

APPENDIX 1

MDEQ Borchers's Water System Subdivision Approval



Department of Health and Environmental Sciences
STATE OF MONTANA Environmental Sciences Division

P.O. Box 1031
Kalispell, Montana 59901

John S. Anderson M.D.
Director

July 27, 1977

Mr. Douglas E. Daniels, P.E.
Thomas, Dean and Hoskins, Inc.
3 Sunset Plaza
Kalispell, MT 59901

Re: A community water supply system for a portion of the Subdivision known as Borchers of Finley Point; i.e., a community water supply system composed of a Flathead Lake (source) intake which will pump the required demand flow through an intake consisting of 350 feet of 3-inch P.V.C. which will include a sequential in-line filtration, disinfection, chlorine-contact time and storage capability. Distribution out of the storage tank will be by means of 650 feet of 2-inch P.V.C. with hydropneumatic tank pressure-volume support to the individual services. As specified by plans and specifications provided this office under the seal of Douglas E. Daniels, P.E., dated June 28, 1977. E.S. 77/K345.

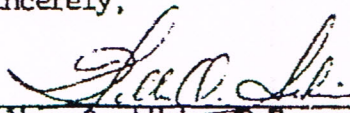
Dear Douglas:

The above referenced plans have been reviewed by engineers of the Environmental Sciences Division and were found to be satisfactory. Approval of these plans is given herewith and according to the following provisions:

- (1) THAT the residential-structure site locations which shall be served by this system are those identified on the planning-plat map as 403, 404, 406, 408, 409, 410, 411, 412, 413, 414, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, and
- (2) THAT this community water system will pump water from Flathead Lake at a depth of ten feet below the low-water surface elevation and the flow therefore will be continuously and adequately disinfected and filtered, and,
- (3) THAT any change in the above referenced plans will be submitted to the Water Quality Bureau for review prior to beginning of construction, and,

- (4) THAT upon completion of the project, the engineer will be required to submit a statement that the water supply system has been inspected and found to be installed in accordance with the plans and specifications as approved by the Department, and,
- (5) THAT this approval is given with the understanding that construction will be started within two years of this date. If more than two years elapse before beginning construction, it shall be necessary to resubmit the plans when construction is contemplated, and,
- (6) THAT as soon as the water supply serves ten (10) or more residential-site locations, the Montana State Department of Health will be given written notification of this fact, and a licensed Water Supply System Operator will be provided by the owner to perform Maintenance and Operation in accordance with Title 69, Section 5901 through 5912, R.C.M. 1947,
- (7) THAT the water supply system serving those residential structure site locations identified on the planning-plat map as 301, 302, 305, 317, 318, 319, 230 is a multi-user water supply system to be constructed in accordance with the plans and specifications provided this office under the seal of Douglas E. Daniels, P.E., dated June 28, 1977, and,
- (8) THAT the water supply system serving those residential structure site locations identified on the planning plat map as 201, 202, 206, 209, 216, 217, 219, 220 is a multi-user water supply system to be constructed in accordance with the plans and specifications provided this office under the seal of Douglas E. Daniels, P.E., dated June 28, 1977.
- (9) THAT, should the multi-user water supply system or the individual water supply systems at structure site locations identified on the planning plat map as 203, 204, 205, 210, 211, 306, 307, 308, 309, 311, 312, 314, 315, 316, 401, 402, become unsatisfactory in terms of quantity, quality or dependability plans and specification will be provided the Department to provide connection to the Borchers' of Finley Point Community Water Supply System, and,
- (10) THAT, departure from any criteria set forth in the approved plans and specifications and MAC 16-2.14(10)-S14340 when constructing the waste water treatment facility in said subdivision without Department approval, is grounds for injunction by the Department of Health and Environmental Sciences.

Sincerely,



Wilbur O. Aiken, P.E.
Subdivision Bureau
Environmental Sciences

WOA:kah

APPENDIX 2

Water Right Files

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: 76LJ 9607 00 PROVISIONAL PERMIT
Version: -- ORIGINAL RIGHT
Version Status: ACTIVE

Owners: BORCHERS OF FINLEY POINT INC
 ALICE L BORCHERS
 7190 CHURCHWOOD CIRCLE
 COLORADO SPRINGS, CO 80918 8324

Priority Date: August 11, 1976 at 15:35 PM
Enforceable Priority Date: August 11, 1976 at 15:35 PM

Purpose (use): MUNICIPAL
 DOMESTIC

Maximum Flow Rate: .66 CFS

Maximum Volume: 60.00 AC-FT

Source Name: FLATHEAD RIVER (FLATHEAD LAKE)
Source Type: SURFACE WATER

Points 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		NESWNW	7	23N	19W	LAKE
Period of Diversion: JANUARY 1 to DECEMBER 31						
Diversion Means: PIPELINE						
2		SESWNW	7	23N	19W	LAKE
Period of Diversion: JANUARY 1 to DECEMBER 31						
Diversion Means: PIPELINE						

Purpose (use): MUNICIPAL
Volume:
Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use: (2 total records)

<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			SWNW	7	23N	19W	LAKE

Purpose (use): DOMESTIC
Households: 39
Volume:
Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use: (2 total records)

<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			SWNW	7	23N	19W	LAKE

Geocodes/Valid: 15335107202010000 - Y

Remarks:
 THIS IS AN 'R' TYPE RESERVOIR.



FILE



PROVISIONAL PERMIT



76LJ



9607



00

Box Bar Code _____

File Bar Code _____

Date/Initials _____

June 23, 2008
76LJ-960700



STATE OF MONTANA
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

VERIFICATION ABSTRACT
'PERMIT'

VERIFICATION ABSTRACT DATA

DOCUMENTATION

Water Right Number:

76LJ-9607 00 PROVISIONAL PERMIT

Version: 1 -- ORIGINAL RIGHT

Version Status: ACTIVE

Owners:

BORCHERS OF FINLEY POINT INC

ALICE L BORCHERS

7190 CHURCHWOOD CIRCLE

COLORADO SPRINGS, CO 80918 8324

Priority Date:

AUGUST 11, 1976 at 03:35 P.M.

Enforceable Priority Date: AUGUST 11, 1976 at 03:35 P.M.

Purpose (use):

MUNICIPAL

DOMESTIC

Maximum Flow Rate:

0.66 CFS

Maximum Volume:

60.00 AC-FT

VERIFICATION ABSTRACT DATA

DOCUMENTATION

Maximum Acres:
NoValue

Source Name:
FLATHEAD RIVER
FLATHEAD RIVER (FLATHEAD LAKE)

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NESWNW	7		23N	19W	LAKE

Period of Diversion: JANUARY 1 TO DECEMBER 31
 Source Name: FLATHEAD RIVER (FLATHEAD LAKE)
 Diversion Means: PIPELINE
 Subdivision Name: **NoValue**
 Tract/Lot: *NV*
 Block: *NV*

2		SESWNW	7		23N	19W	LAKE
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Period of Diversion: JANUARY 1 TO DECEMBER 31
 Source Name: FLATHEAD RIVER
 Diversion Means: PIPELINE
 Subdivision Name: **NoValue**
 Tract/Lot: *NV*
 Block: *NV*

Purpose (Use): MUNICIPAL

Purpose Clarification: **NoValue**

Volume: 60.00 AC-FT

Period of Use: JANUARY 1 to DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			SWNW	7		23N	19W	LAKE

Total Acres: 0.00

VERIFICATION ABSTRACT DATA

DOCUMENTATION

Purpose (Use):	DOMESTIC
Purpose Clarification:	**NoValue**
Households:	39
Volume:	60.00 AC-FT
Period of Use:	JANUARY 1 to DECEMBER 31
Place of Use:	
ID	Acres
1	0.00
Govt Lot	Qtr
	Sec
	Sec
	Twp
	Rge
	County
	SWNW 7 23N 19W LAKE
Total Acres:	0.00

Information Remarks/Conditions:

CONFEDERATED SALISH AND KOOTENAI TRIBES - RESERVED WATER RIGHTS

THIS RIGHT IS SUBJECT TO ALL PRIOR INDIAN RESERVED WATER RIGHTS OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES IN THE SOURCE OF SUPPLY. IT IS THE TRIBE'S POSITION THAT ECONOMIC INVESTMENTS MADE IN RELIANCE UPON THIS RIGHT, DO NOT CREATE IN THE APPROPRIATOR ANY EQUITY OF VESTED RIGHT AGAINST THE TRIBES. THE APPROPRIATOR IS HEREBY NOTIFIED THAT ANY FINANCIAL OUTLAY OR WORK INVESTED IN A PROJECT PURSUANT TO THIS RIGHT IS AT THE APPROPRIATOR'S RISK. THE ISSUANCE OF THIS RIGHT DOES NOT REDUCE THE APPROPRIATOR'S LIABILITY FOR DAMAGE CAUSED BY THE EXERCISE OF THE RIGHT. IT DOES NOT MAKE THE DEPARTMENT LIABLE FOR DAMAGE CAUSED BY THE EXERCISE OF THE RIGHT. NOR IS THE DEPARTMENT LIABLE FOR ANY LOSS TO THE APPROPRIATOR CAUSED BY THE EXERCISE OF SENIOR RESERVED WATER RIGHTS. THE STATE OF MONTANA'S JURISDICTION TO ISSUE WATER RIGHTS WITHIN THE EXTERIOR BOUNDARIES OF THE FLATHEAD RESERVATION HAS BEEN CHALLENGED BY THE CONFEDERATED SALISH AND KOOTENAI TRIBES IN CAUSE NO. CV-92-54-M-CCL (UNITED STA

June 23, 2008
76LJ-960700

Page 4 of 5
Verification Abstract, Permit

VERIFICATION ABSTRACT DATA

DOCUMENTATION

Additional Comments

Verifier's Signature

Date

To Be Completed By The Appropriator

Water Right Owner:

- I agree with all of the above findings and do not want a hearing.
- I do not agree with all of the above findings. I disagree with the following item(s):

- I want a hearing on the item(s) of disagreement.

Water Right Owner Signature

Date

To Be Completed By The Regional Office Manager

- Project is completed in substantial accordance with the permit or change authorization.
- Modification hearing is necessary.
- Revoke right - project is abandoned and will not be completed as authorized.
- Other _____

Regional Office Manager Signature

Date

Verification:

All materials

- Verifab
- Calculation worksheet
 - Maps
 - Photos
- Correspondence—
reverse chronological order

Verification

PERMIT NUMBER: 76LJ P009607-00

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
WATER RIGHTS BUREAU
PERMIT VERIFICATION ABSTRACT

DATE...08/15/88
PAGE.....1

PERMITTED DATA

DOCUMENTATION

NAME: BORCHERS OF FINLEY POINT INC.
4700 10TH AVE S
GREAT FALLS MT 59405

PRIORITY DATE: AUGUST 11, 1976 AT 3:35 P.M.

SOURCE: FLATHEAD RIVER

RESERVOIR/LAKE NAME: FLATHEAD LAKE

INITIAL FLOW RATE: .66 CFS *296 gpm*

TOTAL VOLUME: 60.00 ACRE FEET PER YEAR

DIVERSION POINT: NESWN SEC. 07 TWP. 23N RGE. 19W LA CO.
SESWN SEC. 07 TWP. 23N RGE. 19W LA CO.

