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

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APPLICATION FOR BENEFICIAL WATER USE PERMIT NO. 76LJ 30163639 BY Sean & Melodye Rooney	)))	**DRAFT PRELIMINARY DETERMINATION TO GRANT PERMIT**

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On January 2, 2025, Sean & Melodye Rooney (Applicants) submitted Application for Beneficial Water Use Permit No. 76LJ 30163639 to the Kalispell Regional Office of the Department of Natural Resources and Conservation (Department or DNRC) for 250 GPM and 38.71 AF for the beneficial uses of Irrigation and Wetland Enhancement. The Department published receipt of the application on its website. The Department sent the Applicants a deficiency letter under § 85-2-302, Montana Code Annotated (MCA), dated January 22, 2025. The Applicants responded with information dated May 19, 2025. The Applicants submitted an Amendment on May 29, 2025 to increase the volume to 39.75 AF for the total appropriation, the period of use for the Wetland Enhancement Purpose to March 01 to October 31, and the period of diversion for the total appropriation to March 01 to July 31 and October 19 to October 31. A preapplication meeting was held between the Department and the Applicants on May 6, 2024, in which the Applicants designated that the technical analyses for this application would be completed by the Department. The Applicants returned the completed Preapplication Meeting Form on May 24, 2024. The Department delivered the Department-completed Technical Analysis on July 8, 2024. The application was determined to be correct and complete as of June 12, 2025. An Environmental Assessment for this application was completed on July 18, 2025.

INFORMATION

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

Application as filed:

- Application for Beneficial Water Use Permit, Form 600
- Addenda:
    - Technical Analysis Addendum- Form 600 TAA
- Attachments:
    - TDH Calculations
    - Pump Specifications- POD
    - Pump Specifications- Irrigation
- Maps:
    - Vicinity Map, dated December 12, 2024
    - Site Plan, dated December 12, 2024
- Department- completed technical analyses based on information provided in the Preapplication Meeting Form, dated July 8, 2024

Information Received after Application Filed

- Deficiency Response Letter from Applicants to DNRC dated May 6, 2025, Re: Rooney Application for Beneficial Water Use- Permit No. 76LJ 30163639, received by DNRC on May 19, 2025
- Amendment, DNRC Form 655, received by DNRC on May 29, 2025
- Junk, W.J., Bayley, P.B., & Sparks, R.E. (1989). *The Flood Pulse Concept in River-Floodplain Systems.* In: Dodge, D.P. (Ed.), *Proceedings of the International Large River Symposium.* Canadian Special Publication of Fisheries and Aquatic Sciences 106

Information within the Department's Possession/Knowledge

- USGS Stream Gaging records for Gage #12365000- Stillwater River near Whitefish, MT

- 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 Kalispell Regional Office at 406-752-2288 to request copies of the following documents:
    - Department Standard Practice for Determining Physical Availability of Surface Water
    - Department Standard Practice for Determining Area of Potential Impact
    - DNRC, 2019. Technical Memorandum: Physical Availability of Surface Water With Gage Data, dated November 1, 2019
    - Technical Memorandum: DNRC's Use of the Irrigation Water Requirements (IWR) Program, dated February 4, 2013
    - Technical Memorandum: Pond and Wetland Evaporation/Evapotranspiration, dated June 7, 2023

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; 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; MCA means Montana Code Annotated; ARM means Administrative Rules of Montana; MT means Montana; USGS means United States Geologic Survey; USFWS means United States Fish and Wildlife Service; IDWR means Idaho Department of Water Resources; USDA means United States Department of Agriculture; NRCS means National Resource Conservation Survey; POD means point of diversion; POU means place of use; and TDH means total dynamic head.

PROPOSED APPROPRIATION

FINDINGS OF FACT

1. The Applicants propose to divert water from the Stillwater River, by means of a pump, from March 1 to July 31 and October 19 to October 31 at 250 GPM (0.56 CFS) up to 39.75 AF, from a point in the SW ¼ of the SE ¼ of the NE ¼ of Section 36, Township 31N, Range 23W, Flathead County, Montana; 1.26 AF for Irrigation use from April 15 to October 15 and 38.49 AF for Wetland Enhancement use from March 1 to October 31. The Applicants propose to divert water into a main "upper" pond four times annually throughout the period of diversion. Diverted water will be used to fill the upper pond to account for losses due to evaporation, intentional overflow into a lower wetland (lower pond) area and irrigation of a 0.55 acre orchard adjacent to the upper pond. The place of use is generally located in the SE ¼ of the NE ¼ of Section 36, Township 31 north, Range 23 west, Flathead County, Montana.

2. The requested appropriation will is supplemental and shares a place of use with Groundwater Certificate 76LJ 30013084, which supplies up to 10 AF at a rate up to 35 GPM for irrigation and wildlife/waterfowl purposes from April 1 to October 31 from a well, GWIC ID 213752, to the East of the proposed pond.

