

**BEFORE THE DEPARTMENT OF
NATURAL RESOURCES AND CONSERVATION
OF THE STATE OF MONTANA**

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APPLICATION FOR BENEFICIAL WATER USE	)	DRAFT PRELIMINARY DETERMINATION TO
PERMIT NO. 40S 30175554 BY WILLISTON	)	GRANT
WATER MANAGEMENT, LLC.	)	

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On July 15, 2026, Williston Water Management LLC (Applicant) submitted Application for Beneficial Water Use Permit No. 40S 30175554 to the Havre Regional Office of the Department of Natural Resources and Conservation (Department or DNRC) for 6.7 CFS (3,000 GPM) and 670 AF for Industrial use. The Department published receipt of the application on its website. The Department sent the Applicant a deficiency letter under § 85-2-302, Montana Code Annotated (MCA), dated July 31, 2026. The Applicant responded with information dated August 4, 2026. A preapplication meeting was held between the Department and the Applicant on June 12, 2026, in which the Applicant designated that the technical analyses for this application would be completed by the Department. The Applicant returned the completed Preapplication Meeting Form: Part B on June 12, 2026. The Department delivered the completed technical analyses on June 17, 2026. The application was determined to be correct and complete as of August 6, 2026. An Environmental Assessment for this application was completed on August 6, 2026.

INFORMATION

The Department considered the following information submitted by the Applicant, which is contained in the administrative record.

Application as filed:

- Application for Beneficial Water Use Permit, Form 600
- Attachments:
 - Plan of Operation
 - Possessory Interest Attachments:

- Point of Diversion Temporary Easement and Exhibit A, Dated February 23, 2026.
- O&G Competitive Public Domain Lease Post 1987, Dated July 01, 2015.
- United States Department of the Interior Bureau of Land Management (USDI BLM) Offer to Lease and Lease for Oil and Gas, Case Recordation # MTMT105, Dated April 15, 2003.
- Adequate Means of Diversion and Operation Attachments:
 - Diagram of Project from POD to POU, Undated.
 - Fuel Tank Image, Undated.
 - Filter Pod Image
 - Super 86 Pump Specs and Curve
 - Pump Pressure Calculation
 - ZY Fire Pipeline Specs
 - Hose Clamp Overview and Specifications
 - Elevation Profile Chart
 - Specification Sheets and Calibration Report; Dura Mag Flow Meter, McCrometer
- Maps:
 - Slawson 392 Outpost & Federal Map, Dated January 27, 2026.
 - Slawson 392 Outpost & Federal Annotated Map, Dated January 27, 2026.
- Department-completed Surface Water Permit Technical Analyses Report based on information provided in the Preapplication Meeting Form, Dated June 17, 2026.

Information Received after Application Filed

- Deficiency Letter, sent by DNRC to Applicant, dated July 31, 2026.
- Deficiency Letter Responses to 40S 30175554 from Applicant, received by DNRC on August 4, 2026.
 - Beneficial Use – Slickwater Sand McKenzie County 12-gun Example Table
 - Possessory Interest – Affidavit, Dated August 3, 2026.
- Email Correspondence

- Subject Line: Williston Water Management, LLC Responses to 40S 30175554
 - Beneficial Use Table Clarification Email, sent by DNRC to Applicant on August 6, 2026.
 - Beneficial Use Table Clarification Response Email, sent by Applicant to DNRC on August 6, 2026.

Information within the Department's Possession/Knowledge

- Flow Records for United States Geological Survey (USGS) Gage #06185500, Missouri River, near Culbertson, MT.
- United States Geological Survey (USGS) StreamStats Web Application
- DNRC Water Right Information System (WRIS)
- DNRC ArcGIS WaterMapper Application
- DNRC Water Rights Query System
- Montana DNRC Permit Application Manual
- The Department also routinely considers the following information. The following information is not included in the administrative file for this application but is available upon request. Please contact the Havre Regional Office at 406-265-5516 to request copies of the following documents.
 - DNRC Technical Memorandum: Physical Availability of Surface Water with Gage Data, dated November 1, 2019.
 - Lower Missouri River Basin Final Order of the Board of Natural Resources and Conservation, dated December 30, 1994.
 - U.S. Army Corps of Engineers, Northwestern Division. (2018, November). *Missouri River Mainstem Reservoir System master water control manual: Missouri River Basin.*

The Department has fully reviewed and considered the evidence and argument submitted in this application and preliminarily determines the following pursuant to the Montana Water Use Act (Title 85, chapter 2, part 3, MCA).

For the purposes of this document, Department or DNRC means the Department of Natural Resources & Conservation; USGS means United States Geological Survey; CD means Conservation District; CFS means cubic feet per second; GPM means gallons per minute; AF means acre-feet; AC means acres; AF/YR means acre-feet per year; BBL means barrel; POU means place of use; and POD means point of diversion.

PROPOSED APPROPRIATION

FINDINGS OF FACT

1. The Applicant proposes diverting water via a pump in Lot 1, SWNESE, Section 14, T26N, R59E, Roosevelt County, from November 1 to June 30, from the Missouri River at a rate of 6.7 CFS (3,000 GPM). 670 AF of water would be used between November 1 and June 30 for Industrial use in Lot 4, NWNW, Section 02, T26N, R59E, Roosevelt County. The Applicant proposes to use water for oil field development.

Table 1. Summary of Proposed Use

Flow Rate (CFS)	Volume (AF)	Purpose	Period of Use	Point of Diversion	Place of Use	Priority Date
6.7	670	Industrial	November 1 - June 30	Lot 1, SWNESE, Section 14, T26N, R59E, Roosevelt County.	Lot 4, NWNW, Section 02, T26N, R59E, Roosevelt County.	July 15, 2026 12:00 PM

2. There will be no supplemental water rights associated with the proposed appropriation or the POU.

3. Williston Water Management LLC, the Applicant, is a water transfer company and is an affiliate or subsidiary of Slawson Companies, Inc. Slawson Exploration Company, Inc., an affiliated entity, is an oil and gas operator for Slawson Companies, Inc.

4. This is a temporary permit; the appropriations will cease by December 31, 2030.

5. The application will be subject to the following conditions:

THE APPROPRIATOR SHALL INSTALL A DEPARTMENT APPROVED IN-LINE FLOW METER AT A POINT IN THE DELIVERY LINE APPROVED BY THE DEPARTMENT. WATER MUST NOT BE DIVERTED UNTIL THE REQUIRED MEASURING DEVICE IS IN PLACE AND OPERATING. ON A FORM PROVIDED BY THE DEPARTMENT, THE APPROPRIATOR SHALL KEEP A

WRITTEN MONTHLY RECORD OF THE FLOW RATE AND VOLUME OF ALL WATER DIVERTED, INCLUDING THE PERIOD OF TIME. RECORDS SHALL BE SUBMITTED BY JANUARY 31ST OF EACH YEAR AND UPON REQUEST AT OTHER TIMES DURING THE YEAR. FAILURE TO SUBMIT REPORTS MAY BE CAUSE FOR REVOCATION OF A PERMIT OR CHANGE. THE RECORDS MUST BE SENT TO THE WATER RESOURCES REGIONAL OFFICE. THE APPROPRIATOR SHALL MAINTAIN THE MEASURING DEVICE, SO IT ALWAYS OPERATES PROPERLY AND MEASURES FLOW RATE AND VOLUME ACCURATELY.

