

Montana Department of Natural Resources and Conservation Water Resources Division Water Rights Bureau
<b>ENVIRONMENTAL ASSESSMENT</b> <b>For Routine Actions with Limited Environmental Impact</b>

**Part I. Proposed Action Description**

1. Applicant/Contact name and address: YELLOWSTONE LAND & LIVESTOCK, LLC  
PO BOX 1588  
SIDNEY, MT 59270
2. Type of action: Application for Beneficial Use Permit No. 42M 30164947
3. Water source name: Yellowstone River
4. Location affected by project: S11, T22N, R59E
5. Narrative summary of the proposed project, purpose, action to be taken, and benefits:  
The Applicant proposes to divert water from the Yellowstone River, by means of a pump, from January 1 to December 31 at 4,000 GPM (8.91 CFS) up to 500 AF, from a point in Gov't Lot 3, NESWNW, Section 11, T22N, R59E, Richland County, for water marketing use from January 1 to December 31. The place of use is the point of sale, which is in Gov't Lot 3, NESWNW, Section 11, T22N, R59E, Richland County.  
  
The DNRC shall issue a water use permit if an applicant proves the criteria in 85-2-311 MCA are met.
6. Agencies websites reviewed during preparation of the Environmental Assessment:  
(include agencies with overlapping jurisdiction)
  - US Fish & Wildlife Service
  - Montana Natural Heritage Program
  - Montana Department of Fish, Wildlife, & Parks
  - Montana Department of Environmental Quality
  - USDA Web Soil Survey
  - National Wetlands Inventory
  - United States Environmental Protection Agency

## **Part II. Environmental Review**

### **1. Environmental Impact Checklist:**

<b>PHYSICAL ENVIRONMENT</b>
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#### **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.

This reach of the Yellowstone River from the proposed POD to the North Dakota border has not been identified by the Department of Fish, Wildlife & Parks (FWP) as chronically or periodically dewatered. The FWP has a water reservation on this portion of the Yellowstone River that ranges from 2,670 CFS in August to 25,140 CFS in June to maintain instream flows for fishery purposes. The Department's water quantity analysis shows that water is both physically and legally available for the proposed use.

Determination: No significant impact.

**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 lower Yellowstone River is listed on the 2020 Montana 303(d) list as fully supporting agriculture, drinking water, and primary contact recreation, and not fully supporting aquatic life. Causes of impairment for aquatic life are alterations in stream-side or littoral vegetative covers, fish passage barriers, and chemical and mineral levels. Probable sources of the impairment are the impacts from irrigation crop productions, rangeland grazing, streambank modification/destabilization, hydro-structure flow regulation/modification, and natural or unknown sources of chemical or mineral properties. As evaluated for the impact of the water diversion on the Yellowstone River, the proposed project is not expected to have significant effect on water quality.

Determination: No significant impact.

**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 surface water appropriation should have no significant impact on ground water in the area.

Determination: No significant impact.

**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.

Determination: The Applicant plans to divert water at a rate of 8.91 CFS and up to 500 AF from the Yellowstone River from a diversion point in Gov't Lot 3, NESWNW, Section 11, T22N, R59E, Richland County. The water will be removed by the contracted buyer using an aluminum pipe with an inlet screen. From there a portable Redi-Prime, 8NHTA-EM18DB-1, 325 HP, 10' x 8' diesel fueled pump will discharge water into a portable filter trailer. The Applicant provided a data sheet and pump curves showing the pump is capable of diverting at a rate of 4,000 GPM and the engine meets tier III Environmental Protection Agency standards.

The water will pass through an in-line Field Mag 3000 flow meter capable of taking continuous measurements before water is discharged into a 10" high pressure, lay-flat pipeline which will be the conveyance method to transport water to the customers service area. Dependent on elevation changes and distance from the POD to the service area, more inline pump trailers may be added to maintain the required flow rate. In freezing conditions, an inline hot-oil trailer can be added to keep the water temps above freezing as it travels through the conveyance system.

Any landowner permission needed for the conveyance system will be the responsibility of the contracted buyer. The Applicant is providing access and the sale of fresh water to the contracted buyer and is not conveying water for the buyer.

The proposed diversion does not involve well construction and should have no significant impact on stream channels, flow modifications, barriers, riparian areas, or dams.

Determination: No significant impact.

