

Montana Department of Natural Resources and Conservation  
Water Resources Division  
Water Rights Bureau

**ENVIRONMENTAL ASSESSMENT**  
**For Routine Actions with Limited Environmental Impact**

**Part I. Proposed Action Description**

**1. Applicant/Contact name and address:**

State of Montana, Department of Fish, Wildlife & Parks  
C/O Andy Brummond  
PO Box 938  
Lewistown, MT 59457

**2. Type of action:** Application to Change Water Right No. 41O 30138928

**3. Water source name:** Teton River

**4. Location affected by project:**

The historical point of diversion for Statement of Claim No. 41O 178147-00 (SWNESE of Section. 31, Township 25N, Range 9E, Chouteau County) to the Teton River's confluence with the Marias River near Loma, MT (NWSESE of Section 12, Township 25N, Range 9E, Chouteau County). This reach is approximately nine miles river miles long.

**5. Narrative summary of the proposed project, purpose, action to be taken, and benefits:**

The Applicant seeks to temporarily change Statements of Claim 41O 178147-00 and 41O 178148-00 from irrigation to instream flow protection within the Teton River. The Applicant proposes to protect the combined historical flow rate (8.7 CFS) and the combined historically diverted volume (504.4 AF) at the historical point of diversion for Statement of Claim No. 41O 178147-00. The Applicant proposes to protect the combined historically consumed flow rate (4.35 CFS) and historically consumed volume (252.2 AF) for Statements of Claim 41O 178147-00 and 41O 178148-00 from the historical point of diversion for Statement of Claim No. 41O 178147-00 to the Teton River's confluence with the Marias River near Loma, MT.

The DNRC shall issue an issue a change authorization if an applicant proves the criteria in 85-2-402 MCA are met.

**6. Agencies consulted during preparation of the Environmental Assessment:**

Montana Department of Fish, Wildlife, & Parks (DFWP)  
Montana Department of Environmental Quality (DEQ)  
Montana Natural Heritage Program Species of Concern Report  
U.S. Fish and Wildlife Service National (USFWS) Wetlands Inventory  
United States Department of Agriculture (USDA)  
National Resource Conservation Service (NRCS) Web Soil Survey

**Part II. Environmental Review**

**1. Environmental Impact Checklist:**

<b>PHYSICAL ENVIRONMENT</b>
-----------------------------

**WATER QUANTITY, QUALITY AND DISTRIBUTION**

**Water quantity** - Assess whether the source of supply is identified as a chronically or periodically dewatered stream by DFWP. Assess whether the proposed use will worsen the already dewatered condition.

The Applicant seeks to temporarily change Statements of Claim 41O 178147-00 and 41O 178148-00 from irrigation to instream flow protection within the Teton River. Additional water will be left in the Teton River, which is listed as a dewatered stream by Montana Fish, Wildlife & Parks (FWP).

*Determination:* No negative impact expected

**Water quality** - Assess whether the stream is listed as water quality impaired or threatened by DEQ, and whether the proposed project will affect water quality.

The Teton River has been assessed for beneficial uses by DEQ. Flathead Lake is identified by DEQ as fully supporting agriculture, primary contact recreation, and drinking water and not fully supporting aquatic life. It is anticipated that the Applicant's proposed instream flow protection will have a positive effect on the Teton River's water quality.

*Determination:* No negative impact expected

**Groundwater** - Assess if the proposed project impacts ground water quality or supply. If this is a groundwater appropriation, assess if it could impact adjacent surface water flows.

This appropriation does not involve groundwater.

*Determination:* No negative impact expected

**DIVERSION WORKS** - Assess whether the means of diversion, construction and operation of the appropriation works of the proposed project will impact any of the following: channel impacts, flow modifications, barriers, riparian areas, dams, well construction.

Water will be left instream to benefit the fishery. No diversion works will be required.

*Determination:* No negative impact expected

**UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES**

**Endangered and threatened species** - Assess whether the proposed project will impact any threatened or endangered fish, wildlife, plants or aquatic species or any “species of special concern,” or create a barrier to the migration or movement of fish or wildlife. For groundwater, assess whether the proposed project, including impacts on adjacent surface flows, would impact any threatened or endangered species or “species of special concern.”

The Montana National Heritage Program website was reviewed to determine if there are any “threatened” or “endangered” fish, wildlife, plants or aquatic species that could potentially be impacted by this project. “Species of special concern” were also included in this search. According to the Montana National Heritage Program, 11 animal species and 0 plant species of concern are located in Township 24N, Range 9E. This project is designed to leave additional water instream and it is not anticipated that any of the species of concern will be impacted by the proposed project.

Animal species include:

<b><u>Cynomys ludovicianus</u></b> Black-tailed Prairie Dog	<b><u>Phrynosoma hernandesi</u></b> Greater Short-horned Lizard
<b><u>Lasiurus cinereus</u></b> Hoary Bat	<b><u>Cycleptus elongatus</u></b> Blue Sucker
<b><u>Aquila chrysaetos</u></b> Golden Eagle	<b><u>Macrhybopsis gelida</u></b> Sturgeon Chub
<b><u>Ardea herodias</u></b> Great Blue Heron	<b><u>Sander canadensis</u></b> Sauger
<b><u>Coccyzus americanus</u></b> Yellow-billed Cuckoo	<b><u>Scaphirhynchus albus</u></b> Pallid Sturgeon
<b><u>Apalone spinifera</u></b> Spiny Softshell	

*Determination:* No negative impact expected

**Wetlands** - Consult and assess whether the apparent wetland is a functional wetland (according to COE definitions), and whether the wetland resource would be impacted.