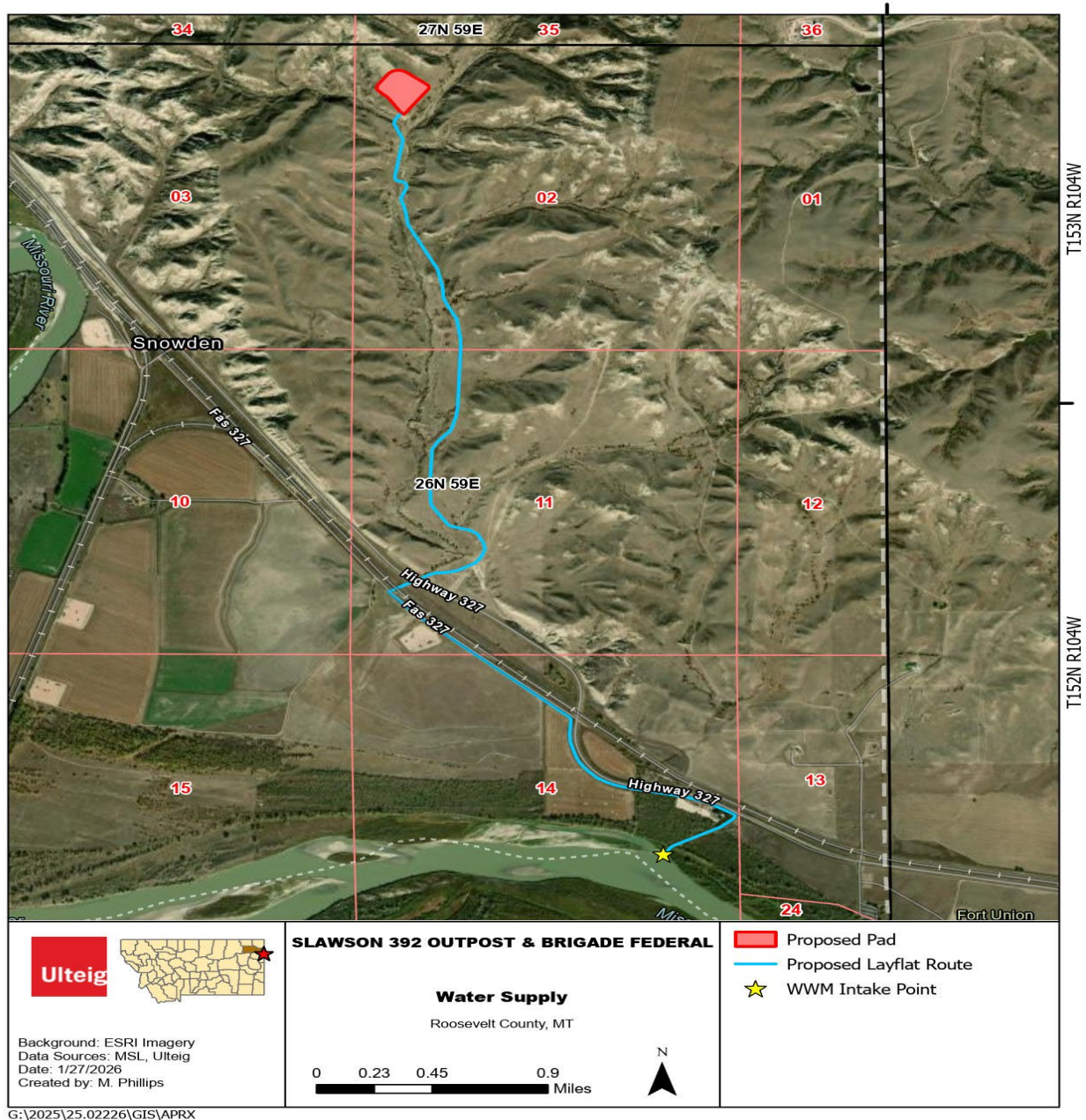


Figure 1. Applicant-provided Map of the proposed WWM Intake Point (POD) and proposed pad location (POU) on the Missouri River dated January 27, 2026.

BENEFICIAL WATER USE PERMIT CRITERIA (§ 85-2-311, MCA)

GENERAL CONCLUSIONS OF LAW

6. The Montana Constitution expressly recognizes in relevant part that:

- (1) All existing rights to the use of any waters for any useful or beneficial purpose are hereby recognized and confirmed.
- (2) The use of all water that is now or may hereafter be appropriated for sale, rent, distribution, or other beneficial use . . . shall be held to be a public use.
- (3) All surface, underground, flood, and atmospheric waters within the boundaries of the state are the property of the state for the use of its people and are subject to appropriation for beneficial uses as provided by law.

Mont. Const. Art. IX, § 3. While the Montana Constitution recognizes the need to protect senior appropriators, it also recognizes a policy to promote the development and use of the waters of the state by the public. This policy is further expressly recognized in the water policy adopted by the Legislature codified at § 85-2-102, MCA, which states in relevant part:

- (1) Pursuant to Article IX of the Montana constitution, the legislature declares that any use of water is a public use and that the waters within the state are the property of the state for the use of its people and are subject to appropriation for beneficial uses as provided in this chapter. . . .
- (3) It is the policy of this state and a purpose of this chapter to encourage the wise use of the state's water resources by making them available for appropriation consistent with this chapter and to provide for the wise utilization, development, and conservation of the waters of the state for the maximum benefit of its people with the least possible degradation of the natural aquatic ecosystems. In pursuit of this policy, the state encourages the development of facilities that store and conserve waters for beneficial use, for the maximization of the use of those waters in Montana . . .

7. Pursuant to § 85-2-302(1), MCA, except as provided in §§ 85-2-306 and 85-2-369, MCA, a person may not appropriate water or commence construction of diversion, impoundment, withdrawal, or related distribution works except by applying for and receiving a permit from the Department. See § 85-2-102(1), MCA. An Applicant in a beneficial water use permit proceeding must affirmatively prove all of the applicable criteria in § 85-2-311, MCA. Section § 85-2-311(1) states in relevant part:

- ... the department shall issue a permit if the Applicant proves by a preponderance of evidence that the following criteria are met:
- (a) (i) there is water physically available at the proposed point of diversion in the amount that the Applicant seeks to appropriate; and
 - (ii) water can reasonably be considered legally available during the period in which the Applicant seeks to appropriate, in the amount requested, based on the records of the department and other evidence provided to the department. Legal availability is determined using an analysis involving the following factors:

- (A) identification of physical water availability;
 - (B) identification of existing legal demands on the source of supply throughout the area of potential impact by the proposed use; and
 - (C) analysis of the evidence on physical water availability and the existing legal demands, including but not limited to a comparison of the physical water supply at the proposed point of diversion with the existing legal demands on the supply of water.
- (b) the water rights of a prior appropriator under an existing water right, a certificate, a permit, or a state water reservation will not be adversely affected. In this subsection (1)(b), adverse effect must be determined based on a consideration of an Applicant's plan for the exercise of the permit that demonstrates that the Applicant's use of the water will be controlled so the water right of a prior appropriator will be satisfied;
- (c) the proposed means of diversion, construction, and operation of the appropriation works are adequate;
- (d) the proposed use of water is a beneficial use;
- (e) the Applicant has a possessory interest or the written consent of the person with the possessory interest in the property where the water is to be put to beneficial use, or if the proposed use has a point of diversion, conveyance, or place of use on national forest system lands, the Applicant has any written special use authorization required by federal law to occupy, use, or traverse national forest system lands for the purpose of diversion, impoundment, storage, transportation, withdrawal, use, or distribution of water under the permit;
- (f) the water quality of a prior appropriator will not be adversely affected;
- (g) the proposed use will be substantially in accordance with the classification of water set for the source of supply pursuant to 75-5-301(1); and
- (h) the ability of a discharge permit holder to satisfy effluent limitations of a permit issued in accordance with Title 75, chapter 5, part 4, will not be adversely affected.
- (2) The Applicant is required to prove that the criteria in subsections (1)(f) through (1)(h) have been met only if a valid objection is filed. A valid objection must contain substantial credible information establishing to the satisfaction of the department that the criteria in subsection (1)(f), (1)(g), or (1)(h), as applicable, may not be met. For the criteria set forth in subsection (1)(g), only the department of environmental quality or a local water quality district established under Title 7, chapter 13, part 45, may file a valid objection.

To meet the preponderance of evidence standard, “the Applicant, in addition to other evidence demonstrating that the criteria of subsection (1) have been met, shall submit hydrologic or other evidence, including but not limited to water supply data, field reports, and other information developed by the Applicant, the department, the U.S. geological survey, or the U.S. natural resources conservation service and other specific field studies.” Section 85-2-311(5), MCA (emphasis added). The determination of whether an application has satisfied the § 85-2-

311, MCA criteria is committed to the discretion of the Department. *Bostwick Properties, Inc. v. Montana Dept. of Natural Resources and Conservation*, 2009 MT 181, ¶ 21. The Department is required grant a permit only if the § 85-2-311, MCA, criteria are proven by the Applicant by a preponderance of the evidence. *Id.* A preponderance of evidence is “more probably than not.” *Hohenlohe v. DNRC*, 2010 MT 203, ¶¶ 33, 35, 357 Mont. 438, 240 P.3d 628.

8. Pursuant to § 85-2-312, MCA, the Department may condition permits as it deems necessary to meet the statutory criteria:

(1) (a) The department may issue a permit for less than the amount of water requested, but may not issue a permit for more water than is requested or than can be beneficially used without waste for the purpose stated in the application. The department may require modification of plans and specifications for the appropriation or related diversion or construction. The department may issue a permit subject to terms, conditions, restrictions, and limitations it considers necessary to satisfy the criteria listed in 85-2-311 and subject to subsection (1)(b), and it may issue temporary or seasonal permits. A permit must be issued subject to existing rights and any final determination of those rights made under this chapter.

E.g., Montana Power Co. v. Carey (1984), 211 Mont. 91, 96, 685 P.2d 336, 339 (requirement to grant applications as applied for, would result in, “uncontrolled development of a valuable natural resource” which “contradicts the spirit and purpose underlying the Water Use Act.”); *see also, In the Matter of Application for Beneficial Water Use Permit No. 65779-76M by Barbara L. Sowers* (DNRC Final Order 1988)(conditions in stipulations may be included if it further compliance with statutory criteria); *In the Matter of Application for Beneficial Water Use Permit No. 42M-80600 and Application for Change of Appropriation Water Right No. 42M-036242 by Donald H. Wyrick* (DNRC Final Order 1994); Admin. R. Mont. (ARM) 36.12.207.

