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

ENVIRONMENTAL ASSESSMENT

For Routine Actions with Limited Environmental Impact

Part I. Proposed Action Description

1. APPLICANT/CONTACT NAMES AND ADDRESSES:

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NORTH BEND WA 98045-0497

RANDY AND DORI BOCK
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LIBBY MT 59923-7993

2. TYPE OF ACTION:

Application to Change a Water Right No. 76C 30165242

3. WATER SOURCE NAME:

Ferguson Creek

4. LOCATION AFFECTED BY PROJECT:

SWNESW Section 20, Township 26N, Ranch 28W, Lincoln County, MT.

5. NARRATIVE SUMMARY OF THE PROPSED PROJECT, PURPOSE, ACTION TO BE TAKEN, AND BENEFITS:

The Applicant proposes changing the point of diversion (POD) for Statement of Claim No. 76C 25338-00 by adding an additional (second) POD on Ferguson Creek. The proposed second point of diversion will be a headgate in the SWNESW of Section 20, Township 26 N, Range 28 W, Lincoln County (Figure 1). No changes to the purpose or place of use are proposed in this change and there is no storage component to this water right. The details of the proposed change are summarized in Tables 1 and 2.

Table 1: Summary of the Proposed Use of Statement of Claim No. 76C 25338-00

Water Right Number	Purpose and Acres	Flow Rate (CFS)	Consumed Volume (AF)	Diverted Volume (AF)	Period of Diversion & Use	Means of Diversion	Points of Diversion	Places of Use
76C 25338-00	Irrigation --- 200.0 acres	2.5	33.04	270.99	04/25 – 10/05	Natural Carrier	SESESE of Section 20, Twp 26N, Rge 28W, Lincoln County (Historical/existing POD)	See Table 2
						Headgate	SWNESW Section 20, Twp 26N, Rge 28W, Lincoln County (Proposed second POD)	

Table 2: Summary of the Places of Use of Statement of Claim No. 76C 25338-00

POU ID	1/4	1/4	1/4	Section	Township	Range	County
1	---	S2	SE	17	26N	28W	Lincoln
2	---	---	NE	20	26N	28W	Lincoln
3	NE	NE	SW	20	26N	28W	Lincoln
4	---	N2	SE	20	26N	28W	Lincoln
5	---	SW	NW	21	26N	28W	Lincoln
6	W2	NW	SW	21	26N	28W	Lincoln

The project is in Water Right Basin 76C (Fisher River) in an area that is not subject to water right basin closures or controlled groundwater area restrictions

The DNRC shall grant the requested water right change if the applicant proves the criteria in 85-2-402 MCA are met.

6. AGENCIES CONSULTED DURING PREPARATION OF THE ENVIRONMENTAL ASSESSMENT:

- U.S. Fish and Wildlife Service (USFWS): National Wetlands Inventory Wetlands Mapper
- Montana Natural Heritage Program: Endangered, Threatened Species, and Species of Special Concern
- Montana Department of Fish Wildlife & Parks (DFWP): Dewatered Stream Information
- Montana Department of Environmental Quality (MDEQ): Clean Water Act Information Center
- U.S. Natural Resource Conservation Service (NRCS): Web Soil Survey