PERIOD OF APPROX: 01/01-12/31

USE: .66 CFS UP TO 60.00 AF (01/01-12/31)
FOR DOMESTIC

.66 CFS UP TO 60.00 AF (01/01-12/31)
FOR MUNICIPAL

PLACE OF USE: SSWW SEC. 07 TWP. 23N RGE. 19W LA CO.
FOR DOMESTIC

SNNW SEC. 07 TWP. 23N RGE. 19W LA CO.
FOR MUNICIPAL

DIVERSION MEANS: PIPELINE

REMARKS: IK-CONFEDERATED SALISH & KOOTENAI RESERVED RIGHTS

POD #1 Roll 9 (photo # 3)
MEYERS pond 50 ft 18' vertical lift
3/4 hp 5 hoses this pond 21.88 gpm

POD #2 1.5 hp

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PERMIT NUMBER: 76LJ P009607-00

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
WATER RIGHTS BUREAU
PERMIT VERIFICATION ABSTRACT

DATE...08/15/88
PAGE.....2

PERMITTED DATA

DOCUMENTATION

CONDITIONS:

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PERMIT NUMBER: 76LJ P009607-00

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
WATER RIGHTS BUREAU
PERMIT VERIFICATION ABSTRACT

DATE...08/15/88
PAGE.....3

TO BE COMPLETED BY VERIFIER:

ADDITIONAL COMPUTER DATA: WELL: DEPTH=_____ STATIC LEVEL=_____ WELL YIELD=_____ CASING SIZE=_____ PUMP SIZE=_____
RESERVOIR: DAM HEIGHT=_____ SURFACE ACRES=_____ STOCK: ANML UNITS=_____ DOMESTIC: HOUSES-32 IRRIGATION: TYPE=_____
SUPPLEMENTAL RIGHTS: IF THIS PERMIT IS SUPPLEMENTAL TO ANY OTHER RIGHTS, MEANING THEY HAVE OVERLAPPING PLACES OF USE, LIST THE
WATER RIGHT NUMBERS. _____

MICROFILM CHECK: ALL PERMITS WILL BE REFILMED IN THEIR ENTIRETY. DOES THE FILE RECORD CONTAIN ANY LARGE MAPS THAT HAVE ALREADY
BEEN FILMED? ---YES ---NO

VERIFICATION ATTACHMENTS: (SPECIFY ADDENDUMS, REPORTS, MAPS, PHOTOS, ETC.) _____

VERIFIER'S SIGNATURE: _____

DATE: _____

TO BE COMPLETED BY PERMITTEE:

PERMITTEE (CHECK ONE): I AGREE WITH ALL OF THE ABOVE FINDINGS OF THE VERIFIER.
 I DO NOT AGREE WITH ALL OF THE ABOVE FINDINGS OF THE VERIFIER, AND HEREBY SPECIFY THOSE ITEMS OF DISAGREEMENT _____

PERMITTEE (CHECK ONE): I: DO NOT DO REQUEST A HEARING ON THE SPECIFIC ITEM(S) OF DISAGREEMENT LISTED ABOVE.

PERMITTEE'S SIGNATURE: _____ (ONLY ONE PERMITTEE NEED SIGN) DATE: _____

TO BE COMPLETED BY AREA FIELD MANAGER:

CHECK THE PROPER BOX OR SPECIFY THE PROCESSING ACTION NEEDED ON THE PERMIT:

- ISSUE CERTIFICATE OF WATER RIGHT AS PERMITTED (NO CHANGES NEEDED).
- ISSUE CERTIFICATE OF WATER RIGHT WITH VERIFIED CHANGES. (SEE PERMITTED DATA SECTION).
- PERMIT MODIFICATION HEARING NECESSARY.
- DO NOT ISSUE A CERTIFICATE. PERMIT IS ABANDONED OR NOT COMPLETE (REVOKE PERMIT).
- OTHER (SPECIFY) _____

FIELD MANAGER'S SIGNATURE: _____

DATE: _____

PERMIT NUMBER: 76LJ P009607-00

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
WATER RIGHTS BUREAU
PERMIT VERIFICATION ABSTRACT

DATE...08/15/88
PAGE:.....4

ADDITIONAL VERIFIED DATA

DOCUMENTATION

COMMENTS

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**THERE IS A
PHOTO OR
PHOTOS
ASSOCIATED
WITH THIS
WATER RIGHT.
PLEASE
REQUEST THE
FILE TO SEE
PHOTOS**

Form No. 606 R7-86

APPLICATION FOR CHANGE OF APPROPRIATION WATER RIGHT

INSTRUCTIONS

Use this form to apply for authorization to change the point of diversion, place of use, purpose of use, or place of storage of your water right. Attach a map as instructed under Item 6. In addition you must complete the appropriate application supplement to substantiate that the criteria for issuance of an authorization is met according to 85-2-402 MCA. Failure to supply a map or application supplement constitutes an incomplete application and the application will be returned. The completed application should be submitted with the proper filing fee to the appropriate Water Rights Field Office listed on the back page.

(Please type or print in ink)

FOR DEPARTMENT USE ONLY

Application No. _____ Basin _____
Date Received _____
Time _____ A.M./P.M.
Received by _____
Transmittal No. _____
Fee Received \$ _____
Check No. _____
Refund _____

1. NAME OF APPLICANT(S) _____
Mailing address _____
City _____ State _____ Zip _____
Home phone _____ Other phone _____

2. WATER RIGHT TO BE CHANGED IS: (Check the appropriate box(es). If needed, contact the Water Rights Bureau Field Office nearest you to determine the appurtenant water right you are proposing to change.)

- (W) Statement of Claim No(s). _____
- (E) Exempt Existing Water Right (No Statement of Claim Filed — Groundwater or instream domestic or stock uses ONLY. Complete Item 7).
- (D) Powder River Decree No(s). _____
- (P) Permit to Appropriate Water No(s). P009607-576L1
- (C) Certificate of Water Right No(s). _____
- (M) Reservation of Water No(s). _____

ATTACH A COPY OF THE WATER RIGHT CHECKED ABOVE

3. AMOUNT OF WATER TO BE CHANGED:
Do you propose to change all , or a portion , of your water right? If a portion, identify what portion by flow rate and volume.
_____ up to _____ per year
gal./min. or cubic feet/sec. acre-feet

MONTANA DEPARTMENT OF NATURAL RESOURCES & CONSERVATION

1520 EAST SIXTH AVENUE HELENA, MONTANA 59620-2301 444-6610

DNRC

4. TYPE OF PROPOSED CHANGE: Complete **ONLY** the type of change you are proposing. Multiple changes of one right or identical changes of more than one right may be applied for on one application.

A. Change in POINT OF DIVERSION

1.) Location of proposed point of diversion

____ 1/4 ____ 1/4 ____ 1/4 Section____, Township____ N/S, Range ____ E/W, _____ County.
(and when applicable)

Government Lot____, or Lot____, Block____, Subdivision Name_____

____ 1/4 ____ 1/4 ____ 1/4 Section____, Township____ N/S, Range ____ E/W, _____ County.
(and when applicable)

Government Lot____, or Lot____, Block____, Subdivision Name_____

2.) Is the new point of diversion: in addition to the old point of diversion
or replacing the old point of diversion

3.) Source of water if changed _____ N.D.

4.) Means of diversion if changed _____ N.D.

5.) If a well is involved indicate the depth of; old well N.D. ft. and new/proposed well N.A. ft.

6.) New well is located approximately N.D. feet N.A. of old well.
direction

B. Change in PLACE OF USE

1.) Describe the location where you propose to use the water right. For irrigation show the number of acres for each description. Use additional sheets if necessary.

County_____ Subdivision Name_____

____ Acres, Lot____ Block____, ____ 1/4 ____ 1/4 ____ 1/4 Section____, T____ N/S, R____ E/W

____ Acres, Lot____ Block____, ____ 1/4 ____ 1/4 ____ 1/4 Section____, T____ N/S, R____ E/W

____ Acres, Lot____ Block____, ____ 1/4 ____ 1/4 ____ 1/4 Section____, T____ N/S, R____ E/W

____ Acres, Lot____ Block____, ____ 1/4 ____ 1/4 ____ 1/4 Section____, T____ N/S, R____ E/W

____ Acres, Lot____ Block____, ____ 1/4 ____ 1/4 ____ 1/4 Section____, T____ N/S, R____ E/W

____ Total acres

2.) If some acres will be taken out of irrigation, identify those acres by location which will no longer be irrigated by this water right.

____ Acres, Lot____ Block____, ____ 1/4 ____ 1/4 ____ 1/4 Section____, T____ N/S, R____ E/W

____ Acres, Lot____ Block____, ____ 1/4 ____ 1/4 ____ 1/4 Section____, T____ N/S, R____ E/W

____ Acres, Lot____ Block____, ____ 1/4 ____ 1/4 ____ 1/4 Section____, T____ N/S, R____ E/W

____ Acres, Lot____ Block____, ____ 1/4 ____ 1/4 ____ 1/4 Section____, T____ N/S, R____ E/W

____ Total acres

C. Change in PURPOSE OF USE

1.) Proposed Use(s):

Use____, Rate____ cfs/gpm, Volume____ acre-feet

Period of Use____ mo./day to____ mo./day

Use____, Rate____ cfs/gpm, Volume____ acre-feet

Period of Use____ mo./day to____ mo./day

D. Change in PLACE OF STORAGE

1.) Location of Proposed Place of Storage

____ 1/4 ____ 1/4 ____ 1/4 Section____, Township____ N/S, Range ____ E/W, _____ County,

2.) Period of Storage:____ to____
mo./day mo./day

3.) Capacity of Proposed Storage Facility:____ acre-feet

FORM NO. 606A N6/86

 * FOR DEPARTMENT USE ONLY *
 * Application No. _____ *
 * Applicant's Name _____ *

SUPPLEMENT TO APPLICATION FOR CHANGE APPROPRIATION WATER RIGHT

Criteria for Issuance of Authorization to Change

Section 85-2-402(2), MCA, provides the Department shall approve a change in appropriation right if the appropriator proves by substantial credible evidence the following criteria are met.

The information presented in this supplement together with the application is necessary for the Department to process an application. It is the applicant's responsibility to provide credible, relevant, and factual information upon which the Department may rely to support the issuance of a change authorization.

Addressing each item, state facts which show that the criteria are met. Attach additional documentation if necessary. Be as thorough as possible.

- I. The proposed use will not adversely affect the water rights of other persons or other planned uses or developments for which a permit has been issued or for which water has been reserved.

- II. The proposed means of diversion, construction and operation of the appropriation works are adequate.

- III. The proposed use of water is a beneficial use.

NOTICE

Your application cannot be processed unless this supplement is completed and returned with the application. Additional information will be required if the proposed appropriation exceeds 4,000 acre-feet of water a year and 5.5 cubic feet per second of water or if the appropriation of water is for withdrawal and transportation for use outside the state. Application supplements for these additional uses are available at the Water Rights Bureau field offices listed on the back page of the application.

5. **COMPLETION SCHEDULE:** Estimate how long it will take to complete the change after the Authorization is granted. _____
months, years

(COMPLETE means the change is finished, developed, or constructed as authorized.)

What factors were considered in determining this time schedule?

What is the estimated cost of the proposed change? _____

6. **LOCATION MAP**

Attach a map and show the existing system and the changed system as proposed. A copy of an aerial photo or USGS map, which is available at the Water Rights Field Office may be used. Failure to supply an accurate map constitutes an incomplete application and the application will be returned. Show the following items.

- a. Township and range numbers
- b. Section corners and numbers
- c. Point(s) of diversion — past and proposed
- d. Location of conveyance ditch, pipelines, etc.
- e. Place(s) of use past and proposed (irrigated acres, location of stock tanks)
- f. Place of storage — past and proposed

7. **FOR WATER RIGHTS EXEMPT FROM ADJUDICATION PROCEEDINGS:** Complete this section if you have checked Exempt Existing Water Right under part 2 on page 1. This information is to pertain to your existing right.

IMPORTANT NOTE

Water rights for stock and domestic uses from groundwater sources (wells, developed springs) in use prior to January 1, 1962 or any put to use between January 1, 1962 and July 1, 1973 which were properly filed with the county clerk and recorder under the 1961 Groundwater Code are considered Exempt Existing Water Rights. Instream domestic or stock uses used prior to July 1, 1973 are also considered exempt.

1. **Date the water was first used:** _____
(month, day, year)

2. **Date of filing water right in the county courthouse records:**
_____ Document No. _____
(month, day, year)

3. **Source of water:** _____
(Name of stream or lake, well, spring, etc.)