9. The Montana Supreme Court further recognized in *Matter of Beneficial Water Use Permit Numbers 66459-76L, Ciotti: 64988-G76L, Starner*, 278 Mont. 50, 60-61, 923 P.2d 1073, 1079, 1080 (1996), *superseded by legislation on another issue*:

Nothing in that section [85-2-313], however, relieves an Applicant of his burden to meet the statutory requirements of § 85-2-311, MCA, before DNRC may issue that provisional permit. Instead of resolving doubts in favor of appropriation, the Montana Water Use Act requires an Applicant to make explicit statutory showings that there are unappropriated waters in the source of supply, that the water rights

of a prior appropriator will not be adversely affected, and that the proposed use will not unreasonably interfere with a planned use for which water has been reserved.

See also, Wesmont Developers v. DNRC, CDV-2009-823, First Judicial District Court, *Memorandum and Order* (2011). The Supreme Court likewise explained that:

.... unambiguous language of the legislature promotes the understanding that the Water Use Act was designed to protect senior water rights holders from encroachment by junior appropriators adversely affecting those senior rights.

Montana Power Co., 211 Mont. at 97-98, 685 P.2d at 340; *see also* Mont. Const. art. IX § 3(1).

10. An appropriation, diversion, impoundment, use, restraint, or attempted appropriation, diversion, impoundment, use, or restraint contrary to the provisions of § 85-2-311, MCA is invalid. An officer, agent, agency, or employee of the state may not knowingly permit, aid, or assist in any manner an unauthorized appropriation, diversion, impoundment, use, or other restraint. A person or corporation may not, directly or indirectly, personally or through an agent, officer, or employee, attempt to appropriate, divert, impound, use, or otherwise restrain or control waters within the boundaries of this state except in accordance with this § 85-2-311, MCA. Section 85-2-311(6), MCA.

11. The Department may take notice of judicially cognizable facts and generally recognized technical or scientific facts within the Department's specialized knowledge, as specifically identified in this document. ARM 36.12.221(4).

PHYSICAL AVAILABILITY

FINDINGS OF FACT

12. The Applicant is requesting to divert water from November 1 through June 30 for Industrial use from the Missouri River at a rate of 6.7 CFS up to 670 AF/YR. This is a temporary permit, and the appropriation will cease by December 31, 2030.

13. Pursuant to ARM 36.12.1702, available stream gage records will be used to quantify physical availability using the median of the mean monthly flow rate and volume during the proposed months of diversion.

- a. USGS Gage #06185500, Missouri River near Culbertson, MT, is the nearest gage site to the proposed POD and is 29.3 miles upstream of the POD. The period of record for this gage is from July 1941 to December 1951 and April 1958 to October 2024. Data from January 1952 to March 1958 is unavailable. The Department utilized a shortened period of record, from April 1958 to October 2024, to better reflect the current stream conditions. This truncated period of record was selected because:
 - i. Gage data from 1941 to 1951 show that the daily flow regime data behave differently from data observed from 1958 to 2024. The earlier data shows larger data swings, higher highs, and lower lows.
 - ii. The Missouri River Mainstem Reservoir System master water control manual: Missouri River Basin provides supporting documentation that in 1952, the regulation of the mainstem reservoirs on the Missouri River broadened from a single reservoir to a six-reservoir system, with navigation influencing more controlled releases.
- b. The Department calculated the median of the mean monthly flow rates in cubic feet per second (CFS) for the Missouri River using USGS Gage #06185500 records for each month of the proposed period of diversion (Table 2, column B). Those flows were converted to monthly volumes in AF (Table 2, column C) using the following equation found on the DNRC Water Calculation Guide: median of the mean monthly flow (CFS) $\times$ 1.98 (AF/day/1 CFS) $\times$ days per month = AF/month.

Table 2. Physical Availability at the proposed POD on the Missouri River

A	B	C
Month	Median of the Mean Monthly Flow at USGS Gage #06185500 (CFS)	Median of the Mean Monthly Volume at USGS Gage #06185500 (AF)
January	11,209.03	688,010.38
February	11,339.66	628,670.47
March	9,987.90	613,057.49
April	7,999.67	475,180.22
May	8,655.81	531,293.37
June	9,546.67	567,072.02
November	7,259.00	431,184.60
December	9,869.35	605,780.98

14. Table 3 lists the existing water rights between USGS Gage #06185500 and the proposed POD.

15. The Department calculated the monthly flow rate and volumes appropriated by existing users upstream of the gage on the source (Table 4, columns D & E) by:

- a. Generating a list of existing water rights from the USGS Gage #06185500 to the proposed POD.
- b. Designating Irrigation and Lawn and Garden uses with no period of diversion as occurring from April 1 to October 31.
- c. Designating all other water uses with no period of diversion as year-round uses.
- d. Calculating the flow rate of all Livestock Direct from Source water rights drinking from the reach of interest using either 30 GPD/AU and adding 35 GPM for Statements of Claim or 15 GPD/AU and adding 35 GPM for all other water rights.
- e. Calculating a volume for all Livestock Direct from Source rights without a designated volume by multiplying the number of AU by 30 GPD/AU for Statements of Claim or 15 GPD/AU.
- f. Calculating a volume for all Irrigation rights without a designated volume by multiplying the number of acres by 2.69 AF/AC per Department water use standards for a moderate consumptive use climatic area.
- g. Assuming that the flow rate of each existing right is continuously diverted throughout each month of the period of diversion. This assumption is necessary due to the difficulty of differentiating the distribution of appropriated volume over the period of diversion. This leads to an overestimation of existing uses from the source. The Department finds this an appropriate measure of assessing existing rights as it protects existing water users.

Table 3. Existing Water Rights between the USGS Gage #06185500 and the Proposed POD

Water Right Number	Flow Rate (CFS)	Volume (AF)	Period of Diversion	Water Right Type
40S 77646 00	0.68	365	01/01 to 12/31	WATER RESERVATION

40S 188165 00 ³	0.13	37.96	01/01 to 12/31	STATEMENT OF CLAIM
40S 13498 00	2.23	324	05/01 to 10/01	PROVISIONAL PERMIT
40S 97742 00	2.67	542.7	05/01 to 09/30	PROVISIONAL PERMIT
40S 30142629 ³	0.08	0.34	01/01 to 12/31	STATEMENT OF CLAIM
40S 186739 00 ³	0.13	37.96	01/01 to 12/31	STATEMENT OF CLAIM
40S 186742 00 ²	2.9	544	04/15 to 10/19	STATEMENT OF CLAIM
40S 30142666 ³	0.08	0.1	01/01 to 12/31	STATEMENT OF CLAIM
40S 106915 00	3.9	520	4/15 to 10/15	CONSERVATION DISTRICT RECORD
40S 30071102	0.02	1.25	04/01 to 10/31	PROVISIONAL PERMIT
40S 106914 00	5.1	804	04/01 to 10/15	CONSERVATION DISTRICT RECORD
40S 188166 00 ³	0.13	37.96	01/01 to 12/31	STATEMENT OF CLAIM
40S 137580 00 ³	0.08	0.54	01/01 to 12/31	STATEMENT OF CLAIM
40S 30123529 ³	0.1	13.6	01/01 to 12/31	STATEMENT OF CLAIM
40S 188167 00 ³	0.13	37.96	01/01 to 12/31	STATEMENT OF CLAIM
40S 30142623 ³	0.08	0.1	01/01 to 12/31	STATEMENT OF CLAIM
40S 30142624 ³	0.08	0.54	01/01 to 12/31	STATEMENT OF CLAIM
40S 114654 00	2.7	451	04/01 to 10/15	CONSERVATION DISTRICT RECORD
40S 106990 00	4.2	636	04/15 to 10/15	CONSERVATION DISTRICT RECORD
40S 74618 00	2.23	540	04/01 to 9/15	PROVISIONAL PERMIT
40S 186744 00 ³	0.13	37.96	01/01 to 12/31	STATEMENT OF CLAIM
40S 137593 00 ³	0.08	1.29	01/01 to 12/31	STATEMENT OF CLAIM
40S 30142622 ³	0.08	2.45	01/01 to 12/31	STATEMENT OF CLAIM
40S 186743 00 ³	0.13	37.96	01/01 to 12/31	STATEMENT OF CLAIM
40S 30113093	4.2	243	01/01 to 12/31	PROVISIONAL PERMIT
40S 137594 00 ³	0.08	1.9	01/01 to 12/31	STATEMENT OF CLAIM
40S 137592 00 ³	0.08	0.88	01/01 to 12/31	STATEMENT OF CLAIM
40S 30153305	1.5	210	01/01 to 12/31	PROVISIONAL PERMIT
40S 30161904	6.68	600	01/01 to 12/31	PROVISIONAL PERMIT
40S 137576 00 ³	0.08	1.29	01/01 to 12/31	STATEMENT OF CLAIM
40S 186738 00	0.14	43.06	01/01 to 12/31	STATEMENT OF CLAIM
40S 171255 00 ¹	15.6	1,827.36	04/15 to 10/19	STATEMENT OF CLAIM
40S 30142668 ³	0.08	0.07	01/01 to 12/31	STATEMENT OF CLAIM
40S 12708 00	8.02	1,388	04/15 to 11/15	PROVISIONAL PERMIT
40S 135792 00 ³	0.09	7.89	01/01 to 12/31	STATEMENT OF CLAIM
40S 215560 00 ¹	1.44	102.22	04/01 to 11/04	STATEMENT OF CLAIM
40S 30172430	0	124.45	04/01 to 10/19	CONSERVATION DISTRICT RECORD