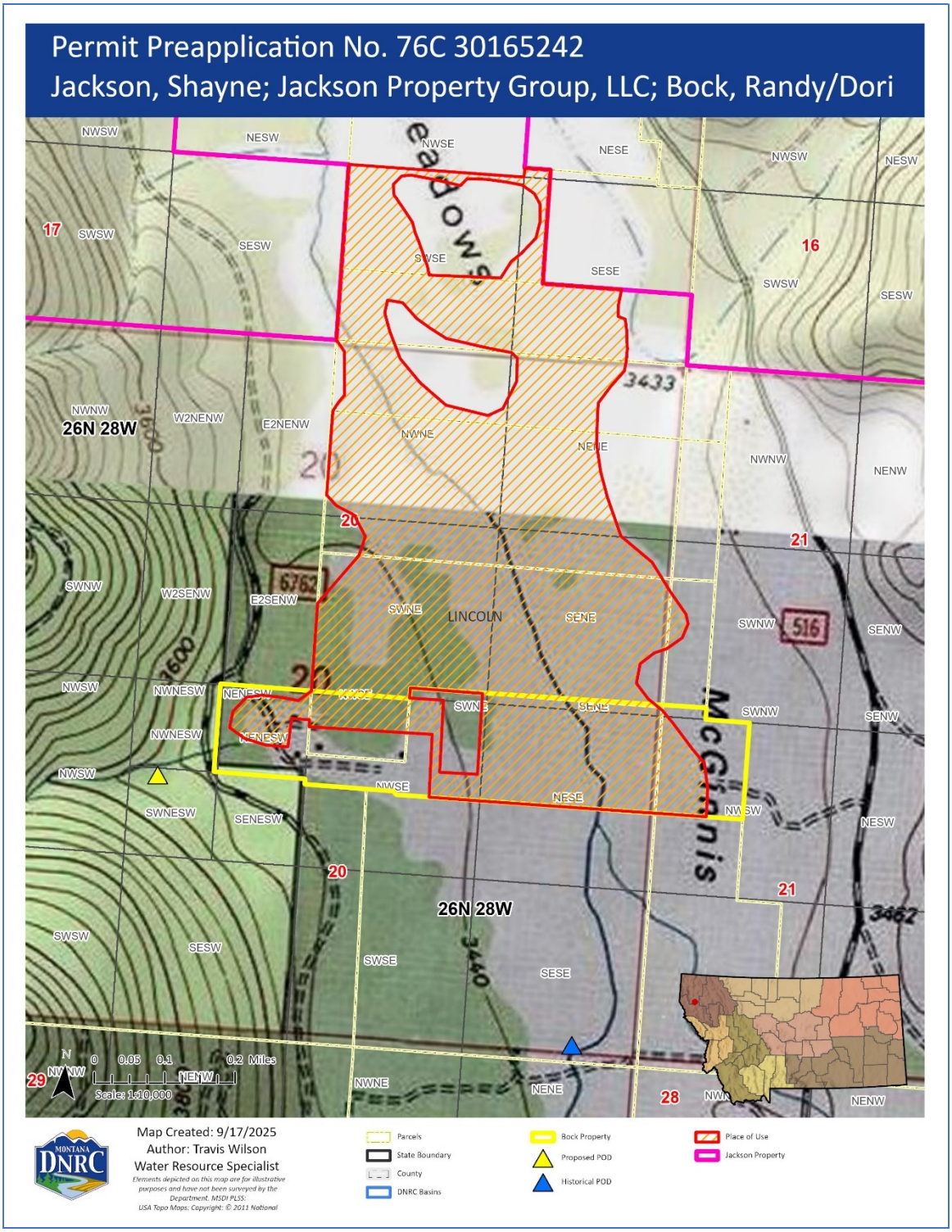

Figure 1: Map of the Applicants' proposed and historical points of diversion and place of use.

Part II. Environmental Review

1. ENVIRONMENTAL IMPACT CHECKLIST:

PHYSICAL ENVIRONMENT

1.1 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.*

Ferguson Creek is a tributary of McGinnis Creek, which is a tributary of the Pleasant Valley Fisher River. The Pleasant Valley Fisher River is listed as chronically dewatered by MTDFWP from Lost Prairie to Loon Lake. This dewatered reach is entirely upstream of the confluence of McGinnis Creek with the Pleasant Valley Fisher River. Therefore, the proposed project will not worsen already dewatered conditions in any downstream sources.

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.*

Ferguson Creek is a tributary of McGinnis Creek, which is a tributary of the Pleasant Valley Fisher River, which is a tributary of the Fisher River. The Fisher River has been assessed for water quality by MDEQ.

Fisher River, the Silver Butte/Pleasant Valley junction to mouth (Kootenai River): MDEQ Clean Water Act Information Center's 2024 Water Quality Information report lists the Fisher River as:

i. Water Quality Category 4C: Waters where identified threats or impairments result from pollution categories such as dewatering or habitat modification and, thus, the calculation of a Total Maximum Daily Load (TMDL) is not required.

ii. Use Class B-1: Waters classified as suitable for drinking, culinary, and food processing purposes after conventional treatment; bathing, swimming and recreation; growth and propagation of salmonid fishes and associated aquatic life, waterfowl and furbearers; and agricultural and industrial water supply;

iii. "Fully supporting" for: agricultural, drinking water, and primary contact recreation beneficial uses; and,

iv. "Not fully supporting" for: aquatic life with probable causes for this designation being flow regime modification.