Purpose of Use	Rate (GPM/CFS)	Volume (acre-feet)	Period of Use
_____	_____	_____	_____
_____	_____	_____	_____

5. **Point of Diversion:** (describe the location where the water has been diverted)
_____ N E
_____ 1/4 _____ 1/4 _____ 1/4, Sec _____, Twp _____ S, Rge _____ W, Co _____

Lot _____ Blk _____ Subdivision (if any): _____

Means of Diversion: (how the water has been diverted or withdrawn from the source)

6. **Place of Use:** (describe the location where the water has been used)
Use: _____

Lot _____ Blk _____, _____ 1/4 _____ 1/4 _____ 1/4, Sec _____, Twp _____ S, Rge _____ W, Co _____

Use: _____

Lot _____ Blk _____, _____ 1/4 _____ 1/4 _____ 1/4, Sec _____, Twp _____ S, Rge _____ W, Co _____

8. **REMARKS**

Use this space for further describing the **past** use of your Water Right or for providing any information which will help explain how you propose to change your water right.

9. **SIGNATURES:**

The Applicant hereby affirms that the statements appearing herein and on the attached supplements are to the best of his/her knowledge true and correct.

Appropriator's Signature: _____ Date: _____

_____ Date: _____

Subscribed and sworn before me this _____ day of _____, 19____

Notary for the State of _____
Residing at _____
My commission expires _____

FEE SCHEDULE

FOR APPLICATION FOR CHANGE OF APPROPRIATION WATER RIGHT

FLAT RATE FEE OF \$50.00 unless The change proposed is a replacement well or reservoir in the same source the FEE REQUIRED IS \$10.00.

Montana Water Rights Bureau Area Field Offices

HAVRE 1708 W. 2nd St., P.O. Box 1828
Havre, Montana 59501 Phone: 265-5516 or 265-2226
Serving: Blaine, Chouteau, Glacier, Hill, Liberty, Pondera, Teton and Toole counties.

MISSOULA Holiday Village, Professional Plaza,
Suite 105, P.O. Box 5004
Missoula, Montana 59806 Phone: 721-4284
Serving: Missoula, Granite, Ravalli, and Mineral counties

GLASGOW 110 5th St. So., Rm. 106, P.O. Box 894
Glasgow, Montana 59230 Phone: 228-2561
Serving: Daniels, Dawson, Garfield, McCone, Phillips, Richland, Roosevelt, Sheridan and Valley counties.

HELENA 1520 E. 6th Ave., Helena, Montana 59620
Phone: 444-6695 Serving: Deer Lodge, Powell, Lewis & Clark, Broadwater, Silver Bow, Jefferson and Beaverhead counties.

BOZEMAN 1201 E. Main, Bozeman, Montana 59715
Phone: 586-3136 Serving: Gallatin, Park and Madison counties.

BILLINGS 1537 Ave. D, Suite 105
Billings, Montana 59102 Phone: 657-2105
Serving: Big Horn, Carbon, Stillwater, Treasure, Yellowstone and Sweet Grass counties.

KALISPELL 3220 Hwy. 93 So., P.O. Box 860
Kalispell, Montana 59903 Phone: 752-2288
Serving: Flathead, Lake, Lincoln and Sanders counties.

LEWISTOWN 613 NE Main St., P.O. Box 438
Lewistown, Montana 59457 Phone: 538-7459
Serving: Cascade, Fergus, Golden Valley, Judith Basin, Meagher, Musselshell, Petroleum and Wheatland counties.

MILES CITY 5 North Prairie, P.O. Box 276
Miles City, Montana 59301 Phone: 232-6359
Serving: Carter, Custer, Fallon, Powder River, Prairie, Rosebud and Wibaux counties.

Permit/Authorization:

- Permit
- Authorization,
with final order
if applicable

**Permit/
Authorization**

Form No. 601 R10/75

Permit No. 9607-s76LJ



STATE OF MONTANA

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

PERMIT TO APPROPRIATE WATER

THIS IS TO CERTIFY, that a PROVISIONAL Permit to appropriate water is hereby granted to BORCHERS OF FINLEY POINT, INCORPORATED of GREAT FALLS, State of MONTANA, pursuant to Application No. 9607-s76LJ, with a priority date from August 11, 1976, at 3:35 p.m., upon finding that the criteria of Section 89-885, R.C.M. 1947, have been met.

The source and point of diversion of this appropriation shall be Flathead Lake, a tributary of the Flathead River, at points in the NE 1/4 SW 1/4 NW 1/4, the SE 1/4 SW 1/4 NW 1/4, and the SW 1/4 SW 1/4 NW 1/4, all in Section 7, Township 23 North, Range 19 West, N.P.M., Lake County, Montana.

The water appropriated pursuant to this Permit shall be used for municipal and domestic purposes from January 1 to December 31, inclusive, of each year, within the subdivision named Borchers of Finley Point, containing approximately 39 homesites, and located in the SW 1/4 NW 1/4 of Section 7, Township 23 North, Range 19 West, N.P.M., Lake County, Montana.

The waters appropriated shall be diverted by three (3) intake pipelines for use in three (3) separate systems, with a total of not to exceed 0.66 cubic foot per second or 300 gallons per minute and a quantity of 60 acre-feet per annum.

The diversion and distribution works for this appropriation shall be completed, and water shall be applied to beneficial use as specified above, on or before October 1, 1977, or within any authorized extension of time. The Notice of Completion of Surface Water Development, Form No. 617, shall be filed on or before December 1, 1977.

This Permit is SUBJECT TO ALL PRIOR WATER RIGHTS, and the following limitations, terms, conditions, and restrictions:

1. Any final determination of existing water rights, as provided by Montana law.
2. All prior Indian reserved water rights in the source of supply.

NOTICE: Failure to comply with all terms and conditions herein may result in the loss of the right to appropriate water granted by this Permit.

Dated December 27, 1976

Lawrence Siroky
Witness

William L. Thorne
ASSISTANT ADMINISTRATOR
WATER RESOURCES DIVISION

BORCHERS OF FINLEY P09607
POINT, INC 030179LA
4700 10TH AVE SO
GREAT FALLS MT 59405

8-7-79

* Form No. 616 R10/75



NOTICE OF ACTION ON APPLICATION FOR EXTENSION OF TIME

STATE OF MONTANA
Department of Natural Resources and Conservation

BY AUTHORITY VESTED IN ME, Application for Extension of Time to complete the water development authorized pursuant to Permit to Appropriate Water No. 9607-s76LJ

by Borchers of Finley Point, 4700 10th Avenue South, Great Falls, is hereby:
Montana 59405

denied. modified,
 approved,

and the appropriation shall be perfected on or before January 1, 1979, and a Form 617, Notice of Completion of Water Development, shall be filed on or before March 1, 1979.

Reason for action taken: is due to insufficient time.

Assistant Administrator
Water Resources Division

1-4-78
Date

LSC

This Notice of Action on Application for Extension of Time is hereby attached to Permit No. 9607-s76LJ, recorded in State Record of Water Rights Permits, Volume 10, Page 213, and made a part thereof.

Application Materials:

- Application
- Work Copy
- Final Letter
- Supplement
- Independent Evidence
- Well Log

Application Materials

Form No. 600
Revised 11/73

3:35 8-11-74
APPLICATION NO. 9607-576LJ
(For Dept. Use Only)

STATE OF MONTANA
DEPARTMENT OF NATURAL RESOURCES & CONSERVATION

576LJ
APPLICATION FOR BENEFICIAL WATER USE PERMIT

Note: Use one application for each source of supply or separate development. Check all appropriate boxes and fill in each blank line. If the question is not applicable in your case, enter NA (not applicable). If more space is necessary, attach additional sheets.

(Please type or print in ink)

awaiting \$30.

1. Name of Applicant Borchers of Finley Point, A Mont. Corp. c/o Dean Borchers Pres.
 Mailing Address 4700 10th Avenue South
 City or Town Great Falls State Montana Zip 59405
 Home Phone _____ Other Phone 761-5020 (Business)

2. Source of water supply Flathead Lake
 a tributary of Clark Fork River
See Notes (stream name; if well, so indicate)

3. (a) Point of diversion:
NE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 7, Township 23 ^N~~S~~ Range 19 ^E~~W~~ Lake County
 Additional points of diversion, if any:
SE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 7, Township 23 ^N~~S~~ Range 19 ^E~~W~~ Lake County
SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 7, Township 23 ^N~~S~~ Range 19 ^E~~W~~ Lake County
 (b) If water is not consumed, it will be discharged back into the same source:
 Yes ; No . If no, explain and give the complete land description at the point of discharge.

 _____ $\frac{1}{4}$ _____ $\frac{1}{4}$ _____ $\frac{1}{4}$ Section _____, Township _____ ^N~~S~~ Range _____ ^E~~W~~, _____ County

4. Description of water development:
 (a) Diverting works. Enclose all pertinent engineering data available. If not available, describe the horsepower rating of the pump and capacity in gallons per minute, size of ditches, flumes, dikes or other. 3 intake pipelines for 3 separate systems. Total pump capacity is to be approximately 300 gallons per minute.
 (b) Reservoir (if applicable). NA
 1. Project will be an enlargement of an existing reservoir.
 Yes ; No . (If yes, complete both 3 and 4 below.)
 2. Project will be a new reservoir.
 Yes ; No . (If yes, enter NA in 3 below, and complete 4.)
 3. Capacity of existing (old) reservoir when constructed: _____ acre-feet.
 4. Capacity of new (proposed) reservoir: _____ acre-feet.
 (c) Well Depth: NA feet (if applicable).
 (d) Project will be a developed spring: Yes ; No .

5. Proposed Construction:

(a) Desired starting date August, 1976, anticipated completion date Sept. 1977
 (b) Estimated construction cost \$ Not Available

6. Amount of water, use to which it will be applied, and period of use:

Example:

7.5 ^{cfs} ~~gpm~~ up to 535 (acre-feet) for IRRIGATION (use) from April 15 (month-day) to October 15 (month-day) inclusive.

300 ~~gpm~~ ^{gpm} up to 60 (acre-feet) for Municipal Domestic (use) from Jan. 1 (month-day) to Dec. 31 (month-day) inclusive.

 ^{cfs} ~~gpm~~ up to (acre-feet) for (use) from (month-day) to (month-day) inclusive.

 ^{cfs} ~~gpm~~ up to (acre-feet) for (use) from (month-day) to (month-day) inclusive.

Total amount requested: 300 ~~gpm~~ ^{gpm} up to 60 (acre-feet) per year.

7. Description of proposed beneficial water uses:

(a) Irrigation (if applicable) NA

1. Method of irrigation: Flood ; Sprinkler . If Flood, explain: _____

2. Project will involve new irrigated land: Yes ; No .

3. Project will involve supplemental water to existing irrigation: Yes ; No .

4. Project will involve both new irrigated land and supplemental water to existing irrigation: Yes ; No . If yes, the acreage must be entered on separate lines in the Table below, and identified on the map in Item 9, page 3.

5. Acreage by land description: (Enter the number of acres to be irrigated in the appropriate quarter-section.)

Example:								Check Appropriate Block	
Sec.	Twp.	Rge.	NE¼	NW¼	SW¼	SE¼	Totals	New	Supplemental
7	18N.	20E	35		140	118	293	<input checked="" type="checkbox"/>	

								Check Appropriate Block	
Sec.	Twp.	Rge.	NE¼	NW¼	SW¼	SE¼	Totals	New	Supplemental

Total number of acres to be irrigated → NA

(b) Non-irrigation use: (if applicable)

1. Place of use of the water will be the same as location given in Item 3(a), page 1.

Yes ; No . If no, give the location: _____
 Township ^N/_S, Range ^E/_W, _____ County.

2. Estimate the maximum number and type of livestock to be watered: NA

Are there other locations where the same livestock are watered? Yes ; No .

3. Name of municipality to be served: BORCHERS OF FINLEY POINT

4. Number of families to be supplied: 39

5. If water will be used for other purposes, describe: NA

8. Ownership:

- (a) Property owner at the point of diversion: Borchers of Finley Point
- (b) Property owner at the place of use: Same
- (c) If either (a) or (b) above are other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

9. Map of proposed water development: Indicate clearly the point of diversion, place of use, and section, township, and range numbers. Show pertinent information concerning the development, such as dams, canals, ditches, pipelines, wells, etc. Use the largest, most convenient scale possible. If the map shown below is not adequate to describe your development, attach additional sheets.