40S 30132248 ³	0.68	17	01/01 to 12/31	STATEMENT OF CLAIM
40S 188168 00 ³	0.13	37.96	01/01 to 12/31	STATEMENT OF CLAIM
40S 135791 00 ³	0.09	10.34	01/01 to 12/31	STATEMENT OF CLAIM
40S 99060 00	2.23	309.7	05/01 to 09/30	PROVISIONAL PERMIT
40S 172261 00 ²	41.1	1,296	04/01 to 11/30	STATEMENT OF CLAIM
40S 66293 00	8.91	408	04/20 to 10/01	PROVISIONAL PERMIT
40S 66294 00	8.91	165	04/20 to 10/01	PROVISIONAL PERMIT
40S 7775 00	6.68	1,500	04/15 to 10/15	PROVISIONAL PERMIT
40S 114723 00	2.2	340	04/01 to 10/15	CONSERVATION DISTRICT RECORD
40S 30072269	4.01	396.4	04/15 to 10/15	PROVISIONAL PERMIT
40S 17852 00	8.91	200	05/01 to 10/01	PROVISIONAL PERMIT
40S 109530 00	21.4	282	04/01 to 10/15	CONSERVATION DISTRICT RECORD
40S 111449 00	10	408	04/01 to 10/15	CONSERVATION DISTRICT RECORD
40S 172341 00 ³	0.13	34	01/01 to 12/31	STATEMENT OF CLAIM
40S 106912 00	5.6	150	04/15 to 10/15	CONSERVATION DISTRICT RECORD
40S 4010 00	13.37	1,440	05/01 to 10/01	PROVISIONAL PERMIT
40S 30164987	8.9	755	01/01 to 12/31	TEMPORARY PERMIT
40S 109529 00 ⁴	10.67	-	04/01 to 10/15	PROVISIONAL PERMIT
40S 7832 00	4.46	2125	04/01 to 10/15	PROVISIONAL PERMIT
40S 41349 00 ²	9	491.4	05/01 to 09/19	STATEMENT OF CLAIM
40S 30063074	4.5	140	01/01 to 12/31	PROVISIONAL PERMIT
40S 30142625 ³	0.08	0.204	01/01 to 12/31	STATEMENT OF CLAIM
40S 30142667 ³	0.08	0.204	01/01 to 12/31	STATEMENT OF CLAIM
40S 30004263	3	330	04/01 to 10/15	CONSERVATION DISTRICT RECORD
40S 30043999	8.91	159.6	04/01 to 10/15	CONSERVATION DISTRICT RECORD
40S 30030363 ¹	20.05	498.15	04/15 to 10/19	STATEMENT OF CLAIM
40S 135793 00 ³	0.1	13.6	01/01 to 12/31	STATEMENT OF CLAIM
40S 135782 00 ³	0.8	0.27	01/01 to 12/31	STATEMENT OF CLAIM
40S 135783 00 ³	0.08	0.48	01/01 to 12/31	STATEMENT OF CLAIM
40S 135784 00 ³	0.08	0.54	01/01 to 12/31	STATEMENT OF CLAIM
40S 130566 00 ¹	10.53	675.54	04/01 to 10/31	STATEMENT OF CLAIM
40S 30031187	2.67	168.7	04/15 to 10/15	PROVISIONAL PERMIT
40S 7826 00	5.56	380	04/15 to 10/15	PROVISIONAL PERMIT
40S 74095 00 ⁵	8.91	130	04/01 to 10/31	PROVISIONAL PERMIT
40S 84851 00	21.83	1,451	04/01 to 11/01	PROVISIONAL PERMIT
40S 3227 00 ²⁵	20.05	1693	04/01 to 10/31	STATEMENT OF CLAIM
40S 30142615 ³	0.08	0.48	01/01 to 12/31	STATEMENT OF CLAIM

40S 77506 00	11.14	416	04/01 to 10/01	PROVISIONAL PERMIT
40S 30142670 ³	0.08	0.48	01/01 to 12/31	STATEMENT OF CLAIM
40S 30069082	1.55	60	04/01 to 10/15	CONSERVATION DISTRICT RECORD
40S 9852 00	1.67	60	01/01 to 12/31	PROVISIONAL PERMIT
40S 187284 00	0.01	3	01/01 to 12/31	STATEMENT OF CLAIM
40S 30164889	12	860.17	01/01 to 12/31	PROVISIONAL PERMIT
40S 30010979	6.7	536	04/01 to 10/15	CONSERVATION DISTRICT RECORD
40S 30015443	0.33	20	04/01 to 10/15	CONSERVATION DISTRICT RECORD
40S 30048277	4.5	522.1	01/01 to 12/31	PROVISIONAL PERMIT
40S 30003106	0	24	04/01 to 10/15	CONSERVATION DISTRICT RECORD
40S 130516 00 ²	1.67	60	03/01 to 11/30	STATEMENT OF CLAIM
40S 11818 00	1.67	184	04/15 to 10/15	PROVISIONAL PERMIT
40S 187283 00 ³	0.08	2.04	01/01 to 12/31	STATEMENT OF CLAIM
40S 103653 00	1.3	147	04/01 to 10/15	CONSERVATION DISTRICT RECORD
40S 130567 00	11.14	172	01/01 to 12/31	STATEMENT OF CLAIM
40S 171828 00 ²	1.78	285	04/01 to 10/31	STATEMENT OF CLAIM
40S 111301 00	5.1	302	04/15 to 10/15	CONSERVATION DISTRICT RECORD
40S 135790 00	0.08	0.88	01/01 to 12/31	STATEMENT OF CLAIM
40S 114722 00	3.4	203	04/15 to 10/15	CONSERVATION DISTRICT RECORD
40S 19231 00	25.06	3,340	05/01 to 06/30	PROVISIONAL PERMIT
40S 5477 00 ²	10.03	600	05/01 to 08/31	STATEMENT OF CLAIM
40S 12810 00	13.37	540	03/01 to 11/01	PROVISIONAL PERMIT
40S 137598 00 ³	0.09	7.75	01/01 to 12/31	STATEMENT OF CLAIM
40S 30 00	25.06	3,340	07/01 to 09/30	PROVISIONAL PERMIT
40S 142799 00 ²	0.89	225	01/01 to 12/31	STATEMENT OF CLAIM
40S 171290 00 ¹	4.46	170.1	04/15 to 11/04	STATEMENT OF CLAIM
40S 30152855	5.71	925	01/01 to 12/31	TEMPORARY PERMIT
40S 46536 00 ¹	2.5	267.3	04/01 to 10/31	STATEMENT OF CLAIM
40S 104510 00	2.6	145	04/15 to 10/15	CONSERVATION DISTRICT RECORD
40S 30142626 ³	0.08	0.31	01/01 to 12/31	STATEMENT OF CLAIM
40S 5479 00 ²	2.67	50	05/01 to 08/31	STATEMENT OF CLAIM

¹ Irrigation - Volume via Climatic Area

² Irrigation - Volume as Claimed

³ Livestock Direct from Source

⁴ Flow Rate Only

⁵ Assigned Period of Diversion

16. Department practice for physical availability analyses in which the gage is upstream of the POD is to subtract the monthly flow rates of existing water rights defined in Table 4, column D between the gage and the POD from the median of the mean monthly flows at the gage defined in Table 4, column B to find the total physical availability for monthly flow rate defined in Table

4, column F. The same methodology was applied to Table 4, columns E&C, to calculate total physical availability for monthly water volumes defined in Table 4, column G. See calculation details below in Table 4.