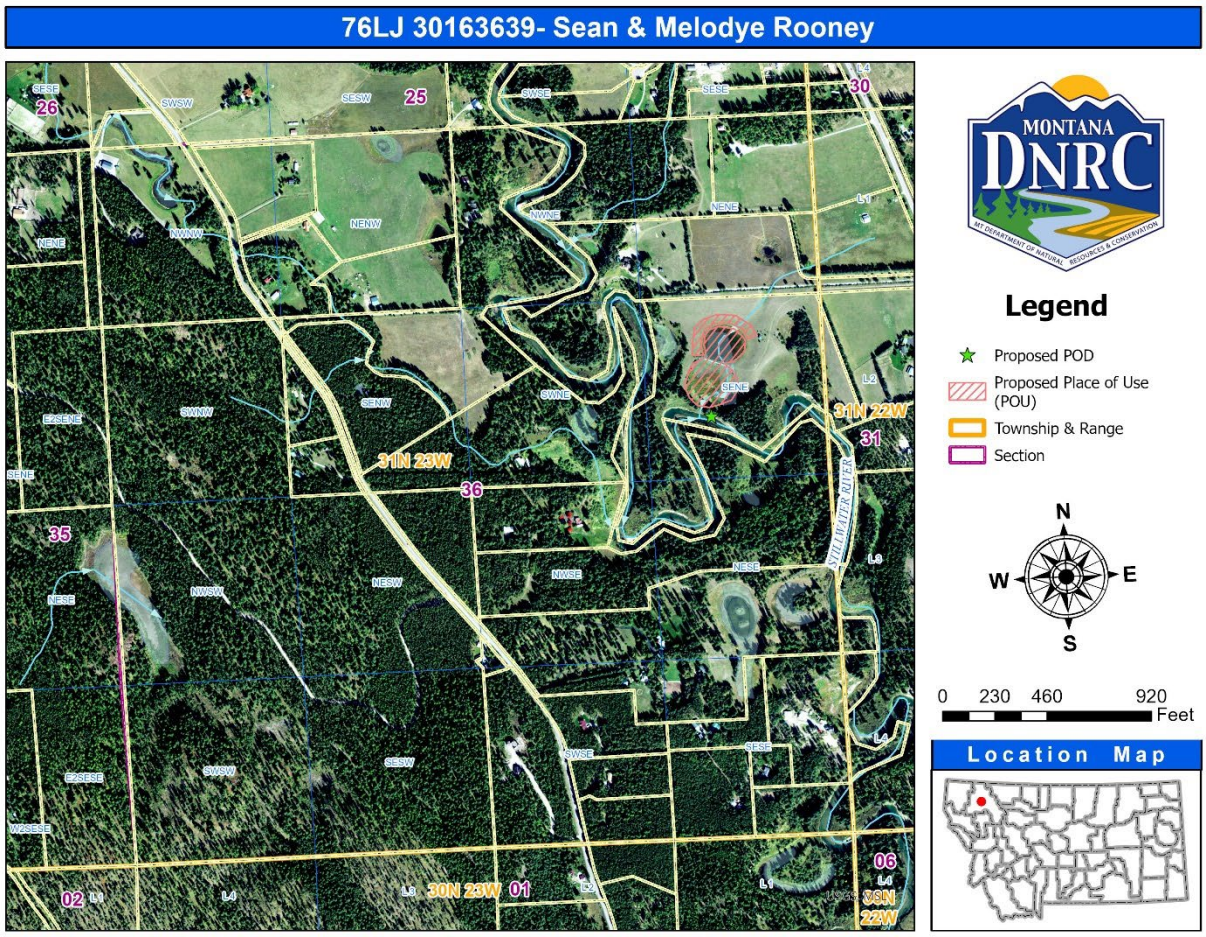

Figure 1: Map of the Applicant's proposed POD on the source and proposed place of use.

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

GENERAL CONCLUSIONS OF LAW

3. 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 . . .

4. 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.

5. 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.

6. 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).

7. 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.

8. 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

9. The Applicants propose to divert water from March 1 to July 31 and October 19 to October 31 from the Stillwater River at a rate of 250 GPM (0.56 CFS). A total diverted volume of 39.75 AF is proposed for this project: 38.48 AF of water would be used between March 1 to October 31 for the purpose of wetland enhancement and 1.27 AF of water would be used between April 15 to October 15 for the purpose of irrigation. Both proposed water uses exist within the Applicants' property in the SE ¼ of the NE ¼ of Section 36, Township 31 North, Range 23 West, Flathead County, Montana.

10. USGS Gage #12365000- Stillwater River near Whitefish, MT, is the nearest gage to the proposed POD. The point of diversion for this application is located approximately 7.5 miles upstream of the gaging station. The date range used includes the entire period of record for this gage, October 1930 to September 2006.