SEE ATTACHED MAP

10. Remarks: APPLICANT HAS AN EXISTING WATER RIGHT BY USE. THE ORIGINAL DATE OF USE IS UNKNOWN BUT IS BELIEVED TO BE OLDER THAN THE DATE OF CONSTRUCTION OF KERR DAM. This is PN addition to the proposed project of this application.

11. THE APPLICANT CERTIFIES THAT THE STATEMENTS APPEARING HEREIN ARE TO THE BEST OF HIS KNOWLEDGE TRUE AND CORRECT.

[Signature] (Signature) _____ (Date) _____
Borchers of Finley Point (Signature) 8/9/76 (Date)
 _____ (Signature) _____ (Date)

Signature of applicant(s) must be exactly as in Item 1, page 1. If more than one applicant is shown, all must sign.

DEPARTMENT ENDORSEMENT

(This section is not to be filled in by Applicant)

Check When Completed

ACTION TAKEN

- 1. Received *by mail* over counter in Department's office by Bob Danielson
- 2. Date Received (priority): Day 11; Month 8; Year 76; Time 3:35 P.M.
- 3. Recorded in; Book 2; Page 131; By JK
- 4. Preliminary check by _____; Amt. of fee received \$ 30.00 #125-9
Transmittal No. _____; Remarks _____
- 5. Application indexed by _____; Platted by _____
- 6. Application examined by _____; Type of Permit _____
- 7. Application returned for completion on _____; or corrected by office on _____
Date to be returned by Applicant _____
- 8. Corrected Application resubmitted to Department's office on _____
- 9. Priority of Application (*see No. 2 above*) brought down to _____
Reason: _____
- 10. Application approved for advertisement by _____
- 11. Notice of Publication prepared by _____; Proofed by _____
Date _____
- 12. Publication Proof Sheet proofed by _____; Date _____
- 13. Publication dates: From _____ To _____
- 14. Notice published in _____
- 15. Notice to water users prepared by _____; Proofed by _____
Date _____
- 16. Date Notice mailed to water users _____; Public agency with reserved waters _____
Others (*specify*) _____
- 17. Protests filed by _____
- 18. Date notice of hearing sent to Applicant _____; Objector(s) _____
- 19. Hearing held by _____; Place _____
Date _____
- 20. Date *Statement of Opinion* and notice of possible hearing sent _____
Sent by _____
- 21. Application field checked by _____; Date _____
- 22. Application recommended for (*approval or denial*) by _____
- 23. Application microfilmed by _____; Date _____
Roll No. _____ (*Microfilm after Item 22 only*)

REMARKS
(For Department Use Only)

FILMED

OCT 6 1976

By JK

Maps:

Any & all maps – excluding ownership

Maps

T. 24 N. R. 18 W. 311
2962

2938

8000

3185

2922

T. 23 N.

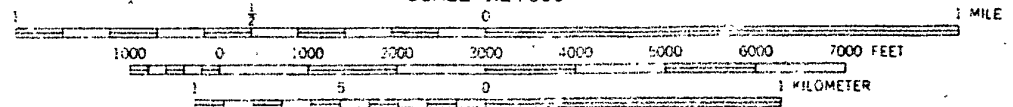
2943

42967

SKIDOO BAY

870 000 FEET | 718 | 5 | 719 | 3 M. TO MONT 35 | (EAST BAY) | 721 | 2300' | 722000m E.

SCALE 1:24 000



CONTOUR INTERVAL 40 FEET
DATUM IS MEAN SEA LEVEL

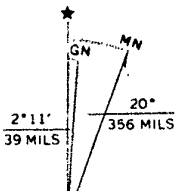
OK
POD #1
POD #2

120
20
19
R

2908

S

al Survey



al zone

Meyer Ejeado

ZMP

Serial

105965

Model HM200T

~~EST~~ 75psi

1 4plex

pod 2

8 homes

only

Shop

Middle P.O.D.

psi gage broken
owner says peak 65

1.5 hp. Jacuzzi

Model No 151H-52/K

Serial No. 7F7-055662

**TO SEE THE
LARGE MAP
ATTACHED
TO THIS FILE,
PLEASE PULL
THE
ORIGINAL
FILE.**

3

Extensions/NOC/Revocation:

Includes correspondence,
reverse chronological order—

- Official Revocation Form
 - Notice of Completion
 - Notice of Action
 - Recommendation
- Temporary Notice of Action
- Application for Extension
 - Revocation Letter

**Extensions/
NOC/Revocation**

RECEIVED

02-07-1983

Form No. 617 R1/82

FEB 7 1983

Permit No. P-9607-7LLJ

MONTANA D.N.R.C.
KALISPELL FIELD OFFICE

NOTICE OF COMPLETION OF WATER DEVELOPMENT

This form must be filed by the permit holder on all completed water developments.

The diversion and distribution works for this appropriation must have been completed and water applied to beneficial use on or before 3-1 19 79, as specified in the permit or within any authorized extension of time. This Notice of Completion of Water Development, Form 617, shall be filed on or before _____ 19 ____.

(Please type or print in ink)

(I) (We) BARBERS OF FINLEY POINT (A MONTANA CORP.)
Address 4700-10th AVE. S.O.
City GREAT FALLS State MONTANA Zip 59405
Home Phone No. _____ Other Phone No. 761-5020

attest that the water development has been completed and water put to beneficial use. If the development was not fully developed as specified within the terms, conditions, orders, and limitations of Permit No. 9607, give details of the appropriation as actually developed.

Signature: [Signature] Date: 2/4/83
Signature: [Signature] Date: _____
Signature: _____ Date: _____

Subscribed and sworn before me, this 14th day of Feb. 1983.

Helma M Nemes
Notary Public for the State of Montana
Residing at Great Falls, Mt.
My Commission expires 3/24/83

Send completed form to:
MONTANA DEPARTMENT OF NATURAL RESOURCES & CONSERVATION
32 SOUTH EWING HELENA, MONTANA 59620 449-3962 DNRG

NO FILING FEE REQUIRED

**To see
Certified Mail
Receipts
for this
Water Right,
Please review the
Original File**

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
KALISPELL FIELD OFFICE



TED SCHWINDEN, GOVERNOR

P.O. BOX 860

STATE OF MONTANA

(406) 755-9288

February 1, 1983

KALISPELL, MONTANA 59901

Subject: Provisional Permit to
Appropriate Water

Permit # 9607

CERTIFIED # 751 702

Date Notice of Completion
due 3-1-79

Borchers of Finley Point Inc.
4700 10th Ave. South
Great Falls, MT 59405

FINAL NOTICE

Dear Permittee:

Our records indicate you to be the current owner of the above referenced permit. To date we have not received a "Notice of Completion" (Form 617) which was due on the date specified above (under Permit Number). Completion of the project and notifying the Department of Natural Resources & Conservation within the specified time (as noted on your permit) are necessary steps to perfect an appropriation of water in Montana.

Please be advised that your "PERMIT WILL BE REVOKED UNLESS YOU SUBMIT THE ENCLOSED NOTICE OF COMPLETION WITHIN 15 DAYS AFTER YOU RECEIVE THIS LETTER."

You may request an extension of time (Form 607) for completion of your project within this 15 day period. However, such extensions will not be approved unless you can show that you have been working diligently towards completion of the project.

If your permit is revoked, any subsequent appropriation of water will require a new application for a water use permit.

In the event you are no longer the owner of this permit, I would appreciate any pertinent information you may be able to provide. Please send all correspondence in this matter to me at the Kalispell Field Office.

Sincerely,

Charles F. Brasen

Charles F. Brasen
Area Office Supervisor
Water Rights Bureau

Enclosures: Forms #607, 617

NOTE: If you have no intention of completing this project as authorized, please sign and return this letter so we may complete your file.

NAME _____

DATE _____

Form No. 616 R10/75



NOTICE OF ACTION ON APPLICATION FOR EXTENSION OF TIME

STATE OF MONTANA
Department of Natural Resources and Conservation

BY AUTHORITY VESTED IN ME, Application for Extension of Time to complete the water development authorized pursuant to Permit to Appropriate Water No. 9607-s76LJ

by Borchers of Finley Point, 4700 10th Avenue South, Great Falls, is hereby:
Montana 59405

denied. modified,
 approved,

and the appropriation shall be perfected on or before January 1, 1979, and a Form 617, Notice of Completion of Water Development, shall be filed on or before March 1, 1979.

Reason for action taken: is due to insufficient time.

Assistant Administrator
Water Resources Division

1-4-78
Date LSC

This Notice of Action on Application for Extension of Time is hereby attached to Permit No. 9607-s76LJ, recorded in State Record of Water Rights Permits, Volume 10, Page 213, and made a part thereof.

FORM No. 607 New 7/73



Application No. 9607-576LJ
Permit No. _____
Application for Extension
No. _____

STATE OF MONTANA
Department of Natural Resources and Conservation

RECEIVED

NOV 2 1977

MONT. DEPT. OF NATURAL
RESOURCES & CONSERVATION

APPLICATION FOR EXTENSION OF TIME
(in which to perfect an appropriation of water)

- 1) Name of Permittee Borchers of Finley Point
- 2) Mailing Address 4700 10th Ave. So.
- 3) City, State and Zip Code Great Falls Mont. 59405
- 4) The above-named Permittee hereby applies for an extension of time in which to Appropriate water for domestic use
(specify the type of water development for which the extension is needed)

under Permit No. 9607 S76LJ, filed with the Department of Natural Resources and Conservation. Said permit was formally approved by the Administrator, Water Resources Division, on August 11,, 19 76. The prevailing date set by the Administrator in which to perfect the appropriation is on or before October 1,, 19 77.

- 5) The period of time fixed by the above date has proved to be insufficient and additional time is requested for the following reasons (reasons should be stated in detail and if desired or necessary, may be accompanied by photographs, affidavits, etc., as evidence in support of statement): Development was delayed,
waiting for Health Board approval and Construction will not
begin until Spring 1978

Date oct 28/77

Signed [Signature]
(Permittee)

(Permittee)

Form No. 601 R10/75

Permit No. 9607-s76LJ

STATE OF MONTANA

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

231766

PERMIT TO APPROPRIATE WATER

THIS IS TO CERTIFY, that a PROVISIONAL Permit to appropriate water is hereby granted to BORCHERS OF FINLEY POINT, INCORPORATED of GREAT FALLS, State of MONTANA, pursuant to Application No. 9607-s76LJ, with a priority date from August 11, 1976, at 3:35 p.m., upon finding that the criteria of Section 89-885, R.C.M. 1947, have been met.

The source and point of diversion of this appropriation shall be Flathead Lake, a tributary of the Flathead River, at points in the NE 1/4 SW 1/4 NW 1/4, the SE 1/4 SW 1/4 NW 1/4, and the SW 1/4 SW 1/4 NW 1/4, all in Section 7, Township 23 North, Range 19 West, M.P.M., Lake County, Montana.

The water appropriated pursuant to this Permit shall be used for municipal and domestic purposes from January 1 to December 31, inclusive, of each year, within the subdivision named Borchers of Finley Point, containing approximately 39 homesites, and located in the SW 1/4 NW 1/4 of Section 7, Township 23 North, Range 19 West, M.P.M., Lake County, Montana.

The waters appropriated shall be diverted by three (3) intake pipelines for use in three (3) separate systems, with a total of not to exceed 0.66 cubic foot per second or 300 gallons per minute and a quantity of 60 acre-feet per annum.

The diversion and distribution works for this appropriation shall be completed, and water shall be applied to beneficial use as specified above, on or before October 1, 1977, or within any authorized extension of time. The Notice of Completion of Surface Water Development, Form No. 617, shall be filed on or before December 1, 1977.

This Permit is SUBJECT TO ALL PRIOR WATER RIGHTS, and the following limitations, terms, conditions, and restrictions:

- 1. Any final determination of existing water rights, as provided by Montana law.
2. All prior Indian reserved water rights in the source of supply.

NOTICE: Failure to comply with all terms and conditions herein may result in the loss of the right to appropriate water granted by this Permit.

Dated December 27, 1976

Assistant Administrator
WATER RESOURCES DIVISION

Witness

Recorded in State Record of Water Rights Permits, Volume 10, Page 213.

