

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 name and address:

City of Missoula
 435 Ryman St.
 Missoula, MT 59802

2. Type of action: Application to Change Water Right No. 76M 30165370

3. Water source name: Clark Fork River

4. Location affected by project: The proposed marketing for mitigation and mitigation reach is the Clark Fork River from the SWNWNE Sec. 21, T13N, R19W, Missoula County to Noxon Rapids Powerhouse near Noxon, MT located in the S2S2 Sec. 33, T26N, R32W, Sanders County.

5. Narrative summary of the proposed project, purpose, action to be taken, and benefits:

The Applicant proposes to change the Place of Use (POU), Point of Diversion (POD) and purpose of use for irrigation Statement of Claims 76M 123868 00, 76M 123869 00, 76M 118513 00 and stock Statement of Claim 76M 123870 00. The new proposed purposes are mitigation and marketing for mitigation. The proposed POU's and POD's within the Clark Fork River are identical, beginning at the historic POD in the SWNWNE of Sec. 21, T13N, R19W, Missoula County and ending at the Noxon rapids powerhouse in the S2S2 of Sec. 33, T26N, R32W, Sanders County. All 2287.5 historically irrigated acres will be retired. The Applicant proposes using 383.1 AF of the historical consumptive volume for mitigation purposes (to offset depletions to the Clark Fork River under three separate but related pending permit applications). The remaining historic consumptive volume of 2,293.4 AF and the full historical diverted volume of 4407.0 AF will be available for marketing for mitigation purposes in the proposed POU. The Applicant will no longer divert water into the Flynn Lowney Ditch and water will remain in the Clark Fork River to mitigate adverse effects of future water appropriations. The DNRC shall issue a change authorization if an applicant proves the criteria in 85-2-402 MCA are met.

6. Agencies consulted during preparation of the Environmental Assessment:

Montana Natural Heritage Program	Species of Concern
Montana Department of Fish, Wildlife and Parks	2005 Dewatered Stream List
Montan Department of Environmental Quality	303(d) list of impaired streams

Part II. Environmental Review

1. Environmental Impact Checklist:

PHYSICAL ENVIRONMENT

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.

The 2005 Montana Department of Fish, Wildlife and Parks Dewatering Concern Area list does not identify the Lower Clark Fork as chronically or periodically dewatered. The proposed change will not provide any opportunity for the Lower Clark Fork River to experience an overall reduction in flows.

Determination: No 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 Clark Fork River, from Rattlesnake Creek to Fish Creek, is on DEQ's 2012 303(d) list as water quality impaired. The impairments for this reach include chlorophyll-a, copper, iron, lead, nitrogen (total), organic enrichment (sewage) biological indicators, and phosphorus (total). The reach is listed as supporting drinking water and agricultural purposes and not supporting primary contact recreation and aquatic life.

The water rights have been used within the historic Hellgate Valley Irrigation District service area/POU beginning in 1902. The proposed change in purpose is from irrigation and stock to marketing and marketing for mitigation will not affect water quality in this reach as it will make water available for other water users within the service area (from the historical POD to the Noxon Rapids Powerhouse). New uses of water in the service area will be evaluated for water quality effects.

Determination: No 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 – the proposed change is for existing surface water rights.

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.

Water will be left in the Clark Fork River for mitigation and marketing for mitigation purposes. This is not expected to have an impact on channels, riparian areas, dams or well construction.

Determination: No 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.”

All water will be left instream following the proposed change. No diversion structure will be required, as the proposed points of diversion are in stream. No barrier to the migration or movement of aquatic species will occur. All impacts to sensitive species are likely to have occurred and the proposed change is not expected to increase pressure on identified species.

The Montana Natural Heritage Program was used to determine if there are any threatened or endangered fish, wildlife, plants or aquatic species or any “species of special concern” that could be impacted by the proposed project.

The Montana Natural Heritage Program identified the following animal species as occurring along the Clark Fork River in the proposed reach, beginning in the SWNWNE Sec. 21, T13N, R19W, Missoula County to the Noxon Rapids Powerhouse near Noxon, MT located in the S2S2 Sec. 33, T26N, R32W, Sanders County.

