE MT ENVIRONMENTAL CUSTODIAL TRUST
PO BOX 1390
HELENA, MT 59624-1390

MONTANA TUNNELS MINING INC
PO BOX 176
JEFFERSON CITY, MT 59638-0176

TRANSFER PROCESSED TO ADD NEW OWNERS. THE WATER RIGHT WILL BE SPLIT INTO SEPARATE OWNERSHIPS AFTER FINAL DECREE.

Priority Date: MAY 1, 1868

Type of Historical Right: DECREED

Purpose (Use): INDUSTRIAL
SMELTING AND REFINING PLANT

Flow Rate: 1.55 CFS

Volume: 1,122.07 AC-FT

THE USE OF THIS WATER APPEARS TO BE LARGELY NONCONSUMPTIVE.

Source Name: PRICKLY PEAR 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		NESESE	36	10N	3W	LEWIS AND CLARK

***Period of Diversion:** JANUARY 1 TO DECEMBER 31

Diversion Means: HEADGATE

2		SESENE	36	10N	3W	LEWIS AND CLARK
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Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: HEADGATE

***Reservoir:** OFFSTREAM **Reservoir Name:** LOWER LAKE

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SWSENE	36	10N	3W	LEWIS AND CLARK

Diversion to Reservoir: DIVERSION # 1

Dam Height: 12.00 FEET

Depth: 9.00 FEET

Surface Area: 6.03 ACRES

Capacity: 21.71 ACRE-FEET

***Reservoir:** OFFSTREAM **Reservoir Name:** UPPER LAKE

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NENWSE	36	10N	3W	LEWIS AND CLARK

Diversion to Reservoir: DIVERSION # 1

Dam Height: 12.00 FEET

Depth: 9.00 FEET

Surface Area: 15.02 ACRES

Capacity: 54.07 ACRE-FEET

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			NE	36	10N	3W	LEWIS AND CLARK

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE ASSOCIATED WHICH MEANS THE RIGHTS SHARE THE SAME PLACE OF USE.

9-00	38508-00	59099-00	59100-00	59101-00	59235-00
59236-00	59237-00	68646-00	69113-00	70606-00	92802-00
96283-00	121039-00	121041-00			

AUTHORIZATION TO CHANGE THE POINT OF DIVERSION, PLACE OF USE, PLACE OF STORAGE ISSUED 04/02/1997. NOTICE OF COMPLETION DUE 12/31/1997. SEE 411 121041-00.

SUPPLEMENTAL DOCUMENTATION, QUESTIONNAIRES, MAPS, AND ALL CORRESPONDENCE CAN BE OBTAINED BY REVIEWING FILE NO. 121037-00.

WHENEVER THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE COMBINED TO SUPPLY WATER FOR THE CLAIMED PURPOSE, EACH IS LIMITED TO THE HISTORICAL 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. 411 121037-00, 411 121038-00, 411 121039-00, 411 121040-00, 411 121041-00, 411 121042-00, 411 121043-00.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MISSOURI RIVER, ABOVE HOLTER DAM
BASIN 41I**

Water Right Number: 411 121042-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: SEVERED

Owners: MONTANA ENVIRONMENTAL TRUST GROUP LLC
TRUSTEE OF THE MT ENVIRONMENTAL CUSTODIAL TRUST
PO BOX 1390
HELENA, MT 59624-1390

Priority Date: SEPTEMBER 30, 1862

Type of Historical Right: DECREED

Purpose (Use): INDUSTRIAL
SMELTING AND REFINING PLANT

Flow Rate: 224.40 GPM

Volume: 362.00 AC-FT
THE USE OF THIS WATER APPEARS TO BE LARGELY NONCONSUMPTIVE.

Source Name: PRICKLY PEAR 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		NESESE	36	10N	3W	LEWIS AND CLARK

***Period of Diversion:** JANUARY 1 TO DECEMBER 31

Diversion Means: HEADGATE

***Reservoir:** OFFSTREAM **Reservoir Name:** LOWER LAKE

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SWSENE	36	10N	3W	LEWIS AND CLARK

Diversion to Reservoir: DIVERSION # 1

Dam Height: 12.00 FEET

Depth: 9.00 FEET

Surface Area: 6.03 ACRES

Capacity: 21.71 ACRE-FEET

***Reservoir:** OFFSTREAM **Reservoir Name:** UPPER LAKE

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NENWSE	36	10N	3W	LEWIS AND CLARK

Diversion to Reservoir: DIVERSION # 1

Dam Height: 12.00 FEET

Depth: 9.00 FEET

Surface Area: 15.02 ACRES

Capacity: 54.07 ACRE-FEET

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			NE	36	10N	3W	LEWIS AND CLARK

THIS WATER RIGHT HAS BEEN SEVERED FROM THE PLACE OF USE. CONTINUED USE OF THIS WATER RIGHT IN ACCORD WITH HISTORICAL PRACTICES IS ALLOWED. YOU MUST CONTACT DNRC AND OBTAIN A CHANGE AUTHORIZATION PRIOR TO CHANGING THE PLACE OF USE OF THIS WATER RIGHT.