(For County Use Only)

STATE OF MONTANA

County of Lake ss.

Filed for record this 11th day of January 1977, at 2:22 P.M., and recorded in Microfilm of Miscellaneous and Indexed in Water Rights at 231766 of the Records of Lake County, State of Montana.

By Melody V. Durand Deputy

EHEL M. HARDING Clerk and Recorder

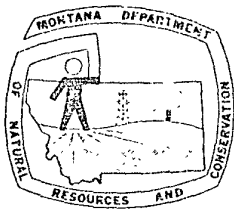
Return to: Borchers of Finley Point Inc. c/o Dean Borchers, 4700 10th Ave South Great Falls, mt 59405

Objections/correspondence:

Reverse chronological order—

- 612 (if objections to file)
 - Withdrawal forms
 - Objection log sheet
 - Standard letters
 - Objection form

Objections/ Correspondence



MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

THOMAS L. JUDGE, GOVERNOR
GARY WICKS, DIRECTOR

WATER RESOURCES
DIVISION
ORRIN FERRIS
ADMINISTRATOR

MEMBERS OF THE BOARD
JOSEPH W. SABOL, CHAIRMAN
VIOLA HERAK
DR WILSON F CLARK
DEAN HANSON
WILLIAM BERTSCHE
CECIL WEEDING
DAVID G. DRUM

449.3634
32 SOUTH EWING
NATURAL RESOURCES BUILDING
HELENA, MONTANA 59601

December 15, 1976

Mr. E. L. Meredith
Office of the Solicitor
U.S. Department of the Interior
P.O. Box 1538
Billings, Montana 59103

Dear Mr. Meredith:

This is in reference to your objections dated November 3 and 4, 1976, to the following applications:

No. 9607-s76LJ by Borchers of Finley Point, Dean Borchers, President, to appropriate 0.66 cubic foot per second or 300 gallons per minute of water and not to exceed 60 acre-feet per year, to be diverted from Flathead Lake at points in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, the SE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, and the SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 7, Township 23 North, Range 19 West, and used for municipal purposes in Borchers of Finley Point, in the NW $\frac{1}{4}$ of Section 7 from January 1 to December 31, inclusive, of each year.

No. 9292-s40J by the City of Harlem to appropriate 240 acre-feet per year, to be impounded in a 240-acre-foot reservoir on an unnamed tributary of Buckley Coulee, at a point in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 8, Township 32 North, Range 23 East, and used for fish, wildlife, and recreational purposes from January 1 to December 31, inclusive, of each year.

No. 9519-s76LJ by E. C. Krebsbach to appropriate 0.05 cubic foot per second or 25 gallons per minute of water and not to exceed 4.5 acre-feet per year, to be diverted from Flathead Lake at a point in the S $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 18, Township 23 North, Range 19 West, and used for irrigation on a total of 5 acres, more or less, in said Section 18 from April 15 to October 1, inclusive, of each year.

In your cover letters dated November 3 and 4, 1976, attached to the objections, you state, "We will not appear at any hearing on these applications." Therefore, we will proceed to issue a Provisional Permit to each Applicant, with the following conditions:

1. Subject to all prior Indian (Confederated Salish and Kootenai Tribes of the Flathead Indian Reservation -- Applications 9607-s76LJ and 9519-s76LJ; Assiniboine and Gros Ventre Indians of the Fort Belknap Indian Reservation -- Application 9292-s40J) reserved water rights in the source of supply.



Mr. E. L. Meredith

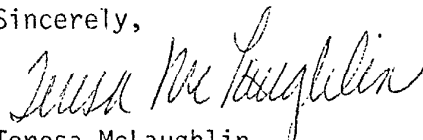
- 2 -

December 15, 1976

2. Subject to all prior existing water rights.
3. Subject to any final determination of prior existing water rights as provided by Montana law.

If you have any questions, please let us know.

Sincerely,



Teresa McLaughlin
Hearings Coordinator
Water Rights Bureau

Copies to Mr. Dean Borchers/encl.
Mr. Arnold C. Dolver/encl.
Mr. E. C. Krebsbach/encl.

WILKINSON, CRAGUN & BARKER

LAW OFFICES

1735 NEW YORK AVENUE, N. W.

WASHINGTON, D. C. 20006

(202) 833-9800

CABLE ADDRESS

"WILCBAR"

R. ANTHONY ROGERS
WILLIAM R. LOFTUS
THOMAS J. BACAS
FOSTER DEWEITZES
ALAN I. RUBINSTEIN
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HERBERT E. MARKS
PIERRE J. LAFORCE
FRANCES L. HORN
GORDON C. COFFMAN
PATRICIA L. BROWN
STEPHEN R. BELL

November 2, 1976

ROSEL H. HYDE
DONALD C. GORMLEY
Counsel

RECEIVED
NOV 04 1976
* ADMITTED IN VIRGINIA ONLY

Mr. Ronald J. Guse
Assistant Chief
Water Rights Bureau
Montana Department of Natural
Resources and Conservation
32 South Ewing
Helena, Montana 59601

MONT. DEPT. OF NATURAL
RESOURCES & CONSERVATION

Re: Application No. 9607-s76LJ
Dorchers of Finley Point

Dear Mr. Guse:

We enclose the objections of the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana, to the above-referenced water application. We waive any factual hearing since our objection is a legal one and we request it be made a part of the record.

Sincerely,

WILKINSON, CRAGUN & BARKER

Richard Anthony Baenen
By: Richard Anthony Baenen

Enclosures

cc: Messrs. Mitchell, Stinger, and Houle

Department Natural Resources and Conservation

[facsimile form]

OBJECTION TO APPLICATION

a) IN THE MATTER OF APPLICATION _____)
 _____)
 Borchers of Finley Point,)
 _____)
 Dean Borchers, President,)
 Great Falls, Montana)
b) FILED BY Borchers of Finley Point)
c) APPLICATION NO. 9607-s76LJ)
d) TO appropriate WATER)
e) FROM Flathead Lake, a tributary of the)
 Clark Fork River)
f) IN Lake COUNTY, MONTANA)

OBJECTION OF

Confederated Salish and
 Kootenai Tribes of the
 g) Flathead Reservation, Montana

* * * * *

STATE OF MONTANA)
 h) Flathead Indian Reservation)

ss

i) Comes now Richard Anthony Baenen, Esquire, general counsel, Confederated
 Salish and Kootenai Tribes (objector)

j) Whose complete mailing address is 1735 New York Avenue, N.W.,
 Washington, D.C. 20006

k) and objects to the approval of the above-numbered application on the
 following grounds, to wit:

(see attached statement)

l) WHEREFORE, Objector prays that the application indicated above be _____
 (denied)
 (denied or modified, as the case may be)

m) Dated November 2, 1976

Richard Anthony Baenen
 (objector)

The Confederated Salish and Kootenai Tribes of the Flathead Indian Reservation, Montana, have paramount rights to all the waters arising upon, flowing through, lying under, or in any other way appearing upon the Flathead Reservation. These paramount rights arise from the Tribes' aboriginal ownership of said Reservation, which was reserved to them and guaranteed to them by the Treaty of Hell Gate, July 16, 1855, 12 Stat. 975, by the United States government, prior to entry of Montana into the Union.

The Tribes' objection to the subject application, therefore, is based upon the fact that the Department of Natural Resources and Conservation, State of Montana, does not have the jurisdiction or authority to permit the use or diversion of any waters from within the Flathead Indian Reservation. Such authority resides only in the Conferderated Salish and Kootenai Tribes. The laws of Montana relating to water have no application within the Flathead Indian Reservation (United States v. McIntire, 101 F.2d 650, 654 (9th Cir. 1939)).

Therefore, the applicant must submit any application for the use of waters within the Reservation, such as contained in the subject application, to the Confederated Tribes, and not to the State of Montana.

Since the State of Montana does not have the authority to issue such a permit, the subject application must be denied.

We waive any factual hearing since our objection is a legal one and we request it be made a part of the record.



United States Department of the Interior
OFFICE OF THE SOLICITOR

P.O. BOX 1538
BILLINGS, MONTANA 59103

November 4, 1976

CERTIFIED--RETURN RECEIPT

Montana Department of Natural Resources
and Conservation
Natural Resources Building
32 South Ewing
Helena, MT 59601

Attention: Orrin Ferris, Administrator, Water Resources
Division

Gentlemen:

Subject: Applications No. 9607-s76LJ, Borchers of Finley
Point, Dean Borchers, President, Great Falls, MT,
and No. 9519-s76LJ, E. C. Krebsbach, Polson, MT

Attached is our objection to the captioned applications
for water right filed on your Form No. 611.

In filing our objection to these applications and in writing
this letter to you, we do not waive our right to challenge
the State's jurisdiction but merely wish to call to the
State's attention our opinion that the State lacks jurisdic-
tion in these cases.

We will not appear at any hearing on these applications;
however, if we can be of any assistance to you in any way,
or if you require additional information from us, we will
be glad to furnish it at your request.

Sincerely yours,

A. E. Bielefeld
A. E. Bielefeld
Field Solicitor

Enclosures

cc:

Associate Solicitor, Indian Affairs, Washington, DC
Area Director, Indian Affairs, Billings, Attn: Rights Protection
Superintendent, Flathead Indian Agency, Ronan, MT
Wilkinson, Cragun & Barker, Octagon Bldg., Washington, DC
(w/cy.encls. to each)

RECEIVED
NOV 05 1976
MONT. DEPT. OF NATURAL
RESOURCES & CONSERVATION

STATE OF MONTANA
Department of Natural Resources and Conservation

OBJECTION TO APPLICATION

(Please Type or Print in Ink)

a) IN THE MATTER OF APPLICATION _____)
for Beneficial Water Use Permit)

_____ Borchers of Finley Point,)
b) FILED BY Dean Borchers, President)

c) APPLICATION NO. 9607-s76LJ)

d) TO appropriate WATER)
Flathead Lake at points in)

e) FROM the NE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, the *)

f) IN Lake COUNTY, MONTANA)
SE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, and the SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, all)
in Sec. 7, T. 23 N., R. 19 W., M.P.M.)

* * * * *

STATE OF MONTANA)
h) COUNTY OF Yellowstone)

i) Comes now United States of America, Interior Dept., Solicitor's Office)
(objector)

j) Whose complete mailing address is P. O. Box 1538, Billings, MT 59103)

k) and objects to the approval of the above-numbered application of the following grounds, to wit:

The land to which the applicants intend to apply water is within the boundaries of the Flathead Indian Reservation or seek to appropriate waters arising upon, flowing by or flowing through the Reservation. The Confederated Salish and Kootenai Tribes of the Flathead Reservation claim these waters. The State has no jurisdiction of the waters of or land within the Reservation. See United States v. McIntire, 101 F.2d 650; United States v. Alexander, 131 F.2d 359.

l) WHEREFORE, Objector prays that the application indicated above be _____
denied

(denied or modified, as the case may be)

m) Dated November 4, 1976

E. L. Meredith
(objector) E. L. Meredith
For the Field Solicitor
U.S. Dept. of Interior

OBJECTION OF

United States of America, Dept. of
Interior, Solicitor's Office

) ss

**Public Notice
Objections
Hearings Information**

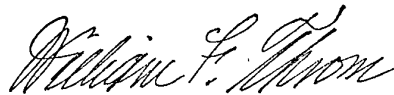
PUBLIC NOTICE

Notice to Water Users

(Pursuant to Section 89-881 (1), R.C.M. 1947)

BORCHERS OF FINLEY POINT, DEAN BORCHERS, President, Great Falls, Montana, have filed with the Department of Natural Resources and Conservation Application No. 9607-s76LJ to appropriate 0.66 cubic foot per second or 300 gallons per minute of water and not to exceed 60 acre-feet per annum from Flathead Lake, a tributary of the Clark Fork River, in Lake County, Montana. The water is to be diverted from Flathead Lake by means of a pump at points in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, the SE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, and the SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, all in Sec. 7, T. 23 N., R. 19 W., M.P.M., and used for municipal purposes in Borchers of Finley Point, a subdivision located in the NW $\frac{1}{4}$ of said Sec. 7 (approximately 39 units), from January 1 to December 31, inclusive, of each year.