Bull Trout, Westslope Cutthroat Trout, Lewis’s Woodpecker, Great Blue Heron, Bald Eagle, Golden Eagle, Evening Grosbeak, American Goshawk, Cassin’s Finch, Pacific Wren, Pileated Woodpecker, Varied Thrush, Bobolink, Veery, Brewer’s Sparrow, Evening Grosbeak, American Bittern, Black-necked Stilt, Clark’s Nutcracker, Flammulated Owl, Harlequin Duck, Western Skink, Northern Alligator Lizard, Northern Hoary Bat, Long-legged Myotis, Long-eared Myotis, Fringed Myotis, Little Brown Myotis, Yuma Myotis, Townsend’s Big-eared bat, Grizzly Bear, Fisher, Wolverine, Western Pygmy Shrew, Western Toad, Coeur d’Alene Salamander, Western Pearlshell, Worn Stygobromid, Suckley’s Cuckoo Bumble Bee, Monarch, A Caddisfly, Oblique Ambersnail, Shortface Lanx, Humped Coin, Necker’s Thamnobryum Moss, Umbrella Moss and Douglas’ Neckera Moss.

The following vegetation and lichens were also identified as species of concern: Alpine Collornia, Wooly Clover, Pointed Broom Sedge, Pale-yellow Jewel-weed, Stalk-leaved Monkeyflower, Spiny-spore Quillwort, Wolffia Columbiana, Sand Springbueaty, Coville’s Rush, Antler Twist Moss, Giant Golden Moss, Umbrella Moss, Scribner’s Panic Grass, Cascade reedgrass, Clustered Lady’s-slipper, Andean Water-milfoil, Foxtail muhly, Scalepod, Giant Helleborine, Long-sheath Waterweed, Big-leaf Sedge, Diamond Clarkia, Water Star-grass, Small-headed Tarweed, Gray Lungwort Lichen, Textured Lungwort Lichen, Concentric Ring Lichen,

Determination: No 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.

Since all water will be left instream, no wetlands or deepwater habitats in the proposed place of use will be negatively impacted.

Determination: N/A – this project does not involve wetlands.

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

Determination: N/A – this project does not involve ponds.

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.

As all water will be left instream, the proposed project will retire all historically irrigated acres. This will not further increase salinization of soils. The proposed change to marketing for mitigation and mitigation uses is not anticipated to cause saline seeps.

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.

The retirement of all historically irrigated acres should not promote the establishment of noxious weeds. Under Montana law, private landowners are responsible for noxious weed control on their properties.

Determination: No impacts

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

The proposed project will no impact air quality.

Determination: No impacts.

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.

The proposed project is not on State or Federal Lands. The Applicant did not mention any significant historical or archeological sites on the property.

Determination: No impacts.

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

No impacts are anticipated to environmental resources of land, water, or energy not already addressed.

Determination: No impacts.

HUMAN ENVIRONMENT

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

The proposed project is to change the point of diversion, place of use and purpose of use for Claims 76M 123868 00, 76M 123869 00, 76M 123870 00 and 76M 1184513 00 to marketing for mitigation and mitigation uses. These uses are recognized as beneficial uses of water within the State of Montana (§85-2-102(5), MCA). Protecting water for marketing for mitigation and mitigation uses, for existing and future mitigation needs is a locally accepted practice.

Determination: No impacts.

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 be instream in the Clark Fork River. Water will be left instream for marketing for mitigation purposes and will also be used to offset depletions under three related pending groundwater permit applications. There are no anticipated impacts to the quality of recreational and wilderness activities.

Determination: No impacts.

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

The project will not impact human health.

Determination: No impacts.

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.*

This proposal does not impact government regulations on private property rights.

Determination: No impacts

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

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

Secondary Impacts: No significant secondary impacts identified.

Cumulative Impacts: No significant cumulative impacts identified.

3. Describe any mitigation/stipulation measures:

All historically irrigated acres will be retired and no longer irrigated as a result of this proposed change. All water will be left instream. The Applicant will only be able to protect the historical consumed volume in the proposed reach. The Applicant will be required to measure water use and be required to find a purchaser/lessee for the water to be put to beneficial use. For the change authorization to be granted by DNRC, the Applicant must prove the criteria in §85-2-402 MCA are met.

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 no action alternative would be for the Applicant to continue to use the water rights for irrigation and stock purposes, as historically done.

PART III. Conclusion

1. ***Preferred Alternative:*** The preferred alternative is to grant the Change Application if the Applicant has proven the criteria of §85-2-402 MCA are met.
2. ***Comments and Responses:*** None at this time.
3. ***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 required.

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

Name: Alex Dalglish
Title: Water Resources Specialist
Date: January 30, 2026