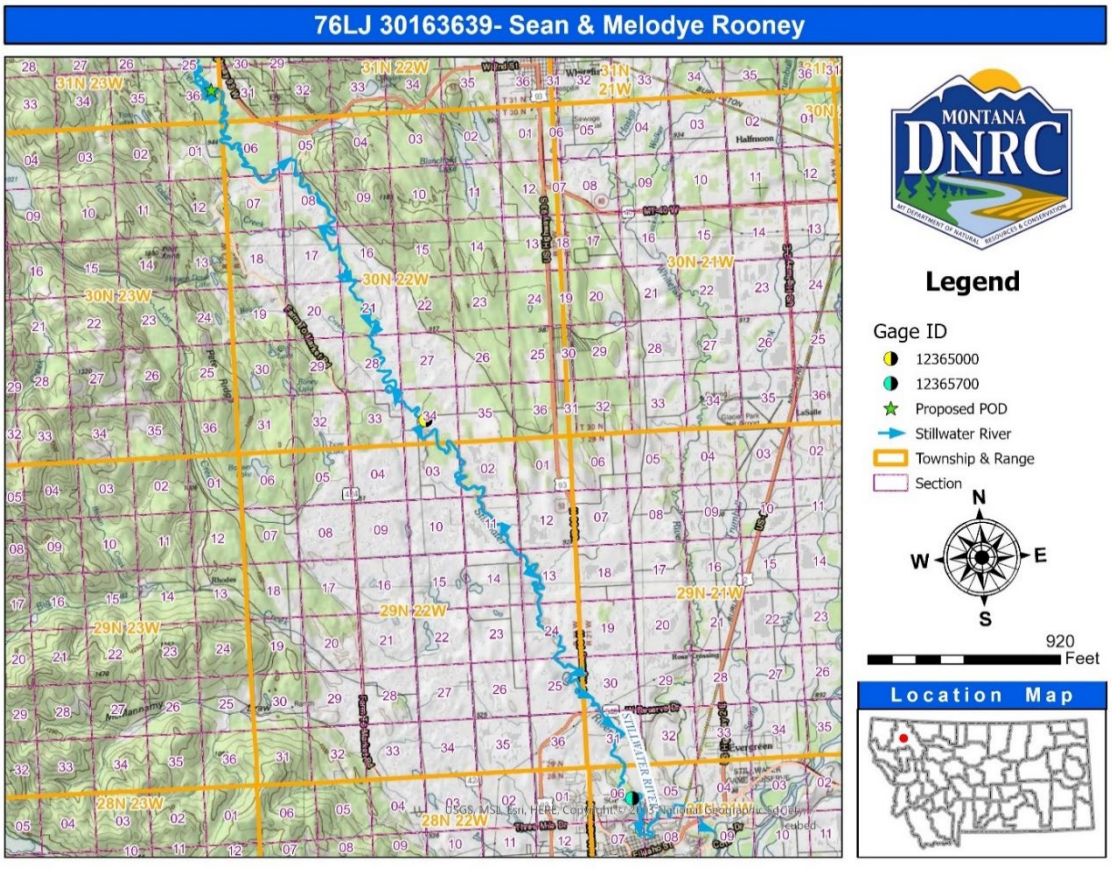

Figure 2- Map of the Proposed POD and USGS Gages Discussed in Analysis

11. Physical availability of the Stillwater River at the POD was quantified monthly. Department practice for physical availability analyses where the gage used is downstream of the POD is to add the monthly flow rates of existing water rights between the gage and the POD to the median of the mean monthly flows at the gage. The DNRC used the method below to quantify physically available monthly flows and volumes at the POD during the proposed period of diversion:

a. The Department calculated median of the mean monthly flow rates in cubic feet per second for the Stillwater River using USGS Gage #12365000 records for each month of the year (**Table 1**, column B).
b. The Department calculated the monthly flows appropriated by existing users upstream of the gage on the source (**Table 1**, column C) by:
    i. Generating a list of existing surface water rights from the POD to USGS Gage #12365000 near Whitefish, MT (list is included in the application file and available upon request);
    ii. Designating uses as occurring during their permitted or claimed periods of diversion;
    iii. Assigning a single combined flow rate of 0.08 CFS to all livestock direct from source rights without a designated flow rate, per Department adjudication standards (quantification of said water rights is not a re-adjudication or historical use analysis);
    iv. Assuming that the flow rate of each existing right is continuously diverted throughout each month of the period of diversion, with the exception of the month of October. 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; and,

c. Of the 47 water rights queried between the POD and gage # 12365000, 15 rights have a period of use that extends through October 19 or earlier. The month of October is split into two date ranges in the Physical Availability analysis to differentiate availability throughout this period.

d. Since the gage used is downstream of the POD, the Department added in the flow rates of the existing rights between the POD and USGS Gage #12365000 (**Table 1**, column C) to the median of the mean monthly gage values (Table 1, column B) to determine physical availability at the POD (**Table 1**, column D). Physically available monthly flows were then converted to monthly volumes (**Table 1**, column E) using the following equation found on DNRC Water Calculation Guide:

$$median\ of\ the\ mean\ monthly\ flow\ (CFS) * 1.98\ (AF/day/CFS) * \#\ days\ per\ month = AF/month$$

Table 1: Physical Availability at the Point of Diversion on the Stillwater River

A	B	C	D	E
Month	**Median of the Mean Monthly Flow at Gage 12365000 (CFS)**	**Existing Legal Demands from the POD down to Gage 12365000 (CFS)**	**Physically Available Water at the POD (CFS)**	**Physically Available Water at POD (AF)**
March	126.0	0.7	126.7	7773.8
April	593.9	32.4	626.3	37204.6
May	1060.5	46.1	1106.6	67924.3
June	804.4	49.8	854.2	50741.9
July	365.6	50.8	416.4	25557.4
August	169.9	50.8	220.6	13542.3
September	125.9	50.8	176.6	10491.8
October 1-19	114.6	41.0	155.6	9550.7
October 20-31	114.6	18.3	132.9	8159.9

12. The Department finds surface water physically available during the proposed period of diversion.

LEGAL AVAILABILITY

FINDINGS OF FACT

13. The Applicants propose to divert water from March 1 to July 31 and October 19 to October 31 from the Stillwater River at a rate of 250 GPM (0.56 CFS) up to a total diverted volume of 39.75 AF.