Table 4. Physical Availability at the Proposed POD on the Missouri River

A	B	C	D	E	F	G
Month	Median of the Mean Monthly Flow at USGS Gage #06185500 (CFS)	Median of the Mean Monthly Volume at USGS Gage #06185500 (AF)	Existing Water Rights from USGS Gage #06185500 to POD (CFS)	Existing Water Rights from USGS Gage #06185500 to POD (AF)	Physically Available Water at POD (CFS)	Physically Available Water at POD (AF)
January	11,209.03	688,010.38	67.09	459.05	11,141.94	687,551.33
February	11,339.66	628,670.47	67.09	459.05	11,272.56	628,211.42
March	9,987.90	613,057.49	68.76	465.72	9,919.14	612,591.77
April	7,999.67	475,180.22	396.22	3,695.98	7,603.44	471,484.24
May	8,655.81	531,293.37	472.39	6,190.04	8,183.41	525,103.33
June	9,546.67	567,072.02	472.39	5,633.38	9,074.27	561,438.64
November	7,259.00	431,184.60	137.15	902.76	7,121.85	430,281.84
December	9,869.35	605,780.98	67.09	459.05	9,802.26	605,321.93

17. The Department finds surface water is physically available during the proposed period of diversion at the proposed POD in the amount the Applicant seeks to appropriate.

LEGAL AVAILABILITY

FINDINGS OF FACT

18. The Department determined that the Area of Potential Impact extends 0.8mi downstream to the Montana/North Dakota State Border (Section 24, T26N, R59E, Richland County). A total of 5 surface water rights exist within the reach.

19. The Missouri River is a major surface water source compared to other streams in the area. Because there are no significant tributaries or confluences between the POD and the exit of the Missouri River into North Dakota, the Department will designate said reach as the Area of Potential Impact.

20. A list of water rights that divert from the Missouri River from the proposed POD in Lot 1, SWNESE, Section 14, T26N, R59E, Roosevelt County, to 0.8 miles downstream was compiled using the DNRC GIS web application Water Mapper and DNRC Water Rights Query System. These water rights include one Provisional Permit (Table 5), the Montana Fish, Wildlife & Parks Instream Flow Right, 40S 30017671 (Table 6), the Fort Peck Tribal Reserved Claim (Fort Peck-Montana Compact, MCA §85-20-201, Article III, F.1) (Table 7), and both the Richland County CD Water Reservation No. 40S 8450000 and Roosevelt County CD Water Reservation No. 8450100 (Table 8).

21. The Department calculated the monthly flows and volumes appropriated by existing users within the AOPI by:

- a. Generating a list of existing water uses from the proposed POD to the Montana-North Dakota border.
- b. The monthly volumes of Provisional Permit 40S 4213 00 and Water Reservation 40S 30017671 were calculated by dividing the total volume by the number of months in the period of diversion.
- c. The monthly flow rates of Provisional Permit 40S 4213 00 and Water Reservation 40S 30017671 were fully assigned to each month in the period of diversion.
- d. The Fort Peck Tribal Reserved Claim (Fort Peck-Montana Compact, MCA §85-20-201, Article III, F.1) exists year-round within the reach. Water is diverted from April through October. The flow rate was calculated by dividing the monthly volume in AF by the number of days in the month and by 1.98 AF/day (Table 7).
- e. The CDs' monthly volume was calculated by dividing the annual volume by the number of months in accordance with the reservation granted to each CD outlined in the Lower Missouri River Basin Final Order of the Board of Natural Resources and Conservation, dated December 30, 1994 (Table 8). The full granted flow rate and volume are available and diverted from April through October.

Table 5. Area of Potential Impact: Statements of Claim, Provisional Permits, Temporary Permits

Water Right Number	Flow Rate (CFS)	Volume (AF)	Type of Right	Period of Diversion
40S 4213 00	8.91	176	Provisional Permit	5/1 to 9/30

Table 6. Area of Potential Impact: Montana Fish, Wildlife & Parks Instream Flow Right

Water Right Number	Flow Rate (CFS)	Volume (AF)	Type of Right	Period of Diversion
40S 30017671	5,178	3,748,500	Water Reservation	01/01 to 12/31

Table 7. Area of Potential Impact: Fort Peck-Montana Compact, MCA §85-20-201, Article III F.1

Month	Fort Peck Tribal Right (CFS)	Fort Peck Tribal Right (AF)
January	652	40,000
February	722	40,000
March	652	40,000
April	842	50,000
May	1711	105,000
June	2441	145,000
July	3503	215,000
August	2933	180,000
September	1768	105,000
October	815	50,000
November	673	40,000
December	652	40,000

Table 8. Area of Potential Impact: Conservation District Water Reservations Full Reservation Granted per Month for Water Reservations 40S 8450000 and 40S 8450100.

Month	Richland County (40S 8450000) Flow Rate (CFS)	Richland County (40S 8450000) Volume (AF)	Roosevelt County (40S 8450100) Flow Rate (CFS)	Roosevelt County (40S 8450100) Volume (AF)
January	-	-	-	-
February	-	-	-	-
March	-	-	-	-
April	186.9	3,621	558.8	10,445
May	186.9	3,621	558.8	10,445
June	186.9	3,621	558.8	10,445
July	186.9	3,621	558.8	10,445
August	186.9	3,621	558.8	10,445
September	186.9	3,621	558.8	10,445
October	186.9	3,621	558.8	10,445
November	-	-	-	-
December	-	-	-	-

22. Additionally, the Department compiled a list of individual CD Records for Richland County CD Water Reservation No. 40S 8450000 and Roosevelt County CD Water Reservation No. 40S 8450100 that exist upstream of the proposed POD to the gage (Table 9). These values are added back into the legal availability analysis because perfected CD records are already accounted for in determining physical availability. Total flow rate and volume values for the CD Records upstream of POD can be found in Tables 10 and 11, columns G and H. The Department assumes that all records are diverted from April to October; thus, each monthly volume was calculated by dividing the total volume by the number of months during the period of diversion.

Table 9. Conservation District Records above the Proposed POD

Richland County CD (40S 8450000)			Roosevelt County CD (40S 8450100)		
Record Number	Flow Rate (CFS)	Volume (AF)	Record Number	Flow Rate (CFS)	Volume (AF)
40S 30006748	1.6	125.95	40S 111430 00	4.9	676.5
40S 111449 00	10	408	40S 30043999	8.91	159.6
40S 30027588	3.9	272.8	40S 30015443	0.33	20

Richland County (40S 8450000)			Roosevelt County (40S 8450100)		
Record Number	Flow Rate (CFS)	Volume (AF)	Record Number	Flow Rate (CFS)	Volume (AF)
40S 30043641	0.5	60	40S 30003106	0	24
40S 30062765	1.52	182	40S 106983 00	6.91	1,114
40S 30150186	0.78	69	40S 109530 00	21.4	282
40S 30159245	2.23	220	40S 111429 00	4.9	628.1
40S 30005493	6	768	40S 103653 00	1.3	147
40S 104421 00	4	590	40S 101092 00	3.6	636
40S 114723 00	2.2	340	40S 30044041	1.78	176.9
40S 116904 00	6.7	68	40S 102771 00	9	1,420
40S 30164956	8.7	590.25	40S 30006005	2.67	240
40S 101055 00	3.6	560	40S 30004263	3.01	330
40S 111301 00	5.1	302	40S 30010979	6.7	536
40S 106990 00	4.2	636	40S 106984 00	2.93	284
40S 30072073	1.73	224	40S 103671 00	2.5	360
40S 30172430	0	124.45	40S 30002059	4.9	569
40S 30164483	0	82.6	40S 106914 00	5.1	804
40S 101074 00	5.8	927	40S 30069082	1.56	60
40S 114741 00	6.55	312.5	40S 30004260	6	421.25
40S 30063091	1.45	92	40S 106915 00	3.9	520
40S 30165160	1.8	294	40S 30148181	5.3	35.75
40S 114654 00	2.7	451			
40S 30001844	2.6	364			
40S 114722 00	3.4	203			
40S 30024907	2.2	272			
40S 30104412	1.1	161			
40S 30041682	6	802			
40S 30165163	2.7	368			
40S 104484 00	2.7	264			
40S 104510 00	2.6	145			
40S 30012791	6	413.6			
40S 30027595	4.1	283.6			
40S 30025552	2.8	228			
40S 106912 00	5.6	150			

23. Table 10 and Table 11, column L, show the flow rate and volume, respectively, of water legally available for appropriation during the proposed period of diversion.