**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 Natural Heritage Program identified a list of 15 animal species of concern within the township and range that the project is in. Of this list, the Pallid Sturgeon and Whooping Crane are listed as endangered by the United States Fish, and Wildlife Service (USFWS) and Bureau of Land Management (BLM).

Species Group	Common Name	Scientific Name
Fish	Blue Sucker	Cycleptus elongatus
Fish	Pallid Sturgeon*	Scaphirhynchus albus

Fish	Sauger	Sander canadensis
Fish	Shortnose Gar	Lepisosteus platostomus
Fish	Sicklefin Chub	Macrhybopsis meeki
Fish	Sturgeon Chub	Macrhybopsis gelida
Vascular Plants	Pale-spiked Lobelia	Lobelia spicata
Mammals	Little Brown Myotis	Myotis lucifugus
Mammals	Townsend's Big-eared Bat	Corynorhinus townsendii
Birds	Great Blue Heron	Ardea herodias
Birds	Whooping Crane*	Grus americana
Reptiles	Snapping Turtle	Chelydra serpentina
Reptiles	Spiny Softshell	Apalone spinifera
Birds	Least Tern	Sternula antillarum
Birds	Loggerhead Shrike	Lanius ludovicianus

\* Listed Endangered by the USFWS and BLM

Pallid Sturgeon are found in the Missouri River and use large, turbid rivers over sand and gravel bottoms, usually in strong current. They use all channel types but primarily use straight reaches with islands. The pumps will use floating screens with small footprints and are not anticipated to have an effect on Pallid Sturgeon.

The Whooping Crane has been observed in the marsh habitat present at Medicine Lake National Wildlife Refuge and the Red Rock Lakes National Wildlife Refuge. Birds have been observed in other areas of the state, which include grain and stubble fields as well as wet meadows, wet prairie habitat, and freshwater marshes that are usually shallow and broad with safe roosting sites and nearby foraging opportunities. The pump location selected for this diversion would not be likely to provide suitable habitat for Whooping Crane.

Both diversion points are adjacent to land used for agricultural purposes and have already experienced human activity. The equipment needed for the proposed use is temporary and doesn't require substantial land disturbance for placement. No significant impact is expected.

*Determination:* No significant impact.

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

The wetlands identified within Gov't Lot 3, NESWNW, Section 11, T22N, R59E, Richland County are riverine habitat and freshwater forested/shrub wetland.

The freshwater forested/shrub wetland is classified as PSS1A.

- System Palustrine (P): The Palustrine System includes all nontidal wetlands dominated by trees, shrubs, persistent emergents, emergent mosses or lichens, and all such wetlands that occur in tidal areas where salinity due to ocean-derived salts is below 0.5

ppt. It also includes wetlands lacking such vegetation, but with all of the following four characteristics: (1) area less than 20 acres; (2) active wave-formed or bedrock shoreline features lacking; (3) water depth in the deepest part of basin less than 2.5 m (8.2 ft) at low water; and (4) salinity due to ocean-derived salts less than 0.5 ppt.

- Class Scrub-Shrub (SS): Includes areas dominated by woody vegetation less than 6 m (20 feet) tall. The species include true shrubs, young trees (saplings), and trees or shrubs that are small or stunted because of environmental conditions.
- Subclass Broad-Leaved Deciduous (1): Woody angiosperms (trees or shrubs) with relatively wide, flat leaves that are shed during the cold or dry season.
- Water Regime Temporary Flooded (A): Surface water is present for brief periods (from a few days to a few weeks) during the growing season, but the water table usually lies well below the ground surface for most of the season.

The Riverine habitat of the Yellowstone River is classified as R2UBH.

- System Riverine (R): The Riverine System includes all wetlands and deepwater habitats contained within a channel, with two exceptions: (1) wetlands dominated by trees, shrubs, persistent emergents, emergent mosses, or lichens, and (2) habitats with water containing ocean-derived salts of 0.5 ppt or greater. A channel is an open conduit either naturally or artificially created which periodically or continuously contains moving water, or which forms a connecting link between two bodies of standing water.
- Subsystem Lower Perennial (2): This Subsystem is characterized by a low gradient. There is no tidal influence, and some water flows all year, except during years of extreme drought. The substrate consists mainly of sand and mud. Oxygen deficits may sometimes occur. The fauna is composed mostly of species that reach their maximum abundance in still water, and true planktonic organisms are common. The gradient is lower than that of the Upper Perennial Subsystem and the floodplain is well developed.
- Class Unconsolidated Bottom (UB): Includes all wetlands and deepwater habitats with at least 25% cover of particles smaller than stones (less than 6-7 cm), and a vegetative cover less than 30%.
- Water Regime Permanently Flooded (H): Water covers the substrate throughout the year in all years.