14. The area of potential impact includes the entire downstream reach below the proposed POD to the USGS Gage # 12365700 at Lawrence Park in Kalispell, MT (approximately 15 miles). The gage is located approximately 1.3 miles from the confluence with the Whitefish River, and 1.5 miles from the confluence with the Flathead River. In the area near the gage, there is evidence suggesting hydraulic connection of the Flathead Deep Alluvial Aquifer. Due to the complexities of the hydraulic connections of ground and surface waters after the Lawrence Park gage, the Department finds it reasonable to mark the area of potential impact at the gage. A total of 117 surface water rights exist within the potentially impacted reach. A list of rights can be found in Appendix A in the Technical Analysis associated with this application and is available upon request.

15. The Department generated a comparison of the physical water supply at the POD to the existing legal demands in the area of potential impact over the requested period of diversion. Legal availability of the Stillwater River was quantified monthly. The Department used the method below to quantify legally available monthly flows and volumes at the POD during the proposed period of diversion:

16. Legal availability of the Stillwater River at the POD was quantified monthly. Department practice for legal availability analyses where the gage used is downstream of the POD is to add the monthly flow rates of existing water rights between the gage and the POD to the median of the mean monthly flows at the gage to calculate physical availability. Water rights are then totaled within the area of potential impact and subtracted from physical availability to determine legal availability. The DNRC used the method below to quantify legally available monthly flows and volumes at the POD during the proposed period of diversion:

a. The Department quantified physically available monthly flows (Table 2, column B) for the Stillwater River at the POD.
b. The Department calculated the monthly flows appropriated by existing users (legal demands) on the source within the area of potential impact (Table 2, column C-D) by;
    i. Generating a list of existing water rights from the POD to the USGS Gage # 12365000 near Whitefish, MT;
    ii. Generating a list of existing water rights from the USGS Gage # 12365000 near Whitefish, MT to the USGS Gage # 12365700 at Lawrence Park in Kalispell, MT;
    iii. Delegating all uses described within these as occurring during their respective periods of diversion;
    iv. Of the 117 water rights queried between the POD and Gage # 12365700, 38 rights have a period of use that extends through October 19 or earlier. The month of October is split into two date ranges in the Legal Availability analysis to differentiate availability throughout this period.
    v. Assigning a single combined flow rate of 0.08 CFS to all livestock direct from source rights without a designated flow rate; and
    vi. 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 legal demands on the physical volume of water. The Department finds this as an appropriate measure of assessing existing rights as it protects existing water users.
c. The Department subtracted out the flow rates of the existing legal demands (Table 2, column C-D) within the area of potential impact from the physically

available water (Table 2, column B) to determine legal availability at the POD (Table 2, column E). Legally available monthly flows were then converted to monthly volumes (Table 2, column F).

d. Monthly flows were converted to monthly volumes using the following equation found on the DNRC Water Calculation Guide:

$$median\ of\ the\ mean\ monthly\ flow\ (CFS) * 1.98\ (AF/day/CFS) * \#\ days\ per\ month = AF/month$$

17. The comparison between physically available and legally available water in the Stillwater River is shown in **Table 2** below.

Table 2: Legal Availability Analysis of the Stillwater River from the Proposed Point of Diversion to the Lawerence Park Gage (USGS # 12365700)

A	B	C	D	E	F
Month	**Physically Available Water at POD (CFS)**	**Existing Legal Demands from Gage No 12365700 up to POD (CFS)**	**Existing Legal Demands between Whitefish and Lawrence Park gages (CFS)**	**Legally Available Water: Physically Available Water Minus Legal Demands (CFS)**	**Legally Available Water: Physically Available Water Minus Legal Demands (AF)**
March	126.7	0.7	6.09	119.9	7360.1
April	626.3	32.4	67.91	526.0	31243.8
May	1106.6	46.1	175.57	884.9	54317.0
June	854.2	49.8	180.46	623.9	37062.0
July	416.4	50.8	180.46	185.1	11363.9
August	220.6	50.8	179.13	-9.3	-569.6
September	176.6	50.8	178.66	-52.8	-3136.9
October 1-19	155.6	41.0	168.27	-53.7	-3294.3
October 20-31	132.9	18.3	110.46	4.1	254.1

18. The Department finds that the proposed appropriation of 250 GPM (0.56 CFS) and up to 39.75 AF from March 1 to July 31 and October 19 to October 31 legally available during the proposed period of diversion.

ADVERSE EFFECT

FINDINGS OF FACT

19. The Applicants have provided a plan showing that they can regulate their water use during water shortages. To satisfy the rights of senior appropriators during water shortages, the Applicants will:

a. Reduce irrigation application by 50% during water shortage;
b. Reduce lower wetland (lower pond) inflow application to 25% during water shortage; and
c. Shut off the pump at the Stillwater River in response to a valid call from a senior appropriator.

20. The Applicants have proven physical availability of the Stillwater River throughout the proposed period of diversion from March 1 to July 31 and October 19 to October 31. The Applicants have proven that the proposed appropriation of 250 GPM (0.56 CFS up to 39.75 AF is legally available throughout proposed period of diversion from March 1 to July 31 and October 19 to October 31.

21. The Applicants have shown that they can regulate their water use and that they have an implementation plan to protect senior water users.

22. The Department finds that the proposed water use will not adversely affect senior water users under the period of diversion of March 1 to July 31 and October 19 to October 31.

