

**STATEMENT OF CLAIM
FOR ACTUAL USE RESERVED WATER RIGHTS
IRRIGATION**

In the Water Court of the State of Montana

1. **Basin Number:** 76L

Claim Number: 30079406

2. **Owner of Water Right:** THE UNITED STATES IN TRUST FOR THE BENEFIT
OF THE CONFEDERATED SALISH AND KOOTENAI
TRIBES OF THE FLATHEAD INDIAN RESERVATION

Mailing Address: BUREAU OF INDIAN AFFAIRS
911 NE 11TH AVENUE
PORTLAND, OR 97232-4169

3. **Source:** MILL CREEK

Source Type: SURFACE WATER

4. **Volume Claimed:** 58.95 ACRE-FEET PER YEAR

5. **Peak Flow Rate:** 0.84 CUBIC FEET PER SECOND

6. **Period(s) of Use:** APRIL 1 TO OCTOBER 31

7. **Priority Date:** JULY 16, 1855

8. **Purpose of Use:** IRRIGATION

9. **Point(s) of Diversion:**

POD-ID	QQ Sec	Section	Township-Range	County	Figure
227	SENE	18	25N 24W	FLATHEAD	1a
208	SESW	13	25N 25W	FLATHEAD	1a
207	NESW	24	25N 25W	FLATHEAD	1a
228	LOT 5	16	27N 24W	FLATHEAD	1
6	NWSE	16	24N 24W	SANDERS	2
7	NENW	21	24N 24W	SANDERS	2

Means of Diversion: CHECK

10. **Place(s) of Use:** **Field ID** 156 **Surface Area Acres:** 22.3

Field-ID	GIS Acres	QQ Sec	Section	Township-Range	County	Figure
156	19.3	NENW	34	24N 24W	SANDERS	2
156	2.5	NWNW	34	24N 24W	SANDERS	2
156	0.3	SENW	34	24N 24W	SANDERS	2

11. **Approximate Date(s) of first use:** BEFORE 2007

12. **Remarks:**

THE FIGURES (MAPS) ASSOCIATED WITH THIS CLAIM ARE LISTED IN ELEMENTS 9 AND 10 OF THIS CLAIM FORM. THE FIGURES ARE IN THE COMPILATION OF MAPS ENTITLED "IRRIGATION, FLATHEAD INDIAN IRRIGATION PROJECT, PLACE OF USE, FLATHEAD INDIAN RESERVATION."

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WHERE GIS ACRES ARE LISTED IN ELEMENT 10 AS "0.0" FOR A QUARTER QUARTER SECTION (QQ SEC), IT IS AN INDICATION THAT THE PLACE OF USE MIGHT EXTEND INTO THAT QQ SEC VERY SLIGHTLY.

THIS CLAIM IS FOR IRRIGATION OF LANDS SERVED BY THE FLATHEAD INDIAN IRRIGATION PROJECT (FIIP). THE TOTAL CLAIMS FOR FIIP ARE FOR 378,904 ACRE-FEET TO IRRIGATE 136,102 ACRES, AS FOUND IN CLAIMS NO. 30079254 THROUGH 30080522. THE CLAIMS FOR FIIP ARE BASED ON THE NUMBER OF ACRES THE BUREAU OF INDIAN AFFAIRS HAS DESIGNATED AS "PERMANENTLY ASSESSABLE" OR "TEMPORARILY NON-ASSESSABLE" WITHIN FIIP.

THIS CLAIM AND ALL OTHER FIIP CLAIMS IN TOWNSHIP, RANGE, SECTION T24N R24W S34 ARE CUMULATIVE UP TO: 77.4 ACRES.

THE MAPS ASSOCIATED WITH THIS CLAIM DEPICT APPROXIMATE REPRESENTATIONS OF THE PLACES OF USE. THE PLACES OF USE DESCRIBED IN ELEMENT #10 IN THIS CLAIM AND IN THE OTHER CLAIMS IN THE TOWNSHIP, RANGE, SECTION LISTED ABOVE MIGHT DIFFER FROM THE ACTUAL PLACES OF USE.

WHEN THE SIZE AND LOCATIONS OF THE PLACES OF USE ARE RECTIFIED TO THE FIIP ASSESSED ACREAGE THAT IS CLAIMED, THE VOLUME CLAIMED IN ELEMENT #4 AND THE PEAK FLOW RATE CLAIMED IN ELEMENT #5 OF THIS CLAIM MIGHT CHANGE. THE TOTAL CLAIMED VOLUME AND ACREAGE FOR ALL FIIP CLAIMS WILL NOT INCREASE DUE TO ANY ADJUSTMENTS TO THE PLACES OF USE.

BASED ON AVAILABLE INFORMATION, THE APPROXIMATE DATE BY WHICH FIRST USE OCCURRED IS PROVIDED IN ELEMENT 11 OF THIS CLAIM BECAUSE A FIRST USE DATE IS REQUIRED BY 85-2-224(1)(F). HOWEVER, A FIRST USE DATE HAS NO APPLICATION IN THE DETERMINATION OF THIS FEDERAL INDIAN RESERVED WATER RIGHT CLAIM UNDER APPLICABLE FEDERAL LAW AND SHOULD NOT BE ADJUDICATED AS AN ELEMENT OF THE WATER RIGHT CLAIMED HEREIN.

THIS CLAIM ARISES UNDER FEDERAL LAW, INCLUDING THE INDIAN NON-INTERCOURSE ACT, 25 U.S.C. § 177, THE HELL GATE TREATY OF JULY 16, 1855 TREATY, 12 STAT. 975 (RATIFIED MARCH 8, 1859) AND CASES INTERPRETING THESE AND OTHER LAWS, SUCH AS WINTERS V. UNITED STATES, 207 U.S. 564 (1908), ARIZONA V. CALIFORNIA, 373 U.S. 546 (1963), AND UNITED STATES V. MCINTYRE, 101 F.2D 650 (9TH CIR. 1939) ("BEING RESERVED NO TITLE TO THE WATERS COULD BE ACQUIRED BY ANYONE EXCEPT AS SPECIFIED BY CONGRESS."). THE CLAIM IS ENTIRELY GOVERNED BY FEDERAL LAW, ARIZONA V. SAN CARLOS APACHE TRIBE, 463 U.S. 545, 570-71 (1983).