Objections to the issuance of a permit under this application, with reasons therefor, must be filed with the Department of Natural Resources and Conservation, Natural Resources Building, 32 South Ewing, Helena, Montana 59601, on or before December 9, 1976. Objection to Application (Form 611) is available at the office of the county clerk and recorder, or from this Department upon request. Information may be obtained by calling the Water Rights Bureau, 449-3634.



William F. Throm, Assistant Administrator
Water Resources Division

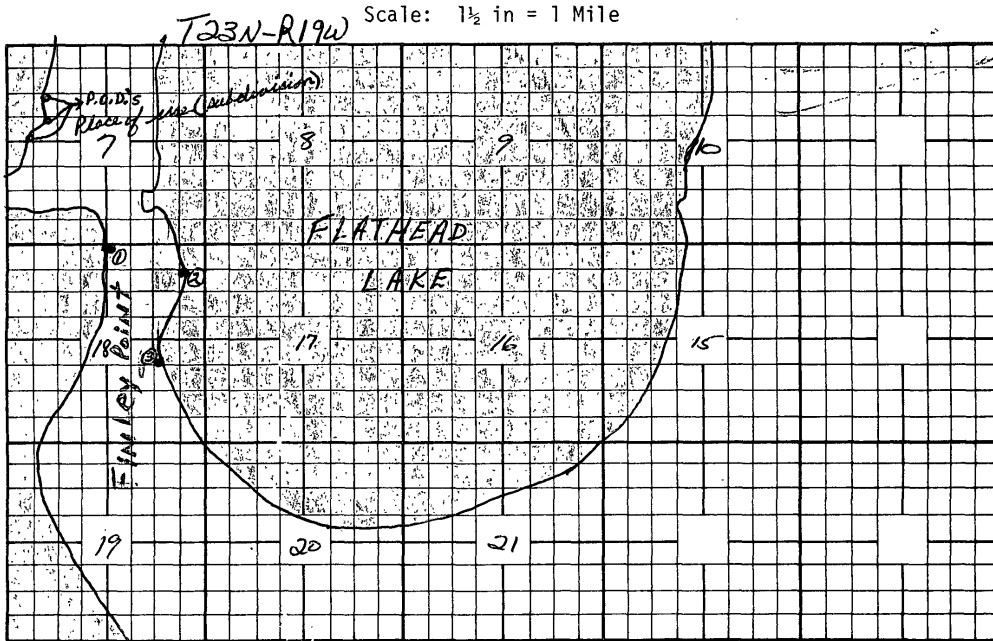
Published in: Flathead Courier, Polson, Montana (weekly)
on October 21 & 28, and November 4, 1976.

9-29-76
9-29-76

OWNERSHIP

COUNTY Lake APPLICATION NO. -576LT
 APPLICANT(S) NAME Borchers of Sinegpoint, & Montone Corp, % Dean Borchers, Pres. DATE 8-12-76
 DECREE YES (NO) RATE (gpm ~~or cfs~~) 300gpm - 3 intake lines
 On ~~or bordering~~ Reservation yes QUANTITY 60 A.F. - Municipal use for 89 families
 or
 On or Bordering Irrigation District N WELL DEPTH NA
Flathead Indian Reservation
 OWNER AT P.O.D. Applicant FORMATION OR SOURCE Flathead Lake, trib. to Clark Fork River

LAND DESCRIPTION OF P.O.D. ONE SW NW; 6 SE SW NW; 3 SW SW NW all located in Sec 7, T23N-R19W



POSSIBLE AFFECTED AREAS AND PLACE OF USE
(Land description, Section, Township & Range)

<u>NW 1/4 NW 1/4 NE 1/4, Sec 18, T23N-R19W - @ W. Staver pump + irrigation</u>	<u>I DO NOT FEEL IT'S</u>
<u>SW 1/4 NE 1/4 NE 1/4, Sec 18, T23N-R19W - @ M. Madson pump + irrigation</u>	<u>IMPORTANT TO NOTIFY</u>
<u>E 1/2 NW 1/4 SE 1/4, Sec 18, T23N-R19W - @ M. Hansen pump + irrigation</u>	<u>ALL THE PROPERTY</u>
<u>NOTIFY - - !!!</u>	<u>OWNERS ON FINGER</u>
<u>BIA -</u>	<u>POINT. IF THEY WISH</u>
<u>TRIBE -</u>	<u>TO OBJECT, IT SHOULD</u>
<u>FLATHEAD IRR. DIST.</u>	<u>BE FROM THE SEWERGE</u>
	<u>STAND POINT AND NOT</u>
	<u>FROM THE AMOUNT OF</u>
	<u>WATER REQUESTED.</u>

ANALYST Bob Danielson

See attached list

9607 - Borders of Sully Point

① Fish & Game

② Reubin

③ Montana Power Co.

40 E. Broadway

Butte 59701

with 9519

④ Flathead Irrig. Dist.

c/o C. E. Coffrey, Secy.

St. Ignatius 59865

with 8266

⑤ Jim Sansaver, Area Dir.

Indian Affairs

316 No. 26th St.

Blgs. 59101

with 9519

⑥ Wilkinson, Cragun & Barker

Flathead Indian Tribal Office

1735 New York Ave., N.W.

Wash., D.C. 20006

with 8266

⑦ E. L. Meredith

Office of the Solicitor

Box 1538

Blgs. 59103

with 9519

⑧ Harold Mitchell, Jr., Chairman

Confederated Salish & Kootenai Tribes

Flathead Indian Agency

Dixon 59831

File No. 9807-5762T
Drainage basin correct:
Yes ; No

FORM 600 CHECK LIST

(1) Form check list:	Remarks
1. <u>Boarders of Sibley Point, A Mont. Corp. %</u>	<u>Dean Boarders, Pres.</u>
2. <u>Flathead Lake, Tributary Clark Fork R.</u> <small>NE 1/4 SW 1/4, Sec 7, T23N-R19W SE 1/4 SW 1/4, Sec 7, T23N-R19W SW 1/4 SW 1/4, Sec 7, T23N-R19W</small> <u>Lake Co.</u>	<u>3 P.O.D.'s</u>
4. <u>Intake pipelines to serve 3 separate systems. 300 gpm.</u>	
5. <u>Aug 1976 to Sept 1977</u>	
6. <u>300 gpm - 60 A.F. - Municipal - Jan to Dec 31</u>	
7. <u>Municipal use for 39 families</u>	
8. <u>applicants</u>	
9. _____	
10. _____	
11. _____	
(2) Returned to applicant _____	
(3) 30-day deadline _____	Is a PER required? <u>Yes</u> <input type="checkbox"/> <u>No</u> <input type="checkbox"/>

The following information is taken from the application and changes or corrections authorized by the applicant only: (Note any corrections as a result of a hearing held on objections or exceptions.)

Item 2. Source Flathead Lake a trib of Flathead River
Tributary of Clark Fork River

Item 3. Point of diversion(s): 3
NE 1/4 SW 1/4 NW 1/4 Sec. 7, T. 23 N, R. 19 W, Lake County
SE 1/4 SW 1/4 NW 1/4 7 T23N R19W Lake County
SW 1/4 SW 1/4 NW 1/4 Sec. 7, T. 23 N, R. 19 W, Lake County

Item 4. Description of water development Intake pipelines for 3 separate systems.
300 gpm

Item 6. Proposed appropriation:
300 ^{gpm}/_{cfs} (60 acre-feet) for Municipal (use) from Jan 1 (month-day) to Dec 31 (month-day)
gpm for _____ (use) from _____ (month-day) to _____ (month-day)
cfs (acre-feet) _____ (use) _____ (month-day) _____ (month-day)
Total 300 gpm; 60 acre-feet

Item 7. Proposed beneficial use: Municipal use for 39 homes.
Place of use (specify new and supplemental irrigation):
For Municipal use (domestic) for a subdivision in SW 1/4 NW 1/4, in Sec. 7, T23N-R19W, M.B.M., Lake County, Montana.

Term, limitation, or condition you recommend Publish.

Fee required \$ 30.00 Fee received \$30.00 Ch. #1259
Refund: Amount _____ Signed Bob Danielson
Date _____ (analyst)
Date 8-12-76
Flathead Courier-Polson

Mrs. Ethel M. Harding
Lake County

-2-

January 7, 1977

E. C. Krebsbach
Finley Point
Polson, MT 59860

Provisional Permit No. 9519-s76LJ
Vol. 10, page 211

Borchers of Finley Point, Inc.
A Mont. Corp.
C/O Dean Borchers
4700 10th Avenue South
Great Falls, MT 59405

Provisional Permit No. 9607-s76LJ
Vol. 10, page 213

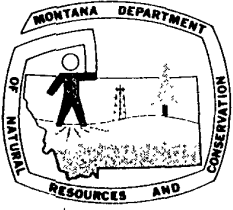
Dennis and Carla Harrington
Rural Route 2, Box 14
Ronan, MT 59864

Certificate No. 10435-g76L
Vol. 17, page 240

John W. Fischer
Jocko Hollow
Arlee, MT 59821

Certificate No. 10451-g76L
Vol. 17, page 252; and

Certificate No. 10450-g76L
Vol. 17, page 253



**WATER RESOURCES
DIVISION**
ORRIN FERRIS
ADMINISTRATOR

MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

THOMAS L. JUDGE, GOVERNOR
GARY WICKS, DIRECTOR

MEMBERS OF THE BOARD
JOSEPH W. SABOL, CHAIRMAN
VIOLA HERAK
DR. WILSON F. CLARK
DEAN HANSON
WILLIAM BERTSCHE
CECIL WEEDING
DAVID G. DRUM

449-3634
32 SOUTH EWING
NATURAL RESOURCES BUILDING
HELENA, MONTANA 59601

January 7, 1977

Borchers of Finley Point, Inc.
A Mont. Corp.
C/O Dean Borchers
4700 10th Avenue South
Great Falls, MT 59405

Dear Mr. Borchers:

Re: Provisional Permit No. 9607-s76LJ

The Department of Natural Resources and Conservation has mailed a Provisional Permit to the Lake County Clerk and Recorder for recording, with instructions to forward the original permit to your attention following recordation.

The permit is issued pursuant to Section 89-885 and 89-886, R.C.M. 1947. It is important that the enclosed Notice of Completion, Form 617, be filed with the Department on or before the date indicated on the Provisional Permit.

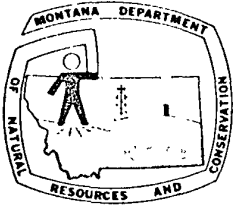
If you have any questions, please contact the Water Rights Bureau.

Sincerely,

Robert M. Decker

Robert M. Decker, Supervisor
Appropriations Section
Water Rights Bureau

Enclosures



MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

THOMAS L. JUDGE, GOVERNOR
GARY WICKS, DIRECTOR

WATER RESOURCES
DIVISION
ORRIN FERRIS
ADMINISTRATOR

MEMBERS OF THE BOARD
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DAVID G. DRUM

449-3634
32 SOUTH EWING
NATURAL RESOURCES BUILDING
HELENA, MONTANA 59601

Attention: Legal Notice Department

October 13, 1976

Flathead Courier *See 9519 for certified slip*
Paul Fugleberg
213 Main
Polson, MT 59860

Dear Mr. Fugleberg:

Re: Application(s) for Beneficial Water Use Permit and/or
Authorization(s) to Change Appropriation Water Right,
File Nos. 9519-s76LJ and 9607-s76LJ
Notice of Application by Publication

Enclosed please find copies of the above-referenced notices. You are hereby authorized to publish said notices once each week for three consecutive weeks as required by law. Publish on Thursday, October 21 & 28, and November 4, 1976. Forward to this department your notarized affidavit of proof of publication within five days after the final date of publication.

Your statement for cost of publication should be in triplicate and should be directed to this department for payment.

If you have any questions, please advise.

Sincerely,

Elaine V. Lehman
Appropriations Section
Water Rights Bureau

cah

Enclosures

NOTICE: IT IS IMPORTANT THAT THE ENCLOSED NOTICES BE ADVERTISED ON THE DATES INDICATED. IF THE NOTICES CANNOT BE PUBLISHED ON THE DATES INDICATED, PLEASE CALL ME AT 449-3634 IMMEDIATELY.