ADEQUATE MEANS OF DIVERSION

FINDINGS OF FACT

23. The Applicants will divert water from the Stillwater River at a maximum rate of 250 GPM. The diversion will us a Grundfos 230S30-1A submersible pump deployed on a sled seasonally at the point of diversion in the Stillwater River. Water will be conveyed via 500 feet of 6-inch diameter PVC pipe from the POD to the upper pond. The upper pond will be filled such that overflow will occur into the lower wetland (lower pond) area during four seasonal fill cycles.

24. The total dynamic head (TDH) of the system transporting water from the Stillwater River to the upper pond is 24.18 feet, based on:

a. The 22-foot elevation gain from the Stillwater River to the upper pond; and
b. The friction losses in the 500 ft of 6-inch diameter PVC pipe at 250 GPM (equivalent to 2.18 feet of head).

The Grundfos 230S20-1A pump is capable of producing 250 GPM at 24.18 feet of TDH based on the Applicant-provided system specifications. This flow rate will allow the Applicants to fill the upper pond in a reasonable time frame and produce overflow to the lower wetland (lower pond) area.

25. A Grundfos 10 SQ05-110 submersible pump will be used to convey water via 80 ft of 1 inch pipe to a graded border irrigation of the orchard along a length of 607 feet long by 4 feet wide at an approximate rate of 10 GPM.

26. The TDH of the system transporting water from the upper pond to the graded border area for orchard irrigation is 21 ft, based on:

a. The 16 ft elevation gain from the upper pond to the edge of the graded border; and
b. The friction losses in the 80 ft of 1 inch PVC pipe at 10 GPM (equivalent to approximately 5 ft of head).

The Grundfos 10 SQ05-110 submersible pump is capable of producing 10 GPM at 21 feet of TDH based on the Applicant-provided system specifications.

27. The Department finds that the system is capable of producing the requested flow rate of 250 GPM and annual volume of 39.75 AF.

BENEFICIAL USE

FINDINGS OF FACT

28. The Applicants plan to divert up to 39.75 AF of water annually at a rate of 250 GPM from the Stillwater River for the purposes of irrigation and wetland enhancement. Water would be pumped from the Stillwater River into an upper pond that will be purposely overflown to flood a lower wetland (lower pond) area. Additionally, water will be diverted from the upper pond to supply irrigation water to a graded 0.55 acre border orchard that borders the North and East margins of the upper pond. The proposed area is described in Figure 3 below.

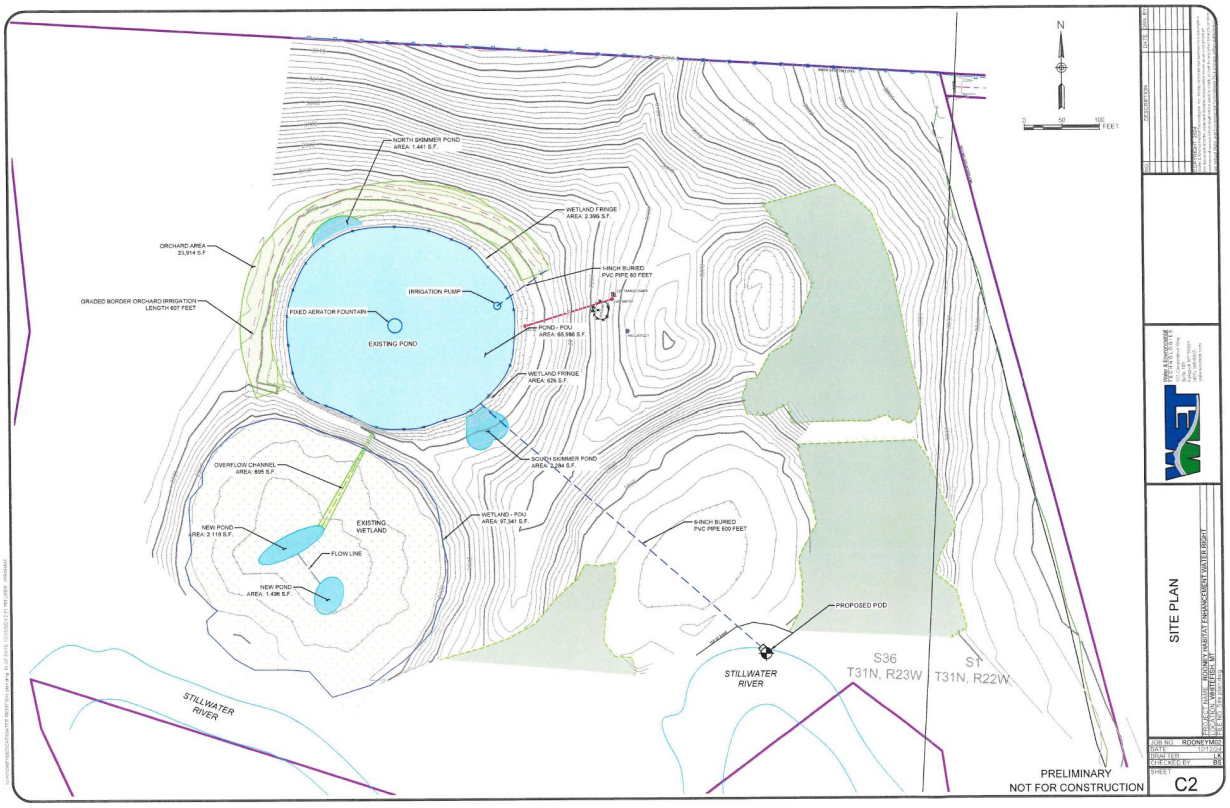

Figure 3- Applicant-supplied map of proposed POU/POD

29. The upper pond has a surface area of 1.51 acres and is designed to hold a total volume of 10.60 AF and the lower wetland (lower pond) area has a surface area of 2.23

