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

Applicant/Contact name and address: RONALD M HENRY
930 BLACKBERRY WAY
BILLINGS, MT 59106

Type of action: Application to Change a Water Right 43D 30165001

Water source name: West Fork Rock Creek

Location affected by project: A protected reach of West Fork Rock Creek from the historical point of diversion in the NENWNW Sec. 7, T8S, R20E, to the confluence with Rock Creek, then Rock Creek from the confluence with West Fork Rock Creek to a point downstream in Gov't Lot 5 (SENESE) Sec. 36, T3S, R23E, Carbon County.

Narrative summary of the proposed project, purpose, action to be taken, and benefits:
The Applicant proposes to temporarily change the purpose, place of use (POU), and point of diversion (POD) for Statements of Claim 43D 30155507 and 43D 30155511. No changes are proposed to any other aspect of the water right. The proposed change is temporary for a period of ten years as described in § 85-2-408, MCA. The proposed purpose is instream flow to benefit fishery resources. The proposed place of use is a protected reach of West Fork Rock Creek from the historical point of diversion in the NENWNW Sec. 7, T8S, R20E, to the confluence with Rock Creek, then Rock Creek from the confluence with West Fork Rock Creek to a point downstream in Gov't Lot 5 (SENESE) Sec. 36, T3S, R23E, and the proposed POD is the upstream and downstream ends of this Protected Reach. The project is in Carbon County and the source is West Fork Rock Creek. The protected water for instream flow is from West Fork Rock Creek with Rock Creek used as a natural carrier to the end of the Protected Reach. The period of use will remain April 10 – November 1 annually. No additional flow rate or volume are requested through this change. The DNRC shall issue a change authorization if an applicant proves the criteria in 85-2-402 MCA are met.

Agencies consulted during preparation of the Environmental Assessment:
(include agencies with overlapping jurisdiction)
Montana Department of Natural Resources and Conservation
Montana Department of Fish, Wildlife, and Parks (FWP)
Montana Department of Environmental Quality (DEQ)
Montana Sage Grouse Habitat Conservation Program (SGHCP)
Montana Natural Heritage Program (NHP)
United States Natural Resource Conservation Service (NRCS)
United States Fish and Wildlife Service (USFWS)
United States Department of Agriculture Natural Resources and Conservation Service (USDA NRCS)

Part II. Environmental Review

Environmental Impact Checklist:

PHYSICAL ENVIRONMENT

WATER QUANTITY, QUALITY AND DISTRIBUTION

Water quantity **–** Leaving water instream to benefit fisheries resources will improve water quantity in West Fork Rock Creek and Rock Creek (as a natural carrier). The proposed project will temporarily cease diversion for agricultural purposes.

Determination: Significant positive impact

Water quality **–** Montana DEQ does not identify West Fork Rock Creek or Rock Creek as an impaired source for water quality. The proposed project leaves water instream which could improve water quality by diluting any possible pollutants.

Determination: Minor positive impact

Groundwater **–** The change to the place of use will have an impact on groundwater recharge through the West Bench alluvial aquifer and return flows to Willow Creek. The retiring of 123.79 acres of irrigation will remove 64.8 AF of water which recharged groundwater and eventually accrued to a surface water source.

Determination: Minor negative impact

Diversion works - Statements of Claim 43D 30155507 and 43D 30155511 will no longer use the historical headgate diversion through this change. The change to instream flow does not require a diversion as water will be left instream.