October 13, 1976

Borchers of Finley Point
Dean Borchers, President
4700-10th Avenue South
Great Falls, MT 59405

Dear Applicant:

Enclosed is a copy of the Notice to Water Users which will be published in the Flathead Courier on October 21 & 28, and November 4, 1976.

If the notice is not published on the dates indicated or error(s) appear in the publication, please call the Citizens' Advocate Office, TOLL FREE 1-800-332-2272.

Please leave your name, water-right application number, and telephone number with the Citizens' Advocate. A staff member of the Water Rights Bureau will return your call.

Sincerely,

Robert M. Decker, Supervisor
Appropriations Section
Water Rights Bureau

cah

Enclosure

AFFIDAVIT OF SERVICE

STATE OF MONTANA)
) ss.
COUNTY OF LEWIS AND CLARK)

Carole Hatley, an employee of the Montana Department of Natural Resources and Conservation, being duly sworn on oath, deposes and says: That, pursuant to the requirements of Section 89-881, R.C.M. 1947,

on October 21, 1976, she deposited in the United States mail, "certified mail," a notice of receipt by the department of an application for a permit to appropriate water, addressed to each of the following persons or agencies:

- List of recipients: Liter Spence, Montana Fish & Game, 1420 East 6th Avenue, Helena, MT 59601; Jim Rehbein, Kalispell Field Office, Box 224, Kalispell, MT 59901; Montana Power Company, 40 East Broadway, Butte, MT 59701; Flathead Irrigation District, c/o C. E. Coffrey, Secy., St. Ignatius, MT 59865; Jim Sansaver, Area Director, Indian Affairs, 316 North 26th Street, Billings, MT 59101; Wilkinson, Cragun & Barker, Flathead Indian Tribal Office, 1735 New York Ave., N.W., Washington, DC 20006; E. L. Meredith, Office of the Solicitor, Box 1538, Billings, MT 59103; Harold Mitchell, Jr., Chairman, Confederated Salish & Kootenai Tribes, Flathead Indian Agency, Dixon, MT 59831; Borchers of Finley Point, Dean Borchers, President, 4700-10th Avenue South, Great Falls, MT 59405 (Applicants)

* See 9519 for certified slips

* See 8266 for certified slips

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

by Carole Hatley

STATE OF MONTANA)
) ss.
County of Lewis and Clark)

On this 21st day of October, 1976, before me, a Notary Public in and for said State, personally appeared Carole Hatley, known to me to be the clerk-typist of the Department that executed this instrument or the persons who executed the instrument on behalf of said department, and acknowledged to me that such department executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

T.S. Reynolds
Notary Public for the State of Montana

Residing at NOTARY PUBLIC for the State of Montana
Residing at Helena, Montana
My commission expires My Commission Expires July 23, 1977

AFFIDAVIT PUBLICATION

STATE OF MONTANA,)
County of) ss.

Colleen Poltreisz, being duly sworn, deposes and says: That she is Principal Clerk of the Flathead

Courier, a newspaper of general circulation, printed and published at Polson, Montana, and the

notice hereunto attached (Public Notice), was printed and published in said newspaper for a period of three successive weeks, in the regular and entire issue of every number of the paper during the period of time of publication, on the following dates, to-wit:

Oct. 21, Oct. 28, Nov, 4

Subscribed and sworn to before me this 5th day of Nov., 1976

Paul W. Ferguson
NOTARY PUBLIC for the State of Montana, Residing at Polson

My Commission expires 11-7-78

PUBLIC NOTICE
Notice To Water Users
(Pursuant to Section 89-581(1)-R.C.M. 147)
BORCHERS OF FINLEY POINT BEAN BORCHERS, President, Great Falls, Montana, has filed with the Department of Natural Resources and Conservation, Application No. 9007-76LJ for appropriate cubic foot per second (cfs) 300 gals per minute of water and not to exceed 800 acre-feet per annum from Flathead Lake, a tributary of the Clark Fork River, in Lake County, Montana. The water is to be diverted from Flathead Lake by means of a sump at points in the NE 1/4 SW 1/4 NW 1/4, the SE 1/4 SW 1/4 NW 1/4 and the SW 1/4 NW 1/4, all in Section 22, Township 17N, Range 10E and used for municipal purposes in Borchers of Finley Point, a subdivision located in the NW 1/4 of said Section (approximately 39 units) from January 1 to December 31, inclusive of each year.
Objections to the issuance of said permit under this application with reasons therefor, must be filed with the Department of Natural Resources and Conservation, Natural Resources Building, 327 South Ewing, Helena, Montana 59601 on or before December 9, 1976. Objections to Application Form 611 are available at the office of the county clerk and recorder, or from this Department, on request. Information may be obtained by calling the Water Rights Bureau, 646-3344.
WILLIAM F. THROM, Assistant Administrator
Water Resources Division
(Publish October 20, 1976; November 4, 1976)



Treasure State Publishing Company

Publishers of the Flathead Courier

Box 1091 — Polson, Montana — 59860

Phone 893-4391

TO Dept. of Natural Resources
c/o Elaine Lehman
32 South Ewing
Helena, Mont. 59601

Date		Amount
10/22/76	Public Notice Notice to Water Users 89-881 3 folios (word count) 3 weeks	
	Total	25.20

RECEIVED

NOV 08 1976

MONT. DEPT. OF NATURAL
RESOURCE & CONSERVATION

REQUESTED
PAYMENT

12-6-76

THIS RIGHT IS SUBJECT TO ALL PRIOR INDIAN RESERVED WATER RIGHTS OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES IN THE SOURCE OF SUPPLY. IT IS THE TRIBE'S POSITION THAT ECONOMIC INVESTMENTS MADE IN RELIANCE UPON THIS RIGHT, DO NOT CREATE IN THE APPROPRIATOR ANY EQUITY OF VESTED RIGHT AGAINST THE TRIBES. THE APPROPRIATOR IS HEREBY NOTIFIED THAT ANY FINANCIAL OUTLAY OR WORK INVESTED IN A PROJECT PURSUANT TO THIS RIGHT IS AT THE APPROPRIATOR'S RISK. THE ISSUANCE OF THIS RIGHT DOES NOT REDUCE THE APPROPRIATOR'S LIABILITY FOR DAMAGE CAUSED BY THE EXERCISE OF THE RIGHT. IT DOES NOT MAKE THE DEPARTMENT LIABLE FOR DAMAGE CAUSED BY THE EXERCISE OF THE RIGHT. NOR IS THE DEPARTMENT LIABLE FOR ANY LOSS TO THE APPROPRIATOR CAUSED BY THE EXERCISE OF SENIOR RESERVED WATER RIGHTS. THE STATE OF MONTANA'S JURISDICTION TO ISSUE WATER RIGHTS WITHIN THE EXTERIOR BOUNDARIES OF THE FLATHEAD RESERVATION HAS BEEN CHALLENGED BY THE CONFEDERATED SALISH AND KOOTENAI TRIBES IN CAUSE NO. CV-92-54-M-CCL (UNITED STATES DISTRICT COURT, DISTRICT OF MONTANA, MISSOULA DIVISION - FILED MAY 15, 1992) WHICH CASE IS CURRENTLY PENDING. ANY WATER RIGHT ISSUED BY THE STATE IN THE ABSENCE OF JURISDICTION TO ISSUE THE WATER RIGHT IS VOID.

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: 76LJ 42598 00 STATEMENT OF CLAIM
Version: -- ORIGINAL RIGHT
Version Status: ACTIVE

Owners: TIMBRSHOR
 FINLEY POINT
 POLSON, MT 59860

Priority Date: December 31, 1959
Enforceable Priority Date: December 31, 1959

Type of Historical Right: USE

Purpose (use): MULTIPLE DOMESTIC
Purpose Clarification: CONDOMINIUMS

Maximum Flow Rate: 25 GPM

Maximum Volume: 6.00 AC-FT
Households: 4

Source Name: FLATHEAD RIVER (FLATHEAD LAKE)
Source Type: SURFACE WATER

Points 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	3	SESWNW	7	23N	19W	LAKE
Period of Diversion: JANUARY 1 to DECEMBER 31						
Diversion Means: PUMP						

Period of Use: JANUARY 1 TO DECEMBER 31

Purpose (use): MULTIPLE DOMESTIC **Purpose Clarification:** CONDOMINIUMS
Place of Use: (1 total records)

<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		3	SESWNW	7	23N	19W	LAKE

Geocodes/Valid: 15335107202010000 - Y

Remarks:

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

THIS CLAIM IS LOCATED IN WHOLE OR IN PART WITHIN THE EXTERIOR BOUNDARY OF THE FLATHEAD INDIAN RESERVATION.



FILE



STATEMENT OF CLAIM



76LJ



42598



00

Box Bar Code _____

File Bar Code _____

Date/Initials _____

Form No. 76-O R2/80

STATEMENT OF CLAIM FOR EXISTING WATER RIGHTS OTHER USES

RECEIVED

NOV 4 1981

MONTANA D.N.R.C. KALISPELL FIELD OFFICE

42598

76LJ

For the Water Courts of the State of Montana

LA-C 08-034-04-04 40.00

1. Owner of Water Right "Timbrshor" A Homeowners Assoc. Last First Middle Initial

Co-Owner or Other Interest Owner see attachment I Last First Middle Initial

Address FINLEY POINT

City POLSON State MT Zip Code 59860

Home Phone No. Business Phone No.

2. Person completing form Fraser Michael W. Last First Middle Initial

Address 3 Sunset Blvd.

City Kalispell State Montana Zip Code 59901

Home Phone No. 755-0257 Business Phone No. 755-5246

- 3. Use: DNRC (MD) (Check Only One) FR Fish Raceways GE Geothermal MN Mining FW Fish & Wildlife NV Navigation PG Power Generation CM Commercial FP Fire Protection RC Recreation IN Industrial AS Agricultural Spraying OT Other MC Municipal OF Oil Well Flooding Explain Condominium

- 4. Source of Water: DNRC (Check Only One) Spring Name Well Name Stream Name Tributary of Lake Name Flathead Lake Stream FLATHEAD RIVER Tributary of Clark Fork River Reservoir Name Stream Tributary of

5. Point of Diversion: County Lake SE 1/4 SW 1/4 NW 1/4, Section 7, T 23 N&R 19 E/W Gov't Lot 3, Block, Subdivision Borchers

- 6. Means of Diversion: Well Pump Capacity 25 gpm Headgate with ditch or pipeline Instream use Other Explain

- 7. Means of Conveyance: Ditch Instream Pipeline Other:

8. Place of Use: County Lake

Instream City or Town Other: Explain Condominium

Gov't 3 Lot, _____ Block, SE 1/4 SW 1/4 NW 1/4, Section 7, T 23 N/S, R 19 E/W
100 (Lot) _____ Block, _____ 1/4 _____ 1/4 _____ 1/4, Section _____, T _____ N/S, R _____ E/W
100 Lot, _____ Block, _____ 1/4 _____ 1/4 _____ 1/4, Section _____, T _____ N/S, R _____ E/W
100 Lot, _____ Block, _____ 1/4 _____ 1/4 _____ 1/4, Section _____, T _____ N/S, R _____ E/W
100 Lot, _____ Block, _____ 1/4 _____ 1/4 _____ 1/4, Section _____, T _____ N/S, R _____ E/W

Subdivision Borchers

9. Flow rate claimed: 25 cubic feet per second
 gallons per minute
 miner's inches

10. Volume claimed: 6 acre-feet per year

11. Period(s) of use: 1 / 1 to 12 / 31
Month Day Month Day

12. Check one: Decreed Water Right Priority date or date of first use
 Filed Appropriation Right _____ / _____ / _____ / 1959
 Use Water Right Hour Month Day Year

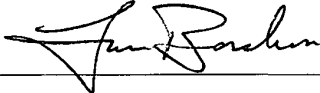
13. Attach copies of the Decree, Record of Filing or Proof of Use Right.

