Form No. 600/606-MIT *(01/2024)* **Applicant Name**

APPLICATION FOR BENEFICIAL WATER USE PERMIT OR APPLICATION TO CHANGE A WATER RIGHT

MITIGATION PURPOSE ADDENDUM

§ 85-2-420, 85-2-362, MCA

Mitigation and aquifer recharge are used to offset adverse effects resulting from the net depletion of surface water. Mitigation means the reallocation of surface water or ground water through a change in appropriation right or other means that does not result in surface water being introduced into an aquifer through aquifer recharge. Aquifer recharge means either the controlled subsurface addition of water directly to the aquifer or controlled application of water to the ground surface for the purpose of replenishing the aquifer. All net depletions to surface water located in a closed basin and net depletions that are greater than legal availability in open basins require mitigation or aquifer recharge to offset the net depletions. The department may not require an applicant, through an aquifer recharge or mitigation plan, to provide more water than the quantity needed to offset the adverse effects on a prior appropriator caused by the net depletion. An appropriation right that relies on an aquifer recharge or mitigation plan must require that the aquifer recharge or mitigation plan be exercised when the appropriation right is exercised. Marketing for mitigation allows a water right owner to change the purpose on their water right, or add a marketing for mitigation purpose, prior to having any projects requiring mitigation water. By completing this change prior to securing a use, the water remains available for mitigation for a period of up to 20 years while not subjecting the water right to abandonment proceedings. The owner may sell or lease all or a portion of the water for mitigation, depending upon the project needing mitigation. DNRC will not dictate the sale of the water for mitigation; however, DNRC must assess the mitigation water required and determine if the water provided is adequate with regard to quantity, timing, and location, as with any other mitigation water. Responses that are larger than the space provided can be answered in an attachment. If an attachment is used, specify “see attachment” on this form. Label all attachments with the question number.

1. Is mitigation water required to meet the criteria of issuance for an existing Application for Beneficial Water Use or Application to Change a Water Right or will the purpose be marketing for mitigation for a future mitigation purpose? ☐ **Existing Application** ☐ **Marketing for Mitigation**

2. If the mitigation water will help meet the criteria of issuance for an existing application, will the mitigation water be used to offset net depletions in an open or closed basin? Answer question 3 for open basins or question 4 for closed basins. ☐ **Open** ☐ **Closed**

If an open basin:

3. Submit an aquifer recharge or mitigation plan with sufficient detail to explain why the plan is adequate to prevent adverse effects. Include in the plan the amount, timing, and location of mitigation water. Compare this to the amount, timing, and location of the net depletions to provide evidence of how the aquifer recharge or mitigation plan will offset the required amount of net depletion of surface water in a manner that will offset an adverse effect on a prior appropriator. The information used to craft the plan can be found in the technical analyses. See the Technical Analysis Guide for more information.

If a closed basin:

4. If the hydrogeologic report conducted pursuant to §85-2-361, MCA, predicts that there will be a net depletion of surface water, submit an aquifer recharge or mitigation plan. The plan must include:

   (a) where and how the water in the plan will be put to beneficial use;

   (b) when and where, generally, water for aquifer recharge or mitigation will be required;

   (c) the amount of water that is required for aquifer recharge or mitigation;

   (d) how the proposed project or beneficial use for which the aquifer recharge or mitigation plan is required will be operated;

   (e) evidence that an application for a change in appropriation right, if necessary, has been submitted;

   (f) evidence of water availability;

   (g) evidence of how the aquifer recharge or mitigation plan will offset the required amount of net depletion of surface water in a manner that will offset an adverse effect on a prior appropriator; and

   (h) evidence that the appropriate water quality permits have been granted pursuant to Title 75, chapter 5, as required by 75-5-410, MCA, and 85-2-364, MCA.

   The information required for (b), (c), (f), and (g) can be found in the relevant technical analyses. See the Technical Analysis Guide for more information.

5. ☐ **Y** ☐ **N** Does the project involve aquifer recharge?
   5.1. If yes, then the aquifer recharge plan must include a description of the process by which water will be reintroduced to the aquifer.