acres and is designed to hold a total volume of 3.35 AF. The Applicants intend to overflow the upper pond up to four times annually during the period of diversion to refill the lower wetland (lower pond) area between drying cycles. The total volume of water to be used for the four fills of the lower wetland (lower pond) area equals 14.25 AF annually.

30. The USFWS National Wetlands Inventory lists the upper pond and lower wetland (lower pond) area as a 3.61-acre Freshwater Emergent Wetland habitat classified as PEM1C, where:

a. "P" represents a Palustrine system, with all of the following characteristics:
    i. The waterbody area is less than 20 acres;
    ii. Active wave-formed or bedrock shoreline features are lacking;
    iii. Water depth in the deepest part of the basin is less than 8.2 feet at low water;
    iv. Salinity due to ocean derived salts is less than 0.5 parts per trillion.
b. "EM" represents an Emergent Class, characterized by erect, rooted, herbaceous hydrophytes, excluding mosses and lichens that is present for most of the growing season in most years.
c. "1" represents a Persistent subclass, in which the wetland is dominated by species that normally remain standing at least until the beginning of the next growing season.
d. "C" represents a Seasonally Flooded Water Regime, where surface water is present for extended periods especially early in the growing season, but I absent by the end of the growing season in most years.

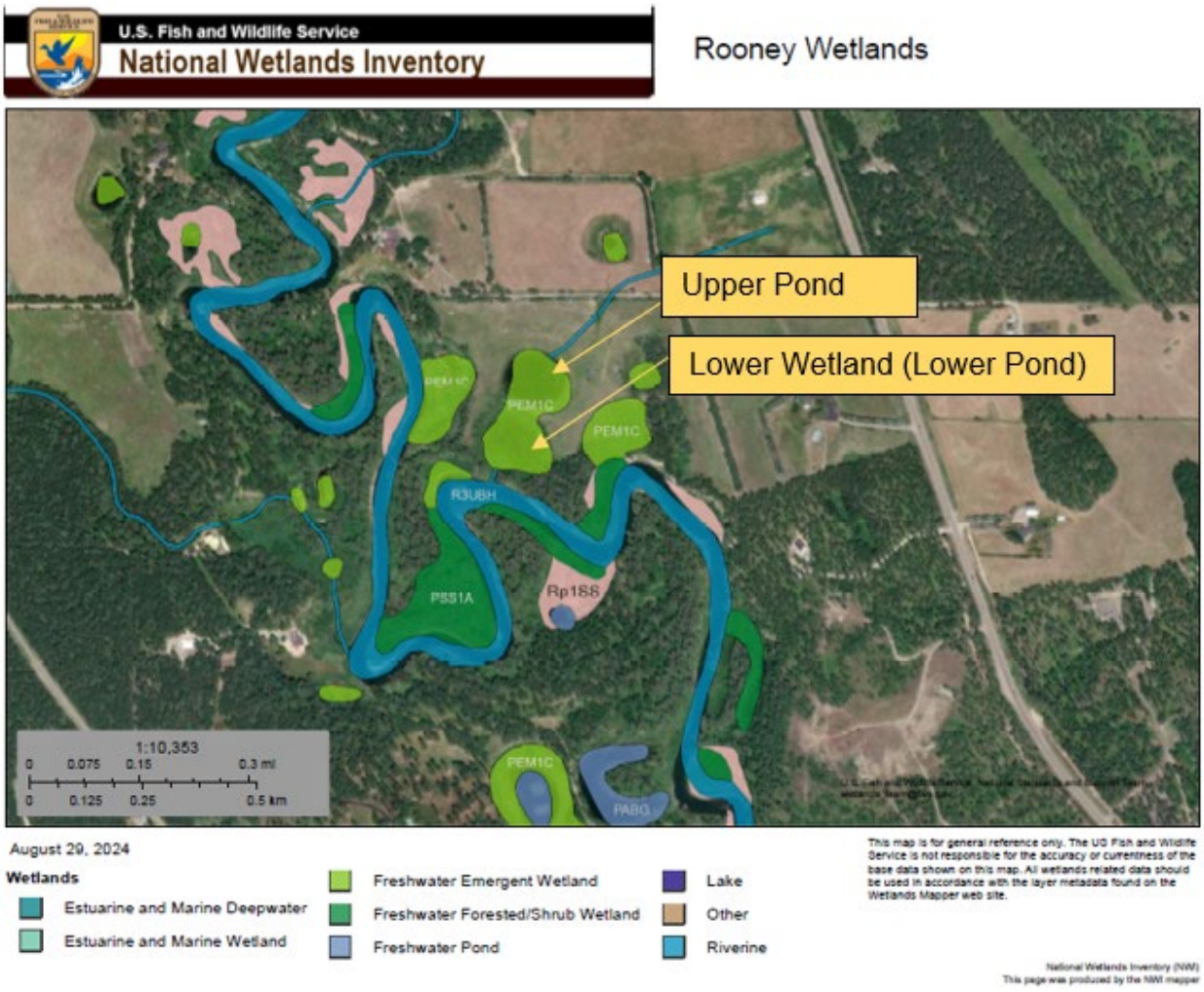

Figure 4- USFWS Map of Wetlands in and Around the Proposed Project Area

31. The Applicants provided evidence from Junk, et al., (1989) describing the benefits of hydrologic flood pulse cycles (filling and drying cycles of the lower wetland (lower pond) area) on wetland-dependent flora and fauna. Some of these benefits include germination, growth, and seed dispersal of native wetland plants, nutrient flushing, improved soil oxygen levels, and decomposition.