Adding a new POD for the diversion of water for the continuation of historically practiced irrigation is not anticipated to significantly affect water quality in these sources.

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.*

Determination: N/A, project does not involve groundwater.

1.2 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.*

The Applicants propose adding a second POD to Statement of Claim No. 76C 25338-00. The proposed second POD will consist of a 6-inch-thick cast-in-place concrete structure in the Ferguson Creek channel with a flow-through flashboard check-opening to create head for water to enter a headgate on the proposed Ferguson Ditch. The adjustable headgate will consist of a 15-inch diameter bolt-on cast iron disc-style irrigation canal gate with a threaded stem, steel guiderails, and a hand-operated adjustment wheel. The headgate will be attached to the headwall of a 20-foot length of 15-inch diameter PVC pipe that will discharge water into the proposed Ferguson Ditch. The headgate structure and pipe was sized to allow for forced backwater (full-pipe) flow to accommodate a propeller-style flow meter. The flashboard check opening will be approximately 3 feet wide by

2.5 feet tall and will act as a rectangular weir to measure flows continuing along the historical Ferguson Creek channel. This flashboard check opening was sized to allow for conveyance of a 5-year flood flow event of approximately 26.4 CFS for Ferguson Creek. Up to the full 2.5 CFS flow rate may be diverted into the proposed Ferguson Ditch, though the Applicants estimate an average diversion of 1.5 CFS.

The proposed Ferguson Ditch will be an earthen ditch which will convey water 800 feet from the proposed new POD to the historical place of use. Once within the historical place of use, the proposed Ferguson Ditch will connect into existing irrigation infrastructure. The Ferguson Ditch will be a trapezoidal channel with a bottom width of 3.0 feet and 1:1 left and right bank slopes capable of conveying up to 2.5 CFS. The existing historical POD will still continue to deliver water throughout the existing system's natural channels, pressurized mains, secondary diversions and lateral ditches, contour ditches, and overland wild flood infrastructure.

The Department finds that the proposed diversion and conveyance infrastructure is capable of diverting and conveying the proposed flow rate of 2.5 CFS up a total diverted volume of 270.99 AF/year.

The construction of the new diversion structure will have impacts on the Ferguson Creek channel and will create a partial barrier. There may also be impacts to the riparian area along the channel. This project does not involve a well.

Determination: Impacts possible; additional permits (such as a 310 permit) may be required. The Applicant is responsible for obtaining any applicable permits related to working in and near the Ferguson Creek channel and riparian zone.

1.3 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, 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 website was reviewed to determine if there are any threatened or endangered fish, wildlife, plants, aquatic species, or any "species of special concern" in the project area that could be impacted by the proposed project. Thirteen species of concern (Table 3) were identified in the general vicinity of the project area. This general area has been in agricultural production for decades, and it is not anticipated that any species of concern will be further impacted by the proposed project. This project may pose a barrier to the migration or movement of fish due to the characteristics of the diversion structure. It is not anticipated that this project will create any barriers to the migration or movement of other wildlife.

Table 3: Species of Concern

Species Group	Common Name	Scientific Name
Mammals	Fisher	*Pekania pennanti*
Mammals	Grizzly Bear*	*Ursus arctos*
Mammals	Wolverine*	*Gulo gulo*
Birds	Brown Creeper	*Certhia americana*
Birds	Cassin's Finch	*Haemorhous cassinii*
Birds	Clark's Nutcracker	*Nucifraga columbiana*
Birds	Evening Grosbeak	*Coccothraustes vespertinus*
Birds	Pacific Wren	*Troglodytes pacificus*
Birds	Pileated Woodpecker	*Dryocopus pileatus*
Birds	Varied Thrush	*Ixoreus naevius*
Birds	Veery	*Catharus fuscescens*
Fish	Columbia River Redband Trout	*Oncorhynchus mykiss gairdneri*
Fish	Torrent Sculpin	*Cottus rhotheus*

*Species listed as Threatened by the USFWS.

Determination: Impacts possible; new diversion structure may create a barrier to fish movement. The Applicant is responsible for obtaining any applicable permits related to working in a steam and/or creating barriers to flow and/or fish passage.