Table 10. Legal Availability at the Proposed POD on the Missouri River: Flow Rate

A	B	C	D	E	F	G	H	I	J	K	L
Month	Physically Available Flow Rate at POD (CFS)	Richland CD Flow Rate Granted (CFS)	Roosevelt CD Flow Rate Granted (CFS)	Richland CD Rights within AOI (CFS)	Roosevelt CD Rights within AOI (CFS)	Richland CD Records Upstream of POD (CFS)	Roosevelt CD Records Upstream of POD (CFS)	Fort Peck Compact Flow Rate (CFS)	Individual Water Rights (CFS)	FWP Instream Right (CFS)	Legally Available Flow Rate (CFS)
January	11,141.94	0	0	0	0	0	0	652	0	5,187	5,302.94
February	11,272.56	0	0	0	0	0	0	722	0	5,187	5,363.56
March	9,919.14	0	0	0	0	0	0	652	0	5,187	4,080.14
April	7,603.44	186.9	558.8	0	0	122.86	107.6	842	0	5,187	1,059.20
May	8,183.41	186.9	558.8	0	0	122.86	107.6	1,711	8.91	5,187	761.26
June	9,074.27	186.9	558.8	0	0	122.86	107.6	2,441	8.91	5,187	922.12
November	7,121.85	0	0	0	0	0	0	673	0	5,187	1,261.85
December	9,802.26	0	0	0	0	0	0	652	0	5,187	3,963.26

Table 11. Legal Availability at the Proposed POD on the Missouri River: Volume

A	B	C	D	E	F	G	H	I	J	K	L
Month	Physically Available Volume at POD (AF)	Richland CD Volume Granted (AF)	Roosevelt CD Volume Granted (AF)	Richland CD Rights within AOI (AF)	Roosevelt CD Rights within AOI (AF)	Richland CD Records Upstream of POD (AF)	Roosevelt CD Records Upstream of POD (AF)	Fort Peck Compact Volume (AF)	Individual Water Rights (AF)	FWP Instream Right (AF)	Legally Available Volume (AF)
January	687,551.33	0	0	0	0	0	0	40,000	0	312,375	335,176.33
February	628,211.42	0	0	0	0	0	0	40,000	0	312,375	275,836.42
March	612,591.77	0	0	0	0	0	0	40,000	0	312,375	260,216.77
April	471,484.24	3,621	10,445	0	0	1,621.96	1,349.16	50,000	0	312,375	98,014.36
May	525,103.33	3,621	10,445	0	0	1,621.96	1,349.16	105,000	35.2	312,375	96,598.25
June	560,881.98	3,621	10,445	0	0	1,621.96	1,349.16	145,000	35.2	312,375	92,376.9
November	430,281.84	0	0	0	0	0	0	40,000	0	312,375	77,906.84
December	605,321.93	0	0	0	0	0	0	40,000	0	312,375	252,946.93

24. Table 12 compares the legally available flow rate and volume with the requested amount. Although proposed water use will vary with the oil drilling schedule, for comparison purposes, the monthly requested volumes equal the total requested volume divided by the period of use. (670 AF/8 months = 83.75 AF/month)

Table 12. Legal Availability at the Proposed POD on the Missouri River: Flow Rate & Volume

A	B	C	D	E	F	G
Month	Legally Available Flow Rate at POD (CFS)	Legally Available at POD Volume (AF)	Proposed Flow Rate (CFS)	Proposed Diverted Volume (AF)	Remaining Legally Available Water Flow Rate (CFS)	Remaining Legally Available Water Volume (AF)
January	5,302.94	335,176.33	6.7	83.75	5,296.2	335,092.58
February	5,363.56	275,836.42	6.7	83.75	5,356.9	275,752.67
March	4,080.14	260,216.77	6.7	83.75	4,073.4	260,133.02
April	1,059.2	98,014.36	6.7	83.75	1,052.5	97,930.61
May	761.26	96,598.25	6.7	83.75	754.6	96,514.50
June	922.12	92,376.90	6.7	83.75	915.4	92,293.15
November	1,261.85	77,906.84	6.7	83.75	1,255.2	77,823.09
December	3,963.26	252,946.93	6.7	83.75	3,956.6	252,863.18

25. The Department finds the proposed appropriation of 6.7 CFS and up to 670 AF to be legally available during the proposed period of use.

ADVERSE EFFECT

FINDINGS OF FACT

26. Water is both physically and legally available in the Missouri River. In the event of a water shortage or a call being made on the source, the Applicant will slow down and/or turn off the diversion upon notice.

27. The Department finds that the following condition will be applied to ensure that the requested flow rate and volume are not exceeded during years of high oil field activity; the Applicant will be required to submit a measurement report each year, and the application is subject to the following condition:

THE APPROPRIATOR SHALL INSTALL A DEPARTMENT APPROVED IN-LINE FLOW METER AT A POINT IN THE DELIVERY LINE APPROVED BY THE DEPARTMENT. WATER MUST NOT BE DIVERTED UNTIL THE REQUIRED MEASURING DEVICE IS IN PLACE AND OPERATING. ON A FORM PROVIDED BY THE DEPARTMENT, THE APPROPRIATOR SHALL KEEP A WRITTEN MONTHLY RECORD OF THE FLOW RATE AND VOLUME OF ALL WATER DIVERTED, INCLUDING THE PERIOD

OF TIME. RECORDS SHALL BE SUBMITTED BY JANUARY 31ST OF EACH YEAR AND UPON REQUEST AT OTHER TIMES DURING THE YEAR. FAILURE TO SUBMIT REPORTS MAY BE CAUSE FOR REVOCATION OF A PERMIT OR CHANGE. THE RECORDS MUST BE SENT TO THE WATER RESOURCES REGIONAL OFFICE. THE APPROPRIATOR SHALL MAINTAIN THE MEASURING DEVICE, SO IT ALWAYS OPERATES PROPERLY AND MEASURES FLOW RATE AND VOLUME ACCURATELY.

28. The Applicant has proven that enough water remains in the Missouri River to meet both the existing legal demands within the area of potential impact and the proposed appropriation of 6.7 CFS and 670 AF.

29. The Department finds the proposed use of 6.7 CFS and 670 AF year-round will not have an adverse effect on existing water users.

ADEQUATE MEANS OF DIVERSION

FINDINGS OF FACT

30. The Applicant will divert water at a rate of 6.7 CFS up to 670 AF from the Missouri River, from a diversion point in Lot 1, SWNESE, Section 14, T26N, R59E, Roosevelt County, using an 8"x 6" diesel-powered Pioneer standard centrifugal pump referred to by the Applicant as a "Super 86 Pump."

31. Water will flow from the POD into a screened 10" aluminum pipe. The pump will discharge water into a filter pod trailer, which has a 10" McCrometer Dura Mag in-line flow meter capable of taking continuous measurements. The water is then discharged into the 12" lay-flat pipeline. The pipeline extends 1.3 mi to "Squadron Pad 216", an existing Slawson Exploration Company, Inc. location, where it enters a Pioneer Prime centrifugal 8"x6" Booster Pump. More inline pumps can be installed, if necessary, to maintain adequate pressure and volume. In freezing conditions, water will be discharged into a hot oiler before being diverted into the 12" lay-flat pipeline.

32. Along the route, Williston Water Management or Slawson Exploration Company, Inc. will secure easements where appropriate for any railway, county road, state highway, or private land crossings where the lay-flat pipeline will be laid.

33. The Applicant submitted pump curves showing that the diesel-powered pump will be capable of pumping 6.7 CFS depending upon elevation and overall distance from the source to POU. More inline pumps can be installed, if necessary, to maintain adequate pressure and volume.

34. Once the water reaches the POU in Lot 4, NWNW, Section 02, T26N, R59E, Roosevelt County, the 12" lay-flat line will end at the beginning of the manifold at 35 AEI frac tanks, each having a 500 BBL capacity, and be opened to 2 10" aluminum manifolds. The frac tanks are on-site and used for water storage and distribution to the frac equipment. These tanks act as a median between the transfer of water from the source and the downhole fracturing process. The Applicant will install a 12" gate valve and an additional 10" McCrometer flow meter at this point in the system.

35. A total of 12 oil wells are to be developed on the pad.

36. The Department finds that the proposed means of diversion and conveyance are capable of diverting and conveying the proposed flow rate and volume.

BENEFICIAL USE

FINDINGS OF FACT

37. The Applicant requests to divert up to 670 AF of water at a rate of 6.7 CFS annually, for Industrial use in the oil and gas industry. No Department standard exists for Industrial use, so the Applicant explained how the proposed flow rate and volume meet the beneficial use as required in ARM 36.12.1801.

38. Water will be used to drill and complete 12 oil wells in Roosevelt County, MT, with a varied lateral length from 11,654 ft to 15,550 ft. Slawson Exploration Company, Inc.'s current completion design ranges from 37 to 49 stages, with each stage requiring 10,000 BBL of fresh water pumped at a rate of 70-90 BBL/minute to place the desired volume of proppant and to complete oil well work and maintenance during completion operations. Table 13 identifies each oil well, its estimated lateral length, the number of stages, and the total BBL of water required to stimulate each well. The Applicant submitted an example of Slawson Exploration Company's current oil well design and pump schedule for a pad in McKenzie County, ND. Because the pad

is located within the Bakken Formation, it provides a representative example of the proposed oil well design and hydraulic stimulation practices.