Remarks:

THIS RIGHT ORIGINATES FROM THE GOURLIE APPROPRIATION. CASE NO. 668 DECREED THIS RIGHT TO HARRY BURGESS SUCCESSOR TO REYNOLDS PROSSER.

SUPPLEMENTAL DOCUMENTATION, QUESTIONNAIRES, MAPS, AND ALL CORRESPONDENCE CAN BE OBTAINED BY REVIEWING CLAIM NO. 41I 121037-00.

WHENEVER THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE COMBINED TO SUPPLY WATER FOR THE CLAIMED PURPOSE, EACH IS LIMITED TO THE HISTORICAL 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. 41I 121041-00, 41I 121042-00, 41I 121043-00.

THE COMBINED CLAIMED VOLUME FOR THIS GROUP OF SUPPLEMENTAL RIGHTS IS 2,573.50 ACRE-FEET.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MISSOURI RIVER, ABOVE HOLTER DAM
BASIN 41I**

Water Right Number: 411 121043-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: SEVERED

Owners: MONTANA ENVIRONMENTAL TRUST GROUP LLC
TRUSTEE OF THE MT ENVIRONMENTAL CUSTODIAL TRUST
PO BOX 1390
HELENA, MT 59624-1390

Priority Date: MAY 6, 1866

Type of Historical Right: DECREED

Purpose (Use): INDUSTRIAL

CASE NO. 4643, LEWIS AND CLARK COUNTY, DECREES 100 MINERS INCHES TO BE USED IN PRECISE AMOUNTS FOR SPECIFIC PURPOSES. SEE CLAIM FILE FOR FURTHER CLARIFICATION OF DECREE.

CASE NO. 4643, LEWIS AND CLARK COUNTY, DECREES THE USE FOR MECHANICAL PURPOSES PRIOR TO ALL OTHER RIGHTS. SEE CLAIM FILE FOR FURTHER CLARIFICATION OF DECREE.

SMELTING AND REFINING PLANT

Flow Rate: 2.50 CFS

Volume: 1,810.00 AC-FT

THE USE OF THIS WATER APPEARS TO BE LARGELY NONCONSUMPTIVE.

Source Name: PRICKLY PEAR 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		NESESE	36	10N	3W	LEWIS AND CLARK

***Period of Diversion:** JANUARY 1 TO DECEMBER 31

Diversion Means: HEADGATE

***Reservoir:** OFFSTREAM **Reservoir Name:** LOWER LAKE

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SWSENE	36	10N	3W	LEWIS AND CLARK

Diversion to Reservoir: DIVERSION # 1

Dam Height: 12.00 FEET

Depth: 9.00 FEET

Surface Area: 6.03 ACRES

Capacity: 21.71 ACRE-FEET

***Reservoir:** OFFSTREAM **Reservoir Name:** UPPER LAKE

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NENWSE	36	10N	3W	LEWIS AND CLARK

Diversion to Reservoir: DIVERSION # 1

Dam Height: 12.00 FEET

Depth: 9.00 FEET

Surface Area: 15.02 ACRES

Capacity: 54.07 ACRE-FEET

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			NE	36	10N	3W	LEWIS AND CLARK

THIS WATER RIGHT HAS BEEN SEVERED FROM THE PLACE OF USE. CONTINUED USE OF THIS WATER RIGHT IN ACCORD WITH HISTORICAL PRACTICES IS ALLOWED. YOU MUST CONTACT DNRC AND OBTAIN A CHANGE AUTHORIZATION PRIOR TO CHANGING THE PLACE OF USE OF THIS WATER RIGHT.

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.

121032-00 121043-00

SUPPLEMENTAL DOCUMENTATION, QUESTIONNAIRES, MAPS, AND ALL CORRESPONDENCE CAN BE OBTAINED BY REVIEWING FILE NO. 41I 121037-00.

WHENEVER THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE COMBINED TO SUPPLY WATER FOR THE CLAIMED PURPOSE, EACH IS LIMITED TO THE HISTORICAL 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. 41I 121041-00, 41I 121042-00, 41I 121043-00.

THE COMBINED CLAIMED VOLUME FOR THIS GROUP OF SUPPLEMENTAL RIGHTS IS 2,573.50 ACRE-FEET.