Wetlands and Ponds - *Consult and assess whether the apparent wetland is a functional wetland (according to COE definitions), and whether the wetland resource would be impacted. For ponds, consult and assess whether existing wildlife, waterfowl, or fisheries resources would be impacted.*

There is a 3.7-acre Forested/Shrub Wetland adjacent to Ferguson Creek in the location of the proposed new POD. The Applicant is responsible for ensuring they obtain all permits from the relevant agencies for work near any wetlands. This project does not involve a pond.

Determination: Impacts possible; construction of the new diversion structure may impact the adjacent wetland. The Applicant is responsible for obtaining any applicable permits related to working in or near a mapped wetland.

1.4 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 proposed addition of a new POD and conveyance ditch may impact the soil quality, stability, or moisture content. Soils in the general vicinity are not typically saline and thus are not susceptible to saline seep. The soils in the project area are:

- Andic Dystrochrepts, glaciated mountain slopes, formed from loamy till over dense basal till parent material. These soils have a low to moderately high capacity to transmit water.
- Andic Dystric Eutrochrepts, lacustrine terraces, and Andic Dystrochrepts, glacial outwash terraces, complex, formed from silty glaciolacustrine deposits and stratified sandy and gravelly outwash parent materials. These soils have a moderately high to high capacity to transmit water.

Determination: Impacts possible; the construction of a conveyance ditch with associated seepage losses may impact soil stability and moisture content.

1.5 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.*

It is not anticipated that constructing a new POD and conveyance ditch will significantly impact any existing native vegetation. This general area has been in agricultural production for decades. It is not anticipated that the authorization of the requested water right change will contribute to the establishment or spread of noxious weeds in the project area. Noxious weed prevention and control will be the responsibility of the landowners, who must follow local noxious weed regulations.

Determination: No significant impact.

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

There will be no impact to air quality associated with the authorization of the proposed water right change.

Determination: No significant impact.

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

Determination: N/A, project not located on State or Federal Lands.

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

All impacts to land, water, and energy have been identified and no further impacts are anticipated.

Determination: No significant impact.

HUMAN ENVIRONMENT

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

The project is consistent with planned land uses.

Determination: No significant impact.

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

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

Determination: No significant impact.

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

This proposed use will not adversely impact human health.

Determination: No significant impact.

1.12 PRIVATE PROPERTY - *Assess whether there are any government regulatory impacts on private property rights. If yes, analyze any alternatives considered that could reduce, minimize, or eliminate the regulation of private property rights*.

There are no government regulatory impacts on private property rights resulting from this project.

Determination: No impact.

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

Impacts on:

(a) *Cultural uniqueness and diversity?* None identified.

(*b)* *Local and state tax base and tax revenues?* None identified.

(c) *Existing land uses?* None identified.

(*d)* *Quantity and distribution of employment?* None identified.

(e) *Distribution and density of population and housing?* None identified.

(f) *Demands for government services?* None identified.

(g) *Industrial and commercial activity?* None identified.

(h) *Utilities?* None identified.

(i) *Transportation?* None identified.

(j) *Safety?* None identified.

(k) *Other appropriate social and economic circumstances?* None identified.

2. SECONDARY AND CUMULATIVE IMPACTS ON THE PHYSICAL ENVIRONMENT AND HUMAN POPULATION:

Secondary Impacts: None identified.

Cumulative Impacts: None identified.

3. DESCRIBE ANY MITIGATION/STIPULATION MEASURES:

None.

4. DESCRIPTION AND ANALYSIS OF REASONABLE ALTERNATIVES TO THE PROPOSED ACTION, INCLUDING THE NO ACTION ALTERNATIVE, IF AN ALTERNATIVE IS REASONABLY AVAILABLE AND PRUDENT TO CONSIDER:

The only alternative to the proposed action would be the no action alternative. The no action alternative would be to not grant the requested water right change of adding a second point of diversion.

Part III. Conclusion

1. PREFFERED ALTERNATIVE:

Authorize the requested water right change if the Applicant proves the criteria in 85-2-402 MCA are met.

2. COMMENTS AND RESPONSES:

None.

3. FINDING:

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

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

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

4. NAME OF PERSON(S) RESPONSIBLE FOR PREPARATION OF EA:

Name: Travis Wilson
Title: Water Resource Specialist
Date: April 4, 2026