Table 13. Estimated Oil Well Stimulation Parameters and Water Requirements

Well Name	Estimated Lateral Length (ft)	Approximate Stages	Total Water per Oil Well (BBL)
Outpost 1	13,070	41	410,000
Outpost 2	12,184	39	390,000
Outpost 3	11,660	37	370,000
Outpost 4	12,447	39	390,000
Outpost 5	11,654	37	370,000
Outpost 6	12,208	39	390,000
Outpost 7	13,688	43	430,000
Brigade 1	15,550	49	490,000
Brigade 2	15,455	49	490,000
Brigade 3	15,426	49	490,000
Brigade 4	15,482	49	490,000
Brigade 5	15,430	49	490,000
<u>Totals</u>	<u>164,254</u>	<u>520</u>	<u>5,200,000</u>

39. The drilling and subsequent completion plan includes up to 12 oil wells, requiring 5.2 million BBL of water. The 12 oil wells, with a total lateral length of 164,254 ft, equate to 670.2 AF per year (rounded to 670 AF). No more than 670 AF of water will be used annually. The proposed appropriation is to expire on December 31, 2030.

40. The Department finds that the proposed water use is beneficial, and that the requested flow rate of 6.7 CFS and annual volume of 670 AF meet the requirement of ARM 36.12.1801(2).

POSSESSORY INTEREST

FINDINGS OF FACT

41. Williston Water Management LLC, the Applicant, and Slawson Exploration Company, Inc. are subsidiaries or affiliates of Slawson Companies, Inc. An affidavit was submitted by the Applicant and signed by Eric Sundberg, Vice President of Environmental and Regulatory Affairs employed by Slawson Companies, Inc., stating that Williston Water Management LLC and Slawson Exploration Company, Inc. are subsidiaries or affiliates of Slawson Companies, Inc. The

affidavit further states that Slawson Companies, Inc. is the parent company of Williston Water Management, LLC.

42. An Oil and Gas Competitive Public Domain Lease Post 1987, authorized by the United States Department of the Interior, Bureau of Land Management, was obtained by Slawson Exploration Company, Inc. The lease identifies Slawson Exploration Company, Inc. as the lessee with 100% interest. The proposed POU is defined as Lot 4, Section 02, T26N, R59E.

43. The Applicant provided a Federal Oil and Gas Lease, obtained by Slawson Exploration Company, Inc., and an affidavit stating the relationship between the Applicant, Williston Water Management LLC, and the Oil and Gas lessee, Slawson Exploration Company, Inc., which, in combination, demonstrates possessory interest. As a result, the Department finds the possessory interest criterion to be met.

CONCLUSIONS OF LAW

PHYSICAL AVAILABILITY

44. Pursuant to § 85-2-311(1)(a)(i), MCA, an Applicant must prove by a preponderance of the evidence that “there is water physically available at the proposed point of diversion in the amount that the Applicant seeks to appropriate.”

45. It is the Applicant’s burden to produce the required evidence. *In the Matter of Application for Beneficial Water Use Permit No. 27665-41I by Anson* (DNRC Final Order 1987) (Applicant produced no flow measurements or any other information to show the availability of water; permit denied); *In the Matter of Application to Change Water Right No. 41H 1223599 by MGRR #1, LLC.*, (DNRC Final Order 2005).

46. An Applicant must prove that at least in some years there is water physically available at the point of diversion in the amount the Applicant seeks to appropriate. *In the Matter of Application for Beneficial Water Use Permit No. 72662s76G by John Fee and Don Carlson* (DNRC Final Order 1990); *In the Matter of Application for Beneficial Water Use Permit No. 85184s76F by Wills Cattle Co. and Ed McLean* (DNRC Final Order 1994).

47. Use of published upstream gauge data minus rights of record between gauge and point of diversion adjusted to remove possible duplicated rights shows water physically available. *In*

the Matter of Application for Beneficial Water Use Permit No. 41P-105759 by Sunny Brook Colony (DNRC Final Order 2001)

48. The Applicant has proven that water is physically available at the proposed point of diversion in the amount the Applicant seeks to appropriate. Section 85-2-311(1)(a)(i), MCA. (FOF 12-17)

LEGAL AVAILABILITY

49. Pursuant to § 85-2-311(1)(a), MCA, an Applicant must prove by a preponderance of the evidence that:

(ii) water can reasonably be considered legally available during the period in which the Applicant seeks to appropriate, in the amount requested, based on the records of the department and other evidence provided to the department. Legal availability is determined using an analysis involving the following factors:

(A) identification of physical water availability;

(B) identification of existing legal demands on the source of supply throughout the area of potential impact by the proposed use; and

(C) analysis of the evidence on physical water availability and the existing legal demands, including but not limited to a comparison of the physical water supply at the proposed point of diversion with the existing legal demands on the supply of water.

E.g., ARM 36.12.101 and 36.12.120; *Montana Power Co.*, 211 Mont. 91, 685 P.2d 336 (Permit granted to include only early irrigation season because no water legally available in late irrigation season); *In the Matter of Application for Beneficial Water Use Permit No. 81705-g76F by Hanson* (DNRC Final Order 1992).

50. It is the Applicant's burden to present evidence to prove water can be reasonably considered legally available. *Sitz Ranch v. DNRC*, DV-10-13390, Fifth Judicial District Court, *Order Affirming DNRC Decision*, (2011) Pg. 7 (the legislature set out the criteria (§ 85-2-311, MCA) and placed the burden of proof squarely on the Applicant. The Supreme Court has instructed that those burdens are exacting.); *see also Matter of Application for Change of Appropriation Water Rights Nos. 101960-41S and 101967-41S by Royston* (1991), 249 Mont. 425, 816 P.2d 1054 (burden of proof on Applicant in a change proceeding to prove required criteria); *In the Matter of Application to Change Water Right No. 41H 1223599 by MGRR #1*,

LLC., (DNRC Final Order 2005))(it is the Applicant's burden to produce the required evidence.); *In the Matter of Application for Beneficial Water Use Permit No. 41H 30023457 by Utility Solutions, LLC* (DNRC Final Order 2007) (permit denied for failure to prove legal availability); see also ARM 36.12.1705.

51. Applicant has proven by a preponderance of the evidence that water can reasonably be considered legally available during the period in which the Applicant seeks to appropriate, in the amount requested, based on the records of the Department and other evidence provided to the Department. Section 85-2-311(1)(a)(ii), MCA. (FOF 18-25)

ADVERSE EFFECT

52. Pursuant to § 85-2-311(1)(b), MCA, the Applicant bears the affirmative burden of proving by a preponderance of the evidence that the water rights of a prior appropriator under an existing water right, a certificate, a permit, or a state water reservation will not be adversely affected. Analysis of adverse effect must be determined based on a consideration of an Applicant's plan for the exercise of the permit that demonstrates that the Applicant's use of the water will be controlled so the water right of a prior appropriator will be satisfied. See *Montana Power Co.*, 211 Mont. 91, 685 P.2d 336 (1984) (purpose of the Water Use Act is to protect senior appropriators from encroachment by junior users); *Bostwick Properties, Inc.*, ¶ 21.

53. An Applicant must analyze the full area of potential impact under the § 85-2-311, MCA criteria. *In the Matter of Beneficial Water Use Permit No. 76N-30010429 by Thompson River Lumber Company* (DNRC Final Order 2006). While § 85-2-361, MCA, limits the boundaries expressly required for compliance with the hydrogeologic assessment requirement, an Applicant is required to analyze the full area of potential impact for adverse effect in addition to the requirement of a hydrogeologic assessment. *Id.* ARM 36.12.120(5).

54. Applicant must prove that no prior appropriator will be adversely affected, not just the objectors. *Sitz Ranch v. DNRC*, DV-10-13390, Fifth Judicial District Court, *Order Affirming DNRC Decision*, 4 (2011).

55. In analyzing adverse effect to other appropriators, an Applicant may use the water rights claims of potentially affected appropriators as evidence of their “historic beneficial use.” See *Matter of Application for Change of Appropriation Water Rights Nos. 101960-41S and 101967-41S by Royston*, 249 Mont. 425, 816 P.2d 1054 (1991).

56. It is the Applicant’s burden to produce the required evidence. *E.g., Sitz Ranch v. DNRC*, DV-10-13390, Fifth Judicial District Court, *Order Affirming DNRC Decision*, 7 (2011) (legislature has placed the burden of proof squarely on the Applicant); *In the Matter of Application to Change Water Right No. 41H 1223599 by MGRR #1, LLC.*, (DNRC Final Order 2005). The Department is required to grant a permit only if the § 85-2-311, MCA, criteria are proven by the Applicant by a preponderance of the evidence. *Bostwick Properties, Inc.*, ¶ 21.

57. Section 85-2-311 (1)(b) of the Water Use Act does not contemplate a de minimis level of adverse effect on prior appropriators. *Wesmont Developers v. DNRC*, CDV-2009-823, First Judicial District Court, *Memorandum and Order*, 8 (2011).

58. The Applicant has proven by a preponderance of the evidence that the water rights of a prior appropriator under an existing water right, a certificate, a permit, or a state water reservation will not be adversely affected. Section 85-2-311(1)(b), MCA. (FOF 26-29)

ADEQUATE DIVERSION

59. Pursuant to § 85-2-311(1)(c), MCA, an Applicant must demonstrate that the proposed means of diversion, construction, and operation of the appropriation works are adequate.