No wetlands were identified within the project area.

*Determination:* No negative impact expected

**Ponds** - For ponds, consult and assess whether existing wildlife, waterfowl, or fisheries resources would be impacted.

No ponds exist within the project area.

*Determination:* No negative impact expected

**GEOLOGY/SOIL QUALITY, STABILITY AND MOISTURE** - Assess whether there will be degradation of soil quality, alteration of soil stability, or moisture content. Assess whether the soils are heavy in salts that could cause saline seep.

According to NRCS Web Soil Survey, the soils within the project area are primarily Riverwash, Rivra-Hanly complex, and Havre-Glendive complex, 0 to 2 percent slopes. Soil in this area is well drained, with a moderate water storage profile. Salinity properties of this soil are listed as approximately 5 to 10 percent. The stability of the soil profile and moisture content will not be significantly altered. No degradation of soil quality shall occur

*Determination:* No negative impact expected

**VEGETATION COVER, QUANTITY AND QUALITY/NOXIOUS WEEDS** - Assess impacts to existing vegetative cover. Assess whether the proposed project would result in the establishment or spread of noxious weeds.

Any impacts to existing vegetation will be within the range of current disturbances due to current land use practices. Noxious weeds are not expected to be established or spread due to the proposed project.

*Determination:* No negative impact expected

**AIR QUALITY** - Assess whether there will be a deterioration of air quality or adverse effects on vegetation due to increased air pollutants.

No deterioration of air quality or adverse air quality impacts from increased air pollutants are not expected due to this project. No air pollutants were identified as resulting from the applicants proposed use

*Determination:* No negative impact expected

**HISTORICAL AND ARCHEOLOGICAL SITES** - Assess whether there will be degradation of unique archeological or historical sites in the vicinity of the proposed project if it is on State or Federal Lands. If it is not on State or Federal Lands simply state NA-project not located on State or Federal Lands.

*Determination:* N/A- Project not located on State or Federal Lands.

**DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AND ENERGY** - *Assess any other impacts on environmental resources of land, water and energy not already addressed.*

No additional impacts to land, water, or energy have been identified and no further impacts are anticipated.

*Determination:* No negative impact expected

## **HUMAN ENVIRONMENT**

**LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS** - *Assess whether the proposed project is inconsistent with any locally adopted environmental plans and goals.*

This project is not located in an area with any known locally adopted environmental plans or goals.

*Determination:* No negative impact expected

**ACCESS TO AND QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES** - *Assess whether the proposed project will impact access to or the quality of recreational and wilderness activities.*

The proposed project will not inhibit, alter or impair access to present recreational opportunities in the area. The project is not expected to create any significant pollution, noise, or traffic congestion in the area that may alter the quality of recreational opportunities. The proposed place of use and diversion do not exist on land designated as wilderness.

*Determination:* No negative impact expected

**HUMAN HEALTH** - *Assess whether the proposed project impacts on human health.*

The proposed project creates no significant negative impact on human health.

*Determination:* No negative impact expected

**PRIVATE PROPERTY** - *Assess whether there are any government regulatory impacts on private property rights.*

*Yes* \_\_\_ *No* **X** \_\_\_ *If yes, analyze any alternatives considered that could reduce, minimize, or eliminate the regulation of private property rights.*

*Determination:* No known regulatory impacts

**OTHER HUMAN ENVIRONMENTAL ISSUES** - For routine actions of limited environmental impact, the following may be addressed in a checklist fashion.

Impacts on:

- (a) Cultural uniqueness and diversity? None identified
- (b) Local and state tax base and tax revenues? None identified
- (c) Existing land uses? None identified
- (d) Quantity and distribution of employment? None identified
- (e) Distribution and density of population and housing? None identified
- (f) Demands for government services? None identified
- (g) Industrial and commercial activity? None identified
- (h) Utilities? None identified
- (i) Transportation? None identified
- (j) Safety? None identified
- (k) Other appropriate social and economic circumstances? None identified

**2. *Secondary and cumulative impacts on the physical environment and human population:***

Secondary Impacts None identified

Cumulative Impacts None identified

**3. *Describe any mitigation/stipulation measures:*** None identified

**4. *Description and analysis of reasonable alternatives to the proposed action, including the no action alternative, if an alternative is reasonably available and prudent to consider:*** The only alternative to the proposed action would be the no action alternative. The no action alternative would be to not authorize Application to Change Water Right No. 41O 30138928

**PART III. Conclusion**

**1. *Preferred Alternative***

Issue Application to Change Water Right No. 41O 30138928 if the applicant proves the criteria in 85-2-402 MCA are met.

**2**      ***Comments and Responses***

None

**3.**      ***Finding:***

Yes \_\_\_ No **X** \_\_\_ *Based on the significance criteria evaluated in this EA, is an EIS required?*

*If an EIS is not required, explain why the EA is the appropriate level of analysis for this proposed action:*

No significant negative impacts related to the proposed project have been identified.

*Name of person(s) responsible for preparation of EA:*

*Name:* Troy Lechman

*Title:* Hydrologist, MTDNRC

*Date:* 03/31/2020