32. The Applicants utilized the Idaho Department of Water Resources (IDWR) pond loss calculation spreadsheet to estimate fill volumes, fill time, and seepage losses from each of the pond/wetland areas. Seepage losses from the upper pond are estimated to be 11.10 AF per year and seepage losses during the fill cycle of the lower wetland

(lower pond) area are estimated to be 0.84 AF per year. These seepage losses were calculated from a seepage rate of 0.02 feet per day per square foot which is representative of the silty or clayey fine sands that exist in the place of use.

33. The Applicants provided estimates of pond evaporation based on DNRC's Gridded Net Evaporation Layer. Evaporation in this area is estimated to be 1.68 AF per acre per year. Estimates of evaporation for the upper pond is given in the equation below:

$$Upper\ Pond\ Evaporation = \frac{1.68\ AF}{acre} * 1.51\ acres = 2.54\ AF$$

34. The Applicants considered data from the Whitefish Weather Station in Flathead County and the USDA NRCS Irrigation Water Requirements (IWR) 80% dry year chance for Blaney Criddle crop Apples to identify a net irrigation requirement for orchard irrigation of 19.32 inches per acre (1.61 AF/acre) per year, which is within the DNRC standards found in ARM 36.12.115 for Climatic Area 3 (moderate consumptive use). Estimated irrigation demand is calculated as follows:

$$\frac{19.32\ in}{0.7\ (graded\ border\ efficiency)} * \frac{1\ ft}{12\ in} * 0.55\ acres = 1.27\ AF$$

35. Total requested volume is summarized below (**Table 3**).

Table 3: Total Requested Volume

Purpose	Requested Volume (AF/year)
Upper pond fill volume	10.60
Lower wetland (lower pond) fill volume (4 fills)	13.40
Upper pond seepage losses	11.10
Lower wetland (lower pond) fill cycle seepage losses	0.84
Upper pond annual evaporative losses	2.54
Orchard irrigation from upper pond	1.27
Total Volume	**39.75**

36. The Applicants provided estimates of the lower wetland (lower pond) evapotranspiration losses from vegetation, and evaporative losses during full pool,

however, as the lower wetland (lower pond) area is not designed to retain water and will dry completely between fill cycles, only the 3.35 AF capacity (x4) of the lower wetland (lower pond) area plus seepage losses during fill cycles are considered in the total requested volume. The lower wetland (lower pond) area only temporarily retains water in the fashion of al

37. The requested flow rate of 250 gal/day was determined from a proposed 13-day filling cycle that allows for the overcome of seepage loss during fill and sufficient overflow to the lower wetland (lower pond) area, as well as allows time during the period of diversion to allow for drying cycles of the lower wetland (lower pond) area. The Applicants used IDWR's pond loss calculation spreadsheet to estimate a 10 day fill period for the upper pond and 3 day fill period for the lower wetland (lower pond) area at a pumping rate of 250 GPM.

38. The seepage rate of 0.02 feet per square foot per day was used to determine period of drainage of the lower wetland (lower pond) area. This was done by multiplying the surface area of the ponds within the lower wetland area by the seepage rate to get a loss per day value and then dividing that value by the total surface area to calculate the number of days for the ponds to dry:

$$3{,}615\ ft^2 * \frac{0.02\ ft}{ft^2/day} = 72.3\ ft^2/day$$

$$\frac{3{,}615\ ft^2}{72.3\ ft^2/day} = 50\ days$$

39. The Applicants provided an estimated fill schedule based on the fill periods and drainage cycles described above. This fill schedule is summarized in **Table 4** below:

Table 4: Estimated Fill Schedule		
Date	**Activity**	**Estimated time to complete activity***
March 1	*Period of Diversion Begins*	
March 1-March 15	Upper pond full and lower wetland area fill (#1)	13 days
March 15- May 2	Lower wetland area drains	50 days
May 2- May 17	Lower wetland dry-out period	14 days
May 17- May 20	Lower wetland area fill (#2)	3 days
May 20- July 8	Lower wetland area drains	50 days
July 8- July 22	Lower wetland dry-out period	14 days
July 22- July 26	Lower wetland area fill (#3)	3 days
August 1	*Period of diversion pauses*	
July 26- September 13	Lower wetland area drains	50 days
September 13-October 19	Lower wetland dry-out period	14 days
*October 19***	*Period of diversion resumes*	
October 19	Lower wetland area fill (#4)	3 days
October 31	*Period of diversion ends*	

**The number of days required to complete an activity with built in flexibility due to unforeseen circumstances such as inclement weather or mechanical failure*
***Modified from Applicant submittal due to change in requested period of use submitted with post-application amendment*

40. Based on the calculated times to fill, drain, and and dry the wetland area as well as the proposed fill schedule, the Department find's the Applicants proposed flow rate of 250 GPM as reasonable to achieve the proposed uses.

