

# PUBLIC NOTICE

## PUBLIC COMMENT PERIOD

Notice to Water Users

(Pursuant to Section 85-2-307, MCA)

The following application has been submitted to change a water right in the State of Montana.

---

THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION PROPOSES TO GRANT AN APPLICATION TO CHANGE A WATER RIGHT. DESCRIBED BELOW ARE THE PERTINENT FACTS WHICH SUMMARIZE THE APPLICATION. THE DRAFT PRELIMINARY DETERMINATION (PD) DOCUMENTING THE FINDINGS OF FACT AND CONCLUSIONS OF LAW AND ANY CONDITIONS ATTACHED TO THE WATER RIGHT ARE AVAILABLE ON THE INTERNET AT <https://dnrc.mt.gov/Water-Resources/Water-Rights/application-status-environmental-assessments/>.

**PUBLIC COMMENT DEADLINE: OCTOBER 18, 2025.** THE DEPARTMENT CAN ONLY ACCEPT PUBLIC COMMENTS FILED ON A PUBLIC COMMENT FORM, FORM 654. MAIL THE COMPLETED FORM TO THE DNRC, PO BOX 201601, HELENA, MT 59620-1601 BY THE DEADLINE SPECIFIED. THE FORM IS AVAILABLE ON THE DEPARTMENT'S WEBSITE. PER 85-2-307(5)(C), MCA, IF NO PUBLIC COMMENTS ARE RECEIVED, THE DRAFT PD WILL BE ADOPTED AS FINAL AND THERE WILL BE NO OPPORTUNITY TO OBJECT TO THIS APPLICATION.

DIRECT ANY QUESTIONS PERTAINING TO THE APPLICATION, OR REQUESTS TO OBTAIN THE DRAFT PD OR PUBLIC COMMENT FORM TO THE WATER RESOURCES OFFICE AT 1371 RIMTOP DRIVE, BILLINGS, MT 59105-1978 FAX: 406-247-4416 PHONE: 406-247-4415.

---

**Application Number:** 43D 30165001

**Applicant:** RONALD M HENRY  
930 BLACKBERRY WAY  
BILLINGS, MT 59106 2276

### **WATER RIGHT NUMBER(S) BEING CHANGED**

<b><u>Water Right Type</u></b>	<b><u>Water Right Number</u></b>	<b><u>Priority Date</u></b>
STATEMENT OF CLAIM Historical Flow Rate: 0.87 CFS	43D 30155507 Historical Consumptive Volume: 30.14 AC-FT Historical Diverted Volume: 79.30 AC-FT	JUNE 1, 1889
STATEMENT OF CLAIM Historical Flow Rate: 1.92 CFS	43D 30155511 Historical Consumptive Volume: 67.08 AC-FT Historical Diverted Volume: 176.20 AC-FT	SEPTEMBER 1, 1888

### **PAST USE OF WATER**

STATEMENT OF CLAIM 43D 30155507 HISTORICALLY DIVERTED 0.87 CFS FROM WEST FORK ROCK CREEK TO FLOOD IRRIGATE 123.79 ACRES FROM APRIL 10 TO NOVEMBER 1 WITH A PRIORITY DATE OF JUNE 1, 1889. STATEMENT OF CLAIM 43D 30155511 HISTORICALLY DIVERTED 1.92 CFS FROM WEST FORK ROCK CREEK TO IRRIGATE 123.79 ACRES FROM APRIL 10 TO NOVEMBER 1 WITH A PRIORITY DATE OF SEPTEMBER 1, 1888. BOTH WATER RIGHTS USED THE MCDONALD DITCH HEADGATE IN THE NENWNW SEC. 7, T8S, R20E, CARBON COUNTY AS A POD AND THE MCDONALD DITCH AS A MEANS OF CONVEYANCE. BOTH WATER RIGHTS HAVE A POU OF 23.74 AC IN THE SENE SEC. 28; 40.02 AC IN THE SWNE SEC. 28; AND 60.03 AC IN THE SE SEC. 28, T7S, R20E, CARBON COUNTY.