14. Attach copies of aerial photographs, U.S. Geological Survey maps or such other documents necessary to show point of diversion, place of use, place of storage, and conveyance facilities.

15. Notarized Statement signed by claimant.

STATE OF MONTANA)
County of Lake) :ss.

I, Louis F. Borchers, Jr., having been duly sworn, depose and say that I, being of legal age and being the claimant of this claim of existing water right, and the person whose name is signed to it as the claimant, know the contents of this claim and the matters and things stated there are true and correct.



Subscribed and sworn before me, this 30TH day of OCTOBER 19 81.

J. Brent Kauffman
Notary Public for the State of Montana

Residing at KALISPELL, MONTANA
My Commission expires MAY 12, 1983

42598

ATTACHMENT I.

Co-Owners - #4

306 - Everett & Frankie Selvig
3015 Stanford Drive
Billings, Montana 59101

307 - 309 Borchers of Finley Point
Polson, Montana 59860

308 - D. F. & Jeanne Johnson
3221 Reimers Park Drive
Billings, Montana 59101

AFFIDAVIT

42598

I, ~~WE~~, Louis F. Borders, Jr.
(Name of affiant)

know that on 1959 this pump
(date of priority) development (dam, spring, or etc.)

was developed and/or put to use on FLATHEAD LAKE for the purpose of
water source

domestic at a rate of 25 GPM and
type of use (GPM, CFS, or MI)

volume 6 acre feet. The point of diversion of this development

is in the SE 1/4 SW 1/4 NW 1/4 of Section 7, Township 23N, Range 19W, in

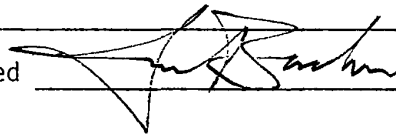
Lake County, and the place of use is in the SE 1/4 SW 1/4 NW 1/4

of Section 7, Township 23N, Range 19W in Lake County.

Please use the following space to provide additional pertinent information to

substantiate the water development: My father purchased this
property in 1956 and I have had varying degrees
of ownership ever since that time.

Signed



Subscribed and sworn before me this 16th day of Sept, 1981

Johan J. Miller
Notary Public for the State of _____

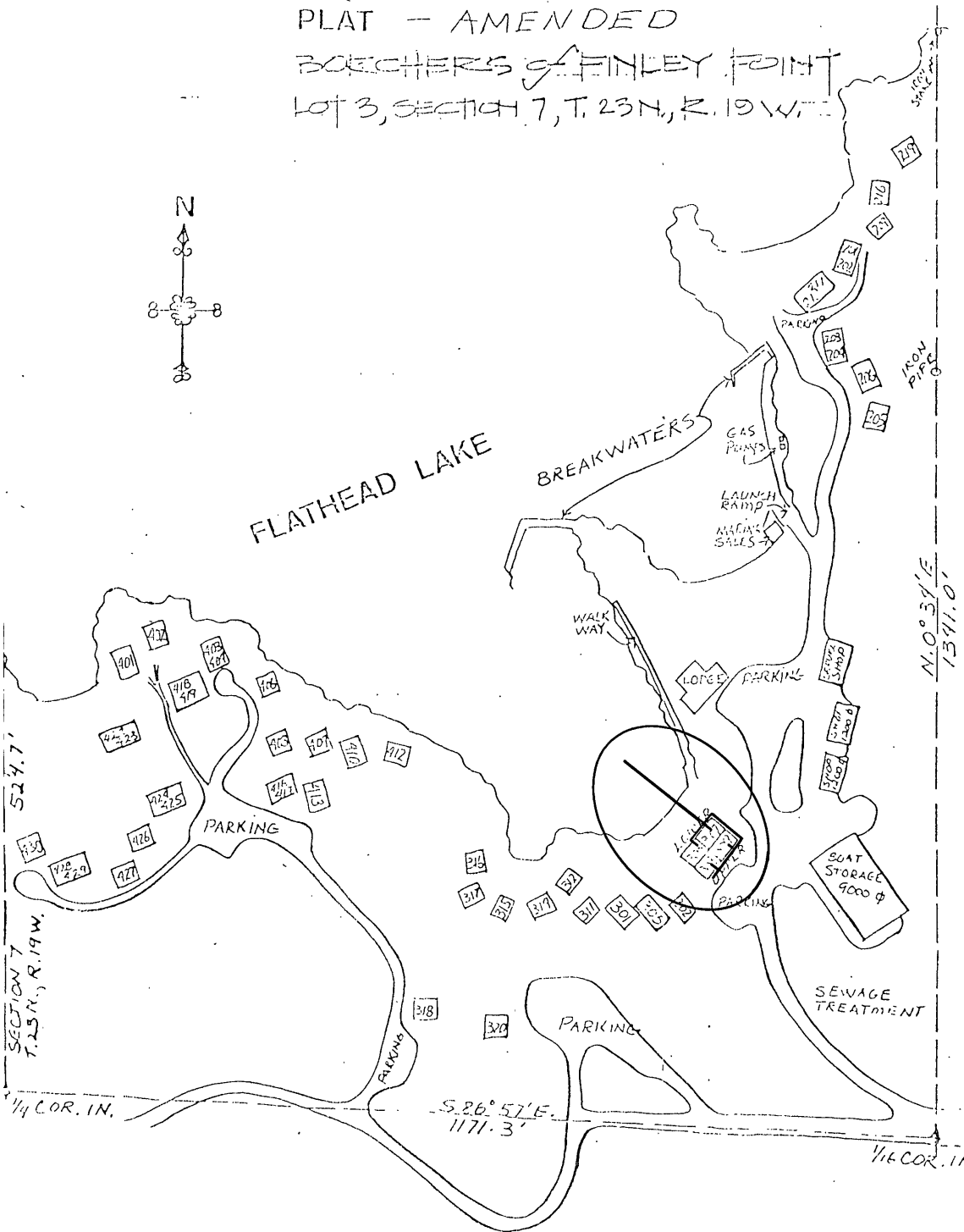
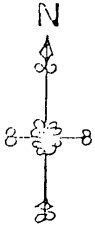
Residing at at Falls

My Commission expires July 23, 1983

Notary Public for the State of Montana
Residing at Great Falls, Montana
My Commission Expires July 23, 1983

42598

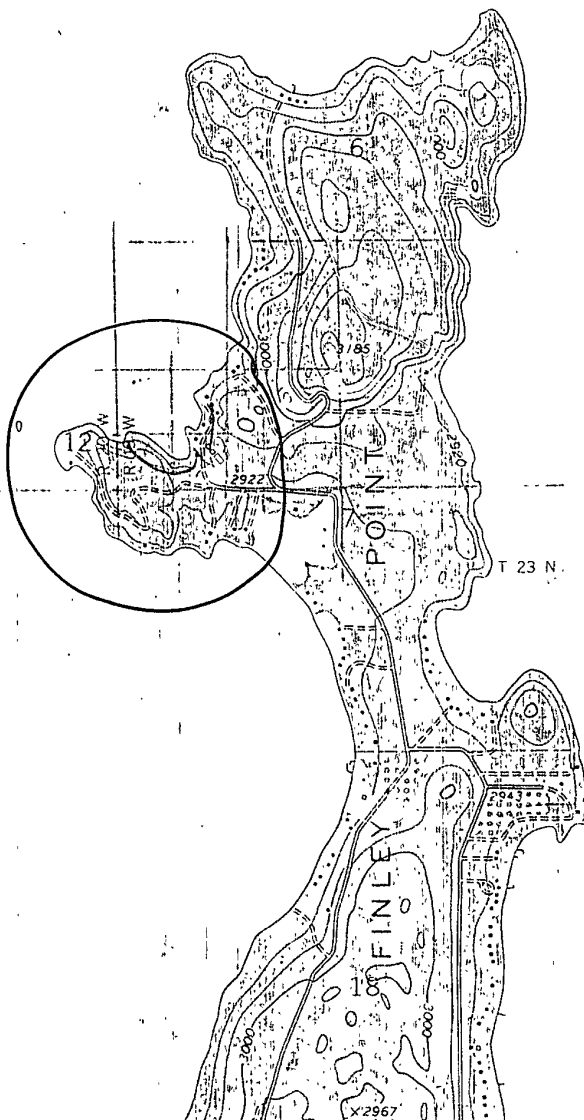
SCHEDULE A
PLAT - AMENDED
BOECHERS OF FINLEY POINT
LOT 3, SECTION 7, T. 23N., R. 19W.



THIS IS TO CERTIFY THAT I HAVE
EXAMINED THE ABOVE PLAT AND
FIND THE BUILDINGS & SITE
LOCATIONS TO BE IN CONFORMANCE
WITH THE ORIGINAL PLAT

[Signature]

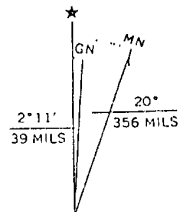
42598



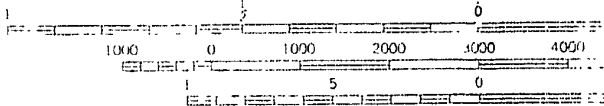
1716 1717 870 000 FEET 1718 1719 1 MI 10 MONT 15 (EAST BAY) 3179 11 NE

ed, edited, and published by the Geological Survey
by USGS and USC&GS

ography by photogrammetric methods from aerial
graphs taken 1958 Field checked 1964
ic projection 1927 North American datum
0 foot grid based on Montana coordinate system, central zone
meter Universal Transverse Mercator grid ticks,
1 shown in blue
omitted, land line has not been established



UTM GRID AND 1964 MAGNETIC NORTH
DECLINATION AT CENTER OF SHEET



SCALE 1:24 000

CONTOUR INTERVAL 40 FEET
DATUM IS MEAN SEA LEVEL

THIS MAP COMPLIES WITH NATIONAL MAP ACCURACY

STATEMENT OF CLAIM CHECKLIST

FORM TYPE: I S D O

42598

OK	NOT OK	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Received
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Basin
<input checked="" type="checkbox"/>	<input type="checkbox"/>	County
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Division
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Transmittal
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Fee
<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	

FORM ITEMS

	OK	NOT OK	
1	<input checked="" type="checkbox"/>	<input type="checkbox"/>	as/PHONE call
2	<input checked="" type="checkbox"/>	<input type="checkbox"/>	ADDRESS: FINLEY POINT, POLSON
3	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
4	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
5	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
6	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
7	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
8	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
9	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
10	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
11	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
12	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
13	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
14	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
15	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
16	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

Checked by BRIDGET OGSBURY 11/12/01
Date

DEFICIENT:

Phoned 755-5246 1200PM 11/12/01
Number Date

Sent Letter 1
To Date

Correction Deadline: _____
Date

Form Corrected _____
Date

Incomplete Form & Correspondence Sent To Helena

See notes on reverse side

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: 76LJ 42599 00 STATEMENT OF CLAIM
Version: -- ORIGINAL RIGHT
Version Status: ACTIVE

Owners: TIMBRSHOR
 FINLEY POINT
 POLSON, MT 59860

Priority Date: March 31, 1972
Enforceable Priority Date: March 31, 1972

Type of Historical Right: USE

Purpose (use): DOMESTIC
Purpose Clarification: CONDO #402

Maximum Flow Rate: 10 GPM

Maximum Volume: 1.50 AC-FT
Households: 1

Source Name: FLATHEAD RIVER (FLATHEAD LAKE)
Source Type: SURFACE WATER

Points 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	3	NWSWNW	7	23N	19W	LAKE
Period of Diversion: JANUARY 1 to DECEMBER 31						
Diversion Means: PUMP						

Period of Use: JANUARY 1 TO DECEMBER 31

Purpose (use): DOMESTIC **Purpose Clarification:** CONDO #402
Place of Use: (1 total records)

<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		3	NWSWNW	7	23N	19W	LAKE

THE PLACE OF USE IS LOCATED IN LOT W.

Geocodes/Valid:

Remarks:

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

THIS CLAIM IS LOCATED IN WHOLE OR IN PART WITHIN THE EXTERIOR BOUNDARY OF THE FLATHEAD INDIAN RESERVATION.

WATER RIGHT OWNERSHIP UPDATE RECEIVED 02/09/00.