60. The adequate means of diversion statutory test merely codifies and encapsulates the case law notion of appropriation to the effect that the means of diversion must be reasonably effective, i.e., must not result in a waste of the resource. *In the Matter of Application for Beneficial Water Use Permit No. 33983s41Q by Hoyt* (DNRC Final Order 1981); § 85-2-312(1)(a), MCA.

61. Whether party presently has easement not relevant to determination of adequate means of diversion. *In the Matter of Application to Change a Water Right No. G129039-76D by Keim/Krueger* (DNRC Final Order 1989).

62. Information needed to prove that the proposed means of diversion, construction, and operation of the appropriation works are adequate varies, based upon project complexity design by licensed engineer adequate. *In the Matter of Application for Beneficial Water Use Permit No. 41C-11339900 by Three Creeks Ranch of Wyoming LLC* (DNRC Final Order 2002).

63. Applicant has proven by a preponderance of the evidence that the proposed means of diversion, construction, and operation of the appropriation works are adequate for the proposed beneficial use. Section 85-2-311(1)(c), MCA (FOF 30-36).

BENEFICIAL USE

64. Under § 85-2-311(1)(d), MCA, an Applicant must prove by a preponderance of the evidence the proposed use is a beneficial use.

65. An appropriator may appropriate water only for a beneficial use. See also, § 85-2-301 MCA. It is a fundamental premise of Montana water law that beneficial use is the basis, measure, and limit of the use. *E.g., McDonald; Toohey v. Campbell* (1900), 24 Mont. 13, 60 P. 396. The amount of water under a water right is limited to the amount of water necessary to sustain the beneficial use. *E.g., Bitterroot River Protective Association v. Siebel, Order on Petition for Judicial Review*, Cause No. BDV-2002-519, Montana First Judicial District Court, Lewis and Clark County (2003), *affirmed on other grounds*, 2005 MT 60, 326 Mont. 241, 108 P.3d 518; *In The Matter Of Application For Beneficial Water Use Permit No. 43C 30007297 by Dee Deaterly* (DNRC Final Order), *affirmed other grounds, Dee Deaterly v. DNRC*, Cause No. 2007-186, Montana First Judicial District, *Order Nunc Pro Tunc on Petition for Judicial Review* (2009); *Worden v. Alexander* (1939), 108 Mont. 208, 90 P.2d 160; *Allen v. Petrick* (1924), 69 Mont. 373, 222 P. 451; *In the Matter of Application for Beneficial Water Use Permit No. 41S-105823 by French* (DNRC Final Order 2000).

66. Amount of water to be diverted must be shown precisely. *Sitz Ranch v. DNRC*, DV-10-13390, Fifth Judicial District Court, *Order Affirming DNRC Decision*, 3 (2011) (citing *BRPA v. Siebel*, 2005 MT 60, and rejecting Applicant's argument that it be allowed to appropriate 800 acre-feet when a typical year would require 200-300 acre-feet).

67. It is the Applicant's burden to produce the required evidence. Bostwick Properties, Inc. v. DNRC, 2013 MT 48, ¶ 22, 369 Mont. 150, 296 P.3d 1154 ("issuance of the water permit itself does not become a clear, legal duty until [the applicant] proves, by a preponderance of the evidence, that the required criteria have been satisfied"); *Sitz Ranch v. DNRC*, DV-10-13390, Fifth Judicial District Court, *Order Affirming DNRC Decision*, (2011) Pg. 7; *In the Matter of Application to Change Water Right No. 41H 1223599 by MGRR #1, LLC.*, (DNRC Final Order 2005); *see also Royston; Ciotti*.

68. Applicant proposes to use water for Industrial purposes, which is a recognized beneficial use. Section 85-2-102(5), MCA. Applicant has proven by a preponderance of the evidence that Industrial use is a beneficial use and that 670 AF of diverted volume and 6.7 CFS are the amounts needed to sustain the beneficial use. Section 85-2-311(1)(d), MCA. (FOF 37-40)

POSSESSORY INTEREST

69. Pursuant to § 85-2-311(1)(e), MCA, an Applicant must prove by a preponderance of the evidence that it has a possessory interest or the written consent of the person with the possessory interest in the property where the water is to be put to beneficial use, or if the proposed use has a point of diversion, conveyance, or place of use on national forest system lands, the Applicant has any written special use authorization required by federal law to occupy, use, or traverse national forest system lands for the purpose of diversion, impoundment, storage, transportation, withdrawal, use, or distribution of water under the permit.

70. Pursuant to ARM 36.12.1802:

(1) An Applicant or a representative shall sign the application affidavit to affirm the following:

(a) the statements on the application and all information submitted with the application are true and correct and

(b) except in cases of an instream flow application, or where the application is for sale, rental, distribution, or is a municipal use, or in any other context in which water is being supplied to another and it is clear that the ultimate user will not accept the supply without consenting to the use of water on the user's place of use, the Applicant has possessory interest in the property where the water is to be put to beneficial use or has the written consent of the person having the possessory interest.

(2) If a representative of the Applicant signs the application form affidavit, the representative shall state the relationship of the representative to the Applicant on the form, such as president of the corporation, and provide documentation that establishes the authority of the representative to sign the application, such as a copy of a power of attorney.

(3) The department may require a copy of the written consent of the person having the possessory interest.

71. The Applicant has proven by a preponderance of the evidence that it has a possessory interest, or the written consent of the person with the possessory interest, in the property where the water is to be put to beneficial use. Section 85-2-311(1)(e), MCA. (FOF 41-43)

PRELIMINARY DETERMINATION

Subject to the terms, analysis, and conditions in this Order, the Department preliminarily determines that this Application for Beneficial Water Use Permit No. 40S 30175554 should be GRANTED.

The Department determines that the Applicant may divert water from the Missouri River, by means of a pump, from November 1 to June 30 at 6.7 CFS (3,000 GPM) up to 670 AF, from a point in Lot 1, SWNESE, Section 02, T26N, R59E, Roosevelt County, for Industrial use from November 1 to June 30. The place of use is located in Lot 4, NWNW, Section 02, T26N, R59E, Roosevelt County.

The application will be subject to the following conditions, limitations, or restrictions:
THE APPROPRIATOR SHALL INSTALL A DEPARTMENT APPROVED IN-LINE FLOW METER AT A POINT IN THE DELIVERY LINE APPROVED BY THE DEPARTMENT. WATER MUST NOT BE DIVERTED UNTIL THE REQUIRED MEASURING DEVICE IS IN PLACE AND OPERATING. ON A FORM PROVIDED BY THE DEPARTMENT, THE APPROPRIATOR SHALL KEEP A WRITTEN MONTHLY RECORD OF THE FLOW RATE AND VOLUME OF ALL WATER DIVERTED, INCLUDING THE PERIOD OF TIME. RECORDS SHALL BE SUBMITTED BY JANUARY 31ST OF EACH YEAR AND UPON REQUEST AT OTHER TIMES DURING THE YEAR. FAILURE TO SUBMIT REPORTS MAY BE CAUSE FOR REVOCATION OF A PERMIT OR CHANGE. THE RECORDS MUST BE SENT TO THE WATER RESOURCES REGIONAL OFFICE. THE APPROPRIATOR SHALL MAINTAIN THE MEASURING DEVICE, SO IT ALWAYS OPERATES PROPERLY AND MEASURES FLOW RATE AND VOLUME ACCURATELY.

NOTICE

The Department will provide a notice of opportunity for public comment on this application and the Department's Draft Preliminary Determination to Grant pursuant to § 85-2-307, MCA. The Department will set a deadline for public comments to this application pursuant to §§ 85-2-307, and -308, MCA. If this application receives public comment pursuant to § 85-2-307(4), the Department shall consider the public comments, respond to the public comments, and issue a preliminary determination to grant the application, grant the application in modified form, or deny the application. If no public comments are received pursuant to § 85-2-307(4), MCA, the Department's preliminary determination will be adopted as the final determination.

DATED this 26th day of August 2026.

Matt Miles

Digitally signed by Matt

Miles

Date: 2026.08.26 16:09:33

-06'00'

Matt Miles, Manager
Havre Regional Office
Montana Department of Natural Resources and Conservation

CERTIFICATE OF SERVICE

This certifies that a true and correct copy of the DRAFT PRELIMINARY DETERMINATION TO GRANT was served upon all parties listed below on this 26th day of August, 2026, by first-class United States mail.

WILLISTON WATER MANAGEMENT LLC
1675 BROADWAY
SUITE 1600
DENVER, CO 80202-4675

ELECTRONIC COPY:
ERIC SUNDBERG
WILLISTON WATER MANAGEMENT, LLC.
SLAWSON COMPANIES, INC.
<ESUNDBERG@SLAWSONCOMPANIES.COM>

**Kailee
Ingalls**

Digitally signed by
Kailee Ingalls
Date: 2026.08.26
16:13:05 -06'00'

HAVRE Regional Office, (406) 265-5516