### **PROPOSED CHANGE**

**FLOW RATE:** 2.79 CFS                      **VOLUME:** 255.50 AC-FT

THE APPLICANT PROPOSES TO TEMPORARILY CHANGE THE POINT OF DIVERSION (POD), PLACE OF USE (POU), AND PURPOSE FOR STATEMENTS OF CLAIM 43D 30155507 AND 43D 30155511. THE PROPOSED CHANGE IS TEMPORARY FOR A PERIOD OF TEN YEARS AS DESCRIBED IN 85-2-408, AND 85-2-436, MCA. THE PROPOSED PURPOSE IS INSTREAM FLOW TO BENEFIT FISHERY RESOURCES AND THE PROPOSED PLACE OF USE IS 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. THE PROJECT IS IN CARBON COUNTY AND THE SOURCE IS WEST FORK ROCK CREEK.

### **ADDITIONAL INFORMATION**

IF AUTHORIZED, THE FOLLOWING CONDITIONS WILL APPLY:

A. THE APPROPRIATOR OR A DESIGNEE SHALL MEASURE THE PROTECTED REACH ACCORDING TO THE MEASUREMENT PLAN AUTHORIZED IN THE PRELIMINARY DETERMINATION ORDER USING DEPARTMENT-APPROVED MEASURING DEVICES. THE APPROPRIATOR SHALL MAINTAIN THE MEASURING DEVICES, SO THEY ALWAYS OPERATE PROPERLY AND MEASURE FLOW RATE ACCURATELY. THE APPROPRIATOR WILL USE DATA FROM THREE (3) MEASUREMENT LOCATIONS: (1) AT OR NEAR THE US HIGHWAY 212 BRIDGE NEAR THE CONFLUENCE OF WEST FORK ROCK CREEK WITH ROCK CREEK IN THE NWSE SEC. 4, T8S, R20E; (2) ON ROCK CREEK, EITHER AT THE FOX-EAST BENCH RD BRIDGE (GOV'T LOT 7 (NESW) SEC. 25, T6S, R20E), OR THE ROBERTS/CARBON AVE BRIDGE (NENW SEC. 32, T5S, R21E); AND (3) NEAR THE CONFLUENCE OF ROCK CREEK

AND THE CLARKS FORK RIVER, EITHER THE US HWY 310 BRIDGE NEAR ROCKVALE (SENE SEC. 3, T4S, R23E), OR THE GRAPEVINE ROAD/GIBSON ROAD BRIDGE (BETWEEN GOV'T LOTS 3 AND 4 (NW) SEC. 1, T4S, R23E, CARBON COUNTY) TO MONITOR STREAM FLOWS IN WEST FORK ROCK CREEK AND ROCK CREEK. STAFF GAGES AND/OR WATER LEVEL LOGGERS WILL BE INSTALLED AT THESE LOCATIONS TO BE CORROBORATED WITH REGULAR STREAMFLOW MEASUREMENTS TO DEVELOP A RATING CURVE AND RATING TABLE. THE RATING TABLE WILL BE PROVIDED TO THE WATER COMMISSIONER ANNUALLY BEFORE THE PROPOSED PERIOD OF USE. IN THE EVENT THAT A WATER COMMISSIONER IS NOT ORDERED ON ROCK CREEK, THE MEASUREMENTS, RATING CURVE, AND RATING TABLE WILL BE PROVIDED TO DNRC ANNUALLY BY DECEMBER 31 OF EACH YEAR OR ANYTIME UPON REQUEST.

B. THE APPLICANT MAY PROTECT THE FULL DIVERTED VOLUME OF 255.5 AF FROM THE HISTORICAL POD IN THE NENWNW SECTION 7, T8S, R20E TO THE PLACE WHERE RETURN FLOWS RETURNED TO THE MAINSTREAM OF THE SOURCE ON ROCK CREEK IN THE S2SWNE SECTION 24, T4S, R21E. FROM THAT POINT, ONLY THE CONSUMED VOLUME OF 97.22 AF MAY BE PROTECTED TO THE DOWNSTREAM END OF THE PROTECTED REACH ON ROCK CREEK IN GOVERNMENT LOT 5 (SENESE) SECTION 36, T3S, R23E.

**PUBLISHED IN: CARBON COUNTY NEWS ON SEPTEMBER 18, 2025.**