Figure 1: USFWS National Wetlands Inventory

The diversion point is adjacent to land used for agricultural purposes and has already experienced human activity. The equipment needed for the proposed use is temporary and its placement is not expected to cause substantial land disturbance.

*Determination:* No significant impact.

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

The pond type identified within Gov't Lot 3, NESWNW, Section 11, T22N, R59E, Richland County is freshwater pond.

The freshwater pond is classified as PUSC.

- System Palustrine (P): The Palustrine System includes all nontidal wetlands dominated by trees, shrubs, persistent emergents, emergent mosses or lichens, and all such wetlands that occur in tidal areas where salinity due to ocean-derived salts is below 0.5 ppt. It also includes wetlands lacking such vegetation, but with all of the following four characteristics: (1) area less than 20 acres; (2) active wave-formed or bedrock shoreline

features lacking; (3) water depth in the deepest part of basin less than 2.5 m (8.2 ft) at low water; and (4) salinity due to ocean-derived salts less than 0.5 ppt.

- Class Unconsolidated Shore (US): Includes all wetland habitats having two characteristics: (1) unconsolidated substrates with less than 75 percent areal cover of stones, boulders or bedrock and; (2) less than 30 percent areal cover of vegetation. Landforms such as beaches, bars, and flats are included in the Unconsolidated Shore class.
- Water Regime Seasonally Flooded (C): Surface water is present for extended periods, especially early in the growing season but is absent by the end of the growing season in most years. The water table after flooding ceases is variable, extending from saturated to the surface to a water table well below the ground surface.

The diversion point is adjacent to land used for agricultural purposes and has already experienced human activity. The equipment needed for the proposed use is temporary and its placement is not expected to cause substantial land disturbance.

*Determination:* No significant impact.

**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.*

The soil type at the point of diversion is Cherry Havrelon and Trembles soils. It is identified as prime farmland if irrigated, has a 0-4 percent slope, is well drained, and is nonsaline to very slightly saline to moderately saline (2.0 to 3.0 mmhos/cm). With equipment such as lay-flat hoses and pump trailer, degradation to soil or development of a saline seep is not anticipated.

*Determination:* No significant impact.

**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.*

No vegetation was listed as endangered or threatened by the USFWS or BLM in the project area. The control of noxious weeds is the responsibility of the landowner.

*Determination:* No significant impact.

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

The Redi-Prime, 8NHTA-EM18DB-1, 325 HP water transfer pump contains a John Deere engine which meets Tier 3/Stage III A emissions regulations. This project consists of mobile pumps and lay flat hose which is not expected to produce heavy ground disturbance or dust levels.

*Determination: No significant impact.*

**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: NA – 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.*

*Determination: No additional impacts on other environmental resources were identified.*

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

*Determination: There are no known local environmental plans or goals in this area.*

**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.*

*Determination: This project will have no significant impact on recreational or wilderness activities.*

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

*Determination: This project will have no significant impact on human health.*

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

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

*Determination: There are no additional government regulatory impacts on private property rights associated with this application.*



**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? No significant impact.
- (b) Local and state tax base and tax revenues? No significant impact.
- (c) Existing land uses? No significant impact.
- (d) Quantity and distribution of employment? No significant impact.
- (e) Distribution and density of population and housing? No significant impact.
- (f) Demands for government services? No significant impact.
- (g) Industrial and commercial activity? No significant impact.
- (h) Utilities? No significant impact.
- (i) Transportation? No significant impact.
- (j) Safety? No significant impact.
- (k) Other appropriate social and economic circumstances? No significant impact.

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

Secondary Impacts: No secondary impacts have been identified.

Cumulative Impacts: No cumulative impacts have been identified.

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

**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 other viable alternative would be the no action alternative in which the Department would not authorize a water right permit for industrial use. Under the no action alternative, the Applicant would not be able to withdraw water for water marketing.

**PART III. Conclusion**

1. **Preferred Alternative:** Issue a water use permit if the applicant proves the criteria in 85-2-311, MCA are met.

- 2 **Comments and Responses**

5. **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 impacts have been identified, therefore an EIS is not necessary.

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

*Name:* Ashley Kemmis

*Title:* Water Resource Specialist

*Date:* February 6, 2026