41. The Department finds the proposed water use is beneficial, and that the requested flow rate of 250 GPM and annual volume of 39.75 AF are reasonably justified per ARM 36.12.1801(2) & (3).

42. Water may not be appropriated during the period of August 1 to October 19.

43. The provisional beneficial water use permit will be subject to the following conditions:

44. 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 MONTLY RECORD OF THE FLOW RATE AND VOLUME OF ALL WATER DIVERTED, INCLUDING THE PERIOD OF TIME. RECORDS SHALL BE SUBMITTED BY JANUARY 31 OF EACH YEAR AND UPON REQUEST AT OTHER TIMES DURING THE YEAR UNTIL THE BENEFICIAL WATER USE PERMIT IS PERFECTED AND THE DEPARTMENT RECEIVES A PROJECT COMPLETION NOTICE. IN THE EVENT THAT AUTHORIZED FLOW RATES AND/OR VOLUMES HAVE BEEN EXCEEDED DURING PERFECTION OF THE PERMIT OR THE APPROPRIATOR FAILS TO SUBMIT ANNUAL REPORTS, THE DEPARTMENT MAY CONTINUE TO REQUIRE ANNUAL SUBMISSIONS OF MONTHLY FLOW RATE AND VOLUME RECORDS. FAILURE TO SUBMIT REPORTS MAY BE CAUSE FOR REVOCATION OF A PERMIT OR CHANGE. 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.

POSSESSORY INTEREST

FINDINGS OF FACT

45. The Applicants signed the application form affirming the Applicants have 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.

CONCLUSIONS OF LAW

PHYSICAL AVAILABILITY

46. 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."

47. 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).

48. 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).

49. The Applicants have proven that water is physically available at the proposed point of diversion in the amount the Applicants seek to appropriate. Section 85-2-311(1)(a)(i), MCA. (FOF 9-12)

LEGAL AVAILABILITY

50. 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).

51. 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.

52. The Applicants have proven by a preponderance of the evidence that water can reasonably be considered legally available during the period in which the Applicants seek 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 13-18)

ADVERSE EFFECT

53. 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.

54. 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).

55. 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).

56. 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).

57. 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.

58. 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).

59. The Applicants have 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 19-22)

ADEQUATE DIVERSION

60. 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.

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. The Applicants have 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 23-27)

BENEFICIAL USE

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

63. 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).

64. 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).

65. 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*.

66. The Applicants propose to use water for irrigation and wetland enhancement which are recognized beneficial uses. Section 85-2-102(5), MCA. The Applicants have proven by a preponderance of the evidence irrigation and wetland enhancement are a beneficial uses and that 39.75 AF of diverted volume and 250 GPM is the amount needed to sustain the beneficial use. Section 85-2-311(1)(d), MCA. (FOF 28-44)

POSSESSORY INTEREST

67. 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.

68. 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.

69. The Applicants have 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 45)

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. 76LJ 30163639 should be GRANTED.

The Department determines the Applicants may divert water from the Stillwater River, by means of a pump, from March 1 to July 31 and October 19 to October 31 at 250 GPM up to 39.75 AF, from a point in the SW ¼ of the SE ¼ of the NE ¼ of Section 36, Township 31N, Range 23W, Flathead County, Montana, for irrigation and wetland enhancement use from March 1 to October 31. The Applicants may irrigate an orchard on 0.55 acres. The place of use is generally located in the SE ¼ of the NE ¼ of Section 36, Township 31 north, Range 23 west, Flathead County, Montana.

The provisional beneficial water use permit 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 MONTLY RECORD OF THE FLOW RATE AND VOLUME OF ALL WATER DIVERTED, INCLUDING THE PERIOD OF TIME. RECORDS SHALL BE SUBMITTED BY JANUARY 31 OF EACH YEAR AND UPON REQUEST AT OTHER TIMES DURING THE YEAR UNTIL THE BENEFICIAL WATER USE PERMIT IS PERFECTED AND THE DEPARTMENT RECEIVES A PROJECT COMPLETION NOTICE. IN THE EVENT THAT AUTHORIZED FLOW RATES AND/OR VOLUMES HAVE BEEN EXCEEDED DURING PERFECTION OF THE PERMIT OR THE APPROPRIATOR FAILS TO SUBMIT ANNUAL REPORTS, THE DEPARTMENT MAY CONTINUE TO REQUIRE ANNUAL SUBMISSIONS OF MONTHLY FLOW RATE AND VOLUME RECORDS. FAILURE TO SUBMIT REPORTS MAY BE CAUSE FOR REVOCATION OF A PERMIT OR CHANGE. 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 30th day of July, 2025.

/Original signed by Jim Ferch/

Jim Ferch, Regional Manager
Kalispell Regional Office
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 30th day of July, 2025, by first class United States mail.

SEAN & MELODYE ROONEY
PO BOX 97
WHITEFISH, MT 59937

and:

BRAD BENNETT
WATER & ENVIRONMENTAL TECHNOLOGIES
102 COOPERATIVE WAY, SUITE 100
KALISPELL, MT 59901

_____

KRISTAL KIEL
KALISPELL Regional Office, (406) 752-2288