Determination: No significant impact

UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES

Endangered and threatened species **–** According to the Montana NHP, the following Species of Concern, Potential Species of Concern, and Important Animal Habitat can be found within the project area: Great Blue Heron, Clark's Nutcracker, Golden Eagle, Evening Grosbeak, Brewer's Sparrow, Bobolink, Brown Creeper, Greater Sage-Grouse, Long-billed Curlew, Loggerhead Shrike, Harlequin Duck, Lyall's Polytrichum Moss, Warnstorfia Moss, Rocky Mountain Cutthroat Trout, Monarch, Northern Hoary Bat, Little Brown Myotis, Canada Lynx, Grizzly Bear, Wolverine, White-tailed Prairie Dog, Bat Roost (Non-Cave), Western Milksnake, Snapping Turtle, Spiny Softshell, Beautiful Fleabane, Wood Lily, Whitebark Pine, Suksdorf Monkeyflower, Rydberg's Parsley, and Scribner's Ragwort. According to the Montana SGHBP Map, this project is not within an area identified as Sage Grouse habitat, though adjacent sagebrush prairie is considered general and core habitat. The proposed project is to leave water instream in order to benefit fisheries resources. Other species may also benefit from increased

water in West Fork Rock Creek and Rock Creek during the summer months when irrigation use decreases flow in stream.

Determination: Positive impact

Wetlands **–** According to wetland mapping by the USFWS, the wetlands in the project area include forested/shrub riparian habitat, freshwater emergent wetlands, and riverine wetlands associated with West Fork Rock Creek and Rock Creek. Increased water left instream could have a positive impact on wetland and riparian habitat.

Determination: Minor positive impact

Ponds **–**There are private ponds within the project area, but no ponds are proposed.

Determination: No impact

Geology/Soil Quality, Stability and Moisture **–** According to the USDA NRCS, the predominant soil type in the project area is Charlos loam, 0-2 and 2-8 percent slopes, which is well drained prime farmland. Alluvial land is the next most common soil type in the project area and is poorly drained and nonsaline to very slightly saline in the river bottom. The next most common soil type is Maurice-Bearmouth complex and is well drained floodplain soil. The remaining soil types each represent less than 5% of the total soils in the project area. These soil types are predominately associated with riverine areas or the productive farmland immediately surrounding. The proposed changes is unlikely to cause any impact on soil quality or stability as water left in stream is consistent with natural soil moisture levels.

Determination: No significant impact.

Vegetation Cover, Quantity and Quality/Noxious Weeds – The retired place of use is former agricultural land which has been converted to a residential subdivision. The proposed change will have no impact on vegetative cover or noxious weeds.

Determination: No significant impact

Air quality **–** The proposed changes for instream use will not impact air quality.

Determination: No impact

Historical and archeological sites **–** NA-project not located on State or Federal Lands.

Determination: Not applicable

Demands on environmental resources of land, water, and energy – No additional demands on environmental resources are recognized.

Determination: No impact

HUMAN ENVIRONMENT

Locally adopted environmental plans and goals **–** There are no known locally adopted environmental plans or goals.

Determination: Not applicable

Access to and quality of recreational and wilderness activities **–** The project proposes to leave water instream in a popular recreational fishery. Increased flow could improve access to these recreational opportunities.

Determination: Minor positive impact

Human health **–** No impacts to human health have been identified for the proposed instream flow project.

Determination: No impact

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 impact

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

Other appropriate social and economic circumstances? No significant impact

Secondary and cumulative impacts on the physical environment and human population:

(a) *Secondary Impacts:* No secondary impacts are recognized

(b) *Cumulative Impacts*: No cumulative impacts are recognized

Describe any mitigation/stipulation measures: None

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 alternative to the proposed project is the no action alternative. The no action alternative prevents the water right owner from improving instream flow conditions in West Fork Rock Creek and Rock Creek. The no action alternative does not prevent or mitigate any significant environmental impacts.

PART III. Conclusion

1. Preferred Alternative: Issue the change authorization if the applicant proves the criteria in 85-2-402 MCA are met.

2 Comments and Responses: None

Finding:
*Yes__ No_**x**_ Based on the significance criteria evaluated in this EA, is an EIS required?*

There are no significant impacts associated with the project, so an environmental assessment is the appropriate level of analysis.

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

Name: Veronica Corbett
Title: Water Resource Specialist
Date: May 23, 2025